

CALENDAR FOR THE BOARD OF SUPERVISORS
CONTRA COSTA COUNTY
AND FOR SPECIAL DISTRICTS, AGENCIES, AND AUTHORITIES GOVERNED BY THE BOARD
BOARD CHAMBERS ROOM 107, ADMINISTRATION BUILDING, 651 PINE STREET
MARTINEZ, CALIFORNIA 94553-1229

JOHN GIOIA, CHAIR, 1ST DISTRICT
CANDACE ANDERSEN, VICE CHAIR, 2ND DISTRICT
MARY N. PIEPHO, 3RD DISTRICT
KAREN MITCHOFF, 4TH DISTRICT
FEDERAL D. GLOVER, 5TH DISTRICT

DAVID J. TWA, CLERK OF THE BOARD AND COUNTY ADMINISTRATOR, (925) 335-1900

PERSONS WHO WISH TO ADDRESS THE BOARD DURING PUBLIC COMMENT OR WITH RESPECT TO AN ITEM THAT IS ON THE AGENDA, WILL BE LIMITED TO THREE (3) MINUTES.

The Board Chair may reduce the amount of time allotted per speaker at the beginning of each item or public comment period depending on the number of speakers and the business of the day. Your patience is appreciated.

A lunch break or closed session may be called at the discretion of the Board Chair.

Staff reports related to open session items on the agenda are also accessible on line at www.co.contra-costa.ca.us.

AGENDA
November 17, 2015

9:00 A.M. Convene, Call to Order and Opening Ceremonies

Inspirational Thought- "As we express our gratitude, we must never forget that the highest appreciation is not to utter words, but to live by them." ~ John F Kennedy

CONSIDER CONSENT ITEMS (Items listed as C.1 through C.66 on the following agenda) – Items are subject to removal from Consent Calendar by request of any Supervisor or on request for discussion by a member of the public. **Items removed from the Consent Calendar will be considered with the Discussion Items.**

PRESENTATIONS (5 Minutes Each)

- PR.1** PRESENTATION recognizing Russell Watts, Contra Costa County Treasurer-Tax Collector, for his service during 2015/2016 as the President of the California Association of County Treasurer-Tax Collectors. (Supervisor Glover and David Twa, County Administrator)
- PR.2** PRESENTATION declaring the week of November 20, 2015 as “Transgender Awareness Week” in Contra Costa County. (Supervisor Gioia)
- PR.3** PRESENTATION regarding the 2015 Contra Costa County Combined Charities Campaign. (Joe Canciamilla, Clerk-Recorder-Voter, Jessica Hudson, County Librarian)

PR.4 PRESENTATION for status update of the San Francisco Super Bowl 50.
(Supervisor Glover)

PR.5 PRESENTATION recognizing November as National Family Caregivers Month.
(Supervisor Andersen)

DISCUSSION ITEMS

D. 1 CONSIDER Consent Items previously removed.

D. 2 CONSIDER adopting Resolution No. 2015/442 to join the California HERO Property Assessed Clean Energy (PACE) financing joint powers authority and CONSIDER authorizing the Conservation and Development Director, or designee, to execute an Operating Agreement with the Western Riverside Council of Governments to operate a PACE financing program within the unincorporated area of the County. (Jason Crapo, Conservation and Development Department)

D. 3 CONSIDER introducing Ordinance No. 2015-22, amending the 2013 California Green Building Standards Code to establish electric vehicle parking and charging station standards, waiving reading, and fixing December 8, 2015, at 9:00 a.m., for a public hearing to consider adopting the ordinance, as recommended by the Ad Hoc Committee on Sustainability. (Supervisor Gioia)

D. 4 CONSIDER concurring with the proposed use of Rate Stabilization funding to offset the recommended 2.19% solid waste collection rate increase effective January 1, 2016, and, to the extent possible, offset annual Consumer Price Index increases that may be requested between January 1, 2017 through December 31, 2019, for residential customers in the unincorporated West County areas served by Richmond Sanitary Service under the County's Franchise Agreement, as recommended by the Conservation and Development Director. (Deidra Dingman, Conservation and Development Department)

D. 5 CONSIDER approving and authorizing the Health Services Director to extend the term of temporary employment of retiree Dr. Ann Harvey, former Exempt Medical Staff Physician, in the Health Services Department, for the period November 1, 2015 through October 31, 2016. (William Walker, M.D., Health Services Director)

D. 6 CONSIDER accepting Task Force report on fire and medical services in East Contra Costa County and adopting Resolution No. 2015/424 and Appropriations/Revenue Adjustment No. 5018 to allocate \$311,617 to fund for 18 months, in partnership with the East Contra Costa Fire Protection District and the Cities of Oakley and Brentwood, a fourth fire station to serve East Contra Costa Fire Protection District residents. (Supervisors Piepho and Mitchoff)

- D. 7** ACCEPT the report from the Legislation Committee on the referral to the Committee regarding legislative policy related to pension reform. (Supervisor Mitchoff)
- D. 8** CONSIDER approving and authorizing the Health Services Director, or designee, and the Chief of the Contra Costa Fire Protection District ("District"), or designee, to enter into a contract for the provision of advanced life support emergency ambulance services by the District within Exclusive Operating Areas I, II and V for the period January 1, 2016 through December 31, 2020; and approval of related actions, including contracts between the District and American Medical Response West ("AMR") and Advanced Data Processing ("ADP"). (David Twa, County Administrator)
- D. 9** CONSIDER authorizing the County Administrator to initiate a requests to the Local Agency Formation Commission of San Joaquin County to detach six tax rate areas that overlap for water service between the Discovery Bay Community Services District and the Byron-Bethany Irrigation District (BBID) and to modify BBID's sphere of influence to exclude the overlapping areas, and directing the County Administrator to determine how property tax revenues should be reallocated. (Supervisor Piepho)
- D.10** CONSIDER accepting written acknowledgment by the County Administrator (Chief Executive Officer) that he understands the current and future costs of the Retirement benefit changes for employees represented by the California Nurses' Association and Safety employees in specific units of Probation Management, Fire Management and AFSCME 512, as determined by the County's actuary in Actuarial Reports dated September 8, 2015 and October 12, 2015 respectively. (David Twa, County Administrator)
- D.11** CONSIDER adopting Resolution No. 2015/439 approving the Memorandum of Understanding between Contra Costa County and the California Nurses Association, implementing negotiated wage agreements and other economic terms and conditions of employment, for the period of August 1, 2014 through December 31, 2017. (David Twa, County Administrator)
- D.12** CONSIDER adopting Resolution No. 2015/444 making Government Code section 31870 (Two Percent Cost of Living Adjustment to Retirement Benefit) applicable to employees represented by the California Nurses Association, who become New Members of CCCERA on or after January 1, 2016, in the PEPRA Retirement Tier. (David Twa, County Administrator)
- D.13** Acting in its capacities as the Board of Supervisors and the Contra Costa County Fire District Board, CONSIDER adopting Resolution No. 2015/445 making Government Code section 31870 (Two Percent Cost of Living Adjustment to Retirement Benefit) applicable to safety employees in specified units, who become new members of the Contra Costa County Employee Retirement Association in the PEPRA Retirement Tier on or after January 1, 2016. (David

Twa, County Administrator)

D.14 CONSIDER confirming executed contract renewals with the Non PERS Health Plans for both two and three tier rate structures for the period January 1, 2016 through December 31, 2016; and ACKNOWLEDGE negotiated tier structures by bargaining group for the 2016 plan year. (Lisa Driscoll, County Finance Director)

D.15 CONSIDER accepting actuarial valuation of future annual costs of proposed changes to Other Post-Employment Benefits, changing the County health care premium subsidy for employees represented by or retired from classifications that were represented by the United Chief Officers' Association and UPFF, Local 1230, as provided by the County's Actuary. (Lisa Driscoll, County Finance Director)

D. 16 PUBLIC COMMENT (3 Minutes/Speaker)

D. 17 CONSIDER reports of Board members.

Closed Session

A. CONFERENCE WITH LABOR NEGOTIATORS

1. Agency Negotiators: David Twa and Bruce Heid.

Employee Organizations: Contra Costa County Employees' Assn., Local No. 1; Am. Fed., State, County, & Mun. Empl., Locals 512 and 2700; Calif. Nurses Assn.; Service Empl. Int'l Union, Local 1021; District Attorney's Investigators Assn.; Deputy Sheriffs Assn.; United Prof. Firefighters, Local 1230; Physicians' & Dentists' Org. of Contra Costa; Western Council of Engineers; United Chief Officers Assn.; Service Empl. Int'l Union United Health Care Workers West; Contra Costa County Defenders Assn.; Probation Peace Officers Assn. of Contra Costa County; Contra Costa County Deputy District Attorneys' Assn.; and Prof. & Tech. Engineers, Local 21, AFL-CIO.

2. Agency Negotiators: David Twa.

Unrepresented Employees: All unrepresented employees.

B. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION (Gov. Code, § 54956.9(d)(1))

1. *Lane Bauldry v. County of Contra Costa, et al.*, United States District Court, Northern District of California, Case No. C12-3943 CRB

C. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Gov. Code, § 54956.9(d)(2): One potential case

ADJOURN

CONSENT ITEMS

Road and Transportation

- C. 1** APPROVE and AUTHORIZE the Purchasing Agent or designee to execute, on behalf of the Public Works Director, a purchase order with Municipal Maintenance Equipment in an amount not to exceed \$388,988 to procure a Vac-Con Combination Sewer and Storm Drain Cleaner mounted on a Peterbilt 365 Truck Chassis for Public Works Road and Flood Control Maintenance, Countywide. (61% Local Road Fund and 39% General Funds)

Engineering Services

- C. 2** ADOPT Resolution No. 2015/425 approving the Parcel Map and Subdivision Agreement for minor subdivision MS03-00007, for a project being developed by Maurice Storch, as recommended by the Public Works Director, Alamo area. (No fiscal impact)

Special Districts & County Airports

- C. 3** APPROVE and AUTHORIZE the Director of Airports, or designee, to execute a month-to-month hangar rental agreement with Ken Ericsson for a T-hangar at Buchanan Field Airport effective November 21, 2015 in the monthly amount of \$395. (100% Airport Enterprise Fund)
- C. 4** APPROVE and AUTHORIZE the Director of Airports, or designee, to execute a month-to-month hangar rental agreement with Sean McLellan for a Large T-hangar at Buchanan Field Airport effective November 1, 2015 in the monthly amount of \$749. (100% Airport Enterprise Fund)

Claims, Collections & Litigation

- C. 5** RECEIVE report concerning the final settlement of Rodney M. Conyers vs County of Contra Costa; and AUTHORIZE payment from the Workers' Compensation Internal Service Fund in an amount not to exceed \$45,000, less permanent disability payments, as recommended by the Risk Manager.
- C. 6** RECEIVE report concerning the final settlement of Sarah S. Smith vs Contra Costa County Probation; and AUTHORIZE payment from the Workers' Compensation Internal Service Fund in an amount not to exceed \$85,000, less permanent disability payments, as recommended by the Risk Manager.

- C. 7 RECEIVE public report of litigation settlement agreements that became final during the period of October 1, 2015 through October 31, 2015.
- C. 8 DENY claims filed by Jon & Melissa Almgren, Eli Dominguez, Louise Paul, Rajenai Spencer, and Margaret Vaca.

Statutory Actions

- C. 9 APPROVE Board meeting minutes for July, September, and October 2015, as on file with the Office of the Clerk of the Board.
- C. 10 ACCEPT Board members' meeting reports for October 2015.

Honors & Proclamations

- C. 11 ADOPT Resolution No. 2015/383 declaring the week of November 20, 2015 as “Transgender Awareness Week” in Contra Costa County, as recommended by Supervisor Gioia.
- C. 12 ADOPT Resolution No. 2015/443 recognizing Russell Watts, Contra Costa County Treasurer-Tax Collector, for his service during 2015/2016 as the President of the California Association of County Treasurer-Tax Collectors, as recommended by Supervisor Gioia and David Twa, County Administrator.
- C. 13 ACCEPT report from the 2015 Charity Drive Coordinators and ADOPT Resolution No. 2015/409, regarding the results of the 2015 Contra Costa County Combined Charities Campaign, as recommended by the County Clerk-Recorder.
- C. 14 ADOPT Resolution No. 2015/437 recognizing Mike Doyle of the Danville Town Council, as recommended by Supervisor Andersen.
- C. 15 ADOPT Resolution No. 2015/441 recognizing November as National Family Caregivers Month, as recommended by Supervisor Andersen.

Appointments & Resignations

- C. 16 ADOPT Resolution No. 2015/411 to appoint Supervisor John Gioia as the Board of Supervisors' representative and to re-appoint Supervisor Karen Mitchoff as the Board's alternate representative on the California State Association of Counties' Board of Directors and take related administrative actions, as recommended by Supervisor Gioia. (No fiscal impact)

- C. 17** APPOINT, in lieu of election, uncontested nominees Karla Fratus and Richard Kent to the Board of Trustees for Reclamation District 799, as recommended by the County Administrator.
- C. 18** APPOINT Kaila Vidal to the Private/Non-Profit No. 3 seat on the Economic Opportunity Council, as recommended by the Employment and Human Services Director.
- C. 19** APPOINT members to the 2016 Community Corrections Partnership (CCP) and 2016 CCP-Executive Committee pursuant to Penal Code sections 1230(b)(2) and 1230.1(b), respectively, as recommended by the Public Protection Committee. (No fiscal impact)

Appropriation Adjustments

- C. 20** Sheriff's Office (0255): APPROVE Appropriation and Revenue Adjustment No. 5016 authorizing new revenue in the Sheriff's Office in the amount of \$270,309 from the U.S. Department of Justice, 2014 DNA Backlog Reduction Program Grant and appropriating it for the continued funding of personnel and equipment in the Forensic Services Division. (100% Federal)
- C. 21** Probation Programs (0308): APPROVE Appropriations and Revenue Adjustment No. 5017 authorizing new revenue in Probation Programs in the amount of \$117,238 and appropriating it to fund the Proud Parenting Program, a collaboration between the County Probation Department and STAND! For Families Free of Violence. (90% State, 10% STAND! For Families Free of Violence)

Personnel Actions

- C. 22** ADOPT position adjustment resolution no. 21730 to retile the classification of CCTV Production Specialist (represented) to Media Production Technician (represented) and add one position in the Office of Communication and Media. (100% Public, Education & Governmental Fees and Franchise Fees)
- C. 23** ADOPT Position Adjustment Resolution No. 21781 to add one Health Services Administrator Level C position (represented) in the Health Services Department. (100% Medi-Cal Waiver funds)

Grants & Contracts

APPROVE and AUTHORIZE execution of agreements between the County and the following agencies for receipt of fund and/or services:

- C. 24** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to apply for and accept funding from U.S. Bank in an amount not to exceed \$10,000 for advising and training services to low-to-moderate income business owners in Contra Costa County for the period October 1, 2015 through September 30, 2016. (No County match)
- C. 25** AUTHORIZE the Public Works Director, or designee, to submit an application requesting Community Development Block Grant funds for building improvements at Lefty Gomez Community Center, Rodeo Area. (75% Community Development Block Grant Funds, 25% County Service Area R-10/Zone 38 Funds)
- C. 26** APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$11,000 from the Pacific Library Partnership to create music instruction workshops and sound mixing activities, for the period January 1 through June 30, 2016. (No County match)
- C. 27** APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$12,500 from the Pacific Library Partnership to provide a bike program and materials at the El Cerrito Library for the period January 1 through December 31, 2016. (No County match)
- C. 28** APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$15,000 from the Pacific Library Partnership to create a Regenerative, Self-Assembling Open-Source 3D Printing System for the period January 1 through December 31, 2016. (No County match)
- C. 29** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute an agreement with the U. S. Department of Veteran Affairs Northern California Health Care System, effective October 1, 2015 to extend the term from September 30, 2015 to September 30, 2016 and increase the payment limit to the County by \$7,009 to a new payment limit of \$182,516, to support the homeless veterans accessing services at the West County Adult Interim Housing Program including meals, case management and on-site mental health and substance abuse services. (No County match)
- C. 30** APPROVE and AUTHORIZE the Sheriff-Coroner, or designee, to apply for and accept a California Department of Boating and Waterways Boating and Marine Safety and Operations Training Grant in an initial amount of \$12,300 for the training of marine patrol personnel for period November 3, 2015 until grant funding has been fully expended. (100% State)
- C. 31** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to reduce Head Start part-day slots from 1571 to 1501 effective November 1, 2015 as recommended by the Employment and Human Services Director.

APPROVE and AUTHORIZE execution of agreement between the County and the following parties as noted for the purchase of equipment and/or services:

- C. 32** APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract with Plan B Works in an amount not to exceed \$235,000 to assist in the creation of asset management decision support tools, for the period November 10, 2015 through November 9, 2016, Countywide. (100% General Fund Venture Capital Funds)
- C. 33** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a novation contract with Young Men's Christian Association of the East Bay in an amount not to exceed \$805,168 to provide on-site school counseling services for the period July 1, 2015 through June 30, 2016, with a six-month automatic extension through December 31, 2016 in an amount not to exceed \$402,584. (48% Federal Financial Participation; 48% Mental Health Realignment; 4% non-medical Mental Health Realignment)
- C. 34** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with The Greeley Company, Inc., effective October 1, 2015, to extend the term from December 31, 2015 through December 31, 2016 and increase the payment limit by \$250,000 to a new payment limit of \$1,242,800, to provide additional utilization review and case management consulting services to Contra Costa Health Plan. (100% CCHP Enterprise Fund II)
- C. 35** APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract with Dahlin Group, Inc., in an amount not to exceed \$191,000 to provide planning services for the Oak Park Sale of Surplus (South Pleasant Hill Parcels) for the period September 1, 2015 through August 31, 2017, Pleasant Hill area. (100% Oak Park Sale of Surplus Proceeds Funds)
- C. 36** APPROVE and AUTHORIZE the Purchasing Agent or designee to execute, on behalf of the Public Works Director, a purchase order with Air Products Group in an amount not to exceed \$200,000 to procure heating, ventilation and air conditioning filtration components, for the period October 1, 2015 through September 30, 2018, Countywide. (100% General Fund)
- C. 37** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Fred Nachtwey, M.D., in an amount not to exceed \$164,000 to provide pulmonary services at Contra Costa County Regional Medical and Health Centers for the period November 1, 2015 through October 31, 2016. (100% Hospital Enterprise Fund I)

- C. 38** AWARD and AUTHORIZE the Public Works Director, or designee, to execute a construction contract with C. Overaa & Co., in the amount of \$1,846,000 for Emergency and Imaging Department expansion and reconfiguration on the 3rd Floor at the Contra Costa Regional Medical Center, 2500 Alhambra Avenue, Martinez. (100% Hospital Enterprise Funds)
- C. 39** APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute a first amendment to the Amended and Restated Predevelopment Loan Agreement with the Community Housing Development Corporation of North Richmond, to increase the principal amount of the loan by \$152,500 to a new loan amount of \$436,200 for predevelopment activities related to the Heritage Point project. (100% Housing Successor Agency funds)
- C. 40** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with DJR Healthcare Consulting, Inc., in an amount not to exceed \$579,600 to provide professional management and oversight of the Department's Information Technology Unit, for the period January 1, 2016 through December 31, 2017. (100% Hospital Enterprise Fund I)
- C. 41** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Helios Healthcare, LLC, including mutual indemnification, in an amount not to exceed \$473,840 to provide sub-acute skilled nursing care services for the period July 1, 2015 through June 30, 2016, with a six-month automatic extension through December 31, 2016 in an amount not to exceed \$236,920. (100% Mental Health Realignment)
- C. 42** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Charis Youth Center in an amount not to exceed \$300,000 to provide mental health services, including therapeutic behavioral services for seriously emotionally disturbed adolescents, for the period July 1, 2015 through June 30, 2016, with a six-month automatic extension through December 31, 2016 in an amount not to exceed \$150,000. (50% Federal Financial Participation; 50% Mental Health Realignment)
- C. 43** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with Siri Sunderi Cheng, M.D., effective September 1, 2015, to increase the payment limit by \$75,000 to a new payment limit of \$1,140,000 to provide additional otolaryngology clinics and services at Contra Costa Regional Medical and Health Centers, with no change in the original term of October 1, 2013 through September 30, 2016. (100% Hospital Enterprise Fund I)

- C. 44** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Bay Area Community Resources, Inc., in an amount not to exceed \$1,182,280 to provide school-based mental health services to seriously emotionally disturbed students for the period July 1, 2015 through June 30, 2016, with a six-month automatic extension through December 31, 2016 in an amount not to exceed \$591,140. (50% Federal Financial Participation; 50% Mental Health Realignment)
- C. 45** APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of Health Services Director, a purchase order with Qiagen, Inc., in an amount not to exceed \$300,000 to procure reagent testing products for the Public Health Laboratory for the period December 1, 2015 to November 30, 2016. (22% Chevron Corporation; 78% patient billing)
- C. 46** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Perseus Corporation in an amount not to exceed \$139,000 to provide consultation and technical assistance to the Health Services Department on third party cost reports, for the period November 1, 2015 through October 31, 2016. (100% Hospital Enterprise Fund I)
- C. 47** APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Health Services Director, a purchase order with Curascript, Inc., in an amount not to exceed \$900,000 for hormone implants to be used at the Contra Costa Regional Medical Center, for the period December 1, 2015 through November 30, 2017. (100% Hospital Enterprise Fund I)
- C. 48** APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Health Services Director, a purchase order with Water Mark Medical, Inc., in the amount of \$216,000 for the rental of Ares Home Sleep Testing, Sleep Apnea Evaluation Systems at Contra Costa Medical and Health Centers, for the period September 1, 2015 through August 31, 2016. (100% Hospital Enterprise Fund I)
- C. 49** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with FamiliesFirst, Inc., in an amount not to exceed \$734,160 to provide mental health services to seriously emotionally disturbed children including school- and community-based services, day treatment, and therapeutic behavioral services, for the period July 1, 2015 through June 30, 2016, with a six-month automatic extension through December 31, 2016 in an amount not to exceed \$367,080. (30% Federal Financial Participation; 30% County Mental Health Realignment; 40% Mt. Diablo Unified School District)

- C. 50** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Summitview Child and Family Services, Inc., in an amount not to exceed \$200,000 to provide rehabilitative day treatment, medication support, mental health treatment, and therapeutic behavioral services for seriously emotionally disturbed adolescents for the period of July 1, 2015 through June 30, 2016, with a six-month automatic extension through December 31, 2016 in an amount not to exceed \$100,000. (50% Federal Financial Participation; 50% Mental Health Realignment)
- C. 51** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Peter A. Castillo, M.D., Inc., in an amount not to exceed \$382,000 to provide urogynecology services at Contra Costa Regional Medical and Health Centers, for the period December 1, 2015 through November 30, 2016. (100% Hospital Enterprise Fund I)
- C. 52** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with Rawel Randhawa, M.D., effective December 15, 2015, to increase the payment limit by \$112,000 to a new payment limit of \$1,012,000 to provide additional gastroenterology services at Contra Costa Regional Medical and Health Centers, with no change in the original term of March 1, 2014 through February 29, 2016. (100% Hospital Enterprise Fund I)
- C. 53** APPROVE and AUTHORIZE the County Probation Officer, or designee, to execute a contract with STAND! For Families Free of Violence in the amount of \$107,238 to provide parenting training for participants ages 14-25 who are involved with the criminal justice system, for the period July 1, 2015 through June 30, 2016. (100% State)
- C. 54** APPROVE and AUTHORIZE the Chief Information Officer, or designee, to execute an Executable Quote and Oracle Master Agreement with Oracle America, Inc., in an amount not to exceed \$313,262 for the migration of existing PeopleSoft Enterprise software licenses and purchase of additional Oracle perpetual licenses, with maintenance and support for the period December 1, 2015 through November 30, 2016.

Other Actions

- C. 55** ADOPT Resolution No. 2015/415 determining the allocation of property tax between the County of Contra Costa and the City of Concord for the Ayers Ranch Area, as recommended by the Conservation and Development Director. (100% General Fund)
- C. 56** ADOPT Resolution No. 2015/434 authorizing the issuance of a Multifamily Housing Revenue Note in a principal amount not to exceed \$5,800,000 to finance the acquisition and rehabilitation of Golden Oak Manor in Oakley, as recommended by the Conservation and Development Director. (100% Special Revenue Funds)

- C. 57** AUTHORIZE and DIRECT the Auditor-Controller to refund monies to the Lafayette Christian Church paid for property taxes for the 2014-2015 tax year in the amount of \$9,652.06 inclusive of interest, rather than \$9,742.74 as previously ordered by the Board of Supervisors as item D.2 on October 20, 2015 agenda.
- C. 58** ADOPT Resolution No. 2015/433 authorizing the issuance of a Multifamily Housing Revenue Note in a principal amount not to exceed \$7,100,000 to finance the acquisition and rehabilitation of The Oaks Apartments in Walnut Creek, as recommended by the Conservation and Development Director. (100% Special Revenue Funds)
- C. 59** ACCEPT the Fiscal Year 2014-15 Wilross Children's Library Trust Fund Status Report, as recommended by the County Librarian.
- C. 60** APPROVE and AUTHORIZE payment to Bay Area Tumor Institute in the amount of \$64,402.47 for services requested and provided in excess of the contract limit during the period August 1, 2014 to July 31, 2015. (100% Hospital Enterprise Fund I)
- C. 61** APPROVE the list of providers recommended by Contra Costa Health Plan's Medical Director on October 28, 2015, and by the Health Services Director, as required by the State Departments of Health Care Services and Managed Health Care, and the Centers for Medicare and Medicaid Services.
- C. 62** ACCEPT follow-up report from the Fleet Services Manager on efforts to "green" the County Fleet, APPROVE recommendations on modifying the County's Vehicle and Equipment Acquisition and Replacement Policy, and Clean Air Vehicle Policy and Goals, and DIRECT the Public Works Director to report back to the Internal Operations Committee in six months on the status of "greening" the fleet, as recommended by the Internal Operations Committee.
- C. 63** ACCEPT report and recommendation that the Board consider requests to share costs for an annexation feasibility study on a case-by-case basis in lieu of developing a County policy on such requests, as recommended by the Internal Operations Committee. (No fiscal impact)
- C. 64** ACCEPT annual report prepared by the Public Works Department on the County's Local Bid Preference Program, as recommended by the Internal Operations Committee.
- C. 65** ADOPT Resolution No. 2015/435 as approved by the Retirement Board, which establishes retirement plan contribution rates effective July 1, 2016 through June 30, 2017, as recommended by the County Administrator.

- C. 66** CONTINUE the emergency action originally taken by the Board of Supervisors on November 16, 1999 regarding the issue of homelessness in Contra Costa County, as recommended by the Health Services Director. (No fiscal impact)

GENERAL INFORMATION

The Board meets in all its capacities pursuant to Ordinance Code Section 24-2.402, including as the Housing Authority and the Successor Agency to the Redevelopment Agency. Persons who wish to address the Board should complete the form provided for that purpose and furnish a copy of any written statement to the Clerk.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Clerk of the Board to a majority of the members of the Board of Supervisors less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, First Floor, Room 106, Martinez, CA 94553, during normal business hours.

All matters listed under CONSENT ITEMS are considered by the Board to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Board or a member of the public prior to the time the Board votes on the motion to adopt.

Persons who wish to speak on matters set for PUBLIC HEARINGS will be heard when the Chair calls for comments from those persons who are in support thereof or in opposition thereto. After persons have spoken, the hearing is closed and the matter is subject to discussion and action by the Board. Comments on matters listed on the agenda or otherwise within the purview of the Board of Supervisors can be submitted to the office of the Clerk of the Board via mail: Board of Supervisors, 651 Pine Street Room 106, Martinez, CA 94553; by fax: 925-335-1913.

The County will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Clerk of the Board at least 24 hours before the meeting, at (925) 335-1900; TDD (925) 335-1915. An assistive listening device is available from the Clerk, Room 106.

Copies of recordings of all or portions of a Board meeting may be purchased from the Clerk of the Board. Please telephone the Office of the Clerk of the Board, (925) 335-1900, to make the necessary arrangements.

Forms are available to anyone desiring to submit an inspirational thought nomination for inclusion on the Board Agenda. Forms may be obtained at the Office of the County Administrator or Office of the Clerk of the Board, 651 Pine Street, Martinez, California.

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www.co.contra-costa.ca.us

STANDING COMMITTEES

The **Airport Committee** (Karen Mitchoff and Supervisor Mary N. Piepho) meets quarterly on the second Monday of the month at 10:30 a.m. at Director of Airports Office, 550 Sally Ride Drive, Concord.

The **Family and Human Services Committee** (Supervisors Federal D. Glover and Candace Andersen) meets on the second Monday of the month at 10:30 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Finance Committee** (Supervisors Mary N. Piepho and Federal D. Glover) meets on the first Monday of the month at 10:30 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Hiring Outreach Oversight Committee** (Supervisors Federal D. Glover and Karen Mitchoff) meets on the first Thursday of the month at 1:00 p.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Internal Operations Committee** (Supervisors Karen Mitchoff and John Gioia) meets on the second Monday of the month at 2:30 p.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Legislation Committee** (Supervisors Karen Mitchoff and Federal D. Glover) meets on the first Thursday of the month at 10:30 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Public Protection Committee** (Supervisors John Gioia and Federal D. Glover) meets on the second Monday of the month at 1:00 p.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Transportation, Water & Infrastructure Committee** (Supervisors Candace Andersen and Mary N. Piepho) meets on the first Monday of the month at 1:00 p.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

Airports Committee	December 14, 2015	10:30 a.m.	See above
Family & Human Services Committee	December 14, 2015	10:30 a.m.	See above
Finance Committee	December 7, 2015	10:30 a.m.	See above
Hiring Outreach Oversight Committee	December 17, 2015	1:00 p.m.	See above
Internal Operations Committee	December 14, 2015	2:30 p.m.	See above

Legislation Committee	December 3, 2015	10:30 a.m.	See above
Public Protection Committee	December 14, 2015	1:00 p.m.	See above
Transportation, Water & Infrastructure Committee	December 7, 2015	1:00 p.m.	See above

AGENDA DEADLINE: Thursday, 12 noon, 12 days before the Tuesday Board meetings.

Glossary of Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

AB Assembly Bill
ABAG Association of Bay Area Governments
ACA Assembly Constitutional Amendment
ADA Americans with Disabilities Act of 1990
AFSCME American Federation of State County and Municipal Employees
AICP American Institute of Certified Planners
AIDS Acquired Immunodeficiency Syndrome
ALUC Airport Land Use Commission
AOD Alcohol and Other Drugs
ARRA American Recovery & Reinvestment Act of 2009
BAAQMD Bay Area Air Quality Management District
BART Bay Area Rapid Transit District
BayRICS Bay Area Regional Interoperable Communications System
BCDC Bay Conservation & Development Commission
BGO Better Government Ordinance
BOS Board of Supervisors
CALTRANS California Department of Transportation
CalWIN California Works Information Network
CalWORKS California Work Opportunity and Responsibility to Kids
CAER Community Awareness Emergency Response
CAO County Administrative Officer or Office
CCCPFD (ConFire) Contra Costa County Fire Protection District
CCHP Contra Costa Health Plan
CCTA Contra Costa Transportation Authority
CCRMC Contra Costa Regional Medical Center
CCWD Contra Costa Water District
CDBG Community Development Block Grant
CFDA Catalog of Federal Domestic Assistance
CEQA California Environmental Quality Act
CIO Chief Information Officer

COLA Cost of living adjustment
ConFire (CCCYPD) Contra Costa County Fire Protection District
CPA Certified Public Accountant
CPI Consumer Price Index
CSA County Service Area
CSAC California State Association of Counties
CTC California Transportation Commission
dba doing business as
DSRIP Delivery System Reform Incentive Program
EBMUD East Bay Municipal Utility District
ECCFPD East Contra Costa Fire Protection District
EIR Environmental Impact Report
EIS Environmental Impact Statement
EMCC Emergency Medical Care Committee
EMS Emergency Medical Services
EPSDT Early State Periodic Screening, Diagnosis and Treatment Program (Mental Health)
et al. et alii (and others)
FAA Federal Aviation Administration
FEMA Federal Emergency Management Agency
F&HS Family and Human Services Committee
First 5 First Five Children and Families Commission (Proposition 10)
FTE Full Time Equivalent
FY Fiscal Year
GHAD Geologic Hazard Abatement District
GIS Geographic Information System
HCD (State Dept of) Housing & Community Development
HHS (State Dept of) Health and Human Services
HIPAA Health Insurance Portability and Accountability Act
HIV Human Immunodeficiency Syndrome
HOME Federal block grant to State and local governments designed exclusively to create affordable housing for low-income households
HOPWA Housing Opportunities for Persons with AIDS Program
HOV High Occupancy Vehicle
HR Human Resources
HUD United States Department of Housing and Urban Development
IHSS In-Home Supportive Services
Inc. Incorporated
IOC Internal Operations Committee
ISO Industrial Safety Ordinance
JPA Joint (exercise of) Powers Authority or Agreement
Lamorinda Lafayette-Moraga-Orinda Area
LAFCo Local Agency Formation Commission
LLC Limited Liability Company
LLP Limited Liability Partnership
Local 1 Public Employees Union Local 1
LVN Licensed Vocational Nurse
MAC Municipal Advisory Council
MBE Minority Business Enterprise

M.D. Medical Doctor
M.F.T. Marriage and Family Therapist
MIS Management Information System
MOE Maintenance of Effort
MOU Memorandum of Understanding
MTC Metropolitan Transportation Commission
NACo National Association of Counties
NEPA National Environmental Policy Act
OB-GYN Obstetrics and Gynecology
O.D. Doctor of Optometry
OES-EOC Office of Emergency Services-Emergency Operations Center
OPEB Other Post Employment Benefits
OSHA Occupational Safety and Health Administration
PARS Public Agencies Retirement Services
PEPRA Public Employees Pension Reform Act
Psy.D. Doctor of Psychology
RDA Redevelopment Agency
RFI Request For Information
RFP Request For Proposal
RFQ Request For Qualifications
RN Registered Nurse
SB Senate Bill
SBE Small Business Enterprise
SEIU Service Employees International Union
SUASI Super Urban Area Security Initiative
SWAT Southwest Area Transportation Committee
TRANSPAC Transportation Partnership & Cooperation (Central)
TRANSPLAN Transportation Planning Committee (East County)
TRE or **TTE** Trustee
TWIC Transportation, Water and Infrastructure Committee
UASI Urban Area Security Initiative
VA Department of Veterans Affairs
vs. versus (against)
WAN Wide Area Network
WBE Women Business Enterprise
WCCTAC West Contra Costa Transportation Advisory Committee



Contra
Costa
County

To: Board of Supervisors
From: Federal D. Glover, District V Supervisor
Date: November 17, 2015

Subject: Super Bowl 50 Status Update

RECOMMENDATION(S):

Accept the Super Bowl 50 Status Update

FISCAL IMPACT:

None

BACKGROUND:

Presentation by Stephanie Martin of San Francisco Super Bowl 50 of the plans and status

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lynn Enea (925)
335-8200

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 17, 2015

Subject: Property Assessed Clean Energy (PACE) Financing

RECOMMENDATION(S):

1. ACCEPT this staff report recommending that the Board of Supervisors authorize implementation of the California HERO PACE financing program in the unincorporated area of the County.
2. ADOPT Resolution No. 2015/442 to become an Associate Member of the Western Riverside Council of Governments (WRCOG), a joint powers authority, and to join the California HERO PACE financing program established by WRCOG.
3. AUTHORIZE the Conservation and Development Director, or designee, to execute an operating agreement with WRCOG authorizing WRCOG to operate the California HERO PACE financing program in the unincorporated area of Contra Costa County.

FISCAL IMPACT:

There is no fiscal impact to the County associated with this item.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Jason Crapo 925
674-7722

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Conservation & Development Deputy Director, Treasurer-Tax Collector, Auditor-Controller, County Administrator

BACKGROUND:

California law allows cities, counties, and other authorized public agencies to establish voluntary financing districts to facilitate energy and water efficiency improvements to existing residential and commercial properties. Such financing is commonly referred to as Property Assessed Clean Energy (PACE) financing. Once established, property owners within the boundaries of such a district can voluntarily choose to enter into a contractual assessment and borrow funds from the district to make energy efficiency improvements. The assessment is then repaid in installments on the property tax bill. If the property owner were to default on their property taxes, the Treasurer-Tax Collector would have the authority to foreclose on the property to collect payment.

Several PACE financing providers have expressed interest in establishing PACE financing districts and offering PACE loans to property owners in Contra Costa County. Such financing districts would not be formed or operated by the County, but the establishment of such financing districts requires a resolution of approval by the Board of Supervisors. For most current PACE programs, the sponsoring public agency is a joint powers authority (JPA), which forms the financing district and is responsible for its administration. In such cases, the County would need to be a member of the JPA in order for the PACE program to operate within the County.

PACE financing has the potential to generate both environmental and economic benefits to County residents, and is consistent with County policy objectives to improve energy efficiency and reduce greenhouse gas emissions. Improved energy efficiency on private property reduces greenhouse gas emissions and the associated negative impacts of climate change, consistent with the County's Climate Action Plan. Construction of energy and water efficiency improvements on private property also stimulates the local economy, expanding employment and increasing tax revenue for the County.

However, due to regulatory intervention by the federal government to discourage the use of PACE financing, such programs carry potential risks and costs to the County and to property owners that should be mitigated to the greatest degree possible.

On June 16, 2015, the Board of Supervisors approved the recommendation of the Internal Operations Committee to direct the Department of Conservation and Development (DCD) to establish an application process and accept applications from PACE providers to operate within the unincorporated area of the County. The Board also approved the form of an Operating Agreement the County would require PACE providers to enter into with the County as a condition of operations. The purpose of the Operating Agreement is to protect the County and the general public from the potential costs and risk of PACE programs. The Operating Agreement requires PACE providers to participate in the State PACE Loss Reserve Program, disclose financial costs and risks to participating property owners, and indemnify the County from legal claims arising from the operation of PACE programs.

In July 2015, DCD received applications from two PACE providers: CaliforniaFirst and California HERO. CaliforniaFirst is a PACE financing program established by the California Statewide Communities Development Authority (CSCDA), a joint powers authority. Contra Costa County is already a member of CSCDA. California HERO is a PACE financing program established by the Western Riverside Council of Governments (WRCOG), a joint powers authority. Contra Costa County will be an Associate Member of WRCOG if the Board approves joining the California HERO program.

Consistent with direction received from the Board, staff began review of the application materials submitted by these two PACE providers.

On September 14, 2015, the Internal Operations Committee, at the Board's direction, discussed changes to the Operating Agreement that the PACE providers had proposed. As an outcome of this meeting, the IO Committee recommends that the following changes be made to the form of the Operating Agreement approved by the Board on June 16, 2015:

1. *Assessed vs. Fair Market Value:* The Committee recommends that the greater of assessed value or fair market value, rather than assessed value only, be used as the basis for calculating maximum PACE

assessment amounts (consistent with the formulas in 5. below) and that fair market value be determined using automated valuation supplied to the PACE providers through a third party vendor, or using a certified appraisal if preferred by the property owner.

2. *Contractors Indemnifying the County:* The Committee recommends revising the requirement requiring contractors to indemnify the County so that the language in the Operating Agreement is consistent with the contractor indemnification language in the Contractor Participation Agreement, to which all participating contractors have agreed.
3. *Contractor General Liability Insurance & Additional Insured Requirements:* The Committee recommends requiring contractors to carry the industry standard amount of \$1M (vs. \$2M) per occurrence for commercial general liability insurance, strike the requirement for a Builder's Risk policy, and strike the requirement for contractors to add the County as an additional insured.
4. *Lender Consent:* The Committee recommends requiring Program Participants who own non-residential properties to obtain written consent to participate in the PACE Program from lenders who have made loans to the Program Participant only where the property in question serves as security for the loan.
5. *Loan Limits for Residential and Non-Residential Properties:* The Committee recommends the Operating Agreement mirror the residential loan limitation language in the States PACE Loss Reserve regulations, which state "The Financing is for less than fifteen percent (15%) of the value of the property, up to the first seven hundred thousand dollars (\$700,000) of the value of the property, and is for less than ten percent (10%) of the remaining value of the property above seven hundred thousand dollars (\$700,000)." The Committee also decided to remove the 20% of value cap on non-residential PACE loans, modify the limitation in the County's Operating Agreement that a PACE assessment cannot result in property taxes exceeding 5% of market (vs. assessed) value, and stipulate in the Operating Agreement that the PACE assessment plus the mortgage related debt on a residential property must not exceed 95% of market value of the property.
6. *Definition of Residential vs. Non-Residential Properties:* The Committee recommends adding the following definition to the Operating Agreement: "Non-residential property" is any property that is a multi-family property containing five or more units of housing, or any commercial, agricultural, or industrial property that would otherwise be eligible for PACE financing. It was acknowledged that there is a discrepancy between the State's definition of residential property and the PACE law definition of residential property as "one to three units" and multi-family as "five or more units", leaving properties of four or more units in limbo. The Committee preferred to treat properties of four or less units as residential property for the purpose of the County's PACE Operating Agreement.
7. *Tax Deductibility Disclaimer:* The Committee decided to provide in the County's Operating Agreement that PACE providers may recommend that property owners consult with a tax professional prior to claiming any tax deductions associated with the project, and shall not recommend or indicate that homeowners take any particular filing position regarding their annual or semi-annual PACE assessment payments.

Following the Internal Operations Committee meeting on September 14, staff completed its review of the application materials submitted by CaliforniaFirst and California HERO. Staff finds that the applications submitted by these two PACE providers satisfy the County's requirements. Staff recommends today that the Board authorize the Conservation and Development Director, or designee, to execute an Operating Agreement with California HERO to operate a PACE financing program within the unincorporated area of the County and to adopt Resolution No. 2014/442 required for the PACE program to operate within the County's jurisdiction. The Operating Agreement reflects the changes recommended by the Internal Operations Committee.

CaliforniaFirst and CSCDA are currently reviewing the Operating Agreement, and staff expects to bring that application to the Board in December.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not approve the recommended actions, the California HERO PACE financing program will not be able to provide property owners in the unincorporated area of the County with financing for energy and water efficiency improvements to their property.

ATTACHMENTS

Resolution No. 2015/442

HERO PACE Operating Agreement with Attachments A-D

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/442

In the matter of approving the amendment to a certain Joint Powers Agreement and consenting to inclusion of properties within the County's unincorporated area in the California HERO to finance distributed generation renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure

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, County of Contra Costa (the "County") 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 County 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 the County in financing such Improvements; and

WHEREAS, Authority has authority to establish the California HERO Program, which will be such 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 County of Contra Costa as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the County (the "JPA Amendment"), by and between Authority and the County, a copy of which is attached as Exhibit "A" hereto, to assist property owners within the unincorporated area of the County in financing the cost of installing Improvements; and

WHEREAS, the County 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 by the Board of Supervisors of the County of Contra Costa as follows:

1. This Board of Supervisors finds and declares that properties in the County's incorporated area will be benefited by the availability of the California HERO Program to finance the installation of the Improvements proposed in the Resolution of Intention.
2. This Board of Supervisors hereby approves the JPA Amendment and authorizes the execution thereof by appropriate County officials.

3. This Board of Supervisors consents to inclusion in the California HERO Program of all of the properties in the unincorporated area within the County and to the Improvements proposed in the Resolution of Intention, 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.
4. The consent of this Board of Supervisors 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 such contractual assessments.
5. County staff is authorized and directed to coordinate with Authority staff to facilitate operation of the California HERO Program within the County, and report back periodically to this Board of Supervisors on the success of such program.
6. This Resolution shall take effect immediately upon its adoption. The Clerk of the Board of Supervisors is directed to send a certified copy of this resolution to the Secretary of the Authority Executive Committee.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Jason Crapo 925 674-7722

By: , Deputy

cc: Conservation & Development Deputy Director, Treasurer-Tax Collector, Auditor-Controller, County Administrator

**OPERATING AGREEMENT BETWEEN
CONTRA COSTA COUNTY AND PACE PROVIDER FOR
PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING**

This agreement ("Agreement"), dated as of _____, 2015 ("Effective Date"), is by and between Contra Costa County, a political subdivision of the State of California (the "County"), and the Western Riverside Council of Governments, a California limited joint 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 "PACE Provider").

RECITALS

A. Property Assessed Clean Energy (PACE) financing is a method of providing loans to property owners to finance permanent energy efficiency improvements on real property. A property owner who obtains a PACE loan repays the loan by entering into an agreement that allows an assessment to be levied on the property. These assessments are known as voluntary contractual assessments.

B. Voluntary contractual assessments that are utilized to finance the installation of energy efficiency improvements on real property are authorized by (1) the Improvement Act of 1911, as amended by AB 811 (Streets and Highways Code Section 5898.10 et seq.) ("Improvement Act") and (2) the Mello-Roos Community Facilities Act of 1982, as amended by SB 555 (Government Code Section 53311 et seq. ("Mello-Roos Act").

C. The PACE Provider is a joint exercise of powers authority that was created to establish a PACE financing program. The PACE Provider has established the HERO Program ("PACE Program") to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by property owners participating in the PACE Program. Under the PACE Program, the PACE Provider accepts applications from eligible property owners, conducts assessment proceedings, and levies assessments.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties agree as follows:

AGREEMENT

1. **Definitions.** As used in this Agreement, the following terms have the following meanings:

- a. "PACE Administrator" means an independent contractor of the PACE Provider that markets, administers and carries out the PACE Program on behalf of the PACE Provider.

- b. "Eligible Improvement" is a renewable energy improvement, energy efficiency improvement or other improvement authorized by the Improvement Act, the Mello-Roos Act or other state law pertaining to voluntary contractual assessments.
- c. "Non-residential Property" means a property with four or more residential units or any commercial, agricultural, or industrial property that is otherwise eligible for PACE Financing.
- d. "Participating Contractor" is any contractor that installs Eligible Improvements that are funded by a PACE Provider.
- e. "Program Participant" is a property owner who enters into a voluntary contractual assessment with the PACE Provider.
- f. "Property Assessed Clean Energy (PACE) Financing" is a means of financing Eligible Improvements as authorized by the Improvement Act, the Mello-Roos Act, or other state law pertaining to voluntary contractual assessments.
- g. "Residential Property" means a property with three or fewer residential units.
- h. "Value" means the greater of: (1) assessed value; or (2) fair market value, as determined either by an automated valuation model or an appraisal.

2. General Requirements.

- a. PACE Provider's Specified Services. The PACE Provider may offer and provide Property Assessed Clean Energy Financing to property owners in the unincorporated areas of the County. The PACE Provider is solely responsible for the formation, operation and administration of the PACE Program, including the conduct of assessment proceedings, the levy and collection of assessments, and the offer, sale and administration of any bonds issued by the PACE Provider on behalf of the PACE Program.
- b. Cooperation with County. The PACE Provider shall independently operate its program and cooperate with the County and County staff as described in this Agreement.
- c. Performance Standard. The PACE Provider shall provide PACE Financing in a manner consistent with the level of competency and standard of care normally observed by an organization providing PACE Financing pursuant to the Improvement Act or Mello-Roos Act.

3. Disclosure Requirements.

The PACE Provider shall do all of the following:

- a. Disclose in writing to potential Program Participants the financial risks associated with PACE Financing, including the risks associated with federal regulation and administration of mortgage financing and the position of the Federal Housing Finance Agency (FHFA) on PACE lending. The disclosure materials must include the following: (1) the disclosures contained in the HERO Financing Program Application, which is attached and incorporated herein as Attachment A; (2) a copy of the August 20, 2014 FHFA letter to Santa Clara County regarding PACE lending, which is attached and incorporated herein as Attachment B.
- b. Require potential Program Participants to sign a written acknowledgment of the Federal Housing Finance Agency (FHFA) position on PACE liens.
- c. Require Program Participants who own non-residential properties to obtain written consent to participate in the PACE Program from lenders who have made loans to the Program Participant where the property serves as security for the loan.
- d. Provide federal Truth in Lending Act disclosure details to the applicant specific to the requested amount of the financing. The details shall be provided to the applicant on the HERO Financing Estimate, which is attached and incorporated herein as Attachment C.
- e. Advise potential Program Participants of available state or federal rebate or incentive programs.
- f. Require each Program Participant to obtain from the County all building permits for improvements.
- g. The PACE Provider may recommend that property owners consult with a tax professional prior to claiming any tax deductions associated with the project.

4. Financial Requirements.

- a. The PACE Provider shall administer and review Program Participant eligibility and determine the Eligible Improvement costs to be financed.
- b. The PACE Provider shall establish its own interest rates, payback terms and fees.

- c. The PACE Provider shall participate in the State of California's PACE Loss Reserve Program, administered by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), and provide evidence of current participation and copies of all application materials submitted to CAEATFA. If the State discontinues the PACE Loss Reserve Program, or if the County determines that the State's PACE Loss Reserve Program does not provide adequate coverage, then the County may terminate this Agreement unless the County is satisfied with coverage by an alternative loan loss reserve program.
 - d. For residential properties, the PACE Provider will ensure that the loan amount to a Program Participant does not exceed 15% of the value of the property up to the first \$700,000 of the value of the property, and is for less than 10% of the remaining value of the property above \$700,000.
 - e. The PACE Provider shall ensure that any loans existing prior to the proposed PACE lien have an aggregate amount of no more than 95% of the value of the property, including all mortgage-related debt as determined as of the date the assessment contract is executed.
 - f. The PACE Provider shall ensure that the total property taxes and assessments for each property that will have PACE Financing will not exceed 5% of the value of the property as determined as of the date the assessment contract is executed.
 - g. The PACE Provider shall verify that each Program Participant is current on all property taxes and has not made late payments in the past three years, and verify that each Program Participant has not filed for bankruptcy in the past three years.
 - h. It is the PACE Provider's obligation to coordinate with the Auditor-Controller's Office each year regarding delinquent assessments.
5. Reports.

For each property that has entered into a voluntary contractual assessment through the PACE Provider, the PACE Provider shall provide project information and data in an accessible electronic format to the County on a monthly and annual basis and upon request, including but not limited to the following:

- a. The Assessor's Parcel Number (APN) and property type (residential or non-residential) of the property.
- b. The amount of the contractual assessment.
- c. All installed Eligible Improvements financed through PACE Financing.

- d. The solar STC-DC rating in watts or kilowatts of each Eligible Improvement.
 - e. The expected financial and energy savings associated with each Eligible Improvement.
 - f. For each property with a limited subordinate agreement, the effective date of that agreement.
6. Participating Contractor Obligations. The PACE Provider shall ensure that each Participating Contractor agrees to and abides by the following terms and conditions:
- a. Each Participating Contractor shall have all required California State License Board licenses and all other required State and County licenses.
 - b. Each Participating Contractor's bonding must be in good standing.
 - c. Each Participating Contractor shall hold harmless, indemnify and defend the County as set forth in Section 9 (c).
 - d. Each Participating Contractor shall have insurance as required in Section 12 (b).
 - e. Participating Contractors and their representatives, employees, and agents shall not represent themselves as agents, representatives, contractors, subcontractors, or employees of the County or the Department of Conservation and Development or claim association or affiliation with the County or Department of Conservation and Development.
7. Agreement with County Auditor-Controller. The PACE Provider will enter into a separate agreement with the Contra Costa County Auditor-Controller for the administration of property tax assessments placed on properties through the PACE Financing program.
8. Agreement with Program Participant. Each voluntary contractual assessment between the PACE Provider and a Program Participant shall require the Program Participant to hold harmless, indemnify and defend the County in accordance with the terms set forth in Attachment D, attached hereto. The terms set forth in Attachment D shall be incorporated into the PACE Provider's voluntary contractual assessment with each Program Participant for PACE Financing.
9. Indemnification and Release.
- a. Indemnification Obligation of the PACE Provider. To the fullest extent not prohibited by applicable law, the PACE Provider shall defend, indemnify,

protect, save, and hold harmless the County, the County Auditor-Controller, the County Treasurer-Tax Collector, their respective employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors and assigns (collectively and individually the "Indemnitees"), from any and all claims, cost, loss, liability, expense, damage (including consequential damages), or other injury, claim, action or proceeding (collectively "Liability") arising out of or connected with this Agreement or activities taken by the parties pursuant to this Agreement, including: (i) any claim, action or proceeding to attack, set aside, void, abrogate, rescind or annul this Agreement or the actions of either party under this Agreement; (ii) the placement or collection of assessments on participating properties; or (iii) the acts, errors or omissions of the PACE Provider, its officers, employees, agents, contractors, subcontractors, or any person under its direction or control in connection with this Agreement; and will make good to and reimburse Indemnitees for any expenditures, including reasonable attorney's fees, the Indemnitees may make by reason of such matters. If requested by any of the Indemnitees, the PACE Provider will defend any such suits at the sole cost and expense of the PACE Provider with counsel selected or approved by the Contra Costa County Counsel.

The PACE Provider's obligations under this section will exist regardless of concurrent negligence or willful misconduct on the part of any Indemnitee or any other person; provided, however, that the PACE Provider will not be required to indemnify Indemnitees for the proportion of Liability a court determines is attributable to the sole negligence or willful misconduct of the County, its governing body, officers or employees. This indemnification clause shall survive the termination or expiration of this Agreement.

b. PACE Provider's Release. To the fullest extent not prohibited by applicable law, the PACE Provider hereby releases and forever discharges the County, the County Auditor-Controller, the County Treasurer-Tax Collector, their respective employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors and assigns (collectively "Released Parties"), from any and all claims, cost, loss, liability, expense, damage (including consequential damages), or other injury, claim, action or proceeding (including without limitation, attorneys fees and expenses), which the PACE Provider now has or could assert in any manner arising out of or connected with this Agreement, the subject matter of this Agreement, or activities taken by the parties pursuant to this Agreement, including any claim, action or proceeding to attack, set aside, void, abrogate, rescind or annul this Agreement or the actions of either party under this Agreement. The PACE Provider knowingly waives the right to make any claim against the Released Parties for such damages and expressly waives all rights provided by section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF

KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

The rights and obligations contained in this paragraph will survive termination of this Agreement.

c. Indemnification and Release Obligations of Participating Contractors. The PACE Provider must require each Participating Contractor to release, defend, indemnify, protect, save, and hold harmless the County, the County Auditor-Controller, the County Treasurer-Tax Collector, their respective employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors and assigns, from any and all liability, claims, losses, costs, expenses, penalties, fines, forfeitures, judgments and damages, including attorneys’ fees and costs, arising out of or connected with the Participating Contractor’s actions under the PACE Program, including the installation of any Eligible Improvement.

10. Term of Agreement. The term of this Agreement shall be from the Effective Date until termination in accordance with the provisions of Section 11, Termination.

11. Termination.

- a. Termination without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, the County or PACE Provider shall have the right, in its sole discretion, to terminate this Agreement by giving 30 days’ written notice to the other Party of this Agreement. This Agreement may be cancelled immediately by written mutual consent.
- b. Termination for Cause. Notwithstanding any other provision of this Agreement, if the PACE Provider fails to uphold any of its obligations under this Agreement, or otherwise violates any of the terms of this Agreement, the County may immediately terminate this Agreement by giving the PACE Provider written notice of such termination, stating the reason for termination.
- c. Discontinuation of PACE Program. Upon 24 hours’ notice from the County, the PACE Provider shall immediately discontinue its residential PACE Program in the County’s unincorporated area if the Federal Housing Finance Authority (FHFA) takes any action in California pertaining to PACE Financing, as it relates to Fannie Mae and Freddie Mac mortgages, that the County determines will create an undue liability to the County or Program Participants.
- d. Delivery of Data and Information upon Termination. In the event of termination and within 14 days following the date of termination, the PACE Provider must deliver to County all data and information for all properties with contractual assessments, as specified in Section 5, Reports.

- e. **Effect of Termination.** If the Board of Supervisors terminates this agreement pursuant to this Section 11, the PACE Provider may not solicit new assessment contracts within the unincorporated areas of the County.
- f. **Upon termination of this Agreement or the discontinuance of the PACE Program,** the PACE Provider shall continue to administer all voluntary assessment contracts that exist at the time of the termination.

12. Insurance.

- a. **The PACE Provider is self-insured,** and shall provide the County with a letter of self-insurance within 30 days after the effective date of this Agreement.
- b. **The PACE Provider will ensure that the following insurance requirements are incorporated into all contracts entered into by the PACE Provider with each PACE Administrator and Participating Contractor, or their respective contractors, subcontractors or assigns, in connection with this Agreement:** (1) each PACE Administrator and Participating Contractor must maintain workers' compensation insurance pursuant to state law; (2) each PACE Administrator and Participating Contractor must maintain commercial general liability insurance, including contractual liability (or blanket contractual) coverage, owners' and contractors' protective coverage, and broad form property damage coverage, with a minimum of \$1 million per occurrence; (3) each PACE Administrator and Participating Contractor must maintain vehicle liability insurance with a minimum combined single-limit coverage of \$500,000 per occurrence; and (4) each PACE Administrator shall maintain Professional Liability Errors and Omissions Insurance coverage at \$1,000,000 per occurrence or aggregate limit. Each PACE Administrator and Participating Contractor shall provide certificates of insurance to the County, copies of policies, or endorsements evidencing the above insurance coverage and requiring at least 30 days' written notice to the County of policy lapse, cancellation, or material change in coverage.

13. Miscellaneous Provisions.

- a. **Independent Contractor Status.** The parties intend that the PACE Provider, in implementing and operating the PACE Program, is an independent contractor, and that the PACE Provider will control the work and the manner in which it is performed. This Agreement is not to be construed to create a relationship between the parties of agent, servant, employee, partnership, joint venture, or association. The PACE Provider is not a County employee. This Agreement does not give the PACE Provider any right to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits County provides to its employees.

- b. Compliance with the Law. The PACE Provider is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Agreement, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment, including nondiscrimination.
- c. Authorization. The PACE Provider represents and warrants that it has full power and authority to enter into this Agreement and to perform the obligations set forth herein.
- d. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. This Agreement binds the heirs, successors, assigns and representatives of the PACE Provider.
- e. Method and Place of Giving Notice. All notices shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices shall be addressed as follows:

TO COUNTY:

Contra Costa County
Department of Conservation and Development
Deputy Director, Building Inspection Division
30 Muir Road
Martinez, CA 94553

TO PACE PROVIDER:

Rick Bishop
Western Riverside Council of Governments
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Phone: (951) 955-7985
Fax: (951) 787-7991

The effective date of notice is the date of deposit in the mail or other delivery, except that the effective date of notice to the County is the date of receipt by the Deputy Director, Building Inspection Division, Department of Conservation and Development. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

- f. Inspection. Upon the County's request, the County or its designee shall have the right at reasonable times and intervals to inspect the PACE

Provider's financial and program records at the premises of the PACE Provider and the PACE Administrator. The PACE Provider or the PACE Administrator shall maintain all PACE Program records for a period of four years following termination of the Agreement, and shall make them available for copying upon the County's request at the County's expense.


- g. No Waiver of Breach. The waiver by the County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.
- h. Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. The PACE Provider and the County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other.
- i. Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.
- j. No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in third parties.
- k. Choice of Law. This Agreement is made in Contra Costa County and is governed by, and must be construed in accordance with, the laws of the State of California.
- l. Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- m. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion, expiration or termination for any reason.
- n. Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

- o. Entire Agreement. This Agreement contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Agreement will be deemed to exist or to bind any of the parties hereto.
- p. Duplicate Counterparts. This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

PACE PROVIDER

CONTRA COSTA COUNTY

By: 
Name: Rick Bishop
Title: Executive Director

By: _____
Name: _____
Title: _____

Attest: 
Best Best & Krieger LLP



P: (855) HERO-411 F: (858) 815-6860 E: info@heroprogram.com

A: 15073 Avenue of Science
San Diego, CA 92128

The Western Riverside Council of Governments (the "Authority") HERO Program (the "Program") finances installation of renewable energy, energy or water efficiency products, or electric vehicle charging infrastructure that are permanently fixed to a property owner's real property ("Eligible Products"). Eligible Products will be financed upon the signing of an assessment contract between the Authority and the property owner ("Assessment Contract"). The Authority has retained Renovate America, Inc. ("RA") to facilitate the Program, and you will see this name throughout the Program materials. The Authority and RA are referred to collectively therein as "Program Administrator."

Property Owner Acknowledgments

In order to participate in the Program, I understand that I need to meet the qualifications listed below. By signing this Application, I acknowledge and represent to the best of my knowledge that I and any other owner(s) of the property which is the subject of this application (the "Property") meet these qualifications and I authorize the Program Administrator to obtain a credit report for each of the Property owner(s) and/or trustees whose social security number is provided on this application.

1. Applicant(s) must be the owner(s) of record for the respective Property;
2. Mortgage-related debt on the Property must not exceed 90% of the value of the Property;
3. Property owner(s) must be current on their property taxes and there must be no more than one late payment in the past three years;
4. Property owners must be current on all Property debt of the subject Property at the time of application and cannot have had more than one 30 day mortgage late payment over the previous 12 months;
5. Property owner(s) must not have had any active bankruptcies within the past two years, and the Property must not be an asset in an active bankruptcy. If a bankruptcy was discharged between two and seven years prior, and the property owner(s) has not had any additional late payments more than 60 days past due in the last 24 months, the property owner may be considered for approval; and
6. The Property must not have any federal or state income tax liens, judgment liens, mechanic's liens, or similar involuntary liens.

I understand that to qualify for the Program that the following requirements must be met:

- a. The amount to be financed under the Program must be less than 15% of the value of the Property on the first \$700,000 value, and less than 10% of any remaining value of the Property thereafter.
- b. The combined amount to be financed under the Program plus the mortgage related debt must not exceed 100% of the value of the Property.
- c. In accordance with State Law, the all-in tax rate on the Property (including the Assessment and any other assessments) may not exceed 5% of the Property value.
- d. All Property owners must sign all required documentation, including but not limited to the Application, the Completion Certificate and the Assessment Contract with all other required Financing Documents.
- e. Following approval, my contractor or I must call the Program to identify the Eligible Products I would like to purchase, enter into an Assessment Contract with the Authority, and receive Notification to Proceed from the Program before beginning the installation of any Eligible Products. Products which have not been approved by the Program will not be funded.
- f. Interest rates may change from the approval date to receiving the Notification to Proceed.

By signing this Application, I hereby declare under penalty of perjury under the laws of the State of California all of the following:

1. That the information provided in this Application is true and correct as of the date set forth opposite my signature on the Application and that I understand that any intentional or negligent misrepresentation(s) of the information contained in this Application may result in civil liability and/or criminal penalties including, but not limited to, imprisonment, liability for monetary damages to the Authority, its agents, or successors and assigns, insurers and any other person who may suffer any loss due to reliance upon any misrepresentation which I have made in this Application, or both.
2. I have the authority to authorize the Program Administrator to obtain a credit report for each of the Property owner(s) and/or trustee(s) whose social security number(s) is provided on this Application.
3. I understand that it is my responsibility to receive, read and understand all documents comprising the Program, which, in addition to information on the Program website, include the following:
 - a. This Application;
 - b. Privacy Policy Notice;
 - c. Assessment Contract; and
 - d. Program Handbook.

I have had an opportunity to speak with Program representatives and my legal counsel on any questions I have regarding the documents listed above. I am also aware that Property owners are encouraged to consult with legal counsel or a tax professional of their choice before entering into an Assessment Contract.

4. I am applying to participate in the Program. I have the authority, without the consent of any third party, to execute and deliver this Application, the Assessment Contract, and the various other documents and instruments referenced herein.
5. I understand that the financing provided pursuant to the Assessment Contract will be repayable through an assessment levied against the Property. I understand that an assessment lien will be recorded by the Authority against the Property in the office of the County Recorder of the County of Contra Costa upon execution of the Assessment Contract. The property tax bill (which will include the assessment payments) for the Property will increase by



the amount of these assessment installment payments. The Assessment Contract will specify the amount of the assessment, the assessment installments and the interest on the assessment to be collected on the property tax bill for the Property each year during the term specified in the Assessment Contract. The assessment and the interest and any penalties thereon will constitute a lien against the Property until they are paid. As with all tax and assessment liens, this lien will be senior to all existing and future private liens against the Property, including mortgages, deeds of trust and other security instruments.

Disclosures

The following describes some (but not all) characteristics and risks of participation in the Program as well as laws to which the Program is subject. A full understanding of any item listed below can be gained only by reviewing the relevant laws, policy statements, and/or the contractual documents related to the Program. The Program Administrator is available to answer questions regarding the items listed below before you enter into an Assessment Contract, and invites you to ask Program representatives any questions regarding these items or if you need copies of any document related to the Program.

1. Program Disclosures and Disclaimers.

- a. **Existing Mortgage.** The Program establishes the manner by which the Authority may finance, pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10), the installation of Eligible Products. Eligible Products will be financed pursuant to an Assessment Contract between you and the Authority.

BEFORE COMPLETING A PROGRAM APPLICATION, YOU SHOULD CAREFULLY REVIEW ANY MORTGAGE AGREEMENT(S) OR OTHER SECURITY INSTRUMENT(S) WHICH AFFECT THE PROPERTY OR TO WHICH YOU AS THE PROPERTY OWNER ARE A PARTY. ENTERING INTO A PROGRAM ASSESSMENT CONTRACT WITHOUT THE CONSENT OF YOUR EXISTING LENDER(S) COULD CONSTITUTE AN EVENT OF DEFAULT UNDER SUCH AGREEMENTS OR SECURITY INSTRUMENTS. DEFAULTING UNDER AN EXISTING MORTGAGE AGREEMENT OR SECURITY INSTRUMENT COULD HAVE SERIOUS CONSEQUENCES TO YOU, WHICH COULD INCLUDE THE ACCELERATION OF THE REPAYMENT OBLIGATIONS DUE UNDER SUCH AGREEMENT OR SECURITY INSTRUMENT. IN ADDITION, FANNIE MAE AND FREDDIE MAC, THE OWNER OF A SIGNIFICANT PORTION OF ALL HOME MORTGAGES, STATED THAT THEY WOULD NOT PURCHASE HOME LOANS WITH ASSESSMENTS SUCH AS THOSE OFFERED BY the Authority. THIS MAY MEAN THAT PROPERTY OWNERS WHO SELL OR REFINANCE THEIR PROPERTY MAY BE REQUIRED TO PREPAY SUCH ASSESSMENTS AT THE TIME THEY CLOSE THEIR SALE OR REFINANCING.

If your lender requires an impound for your property taxes, please consider notifying them of the annual assessment payment amount so they can adjust your impound amount.

- b. **Foreclosure.** Not later than October 1 each year, the Authority shall determine whether any annual assessment installment is not paid when due and shall have the right to order that any such delinquent payment, penalties, interest, and associated costs be collected by a foreclosure action brought in Superior Court that could result in a sale of the Property for the payment of such delinquent assessment installment.
- c. **Interest Rate.** You will be charged a fixed interest rate on your total financed amount. Your interest rate will be set at the time your financing documents are issued. Interest rates may change from the approval date to the date the Notification to Proceed is sent.
- d. **Program Administration Fee.** At the time of closing, the Authority will charge you a one-time administration fee of 4.99% of the principal amount of the assessment on the Property to cover the costs of administering the Program. This fee will be added to the assessment amount.
- e. **Recording Fee.** At the time of closing, the Authority will pass-through the assessment recording fee of approximately \$95.00 to you to cover the costs of recording the assessment. This fee will be added to the assessment amount.
- f. **Assessment Administration Fee.** Each year, an annual assessment administrative fee will be added to the assessment lien amount on your property tax bill. Currently these costs are \$35.00 and there will be adjustments in subsequent years for cost of living increases, not to exceed \$95.00.
- g. **Interest Before First Payment:** Based on the date an assessment is recorded on your Property the payment of assessment installments may not begin until the following year's property tax bill. As a result interest will be added to the assessment amount for the period between your closing date and the date of your first assessment payment. The maximum amount of interest will be listed on your Financing Summary, which will be provided with your financing documents.
- h. **Automated Valuation Model Disclosure.** You have the right to a copy of the automated valuation model (AVM) report used in connection with your application for credit. If you want to obtain a copy, please email or write to us at the address we have provided. We must hear from you no later than 90 days after we provide you with a notice of the action taken on your application or a notice of incompleteness, or in the case of a withdrawn application, 90 days after the withdrawal. An AVM is not an appraisal. It is a computerized property valuation system that is used to derive a real property value.
- i. **Prepayment.** You have the option to pay off your assessment amount at any time in full, or in any amount of at least \$2,500. A prepayment is calculated to include the principal amount of the assessment to be prepaid (Assessment Prepayment Amount) and interest on the Assessment Prepayment Amount to the second business day of the second month following the date the prepayment is made.



- j. **No Endorsement, Warranty or Liability.** The Authority, Renovate America, Inc., and the Program do not endorse any manufacturer, contractor, product, or system, or in any way warranty such equipment, installation, or the efficiency or production capability of any equipment. The Authority, Renovate America, Inc. and the Program make no representations and have no responsibility regarding the equipment and its installation, including the quality, safety, cost savings, efficiency or production capability of any equipment; or any compliance of the equipment or its installation with any applicable laws, regulations, codes, standards or requirements. Further, the Authority, Renovate America, Inc. and the Program shall not be in any way liable for any incidental or consequential damages resulting from the equipment or its installation.
- k. **Validation.** The Program may validate that installed Eligible Products meet Program eligibility requirements including requiring the applicant to provide additional sales receipts, contractor invoices, serial numbers or other identifying details, portions of packages or stickers originally attached to the installed Eligible Products beyond what the Program already requires to be provided. The Program reserves the right to perform independent on-site validation(s) of any Eligible Products financed by the Program even if permit inspections have already been completed. If a validation visit is required, Program staff will schedule any such on-site validation visit with the Property owner, at any reasonable time and with reasonable notice. In addition, the Program reserves the right to perform online monitoring of any installed renewable energy systems' generation data, if applicable, as well the tracking of energy consumption impacts and utility usage for any installed/financed product via property utility bill data. You, by submitting this application, consent to any such onsite validations, online monitoring, and utility bill energy usage analysis. By submitting this application, you also agree to sign the authorization form to participate in utility billing energy usage analysis to measure Program impact savings and participant satisfaction.
- l. **Additional Homeowner Information Disclosure.** Please see the HERO Website Privacy Policy for additional information on disclosure practices.
- m. **Property Transfers, Notice, and Acknowledgement.** To the extent required by applicable law, the Property owner hereby agrees to provide written notice of the obligation to pay the Assessment pursuant to an Assessment Contract to any subsequent purchaser or transferee of the Property or any interest therein, including any subdivision of the Property, at or before the time of sale or transfer of the Property. Property owner understands and acknowledges that the Assessment, and obligation to pay the Assessment pursuant to such Assessment Contract, runs with the land and, upon sale or transfer of the Property or any interest therein, any subsequent owner or transferee shall be required to pay the Assessment pursuant to such Assessment Contract. If a subsequent owner or transferee fails to pay the Assessment pursuant to such Assessment Contract, then the provisions of this Contract, including the "Foreclosure" provision listed above, shall apply to the subsequent owner or transferee's interest in the Property to the extent permitted by law. Property owner further understands and acknowledges that a subsequent purchaser or transferee, or any interested party to the sale or transfer (such as a lender), may require as a condition of sale or transfer, that the Assessment be paid in full prior to sale or transfer. Information regarding Assessment prepayment can be found in the Contract to Pay Assessment; Prepayment section of the Assessment Contract.
2. **Legal Disclosures**
- a. **Equal Credit Opportunity Act (ECOA).** The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against Credit Applicant(s) on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant(s) income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Division of Credit Practices, Washington, D.C. 20580.
- b. **Fair Credit Reporting Act.** As part of assembling your Program application, the Authority has requested a consumer report bearing your credit worthiness, credit standing and credit capacity. This notice is given to you pursuant to the Fair Credit Reporting Act.
- c. **The Housing Financial Discrimination Act Of 1977.** It is illegal to discriminate in the provision of or in the availability of financial assistance because of the consideration of:
- i. trends, characteristics or conditions in the neighborhood or geographic area surrounding a housing accommodation, unless the financial institution can demonstrate in the particular case that such consideration is required to avoid an unsafe and unsound business practice; or
 - ii. race, color, religion, sex, marital status, domestic partnership, national origin or ancestry.
- d. **Patriot Act Disclosure.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: As part of applying to the Program, the Authority may be required to ask for your name, address, date of birth, and other information that will allow it to identify you. The Authority may also need a copy of the driver's license or other identifying documents from any and all borrowers and guarantors.
- e. **Communications with Legal Advisers.** If you have any questions about any agreements or security instruments which affect the Property or to which you are a party, or about your authority to execute the Program Application or enter into an Assessment Contract with the Authority without the prior consent of your existing lender(s), the Program strongly encourages you to consult with your own legal counsel and your lender(s). Program staff cannot provide you with advice about existing agreements or security instruments.
- f. **Monitoring and Recording Telephone Calls.** The Program may monitor or record telephone calls for security and customer service purposes. By applying for HERO Financing, you consent to have any phone conversations with the Program recorded or monitored.




HERO Financing Program™ Application

P: (855) HERO-411 F: (858) 815-6860 E: info@heroprogram.com

A: 15073 Avenue of Science
San Diego, CA 92128

Property Owner Signature(s)

I declare that (i) I have received, read and understand the risks and characteristics of the Program described in the Property Owner Acknowledgments and Disclosures set forth in this Application and (ii) I have been informed that I must take the sole responsibility to satisfy myself that executing the Assessment Contract, receiving financing for Eligible Products, and consenting to the assessment levied against the Property will not constitute a default under any other agreement or security instrument (specifically the terms of any mortgage on the Property) which affects the Property or to which I am a party.

	_____ John Smith	_____ Date	_____ Jane Smith	_____ Date
	_____ Property Owner 3	_____ Date	_____ Property Owner 4	_____ Date



HERO Financing Program™ Application

P: (855) HERO-411 F: (858) 815-6860 E: info@heroprogram.com

A: 15073 Avenue of Science
San Diego, CA 92128

FOR CONTRACTOR CALL IN ONLY

HERO ID#: RCC12345A

Property Address

Single Family Home

Property Type

Property Address

City

State

Zip Code

Property Owner

Ownership Type: Joint

John

First Name

M. Initial

Smith

Last Name

XXX-XX-XXXX

Social Security Number

XX/XX/XXXX

Birth Date (mm/dd/yyyy)

Home Phone Number

email@email.com

Email Address

Mailing Address

City

State

Zip Code

Property Owner 2

Jane

First Name

M. Initial

Smith

Last Name

XXX-XX-XXXX

Social Security Number

XX/XX/XXXX

Birth Date (mm/dd/yyyy)

Property Owner Signature(s)

I declare that I have the authority, without the consent of any third party which has not been previously obtained, to execute and deliver the Application, Assessment Contract, and the various documents and instruments referenced therein.



John Smith

Date

Jane Smith

Date

Property Owner 3

Date

Property Owner 4

Date

If you do NOT wish to receive email communications from the Program and would prefer all communications to occur through the U.S. mail instead, please contact us.

☐ Please check this box if you do NOT want to receive newsletters or other marketing materials from the Program or Renovate America, Inc.



Federal Housing Finance Agency

Constitution Center
400 7th Street, S.W.
Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

August 20, 2014

Orry P. Korb
County Counsel
Office of County Counsel for County of Santa Clara
70 West Hedding Street,
East Wing, 9th Floor
San Jose, CA 95110-1770

RE: PACE Lending

Dear Mr. Korb:

The Federal Housing Finance Agency has been advised that a number of communities in California, including yours, recently announced plans to move forward with programs to approve Property Assessed Clean Energy (PACE) loans with a first lien on residential properties. Consequently, I am writing to remind you that Fannie Mae and Freddie Mac do not purchase mortgages for either home sales or re-financings that are encumbered with first lien PACE (or similar program) loans. This policy has been in place since 2010 and was reaffirmed by FHFA in 2014. The Federal Home Loan Banks, which also are regulated by FHFA, have been directed to protect their interests in the collateral they accept for advances, which could become subject to PACE encumbrances.

FHFA urges your community to inform potential borrowers of the policies of Fannie Mae and Freddie Mac and to provide them the web addresses that homeowners can utilize to determine whether their loan is currently held or guaranteed by one of the Enterprises. These websites are <https://knowyouroptions.com/loanlookup> for Fannie Mae and for Freddie Mac <https://www3.freddie.mac.com/loanlookup/?intcmp=LLT-HPstep1>.

Thank you for your attention in this matter. If you have any questions, you may contact me directly at 202 649 3050.

With all best wishes, I am

Sincerely,

Alfred M. Pollard
General Counsel



Financing Estimate

15073 Avenue of Science, San Diego, CA 92128

Save this Financing Estimate to compare with your Final Payment Summary.

DATE ISSUED**PROPERTY OWNERS****PROPERTY****TERM****PURPOSE****PRODUCT****IDENTIFICATION #****RATE LOCK**☐ NO ☒ YES, until MM/DD/YYYY

After the expiration date interest rates and closing costs can change.

Products and Costs

Product Cost	
Financing Cost	See closing costs details
Prepaid interest	
Other Costs	
Financed Amount	Total amount of the assessment

Terms

	Can this amount increase after closing?	
Financed Amount	NO	Total amount of the assessment
Interest Rate	NO	
Principal, Interest and Other Costs	YES	Annual administrative fee is subject to change
	Does the financing have these features?	
Prepayment Penalty	NO	Interest will be due to the next bond call date
Balloon Payment	NO	

Projected Payments

Payment Calculation**Years 1-10**

Principal & Interest

Annual Administrative Fee

Annual administrative fee is subject to change

Estimated Total**Annual Payment**

Your payment will be added to your property bill for the next XX years. If your project is completed and all your documents are submitted and approved by DATE, your first HERO payment will be included on your DATE tax bill. If your HERO documents are submitted and/or approved after DATE, your first HERO payment will be included on your DATE tax bill. Estimated payment information on this document assumes all documentation is approved on DATE.

Closing Cost Details

Costs at Closing		
Estimated Closing Costs		Includes \$XXX in Financing Costs + \$XX in Other Costs+ \$XXXX in Prepaid Interest. <i>See Calculating Cash to Close summary for details.</i>
Estimated Cash to Close	\$0	<i>See Calculating Cash to Close summary for details.</i>

Financing Costs		Other Costs	
A. Origination Charges	\$000.00	D. Recording and Administrative Fees	\$000.00
Application Fee	\$0	County Recording Fee	\$00.00
Underwriting and Bond Issuance Fee	\$000.00	Program Administrative Fee	\$00.00
B. Services	\$0	Prepaid Interest	
Appraisal Fee	\$0	E. Prepaid Interest (from closing to first payment)	\$000.00
Credit Report Fee	\$0	F. TOTAL CLOSING COSTS (C + D + E)	
Tax Monitoring Fee	\$0	\$000.00	
Tax Status Research Fee	\$0	Calculating Cash to Close	
Title- Title Search Fee	\$0	Total Closing Costs (F)	
C. TOTAL FINANCING COSTS (A + B)	\$000.00	Closing Costs Financed (Paid from Financed Amount) - \$000.00	
		Down Payment/Funds from Borrower	
		Estimated Cash to Close	
		\$0	

Additional Information About This Financing

PACE PROVIDER HERO Program
EMAIL info@heroprogram.com
PHONE (855) HERO-411

Comparisons	Use these measures to compare this financing with other forms of financing.	
In 10 Years	\$ 00000.00	Principal you will have paid off.
	+ \$0000.00	Amount of interest you will have paid.
	+ \$0000.00	Amount of financing and other costs you will have paid.
	= \$00000.00	Total you will have paid in principal, interest, financing and other costs.
Annual Percentage Rate (APR)	0.00%	Your costs over the term expressed as a rate. This is not your interest rate.
Total Interest Percentage (TIP)	0.00%	The total amount of interest that you will pay over the term as a percentage of your financing amount.

Other Considerations

Assumption

If you sell or transfer this property to another person, we

- ☒ will allow, this person to assume this financing on the original terms.
☐ will not allow assumption of this financing on the original terms.

I understand, if i refinance my home, my mortgage company may require me to pay off the remaining balance. If i sell my home, the buyer or their mortgage company may require me to payoff the remaining balance.

1 PO INITIAL

Payments

Your payments will be added to your property tax bill. Whether you pay your property taxes through your mortgage payment, using an impound account, or if you pay them directly to the tax collector you need to save an estimated \$2,892.62 for your first payment in November 2016. After your first payment if you pay your property taxes through an impound account your monthly mortgage payment should adjust to cover your increased property tax bill.

1 PO INITIAL

Tax Benefits

Consult your tax advisor regarding tax credits, tax deductibility, and other tax benefits of the HERO Program. You are responsible for submitting appropriate document with your tax return.

1 PO INITIAL

Late Payment

If your tax payment is late you are subject to penalties and late fees established by the tax collector.

Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this financing because you have signed or received this form.

Property Owner Signature

Date

Property Owner Signature

Date

Property Owner Signature

Date

Property Owner Signature

Date

ATTACHMENT D

WAIVER, RELEASE OF LIABILITY AND INDEMNIFICATION PROVISIONS ASSESSMENT CONTRACT BETWEEN PACE PROVIDER AND PROGRAM PARTICIPANT

1. Waiver of Assessment Proceedings.

Because this Agreement between the PACE Provider and Program Participant reflects the Program Participant's free and willing consent to pay the Assessment, the Program Participant hereby waives any otherwise applicable requirements of Article XIID of the California Constitution or any other provision of California law for an engineer's report, notice, public hearing, protest or ballot. The Program Participant hereby waives the right to repeal the Assessment by initiative or any other action, or to file any lawsuit or other proceeding to challenge the Assessment or any aspect of the proceedings of the PACE Provider undertaken in connection with the PACE Program.

2. Responsibility for Eligible Improvements.

The Program Participant hereby agrees that the Program Participant and its successors in interest to fee title in the property shall be solely responsible for the installation, operation and maintenance of the Eligible Improvements. The Program Participant hereby acknowledges that the Program Participant and its successors in interest to fee title in the property will be responsible for payment of the Assessment regardless of whether the Eligible Improvements are properly installed, operated or maintained as expected.

The Program Participant hereby agrees that the PACE Provider is entering into this Agreement solely for the purpose of assisting the Program Participant with the financing of the installation of the Eligible Improvements, and that the PACE Provider, PACE Administrator and the County shall have no responsibility of any kind for, and shall have no liability arising out of, the installation, operation, financing, refinancing or maintenance of the Eligible Improvements.

3. Indemnification Obligation of Program Participant.

To the fullest extent not prohibited by applicable law, the Program Participant shall defend, indemnify, protect, save, and hold harmless the PACE Provider, PACE Administrator, Contra Costa County, the County Auditor-Controller, the County Treasurer-Tax Collector, their respective employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors and assigns (collectively and individually the "Indemnitees") from any and all claims, cost, loss, liability, expense, damage (including consequential damages), or other injury, claim, action or proceeding (collectively "Liability") arising out of or connected with this Agreement or activities taken by the parties pursuant to this Agreement, the Operating Agreement between the

PACE Provider and Contra Costa County, or the agreement between the PACE Provider and the PACE Administrator, including: (i) any claim, action or proceeding to attack, set aside, void, abrogate, rescind or annul said Agreements or the actions of either party under said Agreements; (ii) the placement or collection of assessments on participating properties; or (iii) the acts, errors or omissions of the Program Participant, its officers, employees, agents, contractors, subcontractors, or any person under its direction or control in connection with this Agreement or the PACE Program; and will make good to and reimburse Indemnitees for any expenditures, including reasonable attorney's fees, the Indemnitees may make by reason of such matters. If requested by any of the Indemnitees, the Program Participant will defend any such suits at the sole cost and expense of Program Participant with counsel selected or approved by the affected Indemnitees.

The Program Participant's obligations under this section will exist regardless of concurrent negligence or willful misconduct on the part of any Indemnatee or any other person; provided, however, that the Program Participant will not be required to indemnify any Indemnatee for the proportion of Liability a court determines is attributable to the sole negligence or willful misconduct of that Indemnatee. This indemnification clause shall survive the termination or expiration of this Agreement.

4. Release.

To the fullest extent not prohibited by law, the Program Participant hereby releases and forever discharges the PACE Provider, PACE Administrator, Contra Costa County, the County Auditor-Controller, the County Treasurer-Tax Collector, their respective employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors and assigns (collectively "Released Parties") from any and all claims, cost, loss, liability, expense, damage (including consequential damages), or other injury, claim, action or proceeding (including without limitation, attorneys' fees and expenses), which the Program Participant now has or could assert in any manner arising out of or connected with the subject matter of this Agreement, the Operating Agreement between the PACE Provider and Contra Costa County, or the agreement between the PACE Provider and the PACE Administrator, or activities taken by the Released Parties pursuant to said Agreements, including any claim, action or proceeding to attack, set aside, void, abrogate, rescind or annul said Agreements or the placement or collection of assessments on participating properties. The Program Participant knowingly waives the right to make any claim against the Released Parties for such damages and expressly waives all rights provided by section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

The waivers, releases and agreements set forth in this document shall survive termination of the Agreement.



Contra
Costa
County

To: Board of Supervisors

From: AD HOC COMMITTEE ON SUSTAINABILITY, Supervisors John Gioia & Federal D. Glover

Date: November 17, 2015

Subject: Electric Vehicle Charging Stations

RECOMMENDATION(S):

INTRODUCE Ordinance No. 2015-22, amending the 2013 California Green Building Standards Code to establish electric vehicle parking and charging station standards, WAIVE reading, and FIX December 8, 2015, at 9:00 a.m., for a public hearing to consider adopting the ordinance;

DIRECT the Clerk of the Board to publish notice of the hearing pursuant to Government Code Section 6066.

FISCAL IMPACT:

There is no fiscal impact.

BACKGROUND:

November 3, 2015 Board of Supervisors Meeting Follow-up

At the November 3, 2015 Board of Supervisors meeting, staff was given direction to provide additional background and justification for the proposed Electric Vehicle Charging Stations ("EVCS") requirements for non-residential development and consider exempting small commercial developments. The basis for exempting small commercial projects is both the economic impact on projects and a presumption that such projects may have shorter duration parking needs.

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Jason Crapo (925)
674-7722

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

>

Research of the County's Land Use Permit and Development Plan applications approved or submitted since 2012 showed off-street parking for small commercial businesses varied from 0 to 12 off-street parking spaces. One project with 0 off-street parking spaces was granted a variance for off-street parking. These projects average 8 off-street parking spaces. Removing the project granted a variance, the average number of off-street parking spaces among these small commercial projects is 10. Based on this analysis, exempting projects with 10 or fewer off-street parking spaces would be reasonable. Staff recommends exempting proposed projects with 10 or fewer off-street parking spaces from the requirement to provide EVCS.

Duration of typical parking need is not information that is required for proposed projects and was not discernible among the projects that were surveyed. In addition, duration of parking need would change over time for each individual property because different tenants may have different parking needs, which would make EV parking regulations difficult to enforce. Therefore, it would be difficult for the County to base EV charging requirements on duration of parking need.

For commercial projects with more than 10 off-street parking spaces, the proposed EV charging requirements would be based on the California Green Building Code Standards Tier 2 Non-Residential Voluntary Measures, which are measures above the State's minimum requirements that local jurisdictions can adopt voluntarily. The Tier 2 Non-Residential Voluntary Measures were developed by the California Building Standards Commission through a collaborative process that included input from stakeholders in the building industry, local jurisdictions throughout the State, as well as various State departments.

November 3, 2015 Board of Supervisors Staff Report

In May 2015, following a referral from the Board of Supervisors on March 31, 2015, Department of Conservation and Development ("DCD") staff presented to the Ad Hoc Committee on Sustainability ("Committee") the new residential and non-residential 2013 California Green Building Standards Code requirements for electric vehicle supply equipment ("EVSE"), which became effective statewide on July 1, 2015. The Committee provided direction to staff for developing local amendments to the 2013 California Green Building Standards Code for County adoption.

At the September 14, 2015 Committee meeting, the Committee required potential amendments, directed staff to draft additional amendments, and approved a recommendation to the Board of Supervisors on the matter. The proposed changes to the state-wide requirements are summarized as follows:

Changes for new multi-family buildings:

- Increase the required number of EVCS to five percent of the total number of parking spaces provided, where three percent is the minimum required in the State Code;
- Require a minimum of one EVCS for every new multi-family building (three or more units) as opposed to State Code which requires no EVCS for multi-family buildings with fewer than 17 units;
- Require that EVSE be installed for each EVCS in addition to the electrical infrastructure required by the State Code.

Changes for new non-residential buildings:

- Increase the required number of EVCS to six percent of total number of parking spaces provided, where three percent is the minimum required in the State Code;
- Required number of EVCS in new construction shall provide fully operational EVSE as opposed to State Code which requires electrical infrastructure only;

- Require a minimum of one EVCS for every parking area associated with a new commercial building as opposed to State Code which requires no EVCS for parking areas of 50 or fewer parking spaces. (Proposed projects with 10 or fewer off-street parking spaces are exempt from the requirement to provide EVCS)

County Counsel reviewed DCD's draft and prepared a final ordinance to amend the 2013 California Green Building Code Standards Code to establish electric vehicle parking and charging station standards. The final draft is attached (Exhibit A).

After the ordinance is introduced, the Board of Supervisors must schedule a noticed public hearing to adopt the ordinance. DCD staff recommends the public hearing to adopt the ordinance take place on Tuesday, December 8, 2015 at 9:00 a.m. This would allow the ordinance to be available for public inspection for at least 15 days prior to adoption, as required by Government Code Section 20022.6.

¹The Ad Hoc Committee on Sustainability is composed of Supervisors John Gioia and Federal D. Glover. Note that Supervisor Glover was not in attendance at the March-September meetings.

CONSEQUENCE OF NEGATIVE ACTION:

Without adopting the proposed local amendments, the County will continue to adhere to the State mandatory standards for electric vehicle infrastructure.

ATTACHMENTS

Exhibit A: Ordinance No. 2015-22

ORDINANCE NO. 2015-22

(Amendment of 2013 California Green Building Standards Code)

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. Summary. This ordinance amends the 2013 California Green Building Standards Code, including the July 1, 2015 supplement, to establish electric vehicle parking and charging station standards. This ordinance is adopted pursuant to Health and Safety Code sections 17922, 17958, 17958.5, and 17958.7, and Government Code sections 50020 through 50022.10.

SECTION II. Section 74-4.006 is hereby added to Chapter 74-4 of the Ordinance Code to read:

74-4.006 Amendments to the Green Building Standards Code. The 2013 California Green Building Standards Code, including the July 1, 2015 supplement, is amended by the changes, additions, and deletions set forth in this chapter and Division 72. Section numbers used below are those of the 2013 Green Building Standards Code, including the July 1, 2015 supplement.

(a) Section 4.106.4.2 of Chapter 4 of the Green Building Standards Code is amended to read:

4.106.4.2 New multifamily dwellings. For any new multifamily dwelling other than a dwelling type specified in Section 4.106.4.1, at least five percent of the total number of parking spaces provided for all types of parking facilities, but in no case no less than one parking space, shall be electric vehicle charging stations (EVCS). Each EVCS shall be equipped with fully operational electric vehicle supply equipment (EVSE). The location of each EVCS shall be identified on construction documents. Calculations to determine the number of EVCS shall be rounded up to the nearest whole number.

(b) Section 5.106.5.3 of Chapter 5 of the Green Building Standards Code is amended to read:

5.106.5.3 Electric vehicle (EV) charging. [N] New nonresidential construction shall comply either with Section 5.106.5.3.1 or Section 5.106.5.3.2, whichever is applicable, and provide the required number of fully operational EVCSs. Each EVCS shall be installed in accordance with the California Building Code and California Electrical Code, and the requirements of Section 5.106.5.3.1 or Section 5.106.5.3.2, whichever is applicable.

(c) Section 5.106.5.3.1 of Chapter 5 of the Green Building Standards Code is amended to read:

5.106.5.3.1 Single charging space requirements. [N] If Table 5.106.5.3.3 requires only one EVCS for new nonresidential construction, one fully operational EVCS must be

ORDINANCE NO. 2015-22

installed in accordance with the California Electrical Code. The construction plans and specifications for the new nonresidential construction must satisfy the following requirements:

1. The type and location of the EVSE must be identified on the plans and specifications.
2. The plans and specifications must establish that each raceway is not less than trade size one inch.
3. Each listed raceway capable of accommodating a 208/240-volt dedicated branch circuit must be identified on the plans and specifications.
4. Each raceway must originate at a service panel or subpanel serving the area where the EVSE will be located, and must terminate at the location of the required charging equipment and into a listed, suitable cabinet, box, enclosure, or equivalent structure.
5. Each service panel or subpanel must have sufficient capacity to accommodate a minimum 40-ampere dedicated branch circuit for the EVSE.

- (d) Section 5.106.5.3.2 of Chapter 5 of the Green Building Standards Code is amended to read:

5.106.5.3.2 Multiple charging space requirements. [N] If Table 5.106.5.3.3 requires more than one EVCS for new nonresidential construction, the number of fully operational EVCSs specified in Table 5.106.5.3.3 must be installed in accordance with the California Electrical Code. The construction plans and specifications for the new nonresidential construction must satisfy the following requirements:

1. The type and location of the EVSEs must be identified.
2. Each raceway must originate at a service panel or subpanel serving the area where the EVSE will be located, and must terminate at the location of the required charging equipment and into a listed, suitable cabinet, box, enclosure, or equivalent structure.
3. Each service panel or subpanel must have sufficient capacity to accommodate a minimum 40-ampere dedicated branch circuit for the EVSE.
4. The plans and specifications must include electrical calculations to substantiate that the design of the electrical system, including the rating of equipment and any onsite distribution transformers, has sufficient capacity to simultaneously charge EVs at all EVSEs at their full-rated amperage.

5. Each service panel or subpanel must have sufficient capacity to accommodate the required number of dedicated branch circuits for the EVSEs that will be installed.

(e) Section 5.106.5.3.3 in Chapter 5 of the Green Building Standards Code is amended to read:

5.106.5.3.3 EV charging space calculations. [N] The required number of charging spaces with EVCSs for new nonresidential construction must be calculated in accordance with Table 5.106.5.3.3, subject only to the following exception.

Exception. On a case-by-case basis, the building official may require new construction to include fewer EV charging spaces than would otherwise be required by Table 5.106.5.3.3, or require no spaces, if the building official determines either of the following:

1. There is insufficient electrical supply to the new construction to adequately serve the required number of EV charging spaces.
2. The cost of the new construction will be substantially adversely impacted by any local utility infrastructure design requirements that are directly related to the installation of the required number or EV charging spaces.

TABLE 5.106.5.3.3

NONRESIDENTIAL CHARGING SPACE CALCULATION	
TOTAL NUMBER OF PARKING SPACES	NUMBER OF REQUIRED EV CHARGING SPACES
1-10	0
11-25	2
26-50	3
51-75	5
76-100	6
101-200	12
201 and over	6% of total number of parking spaces*
*Calculation for spaces shall be rounded up to the nearest whole number	

- (f) Section 5.106.5.3.4 of Chapter 5 of the Green Building Standards Code is amended to read:

5.106.5.3.4 [N] Identification. Each service panel or subpanel circuit directory must identify the reserved overcurrent protective device space or spaces for EV charging as “EV CAPABLE.” Each raceway termination location must be permanently and visibly marked “EV CAPABLE.”

- (g) Section 5.106.5.3.5 of Chapter 5 of the Green Building Standards Code is amended to read:

Section 5.106.5.3.5 [N] Each EV charging space required by Section 5.106.5.3.3 shall be counted as one designated parking space required by Section 5.106.5.2.

(Ord. 2015-22, § 2.)

SECTION III. Effective Date. This ordinance becomes effective 30 days after passage, and within 15 days of passage shall be published once in the Contra Costa Times, a newspaper published in this County. This ordinance shall be published in a manner satisfying the requirements of Government Code section 25124, with the names of supervisors voting for and against it.

Passed on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: David Twa,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

SMS

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ORDINANCE NO. 2015-22

- 4 -



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 17, 2015

Subject: Solid Waste Collection Rates in the Unincorporated West County Areas Served by Richmond Sanitary Service Under the County's Franchise Agreement

RECOMMENDATION(S):

ACCEPT report from Crowe Horwath (consultant) dated October 28, 2015 regarding their review of the Base Year Rate Application submitted by Richmond Sanitary Service (Exhibit A).

CONCUR with the Director of Conservation and Development's proposed use of Rate Stabilization funding to offset the recommended 2016 Base Year Collection Rate increase of 2.19% effective January 1, 2016 for residential customers in the unincorporated West County area served by Richmond Sanitary Service (RSS) under the County/RSS Franchise Agreement.

CONCUR with the Director of Conservation and Development's proposed use of Rate Stabilization funding to offset, to the maximum extent possible, the annual Consumer Price Index (CPI) rate increases that may be requested for calendar years 2017 through 2019 for residential customers in the unincorporated West County area served by RSS under the County/RSS Franchise Agreement

FISCAL IMPACT:

No impact to the County General Fund. The costs for County staff time spent administering the Franchise Agreement and any related consulting services are covered by solid waste/recycling collection franchise fees.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Demian Hardman (925)
674-7826

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND:

In October 1993, the County entered into a Franchise Agreement with Richmond Sanitary Service (RSS), which was amended in 1994. On November 12, 2013, the County approved a Second Amendment to the County/RSS Franchise Agreement that: (a) increased the franchise fee to seven percent (7%); (b) established new 2014 Collection Rates, which included a Rate Stabilization Adjustment; (c) required RSS to provide new and expanded services; and (d) acknowledged the term was extended through October 11, 2023.

The Franchise Agreement grants RSS the exclusive privilege and duty to collect solid waste, recyclables and organics routinely generated by residential and commercial customers within the designated RSS service area (also known as the “Franchise Area”). The RSS service area covers the following eight (8) unincorporated communities, which are all located in Supervisorial District I, with the exception of Alhambra Valley located in District V:

1. Alhambra Valley (partial)
2. Bayview
3. East Richmond Heights
4. El Sobrante
5. Montalvin Manor
6. North Richmond
7. Rollingwood
8. Tara Hills

The County establishes and regulates Collection Rates that RSS is allowed to charge for residential collection services provided in their Franchise Area. These rates are established in accordance with the adopted rate setting methodology set forth in the *“Rate Setting Process and Methodology Manual for Solid Waste Charges As Applied to Richmond Sanitary Service a division of Republic Services, Inc.” (Rate Setting Methodology Manual)*. The County-adopted methodology details a rate setting process that involves: (a) Base Year rate reviews that occur every four (4) years based on data submitted in detailed rate applications and accompanying audited financial statements; (b) Annual Interim Year rate adjustments calculated based on a weighted increase in controlled and uncontrolled costs and Consumer Price Index (CPI) adjustments, alternatively in the intervening years between audited rate applications the Franchise allows adjustments which do not exceed the change in CPI without approval from the County Board of Supervisors; and (c) provides for the recovery of the reasonable costs incurred by RSS in performing services under the Franchise Agreement as well as allowable profit.

Unlike the other County Franchise Agreements, the total monthly rate charged to ratepayers is comprised of both a Collection and Post-Collection Rate. The County only approves the Collection Rate charged to residential customers in the RSS service area. Another public agency regulates the Post-Collection Rate as discussed in more detail in the Post-Collection Rate section at the end of this report.

History of Solid Waste Collection Rate Adjustments since the prior Base Year

Below is a brief summary of the rate adjustments over the past four (4) years within the County/RSS Franchise Area:

2012: Base Year Rate Review– A recommended rate decrease of -5.99% was deferred, so rates charged to customers remained stable. The deferral of the 5.99% reduction provided a credit to help offset subsequent annual rate increases as well as generated Efficiency Surplus Funding which has been used to have RSS provide additional services within the Franchise Area at no additional cost to ratepayers.

2013: Interim Year Rate – Annual CPI adjustment of 2.80% was credited to RSS. Instead of increasing rates by the change in CPI, a portion of the 5.99% rate reduction credit identified in 2012 was used to offset the 2.80% CPI increase, resulting in the credit being reduced from 5.99% to 3.19%. The rate reduction credit not used to offset CPI increases each year yielded surplus revenue resulting from service efficiencies (“Efficiency Surplus Funding”) which is being treated as a credit available to fund allowable costs for fees or services not included in the Collection Rates pursuant to the terms of Exhibit G to the Second Amendment to the County/RSS Franchise

Agreement approved in November 2013.

2014: Interim Year Rate – Annual CPI adjustment of 2.03% was credited to RSS. The rate reduction credit of 3.19% remaining from 2013 was used to offset the CPI increase, which further reduced the credit from 3.19% to 1.16%. Although there was no net change in rates charged to residential customers in 2014, a change (technically an 18% increase) to the Collection Rate component of the monthly rate charged to customers was prompted by a reduction in the Post-Collection Rate regulated by another public agency in addition to the implementation of enhanced services. In order to maintain stable rates for customers in the RSS service area, the Board of Supervisors approved a Rate Stabilization Adjustment which in addition to the Enhanced Services Rate Adjustment resulted in a Collection Rate increase that equaled the Post-Collection Rate reduction so there would be no net change in customers' monthly bills. The Rate Stabilization Adjustment solely applied to residential rates effective on January 1, 2014 pursuant to the terms of the Second Amendment to the County/RSS Franchise Agreement approved in November 2013.

2015: Interim Year Rate – Annual CPI adjustment of 2.96% was credited to RSS. The remaining 1.16% rate reduction credit available from 2014 was applied to offset a portion of the CPI increase ($2.96\% - 1.16\% = 1.80\%$). The Rate Stabilization Adjustment was used to offset the remaining 1.80% to avoid having to pass-through any CPI increase to residential customers.

2016 Base Year Rate Review – Richmond Sanitary Service (RSS) Rate Application

To determine a Base Year Rate change for calendar year 2016, the County requested technical assistance from Crowe Horwath (consultant) to review the Base Year Rate Application submitted by RSS. The result of Crowe Horwath's review is contained in their report dated October 28, 2015, which is attached as Exhibit A. Crowe Horwath conducted their review consistent with the County's Rate Setting Manual for use in the service area and the recommendations resulting from the detailed review are contained in the attached report.

The Base Year Rate setting process requires that a detailed rate change application be submitted by the RSS along with an audited financial statement and supplemental financial and operational information. Using the detailed financial data provided, Crowe Horwath reviews several cost categories to determine the appropriate rate adjustment. The major cost categories include:

- Direct Labor Costs
- Corporate and Local General and Administrative Costs
- Trucking and Equipment
- Allowable Profit
- County Franchise Fee

The Base Year Rate Change Application submitted by RSS proposes a rate increase of 7.39%, which corresponds with a monthly increase of \$1.71 in the residential Collection Rate for the 35 gallon cart, the most common County service level. Crowe Horwath reviewed the Application submitted by RSS for consistency with the Manual, County policies, and waste management industry practices. Their analysis did a comparison on year-to-year changes in revenues and costs for reasonableness and solicited explanations from RSS for material changes. This included the examination of actual data results for 2014, estimated results for 2015, and projected results for 2016. Exhibit B contains Crowe Horwath's analysis of the financial data associated with the Enhanced Services provided by RSS which the company is required to keep segregated for rate setting purposes consistent with Section 3 of Exhibit F to the Second Amendment to the County/RSS Franchise.

Recommended 2016 Base Year Rate Adjustment

Crowe Horwath's report concludes that a Collection Rate increase of 6.44% is warranted based on an analysis of the costs analyzed as a part of the 2016 Base Year rate review, which is 0.95% lower than the 7.39% increase proposed by RSS. Additionally, the consultant's report recommends the remaining Rate Stabilization Adjustment be eliminated in 2016 in order to offset another 4.25% of the 6.44% Collection Rate increase. When combining these two factors, the final recommended Collection Rate increase for residential customers is 2.19%, which is

5.20% less than was originally requested by RSS. Details regarding the proposed 2.19% Collection Rate increase for all residential cart sizes is shown in Table 1 below.

TABLE 1 - 2016 Collection Rate Increase Recommended by Crowe Horwath (2.19%)

Residential Cart Size	Exiting Collection Rate (2015)	2.19% Collection Rate Increase (2016)	Increased Collection Rate Recommended in Exhibit A (2016)
20-Gallon	\$20.95	\$0.46	\$21.41
35-Gallon	\$23.04	\$0.50	\$23.54
60/65-Gallon	\$44.59	\$0.98	\$45.57
95/100 Gallon	\$66.26	\$1.45	\$67.71

Since the establishment of the Rate Stabilization Adjustment in 2014, RSS has been collecting Rate Stabilization funding which the County/RSS Franchise authorizes the County Director of Conservation and Development to use to help offset rate increases. The opportunity to establish a Rate Stabilization Adjustment without increasing the amount charged to customers resulted from a reduction in the Post-Collection Rate negotiated by the West Contra Costa Integrated Waste Management Authority (WCCIWMA) in conjunction with their Post-Collection Agreement with Republic Services. As of the end of September 2015, RSS had collected \$360,258.79 in Rate Stabilization funds, with approximately \$400,000 expected to be available by the end of calendar year 2015. Staff estimates that approximately \$255,363.85 will need to be used to cover the 2.19% increase in residential Collection Rates for calendar years 2016 through 2019. Staff recommends that \$255,363.85 of Rate Stabilization funding be used to offset the 2.19% Collection Rate increase recommended in Exhibit A. Furthermore, staff recommends that the remaining funding (\$104,894.94) be used to offset future increases in CPI, to the extent feasible, for the subsequent interim three (3) years.

Post-Collection Rates

Post-collection services are provided in coordination with neighboring jurisdictions through a Joint Powers Authority, the WCCIWMA. Post-Collection Rate adjustments are generally approved prior to any Collection Rate adjustments in the RSS service area, but usually become effective at the same time Collection Rate changes are made (January 1st of each year). The Franchise Agreement requires RSS to cause any adjustment to the Post-Collection Rates to be passed through to customers simultaneously with any adjustment to Collection Rates.

On October 29, 2015 the WCCIWMA tentatively agreed on a new Post-Collection Rate that will increase the Post-Collection Rate component of the total monthly residential rate charged to customers by 4.84% to 4.90% depending on the customer selected cart size. Details regarding the rate increase for all cart sizes is shown in Table 2 below. The WCCIWMA is expected to formally approve the Post-Collection Rate increase at their meeting on November 12, 2015, with the new Post-Collection Rate going into effect on January 1, 2016.

TABLE 2 - 2016 Post-Collection Rate Increase not yet Approved by WCCIWMA (4.8 - 4.9%)

Residential Cart Size	Current Post-Collection Rate (2015)	Proposed Post-Collection Rate Increase (4.8 - 4.9%)	Proposed Post-Collection Rate (2016)
20-Gallon	\$4.55	\$0.22	\$4.77
35-Gallon	\$7.97	\$0.39	\$8.36
60/65-Gallon	\$14.83	\$0.72	\$15.55
95/100 Gallon	\$22.24	\$1.09	\$23.33

Post Collection Rates and the associated percent increase listed in this table are only preliminary. Final 2016 Post Collection Rates will not be approved until November 12, 2015.

If the Board concurs in the proposed use of Rate Stabilization funding, the only increase in residential rates charged to customers served by RSS in 2016 will be the Post-Collection Rate increase ultimately approved by the WCCIWMA for 2016. The tentative Post-Collection Rate increase equates to a net increase in the total monthly amount charged to residential customers ranging from 0.86% to 1.26%, depending on the cart size. The monthly rate charged for the typical 35-Gallon cart service would increase by 1.26%. Details regarding this recommendation for all cart sizes is shown in Table 3.

TABLE 3 - Net Change in Monthly Rate Charged to Customers for 2016

(Staff Recommended Offset of Collection Rate Increase using Rate Stabilization Funding + Proposed Post-Collection Rate Increase)

Residential Cart Size	Existing Total Monthly Rate (2015)	Proposed Post-Collection Rate Increase	Proposed Total Monthly Rate (2016)	Net Monthly Rate Increase (2016)
20-Gallon	\$25.50	\$0.22	\$25.72	0.86%
35-Gallon	\$31.01	\$0.39	\$31.40	1.26%
60/65-Gallon	\$59.42	\$0.72	\$60.14	1.21%
95/100 Gallon	\$88.50	\$1.09	\$89.59	1.23%

Post Collection Rates and the associated percent increase listed in this table are only preliminary. Final 2016 Post Collection Rates will not be approved until November 12, 2015.

CONSEQUENCE OF NEGATIVE ACTION:

Collection Rates charged to customers would remain unchanged whether the Board approves the recommendations or not. Technically, the Director of Conservation and Development has the authority to direct that Rate Stabilization Funding be used to offset rate increases. However, the Board has the authority to instead approve a rate increase and therefore Board concurrence is requested. In the absence of Board direction to the contrary, Rate Stabilization funding would be used to offset the Base Year Rate adjustment.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Exhibit A: Final Report - Review of 2016 Richmond Sanitary Services Rate Application

Exhibit B: Enhanced Services Cost/Revenue Analysis

Crowe Horwath LLP

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October 28, 2015

Ms. Deidra Dingman
Conservation Programs Manager
Contra Costa County
Department of Conservation and Community Development
30 Muir Road
Martinez, California 94553-4601

Subject: **Review of 2016 Richmond Sanitary Services Rate Application**

Dear Ms. Dingman:

This letter report represents results of Crowe Horwath LLP's (Crowe) review of the 2016 rate application submitted by Richmond Sanitary Service to Contra Costa County (County). The County has a franchise with Richmond Sanitary Services (RSS, a subsidiary of Republic Services, Inc.) to provide refuse and recycling collection services in unincorporated areas in western Contra Costa County.

This letter report is organized into eight (8) sections as follows:

- A. *Summary*
- B. *Project Background*
- C. *Goals and Objectives of Rate Review*
- D. *Scope of Rate Review*
- E. *History of Collection Portion of the Rate*
- F. *2016 Base Year Rate Application*
- G. *Review of 2016 Base Year Rate Application*
- H. *Comparison of Rates and Services to Other Neighboring Jurisdictions*

There are three (3) attachments to this report, as follows:

- A. *Rate Application and Audited Financial Statements*
- B. *Adjusted Base Year Rate Model*
- C. *Comparative Rate Survey.*

A. Summary

In its Application, RSS requested a rate increase, for the collection portion of the rate, of 7.39 percent for 2016. We recommend a rate increase of 2.19 percent for the collection portion of the rate for 2016. The collection portion of residential service rates would increase by between \$0.46 and \$1.45 per customer, per month, depending on the residential service level as shown in **Table 1**. For the most common 35 gallon cart residential service, the recommended collection rate would be \$23.54 per customer, per month. Corresponding commercial collection rates (without the post-collection portion of the rate) are shown in **Table 2**. Finally, total residential rates, inclusive of both the collection and projected potential post-collection rate components are shown, by residential rate category, in **Table 3**.

Table 1
Unincorporated West Contra Costa County
Potential January 1, 2016 Residential Collection Rates, Per Customer, per Month
Based on 2.19 Percent Rate Increase

Service Level	2015 Collection Rate	Rate Change	2016 Collection Rate
20 Gallon	\$20.95	\$0.46	\$21.41
35 Gallon	\$23.04	\$0.50	\$23.54
65 Gallon	\$44.59	\$0.98	\$45.56
95 Gallon	\$66.26	\$1.45	\$67.71

Table 2
Unincorporated West Contra Costa County
Potential Selected January 1, 2016 Commercial Collection Rates, Per Customer, Per Month
Based on 2.19 Percent Rate Increase

Service Level	Current Once per Week Rate	Rate Change	Potential New Once per Week Rate
1-Cubic Yard	\$143.22	\$3.14	\$146.36
2-Cubic Yard	253.53	\$5.55	\$259.08
3-Cubic Yard	316.83	\$6.94	\$323.77
4-Cubic Yard	380.13	\$8.32	\$388.45
5-Cubic Yard	443.43	\$9.71	\$453.14
6-Cubic Yard	506.73	\$11.10	\$517.83
7-Cubic Yard	633.37	\$13.87	\$647.24

Table 3
Unincorporated West Contra Costa County
Potential January 1, 2016 Total Residential Rates (Collection Plus Projected Post Collection)
Per Customer, per Month

Service Level	Collection Rate (2.19% Increase)	Projected Post Collection Rate (4.18% Increase) ¹	Total Rate
20 Gallon	\$21.41	\$4.74	\$26.15
35 Gallon	\$23.54	\$8.30	\$31.84
65 Gallon	\$45.56	\$15.45	\$61.01
95 Gallon	\$67.71	\$23.17	\$90.88

¹ Post Collection Rates and the associated 4.18 percent increase listed in Table 3 is only preliminary. Final 2016 Post Collection Rates will not be approved until November, 2015.

B. Project Background

RSS has an exclusive franchise with the County to collect, and remove for disposal and recycling, residential, commercial, and light industrial solid waste and recyclable materials. RSS originally had a twenty (20) year franchise with the County, beginning October 12, 1993 and ending October 11, 2013. On November 12, 2013, the County Board of Supervisors determined that RSS's performance had been satisfactory and approved a Second Amendment to the County/RSS Franchise Agreement which extended the franchise term an additional ten (10) years through October 11, 2023. The RSS franchise includes the following six (6) service areas in unincorporated Western Contra Costa County:

1. East Richmond Heights
2. El Sobrante
3. Montalvin Manor
4. North Richmond
5. Rollingwood
6. Tara Hills.

Exhibit 1 on the following page shows locations of these six service areas. RSS also serves the following neighboring jurisdictions in Western Contra Costa County:

- City of Hercules
- City of Pinole
- City of Richmond
- City of San Pablo.

Table 4 below and **Table 5** on the following page show current residential and commercial rates for the six unincorporated West County service areas.

The County regulates the "collection" portion of rates only. The remaining portion of the rate, representing post collection activities, is regulated by the West Contra Costa Integrated Waste Management Authority (WCCIWMA, also referred to as RecycleMore). Post collection activities include transfer, landfilling, materials processing, and composting.

RSS consolidates refuse collected from unincorporated West County areas at the Golden Bear Transfer Station and Integrated Resource Recovery Facility (IRRF) and transports refuse to Keller Canyon Landfill near Pittsburg in unincorporated Contra Costa County for disposal. Formerly, RSS disposed of refuse at the West Contra Costa Sanitary Landfill (WCCSL) in Richmond.

Table 4
Unincorporated West Contra Costa County
Residential Rates per Customer, per Month (As of September 15, 2015)

Service Level	Collection Rate	Post Collection Rate	Total Rate
20 Gallon	\$20.95	\$4.55	\$25.50
35 Gallon	\$23.04	\$7.97	\$31.01
65 Gallon	\$44.59	\$14.83	\$59.42
95 Gallon	\$66.26	\$22.24	\$88.50

Exhibit 1
West Contra Costa County
Area Map



Table 5
Unincorporated West Contra Costa County
Selected Commercial Rates per Customer, per Month (As of September 15, 2015)

Service Level	One Pickup per Week	Two Pickups Week
1-Cubic Yard	\$204.28	\$358.84
2-Cubic Yard	334.71	612.02
3-Cubic Yard	457.34	850.36
4-Cubic Yard	576.10	1,081.70
5-Cubic Yard	692.62	1,309.55
6-Cubic Yard	808.07	1,535.85
7-Cubic Yard	922.89	1,761.33

RSS provides curbside recycling service services to unincorporated West County areas. RSS accepts the following recyclable material types:

- Aluminum (cans, foil, and trays)
- Aerosol cans
- Cardboard
- Glass bottles, jars, beverage and food containers
- Milk and juice cartons
- Mixed paper (chipboard, computer paper, junk mail/envelopes, white/colored paper, magazines, catalogs, paper bags, cereal and shoe boxes, and telephone books)
- All mixed plastics
- Mixed rigid plastic packaging and plastic #1 through #7 food containers
- Newspaper
- Plastic bags and film (properly bagged)
- Plastic bottles (types #1 through #7), soda and water bottles, milk and juice jugs and bottles
- Scrap metal
- Steel and tin food and beverage cans.

Residential customers commingle all of their recyclable materials into one 64-gallon cart. RSS collects residential curbside recyclables each week. RSS takes recyclable materials to the IRRF where they are separated on a Materials Recovery Facility (MRF) sort line. Republic Services owns and operates the IRRF.

RSS collects organics every week in a 64-gallon cart. RSS also collects foodwaste, food-soiled paper, and green waste within the organics container. Organics are composted at the West Contra Costa County Sanitary Landfill site. RSS shifted from bi-weekly recycling and organics collection programs to weekly service on March 1, 2015.

C. Goals and Objectives of Rate Review

The Manual specifies that the primary goal of the rate setting process and methodology is to determine fair and equitable residential refuse collection charges that provide a reasonable profit level to RSS. Fairness is demonstrated through a rigorous review of RSS's actual revenues and expenses. Residential charges also must be justifiable and supportable.

Rate setting is prospective. The County sets rates in advance of when actual results occur. The County must therefore base rates on careful projections.

To set rates, the County reviews trends in prior, current, and projected revenues, costs, and profits. The County sets rates that are intended to cover RSS costs of operations and allow a reasonable profit.

The County uses the operating ratio (OR) method to project the profit level allowed to RSS in a base year. The actual OR level received by RSS in a base year, and in subsequent interim years, is not however, guaranteed.

D. Scope of Rate Review

The County based the scope of work for this review on the requirements in the Manual. The base year process has seven (7) steps, five (5) of which are the County's responsibility. RSS is responsible for the other two (2) steps.

Crowe, as the Consultant, provided assistance to the “County” for five steps in the rate review process (#2 through #5). We carefully reviewed and analyzed the 2016 rate application. We conducted our review in accordance with procedures described in the Manual. We completed the following activities during our review:

- Verified the application was complete²
- Determined data presented in the application were mathematically correct and consistent
- Reviewed the reconciliation of calendar year 2014 financial information provided in the application to the 2014 financial audit
- Compared actual 2014 results with estimated 2015 and projected 2016 financial results
- Analyzed significant historical fluctuations in major cost categories
- Examined the relationships between financial and operating information for reasonableness
- Reviewed RSS franchise fees payments to the County
- Conducted a survey of rates in other similar neighboring communities.

We submitted a formal data request to RSS on August 28, 2015. We received RSS responses on September 11, 2015. We met with RSS management on October 8, 2015, to ask remaining follow-up questions, and provide RSS with an opportunity to provide additional context regarding the rate application.

E. History of Collection Portion of the Rate

As specified in the Agreement, the County directly regulates the collection portion of the residential rate. Collection rate changes, since the County adopted the Manual in 2003, increased on a compounded basis by 2.52 percent per year over the thirteen years since 2003 and are shown in **Table 6**.

In August 2003, following the base year review, the County approved an increase in the service portion of the 35-gallon cart rate to \$17.50 per month. As of October 2015, the service portion of the 35-gallon cart rate was \$23.04 per month. Over this period, the collection portion of the 35-gallon cart rate increased 31.7 percent. The difference between the August 2015 CPI (259.117) and the August 2003 CPI (196.30) was 32 percent, equal to the actual change in the service portion of the 35-gallon cart rate.³ The effective collection portion of the rate, not including the program changes resulting from the post-collection agreement in 2014 (see footnote 6 on the next page), as of 2015 equals \$19.49 per month for the 35 gallon service level (\$23.04 less \$3.55 per month). This \$19.49 amount represents an increase of 11.1 percent since 2003, well below the 32 percent increase in the CPI for this period.

F. 2016 Base Year Rate Application

The County received RSS’s Base Year Rate Change Application (Application) on July 2, 2015. A copy of the Application is provided in Attachment A, at the end of this report. RSS used year-to-date information (i.e., first quarter) to estimate 2015 financial results. Year 2016 results are projected in the Application.

RSS requested a 7.39 percent service rate increase effective January 1, 2016. This request corresponds to a \$1.71 per customer, per month, increase in the collection portion of the 35 gallon rate, the most common County service level.

Our review did not represent a financial audit of RSS. Armanino LLP completed a 2014 financial audit of all RSS operations, including the County (provided in Attachment A). For purposes of preparing the 2014 cost data for the Application, RSS allocated County costs from total audited RSS costs.

² We submitted a letter of completeness to RSS on August 3, 2015.

³ The applicable comparable consumer price index is the San Francisco-Oakland-San Jose Consumer Price Index, All Items.

Table 6
Unincorporated West Contra Costa County
Historical Residential Refuse Collection Rate Changes (Not Including Post Collection)
(2003 to 2015)

Year	Collection Portion of the Rate (35G Customer, Per Month)	Percent Change in Collection Portion of the Rate
2003	\$17.50	4.15% ⁴
2004	\$17.50	0.00%
2005	\$17.85	2.00%
2006	\$18.35	2.95%
2007	\$19.25	5.04%
2008	\$19.25	0.00% ⁵
2009	\$19.25	0.00% ⁴
2010	\$19.25	0.00% ⁶
2011	\$19.61	2.00%
2012	\$19.61	0.00%
2013	\$19.61	0.00%
2014	\$23.16 ⁷	18.00%
2015	\$23.04	~0.00%

G. Review of 2016 Base Year Rate Application

This section details findings from Crowe's review of RSS's 2016 Application. We identified the impact of each finding in terms of a dollar value increase or a decrease in the "revenue requirement" identified in the Application. The revenue requirement is the amount of revenue that RSS needs to collect, through rates charged to customers, to cover costs of providing the service plus a reasonable financial return. Increasing the revenue requirement results in an increase in rates, and decreasing the revenue requirement results in a decrease in rates.

Crowe reviewed the Application for consistency with the Manual, County policies, and waste management industry practices. In our review of RSS financial results, we compared year-to-year changes in revenues and costs for reasonableness and solicited explanations from RSS for material changes. We

⁴ Rate increase implemented August 1, 2003.

⁵ In December 2007, the County Board of Supervisors deferred implementation of the recommended 4.39 percent decrease as a means of stabilizing rates while generating revenue the County could use to aid in the prevention or abatement of illegal dumping within the County franchise area served by RSS. RSS was authorized to continue charging customers the same service rates through December 31, 2008 and directed to provide County with the surplus revenue collected from customers in 2008 (approximately \$111,378). This surplus amount was no longer collected in 2009.

⁶ Rates were left unchanged in 2010. A recommended 4.11 percent reduction was treated as a credit to offset the interim year rate change for 2011.

⁷ In 2014, RecycleMore negotiated a new post collection agreement with Republic Services. At that time, certain costs formerly included as part of the post-collection charge were shifted to the collection portion of the rate. Though the collection portion of the residential rate increased 11 to 18 percent, there was an equally offsetting reduction in the post collection portion of the rate. Thus, total County residential rates did not change in 2014.

examined actual results from 2014, estimated results for 2015, and projected results for 2016. Our adjusted rate model is provided in **Exhibit B-1**, of **Attachment B**.

1. RSS Financial and Operating Results Since the 2012 Base Year

In **Table 7**, we compare West County approved service rate changes with changes in residential revenues and residential accounts. Residential revenues remained relatively flat and increased just 1.1 percent between 2012 and 2014. This increase is supported by the compound impact of (1) the total rate increases and (2) the increase in number of residential accounts.

In **Table 8**, we compare West County approved service rate changes with changes in commercial service revenues and tons. From the time series, we find that service rates increased 8.0 percent between 2012 and 2014, commercial tonnage increased by 5.8 percent, both contributing to the overall estimated 13.3 increase in commercial revenues.

Table 7
Unincorporated West Contra Costa County
Comparison of Residential Rate Increases with Changes in
Residential Revenues and Accounts (2012 to 2014)

Year	Rate Increases	Change in Residential Accounts	Change in RSS Residential Collection Revenues
2012 to 2014	0.0%	2.0%	1.1%

Table 8
Unincorporated West Contra Costa County
Comparison of Commercial Rate Increases with Changes in
Commercial Revenues and Tonnage (2012 to 2014)

Year	Rate Increases	Change in Commercial Tons	Change in RSS Commercial Collection Revenues
2012 to 2014	~8.0%	5.9%	~13.3%

For the above comparison, in addition to rate changes, we used the number of accounts as a proxy for changes to residential revenues while we used tonnage as a proxy for changes to commercial revenues. Tonnage is more applicable for the commercial sectors as businesses are more inclined, than the residential sector, to adjust their service level based on tonnage changes.

Between 2012 and 2014, RSS County revenues and costs increased at different rates, as shown in **Table 9**. RSS costs increased 6.7 percent, while RSS revenues increased 4.2 percent. During this same 2012 to 2014 period, RSS's actual operating ratio ranged from 83 to 88 percent.⁸ This period of relatively higher profitability resulted from RSS continuing to implement corporate-wide costs savings initiatives. These measures included combining routes (resulting in labor cost reductions) and focusing on more efficient equipment maintenance management practices.

⁸ The County's target operating ratio during base years is 90 percent. A smaller operating ratio represents a larger return.

Table 9
Unincorporated West Contra Costa County
Change in RSS Revenues and Costs
(2012 to 2014)

Description	Percent Change
Revenues	4.2%
Costs	6.7%

2. Method for Allocating RSS Costs to West County Areas

In addition to unincorporated West County, RSS includes the following other service areas in their total consolidated RSS financial statements, provided in Attachment A:

- Hercules
- Pinole
- Richmond
- Rodeo
- San Pablo.

In **Table 10**, we provide the methods used by RSS to allocate total consolidated costs to unincorporated West County areas. RSS allocated nearly all West County costs from total consolidated RSS costs using its route allocation method.

Table 10
Richmond Sanitary Service
Methods Used to Allocate Consolidated Costs
To Each Jurisdiction Served

Cost	Allocation Method ⁹
Labor	Route Allocation
Corporate and Local General and Administrative Costs	Route Allocation
Depreciation and Other Operating Costs	Route Allocation
Trucking and Equipment	Route Allocation
Franchise Fees	Direct

RSS's route allocation method is based on time-and-motion analyses for each residential, commercial, and industrial route. For each route, RSS requires its drivers to record start and stop times and various activity times for a sample of actual routes performed during the year.

For the residential sector, RSS measures the number of drive-bys, per hour, on routes with West County customers (e.g., for calendar year 2014, 98.16 drive-bys per hour).¹⁰ RSS divides the total number of County drive-bys over a given period by the number of drive-bys per hour to determine the total number

⁹ Note that the company incorrectly identified its use of other allocation methods on page 2 of 6 of the Application (e.g., accounts, direct) to allocate the County's share of total costs. The company used the route allocation methodology to allocate all of its costs other than franchise fees. We do not think that this alternative allocation methodology had a negative impact on unincorporated West Contra Costa County.

¹⁰ In 2011, residential drive-bys, per hour, were 99.81. In 2006, residential drive-bys, per hour, were 82.14.

of hours over that period spent on West County customers. RSS divides the number of hours spent on West County customers by the total number of hours spent on all of its customers to determine the percentage of total residential costs associated with West County operations (for 2014, 17.22 percent).

RSS performs a similar analysis for the commercial sector, but instead of drive bys per hour, RSS uses lifts per hour. For the industrial sector, RSS uses the total number of hours spent on drop box activities. In 2014, the West County's allocation for the commercial sector was 6.47 percent of total RSS business and the industrial sector was 4.22 percent of total RSS business.

In **Table 11**, we compare County route allocation percentages in 2014, with those from 2011 and 2006. As shown, for the residential sector the allocation has remained relatively similar over time. However, for the commercial and industrial sectors, the route allocation percentages have declined over time, suggesting that RSS has become more efficient at serving the West County commercial and industrial sectors, relative to how RSS serves its overall commercial and industrial business. For the industrial sector, some of this shift is caused by RSS obtaining more non-unincorporated County business that happens to be farther away from, and requires longer travel distances, to the disposal facility.

Table 11
Richmond Sanitary Service
County Route Allocation Percentages
(Calendar Years 2006, 2011, 2014)

Sector	County 2006 Route Allocation (%)	County 2011 Route Allocation (%)	County 2014 Route Allocation (%)
Residential (refuse) ¹¹	17.6%	17.5%	17.2%
Commercial	8.3%	7.2%	6.5%
Industrial	8.8%	6.3%	4.2%
Total	14.5%	14.2%	13.7%

RSS maintains operating costs by sector. For 2011, RSS's operating costs for each sector were as follows:

- Residential – 70.67% (2011 - 69%, 2006 - 66%)
- Commercial – 14.71% (2011 - 14%, 2006 - 15%)
- Industrial – 14.62% (2011 - 17.03%, 2006 - 19.88%).

To calculate the County's share of total RSS costs (for 2014, 13.74 percent), RSS multiplied the operating cost percentages above by the County's route allocations in Table 11 for each sector, and summed the three results as follows:

- Residential – 70.67% x 17.22% = 12.17%
- Commercial – 14.71% x 6.47% = 0.95%
- Industrial – 14.62% x 4.22% = 0.62%
- Total = 13.74 percent.

For 2014, RSS allocated 13.74 percent of consolidated RSS costs to unincorporated West County (for those cost categories requiring the route allocation method).

¹¹ Does not include curbside recycling or organics.

The route allocation method is acceptable to use to allocate RSS costs to West County areas. This method is consistent with waste management industry practice. The pooled costs that RSS allocates to each jurisdiction, using the route allocation method, also generally do not vary between jurisdictions.

RSS has several transactions with related parties. These transactions required careful scrutiny and are identified in **Table 12**.

Table 12
Richmond Sanitary Service
Related Party Transactions
(Calendar Year 2014)

Cost	Related Party
Trucks, equipment, and facilities	Bay Leasing Company
Certain general and administrative costs	Republic Services Inc.

3. Review of RSS Revenues, Costs, and Profits

This section describes our review of each revenue, cost, and profit category. We identify adjustments to the Application. We express adjustments based on their impact to RSS's revenue requirement. The revenue requirement is equal to the sum of the following:

- Total allowable costs
- Allowable operating profits
- Total pass through costs.

RSS's requested County revenue requirement, as submitted in the Application, is \$4,115,819. This figure is shown on line 32 of the Application in Attachment A.

We summarize the impact of our review findings in Exhibit B-1. We show findings as adjustments to the 2016 revenue requirement. Adjustments reduce the RSS 2016 revenue requirements by \$192,540.

i. Revenues

Residential Revenues

RSS projected no change in residential revenues between 2015 and 2016. RSS indicated in its Application that residential accounts grew a modest 0.88 percent in 2015. RSS expects residential accounts to remain at 2015 levels in 2016. Residential revenues have been relatively stable dating back to 2008.

Due to the limited changes in the housing market in the area and the uncertain overall economic climate, we do not project much growth in the residential sector near term. We accepted RSS's revenue projection for 2016.

Net Impact:

[No change to the revenue requirement]

Commercial and Light Industrial Revenues

RSS projected no change in commercial and light industrial revenues between 2015 and 2016. Commercial and light industrial revenues dipped in 2012 and 2013, but in general have been relatively stable since 2008.

Similar to the residential sector, due to the current uncertain overall economic climate, we do not project growth in the commercial and industrial sectors near term. We accepted RSS's commercial and light industry revenues projection for 2016.

Net Impact:

[No change to the revenue requirement]

ii. Costs

Direct Labor

RSS projected labor costs to increase 5.0 percent for both 2015 and 2016. We reviewed labor agreements between RSS and the Teamsters Local 315 (drivers). The projected 5.0 percent increase in labor costs for 2016 is consistent with required combined changes in wages, health and welfare, and pension costs specified in RSS labor agreements. However, for 2015, the union agreement Local 315 had the following projected increases:

- Drivers wages, +2.8 percent
- Health and welfare benefits, +2.8 percent
- Pension contribution, +0.8 percent

The combined 5.0 percent change projected by direct labor (wages and benefits) for 2015 is approximately 2.2 percent above that called for by the union agreement. We recommend the County allow a 2.8 percent increase for 2015.

We validated that RSS's large projected 2015 increase in labor costs associated with shifting from bi-weekly to weekly recycling and greenwaste service, estimated at 16 percent was supported by the actual costs incurred to date. Further, that these costs are credited within the credit for enhanced services negotiated as part of the post-collection agreement (discussed on page 14 of this report).

Net Impact:

[Decrease in revenue requirement of \$26,265]

Corporate and Local General and Administrative Costs

The Manual (page 1-14) specifies a cap on corporate and local general and administrative costs equal to 12.2 percent of the total revenue requirement. However, at the time the Manual was written, the model included post collection (or IRRF) costs in the revenue requirement. If we include estimated post collection costs in the adjusted revenue requirement, corporate and local general and administrative costs are 11.7 and 12.1 percent of the revenue requirement for 2015 and 2016 respectively, and within the cap guideline.

Net Impact:

[No change to the revenue requirement]

Trucking and Equipment (Allowable)

In this category, we reviewed RSS's recent monthly fuel purchases. We show average 2014 and year-to-date 2015 diesel fuel prices paid by RSS, in **Table 13**. These prices compare with wholesale diesel prices paid by other local area refuse collection companies, during the same 2014 and 2015 timeframes. We accepted RSS's fuel projection for 2016.

Net Impact:

[No change to the revenue requirement]

Table 13
Richmond Sanitary Service
Diesel Fuel Price per Gallon
(2014 and 2015)

Month	Price per Gallon
Average 2014	\$3.22
Average January through Sept. 2015	\$2.44

Depreciation and Other Operating Costs

We made no change to this cost category.

Net Impact:

[No change to the revenue requirement]

Services Provided to County

RSS included the following costs in this category:

- County can service (12, 35-gallon cans)
- County fire station green waste bin service
- County maintenance truck disposal (direct haul to Golden Bear Transfer Station).

We estimated Services Provided to County costs of \$27,067, based on the recent two-year average of these costs. We projected Services Provided to County costs of \$27,067 for 2016, a decrease of \$2,887 from the RSS projected amount (\$29,954).

[Decrease in 2016 revenue requirement of \$2,887]

Trucking and Equipment (Pass Through)

We obtained and reviewed leases charged by Bay Leasing Company to RSS for trucks and containers. Lease rates vary depending on the truck/equipment purchase price, financing rate, and age. We examined Bay Leasing truck and equipment purchase prices. We found truck and equipment purchase prices consistent with purchases of other similar waste management companies.¹²

Since the last base year review, the company has shifted the leased portion of its trucking and equipment costs to a pass-through expense. We agree with this pass-through treatment of this related-party transaction as it removes the uncertainty whether there is profit paid to both the RSS collection and Bay Leasing businesses. We reviewed the lease transactions for both truck and carts/containers and determined they were reasonable.

An important consideration, related to equipment rental costs for the RSS operation, is that there are very few new planned truck and equipment purchases planned for this base year. Consequently there is not a significant increase expected in this cost category.

Net Impact:

[No change to the revenue requirement]

¹² Comparable lease rates are difficult to find in the waste management industry as most service providers either purchase trucks or lease them from a related party.

Franchise Fees

The County franchise agreement with RSS specifies that the County can establish an amount equal to “a percentage of its [RSS’s] gross annual revenues generated from the performance of such waste collection services under this Agreement,” with the “percentage, time, and frequency of payment to be established by the County.”

A summary of franchise fee payments made by RSS to the County is provided in **Table 14**. Amounts included in RSS’s Application, RSS detailed records, and in County records are very similar and the differences are considered immaterial and likely due to accounting versus payment timing differences.

Based on the other adjustments noted in this section, we decreased franchise fees by \$2,438. The franchise fee is calculated as seven (7) percent of the revenue requirement. With decreases in the revenue requirement noted above, the franchise fee also decreases.

Net Impact:

[Decrease in 2016 revenue requirement of \$2,438]

Table 14
Richmond Sanitary Service
Comparison of Franchise Fees
(Calendar Years 2013, 2014 and 2015)

Calendar Year	Application	RSS Detailed Monthly Payment Records	County Reports
2013	\$179,991	\$179,991	\$185,987 ¹³
2014	\$266,544 ¹⁴	\$272,565	\$272,565
2015 (Jan to July)	N/A	\$162,838	\$162,838

Rate Stabilization Fund

In the application, RSS included an amount of \$157,711 to contribute to the County’s rate stabilization fund (line 25 of the Application). At the direction of the County, we have removed this \$157,711 contribution as the County in order to mitigate the impact of the 2016 rate change.

Net Impact:

[Decrease in 2016 revenue requirement of \$157,711]

iii. Profits

With the adjustments identified in this section, total allowable costs for the projection year 2016 are \$2,882,891. The Manual (Item E.3 page 1-16) specifies that should the operating ratio for the base year fall between 88 percent and 92 percent, rates would remain unchanged in the base year.

¹³ The \$5,996 difference between the County and RSS information represents an amount recorded by the County which was paid for by the County’s efficiency surplus funding. This difference occurred for the month of November 2013 when the County had recently increased its franchise fee from 5% to 7% of gross revenues.

¹⁴ The \$6,021 difference between the RSS Application and other sources represents an amount recorded by the County which was paid for by the County’s efficiency surplus funding. This difference occurred for the month of December 2013 when the County had recently increased its franchise fee from 5% to 7% of gross revenues.

Table 15 shows the operating ratio calculation for 2016. Without any changes to rates, the company would receive an operating ratio of 92.3 percent. In accordance with the Manual, because this operating ratio falls outside the 88 to 92 percent range, rates are reset for a 90 percent operating ratio.¹⁵

The operating ratio calculation is as follows:

$$\text{Operating Ratio (OR)} = \frac{\text{Total Allowable Costs}}{\text{Total Allowable Costs} + \text{Allowable Operating Profit}}$$

The OR calculation is shown in **Table 16**, following Table 15. We calculate allowable profit of \$320,321, at the allowable 90 percent operating ratio. This allowable profit represents a reduction of \$3,239 from the \$323,560 in profit requested in the Application for 2016.

Net Impact:

[Decrease in 2016 revenue requirement of \$3,239]

Table 15
Richmond Sanitary Service
Calculation of Actual Operating Ratio
(Projection Year 2016)

Description	Amount
Total Revenues (line 21)	\$ 3,704,305
Plus Credit for Enhanced Services (Line 12) ¹⁶	295,598
Less Total Allowable Costs (line 7)	(2,882,891)
Less Franchise Fees (line 23)	(285,669)
Less Pass-Through Costs	(592,109)
Equals Profits (with adjustments and no rebasing)	\$ 239,234
Operating Ratio (with adjustments and no rebasing)	$\$2,882,891 / (\$2,882,891 + \$239,234) = \underline{92.34\%}$

Table 16
Allowable Profit Calculation
(Projection Year 2016)

Description	Amount
<u>(Total Allowable Costs / Operating Ratio)</u>	<u>(\$2,882,891/90 percent) - \$2,882,891</u>
– Total Allowable Costs	
= Allowable Operating Profit	= <u>\$320,321</u>

¹⁵ Source: Rate Setting Manual, page I-14.

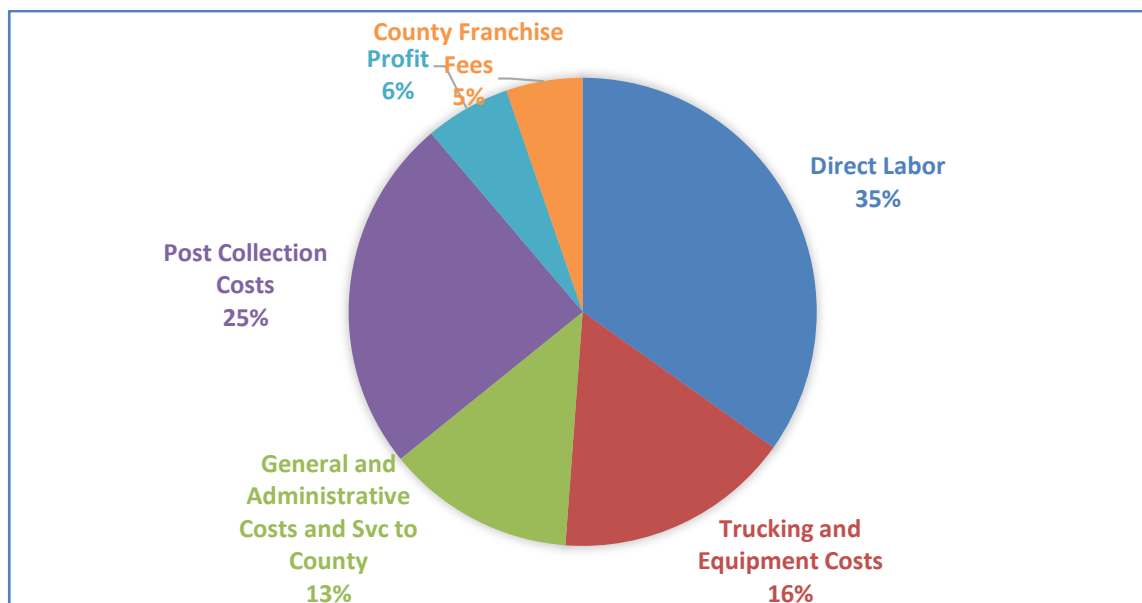
¹⁶ Based on terms specified in Exhibit F of the Second Amendment to the County/RSS Franchise.

4. Components of Residential Rates

There are a number of cost components which are included in residential rates. Using the 35-gallon residential cart rate as an example, the pie chart in **Figure 1**, on the following page, shows the major components of the projected 2016 rates, and the relative costs of each component. Line item references are made to the Application. Cost categories are described below:

- Direct Labor Costs includes compensation of the waste removal staff, including regular time, overtime, payroll taxes, and associated benefits. This category corresponds to Direct Labor (Line 1) of the Application.
- Post Collection Costs include all charges for the disposal of solid waste at a landfill or transfer station and processing of recyclables. Although post collection costs are not included in the Application, we include them in this single can rate analysis.
- General and Administrative Costs and Svc to County include such costs as accounting, corporate overhead/management fees, insurance, legal services, office supplies, postage, telephone, and utilities. These costs include Corporate and Local General and Administrative Costs (Line 2), and Services Provided to County (Line 4).
- Trucking and Equipment Costs includes leases of trucks and equipment, fuel and oil expense, licenses, parts, tires, and associated repair and maintenance expenses. These costs are identified as Trucking and Equipment with Profit (Line 5), Depreciation and Other Operating Costs (Line 3), and Trucking and Equipment Pass Through (Line 9) of the Application.
- Profit is any revenue which exceeds expenses (total allowable costs plus total pass-through costs). The operating ratio method is used to determine allowable profit, as discussed in the profit analysis section of this report. Profit is shown in Line 7 of the Application. Profit does not include that portion of profit included in the post collection costs.
- The County's Franchise Fee is currently seven (7) percent of total residential/ curbside recycling, commercial, and light industrial revenues. Franchise fees are shown in Line 23 of the Application.

Figure 1
Components of Rate
(Projection Year 2016)



H. Comparison of Rates and Services to Other Neighboring Jurisdictions

Current 2015 unincorporated County rates were compared with survey data from ten (10) other jurisdictions. Results of the survey are summarized in Attachment C. Tables C-1 through C-3 show how current 2015 West County residential rates compare to the average of the ten areas surveyed. For reference, rate comparisons for commercial and industrial sectors also are shown.

In **Table C-1**, we compare Unincorporated West County residential rates with averages of ten other comparable neighboring jurisdictions. For the ten jurisdiction comparison, West County residential rates compared favorably for 20-gallon and 32-gallon services at 8.74 and 11.93 percent below average. West County residential rates for 65 gallon service approximated the average, while rates for the 96-gallon service were 9.9 percent above the average.

For information purposes only, for the commercial (bin) sector, as shown in **Table C-2**, West County rates were generally relatively close to the average of the ten jurisdictions. Rates ranged from 6.01 percent below average to 3.67 percent above average. Rates for four of the six categories surveyed fell below average.

For information purposes only, for the industrial (debris box) sector, as shown in **Table C-3** on the following page, West County rates were between 6.4 and 18.1 percent below the ten jurisdiction average. This comparison is based on a representative two (2) ton load. Note that most of the comparable jurisdictions in the West Contra Costa County area, which are also served by Republic Services, are offered the same price for debris box services as unincorporated West Contra Costa County customers.

Attachment A: Rate Application and Audited Financial Statements

Attachment A includes the 2016 Base Year Rate Change Application (Application) submitted by RSS to the County July 2, 2015. In the Application, RSS proposed to increase the service portion of West unincorporated County collection rates by 7.39 percent on January 1, 2016. The Application included the following forms:

- Financial information
- Cost summary for year 2014
- Revenue summary
- Single family residential revenues summary (including current rates and accounts)
- Operating information
- Rate change requested (including current and proposed rates).

Information provided in the Application was for the following five (5) years:

- Actual prior years, 2012 to 2014 (including audited 2014 results)
- Current year estimated, 2015
- Base year projected, 2016.

Attachment A also includes the 2016 audited financial statements submitted by RSS with its Application to the County. Armanino LLP, a certified public accountant, prepared the audited financial statements. The audit opinion is unqualified. In **Table A-1**, below, we reconcile the difference in total RSS costs in the 2014 audit, with total RSS costs shown on page 2 of 6 of the Application.

Table A-1
Richmond Sanitary Service
Calculation of Actual Operating Ratio
(Projection Year 2016)

Description	Amount
Audited financial statement	\$38,755,824
Less landfill disposal costs	(15,312,862)
Less contributions	(92,574)
Less bad debt	(83,464)
Less other income	(37)
Equals total RSS costs in Application (row 42, page 2 of 6)	\$23,266,687

Ms. Deidra Dingman, Conservation Programs Manager
October 28, 2015

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RICHMOND SANITARY SERVICE

Subsidiary of  **REPUBLIC**
SERVICES, INC.

3260 BLUME DRIVE • RICHMOND, CALIFORNIA 94806



July 2, 2015

Ms. Deidra Dingman, Conservation Programs Manager
Contra Costa County
Department of Conservation and Community Development
30 Muir Road
Martinez, CA 94553

Dear Ms. Dingman:

As provided for in the Franchise Agreement between Contra Costa County and Richmond Sanitary Service dated October 12, 1993, and in accordance with the Rate Setting Process and Methodology Manual for Solid Waste Charges dated June 30, 2003, enclosed herewith is the application for 2015 Base Year Rate Review.

We will appreciate an opportunity to go over and discuss this Application with you at your earliest convenience to discuss implementation options. Our Contracts Administrator, Janna Coverston, will contact you in a few days to set a mutually convenient time to meet. In the meantime, inasmuch as it does contain proprietary information, it is respectfully requested the Application be held in the strictest of confidence. Also in the meantime, if you have any questions, please call me at (510) 262-7143.

Please accept our apologies for this nominal delay in submission. As Janna explained, the required financial audit was just received on Tuesday and the application could not be completed without data it contained.

Very truly yours,



Shawn Moberg
General Manager

Enclosure

Cc: J. Coverston
W. Lau

Contra Costa County - Unincorporated

Base Year Rate Change Application

Financial Information

Actual Historical Years			Estimated Current Year	Projected Base Year
Year 1 2012	Year 2 2013	Year 3 2014	Year 4 2015	Year 5 2016

Section I -- Allowable Costs

1. Direct Labor	\$ 1,305,089	\$ 1,357,825	\$ 1,472,485	\$ 1,782,497	\$ 1,880,193
2. Corporate and Local General and Administrative Costs	845,418	559,279	591,482	688,718	709,379
3. Depreciation and Other Operating Costs	14,202	7,731	8,789	20,046	20,647
4. Services Provided to County	18,045	13,754	24,180	29,954	29,954
5. Trucking and Equipment	230,665	243,354	231,507	253,411	271,870
6. Total Allowable Costs (Lines 1+2+3+4)	\$ 2,213,420	\$ 2,182,043	\$ 2,328,442	\$ 2,774,625	\$ 2,912,043

Section II -- Allowable Operating Profit

6. Operating Ratio	90%	90%	90%	90%	90%
7. Allowable Operating Profit [(Line 5 / 0.9) - Line 5]	\$ 245,936	\$ 242,449	\$ 258,716	\$ 308,292	\$ 323,580

Section III -- Pass Through Costs without Franchise Fees

8. County Administrative Fee	\$	\$	\$	\$	\$
9. Trucking and Equipment (Equipment Rental)	578,254	571,121	571,822	584,115	592,109
10. Total Pass Through Costs (without Franchise Fees) (Lines 8+9)	\$ 578,254	\$ 571,121	\$ 571,822	\$ 584,115	\$ 592,109

Section IV -- Revenue Requirement without Franchise Fees

11. Total Allowable Costs (Line 5) plus Allowable Operating Profit (Line 7) plus Total Pass Through Costs (without Franchise Fees) (Line 10)	\$ 3,037,600	\$ 2,925,613	\$ 3,158,660	\$ 3,667,031	\$ 3,827,712
12. Less Credit for Enhanced Services per Post-Collection Agreement				\$ 265,598	
13. Adjusted Revenue Requirement (without Franchise Fees) (Line 11-12)				\$ 3,392,113	

Section V -- Revenues without Rate Change in Base Year

14. Residential Revenues					\$ 2,715,093
15. Less Allowance for Uncollectible Residential Accounts					(26,238)
16. Total Residential Revenues (without Rate Change in Base Year)	\$ 2,599,863	\$ 2,613,876	\$ 2,628,784	\$ 2,688,787	\$ 2,688,787
17. Commercial and Light Industrial Revenues					\$ 1,024,731
18. Less Allowance for uncollectible Commercial and Light Industrial Accounts					(9,223)
19. Total Commercial/Light Industrial Revenues (without Rate Change in Base Year)	\$ 871,082	\$ 908,372	\$ 966,502	\$ 1,015,509	\$ 1,015,509
20. Recycled Material Sales (N/A if Use IRRF)	\$ -	\$ -	\$ -	\$ -	\$ -
21. Total Revenues (Lines 16+19+20)	\$ 3,470,945	\$ 3,522,247	\$ 3,615,286	\$ 3,704,305	\$ 3,704,305

Section VI -- Net Shortfall (Surplus)

22. Net Shortfall (Surplus) without Franchise Fees (Lines 13-Line 21)					\$ (172,163)
23. Residential / Commercial / Light Industrial Franchise Fees (see calculation below)	\$ 177,393	\$ 179,961	\$ 266,544	\$ 278,236	\$ 288,107
24. Net Shortfall (Surplus) with Franchise Fees (Lines 22+23)					\$ 115,915
25. Contribution From/To Rate Stabilization Fund					\$ 167,711
26. Adjusted Net Shortfall (Surplus) with Franchise Fees (Lines 24+25)					\$ 273,626

Section VII -- Percent Change in Rates

27. Total Commercial / Light Industrial Revenues Prior to Rate Change (Lines 16+19)					\$ 3,704,305
28. Percent Change in Existing Residential / Commercial / Light Industrial Rates (Line 26 / Line 27)					7.39%

Franchise Fee Calculation

Franchise fees are set by the County at a percent of the revenue requirement
Solve for two equations with one unknown, and identify franchise fees as X =>
Equation 1) Revenue Requirement x Franchise Fee % = X
Equation 2) Revenue Requirement = Line 13 + X, or \$ _____ + X
Substitute equation 2) into equation 1) and solve for X =>
(\$ _____ + X) x Franchise Fee % = X or X = _____

Summary Revenue Requirement

29. Total Allowable Costs (Line 5)	\$ 2,912,043
30. Allowable Operating Profits (Line 7)	323,580
31. Pass Through Costs with Franchise Fees (Line 10+23)	886,218
32. Revenue Requirement	\$ 4,115,819

Contra Costa County - Unincorporated

Base Year Rate Change Application

Cost Summary for Year 2014

Section VIII -- Base Year Cost Allocation

Description of Cost	Unincorporated County	Non-Uninc. County	Audited RSS Financial	Allocation Base(s)
Labor - Regular	\$ 861,167	\$ 5,408,381	\$ 6,269,548	Labor Hours
Labor - Overtime	119,422	750,006	869,428	Labor Hours
Benefits	401,524	2,521,687	2,923,210	Labor Hours
Payroll Taxes	90,372	567,561	657,933	Labor Hours
33. Total Direct Labor	\$ 1,472,485	\$ 9,247,634	\$ 10,720,119	
Bank Fees	\$ 36,449	\$ 228,913	\$ 265,362	Accounts
Bonus Pay Corporate	\$ 17,983	\$ 112,939	\$ 130,922	Accounts
Collection Fees	\$ 3,344	\$ 21,001	\$ 24,345	Accounts
Computer Services	4,760	29,896	34,657	Accounts
Consulting and Professional Fees	42,934	269,638	312,572	Direct
Dues and Subscriptions	2,193	13,771	15,964	Accounts
Insurance	185,236	1,163,335	1,348,570	Accounts
Laundry and Uniforms	3,783	23,760	27,544	Accounts
Management Fees/Corporate Overhead	163,278	1,025,436	1,188,714	Accounts
Miscellaneous and Other	703	4,415	5,119	Accounts
Office Expenses	6,734	42,289	49,022	Accounts
Office Repair and Maintenance	3,447	21,648	25,095	Accounts
Outsource Billing	-	-	-	Accounts
Postage	8,227	51,670	59,897	Accounts
Public Relations and Promotion	27,910	175,281	203,190	Accounts
Relocation and Recruiting	411	2,583	2,995	Accounts
Sales and Marketing Misc.	3,486	21,891	25,377	Accounts
Taxes and Licenses	7,754	48,699	56,454	Accounts
Telephone	13,726	86,204	99,930	Accounts
Travel	1,533	9,628	11,162	Accounts
Utilities	57,590	361,680	419,270	Accounts
34. Total Corporate and Local General and Administrative Costs	\$ 591,482	\$ 3,714,678	\$ 4,306,159	
Depreciation-Buildings	\$ 4,906	\$ 30,810	\$ 35,716	
Depreciation-Office Furniture and Equipment	1,031	6,473	7,503	Accounts
Depreciation-Vehicles	-	-	-	Direct
Depreciation-Containers	-	-	-	Direct
Depreciation-Equipment	1,088	6,836	7,925	Direct
Other Operating Costs	1,764	11,078	12,842	Accounts
35. Total Depreciation and Other Operating Costs	\$ 8,789	\$ 55,197	\$ 63,985	
36. Total Services Provided to County	\$ 24,180			Direct
37. Total Allowable Costs (Lines 33+34+35+36)	\$ 2,096,935	\$ 13,017,508	\$ 15,090,264	
38. Total County Administration Fee				
Equipment Rental	\$ 571,822	\$ 3,591,209	\$ 4,163,031	Direct
Gas and Oil	134,472	844,525	978,997	Accounts
Parts	57,181	359,115	416,296	Accounts
Repair and Maintenance	5,366	33,700	39,066	Accounts
Tires	19,776	124,197	143,973	Accounts
Other	14,712	92,394	107,105	Accounts
39. Total Trucking and Equipment	\$ 803,329	\$ 5,045,140	\$ 5,848,469	
40. Total Residential/Commercial/Light Industrial Franchise Fees	\$ 266,544		\$ 2,327,954	Direct
41. Total Pass Through Costs (Lines 38+39+40)	\$ 1,069,873	\$ 5,045,140	\$ 8,176,423	
42. Total Costs (Lines 37+41)	\$ 3,166,808	\$ 18,062,649	\$ 23,266,686	

Year: 2016

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Contra Costa County - Unincorporated

Base Year Rate Change Application

Revenues Summary

Section IX -- Revenues					
	Actual			Estimated	Projected
	Historical Years			Current Year	Base Year
	Year 1 2012	Year 2 2013	Year 3 2014	Year 4 2015	Year 5 2016
Single Family Residential Services					
43. Single Family Residential Revenues	\$ 2,623,293	\$ 2,637,614	\$ 2,652,658	\$ 2,715,033	\$ 2,715,033
Multifamily Residential Services					
44. Number of Accounts					
45. Multifamily Residential Revenues	\$ -	\$ -	\$ -	\$ -	\$ -
46. Residential Revenues (w/o Allowable for Uncollectible Accounts) (Lines 43+45)	\$ 2,623,293	\$ 2,637,614	\$ 2,652,658	\$ 2,715,033	\$ 2,715,033
47. Allowance for Uncollectible Residential Accounts	\$ 23,610	\$ 23,739	\$ 23,874	\$ 26,236	\$ 26,236
48. Total Residential Revenues (Line 46 - Line 47)	\$ 2,599,683	\$ 2,613,875	\$ 2,628,784	\$ 2,688,797	\$ 2,688,797
Commercial and Light Industrial Can Services					
49. Number of Accounts					
50. Commercial and Light Industrial Can Revenues	\$ -	\$ -	\$ -	\$ -	\$ -
Commercial and Light Industrial Bin Services					
51. Number of Accounts	178	175	181	178	178
52. Commercial and Light Industrial Bin Revenues	\$ 681,690	\$ 682,052	\$ 758,828	\$ 787,871	\$ 787,871
Commercial and Light Industrial Drop Box Services					
53. Number of Accounts	31	29	38	32	32
54. Commercial and Light Industrial Drop Box Revenues	\$ 197,303	\$ 234,570	\$ 236,633	\$ 237,060	\$ 237,060
55. Commercial and Light Industrial Revenues (w/o Allowance for Uncollectible Accounts) (Lines 50+52+54)	\$ 878,993	\$ 916,621	\$ 995,461	\$ 1,024,731	\$ 1,024,731
56. Allowance for Uncollectible Commercial and Light Industrial Accounts	\$ 7,911	\$ 8,250	\$ 8,959	\$ 9,223	\$ 9,223
57. Total Commercial and Light Industrial Revenues (Line 55 - Line 56)	\$ 871,082	\$ 908,372	\$ 986,502	\$ 1,015,509	\$ 1,015,509
58. Recycled Material Sales	\$ -	\$ -	\$ -	\$ -	\$ -
59. Total Revenues (Lines 48+57+58)	\$ 3,470,765	\$ 3,522,247	\$ 3,615,286	\$ 3,704,305	\$ 3,704,305

Year:

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Contra Costa County - Unincorporated

Base Year Rate Change Application

Single Family Residential Revenues Summary

Section X -- Single Family Residential Revenues and Customer Counts

				2016 Base Year Revenues
Single Family Residential Revenues (w/o Rate Change in Base Year)				
	Current Rate/Month	Projected Accounts	Total ^{8/}	
35 Gallon Container	23.04	7,970	2,203,548	
65 Gallon Container	44.59	518	277,171	
95 Gallon Container	66.26	67	53,273	
20 Gallon Mini-Can	20.95	1,516	381,122	
60. Total Base Year Single Family Residential Revenues		10,071	\$ 2,915,112	

^{8/} Equal to the current rate per month multiplied by 12 multiplied by the projected number of accounts.

Year:

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Contra Costa County - Unincorporated

Base Year Rate Change Application

Operating Information

Historical Information	Percent Change	Historical Information	Percent Change	Current Year Estimated Information	Percent Change	Base Year Projected Information	Percent Change	Base Year Projected Information
Year 1	Year 1 to 2	Year 2	Year 2 to 3	Year 3	Year 3 to 4	Year 4	Year 4 to 5	Year 5
2012		2013		2014		2015		2016

Section XI -- Operating Data

Accounts

61. Residential	9,451	1.07%	9,552	0.88%	9,636	0.40%	9,675	0.00%	9,675
62. Commercial	178	-1.69%	175	3.43%	181	-1.66%	178	0.00%	178
63. Light Industrial	31	-6.45%	29	31.03%	38	-15.79%	32	0.00%	32
64. Total Accounts	9,660	0.99%	9,756	1.01%	9,855	0.30%	9,885	0.00%	9,885

Waste Tonnage

65. Residential	7,678	-1.67%	7,550	0.28%	7,571	-4.41%	7,237	0.00%	7,237
66. Residential Greenwaste	3,727	-10.12%	3,350	6.62%	3,572	0.00%	3,572	0.00%	3,572
67. Commercial	1,338	1.20%	1,354	4.67%	1,417	-1.38%	1,398	0.00%	1,398
68. Light Industrial	756	2.91%	778	2.12%	794	-7.84%	732	0.00%	732
69. Total Tonnage	13,499	-3.46%	13,032	2.47%	13,354	-3.11%	12,939	0.00%	12,939

Recyclable Tonnage

70. Residential	3,071	-1.50%	3,025	4.42%	3,159	12.76%	3,562	0.00%	3,562
71. Commercial		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!	
72. Light Industrial		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!	
73. Total Tonnage	3,071	-1.50%	3,025	4.42%	3,159	12.76%	3,562	0.00%	3,562

County Services

74. County Bins	17	0.00%	17	0.00%	17	0.00%	17	0.00%	17
75. County Drop Boxes	1	0.00%	1	0.00%	1	0.00%	1	0.00%	1

Section XII -- Change in Commercial Rates

76. 3 Yard Bin -- Once per Week	\$ 316.40	0.00%	\$ 316.40	8.58%	\$ 343.55	2.96%	\$ 353.72	7.39%	\$ 379.85
77. 2 Yard Bin -- Once per Week	239.14	0.00%	239.14	7.88%	257.99	2.96%	265.63	7.39%	285.25
78. 20 Yard Debris Box -- per Pick Up	\$ 288.00	5.21%	\$ 303.00	15.18%	\$ 349.00	10.03%	\$ 384.00	5.00%	\$ 403.20

Year:

Page 5 of 6

Contra Costa County - Unincorporated

Base Year Rate Change Application

Unincorporated Area: All Areas

Rate Change

79. Rate Change Requested

7.39%

Rate Schedule

New

Rate schedule	Current Rate (w/o IRRF)	New Rate, Before Adjustment	Adjustment (a)	Rate
35 Gallon Container	\$ 23.04	24.74	0.01	24.75
65 Gallon Container	44.59	47.88	0.02	47.90
95 Gallon Container	66.26	71.15	-	71.15
20 Gallon Mini-Can	20.95	22.50	-	22.50

80. Multiunit Residential

Rate increase of 7.39% will be applied
to all rates in each structure with each rate rounded up or down to
the nearest \$0.05.

Certificate

To the best of my knowledge, the data and information in this application is complete, accurate, and
consistent with the instructions provided by Contra Costa County.

Name: Winnie Lau

Title: Division Controller

Signature:

Date: 6/30/2015

Year:

Page 6 of 6



INDEPENDENT AUDITOR'S REPORT

To the Stockholder
Richmond Sanitary Service, Inc.
Richmond, California

We have audited the accompanying financial statements of Richmond Sanitary Service, Inc. (the "Company"), a wholly owned subsidiary of Republic Services Inc., which comprise the balance sheet as of December 31, 2014, and the related statements of comprehensive income, changes in stockholder's equity, and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

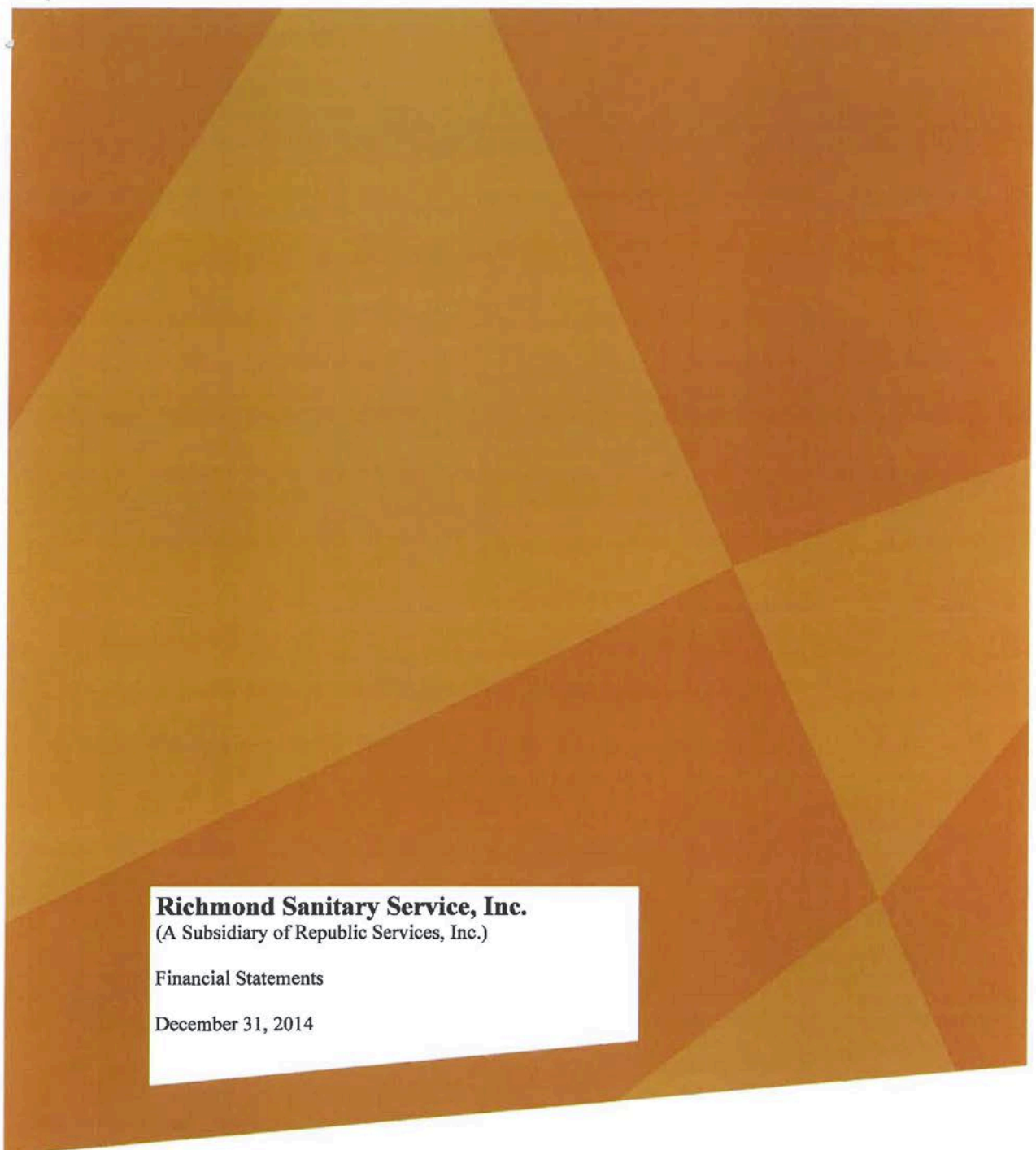
Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



Audited	
38,755,624	Audited Financial
(15,312,862)	Landfill disposal
(92,574)	Contributions
(37)	Other
(83,464)	Bad debt
<u>23,266,687</u>	

23,266,686
(0)

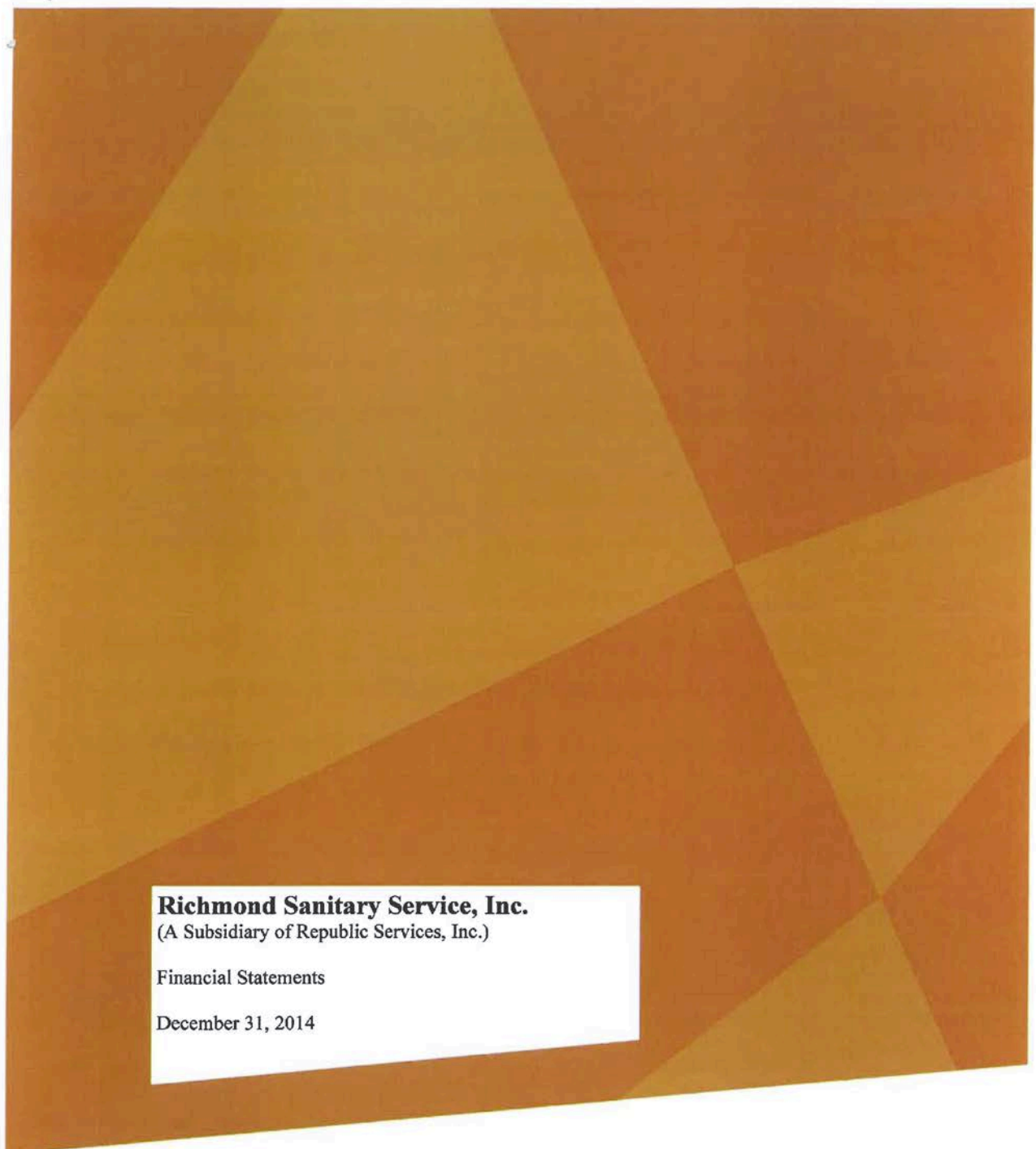


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INDEPENDENT AUDITOR'S REPORT

To the Stockholder
Richmond Sanitary Service, Inc.
Richmond, California

We have audited the accompanying financial statements of Richmond Sanitary Service, Inc. (the "Company"), a wholly owned subsidiary of Republic Services Inc., which comprise the balance sheet as of December 31, 2014, and the related statements of comprehensive income, changes in stockholder's equity, and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Richmond Sanitary Service, Inc. as of December 31, 2014, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Armanino LLP
Armanino^{LLP}
San Ramon, California

June 30, 2015

RICHMOND SANITARY SERVICE, INC.
Balance Sheet
December 31, 2014ASSETS

Current assets	
Cash	\$ 11,790
Accounts receivable, less allowance for doubtful accounts of \$130,000	5,053,797
Prepaid expenses	119,888
Inventory	181,255
Total current assets	5,366,730
Intercompany account - related party, net	159,867,979
Property and equipment, net	231,375
Total assets	<u>\$ 165,466,084</u>

LIABILITIES AND STOCKHOLDER'S EQUITY

Current liabilities	
Accounts payable	\$ 168,355
Accrued expenses	1,569,914
Rate revenue overbilled	90,069
Deferred revenue	1,596,360
Accumulated post-retirement benefit obligation, current	39,988
Total current liabilities	3,464,686
Accumulated post-retirement benefit obligation, noncurrent	899,181
Stockholder's equity	
Common stock, no par value; 100,000 authorized shares; 9,000 shares issued and outstanding	1,515,384
Additional paid in capital	106,413,780
Accumulated other comprehensive loss	(38,275)
Retained earnings	53,211,328
Total stockholder's equity	161,102,217
Total liabilities and stockholder's equity	<u>\$ 165,466,084</u>

The accompanying notes are an integral part of these financial statements.

RICHMOND SANITARY SERVICE, INC.
Statement of Comprehensive Income
For the Year Ended December 31, 2014

Operating revenue	<u>\$ 45,932,662</u>
Expenses	
Operating expenses	33,746,421
General and administrative	4,958,058
Depreciation and amortization	51,145
Total expenses	<u>38,755,624</u>
Other income	
Intercompany interest income	906,554
Other income	329,759
Total other income	<u>1,236,313</u>
Income before taxes	8,413,351
Income tax expense	<u>3,428,441</u>
Net income	4,984,910
Other comprehensive income (loss)	
Minimum pension liability adjustment	<u>(30,357)</u>
Comprehensive income	<u><u>\$ 4,954,553</u></u>

The accompanying notes are an integral part of these financial statements.

RICHMOND SANITARY SERVICE, INC.
Statement of Changes in Stockholder's Equity
For the Year Ended December 31, 2014

	Common Stock		Additional Paid In Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Total
	Number of Shares	Amount				
Balance, December 31, 2013	9,000	\$ 1,515,384	\$ 106,413,780	\$ (7,918)	\$ 48,226,418	\$ 156,147,664
Minimum pension liability adjustment	-	-	-	(30,357)	-	(30,357)
Net income	-	-	-	-	4,984,910	4,984,910
Balance, December 31, 2014	<u>9,000</u>	<u>\$ 1,515,384</u>	<u>\$ 106,413,780</u>	<u>\$ (38,275)</u>	<u>\$ 53,211,328</u>	<u>\$ 161,102,217</u>

The accompanying notes are an integral part of these financial statements.

RICHMOND SANITARY SERVICE, INC.
Statement of Cash Flows
For the Year Ended December 31, 2014

Cash flows from operating activities	
Net income	\$ 4,984,910
Adjustments to reconcile net income to net cash provided by operating activities	
Depreciation	51,145
Changes in operating assets and liabilities	
Accounts receivable	191,775
Prepaid expenses	(52,500)
Inventory	6,505
Accounts payable	22,034
Accrued expenses	353,448
Rate revenue overbilled	(147,589)
Accumulated post-retirement benefit obligation	37,331
Deferred revenue	(3,065)
Net cash provided by operating activities	<u>5,443,994</u>
Cash flows from investing activities	
Purchase of property and equipment	<u>(9,162)</u>
Cash flows from financing activities	
Net financing activities with Repulic and affiliates	<u>(5,430,891)</u>
Net change in cash	3,941
Cash, beginning of period	<u>7,849</u>
Cash, end of period	<u>\$ 11,790</u>
<u>Supplemental disclosure of cash flow information</u>	
Cash paid for interest	\$ -
Cash paid for taxes	\$ -

The accompanying notes are an integral part of these financial statements.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

1. Business and Summary of Significant Accounting Policies

Business

Richmond Sanitary Service, Inc. (the "Company") operates solid waste collection and recycling services for residential, industrial and commercial customers within Contra Costa County under contracts with the cities of Richmond, Hercules, Pinole, San Pablo, plus parts of unincorporated Costa Contra County.

The Company was acquired by Republic Services, Inc. ("Republic") in 2001 and operates as a wholly-owned subsidiary. As a wholly-owned subsidiary, the Company is allocated certain corporate expenses and receives certain corporate services from its parent company and other affiliates. The Company's financial position and results of operations might be different if it were operated as a stand-alone entity. The Company is financially dependent on Republic.

Cash and cash equivalents

Cash and cash equivalents include liquid investments with an original maturity at the date of acquisition of three months or less.

Revenue and receivables

Revenue includes billing to customers for the collection and disposal of solid waste from a diversified base of customers including residential, commercial and industrial customers in the cities of Richmond, Hercules, Pinole, San Pablo and parts of unincorporated areas of Contra Costa County. These revenues give rise to customer receivables. Revenues are recognized as services are performed. Deferred revenue arises from advance residential billing for up to three months at a time.

A significant amount of the Company's revenue is subject to rate regulation by local jurisdictions under franchise agreements and permits.

Allowance for doubtful accounts

Company management has established an allowance for doubtful accounts on its trade receivables based on historical collection experience, the age of the receivables and overall economic conditions. Accounts are monitored by management on an ongoing basis and are written off by the Company only when it has been determined that all available collection avenues have been exhausted. The Company has the ability to lien certain customer's property taxes for any receivables deemed uncollectible.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

1. Business and Summary of Significant Accounting Policies (continued)

Inventory

Inventory consists of parts, fuel, and tires. The parts and supplies inventory is stated at the lower of cost or market on the first in-first out ("FIFO") method. Management actively monitors the composition of inventory and believes no reserve for obsolete inventory is necessary.

Property and equipment

Property and equipment are recorded at cost. Expenditures for major additions and improvements to facilities are capitalized, while maintenance and repairs are charged to expense as incurred. When property is retired or otherwise disposed of, the related cost and accumulated depreciation are removed from the accounts and any resulting gain or loss is reflected in the statements of income.

Depreciation is computed on a straight-line method over the estimated useful lives of the assets. Depreciation expense totaled \$51,145 for the year ended December 31, 2014. The estimated useful lives used by the Company are seven to thirty years for buildings, five to twelve years for vehicles, and three to fifteen years for equipment. Improvements are depreciated over the shorter of the life of the improvement or the life of the site.

Management reviews long-lived tangible assets for impairment when circumstances indicate the carrying amount of an asset may not be recoverable. Impairment is recognized if the fair value of the asset is less than the carrying value. When an impairment loss is recognized, the asset's carrying value is reduced to its estimated fair value. When property is retired or otherwise disposed of, the related cost and accumulated depreciation are removed from the accounts and any resulting gain or loss is reflected in the statement of operations.

Use of estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates. Because of the inherent uncertainties in estimating the allowance for doubtful accounts, post retirement benefit obligation, and contingencies, among others. It is at least reasonably possible that the Company's estimates will change in the near term.

Regulatory accounting

The FASB Accounting Standards Codification, *Regulated Operations*, requires that the effects of certain regulations be reflected in the Company's financial statements by accelerating or deferring the recognition of certain revenues and expenses to match the treatment of those revenues and expenses in the rate-making process.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

1. Business and Summary of Significant Accounting Policies (continued)

Fair value measurements

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Company determines the fair values of its assets and liabilities based on a fair value hierarchy that includes three levels of inputs that may be used to measure fair value (Level 1, Level 2 and Level 3). Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date. An active market is a market in which transactions occur with sufficient frequency and volume to provide pricing information on an ongoing basis. Level 2 inputs are inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly. Level 3 inputs are unobservable inputs for the asset or liability. Unobservable inputs reflect the Company's own assumptions about the assumptions market participants would use in pricing the asset or liability (including assumptions about risk). Unobservable inputs are developed based on the best information available in the circumstances and may include the Company's own data.

The carrying value of the Company's financial instruments, which include cash, accounts receivable and accounts payable, approximate fair value due to the short-term maturities of these investments.

Subsequent events

The Company has evaluated subsequent events through June 30, 2015, the date the financial statements were available to be issued. No other subsequent events have occurred that would have a material impact on the presentation of the Company's financial statements.

2. Property and Equipment

Property and equipment consist of the following at December 31, 2014:

Building and leasehold improvements	\$ 596,245
Office equipment	281,249
Machinery and equipment	<u>127,457</u>
Total property and equipment	1,004,951
Less accumulated depreciation	<u>(773,576)</u>
Property and equipment, net	<u>\$ 231,375</u>

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

3. Related Party Transactions

The Company has entered into a number of related party transactions with affiliates under common control. The following schedule summarizes the charges and income for the year ended December 31, 2014:

Integrated Resource Recovery Facility (IRRF) fees	\$14,168,469
Landfill disposal fees	\$ 1,144,393
Property rental fees	\$ 236,738
Garage facility rental fees	\$ 408,840
Truck and equipment rental fees	\$ 3,749,710
Administrative and overhead fees	\$ 864,183
Insurance costs	\$ 1,196,923
Interest income	\$ 906,554

The post collection charges fees to the Company as established by the West Contra Costa County Integrated Waste Management Authority. The post collection fees are in turn charged to the Company's customers as a component of their total collection fees.

The Company rents office space from its former stockholders under a noncancelable operating lease that expires in March 2018 (see Note 7). The rent expense incurred was \$236,738 in 2014.

Additionally, the Company rents various vehicles and equipment under month-to-month operating leases from affiliated parties. Rental expense, which is included above in truck and equipment rental and garage facility rental, was \$4,158,550 for the year ended December 31, 2014.

The intercompany account represents various intercompany charges and credits involving cash transfers and other transactions between the Company, Republic, and other affiliates. The Company is charged or earns 5% interest per annum on the intercompany balance. Additionally, the Company is allocated certain administrative and overhead costs from its parent and affiliated entities. Administrative and overhead costs allocated to the Company totaled \$864,183 for the year ended December 31, 2014. Insurance costs paid by Republic amounted to \$1,196,923 for the year ended December 31, 2014.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

4. Rate Revenue Overbilled

In March of 1995, a joint powers agreement (the "Agreement") was executed by the cities of Richmond, Hercules, El Cerrito, San Pablo and Pinole. The Agreement, which created the West Contra Costa Integrated Waste Management Authority (the "Authority") was executed in order to establish the IRRF to meet recycling diversion goals and to facilitate disposal of solid waste material. Under the provisions of the Agreement, the Authority sets designated rates at the IRRF for each of its members, which are passed through to the ratepayers within the member jurisdiction. The designated rates are computed as a unit charge per ton of disposed material and are passed through to the member jurisdiction ratepayers as a unit charge per can. Under the provisions of the Agreement, the Authority establishes the basis for the conversion of the designated rate to the collection rate charged to the ratepayer. The Agreement contains a balancing account mechanism from rate setting period to rate setting period to account for overages and underages attributable to differences between the actual amount paid by the collector at the IRRF pursuant to the collection agreement, and the revenues generated (based on billings to ratepayers) from that component of the collection rate set by the Authority. These amounts are reflected as rate revenue overbilled in the accompanying financial statements.

Effective December 31, 2013, the Agreement was terminated. The Company and several of its affiliates, including West County Resource Recovery, Inc. ("WCRR"), West Contra Costa Sanitary Landfill, Inc. ("WCCSL"), Golden Bear Transfer Service, Inc. ("Golden Bear") and Keller Canyon Landfill Company, Inc. ("Keller Canyon"), entered into a Post Collection Recycling and Disposal Services Agreement (the "Post Collection Agreement") with the Authority effective January 1, 2014. The Company continues to operate the IRRF under the terms of the Post Collection Agreement. The Post Collection Agreement expires June 30, 2025, except for the County of Contra Costa, where the term expires October 13, 2023 but they may extend through the full term of the Agreement by providing a written notice no less than thirty days in advance. Under the provisions of the Post Collection Agreement, the Authority sets designated rates for each of its members, which are passed through to the ratepayers within the member jurisdiction. The designated rates are computed as a unit charge per ton of disposed material and are passed through to the member jurisdiction ratepayers as a unit charge per can. Under the provisions of the Agreement, the Authority established an initial compensation amount covering material specific costs, household hazardous waste costs, authority costs, a recycling rebate and governmental fees. The rate will increase annually based on a variety of factors as described in the Post Collection Agreement.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

5. Pension Plans

Defined contribution plan

The Company's non-union employees participate in a defined contribution 401(k) plan (the "Plan") sponsored by the Company's parent, Republic. Under the terms of the Plan, participants can elect to contribute a portion of their compensation based on provisions contained in the Plan. The Company provides for an employer matching contribution equal to 100% of the first 3% of eligible compensation and 50% of the next 2% of eligible compensation contributed by each employee, which is funded in cash. All contributions vest immediately. Company contributions to the Plan for the year ended December 31, 2014 totaled \$90,093.

Multiemployer defined contribution plan

The Company is also a participant in a multiemployer defined contribution 401(k) plan (the "Machinists Plan") under collective bargaining agreements covering union machinist employees. The plan generally provides retirement benefits to eligible employees at a rate of \$150 per month for the period January 1, 2014 through June 30, 2014 and \$175 per month for the period July 1, 2014 through December 31, 2014. Company contributions to the Machinists Plan for the year ended December 31, 2014 totaled \$18,050.

Multiemployer pension plan

The Company is also a participant in three multiemployer pension plans under collective bargaining agreements covering union-represented employees. These plans generally provide retirement benefits to participants based on their service.

The Company does not administer these multiemployer plans. In general, these plans are managed by a board of trustees with the unions appointing certain trustees and other contributing employers of the plan appointing certain members. The Company is not represented on the board of trustees.

Based on the information available to us, we believe that one of the multiemployer plans to which we contribute is "critical" as the term is defined in the Pension Protection Act enacted in 2006 (the "PPA"). The PPA requires underfunded pension plans to improve their funding ratios within prescribed intervals based on the level of their underfunding. Until the plan trustees develop the funding improvement plans as required by the PPA, the Company cannot determine the amount of assessments the Company may be subject to, if any.

Under current laws governing multiemployer benefit plans, a plan's termination, the Company's voluntary withdrawal, or the mass withdrawal of all contributing employers from any underfunded multiemployer pension plan would require the Company to make payments to the plan for the Company's proportionate share of the multiemployer's unfunded vested liabilities. It is possible that there may be a mass withdrawal of employers contributing to the underfunded plan or the plan may terminate in the near future, which may have a material impact on the Company's financial condition, results of operations, and cash flows.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

5. Pension Plans (continued)

Multiemployer pension plan (continued)

The Company's participation in multiemployer pension plans for the year ended December 31, 2014 is outlined in the table below. The most recent PPA zone status available in 2014 is for the plans year ended December 31, 2013. The status is based on information that the Company received from the plans and is certified by the plans' actuary. Among other factors, plans in the "critical" red zone are generally less than 65% funded and plans in the "safe" green zone are at least 80% funded. The last column lists the expiration date of the collective-bargaining agreements ("CBA") to which the plans are subject.

	<u>EIN</u>	<u>Pension Protection Act Zone Status</u>	<u>Funding Improvement or Rehabilitation Plan Status Pending Implemented</u>	<u>Contributions to Plan</u>	<u>Surcharge Imposed</u>	<u>Expiration of CBA</u>
Western Conference of Teamsters Pension Trust Fund, Western States Office & Professional Employee's Pension Fund	91-6145047	Safe	No	\$651,889	No	2/28/2018
Automotive Industries Pension Plan	94-6076144	Critical	Implemented	78,749	Yes	1/31/2015
	94-1133245	Critical	Implemented	<u>72,499</u>	Yes	6/30/2019
Total				<u>\$803,137</u>		

6. Post Retirement Health Care Plan

The Company provides post retirement health care benefits to employees who meet certain eligibility requirements under a post retirement benefit plan. Under the provisions of the arrangement, the Company pays medical premiums for retired, eligible employees into a trust. Estimated age-related costs are based on population demographics and current premium rates trended into the future. The discount rate used to discount projected benefits at December 31, 2014 is 4.5%.

The following provide further information about the plan at December 31, 2014:

Change in benefit obligation	
Beginning of year projected benefit obligations	\$871,481
Service cost	29,318
Interest cost	37,552
Actuarial loss	30,357
Benefits paid	<u>(29,539)</u>
End of year projected benefit obligation	<u>\$939,169</u>

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

6. Post Retirement Health Care Plan (continued)

Change in plan assets	
Beginning of year fair value of plan assets	\$ -
Actuarial return on plan assets	-
Employer contributions	29,539
Benefits paid	<u>(29,539)</u>
End of year fair value of plan assets	<u>\$ -</u>
Funded status reconciliation	
Beginning of year funded status	\$(871,481)
Net periodic benefit cost	(43,131)
Deduct amortization	(23,739)
Benefits paid	29,539
Loss	<u>(30,357)</u>
End of year funded status	<u>\$(939,169)</u>
Amounts in statement of financial position	
Non-current assets	\$ -
Current liabilities	(39,988)
Non-current liabilities	<u>(899,181)</u>
Net amount recognized	<u>\$(939,169)</u>
Amount recognized in accumulated other comprehensive loss	
Prior service cost	\$ -
Net loss	<u>30,357</u>
Accumulated other comprehensive loss	<u>\$30,357</u>

Components of net periodic benefit cost

The net periodic benefit cost for 2014 includes the following components:

Service cost	\$29,318
Interest cost	37,552
Expected return on plan assets	-
Amortization of prior service cost	-
Recognized net actuarial (gain) or loss	<u>(23,739)</u>
Net periodic benefit cost	<u>\$43,131</u>

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

6. Post Retirement Health Care Plan (continued)

Weighted-average assumptions used to determine net periodic benefit cost for year ended December 31, 2014:

Discount rate	4.50%
Expected return on plan assets	0.00%
Rate of compensation increase	N/A
Corridor	10.00%

Estimated future benefit payments reflecting expected future service for the fiscal year(s) ending December 31:

2015	\$ 40,878
2016	\$ 43,422
2017	\$ 46,945
2018	\$ 52,758
2019	\$ 58,492
Thereafter	\$323,469

7. Commitments and Contingencies

General legal proceedings

The Company and affiliates are subject to various laws and regulations relating to the protection of the environment. As is the case with other companies in similar industries, the Company faces exposure from potential claims involving environmental matters. The Company has an insurance policy to cover a portion of this exposure. While it is not possible to quantify with certainty the potential impact of actions regarding environmental matters, particularly any future remediation or other compliance efforts, in the opinion of management, compliance with present environmental protection laws, after consideration of potential insurance recovery, would not have a material adverse effect on the financial condition of the Company.

Lease commitments

The Company rents office space from its former stockholders under a noncancelable operating lease that expires in March 2018.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

7. Commitments and Contingencies (continued)

Lease commitments (continued)

Future minimum obligations to pay under the lease agreement at December 31, 2014 are as follows:

2015	\$229,489
2016	235,734
2017	241,978
2018	<u>60,885</u>
	<u>\$768,086</u>

Rent expense charged to operations was \$236,738 which is included in general and administrative expenses for the year ended December 31, 2014.

Collective bargaining agreement

The Company's labor consists primarily of union employees, thus the Company is subject to collective bargaining agreements.

8. Concentrations of Credit Risk

Concentrations

The Company operates exclusively in the solid waste industry in Contra Costa County, California and, therefore, its revenues and receivables are subject to geographical concentrations.

Credit risk

The Company provides credit in the normal course of business to its customers. The Company performs ongoing credit evaluations of its customers, but does not require collateral to support customer receivables. The Company does not require collateral, but is allowed to file a lien against a property to recover past due bills. The Company establishes an allowance for doubtful accounts based on various factors including the credit risk of specific customers, age of receivables outstanding, historical trends and other information. Reserves for specific accounts receivable are provided when a receivable is believed to be uncollectible or generally when a receivable is in excess of 90 days old.

RICHMOND SANITARY SERVICE, INC.
Notes to Financial Statements
December 31, 2014

9. Income Taxes

The Company is a wholly-owned subsidiary of a C corporation and accordingly, the Company is subject to income tax at the federal and state statutory rates of 35% and 8.84%, respectively. Operating results of the Company are included in the consolidated federal income tax return of Republic. Republic files a combined state income tax return for California. The Company has recorded an estimate of its allocation of consolidated income taxes representing its portion of the consolidated income tax expense at a rate of 40.75% on the Company's pre-tax income of \$8,413,351 for 2014. Deferred tax assets and liabilities (including any valuation allowance) are recognized and maintained on a corporate-wide basis by Republic.

Republic evaluated its tax positions and has concluded that there are no significant uncertain tax positions related to the Company for which a reserve by the Company would be necessary as of December 31, 2014.

Estimated net amount of allocated income tax expense recorded by the Company totaled \$3,428,441 for the year ended December 31, 2014. The Company is part of a group that files consolidated returns; accordingly, any income taxes due or refundable and all deferred tax amounts are included in the Company's intercompany accounts. The effective income tax rate is 40.75% in 2014. This rate differs from the statutory federal rate of 35% primarily because of state income taxes.

Attachment B: Adjusted Rate Model

Exhibit B-1, on the next page, of this appendix provides the adjusted base year rate model based on Crowe adjustments. The model reflects the following general adjustments:

Revenues

- No adjustment to revenues

Allowable Costs/Profits

- Minor adjustment to direct labor
- No adjustment to general and administrative costs
- No adjustment to trucking and equipment costs (w/profit)
- No adjustment to depreciation and other operating costs
- Minor decrease to services provided to the County
- Minor reduction to operating profit

Pass Through Costs

- No adjustment to trucking and equipment costs (pass through)
- Elimination of contribution to rate stabilization fund
- Minor reduction in franchise fees.

Exhibit B-1
Schedule of Rate Review Findings
(Projection Year 2016)

Line in Application	Category	Revenue or Cost	Profit	Total
Revenues				
14	Residential Revenues	\$0	\$0	\$0
17	Commercial Revenues	0	0	0
Subtotal		\$0	\$0	\$0
Allowable Costs				
1	Direct Labor	(\$26,265)	(\$2,918)	(\$29,183)
2	Tipping Fees (Profit Allowed)	0	0	0
3	Corporate and Local General and Administrative	0	0	0
4	Trucking and Equipment	0	0	0
5	Depreciation and Other Operating	0	0	0
6	Services Provided to County	(2,887)	(321)	(3,208)
Subtotal		(\$29,152)	(\$3,239)	(\$32,391)
Allowable Operating Profits				
9	Allowable Profits	\$0	\$0	\$0
Subtotal		\$0	\$0	\$0
Pass Through Costs without Franchise Fees				
10	Administrative Fees	\$0	\$0	\$0
11	Trucking and Equipment (Pass Through)	0	0	0
Subtotal		\$0	\$0	\$0
Franchise Fees				
23	Residential/Commercial/Light Industrial Franchise Fees	(\$2,438)	\$0	(\$2,438)
Contribution to Rate Stabilization Fund				
	Contribution to Rate Stabilization Fund	(\$157,711)	\$0	(\$157,711)
Subtotal		(\$157,711)	\$0	(\$157,711)
	Total Adjustments	(\$189,301)	(\$3,239)	(\$192,540)

Attachment C: Comparative Rate Survey

Tables C-1 through C-3 below include results of a survey of comparative residential, commercial, and industrial rates. We provide comparisons between West County rates and the following ten (10) neighboring jurisdictions:

- Albany
- Crockett
- El Cerrito
- Hercules
- Kensington
- Oakland
- Pinole
- Richmond
- Rodeo
- San Pablo.

Table C-1
Comparison of 2015 West Unincorporated Contra Costa County
Residential Rates with 10 Neighboring Jurisdictions (Per Customer, Per Month)

Jurisdiction	Residential Rates			
	20 Gallon	35 Gallon	65 Gallon	95 Gallon
1. Albany	\$36.72	\$41.13	\$71.08	\$101.02
2. Crockett	22.44	26.61	46.66	56.69
3. El Cerrito	31.50	42.08	84.43	-
4. Hercules	28.67	33.61	59.25	85.64
5. Kensington	37.60	41.71	-	-
6. Oakland	32.10	36.82	67.19	102.43
7. Pinole	27.17	32.12	57.14	82.91
8. Richmond	26.44	32.11	61.28	91.26
9. Rodeo	23.91	25.65	31.29	43.02
10. San Pablo	23.00	27.94	54.22	81.26
Average	\$28.96	\$33.98	\$59.17	\$80.53
2015 West County rates	\$25.50	\$31.01	\$59.42	\$88.50
Difference	-11.93%	-8.74%	0.42%	9.90%

Table C-2
Comparison of 2015 West Unincorporated Contra Costa County
Commercial Rates with 10 Neighboring Jurisdictions (Per Customer, Per Month)

Jurisdiction	Commercial Rates					
	1 pickup per week			2 pickups per week		
	1 cu. yd.	2 cu. yd.	3 cu. yd.	1 cu. yd.	2 cu. yd.	3 cu. yd.
1. Albany	\$163.87	\$327.74	\$491.61	\$327.74	\$655.48	\$983.22
2. Crockett	121.15	162.74	-	193.30	245.88	-
3. El Cerrito	280.37	545.06	-	560.74	1,090.12	-
4. Hercules	242.45	401.44	550.71	424.68	733.77	1,024.25
5. Kensington	192.65	384.50	-	384.50	768.00	-
6. Oakland	194.10	322.37	462.27	388.20	644.74	924.54
7. Pinole	240.58	402.54	555.19	424.38	739.56	1,037.12
8. Richmond	214.35	354.12	485.99	378.14	649.89	906.93
9. Rodeo	107.60	166.30	224.99	215.19	332.58	449.96
10. San Pablo	213.32	255.38	489.18	375.31	651.67	912.19
Average	\$197.04	\$332.22	\$465.71	\$367.22	\$651.17	\$891.17
2015 West County rates	\$204.28	\$334.71	\$457.34	\$358.84	\$612.02	\$850.36
Difference	3.67%	0.75%	-1.80%	-2.28%	-6.01%	-4.58%

Table C-3
Comparison of 2015 West Unincorporated Contra Costa County
Industrial Rates with 10 Neighboring Jurisdictions (Per Pull, 2 Tons of Material)

Jurisdiction	Industrial Rates		
	20 yard	30 yard	40 yard
1. Albany	\$689.40	\$1,034.10	\$1,378.80
2. Crockett	641.08	675.08	806.08
3. El Cerrito	685.50	785.50	
4. Hercules	641.08	675.08	806.08
5. Kensington	610.00	-	-
6. Oakland	1,019.75	1,345.16	1,658.94
7. Pinole	641.08	675.08	806.08
8. Richmond	641.08	675.08	806.08
9. Rodeo	641.08	675.08	806.08
10. San Pablo	641.08	675.08	806.08
Average	\$685.11	\$801.69	\$984.28
2015 West County rates	641.08	675.08	806.08
Difference	-6.43%	-15.79%	-18.10%

Memorandum

Date: October 28, 2015

To: Deidra Dingman,
Contra Costa County
Department of Conservation and Community Development

From: Erik Nylund,
Crowe Horwath LLP

Subject: 2016 Richmond Sanitary Services Base Year Rate Review -
Enhanced Services per Second Amendment to the
Franchise Agreement and Exhibit F

Background:

RSS's Application included costs (primarily labor and additional vehicles and vehicle maintenance) associated with providing the required new enhanced services in accordance with the Post-Collection Agreement negotiated between RecycleMore and Republic Services in 2014. Enhanced services included shifting from bi-weekly to weekly residential recycling and organics collection; providing commercial organics collection, and providing commercial dry routing services.

RSS made an adjustment in its 2016 Application to reduce RSS's total operating costs by \$295,598 (shown on line 12 of the Application). This \$295,598 reflects the actual cost of providing enhanced services tied to the Post Collection Agreement with RecycleMore and Republic Services. The company agreed that over the course of the County's franchise term, the costs of providing these enhanced services would be segregated. Costs that RSS incurs for providing these services as well as the revenue derived from the Enhanced Services Rate Adjustment are not to be factored into rate setting.

Crowe Tests:

- 1) We verified that the \$295,598 credit for the cost of enhanced services shown on Line 12 tied to (\$1 difference due to rounding) the costs detailed in the WCC County column in the schedule on page 2 of this memorandum.
- 2) We verified that RSS projected 2016 costs of providing enhanced collection services is consistent with the 2015 costs (\$295,598).
- 3) We verified that RSS did not include the portion of its residential revenues associated with enhanced collection services within page 1 of the Application (i.e., line 16). This enhanced services revenue amount equaled \$200,079.60 for the residential sector (see attached schedule on the page 3 of this memorandum).

Conclusion***Net Impact:***

[No change to the 2016 revenue requirement]

RSS Enhanced Collection Services Cost Analysis

Cost Summary for Base Year 2014

Base Year Cost Allocation						
Description of Cost	Richmond 48.0%	Hercules 12.9%	Pinole 11.0%	San Pablo 10.2%	WCC County 17.9%	Total 100.0%
Labor - Regular	\$ 249,255	\$ 66,977	\$ 57,035	\$ 53,135	\$ 92,965	\$ 519,368
Labor - Overtime	46,586	12,518	10,660	9,931	17,375	97,071
Benefits	127,740	34,325	29,230	27,231	47,643	266,169
Payroll Taxes	22,632	6,081	5,179	4,825	8,441	47,158
1. Total Direct Labor	\$ 446,213	\$ 119,902	\$ 102,103	\$ 95,122	\$ 168,424	\$ 929,765
2. Total Tipping Fees (Profit Allowed)						\$ -
Bank fees						-
Bonus Pay Corporate						-
Collection fees						-
Computer Services						-
Consulting and Professional Fees						-
Dues and Subscriptions						-
Insurance	32,130	8,634	7,352	6,849	11,984	66,950
Laundry and Uniforms	1,872	503	428	399	698	3,900
Management Fees/Corporate Overhead						-
Miscellaneous and Other						-
Office Expense						-
Office repair and maintenance						-
Outsource Billing						-
Postage						-
Public Relations and Promotion						-
Relocation and Recruiting						-
Sales and Marketing Misc.						-
Taxes and Licenses						-
Telephone						-
Travel						-
Utilities						-
3. Total Corporate and Local General and Administrative Costs	\$ 34,002	\$ 9,137	\$ 7,780	\$ 7,248	\$ 12,682	\$ 70,850
Depreciation - Buildings						\$ -
Depreciation - Office Furniture and Equipment						-
Depreciation - Vehicles						-
Depreciation - Containers						-
Depreciation - Equipment						-
Other Operating Costs						-
4. Total Depreciation and Other Operating Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5. Total Services Provided to City						\$ -
6. Total Allowable Costs (Lines 1 + 2 + 3 + 4 + 5)	\$ 480,216	\$ 129,039	\$ 109,884	\$ 102,371	\$ 179,106	\$ 1,000,615
7. Total City Administration Fee						
Equipment Rental (Truck Leasing)	\$ 137,497	\$ 36,947	\$ 31,462	\$ 29,311	\$ 51,282	\$ 286,500
Gas and Oil	102,986	27,673	23,565	21,954	38,411	214,589
Parts	18,717	5,029	4,283	3,990	6,981	39,000
Repair and Maintenance	36,079	9,695	8,256	7,691	13,457	75,178
Tires	7,199	1,934	1,647	1,535	2,685	15,000
Other	9,662	2,650	2,257	2,102	3,678	20,550
8. Total Trucking and Equipment	\$ 312,341	\$ 83,929	\$ 71,470	\$ 66,584	\$ 116,494	\$ 650,817
9. Total Tipping Fees (Pass Through)						
10. Total Residential/Commercial/Light Industrial Franchise Fees						
11. Total Pass Through Costs (Lines 7 + 8 + 9 + 10)	\$ 312,341	\$ 83,929	\$ 71,470	\$ 66,584	\$ 116,494	\$ 650,817
12. Total Costs (Lines 6 + 11)	\$ 792,556	\$ 212,968	\$ 181,354	\$ 168,955	\$ 295,599	\$ 1,651,432

Ms. Deidra Dingman
October 28, 2015

Page 3

Contra Costa County - Unincorporated

Base Year Rate Change Application

Single Family Residential Revenues Summary

Section X -- Single Family Residential Revenues and Customer Co					
			2016 Base Year Revenues	Enhanced Service Adjustment	
Single Family Residential Revenues (w/o Rate Change in Base Year)					
	Current Rate/Month	Projected Accounts	Total ^{ad}	Rate	
35 Gallon Container	23.04	7,970	2,203,546	1.67	159,718.80
65 Gallon Container	44.59	518	277,171	3.11	19,331.76
95 Gallon Container	66.26	67	53,273	4.66	3,746.64
20 Gallon Mini-Can	20.95	1,516	381,122	0.95	17,282.40
60. Total Base Year Single Family Residential Revenues		10,071	\$ 2,915,112		200,079.60
				Adjusted Revenue \$ 2,715,032.88	



**Contra
Costa
County**

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Extend Temporary Hire of County Retiree in the Health Services Department

RECOMMENDATION(S):

1. FIND that the appointment of Dr. Ann Harvey is necessary to fill a critically needed medical provider position in the Health Services Department; and
2. APPROVE and AUTHORIZE the extension of the temporary employment of retiree Dr. Ann Harvey, former Exempt Medical Staff Physician, for the period of November 1, 2015 through October 31, 2016.

FISCAL IMPACT:

Upon approval, this action has an annual cost of approximately \$88,843 and the cost is included within the Department's operating budget. Costs will be offset by third-party revenues.

BACKGROUND:

The Health Services Department is requesting a one (1) year-extension for the temporary employment of our medical provider retiree Dr. Ann Harvey. Dr. Harvey is a family physician and HIV specialist who is one of only two HIV specialists providing care at the West County Health Clinic. Extending her employment as a temporary retiree is critical to patient care at the West County Health Clinic to meet the continuing demand for access to health care resulting from the increase in CCHP enrollment. She will also continue to help with West County access issues related to the elimination of Doctors Medical Center services.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Arlene J. Lozada (925)
957-5269

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

If this action is not approved, there will be a shortage of medical staff providers needed to meet patient care services in the West County Health Clinic.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



**Contra
Costa
County**

To: Board of Supervisors

From: Supervisor Mary N. Piepho and Supervisor Karen Mitchoff

Date: November 17, 2015

Subject: FINDINGS AND RECOMMENDATIONS OF THE TASK FORCE ON FIRE AND MEDICAL SERVICES IN
EAST CONTRA COSTA COUNTY

RECOMMENDATION(S):

CONSIDER accepting Task Force report on fire and medical services in East Contra Costa County, endorsing the following Task Force recommendations, and determining the County's participation in their implementation:

1. Endorse a 2016 ballot initiative to fund the East Contra Costa Fire Protection District (ECCFPD). The task force recommends that an exploratory team be assembled to evaluate a 2016 ballot initiative to fund ECCFPD and if appropriate, launch the campaign. Subject matter experts will be engaged to assist the task force in evaluating the effort and timing necessary for an attempt to obtain the needed funding for the ECCFPD.
2. Use Best Practices to Develop an Unconstrained Model for Fire and Medical Services (Master Plan District services for the future). The task force recommends the engagement of consulting services for the development of a financial and operational plan that would identify how fire and medical services should be delivered in the existing ECCFPD with assumptions of population growth for the next 25 to 30 years. The task force further recommends that subject matter experts from staff be included in this discussion.
3. Fourth Fire Station. ADOPT Resolution No. 2015/424 and Appropriations and Revenue Adjustment No. 5018 to allocate \$311,617 to fund for 18 months, in partnership with the East Contra Costa Fire Protection District (District) and the Cities of Oakley and Brentwood, a fourth fire station (staffing of three personnel per shift) to provide temporary improvement of fire and medical responses in the District, and to affirm the County's commitment to work with member agencies to find long-term solutions to service needs.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

Contact: Julie Enea, Senior Deputy County
Administrator (925) 335-1077

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of
Supervisors

By: , Deputy

cc:

RECOMMENDATION(S): (CONT'D)

>

FISCAL IMPACT:

The recommendation would require a one-time County General Fund contribution of \$311,617 to fund the County's share, based on service calls, of the \$2.2 million estimated cost to fund a fourth station for 18 months.

BACKGROUND:

Prior to 2002, the primarily volunteer firefighting forces of far East County provided the protection needed to douse the occasional barn or house fire. However, as these rural communities transformed into bedroom communities, their fire-protection needs stretched beyond that of an all-volunteer force.

In 2002, three small East County fire districts were consolidated into a new entity known as the East Contra Costa Fire Protection District (ECCFPD or District), with the Contra Costa County Board of Supervisors as its governing board. The new District eliminated duplicative administrative services, ensured better coordination and communication between the stations, and expanded the training requirements of the firefighters.

In 2008, the ECCFPD had eight stations and 52 full-time sworn personnel with an additional 25 sworn personnel on call. As far East County grew, so did the calls for more local control. In 2009 the County relinquished oversight, giving the city of Brentwood four appointments to the local board, Oakley three representatives, and the Board of Supervisors two representatives, to reflect the needs of the unincorporated areas. At the time, the District had more than \$6 million in reserves, 50% of its annual budget. As the County turned over governance to the local board, it reiterated to the yet-to-be-appointed fire district board that strong consideration be given to establishing an elected fire board in the future. An elected board would move the district another step closer to the original intention — to ensure that local citizens have a voice in the district's operations.

Today, the ECCFPD covers approximately 238 square miles, serves Brentwood, Oakley, and the unincorporated communities of Bethel Island, Discovery Bay, Knightsen, Byron and areas of Marsh Creek and Morgan Territory. The District now has only three stations where there once were eight, and the budget reserve of more than \$6 million is now running at a deficit. A way must be found to increase funding for a district dependent on a 1978 property tax base that reflects agricultural land values, which is not sufficient to pay for today's suburban setting and service needs. There were two attempts at the ballot box but voters rejected additional funding, perhaps not understanding the true nature of the funding crisis and how it came about.

Following the April 2015 election in which property owners rejected an additional fire assessment to maintain the five-station model, East County leaders, in June, formed a task force to discuss how fire and medical services can be enhanced from the current three stations in operation. The Task Force, composed of representatives from Brentwood and Oakley city management, ECCFPD and Contra Costa County Fire Protection District management, the County District III and District IV Supervisors' offices, and IAFF Local 1230 leadership, looked at both short-term relief and long-term solutions. The attached report transmits the Task Force's findings and recommendations.

In particular, the Task Force is requesting in Recommendation No. 3 a financial contribution from each of the four stakeholder agencies (cities of Brentwood and Oakley, Contra Costa County and the ECCFPD) to re-open the fourth station for an 18-month period beginning January 1, 2016 to provide temporary improvement of fire and medical responses in the District, and time for officials to plan for a permanent solution to serve the residents of the the District. The contribution requested of each agency is based on the proportionate ratio of service calls in each jurisdiction. ECCFPD's contribution is expected to be funded by combination of District property tax growth and Oakley community facilities district funds.

In addition to the Task Force study, attached hereto are also a Resolution and budgetary adjustment that can be adopted by the Board should the Board decide to implement Recommendation No. 3.

ATTACHMENTS

Resolution No. 2015/424

Task Force Report - Fire and Medical Services in East County

Ltr from Director Young re Financial Review of Task Force Recommendation

Appropriations/Revenue Adjustment 5018_ECCFPD Subsidy for 4th Station

Powerpoint Presentation_Task Force Report - Fire and Medical Services in East County

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/424

**IN THE MATTER OF ACCEPTING THE RECOMMENDATIONS OF A TASK FORCE FORMED TO IDENTIFY
AND RECOMMEND SHORT-TERM AND LONG-TERM SOLUTIONS TO IMPROVE FIRE AND MEDICAL
RESPONSE WITHIN THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT**

WHEREAS, the East Contra Costa Fire Protection District ("District") provides fire and medical response services to the District, which covers 249 square miles and a population of over 110,000; and

WHEREAS, District voters have not passed benefit assessment measures to increase funding for the District; and

WHEREAS, a lack of sufficient funding required the District to reduce fire and medical response services with the closure of two fire stations; and

WHEREAS, the District is currently served with only three fire stations and nine firefighters for any given shift; and

WHEREAS, a task force ("Task Force") was formed to identify and recommend both short-term and long-term solutions to improve fire and medical response within the District; and

WHEREAS, Task Force members include the Fire Chief for the Contra Costa County Fire Protection District; the Fire Chief and Battalion Chief for the District; the Chiefs of Staff from County Supervisors Mary Piepho's and Karen Mitchoff's offices; the President, Vice-President, and Board Member for Firefighters Association Local 1230; the City Manager for the City of Oakley, and the City Manager for the City of Brentwood; and

WHEREAS, the Task Force met on multiple occasions, discussed the various issues impacting the District, and identified short and long-term solutions to improve fire and medical responses within the District; and

WHEREAS, the Task Force developed specific recommendations that are set forth in this Resolution.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of the County of Contra Costa:

A. Accepts the following Task Force recommendations:

1. A fourth fire station within the District will be commissioned and fully staffed;
2. Under the cost allocation schedule attached as Exhibit "A", 18 months of funding for additional and temporary services will be provided by the District; County of Contra Costa; City of Oakley; and City of Brentwood;
3. The District Fire Chief will determine which fire station will be commissioned;
4. A grass roots, community-based group will be formed to educate the public on fire and medical response risks and requirements;
5. Consultant(s) will be engaged to explore the possibility of a 2016 ballot initiative to bring more funding for fire and medical response services in the District; and
6. The Task Force will continue to work on long-term solutions for adequate fire and medical response services in the District.

B. Agrees to work in good faith with the District and the other member agencies of the District in developing a

Memorandum of Understanding ("MOU") to memorialize the Task Force recommendations set forth in this Resolution.

C. Acknowledges that the failure of the District or any member agency of the District to adopt a resolution in substantially

the same form as this Resolution and/or the failure of the District or any member agency of the District to agree to the MOU described in section B above, will mean that the Task Force recommendations will not be implemented.

**Contact: Julie Enea, Senior Deputy County Administrator
(925) 335-1077**

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

Fire and Medical Services Task Force

Report to Elected Officials

October 21, 2015

Task Force Members:

Hugh Henderson, ECCFPD Fire Chief

Brian Helmick, ECCFPD Battalion Chief

Jeff Carman, ConFire Fire Chief

Vince Wells, President Local 1230

Gil Guerrero, Vice President Local 1230

Bob May, Board Representative Local 1230

Tomi Riley, Chief of Staff for Supervisor Piepho

Krystal Hinojosa, Chief of Staff for Supervisor Mitchoff

Bryan Montgomery, Oakley City Manager

Gus Vina, Brentwood City Manager

Fire and Medical Services Task Force: *Operating Principles*

The Fire and Medical Services Task Force:

- ✓ Recognizes that given the most recent reduction in fire and medical services in East Contra Costa County due to public rejection of the fire assessment initiative, there are added risks to public safety; and
- ✓ That there is a need to find long-term, sustainable financial and operational solutions that will provide appropriate fire and medical levels of service in East Contra Costa County; and
- ✓ That public safety is a top priority for East Contra Costa County; therefore, the Task Force and its members are charged with identifying long-term as well as short-term,

temporary mitigation measures that will reduce public safety risks to the extent possible, by:

1. Identifying an “unconstrained” model for levels of service for 250 square miles of fire and medical response;
2. Examining long-term solutions;
3. Considering, discussing, and understanding data related to fire and medical services (i.e. response times, staffing, station location, etc.);
4. Identifying **temporary** mitigation measures to reduce public safety risks;
5. Developing a funding plan to fund and implement such mitigation measures;
6. Accomplishing task force recommendations by August 2015.

BACKGROUND:

- In the spring of 2014 the District started working on the fire benefit assessment to maintain the five fire station model which was being supported by the FEMA Safer grant.
- In September 2014, fire station 54 downtown Brentwood was closed due to lack of personnel leaving with the Safer grant expiring in November 2014.
- April 27, 2015, the property owners voted not to assess themselves for additional fire revenue and maintain the five station model.
- May 11 2015, the district closed down the Knightsen fire station and started the current three station model.

The District covers 249 square miles and a population of over 110,000. In 2014 the District responded to over 6300 calls for service with 78% medicals, 10% fires and 12% public service calls. The critical need for the District is to have enough resources to respond to a structure fire without the use of auto aid and/or mutual aid. NFPA 1710 recommends 16 firefighters on scene of a working structure fire within 10 minutes. This would require that the District have a minimum of five engines on duty plus a Battalion Chief. The District has historically struggled meeting this standard both with personnel and time and distance between stations.

SUMMARY FINDINGS:

1. The ECCFPD has on-going, structural financial deficiencies to the extent that it is unable to provide adequate fire suppression and medical response services to the communities in the East Contra Costa Fire Protection District.
2. Long-term, sustainable financial and operational solutions should be considered in order to provide adequate fire suppression and medical response services to the East Contra Costa Fire Protection District communities. A long-term solution needs to be identified

to address the financial deficiencies that exist and will continue to exist, and a heightened awareness is emerging now of the District's predicament that may not be sustained over time.

3. Due to the reduction in services and the increase in public safety risks, immediate and temporary short-term mitigation measures should be considered.
4. Due to the clear and present risks related to fire station closures, the short-term mitigation measures need to directly address fire suppression services.
5. Financial support for any temporary, short-term mitigation measures should be considered by all of the affected stakeholders (i.e. ECCFPD, County of Contra Costa, City of Oakley, and City of Brentwood), and care should be taken that any short-term measure does not adversely affect any long-term solution.
6. A grass roots community based group should be formed to help communicate fire and medical response information to the citizens and business interests.
7. Consulting services should be considered to both evaluate long-term solutions, short-term recommended mitigation measures, as well as to design the ultimate unconstrained model for fire and medical services.
8. Extreme efforts should be made through public outreach to make sure the public understands that the short-term mitigation measures are temporary and do not resolve the financial nor operational deficiencies facing ECCFPD. Furthermore, it needs to be understood that these measures do not bring the ECCFPD to within, or even close to, national standards for fire suppression activities.

SPECIFIC TASK FORCE RECOMMENDATIONS:

RECOMMENDATION 1: Consider a 2016 ballot initiative to fund ECCFPD

The task force recommends that an exploratory team be assembled to evaluate a 2016 ballot initiative to fund ECCFPD and if appropriate, launch the campaign. Subject matter experts will be engaged to assist the task force in evaluating the effort and timing necessary for an attempt to obtain the needed funding for the ECCFPD.

RECOMMENDATION 2: Use Best Practices to develop an Unconstrained Model for Fire and Medical Services (Master Plan District services for the future)

The task force recommends the engagement of consulting services for the development of a financial and operational plan that would identify how fire and medical services should be delivered in the existing ECCFPD with assumptions of population growth for the next 25 to 30 years. The task force further recommends that subject matter experts from staff be included in this discussion.

RECOMMENDATION 3: A fourth fire station (staffing of three personnel per shift) should be added to provide temporary improvement of fire and medical responses in the “district.”

Costs: \$1.4 M (Full Year costs)

Operational Impacts: Adding a fourth fire station would increase the daily staffing of firefighters on duty from 9 to 12, which would assist in decreasing workload of the current personnel on duty and reduce some of the burden of relying on auto aid responses. The District at a minimum would still require one auto aid engine for any structure response trying to meet the goal of getting 16 firefighters on scene of a working structure fire within 10 minutes.

Outcomes: 25% increase in daily staffing; reduction on auto aid system; increased firefighter/community safety; reduction of having all resources deployed at the same time; and an improvement in overall response times throughout the District.

Fiscal Impact: Total annual costs are \$1.4 million; however, the first year costs are \$788,000 with an estimated implementation of January 2016. Costs were allocated based on calls for service within the district (Attachment A). It is recommended that the Fire Chief continue efforts to increase revenue sources to the district to help offset impacts to stakeholders.

Minority Report(s)

There were no minority reports submitted by task force members and the vote was unanimous on submitting the task force recommendations to the East Contra Costa Fire Protection District Board, the City of Oakley City Council, the City of Brentwood City Council, and the Contra Costa County Board of Supervisors.

Attachments

Attachment A: Cost Allocations

Attachment B: Fire Assessment Results

Attachment C: Resolution

ATTACHMENT A

Funding Matrix

As of September 25, 2015

Adding a 4th Station

	<u>1st Year</u>	<u>2nd Year</u>	<u>Total</u>
ECCFPD	\$399,352	\$474,626	\$873,978
Brentwood	\$190,485	\$475,515	\$666,000
Oakley	\$109,315	\$272,887	\$382,202
County	\$89,127	\$222,490	\$311,617
Totals	\$788,279	\$1,445,518	\$2,233,797

Funding Assumptions:

- Funding is for five positions (four are already existing).
- Cost allocation for cities and county is based on calls for service.
- Model uses \$600,000 CFD Oakley to cover Oakley costs of \$382,202, \$116,352 year one and \$101,446 year two for ECCFPD.
- ECCFPD year one funding includes \$283,000 of the property value increases in FY15/16 and \$116,352 CFD Oakley.
- ECCFPD year two funding includes \$283,000 property value increases in FY15/16, \$102,000 CFD Oakley; \$90,000 AV in FY16/17.

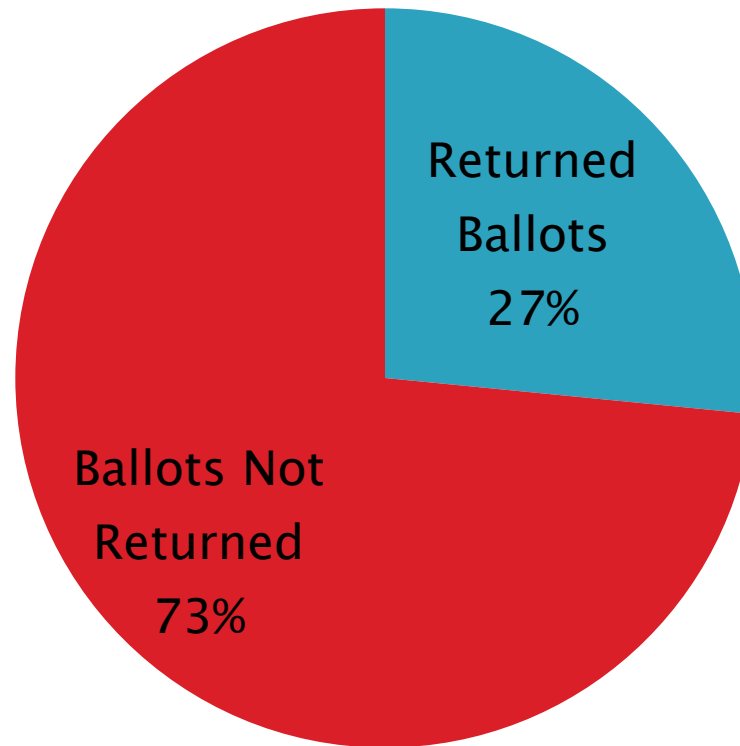


Fire Assessment Ballot Results

Board of Directors Meeting
July 6, 2015

Ballots Distributed and Returned

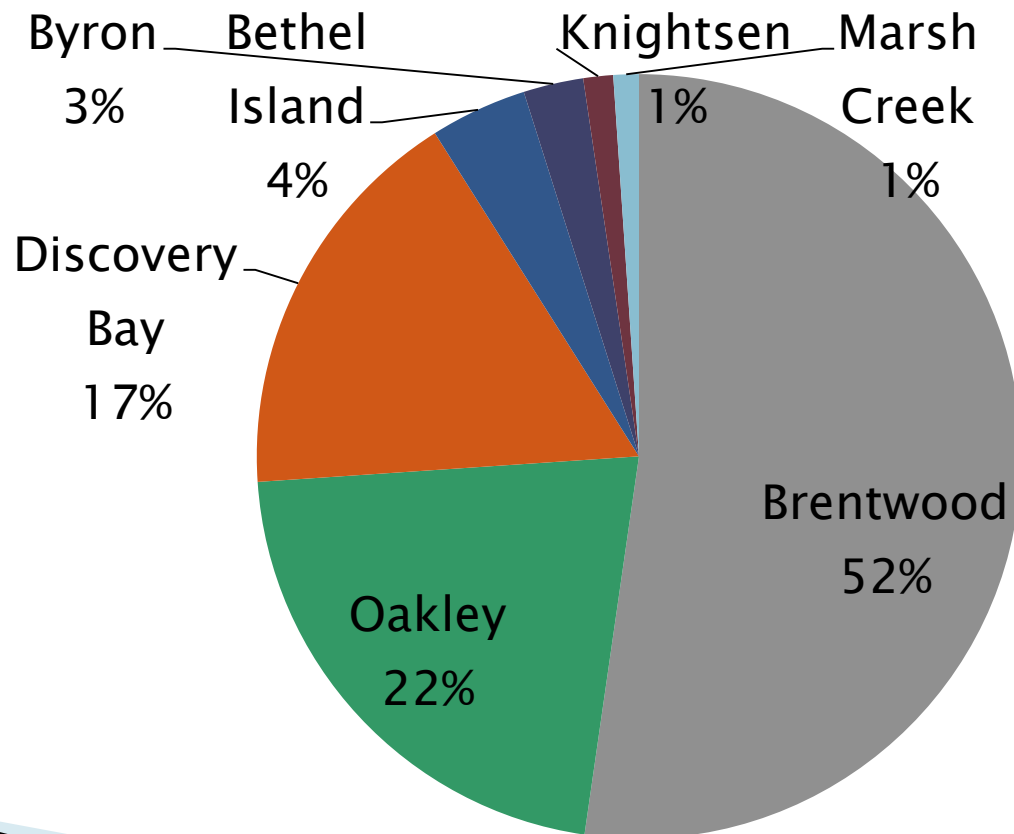
Total Ballots* Distributed: 43,684



* For purposes of this presentation, each parcel is assigned one ballot, and vice versa. When single ballots were submitted for multiple parcels, each parcel has been counted separately.

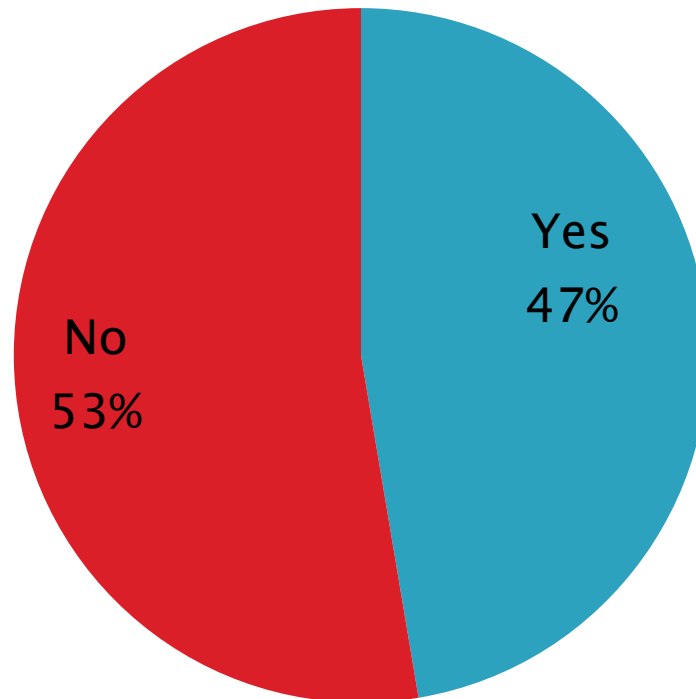
Ballots Returned by Community

Total Ballots Returned: 11,599



District-Wide Results

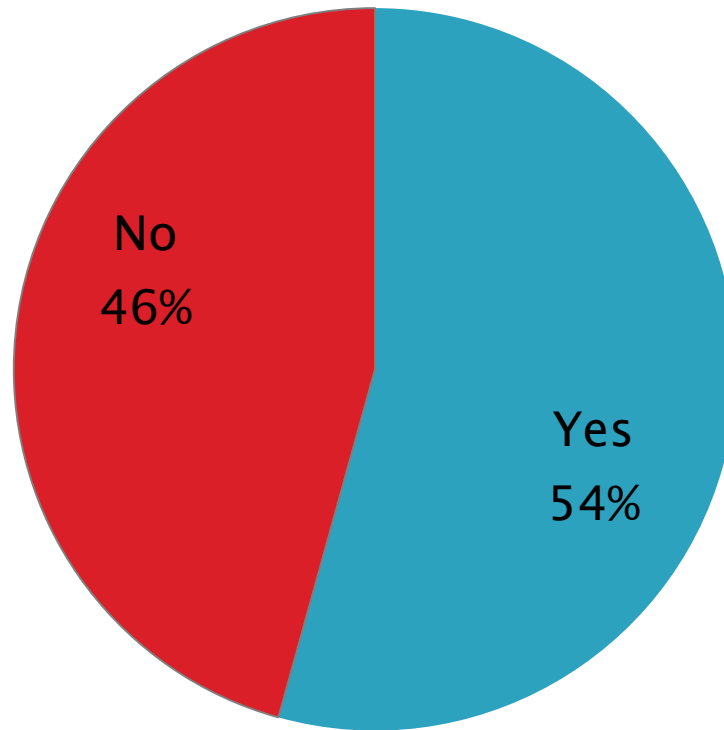
Total Ballots Returned*: 11,599



*Results in this presentation reflect the raw number of parcels with ballots cast, not the weighted value of these ballots. Blank ballots (e.g., those returned without a mark in support or opposition) have been removed from this analysis.

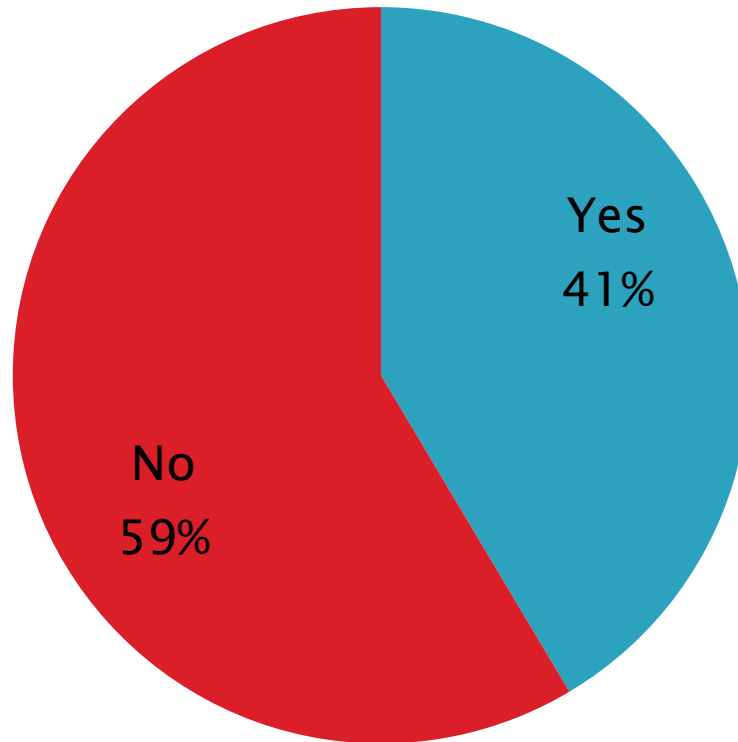
Brentwood Results

Total Ballots Returned: 6,069



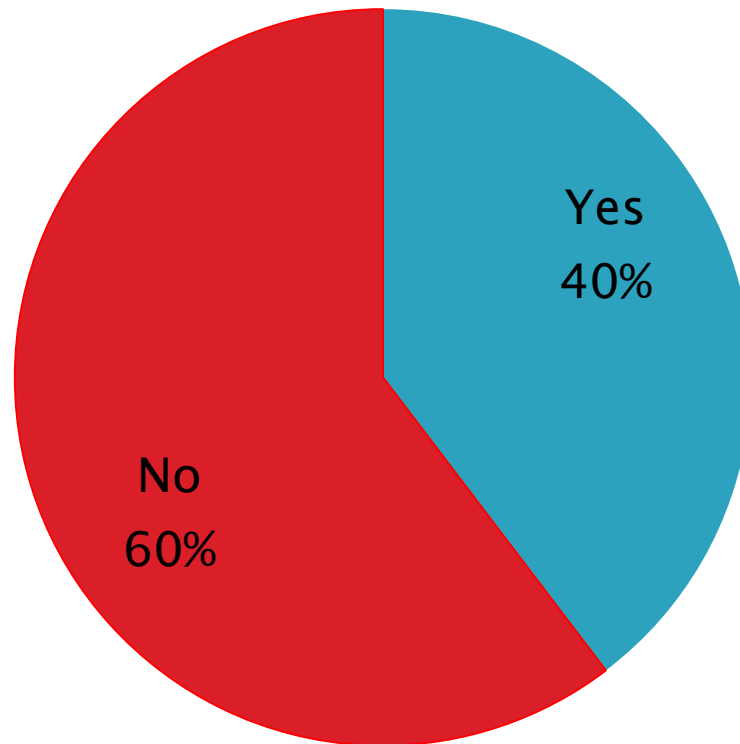
Oakley Ballot Results

Total Ballots Returned: 2,514



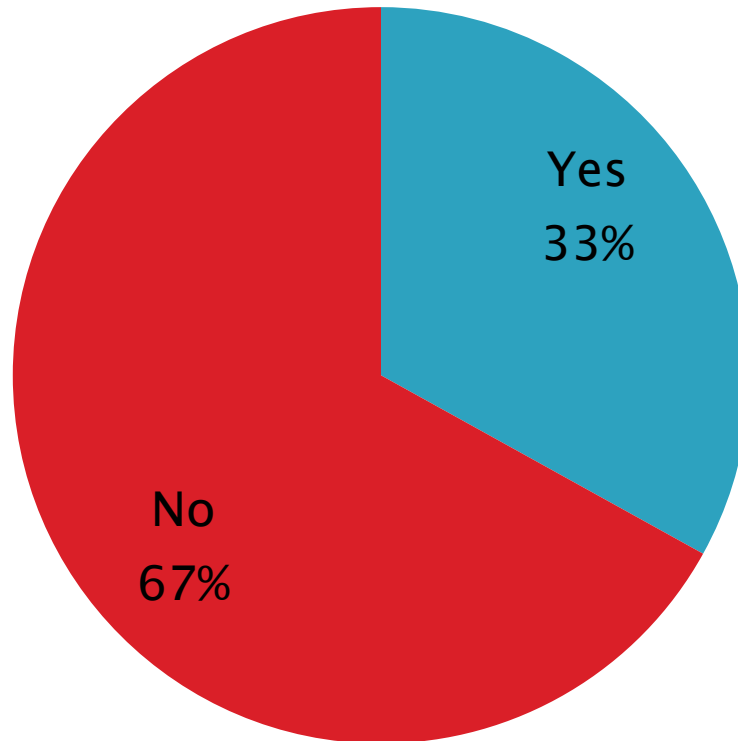
Discovery Bay Results

Total Ballots Returned: 1,985



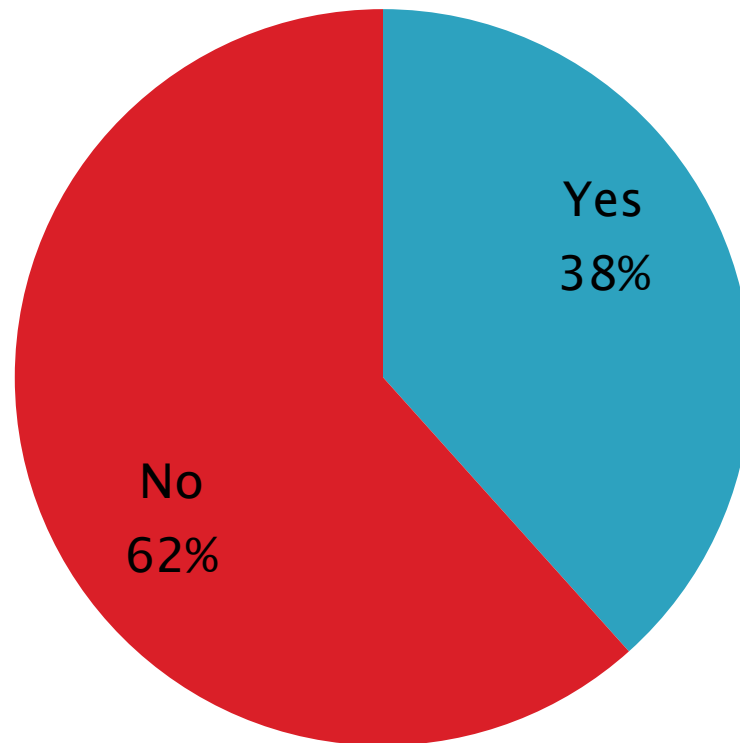
Bethel Island Results

Total Ballots Returned: 475



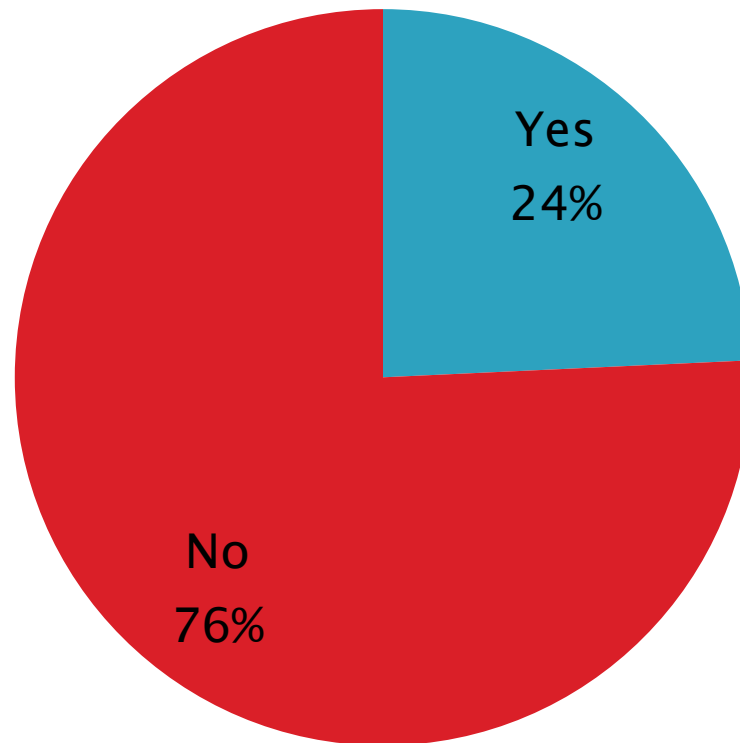
Knightesen Results

Total Ballots Returned: 146



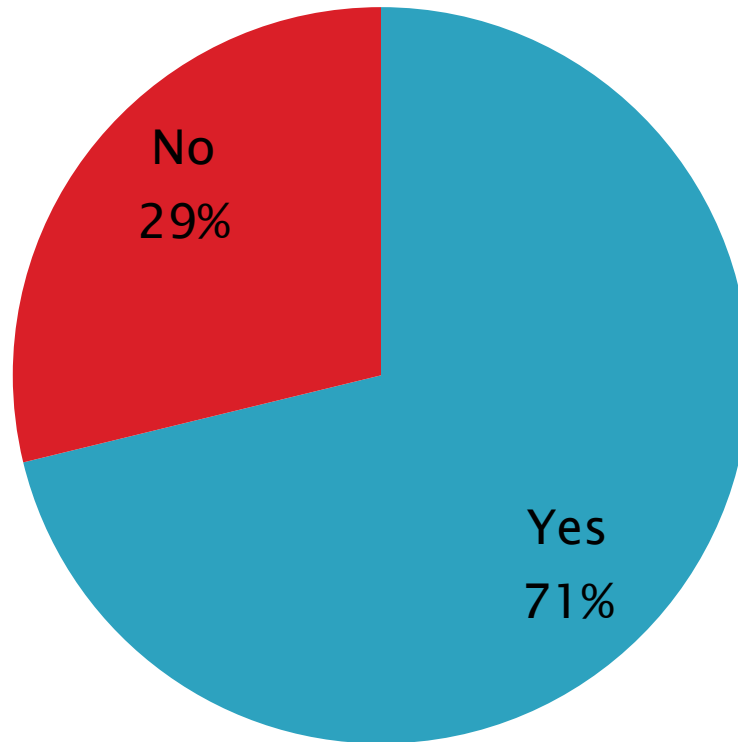
Byron Results

Total Ballots Returned: 285



Marsh Creek Area Results

Total Ballots Returned: 125





Fire Assessment Ballot Results

Board of Directors Meeting
July 6, 2015

EAST CONTRA COSTA FIRE PROTECTION DISTRICT

Hugh Henderson
Fire Chief



SERVING THE COMMUNITIES OF:
*Bethel Island Discovery Bay
Brentwood Knightsen
Byron Morgan Territory
Oakley*

November 5, 2015

To: Board of Directors,

Attention: Board President Bryant


Subject: Financial Review of Multi-Jurisdictional Task Force Recommendation

As requested by motion at the Board Meeting on November 2; Chief Henderson, Mr. Vina and I have met and reviewed the financial proposal included in the Task Force Recommendation and the Fire District's budget to reconcile the financial deficiencies discussed at the November 2 Board Meeting.

Based on our financial review, I feel that it is feasible for the District to move forward with the Task Force Recommendation. The Task Force Recommendation and proposed funding provides a unique opportunity for a short term partial mitigation of the current unacceptable public risk from medical and fire emergencies.

The new temporary outside funding provided by other agencies, although significant, does not fully fund the operation of a fourth fire station. While operating a fourth fire station, District expenses will exceed projected District revenue and new temporary outside funding. The proposed new temporary outside funding will allow the District to leverage the resulting drawdown of its dedicated Operating and Capital Reserve Funds while providing this additional service. However, the District cannot operate in this deficient situation indefinitely. Therefore the preparation for and operation of the fourth station should be limited to the time period indicated in the Task Force Recommendation, unless additional new outside funding is developed and available by July 1, 2017.

Sincerely,


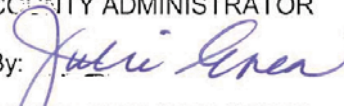

Joe Young

cc: Task Force

**CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT/
ALLOCATION ADJUSTMENT
TC/24**

AUDITOR-CONTROLLER USE ONLY:	
FINAL APPROVAL NEEDED BY:	
<input checked="" type="checkbox"/>	BOARD OF SUPERVISORS
<input type="checkbox"/>	COUNTY ADMINISTRATOR
<input type="checkbox"/>	AUDITOR-CONTROLLER

ACCOUNT CODING		DEPARTMENT: 0005 General County Revenue		
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE	<DECREASE>
0005	9429	State Aid Mandated Expenditures	311,617.00	
TOTALS			311,617.00	0.00

<p style="text-align: center;">APPROVED</p> <p>AUDITOR – CONTROLLER By: <u></u> Date <u>11/10/15</u></p> <p>COUNTY ADMINISTRATOR By: <u></u> Date <u>11/10/15</u></p> <p>BOARD OF SUPERVISORS</p> <p>YES:</p> <p>NO:</p> <p>By: _____ Date _____</p>	<p>EXPLANATION OF REQUEST</p> <p>Increase revenue from back-owed State SB 90 reimbursement and appropriate to contribute to East Contra Costa Fire Protection District to fund County share of a fourth fire station in East County for two years.</p> <p>PREPARED BY: <u>Julie DiMaggio Enea</u> TITLE: <u>Senior Deputy CAO</u> DATE: <u>11/2/2015</u></p> <p>REVENUE ADJ. JOURNAL NO. _____</p> <p>RAOO <u>5018</u></p>
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**CONTRA COSTA COUNTY
APPROPRIATION ADJUSTMENT/
ALLOCATION ADJUSTMENT
T/C-27**

AUDITOR-CONTROLLER USE ONLY:

FINAL APPROVAL NEEDED BY:

- ☒ BOARD OF SUPERVISORS
☐ COUNTY ADMINISTRATOR
☐ AUDITOR-CONTROLLER

ACCOUNT CODING		DEPARTMENT: 0001 Board of Supervisors		
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>	INCREASE
1110	3580	Contributions to Other Agencies		311,617.00
			0.00	311,617.00

APPROVED

AUDITOR – CONTROLLER

By: *[Signature]* Date 11/10/15

COUNTY ADMINISTRATOR

By: *[Signature]* Date 11/10/15

BOARD OF SUPERVISORS

YES:

NO:

By: _____ Date _____

EXPLANATION OF REQUEST

Increase appropriations to contribute to East Contra Costa Fire Protection District to fund County share of a fourth fire station in East County for two years. (Funding source: back-owed SB90 reimbursement)

PREPARED BY: Julie DiMaggio Enea
 TITLE: Sr. Deputy CAO
 DATE: 11/2/2015

APPROPRIATION APOO 5018
 ADJ. JOURNAL NO.

Contra Costa County Board of Supervisors

November 17, 2015

Fire and Medical Services Task
Force Recommendations

A time of crisis.....

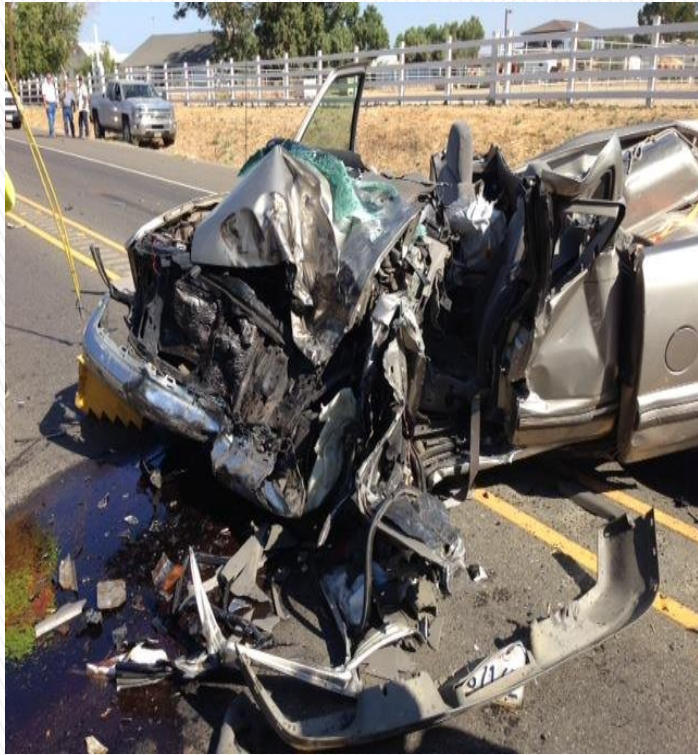


Discovery Bay
Oct. 28, 2015



Brentwood
July 24, 2015

A time of crisis.....



Byron
August 3, 2015



Discovery Bay
September 3, 2015

Members of the Task Force

Hugh Henderson, ECCFPD Fire Chief

Brian Helmick, ECCFPD Battalion Chief

Jeff Carman, ConFire Fire Chief

Vince Wells, President Local 1230

Gil Guerrero, Vice President Local 1230

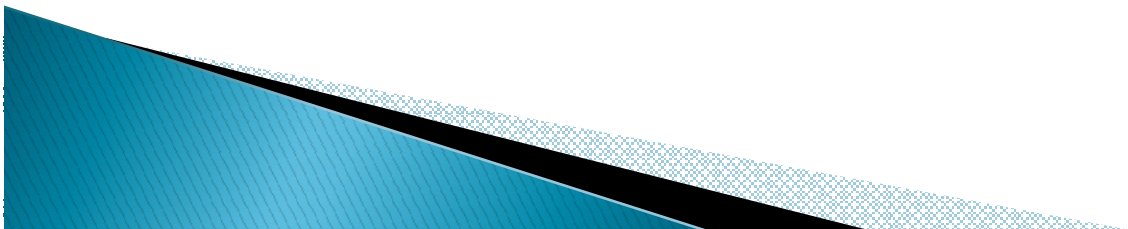
Bob May, Board Representative Local 1230

Tomi Riley, Chief of Staff for Supervisor Peipho

Krystal Hinojosa, Chief of Staff for Supervisor Mitchoff

Bryan Montgomery, Oakley City Manager

Gus Vina, Brentwood City Manager



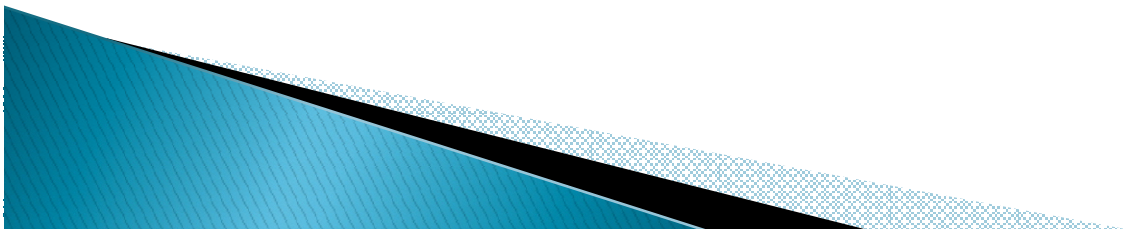
Presentation Schedule

November 2: ECCFPD - Completed

November 10: Oakley/Brentwood - Completed

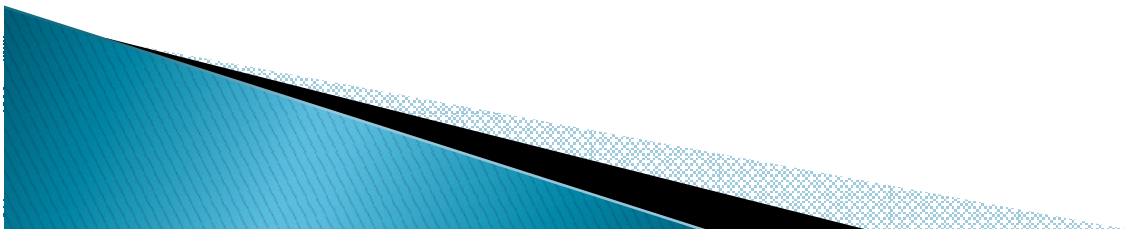
November 17: Contra Costa County

December 7: ECCFPD



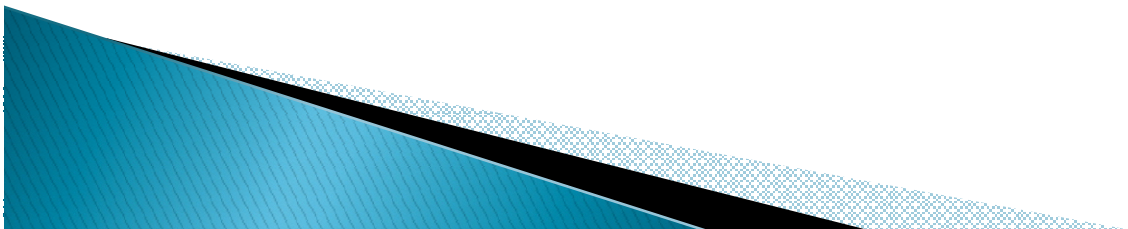
Task Force Summary Findings

1. Structural financial deficiencies
2. Long-term and sustainable solution needed
3. Public safety risks unacceptable
4. Focus on fire suppression services
5. All stakeholders are affected
6. Grass roots communication effort
7. Master Planning for the future
8. TEMPORARY short-term mitigation



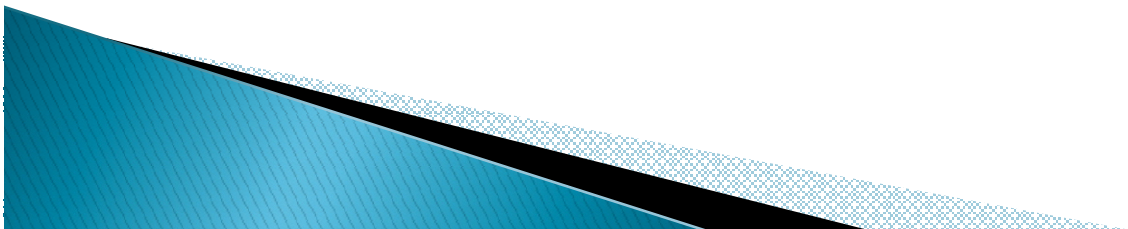
Task Force Recommendations

1. Consider a 2016 ballot initiative
2. Master Plan the ECCFPD
3. Open a fourth station



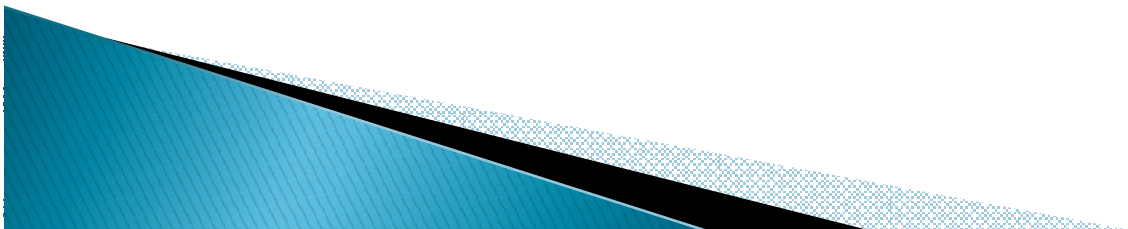
Cost Information

	<u>1st Year</u>	<u>2nd Year</u>	<u>Total</u>
ECCFPD	\$399,352	\$474,626	\$873,978
Brentwood	\$190,485	\$475,515	\$666,000
Oakley	\$109,315	\$272,887	\$382,202
County	<u>\$89,127</u>	<u>\$222,490</u>	<u>\$311,617</u>
Totals	\$788,279	\$1,445,518	\$2,233,797



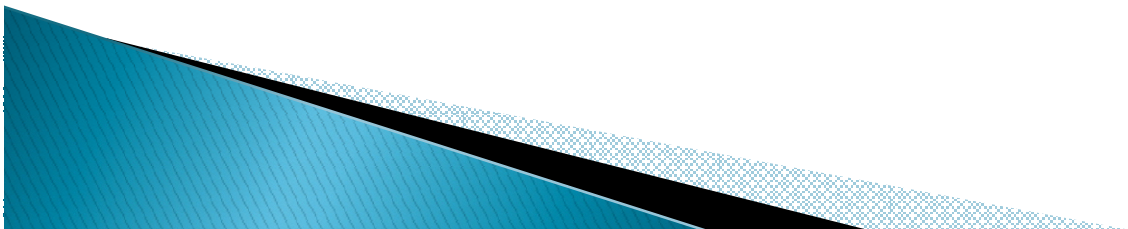
Process Moving Forward

- ▶ Approval of Resolutions
 - Funding
 - Implement Recommendations
- ▶ Memorandum of Understanding
 - Memorialize two year funding
 - Commitment to work together



Task Force Seeks:

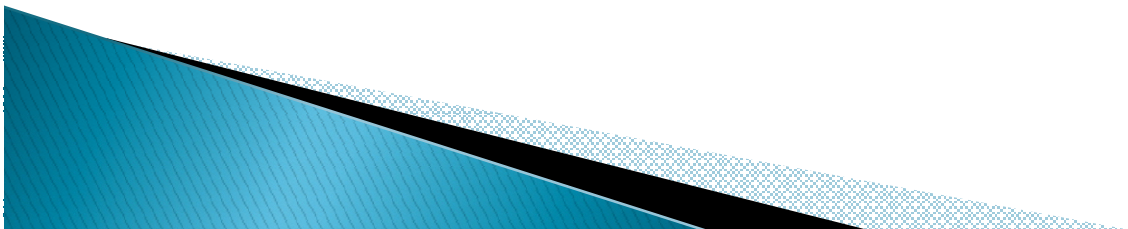
Board of Supervisors approval of Resolution to implement recommendations



Thank you!

- ✓ Task Force members comments?

Questions/Answers





Contra
Costa
County

To: Board of Supervisors
From: LEGISLATION COMMITTEE
Date: November 17, 2015

Subject: Legislative Policy Referral Regarding Pension Reform

RECOMMENDATION(S):

ACCEPT the report from the Legislation Committee on the referral to the Committee regarding legislative policy related to pension reform.

FISCAL IMPACT:

No fiscal impact from receiving this report. The matter of pension benefits has fiscal impacts that are detailed in the attached documents.

BACKGROUND:

At its July 28, 2015 meeting, the Board of Supervisors considered and approved the response to Civil Grand Jury Report No. 1503, "Time for a New Look at Pension Costs," and referred the matter of pension legislative policy to the Legislation Committee. The Board Order is *Attachment A*. The Grand Jury Report No. 1503 is *Attachment B*. The response to the report is *Attachment C*.

The Civil Grand Jury Report No. 1503 examines the cost of pension and retiree health benefit obligations on the County and contends that "...the County has not challenged the prevailing assumption that California law prohibits it from negotiating reductions in pension benefits for its employees who entered service before 2013. We believe that assumption is in error... The Board of Supervisors should without delay seek such a change or clarification in California law." (p. 1,

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: L. DeLaney,
925-335-1097

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

B)

The Report attempts to address the question "Why have the County's retirement obligations grown so large?," and suggests as one of its reasons "... the County has not negotiated reductions in future pension benefits for current employees through collective bargaining because of obstacles arising from highly inflexible court decisions unique to California and a minority of other states." (p. 7B)

The Report states that "...the California Supreme Court has issued rulings that severely restrict the ability of the County to make changes to benefits not yet earned under its pension plans." It cites Allen vs. City of Long Beach, decided by the Supreme Court in 1955, as an example of a case that removed tools that would have allowed the County to manage and adjust its pension obligations. "That case held that not only was a public employer prohibited from terminating a pension plan for current employees; it must also assure that any alterations in the pension plan "which results in disadvantage to employees should be accompanied by comparable new advantages." This meant that after the Allen case public employers in California were on a one-way legal elevator that only went up. In contrast to wage and other employee benefits, any pension benefit granted to a current employee could not be reduced in future periods even though such benefits had not yet been earned." (p. 10, B)

The Report further posit that public agencies in California have adopted the view that the "vested pension contract right the Court found in the Allen case could not be challenged by collective bargaining." However, the Report questions that assumption suggesting that "collective bargaining [the Meyers-Milias-Brown Act was passed in 1968] did not exist for public employees at the time the Allen case was decided [in 1955]." (p. 11, B)

The Report also contends that the California Supreme Court based its decision in the Allen case on the *contracts clause* of both the California and the U.S. Constitutions, but "nothing in that prohibition [that prohibits California from passing laws that impair contract obligations] prevents the party to whom the contract obligation is owed from agreeing voluntarily to amend or waive that obligation." The Report suggests that "Federal courts would have the final say on whether the U.S. Constitution extends the same protection to future, unearned pension rights that the California Supreme Court found in its Allen decision." (p. 11, B)

The referral of these legislative and legal policy issues was considered at the October 1, 2015 meeting of the Legislation Committee (comprised of Supervisor Mitchoff, in Supervisor Glover's absence), receiving information and testimony from Mr. Michael Moore, a member of the 2015-16 Civil Grand Jury and an attorney. Supervisor Mitchoff indicated that the Board of Supervisors appreciated receiving the Grand Jury's recommendations. Supervisors have negotiated pension benefits in the past with employee unions, however, with the California Public Employees' Pension Reform Act (PEPRA) in effect, it was Supervisor Mitchoff's opinion that there was no incentive for pre-2013 employees to negotiate on pension changes. The Committee directed staff to return the item to the full Board of Supervisors for consideration, with no recommendation from the Committee to pursue a legislative or legal remedy at this time.

Mr. Michael Moore has requested time to present additional information to the Board and will be in attendance at the meeting.

Pension Reform Efforts

While these legal questions remain unresolved, California's public employee pensions could potentially be decided at the ballot box. A group of pension reform advocates, led by former San Jose Mayor Chuck Reed and former San Diego Councilman Carl DeMaio, had filed a statewide initiative for the 2016 ballot, called the "Voter Empowerment Act of 2016," which would have amended the state constitution to require voter approval of any new defined benefit retirement plans or pension increases and place a 50 percent cap on government subsidies of retirement benefits provided to government employees. The proposed state constitutional amendment would have applied to all public employee pensions throughout the state. However, it was withdrawn from circulation and rewritten by its two sponsors.

The new approach to a pension reform initiative comes in the wake of allegations of bias against Attorney General Kamala Harris in crafting the official title and summary for the initiative. Attorney General's summary stated "Eliminates constitutional protections for vested pension and retiree health care benefits for current public employees." The sponsors contend that their initiative stated the government "shall not enhance the pension benefits of any employee in a defined benefit pension plan unless the voters of that jurisdiction approve," and that "shall not enhance" is not the same thing as "eliminates," which has a more negative connotation.

From the Sacramento Bee:

"The idea, DeMaio said, was to see whether Democratic Attorney General Kamala Harris used what they consider "poison pill" language to describe the new measures as she has three previous pension change proposals since 2011. If she does, DeMaio said, "we think she'll be giving us the evidence we need" to successfully sue Harris for unfairly skewing her description of pension initiatives.

The attorney general's office writes the short title and summary of all ballot initiative proposals. The language is important because it appears on petition materials used to qualify them for the ballot, often shaping voters' first impression of an initiative's contents. Perhaps even more important, the wording affects potential contributors' willingness to underwrite a campaign. ...

Harris, who is running for U.S. Senate, has been accused of employing poll-tested language about previous pension measures to make them as politically unpalatable as possible. In 2014, Reed took Harris to court, alleging she described a pension measure he proposed with "false and misleading words and phrases which argue for the measure's defeat, is argumentative, and creates prejudice against the measure, rather than merely informing voters of its chief purposes and points ..."

The courts ruled against Reed. Harris' representatives have said throughout that she has fairly characterized the pension measures that came across her desk. They say claims of bias are commonly leveled at attorneys general writing titles and summaries. [\[1\]](#)

The new initiative effort comes after courts have struck down recent attempts to address the pension problem. Last year, voters in Ventura County collected thousands of signatures for a measure that would have allowed the County to opt out of the current defined-benefit system and replace it with a 401(k)-type system, but a county judge ruled that residents could not vote to leave a pension system created by the state. In 2012, San Jose voters overwhelmingly approved a measure that would have given city employees a choice between a less-generous pension or staying in the current system but contributing a larger portion of their salaries toward paying down the pension debt. A Santa Clara County Superior Court Judge overturned that measure for violating the "vested rights" of public employees.

[\[1\]](#) Oct. 2, 2015, by Jon Ortiz.

<http://www.sacbee.com/news/politics-government/the-state-worker/article37401864.html>

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not accept this report, it will not have received the input of the Legislation Committee on the referral.

ATTACHMENTS

Attachment A

Attachment B

Attachment C



Contra Costa County

To: Board of Supervisors
From: David Twa, County Administrator
Date: July 28, 2015

Subject: Response to Civil Grand Jury Report No. 1503 "Time for a New Look at Pension Costs"

RECOMMENDATION(S):

APPROVE the response to Civil Grand Jury Report No. 1503 "Time for a New Look at Pension Costs" and DIRECT the Clerk of the Board to forward the response to the Superior Court no later than August 15, 2015.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

On May 18, 2015 the 2014/15 Civil Grand Jury filed the above-referenced report. The attached response clearly specifies:

Whether a finding or recommendation is accepted or will be implemented; if a recommendation is accepted, a statement as to who will be responsible for implementation and by what target date; a delineation of the constraints if a recommendation is accepted but cannot be implemented within a six-month period; and the reason for not accepting a finding or recommendation.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **07/28/2015** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor

ABSENT: Federal D. Glover, District V Supervisor

Contact: Lisa Driscoll, County Finance Director (925) 335-1023

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: July 28, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

The Board of Supervisors is required to respond to Findings 1-7 and Recommendations 1-3. The Board of Directors of the Contra Costa County Fire Protection District is required to respond to Findings 1, 2, 4, 6 and Recommendations 1-3. Please see the attached combined response to the report.

CONSEQUENCE OF NEGATIVE ACTION:

In order to comply with statutory requirements, the Board of Supervisors/Board of Directors for the Contra Costa County Fire Protection District must provide a response to the Superior Court no later than August 15, 2015. The Board must take timely action in order to comply with the statutory deadline.

CHILDREN'S IMPACT STATEMENT:

Not Applicable.

CLERK'S ADDENDUM

Speakers: Frank Darling, resident of Orinda; Vincent Wells, President Firefighters' Local 1230; David Van Etten, resident of Lafayette.

APPROVED the response to Civil Grand Jury Report No. 1503 "Time for a New Look at Pension Costs"; REFERRED the matter in relation to legislative policy to the Legislative Committee; DIRECTED the Clerk of the Board to forward the response to the Superior Court no later than August 15, 2015; and DIRECTED the concept of a establishing a task force/committee to review options to reduce the pension obligation burden be revisited in one year.

ATTACHMENTS

Grand Jury Report No. 1503

Response to Grand Jury Report No. 1503

**A REPORT BY
THE 2014-2015 CONTRA COSTA COUNTY GRAND JURY**

725 Court Street
Martinez, California 94553

Report 1503

Time for a New Look at Pension Costs

**The County Could Save Nearly \$100 Million a Year through a
Sensible and Fair Approach to Pension Reform.**

APPROVED BY THE GRAND JURY:

Date: 5-18-15


SHERRY RUFINI
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5-18-15


JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contact: Sherry Rufini
Foreperson
925-957-5638

Contra Costa County Grand Jury Report 1503

Time for a New Look at Pension Costs

The County Could Save Nearly \$100 Million a Year through a Sensible and Fair Approach to Pension Reform.

TO: Contra Costa County Board of Supervisors
Contra Costa County Fire Protection District Board of Directors

SUMMARY

The biggest financial challenge facing the County is managing the cost of its pension and retiree health benefit obligations. The cost of pension benefits alone has doubled as a percentage of the budget since 2000. Pension and retiree health benefits combined now cost the County over \$375 Million per year. This compares to a total of \$183 Million as recently as ten years ago. These costs are legal debts. They take priority over funds otherwise available for other County services. As a result the County has over the past ten years cut back a wide variety of County services and reduced staffing levels in the Sheriff's Department and County Fire Department. Despite these huge costs, the County has not challenged the prevailing assumption that California law prohibits it from negotiating reductions in pension benefits for its employees who entered service before 2013. We believe that assumption is in error. A sensible and fair change or clarification in California law governing pension benefits not yet earned by current public employees would enable the County to save nearly \$100 Million a year. The Board of Supervisors should without delay seek such a change or clarification in California law.

BACKGROUND

In the past several years the staggering load of pension costs on city, county, and state governments has been headline news. Indeed, the cities of Detroit, Stockton, and Vallejo filed for bankruptcy protection, in large part due to retirement obligations they could no longer afford. Why have city, county, and state officials around the country apparently failed to manage their pension and other retirement obligations responsibly? In the words of Warren Buffett, a big reason was a simple failure to "... fully grasp the magnitude of liabilities they are incurring by relatively painless current promises." He was pointing out that unlike writing a check for \$100,000 today to cover a current bill,

promising to pay a \$100,000 pension far into the future hardly feels like a burden at all—even though in the case of a “pension promise,” the final payment will be far higher due to future salary increases, cost of living adjustments, and longer life expectancies. Another important reason, as one of our witnesses put it, is because public officials face constant pressure to “overpromise and underfund” when grappling with pension issues. That is, they increase such benefits as a relatively painless way to resolve labor negotiations while seeking ways to minimize contributions to the pension funds that are necessary to assure the benefits will be paid when due. The “pain” in such cases falls on future officials and their constituents who will have to pay the pension bills then coming due.

In California and Contra Costa County (“County”) these pressures led to a “perfect storm” in 1999 and 2002 that dramatically increased pension liabilities around the state. First, based on the very strong stock market gains of the late 1990’s, the state passed legislation in 1999 that authorized large retroactive pension benefit increases for state employees. These increases were major financial windfalls for state employees. The employees had not been required to contribute to the cost of these increased benefits during their previous career years. Yet they received full service credit for pension benefits in many cases pegged at 50% higher levels for each year of service and offering lower retirement ages for the enhanced benefits. The law was sponsored by the state’s largest pension fund, the California Public Employees Retirement System (“CALPERS”). CALPERS assured lawmakers that continued stock market gains in the pension fund would fully cover the cost of the new benefits without the need for higher contributions to the fund. This view proved to be mere wishful thinking after the “dot.com” crash of 2001 ushered in an era of sharply reduced stock market returns.

California counties followed the 1999 CALPERS-sponsored legislation with a bill of their own to authorize similar retroactive pension benefits and financial windfalls for their employees. The County, in common with other counties and cities throughout the state, then felt obliged for competitive reasons in 2002 to match the state’s retroactive pension benefit increases. The result was a large increase in its unfunded pension liabilities. The new benefits had not been funded through past contributions, and the long period of stock market gains of the late 1990’s did not return. The County was then woefully ill prepared to withstand the huge losses in its pension fund that arose during the Great Recession of 2008 – 2009. The consequence has been a major financial challenge for the County, with its obligations for pension and other retirement expenses forcing cuts in County services, layoffs, and a pay scale for its employees that is below that of many neighboring cities, counties and other public agencies.

The story of how city, county, and state pension and other retirement obligations became so large and burdensome has important lessons for all of us. Many of the pressures that have made the problem so large continue to this day. To its credit, the County has begun to address the issue and has achieved some success in reducing its level of retirement obligations with the cooperation of its employees. However, the County should take further decisive steps to bring pension and retirement liabilities

under control. These costs endanger the County's ability to deliver essential public services and to assure its employees that their retirement benefits are financially secure.

The focus of this report is what additional actions the Grand Jury believes the County should take to reduce the cost of its pension obligations in a fair and responsible manner.

DISCUSSION

1. How big are the County's pension and other retirement debts?

To assure it will have sufficient funds available when needed to cover its pension and retirement obligations when they come due, the County makes payments into pension and retirement funds each year to be kept in reserve for paying those obligations. To determine what these funding levels should be, the County works with actuaries who calculate the required funding levels. These levels are based on expected employee retirement dates, expected life spans, and the level of benefits that an employee will be entitled to receive. However, the County has not contributed enough to its pension and retirement funds to cover the full cost of its projected obligations. The following figures provide a financial snapshot of the immense gaps that remain before the County will have fully funded its pension and other retirement obligations.

- **\$1.26 Billion.** This is the County's current shortfall in its pension funding. The County currently covers the shortfall by increased annual payments to its pension fund in an amount set by the fund's actuaries. These payments come at the cost of cutting other items in the County budget. The only other options the County has for reducing this shortfall are hoping for increased investment returns from its pension funds, or seeking tax increases. If this amount came due today as a property tax assessment applied equally to all taxable parcels in the County, each homeowner in Contra Costa County would need to pay \$3,494.

In addition to its pension liabilities, the County and its largest fire district, the Contra Costa County Fire Protection District ("CCCFPD") carry a major obligation to their employees for other retirement benefits, principally health benefits. These benefits are called "other post-employment benefits" ("OPEB"). The County and CCCFPD have the following gaps in funding for these benefits:

- **\$923.8 Million.** The amount actuaries retained by the County have calculated the County should have already set aside in its OPEB funds to cover its OPEB liability to current and retired employees.
- **\$129.4 Million.** The amount the County has currently available in its OPEB funds to cover the OPEB liability, as computed by the actuaries.
- **\$794.4 Million.** The County's current deficit in its OPEB funding. Although the County's actuaries calculate that the County should be contributing \$88.5 Million

a year to the OPEB fund in order to retire this shortfall over the next 24 years, the County only contributes \$20 Million a year, due to budget constraints. The County also continues to pay directly a significant portion of the current health costs incurred by its retirees. In its fiscal year ending June 30, 2014 this direct payment amounted to \$57.3 Million. The \$794 Million shortfall is a debt that corresponds to an additional \$2,205 for each taxpaying homeowner in the County.

Besides its accrued unfunded pension liabilities, the County has outstanding a total of \$276,830,000 in "Pension Obligation Bonds" or "POBs." These are bonds the County issued in 2001 and 2003 for the purpose of making additional contributions to its pension fund in order to reduce the County's unfunded pension liabilities. Accordingly, these bonds should be viewed as additional pension obligations of the County. The \$276.8 Million of pension bond obligations outstanding reflects a further debt of \$769 for each homeowner if allocated equally to each parcel in the County. See the Appendix, item 1, for further information on Pension Obligation Bonds, including the potential risks to the County in relying too heavily on such bonds to finance its pension obligations.

The County has oversight responsibilities for the CCCFPD, which has a separate set of pension obligations to its employees and retirees. The County supervisors serve as the governing board of the CCCFPD in addition to their duties on the Board of Supervisors. The CCCFPD performs an essential public safety service, including the operation of 23 fire stations. As a special district it is, however, primarily dependent on property tax revenues. This has led to the CCCFPD running a serious deficit (\$6 - \$10 Million a year) for a number of years and dipping deeply into its reserve funds. As a consequence the CCCFPD has not been able to afford necessary equipment modernization and other capital improvements for a number of years. Pension costs are a major factor contributing to the deficit. CCCFPD pension liabilities are as follows:

- **\$180.2 Million.** CCCFPD's current deficit in its pension funding.
- **\$107.4 Million.** CCCFPD's outstanding balance owed on pension obligation bonds.

As shown above, the County and CCCFPD carry an enormous financial load in the form of funding shortfalls arising from their pension and OPEB liabilities. The County and CCCFPD's combined shortfalls in funding total \$2.6 Billion. If that combined load came due today in the form of an equal property tax assessment on all Contra Costa County taxable parcels, the charge would be \$7,273 for each homeowner in the County.

2. How much does it cost the County each year for pension and OPEB expenses?

The County (including CCCFPD) now budgets over \$375 Million annually to cover its pension and OPEB costs. The following chart, which includes only pension costs,

shows how this annual payment has grown dramatically in recent years. In 1999-2000, the pension costs amounted to \$67 Million, about five percent (5%) of all County revenues. Today, the recommended budget for pension costs is \$329 Million, over 11% of all revenues. The leveling off of projected expenses shown in the chart starting in fiscal year ("FY") 2015 -2016 assumes that the County retirement fund will be successful in achieving its projected 7.25% return on invested funds.

Actual and Projected* Retirement Expenses



These large increases in the County budget for retirement costs have been a major factor in County decisions to cut spending for health services, public safety (both sheriff and fire), and public works. The County has also had to defer important building maintenance and upgrade projects, including the construction and staffing of an emergency operations center. All of these projects and services have been "crowded out" in large part because of the County's obligation to keep its pension and other retirement obligations properly funded.

3. What sort of a pension plan does the County offer its employees and how is it paid for?

The County offers its employees a "defined benefit" pension plan. Unlike most plans in private industry, this means that the employee will be entitled to receive on retirement an annual pension based on his or her final or three-year average salary. The amount of the pension is calculated based on the employee's years of service multiplied by a percentage for each year of service. For example, a 3% at 55 pension benefit means that an employee with 25 years of service at age 55 could retire at that age with a pension equal to 75% of his or her salary (25 x 3%). In contrast to the "defined contribution" plans now prevalent in private industry (where only the amount of the employer's contribution is guaranteed), the amount of the pension benefit is guaranteed by the County. It does not change based on the investment results of the pension fund.

The pension payments gain added value from certain cost of living escalators (also known as “COLAs”), generally capped at 2% or 3% per year, that provide important inflation protection for the retiree.

The County’s guarantee of each retiree’s yearly pension benefit is the key to understanding why pension costs are now such a large and growing cost for the County. To fund these pension obligations, the County and its employees each contribute an amount each year to a pension fund managed by the Contra Costa County Employee Retirement Association (“CCCERA”). The contribution has two components. The first is the “normal cost,” as determined by CCCERA’s actuaries, to fund the amount of the pension benefit earned by the employee each year. The second is an amount paid to reduce the “unfunded accrued liability,” the sum required to fund the employee’s already accrued benefits that are not fully funded. The County and the employee share the expense of the “normal cost,” although for employees hired before January 1, 2013 the County pays a larger percentage of the normal cost. However, the County bears 100% of the cost of the unfunded pension liability (actuaries refer to this as the “unfunded actuarial accrued liability” or “UAAL”). Because it is solely responsible for the UAAL liabilities in its pension plans, the County on average contributes about three times as much as its employees each year to fund the cost of their pension benefits.

4. Why have the County’s retirement obligations grown so large?

The County’s UAAL pension obligations are the “shortfalls in pension funding” referred to in the financial snapshot in section 1 above. They are the root cause why the County’s pension costs have risen dramatically in recent years, creating immense financial challenges for the County. The UAAL obligations have grown so large for three principal reasons:

1. Granting retroactive pension benefit enhancements in 2002. Granting retroactive pension benefit increases virtually assures that an unfunded liability will arise, because no regular contributions have been made in the past to fund such higher benefits. This took place in Contra Costa County in 2002, when the County agreed to fund new benefits from so-called “excess earnings” in the CCCERA retirement funds. The “excess earnings” reflected higher than expected investment returns during the “dot.com” era of the late 1990s. The 2002 retroactive benefit grant was an unexpected windfall for employees. It offered pensions at earlier retirement ages and with increased benefits. These new benefits encouraged early retirements and led to sharply increased unfunded liabilities. The “excess earnings” proved insufficient to cover the cost of these new benefits when market gains turned sharply lower after 2000. CCCERA then called on the County to increase its pension contributions to cover the deficits arising from the retroactive pension benefits that had not been properly funded.

2. The impact of the Great Recession of 2008-2009. Six years after it had begun to bear the cost of the retroactive pension benefit increases, the County was hit very hard by investment losses in its pension fund in 2008. At least half of the money projected to fund the County's retirement benefits arises from capital gains and dividends on its pension funds. Whenever the CCCERA pension fund fails to meet the projected investment return (currently 7.25%), a shortfall develops in the pension fund. The County is then obligated to fill the gap by means of increased contributions. In 2008, the CCCERA pension fund losses were very large (over 28% or \$1.47 Billion) resulting in very large additional bills to the County for increased contributions to cover the difference. See the Appendix, item 2 for additional information on how CCCERA calculates the unfunded liabilities for the County pension fund and the cost to the County when CCCERA does not earn its expected rate of return.
3. California Law Apparently Preventing the County from Negotiating Reductions in Future Pension Benefit Rates for Existing Employees. One sensible way to reduce retirement obligations arising from past increases in pension benefit rates would be for the County and its employees to negotiate through collective bargaining reductions in pension benefits to be earned in future time periods. However, in contrast to wage and other benefit negotiations, the County has not negotiated reductions in future pension benefits for current employees through collective bargaining because of obstacles arising from highly inflexible court decisions unique to California and a minority of other states.

5. Why is it so difficult for the County to manage its pension liabilities?

As noted above, the County and CCCFPD face a huge debt totaling over \$2.6 Billion for combined pension and OPEB obligations. The sheer size of these liabilities makes them a major financial challenge. To its credit, the County has taken important steps to address its retirement cost problems. However, it faces external circumstances in facing this challenge that are outside its control.

The County's pension funds with CCCERA are now so large (over \$5 Billion) that it faces a risk each year of incurring substantial additional obligations for pension contributions in the event CCCERA does not achieve its expected 7.25% return on those funds. For example, a slip of only one percent (1%) in the expected return (i.e., a gain of only 6.25% instead of 7.25%) would create an additional County UAAL debt of over \$52 Million. A slip of 10% (i.e., a loss of 2.75%, instead of a gain of 7.25%) would create an additional UAAL debt ten times larger, of over \$520 Million. Actuarial rules allow CCCERA to spread out these investment losses over five years, so the loss is not all realized in one year. The new UAAL debt in such a case would also not be payable immediately by the County. The County would be required to pay the new debt over a period of 18 years. Nevertheless, such investment losses are risks the County cannot control and that require the County to establish additional cash reserves in order to manage them prudently. See the Appendix, item 2 for further discussion of the UAAL

risks carried by the County.

With respect to its OPEB obligations, the County has taken steps to limit the growth of these costs. Through negotiations with its employees, it has “frozen” the dollar amount it contributes to the health benefits that comprise most of the OPEB costs. It is also developing lower cost health plan options for its employees. That has led to a significant drop in the OPEB UAAL liability from \$2.6 Billion in 2006 to \$794 Million as of January 1, 2014. However, \$794 Million is still a very large debt, and the County has only funded approximately 16.3% of this much-reduced OPEB liability. Because of the huge size of the OPEB debt, the County has adopted a plan to retire the debt over a period of 30 years, ending in 2038. The County’s annual \$20 Million contribution to the OPEB trust fund is well below the \$88.5 Million determined by its actuaries as necessary to fully fund its OPEB benefit obligations accruing each year. However, the County also continues to pay OPEB benefits for retirees on a “pay as you go” basis, which cost an additional \$57.3 Million in fiscal 2014. Accordingly, the \$20 Million set aside for future OPEB benefits each year (plus retiree benefits still paid on the “pay as you go” basis) will continue to draw significant County resources for many years. The County therefore has no current prospect of reducing either pension or OPEB costs by means of surpluses generated in its OPEB accounts.

The County has taken responsible actions in cooperation with its employees and CCCERA to reduce a portion of its pension costs. It has secured agreements from its employees for greater contributions from them toward the cost of their pension benefits. It has supported CCCERA’s efforts to counter so-called pension “spiking,” although further work remains to change a pension benefit culture that tolerated and at times encouraged such practices. In “spiking” cases certain retiring employees artificially increased their pension by adding to their final salary calculation unusual pay enhancements, such as a much larger than normal number of “on call” days or other additions not contemplated by the pension plan. Since the plan’s actuaries did not contemplate such enhancements, the costs associated with them were not properly funded. These “spiked” pension benefits represent windfalls for the employees and additional costs to the County because of its guarantee of the amount of each employee’s pension benefit.

The County has also supported CCCERA’s move to a more conservative 7.25% rate of return assumption (from an earlier 7.75%) in its pension fund investments, and has ceased offering “subventions” (i.e., subsidies paid by the County) for its employees’ designated share of their annual pension contributions. The move to the lower 7.25% rate of return has required increased contributions to the pension fund by both employer and employee to cover the cost of pension benefits. That is because the fund was no longer permitted to assume that a higher percentage of the pension benefits would be financed by investment returns. While the lower return assumption imposes higher costs on both the County and its employees, it is the more financially prudent course since future investment returns are never guaranteed.

Finally, the County has supported CCCERA's action to limit pensionable compensation for members joining the pension plan after January 1, 2013 to base pay only. This action has the effect of reducing the cost for the County and its employees of pension contributions that would otherwise be calculated against a higher salary base. It also reduces the size of the compensation base on which the County will be required to bear the risk of any shortfalls in the investment results of the CCCERA pension fund to finance the cost of the pension benefit. It is a more conservative financial position than that adopted by CALPERS, which has agreed to broaden the definition of pensionable compensation for its plans.

Another difficulty the County has in attempting to reduce pension costs responsibly is that other counties, cities and public agencies are not required to do the same. A less fiscally responsible jurisdiction may, for example, establish higher investment return assumptions for its pension fund or take other steps that lower the level of contributions required of employees to fund their pensions. This creates an enticement for County employees or candidates to seek job offerings in other cities and counties. An employee may find he or she would receive higher take-home pay by working at a comparable job with a comparable pension benefit in that jurisdiction. CALPERS, for example, serves as the pension fund for a large number of California cities and counties that compete with the County for key employees. CALPERS charges its employee members a lower pension contribution from their paycheck than does CCCERA for a comparable pension benefit. The CALPERS employer must make up the difference.

Accordingly, whatever steps the County takes to manage and reduce its pension liabilities must be done in a way that balances a vital competing interest. The County and its citizens have a fundamental interest in attracting and retaining a skilled and professional workforce. That means any remedies the County pursues to reduce the size of its pension obligations must account for competitive realities in the marketplace and be viewed as fair and reasonable by its employees.

6. What is the California legal problem peculiar to pensions?

A peculiar feature of California law governing pension benefits has seriously hampered the County in its efforts to reduce pension costs fairly and responsibly. It also restrained the state legislature in its most recent attempt at major pension reform in 2012.

In response to a broad public consensus that growing pension liabilities of cities and counties in California had become unsustainable, the state legislature in 2012 passed a major pension reform law, the "Public Employee Pension Reform Act," also known as "PEPRA." When Governor Brown signed PEPRA into law in September 2012, he described it as "sweeping bipartisan pension reform legislation that saves billions of taxpayer dollars by capping benefits, increasing the retirement age, stopping abusive practices and requiring state employees to pay at least half of their pension costs." While all true, this statement left out an important point. The major cost-saving reforms in PEPRA only apply to public employees hired on or after January 1, 2013. The

pension benefits for public employees hired before that date were largely unaffected. Most of the savings in pension costs offered by the PEPPA reforms will only occur gradually over the next 30 years as the new generation of public employees work through their careers and retire. In the meantime the County, like other public entities in California with large UAALs, faces the prospect of only very modest pension cost relief for the foreseeable future if no other pension reform steps are taken.

What is the legal problem? Unlike the rules governing private company pensions and the rules governing public employee pensions in most states, the California Supreme Court has issued rulings that severely restrict the ability of the County to make changes to benefits not yet earned under its pension plans. In a 1947 case, Kern vs. Long Beach, the Court ruled that public employers offering pension benefits to their employees have no right to eliminate the pension benefit to be earned in future work periods for any employees who started work when the pension system was in place. That contrasts with the general rule applicable to private employers. The private employer rule protects only pension benefits already earned on a year-to-year basis, and does not prevent an employer from making changes or even eliminating pension benefits for current employees in future time periods. The Kern court did, however, provide that the public employer “may make modifications and changes in the system. The employee does not have a right to any fixed or definite benefits, but only to a substantial or reasonable pension. There is no inconsistency therefore in holding that he has a vested right to a pension but that the amount, terms, and conditions of the benefits may be altered.”

Had the California case law remained as set forth in the Kern case, the County would have retained important tools to manage and adjust its future pension obligations. However, a later Long Beach case, Allen vs. City of Long Beach, decided by the California Supreme Court in 1955, removed these tools. That case held that not only was a public employer prohibited from terminating a pension plan for current employees; it must also assure that any alterations in the pension plan “which result in disadvantage to employees should be accompanied by comparable new advantages.” This meant that after the Allen case public employers in California were on a one-way legal elevator that only went up. In contrast to wages and other employee benefits, any pension benefit granted to a current employee could not be reduced in future periods even though such benefits had not yet been earned.

The opinion in the Allen case was very brief and did not provide a clear rationale for its finding that a fully vested contract right to an unalterable pension benefit arises on the very first day on the job by a public employee. Three points distinguish that case from circumstances today. First, the changes to the pension plan at issue in the Allen case were imposed by city ordinance and not by means of collective bargaining. The right of city and county employees to engage in collective bargaining was not enacted until 1968. Second, the changes the city sought to impose in the Allen case made no allowance for protecting pension benefits already earned by employees based on years they had previously worked. Third, in sharp contrast to today’s circumstances, there

was no suggestion in the Allen case that the city would have any difficulty in paying for the higher pension benefits the court left in place. The ratio of active employees to retirees was much higher in 1955; pension benefit rates were lower; Proposition 13 restrictions on California public revenues were far in the future; lifespans were shorter and retirements occurred later in life. All of these economic factors made pension costs much more manageable than they are today.

The consequence of the Allen case and subsequent decisions that followed it has been severe from the standpoint of a city or county seeking to reduce its pension costs. Most public agencies in California have taken the view that the vested pension contract right the Court found in the Allen case could not be changed by collective bargaining. That is a questionable assumption since collective bargaining did not exist for public employees at the time the Allen case was decided. The Meyers-Milias-Brown Act was passed in 1968 and since that time has set the legal framework for collective bargaining between public employees and their employers. The Act provides that collective bargaining is to govern "all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment." Certainly, pension benefits are an element of compensation and a term of employment for public employees. It is therefore time to question seriously whether public employers and their labor organizations have been correct to exclude possible reductions in future, unearned pension benefits for current employees from collective bargaining negotiations.

The California Supreme Court based its decision in the Allen case on the protection extended to contract rights under the Contracts Clause of both the California and the U.S. Constitutions. Both Constitutions prohibit California from passing laws that impair contract obligations. Nothing in that prohibition prevents the party to whom the contract obligation is owed from agreeing voluntarily to amend or waive that obligation. Since a pension benefit to be earned in future time periods is clearly a term and condition of employment, the size and terms of that benefit obligation would appear to be a proper subject of collective bargaining under the Meyers-Milias-Brown Act. In such cases, the public employees' bargaining representatives would be authorized to modify and adjust future pension benefits to be earned, as is common and accepted practice in labor-management collective bargaining. A California appellate court in the 1998 case of Public Employees Association vs. City of Fontana emphasized the importance of the collective bargaining system created by the Meyers-Milias-Brown Act. Otherwise, noted the court, the "employer [would be required] to negotiate over working conditions with any number of employees, thereby defeating the Act's goals of ensuring stability in labor management relations and the right of employees to join and be represented by an employee organization."

The Constitutional protection for contract rights does not define how broad a contract right should be implied or found in a particular case. Federal courts would have the final say on whether the U.S. Constitution extends the same protection to future, unearned pension rights that the California Supreme Court found in its Allen decision. It is unlikely

a federal court would have reached the same result that the Allen Court did. A recent opinion by the Chief Bankruptcy Judge in the Eastern District of California, a federal court, had this to say about the California case law on pensions:

“The California Supreme Court has construed the Contracts Clause of the California Constitution to recognize an unusually inflexible ‘vested right’ in public employee pension benefits. In contrast, the United States Supreme Court takes a less rigid view of the extent of a ‘vested right’ in retiree benefits.” Opinion by Chief Judge Klein in the Stockton Bankruptcy Case, February 4, 2015. (Emphasis added.)

The failure to bring pension benefits to the bargaining table has also run counter to the wishes of many employees. In the County’s own experience, at least one bargaining unit was ready to negotiate reductions to future pension benefits not yet earned in exchange for reduced pension contributions and other benefits. However, the County took the legal position that such changes needed to be unanimously approved by all of the unit’s members because of the Allen line of cases. The County has also pursued a proposal with the support of certain of its employee groups that would have allowed individual employees on an optional basis to select a pension plan that had a lower benefit level in exchange for lower pension contributions and higher take-home pay. This proposal did not go forward, however, because of legal issues that arose for such an “optional” program under federal tax law.

7. How much could the County save through a sensible and fair change in California pension law?

A change or clarification to California law confirming that reductions in future, unearned pension benefits are subject to collective bargaining could greatly reduce the County’s enormous pension liabilities. At present, the County’s main tools for reducing pension costs are to hold down salary costs, negotiate greater contributions from employees toward the cost of their pensions, outsource services to the extent permitted under California law, and in extreme situations, lay off or furlough employees. These limited options force hardships on County employees and make it harder for the County to recruit and retain key employees. The peculiar features of the California public pension law have also led to an unusual and unfair situation in which unequal pension benefit scales exist for employees hired before or after January 1, 2013, even though they may be performing the very same jobs.

The savings the County could achieve by negotiating changes to future, not yet earned pension benefits for its employees hired before 2013 could be huge. Yet the reductions in future pension benefits could still preserve for all employees hired before 2013 a “substantial or reasonable pension,” in the words of the Kern case, and protect each employee’s pension benefits already earned. The “substantial or reasonable pension” guarantee for future periods could be based on the benefit rates incorporated into the PEPPRA legislation passed with large bipartisan majorities in the State legislature in 2012. Such a limited change in future benefit rates could still result in very

large financial savings for the County. After consulting with a qualified actuary, here are the savings we understand the County and CCCFPD could achieve each year in their pension costs if they were able through collective bargaining to set pension benefits to be earned by their pre-2013 employees in future time periods at the same rates that apply to their PEPRA employees (including 2% post-retirement COLA increases):

1. For each employee in a "Safety" category (i.e., fire or sheriff) a savings of 29% of pensionable compensation; a total of \$29,169,000 in savings annually based on 2014 payroll figures.
2. For each employee in other categories, a savings of 17% of pensionable compensation; a total of \$69,920,000 in savings annually based on 2014 payroll figures.

Thus, a change or clarification in California law governing future pension benefits for current employees followed by successful negotiations with its employee groups could result in over \$99 Million in annual pension cost savings. The annual potential savings would continue for a period of 18 years, for a theoretical aggregate savings to the County of well over \$1.5 Billion. The actual savings would depend on the rate of retirements and job changes among employees hired before 2013, changes in life expectancy tables, and future salary increases. The actual savings would also depend on the details of the altered pension benefits agreed with employees at the bargaining table. For example, the savings would be lower if the reduced future pension benefits were limited to employees with less than 20 years of service credit. The net savings would also depend, of course, on the amount of wage increases or other benefits negotiated with the employee bargaining units in exchange for the future pension benefit reductions.

Another proposal the County could put forward in such negotiations would be a suspension or elimination of COLA benefits to be earned in future employment periods for both pre-2013 and PEPRA employees. Again, COLA benefits already earned and paid for on a year-to-year basis would be fully preserved. Based on advice from a qualified actuary, a suspension of future COLA benefits would result in annual savings to members and the County of 7.4% a year for Safety employees and 3.6% each year for all other employees. That would mean annual dollar savings for the County based on 2014 salary figures of \$7.4 Million and \$14.8 Million, respectively, for pre-2013 employees alone.

Such pension benefit changes (if implemented through collective bargaining) may be of interest to sizable numbers of the County's employees hired before 2013, particularly younger employees. Many of these employees appear to prefer higher take-home pay rather than a larger, and less certain, pension benefit.

Limiting pension reform for pre-2013 employees to future, not yet earned benefits and assuring them through collective bargaining an opportunity to negotiate minimum future pension benefits linked to PEPRA benefit rates appears to be a sensible and fair path

forward to pension reform. These changes would protect pre-2013 employees' benefits that have already been earned. They would also assure them benefits for future periods (assuming they remain employed by the County) on a par with the benefit schedules approved by the state of California for all employees hired after January 1, 2013. Linking all future pension benefits earned to PEPRA rates would also be an important step in eliminating the benefit differentials that now exist between County employees in the same job classifications. PEPRA employees hired after January 1, 2013 earn smaller pension benefits than do their counterparts hired before that date who may be performing the same work.

8. How can the California legal problem be solved?

There are four avenues open to the County to seek pension reform tied to the collective bargaining rights and protections now guaranteed to public employees.

Legal Reform Through the Initiative Process. One such avenue is for the County to join groups seeking to change the public pension law by means of a state ballot initiative. The initiative would seek to overturn the inflexible rule against reductions in future pension benefits established by the Allen case.

Legal Reform Through "Friend of the Court" Briefs. Another avenue is for the County to file "friend of the court" (also known as "amicus curiae") legal briefs in pending court cases related to California public pension law. Such briefs could urge reconsideration of the Allen case and the line of cases that followed it. These cases have created major difficulties for cities, counties and their employees to deal with the vast pension costs that now confront most public agencies in California.

Amendment to the Meyers-Milias-Brown Act. The County could sponsor clarifying legislation to the Meyers-Milias-Brown Act, stating explicitly that the terms and conditions of employment subject to collective bargaining governed by the Act include pension benefits. The specific clarifying language could be quite simple, such as the following addition to section 3504 of the Act setting forth the authority of a labor organization: "The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, [pension benefits] and other terms and conditions of employment." (New language in brackets).

Commence Collective Bargaining of Future Pension Benefits. The County could simply place changes to future pension benefits for current employees on the collective bargaining table as a proper subject of negotiation. This action could prompt a legal challenge, but the County would be in a position to argue forcefully that the action is consistent with case law emphasizing the importance of the collective bargaining process for public employees in California.

The avenues open to the County for pension legal reform should be explored at the

earliest opportunity, given the enormous costs represented by pension obligations. By taking part at an early stage in a ballot initiative, for example, the County could have some influence in assuring the language of any such initiative is both effective from a financial standpoint and fair to its employees. Otherwise, such a ballot measure could be unfairly focused simply on reducing future pension benefits without fully preserving the collective bargaining rights of its employees. Timely action on pension reform is important in order to avoid more drastic remedies. Addressing the issue now forestalls the risk of a potentially more draconian and less fair remedy being sought in the future once the pension issue reaches an unavoidable and undeniable crisis level. See Appendix, item 4 for a note on possible risks to the County arising from federal Congressional action should reforms in California pension law be unduly delayed.

It would be wise to keep the County's employee groups informed as part of this process, so that they clearly understand the County's intentions in supporting any ballot initiative, amicus brief, or statutory reform action. Any ballot initiative should be drafted so as to require future pension benefit changes to be negotiated with a public entity's labor groups pursuant to existing collective bargaining procedures and duties to negotiate in good faith. To reassure its pre-2013 employees, the County could also seek to include language in any such initiative or otherwise adopt as a County policy a "minimum guarantee"—a guarantee that prospective pension benefit reductions would not fall below a specified minimum. A fair minimum could, as discussed above, be the pension benefits now provided by the County under the PEPRA law to employees joining the pension system after January 1, 2013.

The objective of the ballot initiative coupled with a "minimum guarantee" policy would be to gain for the County the needed legal flexibility to address its huge pension liabilities effectively and fairly. The financial savings could be great while still assuring pre-2013 employees that they would receive future benefit accruals that are no less than those in place for PEPRA employees, and fully protect all benefits already earned at the current rates. The same objectives and minimum guarantee policy could be pursued in any "friend of the court" legal brief filed by the County to persuade the California Supreme Court to revisit its Allen decision and allow cities and counties the flexibility contemplated by the earlier Kern case. The County could also emphasize its minimum guarantee policy as part of any action to seek an amendment to the Meyers-Milias-Brown Act clarifying that changes to future pension benefits for current employees are an authorized issue for collective bargaining.

While there are uncertainties and risks in the legal area in any of the four avenues to reform, there are greater risks and financial costs to the County in doing nothing to address the currently inflexible "vested rights" doctrine of California public pension law. The County could potentially free up nearly \$100 Million a year in resources that could be applied to improved human services, infrastructure repair and replacement, health care and public safety needs, as well as needed wage increases for its employees. The Board of Supervisors should act and move forward now in support of a reform or clarification in public pension law for the benefit of all the County's stakeholders: its

employees; its citizens with particular needs for County services; and of course, its taxpayers.

Conclusion.

The County and CCCFPD face major problems arising from pension and other post-retirement obligations to their employees:

1. Their combined pension and retiree health benefits cost over \$375 Million each year.
2. The percentage of their combined budget taken up by pension costs alone now exceeds 11%; double what it was in 1999.
3. Their outstanding debts for pension and OPEB benefits have reached \$2.6 Billion.
4. Part of this debt is in the form of pension obligation bonds, which must be repaid according to their terms. The remaining debt must be paid through increased contributions to the pension and OPEB funds or from increased investment earnings on those funds.
5. Increased contributions to the pension and OPEB funds must come either from budget cuts, increased revenues, tax increases or some combination of the three. Budget cuts mean service or salary cutbacks, deferred maintenance and postponed capital improvements, and in extreme cases, hiring freezes or job layoffs.

The County has taken important steps to reduce its pension and other retirement expenses, but has not taken an active role in seeking to change the California legal rule that blocks reductions in future, unearned public pension benefits for existing employees. Such a change tied to collective bargaining rights for its employees would be both fair and effective. The change could free up as much as \$100 Million a year for the County and CCCFPD through successful negotiations with their employees. A more flexible California law on future pension benefits offers a way forward for the County to bring its pension and other retirement obligations down to manageable size.

Without added flexibility under California pension law the County will remain shackled to an enormous cost burden but with only limited tools to relieve the pension stress on its financial resources. The remaining tools available to it, wage freezes or reductions, layoffs or higher taxes, lead to what are heavy burdens on the County, its citizens, and its employees. The County has already seen service and staffing cuts, deferred maintenance and delayed system upgrades that have hurt its citizens, imposed hardships on its employees and impacted the quality of life in the County. While we have seen improved economic conditions since 2009, the challenge of pension costs is simply too large a financial problem to expect a solution through improved economic conditions and higher tax revenues. Delaying a direct attack on the California pension law problem risks further years of service cuts, postponements of needed improvement projects for disaster preparedness and other County needs, burdens on employees

arising from understaffing and less than competitive wage rates, and uncertainties for employee retirement security arising from funding gaps in the pension and OPEB funds.

FINDINGS

- F1. The County and CCCFPD currently have unfunded accrued pension and OPEB liabilities that exceed \$2.6 Billion. The cost to the County and CCCFPD to cover these and additional annual pension and OPEB liabilities require payments in excess of \$375 Million each year.
- F2. Pension costs alone now consume over 11% of the combined budgets of the County and CCCFPD. These costs have risen from a percentage slightly under 5% in 2000 and now constitute the largest financial challenge facing the County.
- F3. The cost of pension and OPEB obligations are debts that must be paid before the County can allocate available resources to other needs and services. This has contributed to the “crowding out” of other County services, the deferral of needed building maintenance projects, and the postponement of needed system improvements for the County.
- F4. Pension costs are difficult to manage because they vary directly with the investment results obtained by CCCERA on its pension funds. The County and CCCFPD are at risk each year of having to increase pension payments in the event CCCERA does not achieve its 7.25% assumed rate of investment return on the pension fund.
- F5. The County faces competitive pressures in retaining and recruiting a skilled and professional workforce. This limits its ability to seek greater contributions from its employees to the costs of the pension and OPEB obligations because other counties and cities may not seek the same contributions from their employees.
- F6. The County and CCCFPD have a severe handicap in reducing their pension obligations because of a highly inflexible rule under a long-standing California court precedent that the County believes severely limits their ability to negotiate reductions in future, unearned pension benefit rates with their current employees.
- F7. The County has not taken steps to challenge or change the California legal rule on changes to future pension benefits for existing employees, whether through the initiative process, clarifying legislation, or friend of the court legal briefs.

RECOMMENDATIONS

- R1. The County Board of Supervisors and the Board of Directors of CCCFPD should establish a task force to review all options available to reduce the burden of the

County and CCCFPD's pension obligations, including efforts to bring about a reform in California public pension law. The task force should:

- Confirm with the County's or CCCERA's actuaries what level of potential savings in pension costs could be achieved through negotiations with employees hired before 2013 for reductions in pension benefits for future employment periods.
 - Review with qualified legal counsel what strategies are available to seek a change or clarification in California law to assure changes to future pension benefits for current employees are proper subjects of collective bargaining. Such strategies might include participation in a state ballot initiative, the filing of "friend of court" legal briefs, sponsoring clarifying language for the Meyers-Milias-Brown Act, or including changes to future pension benefits for current employees as a subject for collective bargaining negotiations.
 - Recommend what limits the Boards should establish as a matter of policy on any such reductions in future pension benefits for current employees, such as a minimum benefit tied to PEPPRA rates as set forth in this report.
 - Recommend a policy for keeping the County's and CCCFPD's employee groups informed of the Boards' intentions on any strategies for change so as to assure employees that any changes would be subject to collective bargaining and minimums set forth in the Boards' minimum benefit policy.
 - Recommend a policy for keeping County citizens fully informed of the potential costs of any changes in pension benefits negotiated with the County's and CCCFPD's employee groups.
- R2. The task force should be formed within 90 days and be required to report back to the Boards with its recommendations within 90 – 120 days.
- R3. Establish a special web page on the County web site where citizens can easily track by means of a pension "dashboard" the costs and size of the County's and CCCFPD's pension obligations and the progress on its plans to reduce their costs.

APPENDIX

1. Pension Obligation Bonds.

The proceeds of pension obligation bonds (POBs) are invested in the County's pension fund, thereby reducing the amount of the shortfall (the UAAL) in its current pension funding. Depending on market conditions the County may be able to postpone current payments otherwise due on its UAAL obligations if the POB payments do not fall due for some years in the future. That may of course create an incentive simply to postpone a

day of reckoning on the UAALs, because the total amount of the debt (UAAL plus POB) has not changed. However, when such bonds can be sold at interest rates less than the rate the county pension board charges the County for its UAAL obligation, the County is able to save on annual interest charges. It runs the risk, however, of losing money on the investment in the event the pension fund suffers an investment loss after the bond proceeds are transferred to the pension fund. The POBs are debts with a fixed principal amount and must be paid according to a fixed schedule. The UAAL debt, by contrast, is subject to some flexibility under rules set by the actuaries to “smooth out” the UAAL obligation over time. In some respects, then, the use of pension obligation bonds to fund the County’s UAAL obligations resembles “margin” investing; i.e., investing with borrowed funds, which can increase gains if successful but also magnify losses if not successful. The County should use them only after careful consideration.

2. Unfunded Pension Fund Liabilities.

Currently, the County’s unfunded actuarially accrued pension liability (its UAAL) is \$1.26 Billion. The UAAL would be higher had the County not issued the pension obligation bonds referred to above, which served to reduce the unfunded liability, at the cost of additional debt on the County’s balance sheet. The UAAL obligation means the County is currently required to pay into the pension fund an additional 17.5% of each non-safety employee’s compensation and 51.3% of each safety employee’s compensation each year (\$125.6 Million in total) to make up the pension fund deficit. Further, the County faces the risk, particularly after five years of rising stock markets since the financial meltdown of 2009, of seeing the UAAL contribution increase should the pension fund fail to achieve a 7.25% return in 2015 or 2016. Specifically, a slip of only 1% in the assumed return (i.e., a gain of only 6.25 % instead of 7.25%) would create an additional County debt of 9.5% of payroll (\$52 Million) to CCCERA. A slip of 10% (i.e., a loss of 2.75% instead of the assumed 7.25% gain) would create an additional debt to CCCERA of 95% of payroll (\$520 Million).

In each of these cases the County would not be required to pay or recognize the debt in one year. Under CCCERA actuarial rules, the loss would be spread over five years, thereby reducing the amount of the loss that would be recognized in the first year. The adjusted or “smoothed” debt would be paid in installments over 18 years. Any loss remaining after the smoothing adjustment would raise annual pension contributions by 0.7% of payroll for each 1% slip in return below 7.25%. That is, an annual increase of \$3,847,000 if the smoothed debt remained at \$52 Million and an annual increase of \$38,470,000 if the smoothed debt remained at \$520 Million.

While in theory such losses should be balanced over time by returns in excess of the assumed 7.25% per annum, we question whether the 7.25% assumed rate of return is in fact realistic. The County’s actual rate of return on its pension assets over the past ten years has been 6.89%, rather than 7.25%. The 6.89% figure included returns starting from a lower base after the massive losses incurred in 2008. It therefore is not an accurate measure of the compounded annual return on a dollar invested in 2005.

The compounded annual return would be lower. Further, the County's current UAAL, based on what may be an optimistic 7.25% assumption, totals approximately \$1.26 Billion. Accordingly, the County faces a long period of already large and growing retirement costs with substantial risks of unforeseen further cost increases. Such increases could arise in any year arising from drops in the investment returns on its pension funds, a likely prospect given experience that shows stock markets do not increase for indefinite periods. They also drop.

3. Pension Fund Rate of Return Assumptions.

Using a higher rate of return assumption for the pension fund means that the County and its members would be charged a lower "annual required contribution" to fund the pension benefit. In CCCERA's case, for example, the County and the members would reduce their regular contributions by an amount equal to 2% of pay for each 1% increase in the rate of return assumption. This is one of the reasons a strong temptation exists on the part of employers and employees to set overly optimistic assumptions for pension fund rates of return. A higher rate of return assumption would keep contribution rates lower for both the County and its employees, reducing the strain on both the County's and the employee's budget. The downside for the County, however, is that when returns fail to meet the assumed rate, the County will incur an additional UAAL debt, as calculated by the actuaries.

If the pension fund fails to meet the assumed rate of return in any year, it must make up the difference from one of two sources: drawing on reserves established in prior years when the returns exceeded the target rate or assessing the County for an additional contribution to make up the difference. The County is obligated to pay an additional amount each year to retire this liability over a period of 18 years. Other pension plans, including CALPERS, have longer periods, thereby taking on additional risk that the UAAL will not be fully funded by the time it is needed.

As noted in the text of the report, CALPERS charges its employee members a lower pension contribution rate for a like pension offered to a CCCERA employee member. From the employee's standpoint, it is clearly more attractive to have the higher take-home pay in the CALPERS plan because any shortfall in the pension funding will have to be made up by the employer and not by the employee. That assumes the employer manages to stay solvent and avoid the complete fiscal downfall that hit Stockton, Vallejo, and Detroit, putting them into bankruptcy. In that dire situation, employees should be very glad of the prudent financial management that protected their pension benefits.

4. Federal Funding Issues.

The peculiar features of California law related to pensions compared to the rest of the country bring added urgency to resolving the issue. California is one of a minority of states that prohibit reductions in future, unearned pension benefits. The California rule

also differs from the pension rules governing private employers set forth in the federal Employee Retirement Income Security Act (ERISA) legislation passed in 1974. Congress, which has shown increasing willingness in its “sequestration” and other legislation to cut back federal funding of state programs it views as excessive may turn its attention to the cost implications of the peculiar California protections for future pension benefits. Any pension-related restrictions the Congress might impose on federal funding streams for state and county programs could have a major impact on the County. Approximately 45.9% of its funding streams are from state and federal sources. Such funding typically pays the full cost of pension benefits (including full UAAL charges) of employees engaged in such programs. Federal funding restrictions tied to caps based on pension plan rules more generally followed in the country as opposed to the much more costly rule in California would have very serious financial consequences for the County.

SOURCES AND REFERENCE MATERIALS

For purposes of this report the Grand Jury interviewed or met with 13 different County, city, state, CCCERA, and employee organization officials or representatives who had responsibility for certain aspects of pension and retirement benefit issues. We reviewed a number of relevant reports and articles, including the following:

1. The County Consolidated Annual Financial Reports for Fiscal Years ended June 30, 2014 and June 30, 2013.
2. The County’s Recommended Budget for Fiscal Year 2014-2015.
3. The CCCERA Actuarial Valuation and Review as of December 31, 2013, prepared by its actuary, Segal Consulting.
4. Task Force Report to the Finance Committee on Other Post Employment Benefits Challenge, dated March 1, 2007; Report to the County Board of Supervisors dated September 25, 2007 transmitting Task Force Report on OPEB Strategic Plan.
5. Little Hoover Commission, report entitled “Public Pensions for Retirement Security,” published in February, 2011.

We also reviewed a number of California reported legal cases on pension or employee benefit issues, including those cited in the text of our report. These are the full case citations for the cases mentioned in our report:

1. Kern vs. City of Long Beach, 29 Cal.2d 848 (1947).
2. Allen vs. City of Long Beach, 45 Cal.2d 128 (1955).
3. San Bernardino Public Employees Association v. City of Fontana, 67 Cal. App. 4th 1215 (1998).
4. In re City of Stockton, California, Debtor; US Bankruptcy Court, Eastern District of California; Case No. 12-32118-C-9; Decision Filed February 27, 2015.

The words quoted from Warren Buffett in the Background section were from his prophetic memorandum dated October 14, 1975 to Katharine Graham, the then publisher of the Washington Post. It was included as an exhibit to the 2013 Annual Report of Berkshire Hathaway Inc. and can be found at the following link:
<http://www.berkshirehathaway.com/reports.html>.

The chart on page five of the report is from the County's Recommended Budget for Fiscal Year 2014 – 2015. The projected expenses shown in that chart assume the County is able to fill all of its vacant positions and that CCCERA earns at least 7.25% each year on its invested pension funds. Expenses will decrease if the vacant positions are not filled and will increase if the projected 7.25% return is not achieved each year.

The text of the Meyers-Milias-Brown Act can be found at California Government Code, sections 3500 – 3511.

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Board of Supervisors	1-7	1-3
Board of Directors for the CCCFPD	1,2,4,6	1-3

BOARD OF SUPERVISORS AND BOARD OF DIRECTORS OF THE CCCFPD RESPONSE TO CONTRA COSTA COUNTY GRAND JURY REPORT 1503:

Time for a new Look at Pension Costs

Findings:

- F1. The County and CCCFPD currently have unfunded accrued pension and OPEB liabilities that exceed \$2.6 Billion. The cost to the County and CCCFPD to cover these and additional annual pension and OPEB liabilities require payments in excess of \$375 Million each year.

Response: The respondents agree with the finding.

- F2. Pension costs alone now consume over 11% of the combined budgets of the County and CCCFPD. These costs have risen from a percentage slightly under 5% in 2000 and now constitute the largest financial challenge facing the County.

Response: The respondents partially disagree with the finding. Although pension costs are large, the largest financial challenge facing the County is the issue of balancing the cost of salaries and benefits as components of total compensation to attract and retain employees.

- F3. The cost of pension and OPEB obligations are debts that must be paid before the County can allocate available resources to other needs and services. This has contributed to the "crowding out" of other County services, the deferral of needed building maintenance projects, and the postponement of needed system improvements for the County.

Response: The respondent partially disagrees with the finding. Other Post Employment Benefits (OPEB) liabilities are not 'debts'. Unlike pension liabilities, OPEB liabilities can be reduced rather than paid. In 2006, the County's OPEB liability was in excess of \$2.6 billion. The liability is currently under \$1 billion and was reduced by reducing the benefit, not paying the liability.

- F4. Pension costs are difficult to manage because they vary directly with the investment results obtained by CCCERA on its pension funds. The County and CCCFPD are at risk each year of having to increase pension payments in the event CCCERA does not achieve its 7.25% assumed rate of investment return on the pension fund.

Response: The respondents agree with the finding.

- F5. The County faces competitive pressures in retaining and recruiting a skilled and professional workforce. This limits its ability to seek greater contributions from its employees to the costs of the pension and OPEB obligations because other counties and cities may not seek the same contributions from their employees.

Response: The respondent agrees with the finding.

F6. The County and CCCFPD have a severe handicap in reducing their pension obligations because of a highly inflexible rule under a long-standing California court precedent that the County believes severely limits their ability to negotiate reductions in future, unearned pension benefit rates with their current employees.

Response: The respondents agree with the finding.

F7. The County has not taken steps to challenge or change the California legal rule on changes to future pension benefits for existing employees, whether through the initiative process, clarifying legislation, or friend of the court legal briefs.

Response: The respondent agrees with the finding.

Recommendations:

R1. The County Board of Supervisors and the Board of Directors of CCCFPD should establish a task force to review all options available to reduce the burden of the County and CCCFPD's pension obligations, including efforts to bring about a reform in California public pension law. The task force should:

- Confirm with the County's or CCCERA's actuaries what level of potential savings in pension costs could be achieved through negotiations with employees hired before 2013 for reductions in pension benefits for future employment periods.
- Review with qualified legal counsel what strategies are available to seek a change or clarification in California law to assure changes to future pension benefits for current employees are proper subjects of collective bargaining. Such strategies might include participation in a state ballot initiative, the filing of "friend of court" legal briefs, sponsoring clarifying language for the Meyers- Miliias-Brown Act, or including changes to future pension benefits for current employees as a subject for collective bargaining negotiations.
- Recommend what limits the Boards should establish as a matter of policy on any such reductions in future pension benefits for current employees, such as a minimum benefit tied to PEPRA rates as set forth in this report.
- Recommend a policy for keeping the County's and CCCFPD's employee groups informed of the Boards' intentions on any strategies for change so as to assure employees that any changes would be subject to collective bargaining and minimums set forth in the Boards' minimum benefit policy.
- Recommend a policy for keeping County citizens fully informed of the potential costs of any changes in pension benefits negotiated with the County's and CCCFPD's employee groups.

Response: The recommendation will not be implemented at this time. Although neither the County nor the District are opposed to such a mission, the County and Fire District are

currently in negotiations with the majority of bargaining groups to restructure delivery of healthcare to employees. It is reasonable to believe that the result will impact competitive pressures in retaining and recruiting a skilled and professional workforce. Additionally, the District is in the midst of a significant restructuring of delivery of ambulance services. Neither the County nor the Fire District are currently in an administrative position to take on such an undertaking.

- R2. The task force should be formed within 90 days and be required to report back to the Boards with its recommendations within 90–120 days.

Response: The recommendation will not be implemented. See response to recommendation R1.

- R3. Establish a special web page on the County web site where citizens can easily track by means of a pension "dashboard" the costs and size of the County's and CCCFPD's pension obligations and the progress on its plans to reduce their costs.

Response: The recommendation will not be implemented at this time. The County and District's Budget and CCCERA's web sites include annual updates of pension obligation and funding process. The obligation changes are calculated annually, which does not warrant a web page "dashboard", which is more suited for launching applications quickly for items that change often such as a stock ticker or weather report. The County's current pension information page is three clicks from the main menu and CCCERA's is two clicks from the main menu. Should the County and/or District undertake an effort to reform California public pension law in the future, such a "dashboard" could be utilized to keep employees and the public apprised of the progress on its plans to reduce costs.



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: APPROVE AND AUTHORIZE CONTRACT FOR ALS AMBULANCE TRANSPORT SERVICES AND ADOPT
RELATED ACTIONS

RECOMMENDATION(S):

Acting as the Board of Supervisors of Contra Costa County:

1. APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with the Contra Costa County Fire Protection District to provide advanced life support (ALS) emergency ambulance services within Exclusive Operating Areas (EOA) I, II and V for the period January 1, 2016 through December 31, 2020.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Timothy Ewell, (925)
335-1036

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: County Administrator - Finance, Auditor Controller - Special Accounting, Auditor Controller - General Accounting, Contra Costa Fire Protection District - Admin., American Medical Response West Inc., County Counsel - Gelston

RECOMMENDATION(S): (CONT'D)

Acting as the Governing Board of the Contra Costa County Fire Protection District:

1. ACKNOWLEDGE that the power to provide ambulance services by a California Fire Protection District is authorized by Health and Safety Code section 13862(e), pursuant to section 1797 of the Health and Safety Code.
2. APPROVE and AUTHORIZE the Fire Chief, or designee, to execute a contract with Contra Costa County to provide ALS emergency ambulance services within EOAs I, II and V for the period January 1, 2016 through December 31, 2020.
3. APPROVE and AUTHORIZE the Fire Chief, or designee, to execute a contract with American Medical Response West (AMR), in an amount not to exceed \$200,000,000 to provide ALS emergency ambulance services within EOAs I, II and V, on behalf of the District, for the period January 1, 2016 through December 31, 2020.
4. APPROVE and AUTHORIZE the Fire Chief, or designee, to execute a contract with Advanced Data Processing, Inc., in an amount not to exceed \$8,500,000 to provide billing and related services for the provision of first responder and ambulance transport emergency medical services for the period November 17, 2015 through December 31, 2020.
5. ADOPT Resolution No. 2015/449 establishing the “CCCFPD EMS Transport Fund” within the County Treasury.
6. AUTHORIZE the Auditor-Controller to make transfers from the CCCFPD Operating Fund (Fund No. 202000) to the new CCCFPD EMS Transport Fund, as necessary, to maintain appropriate fund balance available to pay expenditures secured by anticipated receivables from the provision of ambulance services.

FISCAL IMPACT:

Citygate Independent Financial Review

On July 21, 2015, the Board of Supervisors received a comprehensive presentation related to an independent financial analysis of the financial feasibility of the proposed “Alliance” service delivery model. The Report was commissioned by the Board, administered by the County Administrator's Office and conducted by Citygate Associates LLC. The Report concluded that, over the three-year period (CY 2016-18), the District could generate approximately \$7.2 million in retained earnings; \$2.0 million in CY2016, \$2.4 million in CY2017 and \$2.8 million in CY2018. For a business activity, the term retained earnings is defined as the amount of funds remaining after operating expenditures are deducted from operating revenues.

Following the Citygate presentation, the Board adopted a series of recommendations from Citygate, including financial risk mitigation strategies. Among those strategies is establishing a reserve equivalent to six months of operating revenues. Using the projected CY2018 operating revenues cited in the Report, this reserve amount would be approximately \$21.2 million. The strategy is prudent given the unknown landscape with regard to private and public health care insurance reimbursements over the next 3-5 years with the continued rollout of the Affordable Care Act nationally. It is expected that, absent other revenue sources, it would take in excess of ten years to fund a six month reserve. However, additional recommendations from Citygate include providing quarterly financial reports and annual audits to the Board to maintain transparency and the ability to react quickly to a potentially adverse financial situation during the period in which a sufficient reserve is being funded. The Report and related PowerPoint presentation are attached for reference.

It is important to note that the above financial review does not take into account Ground Emergency Medical Transport (GEMT) revenue, which could be available to the District, but was not included in the Alliance bid proposal. Due to the public private partnership model between CCCFPD and AMR being the first of its kind in the state, it was important to analyze whether the financial model could be viable absent the GEMT revenue stream, should the state not allow the District to draw on that revenue. GEMT revenue is made available to public

providers only (i.e., governmental entities).

Update on Cash Flow Metrics and Registration with Medicare and Medical

If approved, ambulance service within EOA I, II, and V will officially transition from AMR to the District on January 1, 2016. While the service begins immediately, actual receipt of transport-related revenues will be delayed while provider applications are submitted and approved; claims are prepared and submitted by a billing service provider; and claim requests are processed by payers.

The current payer mix for ambulance transports, as reported in the Contra Costa County Request for Proposals, is illustrated in the table below:

<u>Payer</u>	<u>% of Transports</u>
Medicare	42.9 %
Medi-Cal	26.3 %
Insurance	14.4 %
<u>Private Pay</u>	<u>16.4 %</u>
Total	100 %

The District must be approved as a provider by the Centers for Medicare and Medicaid Services prior to being eligible to submit claims to Medicare and Medi-Cal (California's Medicaid program). Concurrently, the District will be responsible for making payments to its ambulance services subcontractor, AMR, upon receipt of an invoice at the end of each monthly billing cycle, and the District will be responsible for making payments to its billing service provider as a percentage of net cash collections for any payments received.

In consideration of the above, CCCFPD assembled a cash flow analysis for the period January through June 2016, which shows a net fund balance of approximately \$20,000 as of June 30, 2016. However, at the end of the first quarter (Jan.- Mar.) of CY2016, the District estimates a cash deficit of \$1.2 million. By the end of May 2016, that cash deficit is projected to shrink to under \$500,000, and by the end of June, the deficit is projected to be entirely eliminated. This analysis is based on annual transports of 68,532 (2015 AMR transport data), an average patient charge of \$2,505 per transport (Citygate Report), and a projected 24.6% net cash collections rate for 2016 (Citygate Report). A copy of the cash flow analysis is attached for reference.

During the first six months of ambulance service provision, the District will rely on its general operating reserve funds to bridge the revenue-expenditure gap. The District currently has a healthy fund balance in excess of \$20 million, and therefore, will be able to maintain its 10% fund balance reserve designation during this transition.

BACKGROUND:

Request for Proposals Process

On February 27, 2015 the Contra Costa County EMS Agency (CCCEMSA) posted the Board approved 2015 Contra Costa County RFP for Emergency Ambulance Service for EOAs I, II and V. On March 19, 2015 the CCCEMSA and RFP consultant Fitch and Associates conducted a mandatory bidder's conference with three (3) prospective bidders in attendance:

1. The Alliance: The contractor and subcontractor arrangement established between Contra Costa County Fire Protection District (CCCFPD) & American Medical Response (AMR), and approved by the CCCFPD Governing Board on May 12, 2015.

2. Falck Northern California

3. Medic Ambulance

The deadline for receipt of the emergency ambulance service proposals was May 21, 2015 in accordance with the requirements approved by the California EMS Authority (EMSA). A single emergency ambulance proposal was received from the Alliance.

The Alliance bid was subsequently reviewed and scored by a multi-disciplinary proposal review panel. The panel consisted of four, out-of-county independent EMS professionals and one, local representative appointed by the Board. In addition two board appointed independent observers from the county were invited to observe during the two day panel review proceedings on June 4-5, 2015. The proposal review panel concluded with a presentation from the Alliance on June 5, 2015.

The findings of the proposal review panel were submitted to the Health Services Director and additional information was subsequently requested from the Alliance on June 22, 2015. This information was received prior to the request deadline of July 6, 2015. Concurrent with the RFP review panel process, a separate independent financial analysis and report was conducted by the County Administrator's consultant Citygate Associates, LLC as discussed above.

Links to key documents associated with this emergency ambulance procurement, award and contract can be found at:

[Summary of 2015 Contra Costa Emergency Ambulance Plan A RFP Requirements](#)

[Contra Costa EMS RFP webpage: http://cchealth.org/ems/rfp.php](http://cchealth.org/ems/rfp.php)

[Request for Proposals: Exclusive Operator for Emergency Ambulance Service Contra Costa County \(February 27, 2015\)](#)

Alliance Proposal and Supporting documents:

<http://cchealth.org/ems/pdf/RFP2015-ccfpd-amr-proposal.pdf>

<http://cchealth.org/ems/pdf/RFP2015-ccfpd-amr-exhibits9.pdf>

Note: The above hyperlinks are provided in lieu of print attachments due to the voluminous document sizes.

Recommendation to Award to Contra Costa Fire and Negotiation of Contract

On July 21, 2015 the Board approved the Health Services Director recommendation to award the contract to CCCFPD and directed staff to commence with contract negotiations between CCCFPD and CCCEMSA and return with a negotiated contract for final approval. Over the past four months, County Counsel has facilitated several all-hands contract negotiation sessions to discuss critical details of the proposed, new service delivery model. The negotiated contract supports opportunities to build efficiencies and support EMS stakeholder collaboration. Unlike emergency ambulance service contracts in the past, this agreement also provides the County with significant flexibility to adjust terms and conditions in response to external factors that may affect emergency ambulance services in the future.

The Alliance model, with a first responder Fire District as contractor and the private ambulance services provider (AMR) as subcontractor is an entirely new approach for providing emergency ambulance services not seen previously in California. The Alliance model has the potential to provide a Countywide EMS System with both benefits and challenges as described during the award presentation on July 21, 2015 and outlined in the Final Report from Citygate Associates LLC.

As a California Fire Protection District, Health and Safety Code section 13862(e) gives the District power to provide ambulance services as part of its general operations, pursuant to 1797. In the case of CCCFPD, the District did not previously provide ambulance services and, therefore, does not have the right to provide ambulance services under Health and Safety Code section 1797.201. In the future, the District will be required to bid on the provision of ambulance services during the County EMS Agency request for proposal process, should there be a desire to continue with those contract services.

Establishment of CCCFPD EMS Transport Fund and Authorization to the Auditor-Controller

Following the presentation of the independent financial review by Citygate on July 21, 2015, the Board of Supervisors adopted several recommendations, including the establishment of a separate fund to track revenue and expenditures generated by the new, ambulance transport activity. Such a fund is being recommended as part of this action. This not only provides transparency for the Board and the public on the financial transactions associated with the new ambulance transport operation, but will make future evaluations of the financial viability of this function less cumbersome.

In addition, the Auditor-Controller is being authorized to make transfers from the CCCFPD Operating Fund to the new CCCFPD EMS Transport Fund to maintain an appropriate fund balance on an as needed basis. As with any new venture, initial working capital is necessary to fund operations for a period of time before newly established revenue sources become accessible. The District anticipates a period of negative cash flow (i.e., expenditures are greater than reimbursement revenues), which could result in a deficit in the new fund absent resources from the CCCFPD Operating Fund as discussed previously.

Fee Resolution and Collections Policy

The District plans to return to the Board of Directors on December 8, 2015 with a proposed fee Resolution and Billing/Collection policy for consideration by the Board. Today's recommended actions include approval to contract with Advanced Data Processing, Inc., to serve as the District's billing and collections vendor following a competitive RFP process. The District plans to work with the vendor to establish the ability to invoice public and private health insurance carriers as well as develop the proposed billing/collection policy for approval by the Board to ensure that the District is able to begin billing for services rendered on the January 1, 2016 transition date.

CONSEQUENCE OF NEGATIVE ACTION:

The emergency ambulance contract would not be approved. The county's current contract with AMR for emergency ambulance service ends on December 31, 2015. In order to continue emergency ambulance services to Exclusive Operating Areas I, II and V (which covers approximately 90% of the county emergency ambulance services) beyond December 31, 2015 the county would need to renew the current AMR contract to allow for sufficient time to go back out-to-bid for emergency ambulance services.

CHILDREN'S IMPACT STATEMENT:

Approximately 10% of EMS response involves children under the age of 15 years of old.

ATTACHMENTS

Resolution No. 2015/449

Service Contract: Contra Costa County and Contra Costa County Fire Protection District

Service Subcontract: Contra Costa County Fire Protection District and American Medical Response West

Service Contract: Contra Costa County Fire Protection District and Advanced Data Processing, Inc.

PowerPoint Presentation - Citygate Associates LLC, July 21, 2015

Final Report: Independent Financial Review of Elements Associated with the County's Ambulance RFP. Citygate Associates, LLC. July 2015

EMS Transport Enterprise Fund: January-June 2016 Projected Cash Flow

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/449

Establishing the EMS Ambulance Transport Fund within the County Treasury

WHEREAS, on February 27, 2015, the Contra Costa County Emergency Medical Services Agency (CCCEMSA) released a competitive Request for Proposals (RFP) for the provision of ambulance transport services within Exclusive Operating Areas (EOA) I, II and V of the County; and

WHEREAS, the Board of Supervisors authorized an independent financial analysis of all bids received in response to the RFP to be presented concurrently with recommendations of the Health Services Director as to awarding a contract; and

WHEREAS, on July 21, 2015, the Board of Supervisors received a comprehensive report and set of recommendations from Citygate Associates LLC, acting as the consultant performing the independent financial analysis, including a recommendation to establish an separate fund to track revenue and expenditures associated with the provision of ambulance services should Contra Costa County Fire Protection District (CCCFPD) be awarded the contract to provide ambulance services within EOAs I, II and V of the County; and

WHEREAS, on July 21, 2015, the Health Services Director recommended and the Board of Supervisors approved award of the contract for the provision of ambulance services in EOAs I, II and V to CCCFPD, directed staff to commence contract negotiations and return at a future date for final approval of the contract; and

WHEREAS, Health and Safety Code § 13862(e) authorizes California Fire Protection Districts to provide ambulance services, pursuant to section 1797 of the Health and Safety Code.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Contra Costa County Fire Protection District:

1. Authorizes the Auditor-Controller to establish the EMS Ambulance Transport Fund within the County Treasury.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Timothy Ewell, (925) 335-1036

By: , Deputy

cc: County Administrator - Finance, Auditor Controller - Special Accounting, Auditor Controller - General Accounting, Contra Costa Fire Protection District - Admin., American Medical Response West Inc., County Counsel - Gelston

STANDARD CONTRACT
(Purchase of Services – Long Form)

Number:
Fund/Org:
Account:
Other:

1. **Contract Identification.**

Department: Health Services – Emergency Medical Services

Subject: Emergency Ambulance Services (Emergency Response Areas 1, 2, and 5)

2. **Parties.** The County of Contra Costa, California (County), for its Department named above, and the following named Contractor mutually agree and promise as follows:

Contractor: Contra Costa County Fire Protection District

Capacity: A fire protection district existing under the laws of the State of California

Address: 2010 Geary Road, Pleasant Hill, CA 94523

3. **Term.** The effective date of this Contract is January 1, 2016. It terminates on December 31, 2020 unless sooner terminated as provided herein.

4. **Payment Limit.** County's total payments to Contractor under this Contract shall not exceed

\$ Not Applicable.

5. **County's Obligations.** County shall make to the Contractor those payments described in the Payment Provisions attached hereto which are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. **Contractor's Obligations.** Contractor shall provide those services and carry out that work described in the Service Plan attached hereto which is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

7. **General and Special Conditions.** This Contract is subject to the General Conditions and Special Conditions (if any) attached hereto, which are incorporated herein by reference.

8. **Project.** This Contract implements in whole or in part the following described Project, the application and approval documents of which are incorporated herein by reference.

Not applicable.

STANDARD CONTRACT
(Purchase of Services – Long Form)

Number:
Fund/Org:
Account:
Other:

9. **Legal Authority.** This Contract is entered into under and subject to the following legal authorities:

California Health and Safety Code section 1797, et seq., California Government Code sections 26227 and 31000, and all legal authorities cited in the HIPAA Business Associate Addendum attached to this Contract and incorporated herein by this reference.

10. **Signatures.** These signatures attest the parties' agreement hereto:

COUNTY OF CONTRA COSTA, CALIFORNIA

BOARD OF SUPERVISORS	ATTEST: Clerk of the Board of Supervisors
By: _____ Chair/Designee	By: _____ Deputy

CONTRACTOR

Signature A Name of business entity: Contra Costa County Fire Protection District	Signature B Name of business entity:
By: _____ (Signature of individual or officer)	By: _____ (Signature of individual or officer)
_____ (Print name and title A, if applicable)	_____ (Print name and title B, if applicable.)

Note to Contractor: For corporations (profit or nonprofit) and limited liability companies, the contract must be signed by two officers. Signature A must be that of the chairman of the board, president, or vice-president; and Signature B must be that of the secretary, any assistant secretary, chief financial officer or any assistant treasurer (Civil Code Section 1190 and Corporations Code Section 313). All signatures must be acknowledged as set forth on Form L-2.

PAYMENT PROVISIONS
(Fee Basis Contracts - Long and Short Form)

Number _____

1. **Payment Amounts.** Subject to the Payment Limit of this Contract and subject to the following Payment Provisions, County will pay Contractor the following fee as full compensation for all services, work, expenses or costs provided or incurred by Contractor:

[Check one alternative only.]

- ☐ a. \$ _____ monthly, or
- ☐ b. \$ _____ per unit, as defined in the Service Plan, or
- ☐ c. \$ _____ after completion of all obligations and conditions herein.
- ☒ d. Other: Not applicable. County will not make payments to Contractor.

2. **Payment Demands.** Contractor shall submit written demands for payment on County Demand Form D-15 in the manner and form prescribed by County. Contractor shall submit said demands for payment no later than 30 days from the end of the month in which the contract services upon which such demand is based were actually rendered. Upon approval of payment demands by the head of the County Department for which this Contract is made, or his designee, County will make payments as specified in Paragraph 1. (Payment Amounts) above.
3. **Penalty for Late Submission.** If County is unable to obtain reimbursement from the State of California as a result of Contractor's failure to submit to County a timely demand for payment as specified in Paragraph 2. (Payment Demands) above, County shall not pay Contractor for such services to the extent County's recovery of funding is prejudiced by the delay even though such services were fully provided.
4. **Right to Withhold.** County has the right to withhold payment to Contractor when, in the opinion of County expressed in writing to Contractor, (a) Contractor's performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Contractor has failed to sufficiently itemize or document its demand(s) for payment.
5. **Audit Exceptions.** Contractor agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate county, state or federal audit agencies resulting from its performance of this Contract. Within 30 days of demand, Contractor shall pay County the full amount of County's obligation, if any, to the state and/or federal government resulting from any audit exceptions, to the extent such are attributable to Contractor's failure to perform properly any of its obligations under this Contract.

Initials: _____
Contractor County Dept.

SERVICE PLAN
(Purchase of Services - Long Form)

Contract Number _____

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SERVICE PLAN
(Purchase of Services - Long Form)

Contract Number _____

A. Purpose. The purpose of this Contract is to set forth the respective obligations of the parties regarding the delivery of emergency ambulance services in certain areas of the County. The parties understand and agree that the purpose of this Contract is for the provision of emergency ambulance services to the County, and, as further described in Section C below, Contractor is subcontracting with an emergency ambulance service provider to provide those services.

B. Definitions.

1. **"Advanced EMT" or "AEMT"** means a California certified emergency medical technician with additional training in limited advanced life support pursuant to Health and Safety Code section 1797 et seq.
2. **"Advanced Life Support" or "ALS"** means special services designed to provide definitive prehospital emergency medical care including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs, and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of the Base Hospital or utilizing approved prehospital treatment protocols or standing orders as part of the EMS System at the scene of an emergency, during transport to an acute care hospital or other approved facility, during inter-facility transfers, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency department or other medical staff of that hospital.
3. **"ALS Ambulance"** means an ambulance equipped, or arranged and staffed for the purpose of providing ALS care within the EOAs while under contract with the County.
4. **"Ambulance"** means any motor vehicle that meets the standards set forth in Title 13 of the California Code of Regulations, and which is specifically constructed, modified or equipped, or arranged, used, licensed, or operated for the purpose of transporting sick, injured, convalescent, infirmed, or otherwise incapacitated persons in need of medical care.
5. **"Ambulance Strike Team" or "AST"** means a team of five staffed ambulances, a designated AST leader (herein, an **"ASTL"**), and an ASTL vehicle.
6. **"Ambulance Subcontractor"** means the emergency ambulance services provider that Contractor has entered into a subcontract with to provide emergency ambulance services required by this Contract, as approved by the County.
7. **"Annual System Improvement and Enhancement Goals"** means those goals, mutually agreed upon by the parties, that contain the EMS System improvements and enhancements that are to be implemented by Contractor for the specified year.
8. **"Arrival on Scene Time"** has the meaning set forth in Section H(6)(c) below.
9. **"Base Hospital"** means John Muir Medical Center, Walnut Creek campus, or other facility designated by CCCEMSA pursuant to Health and Safety Code section 1798.100.
10. **"Basic Life Support" or "BLS"** means emergency first aid and cardiopulmonary resuscitation medical care procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting proper application of cardiopulmonary resuscitation to maintain life without invasive techniques, unless authorized by state law or regulation, until the victim may be transported or until ALS medical care is available.
11. **"BLS Ambulance"** means an Ambulance equipped, or arranged, and staffed for the purpose of providing BLS care within the County.

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12. **"CCCEMSA"** means the County agency having primary responsibility for the administration of EMS within the county.
13. **"CCCEMSA Medical Director"** means the physician designated by the County to serve as the medical director of CCCEMSA pursuant to Health and Safety Code section 1797.202.
14. **"CCCEMSIS"** means the Contra Costa County Emergency Medical Services Information System as set forth in Section M(1).
15. **"Collaboration Committee"** means the committee described in Section P(13).
16. **"Continuous Quality Improvement" or "CQI"** means the process of evaluating prehospital EMS and non-emergency transportation services to identify where personnel performance or the system itself can be improved, implementing potential improvements, and reevaluating and refining them in a continuous cycle. While quality assurance traditionally focuses on the detection of defects, CQI strives to prevent them.
17. **"County EMS System" or "EMS System"** means the specifically organized system of local EMS communications centers (law enforcement, fire, and ambulance), emergency ambulance providers, non-emergency ambulance providers, local fire agencies, air ambulance/rescue providers, local hospitals, local and state law enforcement agencies, EMS training programs, and EMS continuing education providers that provide the coordinated delivery of EMS services within the County.
18. **"County"** means Contra Costa County.
19. **"County Contract Administrator"** means the CCCEMSA Director or his/her designee.
20. **"County EMS Plan"** means a plan for the delivery of emergency medical services pursuant to Health and Safety code section 1797 et seq.
21. **"Disaster Medical Support Unit" or "DMSU"** means a vehicle owned by EMSA and provided to CCCEMSA for disaster medical response.
22. **"Emergency Ambulance"** means an Ambulance permitted pursuant to Division 48 of the County Ordinance Code and operated by a CCCEMSA authorized emergency ambulance provider in an EOA as identified in the County EMS Plan.
23. **"Emergency Ambulance Services"** means Ambulance services provided at any CCCEMSA authorized level (ALS, critical care transport, or BLS) provided in response to 9-1-1 and/or seven (7) digit or ten (10) digit requests for EMS through an authorized PSAP, or prehospital emergency calls received directly by Contractor.
24. **"Emergency Ambulance Transport"** means any Ambulance transport originating from a 9-1-1, seven (7) digit or ten (10) digit request for service through an authorized PSAP, or originating from prehospital emergency calls received directly by Contractor, or an Ambulance transport of a patient suffering a medical emergency from the prehospital environment to a CCCEMSA authorized acute care facility or hospital emergency department.
25. **"Emergency Medical Dispatch Center"** means an emergency medical dispatch center that has been approved by CCCEMSA for dispatching Ambulances under this Contract.
26. **"Emergency Medical Dispatch System"** means a system that enhances services provided by emergency medical dispatchers by allowing the call taker to quickly narrow down the caller's type of medical or trauma situation using nationally standardized medical triage, so as to better dispatch emergency services and provide quality instruction to the caller before help arrives.
27. **"Emergency Medical Services" or "EMS"** means the services delivered through the EMS System in response to a medical emergency.

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28. **"Emergency Response Area"** or **"ERA"** means ambulance emergency response areas established by CCCEMSA and delineated on the map entitled "Emergency Response Areas of Contra Costa County", as amended, which is on file in the office of CCCEMSA and the Clerk of the County Board of Supervisors.
29. **"EMS Quality Improvement Plan"** or **"EQIP"** means the EMS System-wide quality improvement plan and activities stated in the plan submitted by CCCEMSA and approved by the EMSA pursuant to California Code of Regulations, Title 22.
30. **"EMSA"** means the California Emergency Medical Services Authority.
31. **"EMT"** means a person certified to render BLS medical care pursuant to Health and Safety Code section 1797 et seq.
32. **"EOA"** means an exclusive operating area or subarea defined by the County EMS Plan where operations are restricted to one (1) or more Emergency Ambulance Service provider or providers of ALS services pursuant to Health and Safety Code section 1797.224.
33. **"Emergency Response Zone"** or **"ERZ"** means those areas defined by the County EMS Plan that establishes an emergency response zone and which are set forth on Exhibit A (Emergency Response Zones Map) as ERZ A, ERZ B, ERZ C, and ERZ D.
34. **"ePCR"** has the meaning set forth in Section M(6) below.
35. **"ePCR System"** has the meaning set forth in Section M(1) below.
36. **"IHI"** means the Institute of Healthcare Improvement.
37. **"Interim PCR"** means a PCR that has not been completed, but includes patient care findings and a description of pre-hospital treatment that is sufficient to allow the receiving hospital staff to provide patient care continuity.
38. **"KPI"** has the meaning set forth in Section (E)(12) below.
39. **"Medical Health Operational Area Coordinator"** or **"MHOAC"** means the County health officer and the CCCEMSA Director acting jointly as the Medical Health Operational Area Coordinator under California Health and Safety Code section 1797.153 as responsible for ensuring the development of a medical and health disaster plan for the Operational Area.
40. **"MCI"** means a medical emergency incident involving multiple or mass casualties.
41. **"Performance Report"** means a report to be generated by Contractor for CCCEMSA on an annual or monthly basis that details Contractor's activities performed pursuant to this Contract and presents the performance metrics and compliance elements stipulated under this Contract in a format approved by CCCEMSA.
42. **"Paramedic"** means a person licensed and accredited to render ALS medical care pursuant to Health and Safety Code section 1797 et seq.
43. **"PCR"** means a patient care report, the form of which shall be approved by the County Contract Administrator for patient documentation on EMS System responses including all patient contacts, cancelled calls, and non-transports.
44. **"Permitted Ambulance Providers"** means those ambulance provider agencies issued a permit to operate in the County pursuant to Division 48 of the County Ordinance Code.
45. **"PSAP"** means the public safety answering point where 9-1-1 calls are first received for a particular jurisdiction.
46. **"Response Time"** means the interval, in exact minutes and seconds, between the Time Call Received and either the Arrival on Scene Time, or the time of cancellation by an Emergency Medical Dispatch Center.
47. **"Response Time Standards"** has the meaning set forth in Section H(4).
48. **"Service Area"** has the meaning set forth in Section D(1)(a) below.
49. **"Time Call Received"** has the meaning set forth in Section H(6)(b) below.

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50. **"Transport Employees"** means employees of Contractor's Ambulance Subcontractor that provide ambulance transport services.

C. Contractor Subcontracting.

1. Subcontracting. County understands and agrees that Contractor does not have the infrastructure or personnel necessary to directly perform the ambulance services required by this Contract, and that Contractor is concurrently entering into a subcontract with American Medical Response West, a California corporation ("AMR") for the purpose of AMR acting as Contractor's Ambulance Subcontractor to perform emergency ambulance services pursuant to the terms of the subcontract and at Contractor's direction. Contractor's act of entering into a subcontract for the Ambulance Subcontractor's provision of ambulance services required by this Contract is not a breach of this Contract. Notwithstanding Contractor's subcontract with its Ambulance Subcontractor, Contractor is responsible for the performance of its obligations pursuant to the terms of this Contract and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor's subcontract with its Ambulance Subcontractor shall be subject to all of the terms and provisions contained in this Contract. Nothing contained in the Contract or otherwise shall create any contractual relationship between County and Ambulance Subcontractor. Contractor agrees to be fully responsible to County for the acts and omissions of its Ambulance Subcontractor.
2. County Communications. County shall direct all communications regarding Contractor's performance of its obligations under this Contract to an individual designated by Contractor in writing to CCCEMSA ("Contractor's Contact Person"), or a designee within Contractor's organization designated in writing by Contractor's Contact Person; provided, that Contractor's Contact Person may authorize CCCEMSA to contact Ambulance Subcontractor in certain specified situations. The parties shall discuss communications issues as necessary at monthly Collaboration Committee meetings described in Section P(13) below. This provision shall not abrogate or otherwise restrict CCCEMSA's direct communication with Ambulance Subcontractor concerning Ambulance Subcontractor's Transport Employees as required by regulation or law.

D. Scope of Services.

1. Service Activities. Contractor shall provide ambulance services in the County pursuant to all the terms and conditions contained or incorporated herein, and subject to Contractor's proposal dated May 21, 2015, and Contractor's Plan B Proposal dated July 6, 2015 (collectively, "Contractor's Proposal"), which are on file with CCCEMSA located at 1340 Arnold Drive, Suite 126, Martinez, CA and incorporated herein by reference. In the case of any conflict between the provisions of this Contract and the provisions of Contractor's Proposal, the provisions contained in this Contract's Service Plan, Special Conditions, General Conditions, and Exhibits shall prevail. The ambulance services delivered under this Contract shall be provided in accordance with the requirements of California Health and Safety Code sections 1797 et seq., Division 48 of the Contra Costa County Ordinance Code, and all regulations promulgated thereunder, as the same may be amended or superseded. In performing services hereunder, Contractor shall work cooperatively with the County Contract Administrator.

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- a. Scope of Services. Contractor, throughout the term of this Contract and under the general direction of CCCEMSA, shall employ all resources necessary to continuously provide ALS Emergency Ambulance Services as specified under this Contract to the residents and visitors of County twenty-four (24) hours a day, every day, when requested by an Emergency Medical Dispatch Center, in Emergency Response Areas 1, 2 and 5 ("Service Area"). The parties understand and agree that during the term of this Contract, Response Time requirements and deployment of ambulance resources may be adjusted through amendments to this Contract. Contractor will work with CCCEMSA to pilot and implement changes to Response Time requirements, ERZs, and call density designations as necessary for the protection of the public's health and safety as provided in this Contract.
- b. Service Area Exclusivity; Air Ambulance Transport.
 - i. Service Area Exclusivity. During the term of this Contract, CCCEMSA shall not enter into any agreement with any other provider for ground response to emergency or ALS inter-facility ambulance requests within the Service Area, and will not provide such services itself, without the prior written agreement of Contractor.
 - ii. County's Use of Contractor's Services. County shall, except as otherwise provided herein, utilize Contractor exclusively for the provision of all ground ALS Emergency Ambulance Services, and shall refer all 9-1-1 emergency medical calls, including any direct call (seven (7) digit or ten (10) digit phone calls) emergency medical requests received at PSAPs, and prehospital Emergency Ambulance Transports to Contractor within the Service Area. Once County and Contractor have developed an ALS inter-facility transportation services program pursuant to Section D(1)(f) below, County will utilize Contractor exclusively for interfacility ALS transports originating within the County. The provisions of this section shall not preclude the County from utilizing medical mutual aid resources during disasters or MCIs as determined necessary and authorized by the MHOAC. Nor shall this provision preclude County from requiring Contractor to enter into agreements with other qualified ambulance providers for the purpose of backup or mutual aid ambulance service. Any such mutual aid or back up agreements shall be approved in writing by County.
 - iii. Air Ambulance Transport. Notwithstanding the foregoing or any other provision of this Contract, County may enter into separate transport agreements with air ambulance providers and may provide for air transport of patients when such transportation is deemed to be medically in the best interest of a patient. However, no such agreement shall provide for air transport of non-critical patients or of critical patients when a ground ambulance is on-scene and transport time by ground ambulance to the most accessible emergency medical facility equipped, staffed, and prepared to administer care appropriate to the needs of the patient is the same or less than the estimated air transport time.
 - iv. EOA Adjustments. As necessary for public safety, health and welfare to ensure an effective County EMS System, County reserves the right to make adjustments to the EOAs consistent with applicable laws. Any changes in the EOAs shall be subject to County providing written notice to Contractor. Contractor may submit a rate increase request to CCCEMSA for additional expenses created by County's adjustments to the EOAs. Upon verification of additional expenses by the County, approval of rate increase shall not be unreasonably conditioned, delayed or withheld.
- c. Advanced Life Support (ALS) Mandate.

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- i. ALS Ambulance Response. Contractor shall place an ALS ambulance on scene for every request for Emergency Ambulance Services, without interruption, twenty-four (24) hours per day, for the full term of this Contract, unless otherwise authorized by CCCEMSA through an approved Emergency Medical Dispatch Center and resource response program that dictates the level and priority of ambulance response. The foregoing ALS mandate may be suspended by CCCEMSA either directly or by policy/protocol during an MCI or disaster response. Services provided by Contractor shall be provided without regard to the patient's race, color, national origin, religious affiliation, age, sex, sexual orientation, sexual identity, or ability to pay.
 - ii. Penalty. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which Contractor fails to dispatch an Emergency Ambulance to a call originating within the Service Area and no Ambulance responds. CCCEMSA shall conduct an investigation of the incident prior to imposition of a penalty.
 - d. Ambulance Services Accreditation. Throughout the term of this Contract, Contractor shall, or shall require the Ambulance Subcontractor to, maintain accreditation through the Commission on Accreditation of Ambulance Services.
 - e. Ambulance Staffing.
 - i. Subject to Section I (Personnel Standards) below, all Ambulances providing Emergency Ambulance Services under this Contract shall be staffed with a minimum of one (1) Paramedic and one (1) EMT and equipped to provide ALS care. The Ambulance Paramedic shall be the caregiver with ultimate responsibility for all patients.
 - ii. Contractor may send BLS Ambulance units staffed with two (2) EMT's to requests for multi-unit response and to any calls in which an Emergency Medical Dispatch Center determines that a BLS Ambulance response is appropriate according to emergency medical dispatch protocols and policies approved by CCCEMSA.
 - iii. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which a BLS Ambulance responds and transports a patient that required ALS care according to policies approved by CCCEMSA.
 - iv. At Contractor's sole option, the requirement for EMT staffing levels on any or all Ambulance units may be enhanced to higher levels of training without additional obligation of the County.
 - f. ALS Inter-Facility Transportation. Contractor and CCCEMSA shall negotiate in a good faith effort to develop and implement an ALS inter-facility transportation services program within 24 months of the effective date of this Contract.
2. No Prehospital Emergency Medical Services Agreement. This Contract pertains to the provision of emergency ambulance services only. Contractor remains responsible for the provision and administration of first responder prehospital emergency medical services within its fire district.
 3. Integration and Collaboration with the EMS System. Contractor and CCCEMSA shall work collaboratively with PSAPs, public safety partners, other Permitted Ambulance Providers, hospitals and communities in an effort to provide an integrated and coordinated system of readiness, emergency medical response, transport and continuity of patient care. This includes requests from or approved through CCCEMSA for: mutual and automatic aid;

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community education and injury prevention campaigns; work on critical infrastructure; participation in planning activities; support for committees, joint training programs, drills, educational events and conferences; research projects; preparing grant or funding applications; supplying clinical reports and performance data, and continuous QI initiatives.

- a. County shall cause Contractor, as an essential EMS System services provider, to be designated as a ground ALS Emergency Ambulance Service provider under the County's EMS Plan.
 - b. Contractor agrees to provide community service, outreach and education as outlined within Section L (Customer Service and Community Education) below.
 - c. Contractor shall assist other EOA and Non-EOA ambulance service providers and provide mutual aid inside and outside Service Area as requested by CCCEMSA.
 - d. Contractor's automatic aid and mutual aid policies, protocols and operational procedures for deploying and receiving Ambulance resources from within or outside the Service Area are subject to approval by CCCEMSA.
4. Local Infrastructure.
- a. Infrastructure. Contractor shall, or shall require its Ambulance Subcontractor to, provide all necessary operational, clinical, and support service infrastructure within the County to perform the services required under this Contract.
 - b. Dispatch Center. Contractor shall maintain a communications center located within the County for the system status management and dispatch of ALS Emergency Ambulance Services. Contractor's communications center shall utilize a radio and data communications plan approved by CCCEMSA, which digitally integrates Contractor communications and computer aided dispatch (CAD) systems with EMS response partners identified by CCCEMSA in the EMS Plan. The radio and data communications plan shall contain provisions for redundancy to maintain Contractor operations in the event of primary communications systems failure due to any cause.
5. Special Emergency Medical Services. Contractor may provide special EMS programs as approved by CCCEMSA. Examples of special EMS programs include, but are not limited to: event medical services; bicycle EMS services; tactical EMS services; and community paramedic services. Where applicable, such special EMS program services shall conform to established CCCEMSA policies and EMSA guidelines. Contractor's provisions of special EMS programs shall not conflict with or interfere with Contractor's other obligations under this Contract.
6. Compliance with CCCEMSA Protocols, Policies, Procedures and Applicable Laws. Contractor shall, and shall require its Ambulance Subcontractor to, comply with CCCEMSA protocols, policies, procedures, performance standards, and with applicable laws in the provision of all services required by this Contract.
7. Capitalization. Contractor shall, and shall require its Ambulance Subcontractor to, invest in its infrastructure, technology, and equipment to enable Contractor to perform its obligations under this Contract, including operational effectiveness, clinical care, and support services.
8. Disaster Assistance and Response. Contractor shall be actively involved in planning for and responding to MCIs and disasters in the County. Contractor will implement its medical surge plan and deploy ASTs and disaster response efforts as requested by CCCEMSA or

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the Medical Health Operational Area Coordinator. Once an emergency operations plan is activated by the MHOAC in response to a disaster, all Contractor resources and mission tasking shall be coordinated through the MHOAC in support of the emergency operations plan.

- a. Contractor shall designate an individual who will have primary responsibility for disaster preparedness and planning coordination. This individual shall be the primary point of contact between Contractor and CCCEMSA during the performance of an emergency operations plan and for all disaster preparedness and planning coordination. Contractor's disaster coordinator shall attend training courses, meetings, and drills as requested by CCCEMSA, and support the MHOAC to provide adequate ambulance resources are available during MCIs and disasters.

9. Adopting Plan B Option. If either Contractor or CCCEMSA believe that circumstances surrounding the EMS System are preventing the efficient and financially viable delivery of Emergency Ambulance Services under the current terms of this Contract, either party may propose amendments to this Contract to adopt one or more of the options presented in Plan B of Contractor's Proposal. The proposed changes to the Contract and the potential impacts will be discussed by both parties prior to presentation to either party's board.

E. Clinical Performance Standards.

1. Continuous Quality Improvement (CQI) Program.

- a. Contractor shall cooperate with CCCEMSA to implement improvements and enhancements of the EMS System in an effort to provide residents of, and visitors to, the County the highest quality emergency medical transportation services and associated emergency medical care. Contractor shall, and shall require its Ambulance Subcontractor to, participate, as reasonably requested by CCCEMSA, in achieving the goals set forth in the County EMS Plan and the EQIP. As determined by CCCEMSA, this shall include implementing and conducting all services described under this Contract in a manner that seeks clinical performance excellence combined with innovative strategies and technology that optimize delivery of high quality out-of-hospital medical care, community service and service accountability. Contractor will provide CCCEMSA with a clinical education program that achieves contemporary benchmarks of clinical excellence in a progressive and sustainable fashion. Contractor's CQI programs and activities must be reviewed by the CCCEMSA Medical Director and approved by CCCEMSA. All programs and activities shall be conducted in accordance with CCCEMSA prehospital care policies. Contractor shall not permit its Ambulance Subcontractor to modify its approved CQI program without prior approval by CCCEMSA Medical Director and the County Contract Administrator. The CQI program must encompass the sum of all activities undertaken by all Transport Employees to maintain the standard of care established for those services.
- i. Contractor and CCCEMSA shall cooperate to develop Annual System Improvement and Enhancement Goals and reports consistent with the priorities established in the County EMS System Plan and EQIP. Contractor's achievement of its annual goals, as evidenced by results demonstrated in the annual performance report, will be considered as part of County's optional extension of this Contract under Section Q(17) below.

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- b. Contractor shall require its Ambulance Subcontractor to work with CCCEMSA to develop and implement a CQI program plan that is designed to deliver optimal patient care and effective operations for all services provided under this Contract.
2. Quality Improvement Processes.
 - a. Contractor shall require the Ambulance Subcontractor's CQI program to provide an organized, coordinated, multidisciplinary approach to the assessment of pre-hospital emergency medical response and patient care. QI processes shall be utilized to improve outcome oriented patient care and facilitate related continuing education. Contractor's CQI program will be implemented and refined with input, approval, and oversight of CCCEMSA and the CCCEMSA Medical Director.
 - b. Contractor's medical director and CQI staff shall interact and collaborate with the CCCEMSA Medical Director and CCCEMSA staff.
3. Medical Control.
 - a. CCCEMSA shall oversee medical services provided by Contractor under this Contract. Prospective and on-line medical control of EMT and Paramedic personnel shall be according to the policies and procedures established by the CCCEMSA Medical Director. Retrospective medical control shall be provided according to the standards set forth by the CCCEMSA Medical Director through CQI programs, including continuing education programs conducted cooperatively by Contractor, CCCEMSA, partner pre-hospital provider agencies, and the Base Hospital.
 - b. CCCEMSA may investigate aspects of Contractor's operation relevant to its delivery of patient care services to ensure they are performed in a safe and reliable manner. Accordingly, Contractor shall, and shall require its Ambulance Subcontractor to, provide, in a timely manner, all records, information, and reports reasonably requested by the CCCEMSA Medical Director, or designee, to evaluate the emergency medical services provided by Contractor under this Contract.
4. Medical Reviews and Audits.
 - a. Contractor acknowledges that medical reviews and audits are a critical function of an effective medical quality assurance and improvement program.
 - i. Contractor shall require its Ambulance Subcontractor to work cooperatively with CCCEMSA, the CCCEMSA Medical Director, the Base Hospital, and other EMS System partners to identify and support activities that provide case-based learning and feedback to Transport Employees.
 - ii. Contractor shall, and shall require its Ambulance Subcontractor to, cooperate with requests by the CCCEMSA Medical Director, or designee, for employee attendance at medical reviews or audits.
5. Incident Review and Investigations.
 - a. Contractor shall, and shall require its Ambulance Subcontractor to, provide reasonable cooperation and information requested by CCCEMSA relative to incidents and inquiries and will make involved personnel available for interview by CCCEMSA staff in a timely manner.
 - i. Contractor's supervisory and management personnel will assist CCCEMSA with incident investigations and disciplinary activities as requested by CCCEMSA.

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- ii. Contractor shall, and shall require its Ambulance Subcontractor to, make its employees available for investigational interviews as necessary.
 - iii. To the greatest extent possible, incident investigations are to be scheduled in advance for the convenience of Transport Employees. Contractor shall require its Ambulance Subcontractor to arrange schedule changes, if necessary, to make incident review or investigation more convenient. CCCEMSA shall work with Contractor and its Ambulance Subcontractor in an effort to avoid unnecessarily altering procedures and processes that are already in place in Contractor's organization.
 - b. Contractor will respond to CCCEMSA requests for information within the time frames included in the information request. This shall include PCR's, supplemental patient information, CAD records, incident narratives and reports, inventory ordering, receipt and control documentation, fleet maintenance records, critical failure reports, safety reports, and any other information or records required by CCCEMSA to fully complete thorough reviews and investigations related to any services provided under this Contract.
 - c. Contractor shall require its Ambulance Subcontractor to foster a culture that is designed to rectify clinical mistakes and emphasize lessons learned for the benefit of the patient and caregivers (e.g., Just Culture). In this model, caregivers are taught to recognize that mistakes are made and feel able to report these mistakes and have them remedied in a non-punitive setting.
 - d. Contractor shall notify CCCEMSA of the occurrence of any and all incidents, as defined in the criteria, policies, and procedures established by CCCEMSA.
6. Field Treatment Guide Production.
- a. CCCEMSA has made an electronic version of its field treatment guide available to the public at no cost through an iOS and Android application. CCCEMSA will update and maintain all policies, treatment guidelines, procedures, and other field care related information in the application as necessary. CCCEMSA will also make available a current electronic copy of the field treatment guide upon request at no cost.
 - b. Contractor shall be financially responsible for the production of CCCEMSA Field Treatment Guide manuals at its cost should Contractor choose to print manuals for Transport Employees.
7. Clinical Education and Training. Contractor shall require its Ambulance Subcontractor to develop and implement a clinical education and training program that is consistent with the CCCEMSA EQIP, and which shall be approved by CCCEMSA. Contractor's clinical education and training program will include new employee orientation, continuing education at no cost to participants, and a Field Training Officer program as described in Section F(3) below for pre/post accreditation paramedics. Contractor shall, and shall require its Ambulance Subcontractor to, become a continuing education provider as described in California Code of Regulations, Title 22, Division 9, Chapter 11, and maintain its status as a continuing education provider during the term of this Contract.
8. Clinical Quality Improvement Program Staff Commitment. Contractor shall provide CQI staff to coordinate and provide Contractor's CQI activities. Required CQI staff and responsibilities include:

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- a. Chief Medical Advisor. Contractor shall retain a California licensed physician as its chief medical advisor who shall be vested with sufficient authority to establish and enforce internal standards of excellence for the medical care provided by Contractor. Contractor's chief medical advisor shall serve as the primary liaison between Contractor and the CCCEMSA Medical Director for medical issues.
 - i. Contractor's chief medical advisor shall perform services for Contractor as reasonably necessary to fulfill the duties required under this Contract and shall be identified in Contractor's organizational structure.
 - ii. Contractor's chief medical advisor shall be provided with sufficient support, including staff, to effectively oversee the medical components of the approved CQI and clinical education and training programs.
 - iii. Contractor's chief medical advisor shall cooperate and collaborate with the CCCEMSA Medical Director to develop and implement policies, protocols and procedures that strive to achieve optimal patient outcomes.
- b. Associate Medical Advisor. Contractor shall require its Ambulance Subcontractor to retain a California licensed physician as an associate medical advisor to support its chief medical advisor in his/her responsibilities.
- c. CES Director. Contractor shall require its Ambulance Subcontractor to employ and maintain a Regional Clinical and Educational Services (CES) Director who will provide oversight and management of KPIs and ongoing organization-wide quality management programs.
- d. CES Manager. Contractor shall require its Ambulance Subcontractor to employ and maintain a minimum of one (1) full-time CES Manager, with specialized training and experience in quality improvement to implement and oversee Contractor's ongoing quality management program. The CES Manager shall be responsible for coordination of all clinical review activities, developing and supporting a comprehensive orientation academy for new employees, and managing Contractors internal and system-integrated CQI activities.
 - i. The CES Manager shall be currently licensed in California as a Paramedic or registered nurse and be based in Contra Costa County.
- e. CES Coordinator. Contractor shall require its Ambulance Subcontractor to employ and maintain a minimum of one (1) full-time CES Coordinator who will be responsible for the medical quality assurance evaluation of all services provided pursuant to this Contract.
 - i. The CES Coordinator shall be currently licensed in California as a Paramedic or registered nurse and based in Contra Costa County.
 - ii. It is preferable but not mandatory that at least one (1) CES Manager or one (1) CES Coordinator position be filled by a licensed California registered nurse.
- f. EMS Epidemiologist / Clinical Data Analyst. Contractor shall employ and maintain a minimum of one (1) full-time Clinical EMS Epidemiologist / Clinical Data Analyst, who shall be made available to work directly with CCCEMSA and the EMS Medical Director to gather, analyze, and report EMS System wide clinical performance data as specified by the County. The Clinical EMS Epidemiologist / Clinical Data Analyst shall evaluate PCRs.
 - i. The EMS Epidemiologist/ Clinical Data Analyst shall attain the Structured Query Language (SQL) Developer competency level.
 - ii. The Clinical EMS Epidemiologist / Clinical Data Analyst shall be based in Contra Costa County.

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- g. Contractor shall make available a minimum of eighty (80) compensated hours per month for designated field employees to participate in CQI activities.
9. IHI Certificate of Patient Safety, Quality and Leadership. Contractor shall require its Ambulance Subcontractor's quality and clinical personnel to complete an IHI Open School online certificate program in Patient Safety, Quality, and Leadership within eighteen (18) months of the effective date of this Contract or of employee hire.
10. Integrated Quality Leadership Council (QLC). Contractor shall require its Ambulance Subcontractor to work with CCCEMSA to implement and coordinate an integrated quality leadership council to identify, evaluate, and recommend solutions to common issues related to an integrated EMS response. The QLC shall include Contractor and representatives from fire agencies providing paramedic service within Contractor's Service Area.
11. Coordination of Data Gathering and Quality Improvement Efforts.
- a. Contractor shall require its Ambulance Subcontractor to support implementation of a technological tool that will fully integrate electronic records and alignment of data sets EMS system wide, in cooperation with CCCEMSA and fire services. A fully implemented tool will be capable of the following within the Service Area:
 - i. Allow for quantitative reporting of overall clinical performance, which can be tied to providing integrated EMS System patient care solutions, training and community prevention, meaningful data comparison and greater collaborative research opportunities.
 - ii. Provide real-time data to fire agencies for use in fire CQI activities.
 - iii. Contractor shall reasonably cooperate with CCCEMSA on all data initiatives used to support clinical care and QI.
12. Clinical and Operational Benchmarking and Research.
- a. Key Performance Indicators and Benchmarks. Contractor shall require its Ambulance Subcontractor to use key performance indicators (as detailed below, "KPIs") as tools for measuring Contractor's performance under this Contract. In addition Contractor shall identify benchmarks and other QI tools to evaluate and set goals for improving the clinical and non-clinical performance of Contractor's personnel. Contractor shall provide County with periodic reports detailing its KPI and benchmarks progress according to a schedule approved by the County Contract Administrator.
 - b. Non-Clinical KPIs. Contractor shall require its Ambulance Subcontractor's non-clinical KPIs to include at least the following:
 - i. Customer satisfaction KPIs
 - ii. Human Resources/Employee satisfaction KPIs:
 - A. Shift holdovers per week
 - B. Employee turnover rate
 - C. Turnover factors/employee satisfaction
 - iii. Community health partnership KPIs:
 - A. 9-1-1 calls for patient conditions targeted in community health awareness programs, which include:
 - x. Elderly falls
 - y. STEMI transports
 - z. Early onset stroke transports

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- B. Number of community health improvement activities
 - x. Home inspections
 - y. Fall prevention for seniors
 - z. Track annual fire injuries/fatalities
- iv. Fleet KPIs:
 - A. Critical vehicle failures per 100,000 miles
 - B. Preventative maintenance cycles
- v. Safety KPIs:
 - A. Employee injuries per 10,000 payroll hours
 - B. Vehicle collisions per 100,000 miles travelled
 - C. Types of injury events
 - D. Types of auto events
- vi. Unusual occurrences and complaints KPIs
- vii. Financial stability KPIs:
 - A. Unit hour utilization ratio
 - B. Net revenue per transport
- viii. Response time performance by zone, priority, and county-wide
- ix. Complaint management
- x. Use of mutual aid
- xi. Safety
- c. Clinical KPIs. Contractor shall require its Ambulance Subcontractor's clinical KPIs to include at least the following:
 - A. Presumptive impressions at dispatch compared to field intervention
 - B. Scene time and total prehospital time for time dependent clinical conditions like Acute Coronary Syndrome (ACS), stroke, and major trauma
 - C. Cardiac arrest survival in accordance with Utstein protocols
 - D. Fractal measurement of time to first defibrillation
 - E. Compliance with protocols, procedures, timelines, and destinations for ST-Elevation Myocardial Infarction (STEMI) patients
 - F. Compliance with protocols, procedures, and timelines for patients with pulmonary edema and congestive heart failure (CHF)
 - G. Compliance with protocols, procedures, and timelines for patients with asthma or seizures
 - H. Compliance with protocols, procedures, and timelines for patients with cardiac arrest
 - I. Compliance with protocols, procedures, and timelines and destinations for systems of care patients (e.g. trauma, STEMI, stroke, and cardiac arrest)
 - J. Compliance with protocols, procedures, and timelines for assessment of pain relief
 - K. Analysis of high risk, low frequency clinical performance issues and strategies to support competent care
 - L. Successful airway management rate by entire system, provider type, and individual, including EtCO2 detection
 - M. Successful IV application rate by entire system, provider type, and individual
 - N. Paramedic skill retention
- d. Provide data developed through Contractor's CQI process to CCCEMSA for use in evaluating EMS System performance and in setting system improvement goals.
- e. Incorporate any CCCEMSA approved benchmarking tools identified during the term of this Contract into Contractor's CQI process.

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13. Medical Committee Participation. Contractor shall participate in all medical committees, work groups and task forces as requested by CCCEMSA.
14. Medical Research.
- a. Contractor shall, and shall require its Ambulance Subcontractor to, collaborate with CCCEMSA and the CCCEMSA Medical Director to develop pilot programs and research projects. Any costs to be incurred by the parties in connection with pilot programs or research projects will be agreed upon at the Collaboration Committee meetings. Any proposed pilot program and research project must be approved in writing by the CCCEMSA Medical Director before being undertaken.
 - b. If the requirements of a pilot program or research project conflict with Contractor's performance obligations under this Contract, the County Contract Administrator may temporarily suspend Contractor's conflicting performance obligations for the purpose of the pilot program or research project.
 - c. Except as set forth in subsection (b) above, Contractor agrees that Contractor's services provided under pilot programs and research projects are in addition to the other services it performs under this Contract.
15. Patient Satisfaction Program. Contractor shall develop and implement, upon approval by CCCEMSA, a comprehensive patient satisfaction program ("PSP") that focuses on services provided to patients in the County EMS System. The PSP shall contain quantitative and qualitative assessment mechanisms that will enable CCCEMSA to validate and benchmark patient feedback on the quality of services they were provided by Contractor.
16. CQI Program Administration. If there are complaints or concerns regarding the performance of any key CQI personnel during the term of this Contract, Contractor shall, and shall require its Ambulance Subcontractor to, cooperate in good faith with CCCEMSA in addressing and resolving such concerns. Any issues arising in the performance or administration of the CQI program will be addressed by Contractor, Ambulance Subcontractor and CCCEMSA through the dispute resolution process set forth in Section P(13).
17. Cardiac Arrest Performance Reporting System. Contractor shall work collaboratively with CCCEMSA to strive to increase pre-hospital provider cardiopulmonary resuscitation (CPR) performance by supporting the existing CPR performance reporting system (e.g., CodeStat). No later than January 1, 2017, Contractor shall require its Ambulance Subcontractor to timely and consistently annotate all applicable cardiac arrest reports received through the CPR performance reporting system.
18. Against Medical Advice Protocol.
- a. Protocol Development. Contractor, Ambulance Subcontractor and County will cooperate to develop an Against Medical Advice (AMA) protocol, which shall be implemented and followed by Transport Employees beginning no later than January 1, 2017.
 - b. Penalties. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for a Transport Employee's failure to document an AMA according to the requirements established in the AMA protocol.

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F. Standards of Care.

1. Patient Care Goal. Contractor and CCCEMSA shall cooperate and collaborate to develop, implement, and continuously improve clinical standards of care that optimize patient outcomes. Contractor further agrees to continuously maintain optimal effort to improve core indicators of quality service as established by CCCEMSA with the goal to consistently provide excellent patient care and patient satisfaction.
2. Continuous Quality Improvement (CQI) Program Plan. Contractor shall, and shall require its Ambulance Subcontractor to, work with CCCEMSA to develop and implement, upon approval by CCCEMSA, a CQI program plan that seeks optimal patient care and effective operations for all services provided under this Contract. The CQI program plan shall:
 - a. Be in compliance with California Code of Regulations, Title 22, Division 9, Chapter 12, associated state guidelines, National Association of EMS Officials guidelines, and the CCCEMSA EMS Quality Improvement Plan.
 - b. Utilize practices that promote integration and collaboration for clinical excellence with all EMS System participants, including:
 - i. Data collection and analysis
 - ii. Real-time and retrospective patient care record audits conducted by Field Training Officers
 - iii. Observation and evaluation of clinical care performed by supervisors and management staff
 - c. Establish and maintain a sufficient organizational structure within Contractor's operation that supports effective clinical oversight and execution of the plan.
 - d. Contain provisions to continuously monitor, evaluate, and report core performance, process, and patient outcome indicators as established by CCCEMSA.
 - e. Establish and maintain clinical metric score cards for Contractor's EMTs and paramedics that shall include, but are not limited to the following:
 - i. Safe and effective maintenance of airway and ventilation
 - A. Shall include each employee's basic and advanced airway success rates and number of attempts of each
 - ii. Reduction of pain and discomfort
 - A. Shall include each employee's mean patient pain and discomfort rating before and after intervention. For paramedics, a usage percentage of controlled substances for pain management
 - iii. Relief of respiratory distress
 - A. Shall include each employee's mean respiratory distress rating before and after intervention
 - iv. Cardiac arrest resuscitation - shall include the total number of cardiac arrest patients for each employee, and include the following:
 - A. Percentage of return of spontaneous circulation
 - B. Number of patients transported to a hospital with return of spontaneous circulation
 - C. Chest compression rate accuracy
 - D. Mean time between rounds of chest compressions
 - E. Percentage of cardiac arrests defibrillated
 - F. Percentage of cardiac arrest patients who were treated with epinephrine
 - G. Percentage of cardiac arrest patients treated with amiodarone
 - H. Percentage of cardiac arrest patients treated with sodium bicarbonate

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- I. Percentage of patients who received EtCO₂ monitoring
- J. Percentage of vascular access devices (e.g. IV and IO) and placement location
- K. The number of field pronouncements.
- v. Recognition and care of ischemic syndromes - shall include the total number of suspected STEMI patients identified for each Transport Employee, and include the following:
 - A. Percentage of 12-Lead ECG's obtained calculated against total number of STEMI patients
 - B. Mean 12-Lead ECG transmit time calculated from time arrived at patient's side to time of 12-Lead ECG transmission
 - C. Percentage of suspected STEMI patients treated with aspirin
 - D. Percentage of suspected STEMI patients treated with nitroglycerin
 - E. Percentage of suspected STEMI patients treated with controlled substances for pain management
 - F. Percentage of suspected STEMI patients treated with oxygen
 - G. Percentage of suspected STEMI patients who received an IV
 - H. Mean scene time for suspected STEMI patients calculated from time arrived at patient's side to time of transport
- vi. Shall include the total number of suspected stroke patients identified by each Transport Employee, and include the following:
 - A. Percentage of suspected stroke patients who had a documented GCS
 - B. Percentage of suspected stroke patients who had a documented blood glucose value
 - C. Percentage of suspected stroke patients who had a documented Cincinnati Stroke Scale / LAMS evaluation
 - D. Percentage of suspected stroke patients treated with oxygen
 - E. Percentage of suspected stroke patients who received an IV
 - F. Mean scene time for suspected stroke patients calculated from time arrived at patient's side to time of transport
- vii. Effective and timely trauma care - shall include the total number of suspected trauma patients identified by each employee, and include the following:
 - A. Percentage of blunt trauma patients
 - B. Percentage of penetrating trauma patients
 - C. Percentage of trauma activations
 - D. Percentage of trauma patients transported to a trauma center
 - E. Percentage of trauma patients transported to a non-trauma hospital
 - F. Percentage of adult trauma patients
 - G. Percentage of pediatric trauma patients
 - H. Percentage of trauma patients who received an IV/IO
 - I. Total number of field pronouncements of traumatic arrest
 - J. Mean scene time for trauma patients calculated from time arrived at patient's side to time of transport
- viii. Ensuring safe patient care and transportation - shall include the total number of patients attended to by each employee calculated by the number of patient care records where each employee was listed as the primary patient care provider, and include the total number of patient injuries that occurred as a result of unsafe care, equipment failure, or vehicle collisions.
- f. In addition to the provision of medical care, include the following areas:

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- i. Customer-Patient Satisfaction
- ii. Accountability for patient belongings
- iii. Injury/Illness Prevention
- iv. Community Education
- v. Human Resources
- vi. Safety
- vii. Fleet, Equipment Performance and Materials Management
- viii. Unusual Occurrences, Incidents, and Complaint Management
- ix. Leadership
- x. Communications (Deployment, System Status Management and Dispatching)
- xi. Risk Management
- g. Demonstrate progressive quality improvement results evidenced by annual written updates to CCCEMSA on the effectiveness of the plan and summary of activities conducted under the plan.
- h. Include procedures to provide an Interim PCR or a completed ePCR for each patient response utilizing the CCCEMSA approved data system, and for delivery of the Interim PCR or ePCR to the receiving hospital in a timely manner.
- i. Include linkages to continuing education programs.
- j. Include action planning to improve performance based upon core indicators as established by CCCEMSA.

3. Field Training Officer (Train-the-Trainer) Program.

- a. Contractor shall require its Ambulance Subcontractor to develop and implement a comprehensive Field Training Officer (FTO) Program subject to approval by CCCEMSA. The FTO program shall, at a minimum, include:
 - i. An outline of the responsibilities of the FTO and new hire ambulance employees.
 - ii. Establishing minimum and maximum number of shifts or hours required for each new hire ambulance employee to complete during FTO evaluation.
 - iii. Establishing a clearly defined pathway for remediation of deficiencies discovered during the field evaluation process.
 - iv. Using standardized evaluation forms for all new hire ambulance employees
 - v. Utilize industry best practices that promote a friendly and cooperative learning environment.
 - vi. Ensuring new hire ambulance employees are afforded time with a FTO prior to working on an ambulance alone.
 - vii. Utilize the education and personnel management process described in Section E(5)(c) above.
 - viii. Ensuring that Contractor has sufficient number of qualified FTOs to support execution of the CQI plan, Contractor and CCCEMSA education and training programs, and other duties on behalf of Contractor.
 - ix. Incorporate an evaluation method for both FTO of new hire ambulance employee and new hire ambulance employee of the FTO.

G. Clinical Education Training. Contractor shall require its Ambulance Subcontractor to develop and implement, upon approval by CCCEMSA, a clinical education and training program that utilizes contemporary performance-based methods and processes. The clinical education and training program shall be linked to the Ambulance Subcontractor's CQI program plan, and be

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consistent with the CCCEMSA EQIP. The clinical education and training program shall include elements as outlined below:

1. Comprehensive and Integrated Training Programs. Contractor shall require its Ambulance Subcontractor to have a comprehensive training and education program for Ambulance Subcontractor's paramedics, EMTs, management, and support staff. Training and education classes shall be open to all Ambulance Subcontractor employees. Contractor is responsible for the training programs, but the programs shall adhere to CCCEMSA requirements and be developed collaboratively with CCCEMSA, hospitals, educational institutions, and other system partners.

2. Clinical Education Services. Contractor shall provide CCCEMSA with its Ambulance Subcontractor's Clinical and Educational Services (CES) organization schematic for approval. Contractor shall require that Ambulance Subcontractor's CES organization identify sufficient qualified personnel to provide that all education and training requirements as stated in this Contract are implemented and maintained.

3. Training Program Components.
 - a. Contractor shall require that all new Transport Employees complete an orientation that is designed to prepare them to be fully functioning EMTs or Paramedics in the County. The orientation program shall be approved by CCCEMSA and will include, but not be limited to:
 - i. Contra Costa EMS System overview
 - ii. A review of all relevant CCCEMSA plans, programs, policies, protocols, and procedures as appropriate for the individual's level of credentialing and job duties
 - iii. Customer service expectations and cultural awareness and sensitivity education
 - iv. Demonstration of skills proficiency in optional and infrequent skills as identified in CCCEMSA policies, protocols, procedures, performance standards, and EQIP (This may be approved as a component of field evaluation and training)
 - v. Geography and map reading skills training including key landmarks, routes to hospitals, and other major receiving facilities within Contra Costa County and surrounding areas
 - vi. Hospital receiving centers, trauma centers, and specialty care centers including designated patient catchment areas
 - vii. Radio communications with and between the ambulance, Base Hospital, receiving hospitals, county communications centers, and emergency operations frequencies
 - viii. Contractor's policies and procedures
 - ix. Emergency vehicle operations course (EVOC)
 - x. Clinical quality improvement (CQI) plan
 - xi. Human resources, benefits, payroll, and scheduling overview and training
 - xii. Corporate and/or department compliance policies
 - xiii. OSHA/Federal Laws and Regulations
 - xiv. Dementia and elderly citizen training
 - xv. Workplace health and safety
 - xvi. Illness/Injury Prevention
 - xvii. Infection Control and personal protective equipment use

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- xviii. Violence in the workplace
- xix. Diversity in the workplace
- xx. Harassment-free workplace
- xxi. Medical and legal guidelines
- xxii. Assaultive behavior management training
- xxiii. Performance improvement
- xxiv. Billing and reimbursement processes
- xxv. Professionalism
- xxvi. Back safety
- xxvii. Critical incident stress management
- xxviii. Patient care record system training and documentation standards
- xxix. Trauma triage
- xxx. Mobile data terminal instruction and communication
- xxxi. Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health (HITECH) Act confidentiality and regulation
- xxxii. Hazardous materials (first responder awareness level)
- xxxiii. MCIs
- xxxiv. Gurney operations
- xxxv. Ambulance utilization and system status training
- xxxvi. Cultural competence and linguistic access
- xxxvii. Medical equipment familiarization, maintenance, user competency, and critical failure reporting
- xxxviii. Code of conduct
- xxxix. Field training program and new employee expectations
- xl. Tuberculosis screening and Hepatitis B immunization
- xli. Vehicle maintenance, including mandatory daily vehicle check
- xlii. Hazardous material and communications and weapons of mass destruction
- xliii. Patient focused care and advocacy
- b. Contractor shall require its Ambulance Subcontractor to provide refresher training for each of the topics listed above to all Transport Employees as required by law.
- c. Contractor shall require its Ambulance Subcontractor's general training and education programs to be made available to all EMS System stakeholders.

4. EMT Education and Training Requirements.

- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for EMTs include:
 - i. EMT skills competency (i.e. skills competency verification for EMT recertification)
 - ii. Incident Command System ("ICS") 100, 200 and 700, 800 must be completed within three (3) months of hire
 - iii. Infrequent Skills Lab: annual hands-on experience demonstrating proficiency in skills as defined by the EQIP;
 - iv. Annual CCCEMSA policy, protocol, and procedures updates
 - v. Annual training courses/offers as identified by the CCCEMSA Medical Director, Contractor Medical Advisor, or CES Manager through CQI activities.
 - vi. 9-1-1 ambulance/paramedic partner training

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- vii. Mandatory Contractor-based training no less than four (4) hours each between two (2) and four (4) times per year
- viii. Annual attendance of two (2) hours of disaster training
- ix. Annual attendance of an additional two (2) hours of disaster training focused on interoperability with fire and law enforcement
- x. Annual attendance of a Communications Center evacuation drill
- xi. Prior to working on a 9-1-1 ambulance with a Paramedic partner, EMTs will complete Contractor's competency based Paramedic Partner curriculum. This consists of a didactic curriculum and field training/evaluation to be submitted to CCCEMSA as part of Contractor's CQI plan. Following the didactic education, EMTs will be assigned to an ambulance with an authorized field training officer and complete a skills evaluation prior to being assigned to work one-on-one with a paramedic partner.

5. Paramedic Education and Training Requirements.

- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for paramedics include:
 - i. ICS 100, 200 and 700, 800 must be completed within three (3) months of hire
 - ii. Infrequent Skills Lab: annual hands-on experience demonstrating proficiency on low-frequency, high-risk skills as defined by the EQIP;
 - iii. Annual CCCEMSA policy, protocol and procedure updates
 - iv. Attendance at a minimum of one (1) Base Hospital (BH) tape review meeting per year
 - v. Annual attendance of two (2) hours of disaster training
 - vi. Annual attendance of an additional two (2) hours of disaster training focused on interoperability with fire and law enforcement
 - vii. Annual attendance of a Communications Center evacuation drill
 - viii. Annual training courses/offers as identified by the CCCEMSA Medical Director, Contractor Medical Advisor or CES Manager through CQI activities
 - ix. All new paramedics will complete the field evaluation program prior to being placed on a field shift to work with an EMT partner. The field evaluation program shall require that the new paramedic function under the direct supervision of a CCCEMSA approved FTO during the evaluation period. The field evaluation program shall be in compliance with CCCEMSA policies and submitted as a part of Contractor's CQI plan.

6. Supervisor Education and Training Requirements.

- a. Contractor shall, and shall require its Ambulance Subcontractor to, collaborate with CCCEMSA to develop and implement a comprehensive field supervisor program that includes field operations guidelines and policies to be followed by Transport Employee supervisors. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for Transport Employee supervisors include:
 - i. Applicable training and education requirements for the supervisor's level of certification.
 - ii. Attend at least one (1) disaster exercise and two (2) hours of disaster training annually.

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7. Management and Key Support Staff Training and Education Requirements.

- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for management and key support staff include:
- i. Applicable training and education requirements for the manager or support staff's level of certification.
 - ii. National Incident Management System (NIMS) training, to include at a minimum Independent Study, 100, 200, 300, 400, 700, and 800.
 - iii. Completion of an IHI certificate program focused on patient safety, quality, and leadership by June 30, 2017, for existing personnel and within eighteen (18) months of hire for new employees. IHI guidelines will be incorporated into the execution of the clinical quality improvement (CQI) plan, training, and education.

8. Quality and Clinical Supervisory Staff

- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for Quality and Clinical Supervisory staff include:
- i. Applicable training and education requirements for the quality and clinical supervisory staff's level of certification.
 - ii. Completion of an IHI certificate program focused on patient safety, quality, and leadership by June 30, 2017, for existing personnel and within eighteen (18) months of hire for new employees. IHI guidelines will be incorporated into the execution of the CQI plan, training, and education.

9. Driver Training and Safety

- a. All employees that operate emergency vehicles shall complete the following:
- i. All persons driving an ambulance or support emergency response vehicle (ERV) providing service under this Contract shall have successfully completed Contractor's 16-hour driver training program which is consistent with the Emergency Vehicle Operator Course (EVOC) curriculum of the U.S. Department of Transportation, but will include:
 - A. California state vehicle codes pertaining to emergency vehicle operation
 - B. Case studies of emergency vehicle collisions and litigation
 - C. Vehicle characteristics
 - D. Defensive driving
 - E. Placement of vehicles at emergency incidents
 - F. Driving policies and procedures
 - G. Collision avoidance – split-second classroom simulations and decision-making drills behind the wheel of potential collision conditions
 - H. Controlled speed – line-of-entry, hand positioning on the steering wheel, apexing, vehicle dynamics, and braking techniques
 - I. Precision maneuvering – behind the wheel drills that include parallel parking, off-set lanes, three-point turnaround, backing in and out of parking stalls, and serpentine
 - J. Training on all of Contractor's vehicle safety policies
 - K. Mapping, Navigation and Area Familiarization Training.

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- ii. Contractor will subscribe to the California Department of Motor Vehicles' "Pull Notice" Program which tracks employee infractions of the California Vehicle Code.
 - iii. Contractor shall have a driver acceptability policy that establishes eligibility criteria for individuals to whom Contractor extends the privilege of emergency vehicle operation.
 - iv. Contractor will provide remedial driver training to employees who have been involved in a preventable collision or who have been identified as needing to improve their ambulance driving skills.
10. Infection Control Training. Contractor shall require its Ambulance Subcontractor to implement an expanded infection control program focused on decreasing cross-contamination among patients and protecting employees from infections, as outlined in the Ambulance Subcontractor's California Occupational Safety and Health Exposure Control Plan. Every Transport Employee shall receive training during new hire orientation on infection control, including how to use personal protective equipment as well as practices to reduce cross-contamination between themselves and patients and patient-to-patient. Ongoing practices and education, at a minimum, will include:
- a. Infection control training (airborne and blood borne)
 - b. Cleaning, disinfection, and disposal
 - c. Sharps exposure prevention
 - d. Personal protective equipment
 - e. Post-exposure management
 - f. Respiratory protection program, including Cal OSHA 5199 Aerosol Transmissible Disease standard, that includes annual respirator fit testing
 - g. Annual Tuberculosis testing at no cost to the employee
 - h. Employee vaccinations including Hepatitis B and general influenza at no cost to the employee.
11. On-Going Evaluation of Training Programs. Contractor shall require its Ambulance Subcontractor to continuously evaluate the effectiveness of the training programs required under this Contract. At the monthly Collaboration Committee meetings, Contractor and the Ambulance Subcontractor shall update CCCEMSA on current revisions to the training programs required under this Contract, and shall provide an annual summary of training program evaluations.
12. Quality Improvement Hotline. Contractor shall establish an ambulance service quality improvement telephone number (the "QI Hotline") giving customers and EMS System participants the ability to leave commendations or suggestions for service improvements on a voice mailbox. Contractor shall publicize the QI Hotline telephone number at local healthcare facilities, first responder stations, and public safety agencies. Members of Contractor's QI/Leadership Team are to be automatically notified of any incoming calls to the QI Hotline. Incidents that require feedback are to be attended to by the end of the next business day.
13. Diversity Awareness. Contractor shall require its Ambulance Subcontractor to adopt and enforce policies and practices to deliver equal employment opportunity. Contractor shall require its Ambulance Subcontractor to participate along with CCCEMSA in the development of a cultural-competency training program and materials for emergency

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responders. Contractor shall require its Ambulance Subcontractor to recruit and employ employees that possess culturally appropriate skills when interacting with the diverse County population.

H. Operations Performance Standards.

1. Emergency Response Zones (ERZ's). For the purposes of Ambulance staffing, Response Time monitoring, reporting, and compliance, the Service Area has been divided into four (4) ERZ's. Exhibit A (Emergency Response Zones Map), attached hereto and incorporated herein by this reference, illustrates the following ERZs:
 - a. ERZ A: The territory of the City of Richmond.
 - b. ERZ B: The territories of the City of El Cerrito, Kensington Fire Protection District, City of Pinole, Rodeo-Hercules Fire Protection District, Crockett-Carquinez Fire Protection District, and that portion of the Contra Costa County Fire Protection District covering San Pablo, El Sobrante, North Richmond, and other areas of western Contra Costa County.
 - c. ERZ C: That portion of the territory of Contra Costa County Fire Protection District covering Walnut Creek, Concord, Clayton, Lafayette, Martinez, Pleasant Hill, and other areas of central Contra Costa County.
 - d. ERZ D: That portion of the territory of Contra Costa County Fire Protection District covering Antioch, Pittsburg, Bay Point, and unincorporated areas of east Contra Costa County served by Contra Costa County Fire Protection District, and the territory of East Contra Costa County Fire Protection District covering Oakley, Brentwood, and the unincorporated area of East Contra Costa County Fire Protection District.
2. Response Density Zones. For the purposes of Response Time monitoring, reporting, and compliance, the Service Area has also been divided into two (2) Response Density Zones – High Density and Low Density as shown on Exhibit B (Response Density Map), attached hereto and incorporated herein by this reference. Upon Contractor's request, County shall provide this information as a map layer for use with geographic information systems (GIS).
3. Primary Response to Isolated Peripheral Areas. Contractor shall make a good faith effort to execute a satisfactory mutual aid agreement with agencies responding from a neighboring jurisdiction to support the response of the nearest appropriate unit to a request for ambulance response. CCCEMSA will approve an appropriately structured agreement to use the closer ambulance.
4. Response Time Performance Standards. Contractor shall require its Ambulance Subcontractor's Response Time on each request for paramedic emergency medical service originating from within Contractor's Service Area to meet the Response Time standards listed below (the "Response Time Standards"):
 - a. Potentially Life Threatening Emergency Response (Priority 1). Priority 1 calls are calls for a response to a potentially life threatening situation, and are dispatched with emergency lights/sirens ("Priority 1"). When contacted by a PSAP with a Priority 1 call originating in Contractor's Service Area, Contractor shall place an ALS Ambulance on the scene with maximum Response Times as follows:
 - i. Ten minutes and zero seconds (10:00) to calls originating in ERZ A.

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- ii. Eleven minutes forty-five seconds (11:45) to calls originating in ERZ's B, C, and D, except for low density designated areas.
 - iii. Sixteen minutes forty-five seconds (16:45) to calls in Bethel Island.
 - iv. Twenty minutes and zero seconds (20:00) to calls within areas designated as low density on Exhibit B (Response Density Map).
 - b. Non-Life Threatening Emergency Response (Priority 2). The parties may establish a definition for what constitutes a Priority 2 call. If the parties amend this Contract to add a definition for a Priority 2 call, then the following Response Times shall apply to Priority 2 calls. When contacted by a PSAP with a Priority 2 call originating in Contractor's Service Area, Contractor shall place an ALS Ambulance on the scene with maximum Response Times as follows:
 - i. Fifteen minutes and zero seconds (15:00) in designated high-density areas.
 - ii. Twenty minutes and zero seconds (20:00) to calls in Bethel Island.
 - iii. Thirty minutes and zero seconds (30:00) in areas designated as low density.
 - c. Non-Emergency Response (Priority 3). Priority 3 calls are calls for a response to a non-emergency ambulance situation, and are dispatched with no emergency lights/sirens ("Priority 3"). When contacted by a PSAP with a Priority 3 call originating in Contractor's Service Area, Contractor shall place an ALS Ambulance on the scene with a maximum Response Time of thirty minutes and zero seconds (30:00) in areas designated as high density, and a maximum Response Time of forty-five minutes and zero seconds (45:00) in areas designated as low density.
 - d. Non-Emergency Interfacility ALS Transports (Priority 4)
 - i. Scheduled; Three Hours Notice. If Contractor receives a call for an ALS interfacility non-emergency transport with at least three (3) hours notice, Contractor shall place an ALS Ambulance on the scene within fifteen minutes zero seconds (15:00) of the scheduled pickup time.
 - ii. Scheduled; Less Than Three Hours Notice. If Contractor receives a call for an ALS interfacility non-emergency transport with less than three (3) hours notice, Contractor shall place an ALS Ambulance on the scene within sixty minutes zero seconds (60:00) of the time of the request.
5. Medical Dispatch Improvement Collaboration. Contractor and County shall cooperate to improve the dispatch of Emergency Ambulances during the term of this Contract, including without limitation, efforts to improve more specific prioritization of calls and modification of Response Time requirements, and taking into consideration the costs to Contractor in implementing changes.
6. Response Time Calculation.
- a. Response Time Calculations. On a monthly basis, CCCEMSA shall use Response Time data from Contractor's CAD system via CCCEMSA's online compliance utility tool to calculate Ambulance Response Times to determine compliance with the Response Time Standards in Section H(4) above. At the end of each calendar month, a date within the last fifteen (15) days of the month will be randomly selected. The thirty-day period ending with the randomly selected date will be used to measure Response Time compliance.
 - i. Response Time Area Subsets. Response Times will be measured for all responses within each ERZ in Contractor's Service Area, and are grouped by priority level. The

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different density areas within each ERZ will be grouped for compliance Response Time measurement.

- b. Time Call Received. For all requests for service, the term “Time Call Received” means the earlier of: (i) the time when an Emergency Medical Dispatch Center that directly dispatches the Ambulance receives adequate information to identify the location of the call and the priority level, and dispatches the call; and (ii) the time when an Emergency Medical Dispatch Center that directly dispatches the Ambulance receives adequate information to identify the location of the call and the priority level, and resources have been assigned, plus thirty (30) seconds.
- c. Arrival On Scene Time. For all requests for service, the term “Arrival On Scene Time” means the moment the first Emergency Ambulance arrives and stops at the exact location where the ambulance shall be parked while the crew exits to approach the patient, and notifies the Emergency Medical Dispatch Center that it is fully stopped; provided, that in situations where the Emergency Ambulance has responded to a location other than the scene (e.g., staging areas for hazardous materials/violent crime incidents, non-secured scenes, gated communities or complexes or wilderness locations), the term “Arrival On Scene Time” means the time the Emergency Ambulance arrives at the designated staging location or nearest public road access point to the patient’s location; provided further, and subject to subsection (d) below, if an Emergency Ambulance fails to report its Arrival On Scene Time, the time of the next communication between the Emergency Medical Dispatch Center and that Emergency Ambulance shall be used as the Arrival On Scene Time.
- d. Failure to Report Arrival On Scene Time. If an Emergency Ambulance fails to report its Arrival On Scene Time, the time of the next communication with that Emergency Ambulance shall be used as the Arrival On Scene Time; provided, that Contractor may document the Emergency Ambulance’s actual Arrival On Scene Time through other means (e.g., first responder, automatic vehicle location services, communications tapes/logs, etc.) so long as an auditable or unedited computer generated report is produced.
- e. Upgrades. If an Ambulance assignment is upgraded (e.g., from Priority 2 to Priority 1) prior to an Emergency Ambulance Arrival On Scene Time, Contractor’s Response Time compliance shall be calculated based on the shorter of: (i) time elapsed from call receipt to time of upgrade plus the higher priority Response Time; and (ii) the lower priority Response Time.
- f. Downgrades. If a call is downgraded prior to Arrival on Scene Time, (e.g. from Priority 1 to Priority 2), Contractor’s Response Time compliance shall be determined as follows:
 - i. If the time of the downgrade occurs after the Ambulance has exceeded the higher priority Response Time Standard, the more stringent higher priority Response Time Standard will apply; or,
 - ii. If the time of the downgrade occurs before the ambulance has exceeded the higher priority Response Time Standard, the less stringent lower priority Response Time Standard will apply. In all such cases documentation must be presented for validation of the reason why the priority status was downgraded. If the downgrade was justified in the sole discretion of the County Contract Administrator, the longer standard will apply.
- g. Reassignment Enroute. If an Emergency Ambulance is reassigned enroute to a call, or turned around prior to Arrival On Scene Time (e.g., to respond to a higher priority

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request), compliance with Response Time Standards will be calculated based on the Response Time Standard applicable to the priority assigned to the initial response. The Response Time clock will not stop until an Ambulance has an Arrival On Scene Time for the call from which the Ambulance was diverted.

- h. Cancelled Calls. If an Emergency Ambulance is cancelled by an authorized agency after an assignment has been made, but prior to an Arrival On Scene Time, Contractor's Emergency Ambulance Response Time clock will stop at the time of cancellation, and Response Time will be the elapsed time from the Time Call Received to the time the call was cancelled.
7. Response Density Reassessment. CCEMSA may evaluate the call density and density zone structure to address changes occurring within each zone. CCEMSA will work with Contractor to define and implement any proposed changes to density reassessment throughout the term of this Contract. Response Time compliance changes pursuant to this section will be modified by readjusting the then current map (Exhibit B) defining the density designations by mutual agreement of the parties.
8. Response Time Exemptions. In calculating Contractor's Response Time performance, every emergency request from an Emergency Medical Dispatch Center originating from within Contractor's Service Area shall be included except as follows:
- a. Multiple Responses. In case of a multiple-response incident (i.e., where more than one ambulance is sent to the same incident), only the Response Time of the first arriving ALS Ambulance shall be counted.
 - b. Responses During an MCI or Disaster. During an MCI or disaster declared by the County, or during a declared disaster in a neighboring jurisdiction to which ambulance assistance is being provided as requested by County, CCEMSA will determine, on a case-by-case basis, if Contractor may be temporarily exempt from response-time criteria. When Contractor is notified that multi-casualty or disaster assistance is no longer required, Contractor shall return all of its resources to the Service Area and shall resume all operations as required under the Contract.
 - c. Good Cause. The County Contract Administrator may allow exemptions to Response Time requirements for good cause at the County Contract Administrator's sole discretion. At a minimum, the asserted ground(s) for exemption must have been a substantial factor in producing a particular excess Response Time and Contractor must have demonstrated a good faith effort to respond to the call(s). Good causes for an exemption may include, but are not limited to: incorrect or inaccurate dispatch information received from an Emergency Medical Dispatch Center; disrupted voice or data radio transmission (not due to Contractor equipment or infrastructure); material change in dispatch location; unavoidable telephone communications failure; inability to locate address due to non-existent address; inability to locate patient due to patient departing the scene; delays caused by traffic secondary to the incident; unavoidable delays caused by extreme inclement weather (e.g., fog); unavoidable delays caused by trains; delays resulting from depletion of resources as a result of County authorized mutual aid; calls to locations that are greater than ten (10) road miles from the nearest boundary of the high-density area, or calls to off-road locations; and extended delays at hospitals for transferring patients to receiving facility personnel.

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- i. Equipment failure, Ambulance failure, lost Ambulance crews, or other causes deemed to be within Contractor's or its Ambulance Subcontractor's control or awareness are not grounds to grant an exemption to a Response Time Standard.

9. Exemption Request Procedure.

- a. CCCMSA Exemption Request Procedure. CCCCMSA has developed and adopted a Response Time Exemption Request Procedure (the "Exemption Request Procedure") that Contractor and CCCCMSA will follow in considering whether an exemption to a Response Time Standard is appropriate.
- b. Request for Exemption Consideration.
 - i. Application for Exemption. If Contractor believes that any response or group of responses should be exempted from the Response Time Standards due to unusual factors beyond Contractor's reasonable control, Contractor may request an exemption to a required Response Time Standard in writing to the County Contract Administrator. Contractor shall provide CCCCMSA with detailed documentation for each response for which it is seeking an exemption, and request that CCCCMSA exempt the identified responses from Response Time calculations and associated penalties. Any request for a Response Time exemption must be received by the County Contract Administrator within ten (10) business days after the completion of the response. A request for an exemption received more than ten business days (10) after the completion of the response will not be considered.
 - ii. Exemption Review Process. If Contractor disagrees with the County Contract Administrator's decision regarding a Response Time exemption request, it shall follow the dispute resolution process set forth in Section P(13).
- c. Dispatch to Enroute Exemptions. At the sole discretion of CCCCMSA, calls with an extended period of time between ambulance dispatch and the ambulance being enroute of more than two (2) minutes may be excluded from consideration as exemptions.

10. Response Time Performance Reporting Requirements.

- a. Documentation of Incident Time Intervals. Contractor shall document all times necessary to determine total ambulance Response Time including, but not limited to, time call received by the Emergency Medical Dispatch Center, time ambulance crew assigned, time enroute to scene, arrival at scene time, total on-scene time, time enroute to hospital, total time to transport to hospital, arrival at hospital time, and time of transfer of patient care to hospital personnel. All times shall be recorded in an ePCR form and in Contractor's computer aided dispatch system. Other times may be required to document specific activities such as arrival at patient side, times of defibrillation, administration of treatments and medications and other instances deemed important for clinical care monitoring and research activities.
- b. Interface to CAD and ePCR. Contractor shall provide an interface with the CAD database and ePCR System for CCCCMSA to extract and corroborate Response Time performance. Contractor may not make changes to times entered into the CAD during or after the event. Any changes to times will be managed via the Exemption Request Procedure and documented in a separate system after review and approval by CCCCMSA.
- c. Response Time Performance Report.

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- i. Within ten (10) business days after the end of each month, Contractor shall document and report Response Time performance to the County Contract Administrator in writing, in a manner specified by the County Contract Administrator.
 - ii. Contractor shall report performance for each priority level in each ERZ.
 - iii. Contractor shall use Response Time data in an on-going manner to evaluate Contractor's performance and compliance with Response Time Standards in an effort to continually improve its Response Time performance levels.
 - iv. Contractor shall identify the causes of failures of performance, and shall document efforts to eliminate these problems on an on-going basis.
 - v. Contractor shall provide an explanation for every call exceeding the required Response Time Standard.
 - vi. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which a report was not delivered on time.
- d. Penalty Provisions.
- i. Penalty for Failure to Report Arrival On Scene Time. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each time an Emergency Ambulance is dispatched and the ambulance crew fails to report and document an Arrival On Scene Time. Contractor, in order to rectify the failure to report an Arrival On Scene Time and to avoid the penalty, may demonstrate to the satisfaction of the County Contract Administrator an accurate on-scene time. Where an Arrival On Scene Time for a particular emergency call is not documented or demonstrated to be accurate, the Response Time for that call shall be deemed to have exceeded the required Response Time for purposes of determining Response Time compliance.
 - ii. Penalty for Failure to Comply with Response Time Requirements. County may impose a penalty on Contractor for each month that Contractor fails to comply with the Response Time requirements in at least ninety percent (90.0%) of calls in any ERZ based on the percentage of compliance for all responses in the ERZ in the categories represented in Exhibit C (Penalties) attached hereto and incorporated herein. Failure of Contractor to achieve at least 88% Response Time compliance in each ERZ for Emergency Ambulance requests will require that Contractor submit and implement an Ambulance deployment plan that includes additional staffed ambulance hours aimed to achieve 90% compliance with Response Time Standards.
 - iii. Priority 4 Response Time Measurement. Priority 4 (non-emergency ALS interfacility transfer) Response Times will be measured using Contractor's entire Service Area and not by priority levels for each ERZ.
 - iv. Repetitive Non-Compliance. For the purpose of measuring Response Time compliance, the term "Repetitive Non-Compliance" means, for any measured Response Time subset that (i) Contractor's Response Time compliance has been less than 90% for three (3) consecutive months, or (ii) there have been five (5) instances where Contractor's Response Time compliance was less than 90% in any twelve-month period. If Contractor's Response Times result in Repetitive Non-Compliance, CCCEMSA shall provide Contractor with written notice thereof, and Contractor shall submit a plan of corrective action to CCCEMSA within thirty (30) days after being notified of its Repetitive Non-Compliance.

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- v. Isolated Instances. Isolated instances of individual deviations from Response Time Standards shall not be treated as instances of Repetitive Non-Compliance.
 - vi. Insufficient Call Number. Any measured Response Time subset of measurement of calls that does not exceed 100 responses in a single month shall be added to the next month's responses and accumulated until the minimum of 100 responses is documented at which point compliance determinations will be made.
11. Penalties for Outlier Responses. An "Outlier Response" means a Response Time that is excessive for the category, such that it represents a potential threat to health and safety. County may impose a penalty on Contractor for any call where the actual Response Time equals or exceeds the applicable Outlier Response Time set forth in Exhibit C (Penalties). Penalties will be based on ERZ and the priority level assigned to the call. The imposition of a penalty for an Outlier Response is in addition to a penalty assessed for Contractor's Response Time compliance requirements.
 12. Additional Penalty Provisions. CCCEMSA may impose financial penalties as delineated in Exhibit C (Penalties).
 13. Penalty Disputes. Contractor may appeal to CCCEMSA in writing within ten (10) business days after receipt of notification of the imposition of any penalty or regarding CCCEMSA's penalty calculations. The County Contract Administrator will review all such appeals and make the decision to eliminate, modify, or maintain the appealed penalty. If Contractor disagrees with the County Contract Administrator's decision regarding a penalty appeal, Contractor may utilize the dispute resolution process set forth in Section P(13).
 14. Stand-by. Contractor shall provide, at no charge to County or another requesting public safety agency, stand-by services at the scene of an emergency incident within the Service Area when directed by an Emergency Medical Dispatch Center. An ambulance unit placed on stand-by shall be dedicated to the incident for which it has been placed on stand-by. Any stand-by periods scheduled to exceed eight (8) hours must be approved in advance by the County Contract Administrator in writing. Contractor shall immediately notify the requesting agency incident commander when a stand-by exceeding one (1) hour may limit Contractor's ability to meet the Response Time Standards for the impacted ERZ, and shall notify the County Contract Administrator in writing by the following business day.
- I. Personnel Standards.**
1. Applicability. The personnel standards set forth in this section apply to the Ambulance Subcontractor's employees unless otherwise specified.
 2. Employee Character/Fitness. Contractor shall require its Ambulance Subcontractor to employ employees who are highly qualified, competent, and of high moral and ethical character, and who understand that they represent the County as emergency service providers.
 3. Prescreening of Employees. Contractor shall require all Transport Employees and Transport Employee candidates to be prescreened to determine their qualifications, moral and ethical character, and that they are not prohibited from performing the duties for which they were hired.

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- a. Background Check. Contractor shall require its Ambulance Subcontractor employees to undergo a background check prior to employment, or if already employed, to undergo rechecks as needed. Contractor's Ambulance Subcontractor will additionally perform annual Department of Motor Vehicle driving record pulls for all Transport Employees. The initial background check shall include criminal history, verification of employment, verification of license/certifications and training required under this Contract for the position for which the individual was hired. Contractor shall provide the results of the criminal and background checks to CCCEMSA when background information is revealed that would result in licensure or certification action under California Health and Safety Code section 1798.200(c)(1) through (c)(12), or when requested by CCCEMSA. Contractor shall require its Ambulance Subcontractor to bear the costs associated with pre-employment and periodic background checks
 - b. U.S. Government Excluded Parties List System (EPLS). Contractor shall require all Transport Employees to be checked against the EPLS. Contractor shall prohibit its Ambulance Subcontractor from employing any person who has been listed as an excluded person on the EPLS.
 - c. Office of Inspector General (OIG). Contractor shall require all Transport Employees to be checked against the OIG's exclusion list. Contractor shall prohibit its Ambulance Subcontractor from employing any person who has been listed as an excluded person by the OIG.
4. Drug Testing. Contractor shall require all Transport Employees to undergo a biological fluid test for drugs prior to employment and require that the results of the drug test are negative to qualify for employment as a Transport Employee. The use or consumption of marijuana pursuant to a medical recommendation is not an exemption to the zero tolerance policy for drug use under this provision. Contractor will comply with the Drug-Free Workplace Act (41 U.S.C. section 8101 et seq.). Contractor shall require its Ambulance Subcontractor to (a) implement a zero tolerance policy for drug use and alcohol abuse that includes ensuring that employees are free from the influence of alcohol and intoxicating drugs while on-duty, and (b) prohibit any employee from using, possessing, concealing, manufacturing, transporting, selling, buying, or promoting the sale of any illegal drug.
 5. Physical Ability. Contractor shall require all Transport Employee candidates to undergo a physical ability test prior to employment, and upon returning to employment from leave of absence in excess of thirty (30) days, and upon returning from any injury that resulted in an employee missing at least thirty (30) days of work, by a licensed healthcare provider qualified to perform such tests. The physical ability test shall simulate the physical abilities needed to lift and transport patients and equipment in the field.
 6. Credentials. Contractor shall require all Transport Employees to be currently and appropriately credentialed.
 - a. Contractor shall require its Ambulance Subcontractor to retain on file at all times, copies of all current and valid licenses, certifications, and/or accreditations of all emergency medical personnel performing services pursuant to this Contract. Contractor shall require its Ambulance Subcontractor to make available to CCCEMSA, for inspection and copying during business hours, all records and documents retained on file pursuant to this provision.

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- b. Contractor shall require its Ambulance Subcontractor to employee Transport Employees that are currently certified, licensed and/or accredited at all times when assigned to provide services pursuant to this Contract. Contractor shall require its Ambulance Subcontractor to verify all state licenses and certifications for prehospital providers through the State's Central Registry, and for nurses through the State's Department of Consumer affairs nurse license search. Contractor shall require its Ambulance Subcontractor to visually verify all credentials and certifications.
7. Employee Records/Termination. Contractor shall provide CCCEMSA with a list of its Ambulance Contractor's currently employed Transport Employees, and shall update that list as soon as practical, and in no event later than thirty (30) days, after a paramedic or EMT leaves or enters Ambulance Subcontractor's employ. At minimum, the personnel list shall include the name, residential and mailing address, telephone number, CPR expiration dates, and California Driver License number of each person on the list. For each paramedic, the list shall also include the paramedic's California paramedic license number and expiration date and ACLS, PEPP/PALS, and PHTLS/ITLS expiration dates. For each EMT, the list shall also include the EMT's California certification number and expiration date.
- a. In those cases where a paramedic or EMT leaves the Ambulance Subcontractor's employ as a result of a disciplinary cause, including administrative leave, suspension, retirement, or resignation while the employee has knowledge of a pending disciplinary cause, Contractor shall provide CCCEMSA with the basis for the termination, resignation, or retirement as well as the initial and final investigatory findings surrounding the alleged misconduct as soon as practical, but in no case, more than three (3) days.
- b. Contractor shall notify EMSA, on the paramedic investigation request form or other form approved by EMSA for reporting paramedic misconduct, of each and every paramedic that leaves Ambulance Subcontractor's employ as a result of a disciplinary cause, including suspension, retirement, or resignation while the employee has knowledge of a pending disciplinary cause. Contractor shall provide CCCEMSA with a copy of the paramedic investigation request or other approved form submitted to EMSA with supporting documents and attachments no later than the following business day.
8. Tuberculosis and Hepatitis. Contractor shall require its Ambulance Subcontractor to provide all new and existing Transport Employees with initial and annual tuberculosis testing at no cost to the Transport Employee. Contractor shall require its Ambulance Subcontractor to offer all new and existing Ambulance Subcontractor clinical and operational employees Hepatitis B and annual influenza vaccinations.
9. Assault Management Training.
- a. Contractor shall require its Ambulance Subcontractor to train all new and existing Transport Employees in the skills necessary to effectively manage patients with psychiatric, drug/alcohol, or other behavior or stress related problems, including communication, proper and legal use of force and restraints, and how to handle these patients safely.
- b. Contractor shall require its Ambulance Subcontractor to offer an annual refresher course in assault management that has been approved by CCCEMSA.

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10. Paramedic Minimum Qualifications. Contractor shall require its Ambulance Subcontractor's Paramedic Transport Employees to meet the following minimum Paramedic qualifications. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which a Paramedic Transport Employee fails to satisfy these minimum qualifications.
- a. Licensed as a paramedic in the State of California;
 - b. Accredited as a paramedic in Contra Costa County, or alternatively, unaccredited but assigned to an ambulance with an accredited paramedic while the accreditation is pending. If an unaccredited paramedic is assigned to an ambulance with an accredited paramedic, the unaccredited paramedic pending accreditation shall not be permitted to perform any skill in CCCEMSA's optional scope of practice for paramedics. The unaccredited paramedic shall not work more than thirty (30) days without accreditation;
 - c. Currently certified in advanced cardiovascular life support according to the American Heart Association (AHA);
 - d. Currently certified in prehospital trauma life support (PHTLS) or international trauma life support (ITLS), or Contractor's Ambulance Subcontractor shall document that each paramedic has satisfactorily completed comparable training to master competency in the skills included in the PHTLS or ITLS curriculum and approved by the EMS Medical Director;
 - i. Paramedic personnel assigned to work with a currently PHTLS or ITLS certified partner may have up to three (3) months from date of hire to obtain said certification.
 - e. Currently certified in pediatric education for prehospital professionals (PEPP) or pediatric advanced life support (PALS).
 - i. Paramedic employees assigned to work with a currently PEPP or PALS certified partner may have up to three (3) months from date of hire to obtain said certification.
 - ii. Contractor shall require its Ambulance Subcontractor to supplement required PEPP/PALS training with annual infant and pediatric simulation training focused on early recognition and management of pre-arrest and other life threatening conditions.
 - iii. Contractor shall require Transport Employees to review prehospital procedures for Safely Surrendered Baby Program.
 - f. Currently trained and certified in CPR according to the current AHA's Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care at the Healthcare Provider or Prehospital Care Provider level;
 - g. Valid California driver license, ambulance drivers' license, and Medical Examiner certificate; and
 - h. Currently certified as an emergency vehicle operator according to the emergency vehicle operations course or equivalent training.
11. EMT Minimum Qualifications. Contractor shall require its Ambulance Subcontractor's EMT Transport Employees assigned to provide EMT services pursuant to this Contract to meet the following minimum qualifications. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which an EMT Transport Employee fails to satisfy these minimum qualifications.
- a. Currently certified as an EMT in the State of California;
 - b. Valid California driver license, ambulance driver license, and a Medical Examiner certificate;

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- c. Currently trained and certified in CPR according to the current AHA's Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care at the Healthcare Provider level or Prehospital Care Provider level; and
 - d. Currently certified as an emergency vehicle operator according to the vehicle operations course or equivalent training or equivalent training.
12. Supervisors. Contractor shall require its Ambulance Subcontractor to employ personnel assigned to supervisory positions, whether temporarily or permanently, to be well trained and qualified. Contractor shall require its Ambulance Subcontractor to take steps to employ supervisory personnel that are continually trained and prepared for any unforeseen event at no cost to the employee.
- a. Credentials. All Transport Employee supervisory personnel shall be licensed and accredited in Contra Costa County at the paramedic level, have at least three years paramedic experience with at least one of those years working in the County EMS System, and shall have successfully completed the Federal Emergency Management Institute – Incident Command System (ICS) series 100, 200, 300 and 400, and NIMS 700 and 800b, within 6 months of appointment. Supervisory personnel shall attend a CCCEMSA approved Ambulance Strike Team Leader course and shall be certified as AST Leaders within one (1) year of execution of this Contract. Transport Employee supervisory personnel shall all be trained, and shall receive refresher training, in critical incident stress management and actively participate as a CISM team member.
 - b. Professional Development. Prior to acting in a supervisory role, all candidates for Transport Employee supervisory positions shall have received Ambulance Subcontractor provided training to enable the supervisor to effectively and successfully perform their duties. Examples of said training include, but in no way shall be limited to, conflict resolution management, training in relevant employment laws, multi-casualty incident plan and response, Contractor's policies and procedures, CCCEMSA event notification requirements, infection control and response to employee exposure, MHOAC activation, and dispatch procedures. Supervisory personnel shall receive annual refresher training at no cost to the employee.
13. Dispatchers. Contractor shall employ dispatchers that are trained and highly qualified in answering 9-1-1 calls for emergency medical services. Dispatchers assigned to answer 9-1-1 calls for emergency medical service or process emergency medical requests for service shall be certified as emergency medical dispatchers and shall maintain such certification.
14. Uniforms/Appearance. Contractor shall require its Ambulance Subcontractor to provide uniforms to its Transport Employees who provide services pursuant to this Contract. The uniforms must be distinctive from all other ambulance service providers and shall bear the County approved EMS patch and the field providers' certification and license level, or supervisory capacity, and name. Uniforms and their insignia shall be approved by CCCEMSA. Contractor shall require its Ambulance Subcontractor to require its Transport Employees to properly wear their issued uniform, are well groomed, and maintain a professional appearance at all times.
15. Fatigue awareness and mitigation. Contractor shall develop a policy that stipulates the maximum amount of time an employee can continuously be on-duty; and rest/sleep

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requirements that must be followed for all employees that are continuously on-duty for more than twelve (12) hours.

16. Paramedic Preceptors. Contractor shall require its Ambulance Subcontractor to cooperate with CCEMSA-approved paramedic training programs and with CCEMSA to develop a paramedic preceptor program. The paramedic preceptor program shall provide adequate paramedic field internship positions in support of CCEMSA approved programs. Preferential placement for paramedic field internships shall be provided to CCEMSA approved paramedic programs.

J. Fleet and Equipment.

1. Contractor shall require its Ambulance Subcontractor to acquire and maintain all ambulances and support vehicles necessary to perform its services pursuant to this Contract. All costs of maintenance including parts, supplies, spare parts and costs of extended maintenance agreements shall be the responsibility of Contractor.
2. Fleet Ambulance Requirement. Contractor shall require its Ambulance Subcontractor to maintain the number of ALS equipped and fully operating Ambulances that represents at least 120% of the peak staffing level established by Ambulance Subcontractor. If a fraction is derived when multiplying the peak number of units by 120%, the number will be rounded up to the next whole integer (i.e., 32.4 would be rounded to 33). For example, if Contractor's peak number of ambulances is twenty-seven (27), then Contractor is to maintain a fleet of at least 33 ambulances ($27 \times 120\% = 32.4$ rounded to 33).
 - a. Contractor shall require its Ambulance Subcontractor to maintain a back-up fleet of Ambulances from its regional and national fleet as needed to supplement special events or disaster response within the County.
 - b. Contractor will submit a plan detailing number of units available and time frames needed to activate vehicles for system response, as well as the mechanism for assuring that required equipment is available on back-up units.
3. Fleet Vehicle Requirement. In addition to the fleet Ambulance requirement specified above, Contractor shall require its Ambulance Subcontractor to maintain the following minimum vehicle fleet:
 - a. one (1) bariatric capable transport unit;
 - b. one (1) specialized infectious disease capable transport unit
 - c. five (5) Supervisor vehicles;
 - d. three (3) support vehicles;
 - e. four (4) Disaster units, comprised of one (1) disaster medical support unit or its equivalent, and three (3) MCI trailers;
 - f. two (2) Decon units.
4. Vehicles.
 - a. Ambulances used in providing services under this Contract shall meet the standards of Title XIII, California Code of Regulations.
 - b. Ambulance vehicles used in providing services under this Contract shall bear the markings "Contra Costa County Fire - EMS" in at least four (4) inch letters on both sides. Such vehicles shall display the "9-1-1" emergency telephone number and state the level of service, "Paramedic Unit," on both sides.

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- c. All vehicles shall be marked to identify the company name, but shall not display any telephone number other than 9-1-1 or any other advertisement.
 - d. Overall design, color, and lettering are subject to the approval of the County Contract Administrator.
 - e. Each ambulance shall be equipped with functional GPS route navigation capabilities.
 - f. Contractor shall require its Ambulance Subcontractor to replace any Ambulance when it reaches five (5) years of service or 195,000 miles, whichever occurs first.
 - g. Contractor is responsible for all maintenance of Ambulances, support vehicles, and on-board equipment used in the performance of its work. Any Ambulance, support vehicle, and/or piece of equipment with any deficiency that compromises, or may reasonably compromise its function, shall be immediately removed from service.
 - i. Contractor shall require its Ambulance Subcontractor to remove Ambulances, support vehicles, and equipment that have defects, including significant visible but only cosmetic damage, from service for repair without undue delay.
 - h. Contractor shall require its Ambulance Subcontractor to maintain a vehicle maintenance program that is designed and conducted to achieve the highest standard of reliability appropriate to a modern high performance ambulance service. Ambulance Subcontractor's vehicle maintenance program shall use appropriately trained personnel who are knowledgeable in: the maintenance and repair of ambulances, developing and implementing standardized maintenance practices, and shall incorporate an automated or manual maintenance program record keeping system.
 - i. Contractor shall require its Ambulance Subcontractor to use patient point of care equipment on all Ambulances that meets Clinical Laboratory Improvement Amendments (CLIA) standards, and submit a description of the program to CCCEMSA.
 - j. All costs of maintenance and repairs, including parts, supplies, spare parts and inventories of supplies, labor, subcontracted services, and costs of extended warranties, shall be at Contractor's expense.
5. Equipment.
- a. All Ambulances performing services pursuant to this Contract shall carry all emergency supplies and equipment identified in the County Ambulance Equipment and Supply list on file at CCCEMSA, 1340 Arnold Drive, Suite 126 Martinez, CA. Acquisition and maintenance of all equipment, including parts, supplies, spare parts, and costs of extended maintenance agreements, are the responsibility of Contractor.
 - i. Contractor shall require its Ambulance Subcontractor to maintain inventory control and equipment maintenance systems which keep the ambulance fleet fully stocked with quality equipment in good working order at all times.
 - ii. Contractor agrees that equipment and supply requirements may be changed with the approval of County Contract Administrator due to changes in technology.
 - b. CCCEMSA may inspect the Ambulance Subcontractor's Ambulances at any time, without prior notice. If any Ambulance fails to meet the minimum in-service requirements contained in the Ambulance Equipment and Supply list as determined by CCCEMSA, CCCEMSA may:
 - i. Immediately order the Ambulance removed from service until the deficiency is corrected if the missing item is deemed a critical omission;
 - ii. Subject Contractor to a per-incident penalty as described in Exhibit C (Penalties);
 - iii. The foregoing shall not preclude dispatch of the nearest available Ambulance even though not fully equipped, in response to a life threatening emergency so long as

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another appropriately equipped ambulance of at least equal level of service is also dispatched to the scene. CCCEMSA may adopt protocols governing provisional dispatch of Ambulances not in compliance with minimum in-service requirements and Contractor shall comply with these protocols.

- c. Contractor shall maintain a system to exchange on a one-for-one basis medical supplies and equipment supplied by a fire first responder agency in connection with patient transport.

K. Communications.

1. System Integration. Contractor shall require its Ambulance Subcontractor to establish policies and procedures for the integration of radio and data communications with PSAPs, the Base Hospital, and on-scene incident command.
2. Communications Center Operations. Contractor shall operate a communications center located within Contra Costa County and maintain all hardware and software (fixed, mobile, interfaces, and networks) necessary to receive and fulfill requests for emergency ambulance services made by County PSAPs. Contractor shall be capable of receiving and replying to requests for emergency ambulance services by voice and by CAD interface. Contractor's Emergency Medical Dispatch Center shall be capable of dispatching all Ambulance units used to provide Emergency Ambulance Services pursuant to this Contract.
 - a. Computer Aided Dispatch (CAD). Contractor shall maintain a CAD system that provides a complete audit trail for all Response Times and provides CCCEMSA access to the Response Time data at any time to review Contractor compliance.
 - b. Contractor shall provide CCCEMSA staff electronic access to allow real-time monitoring of CAD systems
 - c. Contractor shall provide access to Contractor's CAD for CCCEMSA staff to audit and create reports for system performance monitoring.
 - d. Contractor shall pay all costs incurred to provide required CCCEMSA access to the CAD system.
3. Data Linkages. Contractor shall maintain data linkages specified in the current version of the County Message Transmission Network (MTN) Standard, which is incorporated herein by reference. A copy of the MTN standard is on file at CCCEMSA, 1340 Arnold Drive, Suite 126, Martinez, CA.
 - a. Contractor shall pay for its share of costs for all interfaces to its computer equipment and data systems, connectivity costs and for hardware at Contractor's communications facility.
4. Continuity of Operations Plan; Implementation. Contractor shall, and shall require its Ambulance Subcontractor's information system's hardware, software and personnel to be capable of receiving and processing required data including, but not limited to, the ability to continuously monitor data transfer system stability and resolve system failures. Contractor shall prepare a plan addressing continuity of operations in the event of a CAD outage, which shall be submitted to CCCEMSA for approval within sixty (60) days after the effective date of this Contract. In the event of a CAD outage, Contractor shall deploy the CCCEMSA approved continuity of operations plan.

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5. Staffing. Contractor shall maintain staffing levels so that electronic or telephonic notifications from a PSAP or an Emergency Medical Dispatch Center are answered or responded to within fifteen (15) seconds, 95% of the time, and that ambulances are dispatched to respond to Emergency Requests within thirty (30) seconds, 90% of the time, following the Emergency Medical Dispatch Center's receipt of information establishing a location and priority for the response.
 - a. Lead Direction. Contractor shall have a senior dispatcher to supervise dispatch operations twenty four (24) hours per day, every day during the term of this Contract.
 - b. Dispatcher/ Call Taker. Contractor shall have a comprehensive dispatcher/call taker program to provide dispatch operations twenty four (24) hours per day, every day during the term of this Contract. The dispatcher call taker program shall also contain requirements for employee eligibility, education and training.
 - c. Prioritization. Dispatchers assigned to process emergency medical requests for service shall appropriately prioritize EMS calls and provide pre-arrival instructions to callers using a medical priority dispatch system approved by the EMS Medical Director.
 - d. EMD Advancement Series. Contractor agrees to provide access to the Priority Dispatch EMD Advancement Series to all emergency medical dispatch certified personnel.
 - e. QA Reviewers. Contractor shall provide access to Emergency Medical Dispatch Quality Assurance reviewers to assist with monthly dispatch call reviews
6. System Improvement. Contractor agrees to participate in a process to improve the medical call-taking and dispatch processes to achieve full implementation of prioritization of all requests for ambulance service and agrees to work with CCEMSA to effect such changes. Contractor agrees to negotiate with CCEMSA in good faith to achieve these goals.
7. Radio Equipment Requirements. Contractor is responsible for all mobile radio equipment and cellular phones used in the field, including obtaining radio channels and all necessary FCC licenses and other permits as may be required for the operation of the system.
 - a. Contractor shall require its Ambulance Subcontractor's communications system to be capable of receiving and transmitting all communications necessary to provide emergency ambulance services pursuant to this Contract, including communicating with hospitals and other public safety agencies as required in a declared disaster situation. Radio equipment used for ambulance-to-hospital communications shall be configured so that personnel providing patient care are able to directly communicate with the base or receiving hospital staff about the patient. Communication equipment used by Ambulance crews shall be capable of transmitting 12-lead ECGs to receiving facilities.
 - b. Contractor shall require its Ambulance Subcontractor to equip all Ambulances and supervisory vehicles used in performance of services in Contra Costa County with radio equipment for communications with Emergency Medical Dispatch Centers. Radios shall be programmed with appropriate frequencies/talk groups to function on

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- the East Bay Regional Communications System and suitable for operation on the California On-Scene Emergency Coordination Radio System.
- c. Contractor shall require its Ambulance Subcontractor to provide each crew member assigned to an Ambulance or supervisor unit with a portable radio.
 - d. Contractor shall require its Ambulance Subcontractor to operate its two-way radios in conformance with all applicable rules and regulations of the Federal Communication Commission (FCC), and in conformance with all applicable CCCEMSA rules and operating procedures.
 - e. Contractor shall require its Ambulance Subcontractor to provide access to cellular telephones for use on Ambulances and supervisory units.
8. AVL/Data Equipment Requirements. Contractor shall equip all ambulances with Automatic Vehicle Location (AVL) devices and mobile data terminals/computers (MDT). Contractor shall supply AVL feeds to CCCEMSA and other public safety agencies as authorized and requested by CCCEMSA.
9. Hospital Communications Network. Contractor's Emergency Medical Dispatch Center shall be equipped with all equipment and software necessary for participation in the CCCEMSA-designated hospital communication network and shall train all of Contractor's dispatchers to be familiar with said hospital communications network. Contractor's dispatchers shall notify ambulance personnel when alerted through the hospital communications network that a hospital's ability to accept patients in its emergency department has changed.

L. Customer Service and Community Education.

1. Community Education. Contractor shall require its Ambulance Subcontractor to undertake a program of health status improvement and community education to support meaningful use, health information exchange, and exploration of alternative mobile health services models in partnership with CCCEMSA, Contra Costa County Public Health Services, and other health system partners. No later than January 1, 2017, and prior to January 1 of each year thereafter, Contractor shall provide CCCEMSA with: (a) a written plan of health status improvement and community education activities for the coming year; and (b) a summary of the prior year's health status improvement and community education accomplishments. Contractor shall require its Ambulance Subcontractor to endeavor to carry out health status improvement and community education programs in cooperation with existing healthcare and health promotion organizations, local public safety agencies, and other community organizations.
 - a. Community Education Funding. Contractor shall allocate a minimum of \$300,000 annually towards the goals of the community education programs identified in this section and the annual plan referenced above, \$50,000 of which shall be expended on the activities set forth in subsections (c) through (e) below.
 - b. Public Health Initiatives. Contractor will participate in County public health initiatives to support activities that reduce injury throughout the community and support population health.
 - c. AED Program. At no cost to County, Contractor shall require its Ambulance Subcontractor to establish a program of automated external defibrillator ("AED") equipment placement, exchange and replacement supporting public access

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defibrillation and first responder AED programs. The AED program shall include, but is not limited to the following components:

- i. Placement of AEDs based on identified need by CCCEMSA and Contractor;
 - ii. AED pad/electrode replacement for public access defibrillators, fire, law and community AED programs;
 - iii. AED and Hands Only CPR training support for sites where devices are placed, upon request; and
 - iv. Maintain an ATRUS dispatch platform in Contractor's communications center to support use of AEDs of bystanders.
- d. Hands Only CPR. Contractor shall train a minimum of 2,000 individuals within Contra Costa County in Hands Only CPR every year.
- e. CCCEMSA Heartsafe Program. Contractor shall provide Hands Only CPR and AED training in schools in coordination with the CCCEMSA Heartsafe Program.
2. Community Outreach Coordinator. Contractor shall, or shall require its Ambulance Subcontractor to, employ a full-time community outreach coordinator whose primary responsibilities will be to work with CCCEMSA and community organizations in carrying out Contractor's health status improvement and community education program to include Physician Orders for Life Sustaining Treatment, EMS for Children and injury prevention programs and events.
3. Customer Satisfaction.
- a. No later than six months after the effective date of this Contract, Contractor shall establish, monitor, and maintain patient and family friendly processes to support patient satisfaction and complaint resolution.
 - b. Contractor shall require its Ambulance Subcontractor to establish a hotline giving customers and system participants the ability to leave commendations, and suggestions for service improvements on a voice or electronic mailbox (the "Customer Hotline").
 - i. Contractor shall require its Ambulance Subcontractor's supervisory or CQI leadership team to be automatically notified of incoming calls and messages to the Customer Hotline.
 - ii. Contractor shall require its Ambulance Subcontractor to respond to complaints and inquiries from patients and families, regardless of how notice occurs, within twenty four (24) hours.
 - c. Contractor shall establish a single point of contact or ombudsmen responsible for monitoring and improving patient satisfaction and complaint resolution.
 - d. Contractor shall track, trend and report monthly on the number and characteristics of comments, incidents or complaints including timeliness and satisfaction or complaint resolution associated with billing and patient care, to include:
 - i. Intake time
 - ii. Type of complaint e.g. billing, patient care. other
 - iii. Date resolved and disposition
 - iv. Total resolution time to address
 - e. No later than twelve months after the effective date of this Contract, Contractor shall establish and maintain the reporting of patient satisfaction using a validated patient experience satisfaction survey tool based on Hospital Consumer Assessment of Healthcare Providers and Systems.

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4. No later than eighteen months after the effective date of this Contract, Contractor shall incorporate clinical and patient safety performance metrics into the City and community reports provided by Battalion Chiefs as a service report card to the community.
5. Contractor shall participate in health care system partnerships and activities that improve the patient experience for high risk or frequent user populations.
6. Contractor will participate with County Public Health initiatives to support activities that reduce injury throughout the community and support population health.
 - a. Contractor shall require its Ambulance Subcontractor to collaborate with community, public health, CCCEMSA, and health system partners to reduce disparities and support community resiliency for high-risk populations.

M. Operational and Clinical Data Collection, Information Management and Reporting.

1. ePCR System. Contractor shall, and shall require its Ambulance Subcontractor to, utilize an electronic patient care reporting system approved by the County Contract Administrator for patient documentation on EMS System responses, which includes all patient contacts, cancelled calls, and non-transports (the "ePCR System").
 - a. Contractor's ePCR System shall be National EMS Information System (NEMSIS) 3 Gold compliant.
 - b. Contractor shall make the ePCR System available to any interested Contra Costa County fire first responder agency that respond within Contractor's Service Area, provided that the fire first responder agency agrees to compensate Contractor for its cost of providing access to the ePCR System.
 - c. Contractor shall, and shall require its Ambulance Subcontractor to, use the ePCR System to capture and transmit ePCRs and data, and will be used by CCCEMSA to perform clinical quality oversight for medical services provided by Contractor.
 - d. The ePCR System shall include the electronic sharing of data to the trauma registry, the credentialing database, data analytic/visualization tools, EMSA, Contractor's billing program, and any other appropriate database.
 - e. Contractor shall reasonably cooperate with CCCEMSA to identify and implement improvements to the ePCR System that will enable the CCCEMSA Medical Director and CCCEMSA staff to review the level of patient care being provided by Contractor.
 - f. Contractor shall require that an ePCR is created, completed, and transmitted to the Ambulance Subcontractor's electronic patient care system (e.g., Medserver) for every EMS response.
2. CCCEMSIS. CCCEMSIS is a multi-system, multi-disciplinary data collection and management system. CCCEMSA shall make any comprehensive data analytic tool that is implemented, available to Contractor to facilitate enhanced clinical provider analytics, including the development of clinical provider performance scorecards. CCCEMSA shall collaborate with Contractor to develop an annual fee to support CCCEMSIS, based on Contractor's total EMS response volume for the prior calendar year. This amount shall not exceed sixty (60%) of the total cost for data system management and vendor maintenance and support. All fees paid by Contractor for data system management and vendor maintenance and support shall be used for this purpose only. CCCEMSA represents that this payment shall be less than or equal to CCCEMSA's actual costs to provide CCCEMSIS and associated information systems. No funds shall be used by CCCEMSA in a manner that may violate 42 U.S.C. Section 1320a-7b, the federal Anti-Kickback Statute.

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3. Dynamic Performance Monitoring. Contractor shall require its Ambulance Subcontractor to cooperate with CCCEMSA to utilize a mutually agreed upon data reporting application for the near real time evaluation of operational performance data, Response Time data, clinical data, and syndromic surveillance. The data reporting application will allow secure web-based access to CCCEMSIS. Contractor shall reasonably cooperate with CCCEMSA and the data reporting application provider to implement a dashboard, which will be a web-enabled platform that mines and presents data from a single or multiple disparate data sources for quick access to near real-time data that is critical information to enable CCCEMSA to monitor Contractor's performance and compliance with the provisions of this Contract. The data reporting application shall interface with the CCCEMSIS, Contractor's computer aided dispatch (CAD) system, and other CAD or data systems as requested by CCCEMSA.

4. Performance Reports.
 - a. Monthly and Annual Performance Reports. Contractor shall provide detailed monthly and annual performance reports in a format specified by CCCEMSA. The monthly performance report shall be provided to CCCEMSA within ten (10) business days after the end of each month. The annual performance report shall be provided to CCCEMSA by the first work day in March of each year. The reports shall include, but not be limited to the following elements:
 - i. Aggregated responses, transports, and Response Time performance metrics, by each response zone, and by individual city or community
 - ii. Patient satisfaction metrics
 - iii. Customer service metrics
 - iv. Billing complaints and feedback metrics
 - v. Workforce satisfaction and turnover metrics
 - vi. Vehicle and equipment performance and safety metrics
 - vii. Aggregate employee injury and exposure statistics
 - viii. Deployment and unit hour metrics
 - ix. Mental health service metrics
 - x. Metrics identifying high users of 9-1-1 EMS services
 - xi. Community education program metrics
 - xii. Strategic plan goals/objectives for the year – completed system improvements and enhancements
 - xiii. Activities and results of the CQI plan
 - xiv. Additional information as may be reasonably requested by CCCEMSA with sufficient advance notice.
 - b. Penalties. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which a report was not delivered on time.

5. Focused Performance Audit Reports. Contractor shall comply with requests by CCCEMSA for data and audit reports on focused topics. These topics may include any services provided under this Contract. CCCEMSA shall provide a reasonable timeline for submission of requested focused audit reports at the time of the request.

6. Electronic Patient Care Record (ePCR); PCR's.
 - a. ePCR System. Contractor shall require Transport Employees to enter electronic patient care reports (each, an "ePCR") entered in the ePCR System to be accurately

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completed to include all information listed in Section 100170 of Title 22 of the California Code of Regulations, and information shall be distributed according to EMS policies and procedures adopted by CCCEMSA.

- b. Interim PCR's. Contractor, Ambulance Subcontractor, and County will cooperate to identify required content and develop a procedure for Ambulance Subcontractor's delivery of Interim PCR's to hospitals, which shall be implemented and followed by Transport Employees beginning no later than July 1, 2017. Once the Interim PCR policy has been agreed upon, and in no event after July 1, 2017, Contractor shall require its Ambulance Subcontractor to leave an Interim PCR, or a completed PCR at the hospital before departing the hospital.
- c. Completed ePCR Submission. Contractor shall require its Ambulance Subcontractor to submit an ePCR to the treating facility within 24 hours of patient delivery.
- d. Penalties. County may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which Contractor fails to comply with subsections 6(b) and 6(c) above.

N. Integration with First Responder Programs.

- 1. Contractor shall, and shall require its Ambulance Subcontractor to, pursue opportunities to integrate fire first-response components of the EMS System with the Emergency Ambulance Services provided under this Contract, and shall cooperate and support paramedic or Advanced EMT first response programs.
- 2. Contractor shall require its Ambulance Subcontractor to implement policies to facilitate scheduling time on ambulances to fulfill paramedic training, internship, and accreditation requirements for paramedics working in Contra Costa County.
 - a. Contractor shall give precedence for field internships or ride-alongs to students from EMT and/or paramedic training programs based in Contra Costa County.
- 3. Contractor shall support the development of an integrated fire first-response program. At a minimum Contractor shall:
 - a. Offer Contractor-sponsored CE programs to fire first responder personnel on a comparable basis as made available to Contractor's personnel. The fees charged to fire first responder personnel for Contractor-sponsored CE shall not exceed the fees charged to Contractor's personnel. Fire first responder personnel shall have access to enrollment in Contractor-sponsored CE on the same basis as Contractor's personnel. Contractor is not responsible for paying wages or stipends to the fire first responder personnel for participation in Contractor-sponsored CE activities.
 - b. Designate from among Contractor's employees a single individual as Contractor's contact person/liaison for fire agencies within the Service Area.
 - c. Establish a mechanism for first responder agencies to purchase equipment at enterprise purchasing rates.
 - d. Provide pre-arranged transportation service to return firefighters who accompany an ambulance to the hospital promptly to their engine companies.

O. Disaster, Multi-Casualty and Mutual Aid Response.

- 1. Integration with the Regional Medical Health Operational Mutual Aid System. Contractor shall, to the best of its ability, assist in other EMS service areas both within and outside of

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Contra Costa County as directed by CCCEMSA because of medical disaster, MCI, or other reason necessitated for the safety, health and welfare of the public. During response to MCIs or disasters within or affecting the County, Contractor operations shall fall under management and coordination of the MHOAC as a function of the Medical/Health Branch in support of the County Emergency Operations Plan (EOP), and the California Master Mutual Aid System. County shall compensate Contractor for Contractor's direct costs of providing services during a declared local emergency or disaster to the extent that the costs are not recoverable by Contractor from a patient or third party and to the extent that the costs are recoverable by County from the state or federal government. Contractor shall participate in disaster drills and training programs as requested by CCCEMSA.

2. Mutual Aid Outside the County. Requests for Contractor's resources for mutual aid outside of Contra Costa County shall be consistent with the California Public Health and Medical Emergency Operations Manual (EOM) as authorized by the MHOAC and the California Master Mutual Aid System. Such authorization shall not be unreasonably withheld after an assessment of the situation by the MHOAC and a determination has been made that adequate resources will remain available to meet the emergency medical and health needs of the County.
3. MCI/Disaster Response Within the County. In the event of a MCI or other local emergency within Contra Costa County, Contractor shall perform in accordance with the County MCI plan and within the Incident Command System (ICS). Contractor shall use its best efforts to maintain primary emergency services, including suspension of non-emergency services as required.
 - a. Contractor shall maintain documentation of the number and nature of mutual aid responses it makes outside its Service Area and nature of mutual aid responses made by other agencies to calls originating within its Service Area.
 - b. Contractor shall provide a report on mutual aid activities to CCCEMSA when requested by CCCEMSA.
4. Liaison Staff. Contractor shall require its Ambulance Subcontractor to assign a field or dispatch manager/supervisor upon CCCEMSA's request, to respond to the designated emergency operations center as a liaison, in the event the County declares a disaster within the County.
5. Suspending Non-Emergency Services. In the event County declares a disaster within the County, or directs Contractor to respond to a disaster in a neighboring jurisdiction, normal operations may be suspended at the discretion of CCCEMSA and Contractor shall respond in accordance with the disaster plan. Contractor shall use its best efforts to maintain primary emergency services and may suspend non-emergency services upon notification and concurrence with CCCEMSA.
6. Ambulance Strike Team. Contractor shall be prepared to respond one Ambulance Strike Team staffed and equipped to the EMSA Ambulance Strike Team Guidelines when directed by County in accordance with a disaster mutual aid request.
7. Disaster Response Vehicle/Equipment. Contractor shall maintain a County-controlled, state-provided Disaster Medical Support Unit. In the absence of a DMSU, Contractor shall

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provide one vehicle as a disaster response vehicle. This vehicle shall not be an ambulance used in routine, day-to-day operations, but shall be kept in good working order and available for emergency response. This vehicle may be used to carry personnel and equipment to a disaster site. The following equipment shall be stored in this disaster vehicle: backboards and straps; cervical collars; head immobilization sets and foam wedges; PPE; splints for legs and arms; oxygen equipment; extra dressing and bandages; advanced life support equipment; especially IV therapy equipment; County approved disaster tags; and checklists for medical Incident Command personnel. This vehicle may be utilized as an ASTL vehicle upon written authorization of CCCEMSA. If this vehicle is utilized to support Contractor response within its Service Area, Contractor is responsible for restocking equipment and supplies utilized.

8. Continuity of Operations. No later than ninety (90) days after the effective date of this Contract, Contractor shall submit detailed written plans and procedures to CCCEMSA describing how Ambulance Subcontractor will mitigate the impacts to the Emergency Ambulance Services provided hereunder during all potential emergencies, disasters or work actions (i.e., power failure, information systems failure, earthquake), and provide continuous operations.
 - a. As least annually, Contractor shall review and revise the disaster mitigation plan submitted to CCCEMSA under this Section 8, and submit the revised version to CCCEMSA.
 - b. Contractor shall have an emergency electrical power system available to provide power to its critical command, control, computer and communications systems in the event the normal electrical supply is interrupted. This system must be tested periodically per NFPA 110. Testing schedule and results shall be submitted to CCCEMSA.
9. Internal Disaster Response Notification. Contractor shall implement a plan for immediate recall of personnel during multi-casualty incidents or other emergency condition. This plan shall include the capability of Contractor to alert off-duty personnel.
10. Incident Notification. Contractor shall have a mechanism in place to communicate current field information to appropriate CCCEMSA staff during multi-casualty incidents, disasters or other unusual occurrences.
11. Interagency Training for Exercises/Drills. Contractor shall participate in CCCEMSA sanctioned exercises and disaster drills and other interagency training in preparation for this type of response.
12. Ambulance Service Assistance. Contractor shall require its Ambulance Subcontractor to, to the best of its ability, assist in providing ambulance service to any other Emergency Response Areas if the County's contract with its emergency ambulance service provider for that ERA has been suspended or terminated, and if requested to do so by the County Contract Administrator.

P. Service Rates, Financial Management and Reporting.

Initials: _____
Contractor County242

**SERVICE PLAN
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Contract Number _____

1. Service Rates. Contractor shall comply with the Service Rate Schedule set forth on Exhibit D (Service Rate Schedule) attached hereto. Contractor shall not discount its rates or seek to collect a rate greater or less than the rates set forth in Exhibit D (Service Rate Schedule), except where required by law, or as otherwise specifically stated in this Contract. Contractor shall bill patients at the rates set forth on Exhibit D (Service Rate Schedule) except where prohibited by law (e.g., Medicare or Medicaid), or unless otherwise specifically stated in this Contract. This shall not preclude Contractor from accepting payments that are less than invoiced on a case-by-case basis for hardship or dispute resolution.

2. Service Rate Adjustments.
 - a. Regular Rate Increases. When requested by Contractor, the County Contract Administrator shall approve annual increases to the rates set forth in Exhibit D (Service Rate Schedule) based on changes in the Consumer Price Index, All Urban Consumers for Medical Care (U.S. city average) (1982-84=100) ("CPI"). The annual rate increases will be the greater of three (3) percent, or the increase in the CPI for the subject calendar year.
 - b. Changed Circumstances Rate Increases. In the event changed circumstances impact Contractor's costs of providing services under this Contract, or there are reductions in revenue caused by factors that are beyond the control of Contractor, Contractor may request increases or decreases in the service charges set forth on Service Rate Schedule set forth on Exhibit D (Service Rate Schedule) to mitigate the financial impact of such changed circumstances. No adjustments to service charges will be allowed during the first twelve (12) months after the effective date of this Contract. If Contractor believes an adjustment is warranted, Contractor may apply to the County Contract Administrator for a rate adjustment to be effective on or after the first anniversary of this Contract. Applications must be submitted at least sixty (60) days prior to the requested effective date. Requests for changes to service charges shall only be allowed once each calendar year following the first year of this Contract. The County Contract Administrator shall review the application and forward his or her recommendation to the Health Services Director, who shall have the authority to approve or disapprove the request. CCCEMSA's approval of rate changes is required before they can become effective.
 - c. CCCEMSA Audit. County shall have the right to review and/or audit any books, medical billing accounts, medical records, productivity reports or financial or operational records of Contractor as it deems necessary to verify such requests.

3. Expendable Supplies. The County Contract Administrator may approve charges for expendable supplies when said supplies are newly required by EMS pre-hospital protocols adopted during the term of this Contract or when the County Contract Administrator approves new items to be stocked on ambulances. The increase in patient charges shall be based upon the cost of the new items adjusted for the collection rate then recognized by Contractor in order to ensure full cost recovery.

4. Audits/Inspections. Contractor will provide County quarterly unaudited financial statements for its services provided pursuant to this Contract. These reports shall be provided in a format prescribed by CCCEMSA.

Initials: _____
 Contractor County²⁴³

**SERVICE PLAN
(Purchase of Services - Long Form)**

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- a. Contractor shall maintain separate financial records for EMS services provided pursuant to this Contract in accordance with generally accepted accounting principles.
 - b. With reasonable notification and during normal business hours, County shall have the right to review any and all business records including financial records of Contractor pertaining to this Contract. All records shall be made available to County at their Contra Costa County office or other mutually agreeable location. The County may audit, copy, make transcripts, or otherwise reproduce such records, including but not limited to contracts, payroll, inventory, personnel and other records, daily logs, and employment agreements.
 - c. Annual Financial Audit - Contractor will promptly provide annual financial statements in a format approved by County that have been audited by an independent Certified Public Accountant in accordance with generally accepted auditing standards. Statements shall be available within no more than one hundred twenty (120) calendar days after the close of each fiscal year. If Contractor's financial statements are prepared on a consolidated basis, then separately audited financial statements specifically related to the Contra Costa County operation will be required.
 - d. Contractor will provide any information separately requested by the County Auditor-Controller's Office and allow full access to its financial records by the County Auditor-Controller's Office for the period covered by this Contract.
5. No Field Collections. Neither Contractor nor its Ambulance Subcontractor shall make any attempts to collect its fees at the time of service.
6. Billing/Collection Services. Contractor shall maintain a business office within Contra Costa County and a local or toll-free telephone number for all patient questions, complaints, or disputes made from locations within the County. Contractor shall provide prompt response to any queries or appeals from patients.
- a. Contractor shall describe its methods for receiving, monitoring and responding to patient issues and complaints.
 - b. Contractor shall describe its policies for identifying patients that qualify for a financial hardship consideration for discounting or writing off their accounts.
 - c. Contractor shall provide an informational brochure or equivalent in each bill describing the process for hardship consideration.
7. Financial Hardship Review Process. Contractor shall establish a process to reduce the costs of ambulance services to patients who have demonstrated inability to pay through completing a financial statement form. All information relating to financial hardship requests shall be kept confidential. The billing manager will review the form and assess an appropriate and acceptable monthly arrangement.
8. Billing Appeals Process. Contractor will create a consumer friendly appeals process in cooperation with Contra Costa Health Insurance Counseling and Advocacy Program (HICAP) that allows the consumer sufficient time for denied claims to go through governmental and private insurers appeals timeframes before being sent to collections. Contractor will, on a monthly basis, document the number of billing waivers, appeals in process and average time to process appeals.

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9. Billing/Accounts Receivable System. Contractor shall operate a billing and accounts receivable system that is well documented, easy to audit, and which minimizes the effort required of patients to recover from third party sources for which they may be eligible. The billing system shall:
 - a. electronically generate and submit Medicare and MediCal claims;
 - b. itemize all procedures and supplies employed on patient bills; and
 - c. be capable of responding to patient and third party payer inquiries regarding submission of insurance claims, dates and types of payments made, itemized charges, and other inquiries.

10. First Responder Billing. Contractor shall provide billing services to fire jurisdictions providing fire first responder services if requested by the fire jurisdiction, provided that the fire jurisdiction compensates Contractor for its cost of providing the billing services.

11. Financial Reporting. Contractor will report trends in monthly net revenue, total expenses, number of deployed unit hours, cost per unit hour, number of transports, collection rate, average patient charge by payer mix, average patient reimbursement by payer mix, net revenue/transport, cost/trip, amount of uncompensated care provided and payer mix on a monthly basis.

12. Periodic Reporting. Contractor may be required by County to provide County with periodic report(s) in the format approved by the County Contract Administrator to demonstrate billing compliance with approved/specified rates.

13. Contract Administration; Dispute Resolution Process.
 - a. Collaboration Committee Meetings. At least once a month, staff of Contractor, CCCEMSA, and the Ambulance Subcontractor, whose attendance are necessary and appropriate, shall meet to discuss issues arising under this Contract. The purpose of the Collaboration Committee meetings is to provide a forum for formal discussion and resolution of issues arising in the performance and administration of this Contract.
 - b. Dispute Resolution Process. Except as provided in Section H(13) above with respect to penalty appeal disputes, and without limiting the parties rights under Special Condition 32 (Event of Default) of this Contract, the parties agree to resolve any disputes arising under this Contract as set forth in this section.
 - i. Collaboration Committee. The Collaboration Committee will discuss relevant issues and make a good faith attempt to resolve them.
 - ii. Agency Heads. If the Collaboration Committee is unable to resolve an issue, the agency head of the party seeking resolution of an issue arising under this Contract shall contact the other party's agency head (i.e., Contractor's Fire Chief, or CCCEMSA's Director) in an attempt to resolve the issue.
 - iii. Health Services Director. If the issue is not resolved by the agency heads, the party initially raising the issue shall provide the Health Services Director with a written description of the dispute, copying the County Administrator. No later than twenty (20) days after the Health Services Director has received the written description of the dispute, he or she shall provide the parties with a written decision regarding the dispute.

Q. Administrative.

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 Contractor County²⁴⁵

SERVICE PLAN
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1. Federal Healthcare Program Compliance Provisions. Contractor shall comply with all applicable Federal laws, rules and regulations for operation of its enterprise, ambulance services, and those associated with employees. This includes compliance with all laws and regulations relating to the provision of services to be reimbursed by Medicare, Medicaid, and other government funded programs.
2. Medicare and Medicaid Compliance Program Requirements. Contractor shall implement a comprehensive Compliance Program for all activities, particularly those related to documentation, claims processing, billing and collection processes. Contractor's Compliance Program shall substantially comply with the current guidelines and recommendations outlined in the Office of Inspector General (OIG) Compliance Program Guidance for Ambulance Suppliers as published in the Federal Register on March 24, 2003 (03 FR 14255).
3. Annual Medicare Claims Review. Contractor shall engage a qualified entity to conduct a claims review on an annual basis as described in the OIG Compliance Guidance. A minimum of 50 randomly selected Medicare claims will be reviewed for compliance with CMS rules and regulations, appropriate documentation, medical necessity, and level of service. Contractor shall submit the report to CCCEMSA no later than 120 days after the end of each calendar year during the term of this Contract.
4. HIPAA, CAL HIPAA and HITECH Compliance Program Requirements. Contractor is required to implement a comprehensive plan and develop the appropriate policies and procedures to comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 and the current rules and regulations enacted by the US Department of Health and Human Services, including:
 - a. Standards for Privacy and Individually Identifiable Health Information
 - b. Health Insurance Reform: Security Standards
 - c. Health Insurance Reform: Standards for Electronic Transaction Sets and Code Standards
5. HIPAA, CAL HIPAA and HITECH violations. Any violations of the HIPAA, CAL HIPAA and HITECH rules and regulations will be reported immediately to CCCEMSA along with Contractor's actions to mitigate the effect of such violations.
6. State Compliance Provisions. Contractor shall, and shall require its Ambulance Subcontractor to, comply with all applicable state and local laws, rules and regulations for businesses, ambulance services, and all applicable laws governing its employees. Contractor shall also comply with county and CCCEMSA policies, procedures, and protocols with regard to the services described in this Contract.
7. Performance Oversight and Monitoring. CCCEMSA shall continuously review, inspect and monitor all aspects of Contractor's operations and performance necessary to ensure all services provided by Contractor to County residents and visitors meet the requirements stated in this Contract, the EMS Plan, CCCEMSA programs, policies, protocols, and procedures and as required by law. Contractor shall reasonably cooperate with CCCEMSA to fulfill this function, including providing access to all records, facilities and

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**SERVICE PLAN
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personnel as reasonably requested by CCCEMSA. Contractor shall provide monitoring tools and technology to allow CCCEMSA to monitor Contractor's performance under this Contract

8. Observation of Operations. Contractor acknowledges that CCCEMSA is authorized to investigate all aspects of Contractor's operation so that patient care services under Contractor's operation are performed in a safe and reliable manner. CCCEMSA personnel may and will at any time directly observe Contractor operations including ride-a longs (in accordance with Contractor policies and applicable laws, e.g., HIPAA) with field supervisors and ambulance crews. Contractor agrees to grant access to CCCEMSA personnel for announced or unannounced observation, inspection, audit or review of any operational, clinical or support function, including but not limited to records, facilities, equipment, vehicles and personnel. During any inspection, audit or review, Contractor shall make requested records pertaining to any service rendered under this Contract available to CCCEMSA personnel. CCCEMSA personnel shall conduct themselves in a professional and courteous manner, shall not interfere with Contractor's employees in the performance of their duties, and shall at all times be respectful of Contractor's employer/employee relationships. CCCEMSA shall provide written feedback and results of any inspection, audit or review performed within ten (10) business days after completion.
9. Approval of Contractor Subcontracts, Plans, Programs, Policies, Protocols and Procedures. All plans, programs, policies, protocols and procedures that require CCCEMSA's approval by law or CCCEMSA policy, and any Contractor subcontracts for the performance of services under this Contract, shall be submitted to CCCEMSA for approval prior to their implementation.
10. Contractor Obligation to Notify County. Contractor shall report to CCCEMSA in writing as soon as practicable any instance where it did not meet, or has reason to believe it may not be able meet, a material requirement stated in this Contract. Upon its receipt of a notice of a failure to perform or an anticipated failure to perform under this Contract, CCCEMSA shall perform a review and work with Contractor to develop the appropriate corrective action plan to be implemented by Contractor.
11. Annual Performance Evaluation.
 - a. CCCEMSA shall evaluate the performance of Contractor at least annually to determine compliance with this Contract. The following minimum information may be included in the evaluation:
 - i. Response Time performance standards assessed with reference to the minimum requirements in the Contract;
 - ii. Clinical performance standards assessed with reference to the minimum requirements in the Contract;
 - iii. Initiation of innovative programs to improve system performance;
 - iv. Workforce stability, including documented efforts to minimize employee turnover;
 - v. Compliance of pricing and revenue recovery efforts with rules and regulations and this Contract;
 - vi. Compliance with information reporting requirements; and
 - vii. Financial stability and sustainability.

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- b. CCCEMSA and Contractor will jointly present an annual report to the Contra Costa County Board of Supervisors describing the Emergency Ambulance Services provided under this Contract during the subject year.
12. Invoicing and Payment for Services. CCCEMSA shall invoice Contractor for any fines or penalties within 30 business days after CCCEMSA's receipt of Contractor's monthly performance reports and after approval of the penalties determined by CCCEMSA. Contractor shall pay CCCEMSA all penalties and fines no later than forty-five (45) days after receipt of an invoice. For any disputes that have not been resolved to CCCEMSA or Contractor's satisfaction, the invoice shall be paid in full and subsequent invoices will be adjusted if necessary to reflect the resolution of disputed amounts.
13. Ambulance Service Permit. Contractor shall require its Ambulance Subcontractor to comply with the County ambulance permitting process pursuant to Division 48 of the County Ordinance Code and CCCEMSA policies.
14. Sharing of Information. Contractor shall not discourage or prevent its employees or agents from sharing information with CCCEMSA or appropriate County personnel concerning the County's EMS System, including issues related to Contractor's operations.
15. Notice of Labor Action. Contractor shall notify County of any threatened labor action or strike that would adversely affect its performance under this Contract. At the time of said notice, Contractor shall provide County and other affected public entities with a written plan of proposed action to deliver continued service delivery as stated in this Contract in the event of any threatened work force action or strike.
16. Cooperation With Evolving System. Contractor agrees to participate and assist in the development of system changes subject to negotiated costs, if any.
17. Earned Contract Extension. Notwithstanding Section 22 (Nonrenewal) of the General Conditions of this Contract, the County Contract Administrator shall report to the Board of Supervisors on or before December 31, 2020, on Contractor's compliance with the terms of this Contract and the Board of Supervisors shall issue a finding as to Contractor's compliance with the terms of this Contract. Notwithstanding Paragraph 3 (Term) of this Contract, unless this Contract is terminated by either party pursuant to its terms, or by mutual agreement prior to December 31, 2020, upon a finding by the Board of Supervisors that Contractor has been in substantial compliance with all terms of this Contract, the term of this Contract shall be extended to December 31, 2025. During its extended term, this Contract is nevertheless subject to all the terms and conditions applicable during its initial term. If this Contract is automatically extended, Contractor shall continue to provide services as set forth in this Contract, subject to any amendments hereto.
18. No Advertising. Contractor shall require its Ambulance Subcontractor, in the course of providing services pursuant to this Contract, to refrain from advertising, promoting, or endorsing any other service or product provided by Contractor or any other firm, unless Contractor has obtained the prior written approval of CCCEMSA.

R. Workforce Engagement and Benefits.

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1. Workforce Engagement. Contractor shall require its Ambulance Subcontractor to adopt programs and key performance indicators to engage its workforce, which shall include, but not be limited to, assessing and evaluating the satisfaction of its employees on a regular basis and developing measures to improve employee satisfaction. Examples of workforce engagement programs that should be adopted by Contractor's Ambulance Subcontractor include, but are not limited to:
 - a. Annual employee reviews
 - b. Labor/Management Meetings
 - c. System Status Meetings/Deployment Improvement
 - d. Health and Safety Committee
 - e. Certification/Credentialing Support
 - f. Competitive Wage and Benefit Package
 - g. Employee Assistance Program (EAP).
 - h. Allied/ Interoperability Agency Training
 - i. Career Development
 - j. Critical Incident Stress Management
 - k. EMS Committee
 - l. Field Employee Recognition Program
 - m. Field/Base Communication Review
 - n. Professional Growth Opportunities/Training
 - o. Continued Education Opportunities
 - p. PEERS Pre Hospital Education and Evaluation Readiness Solutions Program
 - q. Newsletter
 - r. Healthcare charitable foundation program
 - s. Workforce harmony

S. Risk Management Program.

1. Illness and Injury Prevention. Contractor shall require its Ambulance Subcontractor to develop, implement, and maintain a comprehensive illness and injury prevention policy manual that includes an injury and illness prevention program, an infection control program, and a risk management program.
2. Incident Reporting, Investigation, and Corrective Actions
 - a. Contractor shall develop, implement, and maintain a program for incident reporting, investigation, and corrective action that effectively addresses each incident recognized or reported.
 - i. Incident Review - This performance improvement program shall include guidelines and processes to retrospectively review incidents and outline how risks for workplace safety for employees and patients can be improved.
 - ii. Investigation and Documentation – This program shall establish strict incident reporting standards that allow Contractor to respond immediately to adverse events, initiate a thorough and unbiased investigation, implement mitigation measures, and carry out corrective action in a timely manner. The program shall utilize an electronic safety reporting system that provides daily, monthly, and annual tracking of collisions and worker's compensation claims. All information shall be made available to CCCEMSA upon request.

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3. Ethics and Compliance Program

- a. Contractor shall require its Ambulance Subcontractor to develop, implement, and maintain a program that focuses on employee education and Contractor's compliance with all federal, state, and local payor regulations. The program must track changes in federal laws and regulations, as well as government enforcement affecting Contractor and Contractor's customers, ensuring Contractor is always in full compliance with all laws and regulations. The program shall, at a minimum, meet the guidance issued by the Office of Inspector General.

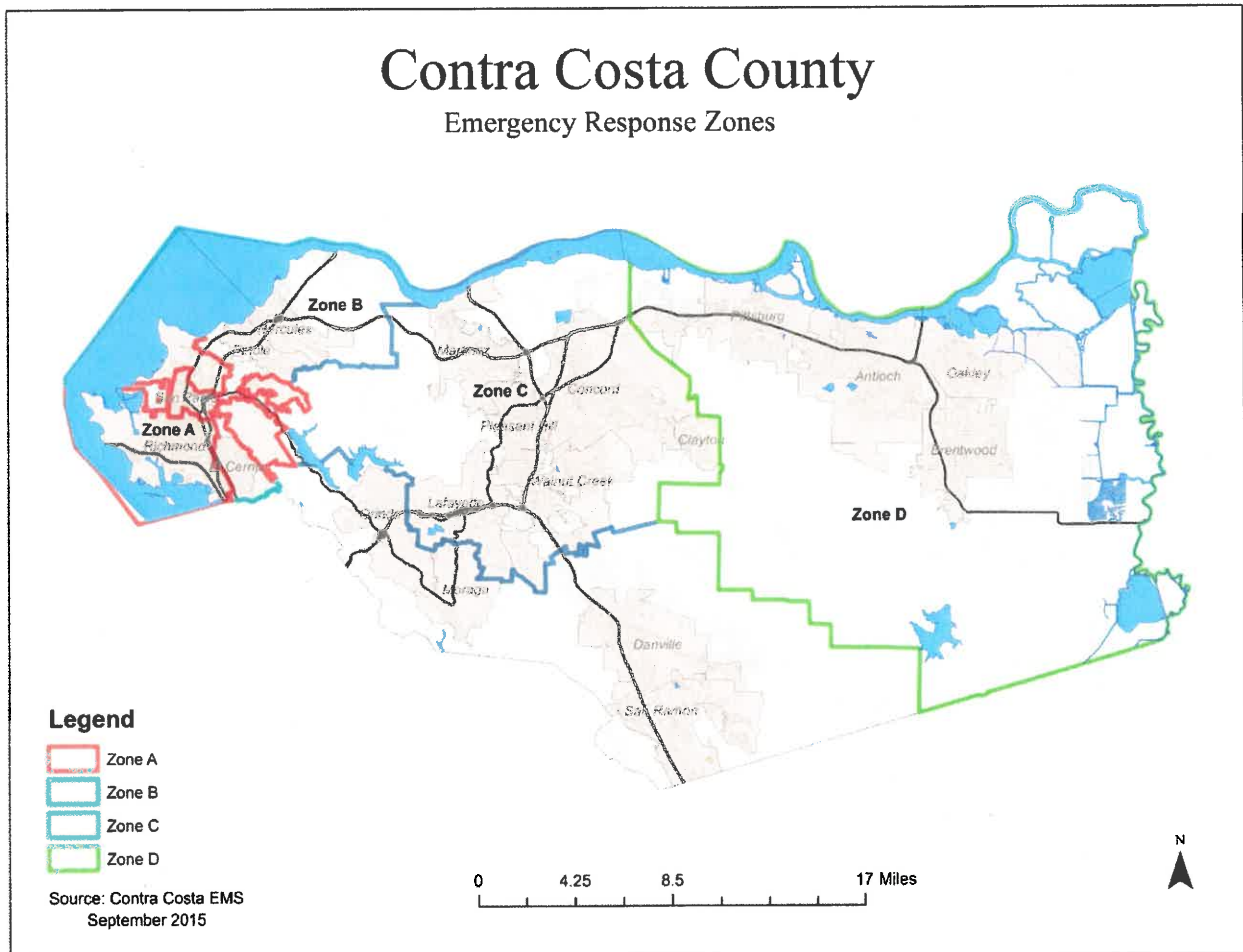
Initials: _____
Contractor County250

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Exhibit A

Emergency Response Zones Map



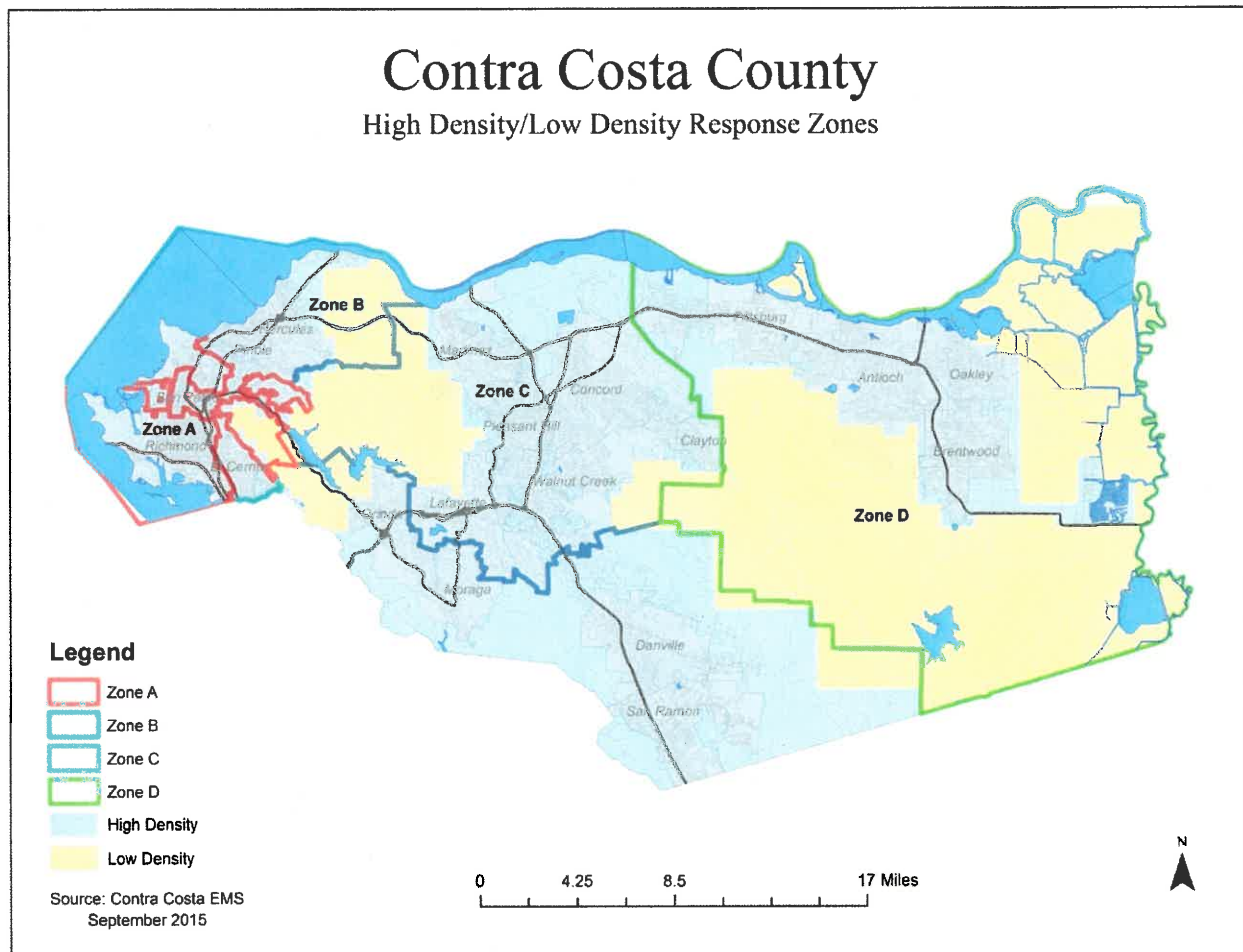
Initials: _____
Contractor County251

**SERVICE PLAN
(Purchase of Services - Long Form)**

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Exhibit B

Response Density Map



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Exhibit C
Penalties

I. Response Time Penalties***Emergency Ambulance Requests - Priority 1 Responses for each ERZ***

Compliance %	Penalty
89% < 90%	\$15,000
88% < 89%	\$25,000
< 88%	\$50,000

Emergency Ambulance Requests - Priority 2 Responses for each of the ERZ

Compliance %	Penalty
89% < 90%	\$5,000
88% < 89%	\$10,000
< 88%	\$15,000

Emergency Ambulance Requests - Priority 3 Responses for each of the ERZ

Compliance %	Penalty
89% < 90%	\$2,500
88% < 89%	\$5,000
< 88%	\$7,500

Non-Emergency ALS Interfacility Transports - Priority 4 Responses for entire Service Area

Compliance %	Penalty
89% < 90%	\$4,000
88% < 89%	\$6,000
< 88%	\$7,500

Outlier Response Time Penalties

Priority Level	Outlier Response Times		Penalty per Outlier
	High Density Call	Low Density Call	
Priority 1	>18:59	>29:59	\$1,500
Priority 2	>22:59	>44:59	\$1,000
Priority 3	>39:59	>59:59	\$750

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Priority 4	>29:59 late for scheduled >89:59 for non-scheduled		\$500
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II. Other Penalties.

Performance	Section Reference	Penalty
Provide timely Response Time reports and operational reports	Section H(10)(c) - Operational and Response Time reports; Section M(4) – Monthly and Annual	\$50 per report for each day after due date
Leave Interim PCR at hospital	Section M(6)(b) – Interim PCR delivery	\$50 for every instance when the Interim PCR is not left at the receiving facility prior to crew departure. (No later than July 1, 2017, See Section M(6)) A penalty of \$100 for every completed ePCR not provided to the facility within 24 hours of patient delivery.
Submit completed ePCR within 24 hours of patient delivery	Section M(6)(c) – ePCR submission within 24 hours	
Response and transport by a BLS unit when the Priority level calls for the patient to be transported by an ALS unit	Sections D(1)(c), and D(1)(e)(iii)	\$1,000 for each incident
Failure to provide timely quality improvement data and reports	Sections E(5), and E(12)	\$50 per report or data submission for each day after due date
Failure to provide timely unusual occurrence reports and investigation updates	Section E(5)(b); Section I(7)	\$100 per report for each day after the date the particular report was due
Failure to respond to an emergency request for an Emergency Ambulance	Section D(1)(c)	\$10,000 for each failure to respond to an Emergency Ambulance request.

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Improper Paramedic or EMT certification	Section I(10) (Paramedic); Section I(11) (EMT)	\$250 per call responded to by improperly certified Paramedic or EMT
Failure to document Against Medical Advice (AMA)	Section D(19)	\$500 for a Transport Employee's failure to document Against Medical Advice (AMA)
Dispatched Emergency Ambulance crew fails to report and document Arrival On Scene Time	Sections H(6)(d), and H(10)(d)	\$250 per incident
Ambulance fails to meet the minimum in-service requirements	Section J(5)	\$500 per Ambulance

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Exhibit D

**Contra Costa County
Service Rate Schedule**

For each Ambulance responding to a call, Contractor shall charge the patient the Emergency Ambulance Response Base Rate, plus mileage costs at the Mileage Rate. If oxygen is administered to a patient, Contractor shall charge the patient the Oxygen Administration Charge, whether transported or not. If a patient is treated and refuses transport, Contractor will charge the patient the Treat and Refused Transport rate.

- | | |
|--|------------|
| 1. Emergency Ambulance Response Base Rate | \$2,100.00 |
| 2. Mileage Rate (for each mile traveled with a loaded patient) | \$50.00 |
| 3. Oxygen Administration Charge | \$175.00 |
| 4. Treat and Refused Transport..... | \$450.00 |

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SPECIAL CONDITIONS

The parties to this Contract agree that the following Special Conditions modify the General Conditions (Form L-5) of the Contract and are part of this Contract.

1. Records. Section 3(a) (Retention of Records) of the General Conditions is hereby deleted in its entirety and replaced by the following:

“a. Retention of Records. Contractor must retain all documents pertaining to this Contract for five years from the end of the last year in which this Contract was in effect; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this Contract’s funding period. Upon request, Contractor must make these records available to authorized representatives of the County, the State of California, and the United States Government

2. Termination. Section 5 (Termination) of the General Conditions is hereby deleted in its entirety and replaced by the following:

“5. Termination.

a. Written Notice. Either party may, at its sole discretion, terminate this Contract without cause by giving the other party twelve (12) months advance written notice of its intent to terminate this Contract. This Contract may be cancelled immediately by written mutual consent.

b. Event of Default. If a party has committed an Event of Default (as defined in Special Condition 32 (Event of Default) below), the non-Defaulting party may, upon written notice to the Defaulting party, terminate this Contract. If County terminates this Contract based on an Event of Default, it may proceed with the work in any reasonable manner it chooses. The cost to the County of completing Contractor’s performance shall be deducted from any sum due the Contractor under this Contract, without prejudice to the County’s rights otherwise to recover its damages.”

3. Modifications and Amendments. Section 8(b) (Minor Amendments) of the General Conditions is hereby deleted in its entirety and replaced with “[Reserved.]”

4. Disputes. Section 9 (Disputes) of the General Conditions is hereby deleted in its entirety and replaced with “[Reserved.]”

5. Assignment. Section 13 (Assignment) of the General Conditions is hereby amended by adding the following sentence to the end of the Section:

“Notwithstanding the foregoing, County hereby consents to Contractor using (a)

SPECIAL CONDITIONS

American Medical Response West, a California corporation, as its emergency ambulance services subcontractor, and (b) Advanced Data Processing, Inc., a Delaware corporation, as its emergency ambulance services billing subcontractor.”

6. Insurance. Section 19 (Insurance) of the General Conditions is hereby deleted in its entirety and replaced by the following:

“19. Insurance.

- a. Contractor Insurance. During the entire term of this Contract and any extension or modification hereof, Contractor shall maintain (i) workers’ compensation or self-insurance coverage, covering its personnel while they are performing services under this Contract, and (ii) liability insurance or self-insurance coverage, covering the general liability of the Contractor in amounts appropriate for the services it provides and satisfactory to Contractor. Contractor will provide County with satisfactory evidence of the coverages required by subsections (i) and (ii).
- b. Subcontractor Insurance. During the entire term of this Contract and any extension or modification hereof, Contractor shall cause its subcontractors to keep in effect insurance policies meeting the following insurance requirements:
 - i. Ambulance Subcontractor Liability Insurance. Contractor shall cause its Ambulance Subcontractor (as defined in the Service Plan) to keep in effect malpractice insurance and commercial general liability insurance, including coverage for business losses, and for owned and non-owned vehicles, each with a minimum combined single limit coverage of \$11,000,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance shall be endorsed to include Contra Costa County and its officers and employees as additional named insureds as to all services performed by the Ambulance Subcontractor under its subcontract with Contractor. Said policies shall constitute primary insurance as to County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance programs shall not be required to contribute to any loss covered under the Ambulance Subcontractor’s insurance policy or policies. Contractor shall provide County with a copy of the endorsement making the County an additional insured on Ambulance

SPECIAL CONDITIONS

Subcontractor's commercial general liability policies as required herein no later than the effective date of this Contract.

- ii. Other Subcontractors Liability Insurance. Contractor shall cause all of its subcontractors, other than its Ambulance Subcontractor (as defined in the Service Plan), providing services in connection with this Contract to keep in effect commercial general liability insurance, including coverage for business losses, and for owned and non-owned vehicles, with a minimum combined single limit coverage of \$1,000,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance shall be endorsed to include Contra Costa County and its officers and employees as additional named insureds as to all services performed by the subcontractor under its subcontract with Contractor. Said policies shall constitute primary insurance as to County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance programs shall not be required to contribute to any loss covered under the subcontractor's insurance policy or policies. Contractor shall provide County with a copy of the endorsement making the County an additional insured on each subcontractor's commercial general liability policies as required herein no later than the effective date of this Contract.
- iii. Workers' Compensation. Contractor shall cause all of its subcontractors performing services in connection with this Contract to provide workers' compensation insurance coverage for their respective employees.
- iv. Certificates of Insurance. Contractor shall provide County with certificates of insurance evidencing its subcontractor's liability, medical malpractice (if applicable), and worker's compensation insurance as required herein no later than the effective date of this Contract. If any of Contractor's subcontractor's providing services in connection with this Contract renew an insurance policy or acquire either a new insurance policy or amend the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor shall provide County with a current certificate of insurance evidencing such renewal, new policy, or amendment.

SPECIAL CONDITIONS

- c. Additional Insurance Provisions. No later than five days after any of Contractor's subcontractors receive: (i) a notice of cancellation, a notice of an intention to cancel, or a notice of a lapse in the subcontractor's insurance coverage required by this Contract; or (ii) a notice of a material change to the subcontractor's insurance coverage required by this Contract, Contractor will provide County a copy of such notice of cancellation, notice of intention to cancel, notice of lapse of coverage, or notice of material change. Contractor's failure to provide County the notice as required by the preceding sentence is a default under this Contract."

7. Nonrenewal. Section 22 (Nonrenewal) of the General Conditions is hereby amended by adding the following paragraphs to the end of the Section:

"Competitive Bid Required. Contractor acknowledges that County intends to conduct a competitive procurement process for the provision of emergency ambulance services within the Service Area (as defined in the Service Plan) following the expiration or termination of this Contract. Contractor acknowledges and agrees that County may select a different ambulance service provider to provide exclusive emergency ambulance services within all or some of the Service Area following the competitive procurement process.

Future Bid Cycles. Contractor acknowledges and agrees that its Ambulance Subcontractor (as defined in the Service Plan) supervisory personnel, EMT's, paramedics, and control center personnel working in the EMS System have a reasonable expectation of long-term employment in the EMS System, even though private party providers of EMS System services may change from time to time. Accordingly, Contractor shall not, and shall not permit its Ambulance Subcontractor to, penalize or bring personal hardship to bear upon any of its employees who apply for work on a contingent basis with competing bidders, and shall allow without penalty its employees to sign contingent employment agreements with competing bidders at employees' discretion. Contractor may, however, prohibit its employees from assisting competing bidders in preparing their bid proposals by revealing Contractor's trade secrets or other information about Contractor's business practices or field operations."

8. Additional Special Conditions. The following new sections are hereby added to the General Conditions immediately following Section 29 (No Implied Waiver) thereof as follows:

"30. Emergency Takeover.

- a. Public Health and Safety Risk Determination. If the County Contract Administrator (as defined in the Service Plan) has a reasonable belief that Contractor's failure to perform its obligations under this Contract, or that a labor dispute will prevent Contractor from performing its obligations under this

SPECIAL CONDITIONS

Contract, and that such failure to perform will endanger public health and safety, and after Contractor has been given notice and reasonable opportunity to correct the failure of performance, the County Contract Administrator shall present the matter to the County Board of Supervisors. If the Board of Supervisors finds that Contractor's failure to perform its obligations under this Contract will endanger public health and safety, and that permitting Contractor to continue providing services under this Agreement will endanger public health and safety, Contractor shall, and shall cause its Ambulance Subcontractor to, cooperate with County to effect an immediate emergency takeover by County of Contractor's Ambulance Subcontractor's ambulances and crew stations (an "Emergency Takeover"). The Emergency Takeover shall be completed within 72 hours after action by the Board of Supervisors.

- b. Delivery of Equipment. In the event of an Emergency Takeover, Contractor shall cause its Ambulance Subcontractor to deliver to County the ambulances and associated equipment used in the Emergency Ambulance Services pursuant to this Contract, including supervisors' vehicles. Each ambulance shall be equipped, at a minimum, with the equipment and supplies necessary for the operation of an ALS Ambulance in accordance with Contra Costa County ALS Policies and Procedures. Equipment shall include the supplies at the minimum stocking levels for an ALS Ambulance.
- c. Lessor / Lessee Relationship.
 - i. Contractor shall cause its Ambulance Subcontractor to deliver all ambulances, crew stations, and other facilities located in Contra Costa County and used pursuant to this Contract for storage or maintenance of vehicles, equipment, or supplies to the County in mitigation of any damages to the County. However, during the County's takeover of the ambulances, equipment, and facilities, County and Contractor shall be considered a sublessee and sublessor, respectively, and Contractor and its Ambulance Subcontractor shall be considered lessee and lessor, respectively pursuant to the subcontract between Contractor and its Ambulance Subcontractor. Monthly rent payable to Contractor shall be equal to the aggregate monthly amount of Contractor's Ambulance Subcontractor's debt service on the vehicles and equipment and occupancy charges as documented by Contractor and as verified by the County Auditor. The County Auditor shall disburse these payments directly to the Contractor's Ambulance Subcontractor's obligee. In the event an ambulance is unencumbered, or a crew station is not being rented, the County shall pay Contractor the fair market rental value for the ambulance or crew station.
 - ii. All of Contractor's Ambulance Subcontractor's vehicles and related equipment necessary for the provision of Emergency Ambulance Services

SPECIAL CONDITIONS

pursuant to this Contract are hereby subleased to the County during an Emergency Takeover period. Contractor shall maintain and provide to County a listing of all vehicles used in the performance of this Contract, including reserve vehicles, their license numbers, and the name and address of the lienholder, if any. Changes in lienholder, as well as the transfer, sale, or purchase of vehicles used to provide Emergency Ambulance Services hereunder shall be reported to the County within thirty (30) days of said change, sale, transfer and purchase. Contractor shall inform and provide a copy of the takeover provisions contained herein to the lienholders within five (5) days of an Emergency Takeover.

- d. Recovery of Damages. Nothing herein shall preclude County from pursuing recovery from Contractor of rental and debt service payments made pursuant to subsection (c) above. Contractor shall not be precluded from disputing the Board's findings and the nature and amount of County's alleged damages. However, failure on the part of Contractor to cooperate fully with the County to effectuate a safe and smooth Emergency Takeover shall itself constitute a breach of this Contract, even if it is later determined that the original declaration of breach by the Board of Supervisors was made in error.
- e. Contractor Indemnity. County shall indemnify, hold harmless, and defend Contractor against any and all claims arising out of the County's use, care, custody, and control of the stations, equipment and vehicles, including but not limited to, equipment defects, defects in material and workmanship, and negligent use of the vehicles and equipment during an emergency takeover. County shall have the right to authorize the use of the vehicles and equipment by another company. Should County require a substitute contractor to obtain insurance on the equipment, or should the County choose to obtain insurance on the vehicles and equipment, Contractor shall be a named additional insured on the policy, along with appropriate endorsements and cancellation notice.
- f. Return of Equipment. County agrees to return all Contractor vehicles and equipment to Contractor's Ambulance Subcontractor in good working order, normal wear and tear excepted, at the end of the Emergency Takeover period. For any of equipment not so returned, County shall pay Contractor the fair market value of the vehicle and equipment at the time of takeover, less normal wear and tear, or shall pay Contractor the reasonable costs of repair, or shall repair and return the vehicles and equipment.
- g. Length of Emergency Takeover Period. County may unilaterally terminate the Emergency Takeover period at any time, and return the facilities and equipment to Contractor. The Emergency Takeover period shall last, in the County's judgment, no longer than is necessary to stabilize the EMS System and to

SPECIAL CONDITIONS

protect the public health and safety by whatever reasonable means the County chooses.

31. End Term Provisions. Contractor shall, and shall cause its Ambulance Subcontractor to, return to County all County issued equipment in good working order, normal wear and tear excepted, upon the expiration or termination of this Contract. For any County equipment not so returned, County shall repair or replace said equipment at Contractor's expense and deduct the cost thereof from any payments owed to Contractor. In the event Contractor is not owed any payments under this Contract, Contractor shall reimburse County for the actual cost of repairs and/or replacement.
32. Event of Default. Subject to the dispute resolution process set forth in Section P(13) of the Service Plan, if a party to this Contract believes the other party has failed to perform or observe any material term, covenant or provision of this Contract (any such event, a "Default"), the non-Defaulting party shall deliver a written notice to cure such Default to the Defaulting party ("Notice to Cure"). Within thirty (30) days following the date of the mailing of the Notice to Cure, the Defaulting party shall cure the Default or, if the Default is not reasonably capable of cure within thirty (30) days, the Defaulting party will be allowed to cure such Default if it provides the non-Defaulting party with a good faith plan to cure such Default, but only for so long as it diligently pursues cure of such Default and provides evidence thereof to the non-Defaulting party. If the Defaulting party fails to cure such Default within thirty (30) days of the date the Notice to Cure is mailed or fails to provide a good faith plan to cure a Default incapable of cure within thirty (30) days, or fails to diligently pursue a cure of such Default incapable of cure within thirty (30) days (an "Event of Default"), then, in addition to any other rights available to the non-Defaulting party under law or equity, the non-Defaulting party may terminate this Contract as provided in Special Condition Section 5(b) ."

GENERAL CONDITIONS
(Purchase of Services - Long Form)

1. **Compliance with Law.** Contractor is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Contract, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment, including nondiscrimination.
2. **Inspection.** Contractor's performance, place of business, and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.
3. **Records.** Contractor must keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the County.
 - a. **Retention of Records.** Contractor must retain all documents pertaining to this Contract for five years from the date of submission of Contractor's final payment demand or final Cost Report; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this Contract's funding period. Upon request, Contractor must make these records available to authorized representatives of the County, the State of California, and the United States Government.
 - b. **Access to Books and Records of Contractor, Subcontractor.** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Contract, make available to the County, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and books, documents, and records of Contractor necessary to certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to the County, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor.

4. **Reporting Requirements.** Pursuant to Government Code Section 7550, Contractor must include in all documents and written reports completed and submitted to County in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section applies only if the Payment Limit of this Contract exceeds \$5,000.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

5. Termination and Cancellation.

- a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-day advance written notice thereof to the other, and may be cancelled immediately by written mutual consent.
- b. **Failure to Perform.** County, upon written notice to Contractor, may immediately terminate this Contract should Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, County may proceed with the work in any reasonable manner it chooses. The cost to County of completing Contractor's performance will be deducted from any sum due Contractor under this Contract, without prejudice to County's rights to recover damages.
- c. **Cessation of Funding.** Notwithstanding any contrary language in Paragraphs 5 and 11, in the event that federal, state, or other non-County funding for this Contract ceases, this Contract is terminated without notice.

6. **Entire Agreement.** This Contract contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract will be deemed to exist or to bind any of the parties hereto.

7. **Further Specifications for Operating Procedures.** Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be clarified in a written letter signed by Contractor and the department head, or designee, of the county department on whose behalf this Contract is made. No written clarification prepared pursuant to this Section will operate as an amendment to, or be considered to be a part of, this Contract.

8. Modifications and Amendments.

- a. **General Amendments.** In the event that the total Payment Limit of this Contract is less than \$100,000 and this Contract was executed by the County's Purchasing Agent, this Contract may be modified or amended by a written document executed by Contractor and the County's Purchasing Agent or the Contra Costa County Board of Supervisors, subject to any required state or federal approval. In the event that the total Payment Limit of this Contract exceeds \$100,000 or this Contract was initially approved by the Board of Supervisors, this Contract may be modified or amended only by a written document executed by Contractor and the Contra Costa County Board of Supervisors or, after Board approval, by its designee, subject to any required state or federal approval.
- b. **Minor Amendments.** The Payment Provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, provided that such administrative amendment may not increase the Payment Limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.

9. **Disputes.** Disagreements between County and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final written determination by the head of the county department for which this Contract is made, or his designee, or in accordance with the applicable procedures (if any) required by the state or federal government.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

10. Choice of Law and Personal Jurisdiction.

- a. This Contract is made in Contra Costa County and is governed by, and must be construed in accordance with, the laws of the State of California.
- b. Any action relating to this Contract must be instituted and prosecuted in the courts of Contra Costa County, State of California.

11. Conformance with Federal and State Regulations and Laws. Should federal or state regulations or laws touching upon the subject of this Contract be adopted or revised during the term hereof, this Contract will be deemed amended to assure conformance with such federal or state requirements.

12. No Waiver by County. Subject to Paragraph 9. (Disputes) of these General Conditions, inspections or approvals, or statements by any officer, agent or employee of County indicating Contractor's performance or any part thereof complies with the requirements of this Contract, or acceptance of the whole or any part of said performance, or payments therefor, or any combination of these acts, do not relieve Contractor's obligation to fulfill this Contract as prescribed; nor is the County thereby prevented from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.

13. Subcontract and Assignment. This Contract binds the heirs, successors, assigns and representatives of Contractor. Prior written consent of the County Administrator or his designee, subject to any required state or federal approval, is required before the Contractor may enter into subcontracts for any work contemplated under this Contract, or before the Contractor may assign this Contract or monies due or to become due, by operation of law or otherwise.

14. Independent Contractor Status. The parties intend that Contractor, in performing the services specified herein, is acting as an independent contractor and that Contractor will control the work and the manner in which it is performed. This Contract is not to be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association. Contractor is not a County employee. This Contract does not give Contractor any right to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits County provides to its employees. In the event that County exercises its right to terminate this Contract, Contractor expressly agrees that it will have no recourse or right of appeal under any rules, regulations, ordinances, or laws applicable to employees.

15. Conflicts of Interest. Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Contract, no person having any such interests will be employed by Contractor. If requested to do so by County, Contractor will complete a "Statement of Economic Interest" form and file it with County and will require any other person doing work under this Contract to complete a "Statement of Economic Interest" form and file it with County. Contractor covenants that Contractor, its employees and officials, are not now employed by County and have not been so employed by County within twelve months immediately preceding this Contract; or, if so employed, did not then and do not now occupy a position that would create a conflict of interest under Government

GENERAL CONDITIONS
(Purchase of Services - Long Form)

Code section 1090. In addition to any indemnity provided by Contractor in this Contract, Contractor will indemnify, defend, and hold the County harmless from any and all claims, investigations, liabilities, or damages resulting from or related to any and all alleged conflicts of interest. Contractor warrants that it has not provided, attempted to provide, or offered to provide any money, gift, gratuity, thing of value, or compensation of any kind to obtain this Contract.

16. **Confidentiality**. To the extent allowed under the California Public Records Act, Contractor agrees to comply and to require its officers, partners, associates, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that no person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.
17. **Nondiscriminatory Services**. Contractor agrees that all goods and services under this Contract will be available to all qualified persons regardless of age, gender, race, religion, color, national origin, ethnic background, disability, or sexual orientation, and that none will be used, in whole or in part, for religious worship.
18. **Indemnification**. Contractor will defend, indemnify, save, and hold harmless County and its officers and employees from any and all claims, demands, losses, costs, expenses, and liabilities for any damages, fines, sickness, death, or injury to person(s) or property, including any and all administrative fines, penalties or costs imposed as a result of an administrative or quasi-judicial proceeding, arising directly or indirectly from or connected with the services provided hereunder that are caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by County, Contractor will defend any such suits at its sole cost and expense. If County elects to provide its own defense, Contractor will reimburse County for any expenditures, including reasonable attorney's fees and costs. Contractor's obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor is not required to indemnify County for the proportion of liability a court determines is attributable to the sole negligence or willful misconduct of the County, its officers and employees. This provision will survive the expiration or termination of this Contract.
19. **Insurance**. During the entire term of this Contract and any extension or modification thereof, Contractor shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:
 - a. **Commercial General Liability Insurance**. For all contracts where the total payment limit of the contract is \$500,000 or less, Contractor will provide commercial general liability insurance, including coverage for business losses and for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance must be endorsed to include County and its officers and employees as additional insureds as to all services performed by Contractor under this Contract. Said policies must constitute primary insurance as to

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) will not be required to contribute to any loss covered under Contractor's insurance policy or policies. Contractor must provide County with a copy of the endorsement making the County an additional insured on all commercial general liability policies as required herein no later than the effective date of this Contract. For all contracts where the total payment limit is greater than \$500,000, the aforementioned insurance coverage to be provided by Contractor must have a minimum combined single limit coverage of \$1,000,000.

- b. **Workers' Compensation.** Contractor must provide workers' compensation insurance coverage for its employees.
 - c. **Certificate of Insurance.** The Contractor must provide County with (a) certificate(s) of insurance evidencing liability and worker's compensation insurance as required herein no later than the effective date of this Contract. If Contractor should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor must provide (a) current certificate(s) of insurance.
 - d. **Additional Insurance Provisions.** No later than five days after Contractor's receipt of: (i) a notice of cancellation, a notice of an intention to cancel, or a notice of a lapse in any of Contractor's insurance coverage required by this Contract; or (ii) a notice of a material change to Contractor's insurance coverage required by this Contract, Contractor will provide Department a copy of such notice of cancellation, notice of intention to cancel, notice of lapse of coverage, or notice of material change. Contractor's failure to provide Department the notice as required by the preceding sentence is a default under this Contract
20. **Notices.** All notices provided for by this Contract must be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to County must be addressed to the head of the county department for which this Contract is made. Notices to Contractor must be addressed to the Contractor's address designated herein. The effective date of notice is the date of deposit in the mails or of other delivery, except that the effective date of notice to County is the date of receipt by the head of the county department for which this Contract is made.
21. **Primacy of General Conditions.** In the event of a conflict between the General Conditions and the Special Conditions, the General Conditions govern unless the Special Conditions or Service Plan expressly provide otherwise.
22. **Nonrenewal.** Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased by County under a new contract following expiration or termination of this Contract, and Contractor waives all rights or claims to notice or hearing respecting any failure to continue purchasing all or any such services from Contractor.
23. **Possessory Interest.** If this Contract results in Contractor having possession of, claim or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this Contract results in the placement of taxable improvements on tax exempt land (Revenue & Taxation Code Section 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest. Contractor agrees that this provision complies with the notice

GENERAL CONDITIONS
(Purchase of Services - Long Form)

requirements of Revenue & Taxation Code Section 107.6, and waives all rights to further notice or to damages under that or any comparable statute.

24. **No Third-Party Beneficiaries.** Nothing in this Contract may be construed to create, and the parties do not intend to create, any rights in third parties.
25. **Copyrights, Rights in Data, and Works Made for Hire.** Contractor will not publish or transfer any materials produced or resulting from activities supported by this Contract without the express written consent of the County Administrator. All reports, original drawings, graphics, plans, studies and other data and documents, in whatever form or format, assembled or prepared by Contractor or Contractor's subcontractors, consultants, and other agents in connection with this Contract are "works made for hire" (as defined in the Copyright Act, 17 U.S.C. Section 101 et seq., as amended) for County, and Contractor unconditionally and irrevocably transfers and assigns to Agency all right, title, and interest, including all copyrights and other intellectual property rights, in or to the works made for hire. Unless required by law, Contractor shall not publish, transfer, discuss, or disclose any of the above-described works made for hire or any information gathered, discovered, or generated in any way through this Agreement, without County's prior express written consent. If any of the works made for hire is subject to copyright protection, County reserves the right to copyright such works and Contractor agrees not to copyright such works. If any works made for hire are copyrighted, County reserves a royalty-free, irrevocable license to reproduce, publish, and use the works made for hire, in whole or in part, without restriction or limitation, and to authorize others to do so.
26. **Endorsements.** In its capacity as a contractor with Contra Costa County, Contractor will not publicly endorse or oppose the use of any particular brand name or commercial product without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely accepted scientific basis for such claims or without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not participate or appear in any commercially produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of Contra Costa County. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Supervisors, County officers, or others who may be authorized by the Board of Supervisors or by law to receive such views.
27. **Required Audit.** (A) If Contractor is funded by \$500,000 or more in federal grant funds in any fiscal year from any source, Contractor must provide to County, at Contractor's expense, an audit conforming to the requirements set forth in the most current version of Office of Management and Budget Circular A-133. (B) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, but such grant imposes specific audit requirements, Contractor must provide County with an audit conforming to those requirements. (C) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, Contractor is exempt from federal audit requirements for that year; however, Contractor's records must be available for and an audit may be required by, appropriate officials of the federal awarding agency, the General Accounting Office (GAO), the pass-through entity and/or the County. If any such audit is required, Contractor must provide County with such audit. With respect to the audits specified in (A), (B) and (C) above, Contractor is solely responsible for arranging for the conduct of the audit, and for its cost. County may withhold the estimated cost of the audit or 10 percent of the

Contractor

County Dept.

GENERAL CONDITIONS
(Purchase of Services - Long Form)

contract amount, whichever is greater, or the final payment, from Contractor until County receives the audit from Contractor.

28. **Authorization**. Contractor, or the representative(s) signing this Contract on behalf of Contractor, represents and warrants that it has full power and authority to enter into this Contract and to perform the obligations set forth herein.
29. **No Implied Waiver**. The waiver by County of any breach of any term or provision of this Contract will not be deemed to be a waiver of such term or provision or of any subsequent breach of the same or any other term or provision contained herein.

STANDARD CONTRACT
(Purchase of Services – Long Form)

Number:
Fund/Org:
Account:
Other:

1. **Contract Identification.**

Department: Contra Costa County Fire Protection District

Subject: Emergency Ambulance Services

2. **Parties.** The County of Contra Costa, California (County), for its Department named above, and the following named Contractor mutually agree and promise as follows:

Contractor: American Medical Response West

Capacity: California Corporation

Address: 5151 Port Chicago Highway, Suite A, Concord, CA 94520

3. **Term.** The effective date of this Contract is January 1, 2016. It terminates on December 31, 2020 unless sooner terminated as provided herein.

4. **Payment Limit.** County's total payments to Contractor under this Contract shall not exceed
\$ 200,000,000.

5. **County's Obligations.** County shall make to the Contractor those payments described in the Payment Provisions attached hereto which are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. **Contractor's Obligations.** Contractor shall provide those services and carry out that work described in the Service Plan attached hereto which is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

7. **General and Special Conditions.** This Contract is subject to the General Conditions and Special Conditions (if any) attached hereto, which are incorporated herein by reference.

8. **Project.** This Contract implements in whole or in part the following described Project, the application and approval documents of which are incorporated herein by reference.

STANDARD CONTRACT
(Purchase of Services – Long Form)

Number:
Fund/Org:
Account:
Other:

9. **Legal Authority.** This Contract is entered into under and subject to the following legal authorities:

California Health and Safety Code Section 13861 and all legal authorities cited in the HIPAA Business Associate Addendum attached to this Contract and incorporated herein by this reference.

10. **Signatures.** These signatures attest the parties' agreement hereto:

COUNTY OF CONTRA COSTA, CALIFORNIA

BOARD OF SUPERVISORS	ATTEST: Clerk of the Board of Supervisors
By: _____ Chair/Designee	By: _____ Deputy

CONTRACTOR

Signature A Name of business entity: American Medical Response West, a California corporation	Signature B Name of business entity: American Medical Response West, a California corporation
By: _____ (Signature of individual or officer)	By: _____ (Signature of individual or officer)
_____ (Print name and title A, if applicable)	_____ (Print name and title B, if applicable.)

Note to Contractor: For corporations (profit or nonprofit) and limited liability companies, the contract must be signed by two officers. Signature A must be that of the chairman of the board, president, or vice-president; and Signature B must be that of the secretary, any assistant secretary, chief financial officer or any assistant treasurer (Civil Code Section 1190 and Corporations Code Section 313). All signatures must be acknowledged as set forth on Form L-2.

ACKNOWLEDGMENT/APPROVALS
(Purchase of Services - Long Form)

Number: _____

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 CONTRA COSTA)

On _____ (Date),

before me, _____ (Name and Title of the Officer),

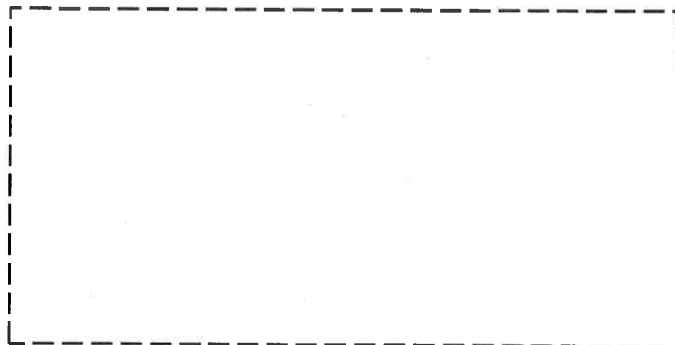
personally appeared, _____,

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.

Signature of Notary Public



Place Seal Above

ACKNOWLEDGMENT (by Corporation, Partnership, or Individual)
(Civil Code §1189)

APPROVALS

RECOMMENDED BY DEPARTMENT

FORM APPROVED BY COUNTY COUNSEL

By: _____
Designee

By: _____
Deputy County Counsel

APPROVED: COUNTY ADMINISTRATOR

By: _____
Designee

PAYMENT PROVISIONS
(Fee Basis Contracts - Long and Short Form)

Number _____

1. **Payment Amounts.** Subject to the Payment Limit of this Contract and subject to the following Payment Provisions, County will pay Contractor the following fee as full compensation for all services, work, expenses or costs provided or incurred by Contractor:

[Check one alternative only.]

- ☐ a. \$ _____ monthly, or
- ☐ b. \$ _____ per unit, as defined in the Service Plan, or
- ☐ c. \$ _____ after completion of all obligations and conditions herein.
- ☒ d. Other: As set forth in Section P (Payment Provisions) of the Service Plan.

2. **Payment Demands.** Contractor shall submit written demands for payment on County Demand Form D-15 in the manner and form prescribed by County. Contractor shall submit said demands for payment no later than 30 days from the end of the month in which the contract services upon which such demand is based were actually rendered. Upon approval of payment demands by the head of the County Department for which this Contract is made, or his designee, County will make payments as specified in Paragraph 1. (Payment Amounts) above.
3. **Penalty for Late Submission.** If County is unable to obtain reimbursement from the State of California as a result of Contractor's failure to submit to County a timely demand for payment as specified in Paragraph 2. (Payment Demands) above, County shall not pay Contractor for such services to the extent County's recovery of funding is prejudiced by the delay even though such services were fully provided.
4. **Right to Withhold.** County has the right to withhold payment to Contractor when, in the opinion of County expressed in writing to Contractor, (a) Contractor's performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Contractor has failed to sufficiently itemize or document its demand(s) for payment.
5. **Audit Exceptions.** Contractor agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate county, state or federal audit agencies resulting from its performance of this Contract. Within 30 days of demand, Contractor shall pay County the full amount of County's obligation, if any, to the state and/or federal government resulting from any audit exceptions, to the extent such are attributable to Contractor's failure to perform properly any of its obligations under this Contract.

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A. Purpose. The purpose of this Contract is to set forth the respective obligations of the parties regarding the delivery of emergency ambulance services in certain areas of the County. The parties understand and agree that the purpose of this Contract is for the provision of emergency ambulance services to Contra Costa County ("County").

B. Definitions.

1. **"Advanced EMT" or "AEMT"** means a California certified emergency medical technician with additional training in limited advanced life support pursuant to Health and Safety Code section 1797 et seq.
2. **"Advanced Life Support" or "ALS"** means special services designed to provide definitive prehospital emergency medical care including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs, and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of the Base Hospital or utilizing approved prehospital treatment protocols or standing orders as part of the EMS System at the scene of an emergency, during transport to an acute care hospital or other approved facility, during inter-facility transfers, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency department or other medical staff of that hospital.
3. **"ALS Ambulance"** means an ambulance equipped, or arranged and staffed for the purpose of providing ALS care within the EOAs while under contract with the County.
4. **"Ambulance"** means any motor vehicle that meets the standards set forth in Title 13 of the California Code of Regulations, and which is specifically constructed, modified or equipped, or arranged, used, licensed, or operated for the purpose of transporting sick, injured, convalescent, infirmed, or otherwise incapacitated persons in need of medical care.
5. **"Ambulance Strike Team" or "AST"** means a team of five staffed ambulances, a designated AST leader (herein, an **"ASTL"**), and an ASTL vehicle.
6. **"Ambulance Unit Hour"** means a 60 minute period of time during which Contractor has made one appropriately supplied and staffed Ambulance (in accordance with the provisions of this Contract) available to respond to requests for service within the Service Area and for other approved events, services and obligations.
7. **"Annual System Improvement and Enhancement Goals"** means those goals, mutually agreed upon by the parties, that contain the EMS System improvements and enhancements that are to be implemented by Contractor for the specified year.
8. **"Arrival on Scene Time"** has the meaning set forth in Section H(5)(c) below.
9. **"Base Hospital"** means John Muir Medical Center, Walnut Creek campus, or other facility designated by CCEMSA pursuant to Health and Safety Code section 1798.100.
10. **"Basic Life Support" or "BLS"** means emergency first aid and cardiopulmonary resuscitation medical care procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting proper application of cardiopulmonary resuscitation to maintain life without invasive techniques, unless authorized by state law or regulation, until the victim may be transported or until ALS medical care is available.
11. **"BLS Ambulance"** means an Ambulance equipped, or arranged, and staffed for the purpose of providing BLS care within the County.
12. **"CCEMSA"** means the County agency having primary responsibility for the administration of EMS within the county.

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13. **"CCCEMSA Contract"** means the Emergency Ambulance Services contract, dated January 1, 2016, between County and District for the delivery of emergency ambulance services in the Service Area.
14. **"CCCEMSA Medical Director"** means the physician designated by the County to serve as the medical director of CCCEMSA pursuant to Health and Safety Code section 1797.202.
15. **"CCCEMSIS"** means the Contra Costa County Emergency Medical Services Information System as set forth in Section M(2).
16. **"Collaboration Committee"** means the committee described in Section P(12).
17. **"Continuous Quality Improvement" or "CQI"** means the process of evaluating prehospital EMS and non-emergency transportation services to identify where personnel performance or the system itself can be improved, implementing potential improvements, and reevaluating and refining them in a continuous cycle. While quality assurance traditionally focuses on the detection of defects, CQI strives to prevent them.
18. **"County EMS System" or "EMS System"** means the specifically organized system of local EMS communications centers (law enforcement, fire, and ambulance), emergency ambulance providers, non-emergency ambulance providers, local fire agencies, air ambulance/rescue providers, local hospitals, local and state law enforcement agencies, EMS training programs, and EMS continuing education providers that provide the coordinated delivery of EMS services within the County.
19. **"County"** has the meaning set forth in the first paragraph of this Contract.
20. **"County EMS Plan"** means a plan for the delivery of emergency medical services pursuant to Health and Safety code section 1797 et seq.
21. **"Disaster Medical Support Unit" or "DMSU"** means a vehicle owned by EMSA and provided to CCCEMSA for disaster medical response.
22. **"District"** means Contra Costa County Fire Protection District, a fire protection district existing under the laws of the State of California.
23. **"District's Contact Person"** has the meaning set forth in Section C(2) below.
24. **"Emergency Ambulance"** means an Ambulance permitted pursuant to Division 48 of the County Ordinance Code and operated by a CCCEMSA authorized emergency ambulance provider in an EOA as identified in the County EMS Plan.
25. **"Emergency Ambulance Services"** means Ambulance services provided at any CCCEMSA authorized level (ALS, critical care transport, or BLS) provided in response to 9-1-1 and/or seven (7) digit or ten (10) digit requests for EMS through an authorized PSAP, or prehospital emergency calls received directly by Contractor.
26. **"Emergency Ambulance Transport"** means any Ambulance transport originating from a 9-1-1, seven (7) digit or ten (10) digit request for service through an authorized PSAP, or originating from prehospital emergency calls received directly by Contractor, or an Ambulance transport of a patient suffering a medical emergency from the prehospital environment to a CCCEMSA authorized acute care facility or hospital emergency department.
27. **"Emergency Medical Dispatch Center"** means an emergency medical dispatch center that has been approved by CCCEMSA for dispatching Ambulances under this Contract.
28. **"Emergency Medical Dispatch System"** means a system that enhances services provided by emergency medical dispatchers by allowing the call taker to quickly narrow down the caller's type of medical or trauma situation using nationally standardized medical triage, so as to better dispatch emergency services and provide quality instruction to the caller before help arrives.

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29. **"Emergency Medical Services" or "EMS"** means the services delivered through the EMS System in response to a medical emergency.
30. **"Emergency Response Area" or "ERA"** means ambulance emergency response areas established by CCCEMSA and delineated on the map entitled "Emergency Response Areas of the County", as amended, which is on file in the office of CCCEMSA and the Clerk of the County Board of Supervisors.
31. **"EMS Quality Improvement Plan" or "EQIP"** means the EMS System-wide quality improvement plan and activities stated in the plan submitted by CCCEMSA and approved by the EMSA pursuant to California Code of Regulations, Title 22.
32. **"EMSA"** means the California Emergency Medical Services Authority.
33. **"EMT"** means a person certified to render BLS medical care pursuant to Health and Safety Code section 1797 et seq.
34. **"EOA"** means an exclusive operating area or subarea defined by the County EMS Plan where operations are restricted to one (1) or more Emergency Ambulance Service provider or providers of ALS services pursuant to Health and Safety Code section 1797.224.
35. **"Emergency Response Zone" or "ERZ"** means those areas defined by the County EMS Plan that establishes an emergency response zone and which are set forth on Exhibit A (Emergency Response Zones Map) as ERZ A, ERZ B, ERZ C, and ERZ D.
36. **"ePCR"** has the meaning set forth in Section M(6) below.
37. **"ePCR System"** has the meaning set forth in Section M(1) below.
38. **"IHI"** means the Institute of Healthcare Improvement.
39. **"Interim PCR"** means a PCR that has not been completed, but includes patient care findings and a description of pre-hospital treatment that is sufficient to allow the receiving hospital staff to provide patient care continuity.
40. **"KPI"** has the meaning set forth in Section (E)(12) below.
41. **"Medical Health Operational Area Coordinator" or "MHOAC"** means the County health officer and the CCCEMSA Director acting jointly as the Medical Health Operational Area Coordinator under California Health and Safety Code section 1797.153 as responsible for ensuring the development of a medical and health disaster plan for the Operational Area.
42. **"MCI"** means a medical emergency incident involving multiple or mass casualties.
43. **"Performance Report"** means a report to be generated by Contractor for District on an annual or monthly basis that details Contractor's activities performed pursuant to this Contract and presents the performance metrics and compliance elements stipulated under this Contract in a format approved by CCCEMSA.
44. **"Paramedic"** means a person licensed and accredited to render ALS medical care pursuant to Health and Safety Code section 1797 et seq.
45. **"PCR"** means a patient care report, the form of which shall be approved by CCCEMSA for patient documentation on EMS System responses including all patient contacts, cancelled calls, and non-transports.
46. **"Permitted Ambulance Providers"** means those ambulance provider agencies issued a permit to operate in the County pursuant to Division 48 of the County Ordinance Code.
47. **"PSAP"** means the public safety answering point where 9-1-1 calls are first received for a particular jurisdiction.
48. **"Response Time"** means the interval, in exact minutes and seconds, between the Time Call Received and either the Arrival on Scene Time, or the time of cancellation by an Emergency Medical Dispatch Center.
49. **"Response Time Standards"** has the meaning set forth in Section H(3).

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50. **"Service Area"** has the meaning set forth in Section D(1)(a) below.
51. **"Time Call Received"** has the meaning set forth in Section H(5)(b) below.
52. **"Transport Employees"** means Contractor's employees that provide ambulance transport services.

C. Contractor as Subcontractor.

1. Subcontracting. District has entered into the CCCEMSA Contract, but does not have the infrastructure or personnel necessary to directly perform the ambulance services required thereunder. This Contract is being entered into for the purpose of Contractor acting as District's subcontractor to perform emergency ambulance services pursuant to the terms of this Contract. This Contract is subject to all the terms and conditions of the CCCEMSA Contract, and Contractor represents that it has received a copy of the CCCEMSA Contract and is aware of its requirements. Contractor understands and agrees that certain provisions of this Contract obligate it to comply with CCCEMSA's directions, and Contractor agrees to comply with such obligations as set forth herein. Nothing contained in this Contract shall create any contractual relationship between County and Contractor.
2. County Communications. Contractor shall direct all communications regarding its performance of its obligations under this Contract to an individual designated by District in writing to Contractor ("District's Contact Person"), or a designee within District's organization designated in writing by District's Contact Person; provided, that District's Contact Person may authorize Contractor to contact CCCEMSA in certain specified situations. The parties shall discuss communications issues as necessary at monthly Collaboration Committee meetings described in Section P(12) below. This provision shall not abrogate or otherwise restrict Contractor's direct communication with CCCEMSA concerning Contractor's Transport Employees as required by regulation or law.

D. Scope of Services.

1. Service Activities. Contractor shall provide ambulance services in the County pursuant to all the terms and conditions contained or incorporated herein, and subject to the proposal submitted to CCCEMSA by Contractor and District, dated May 21, 2015, and the Plan B Proposal submitted to CCCEMSA by Contractor and District, dated July 6, 2015 (collectively, the "Proposal"), which are on file with CCCEMSA located at 1340 Arnold Drive, Suite 126, Martinez, CA and incorporated herein by reference. In the case of any conflict between the provisions of this Contract and the provisions of the Proposal, the provisions contained in this Contract's Service Plan, Special Conditions, General Conditions, and Exhibits shall prevail. The ambulance services delivered under this Contract shall be provided in accordance with the requirements of California Health and Safety Code sections 1797 et seq., Division 48 of the Contra Costa County Ordinance Code, and all regulations promulgated thereunder, as the same may be amended or superseded. In performing services hereunder, Contractor agrees to work cooperatively with CCCEMSA.
 - a. Scope of Services. Contractor, throughout the term of this Contract and under the general direction of District, shall employ all resources necessary to continuously provide ALS Emergency Ambulance Services as specified under this Contract to the residents and visitors of County twenty-four (24) hours a day, every day, when

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requested by an Emergency Medical Dispatch Center, in Emergency Response Areas 1, 2 and 5 ("Service Area"). The parties understand and agree that during the term of this Contract, Response Time requirements and deployment of ambulance resources may be adjusted through amendments to this Contract. Contractor will work with District and CCCEMSA to pilot and implement changes to Response Time requirements, ERZs, and call density designations as necessary for the protection of the public's health and safety as provided in this Contract.

- i. EOA Adjustments. Contractor understands and agrees that County may, as necessary for public safety, health and welfare to ensure an effective County EMS System, make adjustments to the EOAs consistent with applicable laws.
- b. Advanced Life Support (ALS) Mandate.
 - i. ALS Ambulance Response. Contractor shall place an ALS ambulance on scene for every request for Emergency Ambulance Services, without interruption, twenty-four (24) hours per day, for the full term of this Contract, unless otherwise authorized by District through an approved Emergency Medical Dispatch Center and resource response program that dictates the level and priority of ambulance response. Contractor understands and agrees that the foregoing ALS mandate may be suspended by CCCEMSA either directly or by policy/protocol during an MCI or disaster response. Services provided by Contractor shall be provided without regard to the patient's race, color, national origin, religious affiliation, age, sex, sexual orientation, sexual identity, or ability to pay.
 - ii. Penalty. District shall impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which Contractor is penalized under the CCCEMSA Contract because an Emergency Ambulance is not dispatched to a call originating within the Service Area and no Ambulance responds.
- c. Ambulance Services Accreditation. Throughout the term of this Contract, Contractor shall maintain accreditation through the Commission on Accreditation of Ambulance Services.
- d. Ambulance Staffing.
 - i. Subject to Section I (Personnel Standards) below, all Ambulances providing Emergency Ambulance Services under this Contract shall be staffed with a minimum of one (1) Paramedic and one (1) EMT and equipped to provide ALS care. The Ambulance Paramedic shall be the caregiver with ultimate responsibility for all patients.
 - ii. Contractor may send BLS Ambulance units staffed with two (2) EMT's to requests for multi-unit response and to any calls in which an Emergency Medical Dispatch Center determines that a BLS Ambulance response is appropriate according to emergency medical dispatch protocols and policies approved by CCCEMSA.
 - iii. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which a BLS Ambulance responds and transports a patient that required ALS care according to policies approved by CCCEMSA.
 - iv. At Contractor's sole option, the requirement for EMT staffing levels on any or all Ambulance units may be enhanced to higher levels of training without additional obligation of District.
- e. ALS Inter-Facility Transportation. Contractor and District shall negotiate in a good faith effort to develop and implement an ALS inter-facility transportation services program within 24 months of the effective date of this Contract.

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- f. Additional Services. During the term of this Contract, the parties agree to meet to discuss additional services that Contractor may provide under this Contract, including without limitation, special-event standby ambulance services, up-staffing of ambulances for cities that want to pay for the costs of those services, and general up-staffing of ambulances at District's discretion, and to amend this Contract to provide for such services if agreement is reached.
2. No Prehospital Emergency Medical Services Agreement. This Contract pertains to the provision of emergency ambulance services only. District remains responsible for the provision and administration of first responder prehospital emergency medical services within its fire district.
3. Integration and Collaboration with the EMS System. Contractor agrees to work collaboratively with District, CCCEMSA, PSAPs, public safety partners, other Permitted Ambulance Providers, hospitals and communities in an effort to provide an integrated and coordinated system of readiness, emergency medical response, transport and continuity of patient care. This includes requests from or approved through District and CCCEMSA for: mutual and automatic aid; community education and injury prevention campaigns; work on critical infrastructure; participation in planning activities; support for committees, joint training programs, drills, educational events and conferences; research projects; preparing grant or funding applications; supplying clinical reports and performance data, and continuous QI initiatives.
 - a. Contractor agrees to provide community service, outreach and education as outlined within Section L (Customer Service and Community Education) below.
 - b. Contractor shall assist other EOA and Non-EOA ambulance service providers and provide mutual aid inside and outside Service Area as requested by District.
 - c. Contractor's automatic aid and mutual aid policies, protocols and operational procedures for deploying and receiving Ambulance resources from within or outside the Service Area are subject to approval by District and CCCEMSA.
4. Local Infrastructure. Contractor shall provide all necessary operational, clinical, and support service infrastructure within the County to perform the services required under this Contract.
5. Special Emergency Medical Services. Contractor may provide special EMS programs as approved by District and CCCEMSA. Examples of special EMS programs include, but are not limited to: event medical services; bicycle EMS services; tactical EMS services; and community paramedic services. Where applicable, such special EMS program services shall conform to established CCCEMSA policies and EMSA guidelines. Contractor's provisions of special EMS programs shall not conflict with or interfere with Contractor's other obligations under this Contract.
6. Compliance with CCCEMSA Protocols, Policies, Procedures and Applicable Laws. Contractor shall comply with CCCEMSA protocols, policies, procedures, performance standards, and with applicable laws in the provision of all services required by this Contract.

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7. Capitalization. Contractor shall invest in its infrastructure, technology, and equipment to enable Contractor to perform its obligations under this Contract, including operational effectiveness, clinical care, and support services.
8. Disaster Assistance and Response. Contractor shall be actively involved in planning for and responding to MCIs and disasters in the County. Contractor will implement its medical surge plan and deploy ASTs and disaster response efforts as requested by District or the Medical Health Operational Area Coordinator. Once an emergency operations plan is activated by the MHOAC in response to a disaster, all Contractor resources and mission tasking shall be coordinated through the District and the California Master Mutual Aid System in support of the emergency operations plan.
 - a. Contractor shall designate an individual who will have primary responsibility for disaster preparedness and planning coordination. This individual shall be the primary point of contact between District and Contractor during the performance of an emergency operations plan and for all disaster preparedness and planning coordination. Contractor's disaster coordinator shall attend training courses, meetings, and drills as requested by CCCEMSA, and support the MHOAC to provide adequate ambulance resources are available during MCIs and disasters.
9. Adopting Plan B Option. If the CCCEMSA Contract is amended to adopt one or more of the options presented in Plan B of the Proposal due to circumstances surrounding the EMS System preventing the efficient and financially viable delivery of Emergency Ambulance Services under the CCCEMSA Contract, the parties agree to amend this Contract to conform to the CCCEMSA Contract amendments. The proposed changes to the Contract and the potential impacts will be discussed by both parties prior to presentation to either party's board.

E. Clinical Performance Standards

1. Continuous Quality Improvement (CQI) Program.
 - a. Contractor shall cooperate with CCCEMSA to implement improvements and enhancements of the EMS System in an effort to provide residents of, and visitors to, the County the highest quality emergency medical transportation services and associated emergency medical care. Contractor shall participate, as reasonably requested by CCCEMSA, in achieving the goals set forth in the County EMS Plan and the EQIP. As determined by CCCEMSA, this shall include implementing and conducting all services described under this Contract in a manner that seeks clinical performance excellence combined with innovative strategies and technology that optimize delivery of high quality out-of-hospital medical care, community service and service accountability. Contractor shall provide District and CCCEMSA with a clinical education program that achieves contemporary benchmarks of clinical excellence in a progressive and sustainable fashion. Contractor's CQI programs and activities must be reviewed by the CCCEMSA Medical Director and approved by CCCEMSA. All programs and activities shall be conducted in accordance with CCCEMSA prehospital care policies. Contractor shall not modify its approved CQI program without prior approval by District and the CCCEMSA Medical Director. The CQI program must encompass the sum of all activities undertaken by all Transport Employees to maintain the standard of care established for those services.

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- i. Contractor shall cooperate with District and CCCEMSA to develop Annual System Improvement and Enhancement Goals and reports consistent with the priorities established in the County EMS System Plan and EQIP. Contractor's achievement of its annual goals, as evidenced by results demonstrated in the annual Performance Report, will be considered as part of District's optional extension of this Contract under Section Q(15) below.
 - b. Contractor shall work with CCCEMSA to develop and implement a CQI program plan that is designed to deliver optimal patient care and effective operations for all services provided under this Contract.
2. Quality Improvement Processes.
 - a. Contractor's CQI program shall provide an organized, coordinated, multidisciplinary approach to the assessment of pre-hospital emergency medical response and patient care. QI processes shall be utilized to improve outcome oriented patient care and facilitate related continuing education. Contractor's CQI program will be implemented and refined with input, approval, and oversight of CCCEMSA and the CCCEMSA Medical Director.
 - b. Contractor's medical director and CQI staff shall interact and collaborate with the CCCEMSA Medical Director and CCCEMSA staff as requested by District.
3. Medical Control.
 - a. Contractor shall permit CCCEMSA to oversee medical services provided by Contractor under this Contract. Prospective and on-line medical control of EMT and Paramedic personnel shall be according to the policies and procedures established by the CCCEMSA Medical Director. Retrospective medical control shall be provided according to the standards set forth by the CCCEMSA Medical Director through CQI programs, including continuing education programs conducted cooperatively by Contractor, CCCEMSA, partner pre-hospital provider agencies, and the Base Hospital.
 - b. Contractor shall allow CCCEMSA, through District, to investigate aspects of Contractor's operation relevant to its delivery of patient care services to ensure they are performed in a safe and reliable manner. Accordingly, Contractor shall provide, in a timely manner, all records, information, and reports reasonably requested by the CCCEMSA Medical Director, or designee, to evaluate the emergency medical services provided by Contractor under this Contract.
4. Medical Reviews and Audits.
 - a. Contractor acknowledges that medical reviews and audits are a critical function of an effective medical quality assurance and improvement program.
 - i. Contractor shall work cooperatively with CCCEMSA, the CCCEMSA Medical Director, the Base Hospital, District, and other EMS System partners to identify and support activities that provide case-based learning and feedback to Transport Employees.
 - ii. Contractor shall cooperate with requests by the CCCEMSA Medical Director, or designee, for employee attendance at medical reviews or audits.
5. Incident Review and Investigations.

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- a. Contractor shall provide reasonable cooperation and information requested by District relative to incidents and inquiries and will make involved personnel available for interview by CCCEMSA staff in a timely manner.
 - i. Contractor's supervisory and management personnel will assist CCCEMSA with incident investigations and disciplinary activities as requested by District.
 - ii. Contractor shall make its employees available to District and CCCEMSA for investigational interviews as necessary.
 - iii. To the greatest extent possible, incident investigations are to be scheduled in advance for the convenience of Transport Employees. Contractor shall arrange schedule changes, if necessary, to make incident review or investigation more convenient. District shall work with Contractor in an effort to avoid unnecessarily altering procedures and processes that are already in place in Contractor's organization.
 - b. Contractor will respond to requests for information received from District within reasonable time frames included in the information request. This shall include PCR's, supplemental patient information, CAD records, incident narratives and reports, inventory ordering, receipt and control documentation, fleet maintenance records, critical failure reports, safety reports, and any other information or records required by CCCEMSA to fully complete thorough reviews and investigations related to any services provided under this Contract.
 - c. Contractor shall foster a culture that is designed to rectify clinical mistakes and emphasize lessons learned for the benefit of the patient and caregivers (e.g., Just Culture). In this model, caregivers are taught to recognize that mistakes are made and feel able to report these mistakes and have them remedied in a non-punitive setting.
 - d. Contractor shall notify District of the occurrence of any and all incidents, as defined in the criteria, policies, and procedures established by CCCEMSA.
6. Field Treatment Guide Production.
- a. Contractor understands that CCCEMSA (i) has made an electronic version of its field treatment guide available to the public at no cost through an iOS and Android application, (ii) will update and maintain all policies, treatment guidelines, procedures, and other field care related information in the application as necessary, and (iii) will make available a current electronic copy of the field treatment guide upon request at no cost.
 - b. Contractor is financially responsible for the production of CCCEMSA Field Treatment Guide manuals at its cost should Contractor choose to print manuals for Transport Employees.
7. Clinical Education and Training. Contractor shall develop and implement a clinical education and training program that is consistent with the CCCEMSA EQIP, and which shall be approved by CCCEMSA. Contractor's clinical education and training program will include new employee orientation, continuing education at no cost to participants, and a Field Training Officer program as described in Section F(3) below for pre/post accreditation paramedics. Contractor shall, and shall become a continuing education provider as described in California Code of Regulations, Title 22, Division 9, Chapter 11, and maintain its status as a continuing education provider during the term of this Contract.

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8. Clinical Quality Improvement Program Staff Commitment. Contractor shall provide CQI staff to coordinate and provide Contractor's CQI activities. Required CQI staff and responsibilities include:
- a. Associate Medical Advisor. Contractor shall retain a California licensed physician as an associate medical advisor to support its chief medical advisor in his/her responsibilities.
 - b. CES Director. Contractor shall employ and maintain a Regional Clinical and Educational Services (CES) Director who will provide oversight and management of KPIs and ongoing organization-wide quality management programs.
 - c. CES Manager. Contractor shall employ and maintain a minimum of one (1) full-time CES Manager, with specialized training and experience in quality improvement to implement and oversee Contractor's ongoing quality management program. The CES Manager shall be responsible for coordination of all clinical review activities, developing and supporting a comprehensive orientation academy for new employees, and managing Contractor's internal and system-integrated CQI activities.
 - i. The CES Manager shall be currently licensed in California as a Paramedic or registered nurse and be based in the County.
 - d. CES Coordinator. Contractor shall and maintain a minimum of one (1) full-time CES Coordinator who will be responsible for the medical quality assurance evaluation of all services provided pursuant to this Contract.
 - i. The CES Coordinator shall be currently licensed in California as a Paramedic or registered nurse and based in the County.
 - ii. It is preferable but not mandatory that at least one (1) CES Manager or one (1) CES Coordinator position be filled by a licensed California registered nurse.
 - e. EMS Epidemiologist / Clinical Data Analyst. Contractor shall employ and maintain a minimum of one (1) full-time Clinical EMS Epidemiologist / Clinical Data Analyst, who shall be made available to work directly with CCCEMSA and the EMS Medical Director to gather, analyze, and report EMS System wide clinical performance data as specified by the County. The Clinical EMS Epidemiologist / Clinical Data Analyst shall evaluate PCRs.
 - i. The EMS Epidemiologist/ Clinical Data Analyst shall attain the Structured Query Language (SQL) Developer competency level.
 - ii. The Clinical EMS Epidemiologist / Clinical Data Analyst shall be based in the County.
 - f. Contractor shall make available a minimum of eighty (80) compensated hours per month for designated field employees to participate in CQI activities.
9. IHI Certificate of Patient Safety, Quality and Leadership. Contractor's quality and clinical personnel shall complete an IHI Open School online certificate program in Patient Safety, Quality, and Leadership within eighteen (18) months of the effective date of this Contract or of employee hire.
10. Integrated Quality Leadership Council (QLC). Contractor shall work with District and CCCEMSA to implement and coordinate an integrated quality leadership council to identify, evaluate, and recommend solutions to common issues related to an integrated EMS response. The QLC shall include Contractor and representatives from fire agencies providing paramedic service within Contractor's Service Area.
11. Coordination of Data Gathering and Quality Improvement Efforts.

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- a. Contractor shall support implementation of a technological tool that will fully integrate electronic records and alignment of data sets EMS system wide, in cooperation with CCCEMSA and fire services. A fully implemented tool will be capable of the following within the Service Area:
 - i. Allow for quantitative reporting of overall clinical performance, which can be tied to providing integrated EMS System patient care solutions, training and community prevention, meaningful data comparison and greater collaborative research opportunities.
 - ii. Provide real-time data to fire agencies for use in fire CQI activities.
 - iii. Contractor shall reasonably cooperate with CCCEMSA on all data initiatives used to support clinical care and QI.
12. Clinical and Operational Benchmarking and Research.
- a. Key Performance Indicators and Benchmarks. Contractor shall use key performance indicators (as detailed below, "KPIs") as tools for measuring Contractor's performance under this Contract. In addition Contractor shall identify benchmarks and other QI tools to evaluate and set goals for improving the clinical and non-clinical performance of Contractor's personnel. Contractor shall provide District with periodic reports detailing its KPI and benchmarks progress according to a schedule approved by CCCEMSA.
 - b. Non-Clinical KPIs. Contractor's non-clinical KPIs shall include at least the following:
 - i. Customer satisfaction KPIs
 - ii. Human Resources/Employee satisfaction KPIs:
 - A. Shift holdovers per week
 - B. Employee turnover rate
 - C. Turnover factors/employee satisfaction
 - iii. Community health partnership KPIs:
 - A. 9-1-1 calls for patient conditions targeted in community health awareness programs, which include:
 - x. Elderly falls
 - y. STEMI transports
 - z. Early onset stroke transports
 - B. Number of community health improvement activities
 - x. Home inspections
 - y. Fall prevention for seniors
 - z. Track annual fire injuries/fatalities
 - iv. Fleet KPIs:
 - A. Critical vehicle failures per 100,000 miles
 - B. Preventative maintenance cycles
 - v. Safety KPIs:
 - A. Employee injuries per 10,000 payroll hours
 - B. Vehicle collisions per 100,000 miles travelled
 - C. Types of injury events
 - D. Types of auto events
 - vi. Unusual occurrences and complaints KPIs
 - vii. Financial stability KPIs:
 - A. Unit hour utilization ratio
 - B. Net revenue per transport
 - viii. Response time performance by zone, priority, and county-wide

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- ix. Complaint management
 - x. Use of mutual aid
 - xi. Safety
 - c. Clinical KPIs. Contractor's clinical KPIs shall include at least the following:
 - A. Presumptive impressions at dispatch compared to field intervention
 - B. Scene time and total prehospital time for time dependent clinical conditions like Acute Coronary Syndrome (ACS), stroke, and major trauma
 - C. Cardiac arrest survival in accordance with Utstein protocols
 - D. Fractal measurement of time to first defibrillation
 - E. Compliance with protocols, procedures, timelines, and destinations for ST-Elevation Myocardial Infarction (STEMI) patients
 - F. Compliance with protocols, procedures, and timelines for patients with pulmonary edema and congestive heart failure (CHF)
 - G. Compliance with protocols, procedures, and timelines for patients with asthma or seizures
 - H. Compliance with protocols, procedures, and timelines for patients with cardiac arrest
 - I. Compliance with protocols, procedures, and timelines and destinations for systems of care patients (e.g. trauma, STEMI, stroke, and cardiac arrest)
 - J. Compliance with protocols, procedures, and timelines for assessment of pain relief
 - K. Analysis of high risk, low frequency clinical performance issues and strategies to support competent care
 - L. Successful airway management rate by entire system, provider type, and individual, including EtCO2 detection
 - M. Successful IV application rate by entire system, provider type, and individual
 - N. Paramedic skill retention
 - d. Provide data developed through Contractor's CQI process to District and CCCEMSA for use in evaluating EMS System performance and in setting system improvement goals.
 - e. Incorporate any CCCEMSA approved benchmarking tools identified during the term of this Contract into Contractor's CQI process.
13. Medical Committee Participation. Contractor shall participate in all medical committees, work groups and task forces as requested by CCCEMSA.
14. Medical Research.
- a. Contractor shall collaborate with District and the CCCEMSA Medical Director to develop pilot programs and research projects. Any costs to be incurred by the parties in connection with pilot programs or research projects will be agreed upon at the Collaboration Committee meetings. Any proposed pilot program and research project must be approved in writing by District and the CCCEMSA Medical Director before being undertaken.
 - b. If the requirements of a pilot program or research project conflict with Contractor's performance obligations under this Contract, District may temporarily suspend Contractor's conflicting performance obligations for the purpose of the pilot program or research project.
 - c. Except as set forth in subsection (b) above, Contractor agrees that Contractor's services provided under pilot programs and research projects are in addition to the other services it performs under this Contract.

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15. Patient Satisfaction Program. Contractor shall develop and implement, upon approval by District and CCEMSA, a comprehensive patient satisfaction program ("PSP") that focuses on services provided to patients in the County EMS System. The PSP shall contain quantitative and qualitative assessment mechanisms that will enable CCEMSA to validate and benchmark patient feedback on the quality of services they were provided by Contractor.
16. CQI Program Administration. If there are complaints or concerns regarding the performance of any key CQI personnel during the term of this Contract, Contractor shall cooperate in good faith with CCEMSA and District in addressing and resolving such concerns. Any issues arising in the performance or administration of the CQI program will be addressed by Contractor, District, and CCEMSA through the dispute resolution process set forth in Section P(12).
17. Cardiac Arrest Performance Reporting System. Contractor shall work collaboratively with CCEMSA to strive to increase pre-hospital provider cardiopulmonary resuscitation (CPR) performance by supporting the existing CPR performance reporting system (e.g., CodeStat). No later than January 1, 2017, Contractor shall timely and consistently annotate all applicable cardiac arrest reports received through the CPR performance reporting system.
18. Against Medical Advice Protocol.
 - a. Protocol Development. Contractor and District shall cooperate with CCEMSA to develop an Against Medical Advice (AMA) protocol, which shall be implemented and followed by Transport Employees beginning no later than January 1, 2017.
 - b. Penalties. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for a Transport Employee's failure to document an AMA according to the requirements established in the AMA protocol.

F. Standards of Care.

1. Patient Care Goal. Contractor shall cooperate and collaborate with District and CCEMSA to develop, implement, and continuously improve clinical standards of care that optimize patient outcomes. Contractor further agrees to continuously maintain optimal effort to improve core indicators of quality service as established by CCEMSA with the goal to consistently provide excellent patient care and patient satisfaction.
2. Continuous Quality Improvement (CQI) Program Plan. Contractor shall work with District and CCEMSA to develop and implement, upon approval by District and CCEMSA, a CQI program plan that seeks optimal patient care and effective operations for all services provided under this Contract. The CQI program plan shall:
 - a. Be in compliance with California Code of Regulations, Title 22, Division 9, Chapter 12, associated state guidelines, National Association of EMS Officials guidelines, and the CCEMSA EMS Quality Improvement Plan.
 - b. Utilize practices that promote integration and collaboration for clinical excellence with all EMS System participants, including:
 - i. Data collection and analysis
 - ii. Real-time and retrospective patient care record audits conducted by Field Training Officers

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- iii. Observation and evaluation of clinical care performed by supervisors and management staff
- c. Establish and maintain a sufficient organizational structure within Contractor's operation that supports effective clinical oversight and execution of the plan.
- d. Contain provisions to continuously monitor, evaluate, and report core performance, process, and patient outcome indicators as established by CCCEMSA.
- e. Establish and maintain clinical metric score cards for Contractor's EMTs and paramedics that shall include, but are not limited to the following:
 - i. Safe and effective maintenance of airway and ventilation
 - A. Shall include each employee's basic and advanced airway success rates and number of attempts of each
 - ii. Reduction of pain and discomfort
 - A. Shall include each employee's mean patient pain and discomfort rating before and after intervention. For paramedics, a usage percentage of controlled substances for pain management
 - iii. Relief of respiratory distress
 - A. Shall include each employee's mean respiratory distress rating before and after intervention
 - iv. Cardiac arrest resuscitation - shall include the total number of cardiac arrest patients for each employee, and include the following:
 - A. Percentage of return of spontaneous circulation
 - B. Number of patients transported to a hospital with return of spontaneous circulation
 - C. Chest compression rate accuracy
 - D. Mean time between rounds of chest compressions
 - E. Percentage of cardiac arrests defibrillated
 - F. Percentage of cardiac arrest patients who were treated with epinephrine
 - G. Percentage of cardiac arrest patients treated with amiodarone
 - H. Percentage of cardiac arrest patients treated with sodium bicarbonate
 - I. Percentage of patients who received EtCO₂ monitoring
 - J. Percentage of vascular access devices (e.g. IV and IO) and placement location
 - K. The number of field pronouncements.
 - v. Recognition and care of ischemic syndromes - shall include the total number of suspected STEMI patients identified for each Transport Employee, and include the following:
 - A. Percentage of 12-Lead ECG's obtained calculated against total number of STEMI patients
 - B. Mean 12-Lead ECG transmit time calculated from time arrived at patient's side to time of 12-Lead ECG transmission
 - C. Percentage of suspected STEMI patients treated with aspirin
 - D. Percentage of suspected STEMI patients treated with nitroglycerin
 - E. Percentage of suspected STEMI patients treated with controlled substances for pain management
 - F. Percentage of suspected STEMI patients treated with oxygen
 - G. Percentage of suspected STEMI patients who received an IV
 - H. Mean scene time for suspected STEMI patients calculated from time arrived at patient's side to time of transport

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- vi. Shall include the total number of suspected stroke patients identified by each Transport Employee, and include the following:
 - A. Percentage of suspected stroke patients who had a documented GCS
 - B. Percentage of suspected stroke patients who had a documented blood glucose value
 - C. Percentage of suspected stroke patients who had a documented Cincinnati Stroke Scale / LAMS evaluation
 - D. Percentage of suspected stroke patients treated with oxygen
 - E. Percentage of suspected stroke patients who received an IV
 - F. Mean scene time for suspected stroke patients calculated from time arrived at patient's side to time of transport
- vii. Effective and timely trauma care - shall include the total number of suspected trauma patients identified by each employee, and include the following:
 - A. Percentage of blunt trauma patients
 - B. Percentage of penetrating trauma patients
 - C. Percentage of trauma activations
 - D. Percentage of trauma patients transported to a trauma center
 - E. Percentage of trauma patients transported to a non-trauma hospital
 - F. Percentage of adult trauma patients
 - G. Percentage of pediatric trauma patients
 - H. Percentage of trauma patients who received an IV/IO
 - I. Total number of field pronouncements of traumatic arrest
 - J. Mean scene time for trauma patients calculated from time arrived at patient's side to time of transport
- viii. Ensuring safe patient care and transportation - shall include the total number of patients attended to by each employee calculated by the number of patient care records where each employee was listed as the primary patient care provider, and include the total number of patient injuries that occurred as a result of unsafe care, equipment failure, or vehicle collisions.
- f. In addition to the provision of medical care, include the following areas:
 - i. Customer-Patient Satisfaction
 - ii. Accountability for patient belongings
 - iii. Injury/Illness Prevention
 - iv. Community Education
 - v. Human Resources
 - vi. Safety
 - vii. Fleet, Equipment Performance and Materials Management
 - viii. Unusual Occurrences, Incidents, and Complaint Management
 - ix. Leadership
 - x. Communications (Deployment, System Status Management and Dispatching)
 - xi. Risk Management
- g. Demonstrate progressive quality improvement results evidenced by annual written updates to District CCCEMSA on the effectiveness of the plan and summary of activities conducted under the plan.
- h. Include procedures to provide an Interim PCR or a completed ePCR for each patient response utilizing the CCCEMSA approved data system, and for delivery of the Interim PCR or ePCR to the receiving hospital in a timely manner.
- i. Include linkages to continuing education programs.

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- j. Include action planning to improve performance based upon core indicators as established by CCCEMSA.

3. Field Training Officer (Train-the-Trainer) Program.

- a. Contractor shall develop and implement a comprehensive Field Training Officer (FTO) Program subject to approval by District and CCCEMSA. The FTO program shall, at a minimum, include:
- i. An outline of the responsibilities of the FTO and new hire ambulance employees.
 - ii. Establishing minimum and maximum number of shifts or hours required for each new hire ambulance employee to complete during FTO evaluation.
 - iii. Establishing a clearly defined pathway for remediation of deficiencies discovered during the field evaluation process.
 - iv. Using standardized evaluation forms for all new hire ambulance employees
 - v. Utilize industry best practices that promote a friendly and cooperative learning environment.
 - vi. Ensuring new hire ambulance employees are afforded time with a FTO prior to working on an ambulance alone.
 - vii. Utilize the education and personnel management process described in Section E(5)(c) above.
 - viii. Ensuring that Contractor has sufficient number of qualified FTOs to support execution of the CQI plan, Contractor and CCCEMSA education and training programs, and other duties on behalf of Contractor.
 - ix. Incorporate an evaluation method for both FTO of new hire ambulance employee and new hire ambulance employee of the FTO.

G. Clinical Education Training. Contractor shall develop and implement, upon approval by District and CCCEMSA, a clinical education and training program that utilizes contemporary performance-based methods and processes. The clinical education and training program shall be linked to Contractor's CQI program plan, and be consistent with the CCCEMSA EQIP. The clinical education and training program shall include elements as outlined below:

1. Comprehensive and Integrated Training Programs. Contractor shall have a comprehensive training and education program for its paramedics, EMTs, management, and support staff. Training and education classes shall be open to all Contractor employees. Contractor is responsible for the training programs, but the programs shall adhere to CCCEMSA requirements and be developed collaboratively with CCCEMSA, hospitals, educational institutions, and other system partners.
2. Clinical Education Services. Contractor shall provide District and CCCEMSA with its Clinical and Educational Services (CES) organization schematic for approval. Contractor's CES organization shall identify sufficient qualified personnel to provide that all education and training requirements as stated in this Contract are implemented and maintained.
3. Training Program Components.
 - a. Contractor shall require that all new Transport Employees complete an orientation that is designed to prepare them to be fully functioning EMTs or Paramedics in the County. The orientation program shall be approved by District and CCCEMSA and will include, but not be limited to:

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- i. Contra Costa EMS System overview;
- ii. A review of all relevant CCCEMSA plans, programs, policies, protocols, and procedures as appropriate for the individual's level of credentialing and job duties;
- iii. Customer service expectations and cultural awareness and sensitivity education
- iv. Demonstration of skills proficiency in optional and infrequent skills as identified in CCCEMSA policies, protocols, procedures, performance standards, and EQIP (This may be approved as a component of field evaluation and training);
- v. Geography and map reading skills training including key landmarks, routes to hospitals, and other major receiving facilities within the County and surrounding areas;
- vi. Hospital receiving centers, trauma centers, and specialty care centers including designated patient catchment areas;
- vii. Radio communications with and between the ambulance, Base Hospital, receiving hospitals, county communications centers, and emergency operations frequencies;
- viii. Contractor's policies and procedures;
- ix. Emergency vehicle operations course (EVOC);
- x. Clinical quality improvement (CQI) plan;
- xi. Human resources, benefits, payroll, and scheduling overview and training;
- xii. Corporate and/or department compliance policies;
- xiii. OSHA/Federal Laws and Regulations;
- xiv. Dementia and elderly citizen training;
- xv. Workplace health and safety;
- xvi. Illness/Injury Prevention;
- xvii. Infection Control and personal protective equipment use;
- xviii. Violence in the workplace;
- xix. Diversity in the workplace;
- xx. Harassment-free workplace;
- xxi. Medical and legal guidelines;
- xxii. Assaultive behavior management training;
- xxiii. Performance improvement;
- xxiv. Billing and reimbursement processes;
- xxv. Professionalism;
- xxvi. Back safety;
- xxvii. Critical incident stress management;
- xxviii. Patient care record system training and documentation standards;
- xxix. Trauma triage;
- xxx. Mobile data terminal instruction and communication;
- xxxi. Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health (HITECH) Act confidentiality and regulation;
- xxxii. Hazardous materials (first responder awareness level);
- xxxiii. MCIs
- xxxiv. Gurney operations;
- xxxv. Ambulance utilization and system status training;
- xxxvi. Cultural competence and linguistic access ;

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- xxxvii. Medical equipment familiarization, maintenance, user competency, and critical failure reporting;
 - xxxviii. Code of conduct;
 - xxxix. Field training program and new employee expectations ;
 - xl. Tuberculosis screening and Hepatitis B immunization;
 - xli. Vehicle maintenance, including mandatory daily vehicle check;
 - xlii. Hazardous material and communications and weapons of mass destruction; and
 - xliii. Patient focused care and advocacy.
- b. Contractor shall provide refresher training for each of the topics listed above to all Transport Employees as required by law.
- c. Contractor shall make its general training and education programs available to all EMS System stakeholders.
4. EMT Education and Training Requirements.
- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for EMTs include:
- i. EMT skills competency (i.e. skills competency verification for EMT recertification);
 - ii. Incident Command System ("ICS") 100, 200 and 700, 800 must be completed within three (3) months of hire;
 - iii. Infrequent Skills Lab: annual hands-on experience demonstrating proficiency in skills as defined by the EQIP;
 - iv. Annual CCCEMSA policy, protocol, and procedures updates;
 - v. Annual training courses/offerings as identified by the CCCEMSA Medical Director, Contractor Medical Advisor, or CES Manager through CQI activities;
 - vi. 9-1-1 ambulance/paramedic partner training;
 - vii. Mandatory Contractor-based training no less than four (4) hours each between two (2) and four (4) times per year;
 - viii. Annual attendance of two (2) hours of disaster training;
 - ix. Annual attendance of an additional two (2) hours of disaster training focused on interoperability with fire and law enforcement;
 - x. Annual attendance of a Communications Center evacuation drill; and
 - xi. Prior to working on a 9-1-1 ambulance with a Paramedic partner, EMTs will complete Contractor's competency based Paramedic Partner curriculum. This consists of a didactic curriculum and field training/evaluation to be submitted to CCCEMSA as part of Contractor's CQI plan. Following the didactic education, EMTs will be assigned to an ambulance with an authorized field training officer and complete a skills evaluation prior to being assigned to work one-on-one with a paramedic partner.
5. Paramedic Education and Training Requirements.
- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for paramedics include:
- i. ICS 100, 200 and 700, 800 must be completed within three (3) months of hire;
 - ii. Infrequent Skills Lab: annual hands-on experience demonstrating proficiency on low-frequency, high-risk skills as defined by the EQIP;
 - iii. Annual CCCEMSA policy, protocol and procedure updates;

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- iv. Attendance at a minimum of one (1) Base Hospital (BH) tape review meeting per year;
 - v. Annual attendance of two (2) hours of disaster training;
 - vi. Annual attendance of an additional two (2) hours of disaster training focused on interoperability with fire and law enforcement;
 - vii. Annual attendance of a Communications Center evacuation drill;
 - viii. Annual training courses/offerings as identified by the CCCEMSA Medical Director, Contractor Medical Advisor or CES Manager through CQI activities; and
 - ix. All new paramedics will complete the field evaluation program prior to being placed on a field shift to work with an EMT partner. The field evaluation program shall require that the new paramedic function under the direct supervision of a CCCEMSA approved FTO during the evaluation period. The field evaluation program shall be in compliance with CCCEMSA policies and submitted as a part of Contractor's CQI plan.
6. Supervisor Education and Training Requirements.
- a. Contractor shall collaborate with District and CCCEMSA to develop and implement a comprehensive field supervisor program that includes field operations guidelines and policies to be followed by Transport Employee supervisors. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for Transport Employee supervisors include:
 - i. Applicable training and education requirements for the supervisor's level of certification; and
 - ii. Attend at least one (1) disaster exercise and two (2) hours of disaster training annually.
7. Management and Key Support Staff Training and Education Requirements.
- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for management and key support staff include:
 - i. Applicable training and education requirements for the manager or support staff's level of certification;
 - ii. National Incident Management System (NIMS) training, to include at a minimum Independent Study, 100, 200, 300, 400, 700, and 800; and
 - iii. Completion of an IHI certificate program focused on patient safety, quality, and leadership by June 30, 2017, for existing personnel and within eighteen (18) months of hire for new employees. IHI guidelines will be incorporated into the execution of the clinical quality improvement (CQI) plan, training, and education.
8. Quality and Clinical Supervisory Staff
- a. The parties understand that required training may be modified by changes in CCCEMSA plans, programs, policies, protocols, and procedures. Education/training required for Quality and Clinical Supervisory staff include:
 - i. Applicable training and education requirements for the quality and clinical supervisory staff's level of certification; and
 - ii. Completion of an IHI certificate program focused on patient safety, quality, and leadership by June 30, 2017, for existing personnel and within eighteen (18) months

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of hire for new employees. IHI guidelines will be incorporated into the execution of the CQI plan, training, and education.

9. Driver Training and Safety

- a. All Contractor employees that operate emergency vehicles shall complete the following:
 - i. All persons driving an ambulance or support emergency response vehicle (ERV) providing service under this Contract shall have successfully completed Contractor's 16-hour driver training program which is consistent with the Emergency Vehicle Operator Course (EVOC) curriculum of the U.S. Department of Transportation, but will include:
 - A. California state vehicle codes pertaining to emergency vehicle operation;
 - B. Case studies of emergency vehicle collisions and litigation;
 - C. Vehicle characteristics;
 - D. Defensive driving;
 - E. Placement of vehicles at emergency incidents;
 - F. Driving policies and procedures;
 - G. Collision avoidance – split-second classroom simulations and decision-making drills behind the wheel of potential collision conditions;
 - H. Controlled speed – line-of-entry, hand positioning on the steering wheel, apexing, vehicle dynamics, and braking techniques;
 - I. Precision maneuvering – behind the wheel drills that include parallel parking, off-set lanes, three-point turnaround, backing in and out of parking stalls, and serpentines;
 - J. Training on all of Contractor's vehicle safety policies; and
 - K. Mapping, Navigation and Area Familiarization Training.
 - ii. Contractor will subscribe to the California Department of Motor Vehicles' "Pull Notice" Program which tracks employee infractions of the California Vehicle Code.
 - iii. Contractor shall have a driver acceptability policy that establishes eligibility criteria for individuals to whom Contractor extends the privilege of emergency vehicle operation.
 - iv. Contractor shall provide remedial driver training to employees who have been involved in a preventable collision or who have been identified as needing to improve their ambulance driving skills.

10. Infection Control Training. Contractor shall implement an expanded infection control program focused on decreasing cross-contamination among patients and protecting employees from infections, as outlined in Contractor's California Occupational Safety and Health Exposure Control Plan. Contractor shall train all Transport Employees during new hire orientation on infection control, including how to use personal protective equipment as well as practices to reduce cross-contamination between themselves and patients and patient-to-patient. Ongoing practices and education, at a minimum, will include:
 - a. Infection control training (airborne and blood borne);
 - b. Cleaning, disinfection, and disposal;
 - c. Sharps exposure prevention;
 - d. Personal protective equipment;
 - e. Post-exposure management;
 - f. Respiratory protection program, including Cal OSHA 5199 Aerosol Transmissible Disease standard, that includes annual respirator fit testing;

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- g. Annual Tuberculosis testing at no cost to the employee; and
 - h. Employee vaccinations including Hepatitis B and general influenza at no cost to the employee.
11. On-Going Evaluation of Training Programs. Contractor shall continuously evaluate the effectiveness of the training programs required under this Contract. At the monthly Collaboration Committee meetings, Contractor and District shall update CCCEMSA on current revisions to the training programs required under the CCCEMSA Contract and this Contract, and shall provide an annual summary of training program evaluations.
 12. Quality Improvement Hotline. Contractor shall establish an ambulance service quality improvement telephone number (the "QI Hotline") giving customers and EMS System participants the ability to leave commendations or suggestions for service improvements on a voice mailbox. Contractor shall publicize the QI Hotline telephone number at local healthcare facilities, first responder stations, and public safety agencies. Members of Contractor's QI/Leadership Team are to be automatically notified of any incoming calls to the QI Hotline. Incidents that require feedback are to be attended to by the end of the next business day.
 13. Diversity Awareness. Contractor shall adopt and enforce policies and practices to deliver equal employment opportunity. Contractor shall participate with District and CCCEMSA in the development of a cultural-competency training program and materials for emergency responders. Contractor shall recruit and employ employees that possess culturally appropriate skills when interacting with the diverse County population.

H. Operations Performance Standards.

1. Emergency Response Zones (ERZ's). For the purposes of Ambulance staffing, Response Time monitoring, reporting, and compliance, the Service Area has been divided into four (4) ERZ's. Exhibit A (Emergency Response Zones Map), attached hereto and incorporated herein by this reference, illustrates the following ERZs:
 - a. ERZ A: The territory of the City of Richmond.
 - b. ERZ B: The territories of the City of El Cerrito, Kensington Fire Protection District, City of Pinole, Rodeo-Hercules Fire Protection District, Crockett-Carquinez Fire Protection District, and that portion of the District covering San Pablo, El Sobrante, North Richmond, and other areas of western Contra Costa County.
 - c. ERZ C: That portion of the territory of the District covering Walnut Creek, Concord, Clayton, Lafayette, Martinez, Pleasant Hill, and other areas of central Contra Costa County.
 - d. ERZ D: That portion of the territory of the District covering Antioch, Pittsburg, Bay Point, and unincorporated areas of east Contra Costa County served by the District, and the territory of East Contra Costa County Fire Protection District covering Oakley, Brentwood, and the unincorporated area of East Contra Costa County Fire Protection District.
2. Response Density Zones. For the purposes of Response Time monitoring, reporting, and compliance, the Service Area has also been divided into two (2) Response Density Zones – High Density and Low Density as shown on Exhibit B (Response Density Map), attached

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hereto and incorporated herein by this reference. Upon Contractor's request, District shall provide this information as a map layer for use with geographic information systems (GIS).

3. **Response Time Performance Standards.** Contractor shall respond to each request for paramedic emergency medical service originating from within Contractor's Service Area to meet the Response Time standards listed below (the "Response Time Standards"):
 - a. **Potentially Life Threatening Emergency Response (Priority 1).** Priority 1 calls are calls for a response to a potentially life threatening situation, and are dispatched with emergency lights/sirens ("Priority 1"). When contacted by a PSAP with a Priority 1 call originating in Contractor's Service Area, Contractor shall place an ALS Ambulance on the scene with maximum Response Times as follows:
 - i. Ten minutes and zero seconds (10:00) to calls originating in ERZ A.
 - ii. Eleven minutes forty-five seconds (11:45) to calls originating in ERZ's B, C, and D, except for low density designated areas.
 - iii. Sixteen minutes forty-five seconds (16:45) to calls in Bethel Island.
 - iv. Twenty minutes and zero seconds (20:00) to calls within areas designated as low density on Exhibit B (Response Density Map).
 - b. **Non-Life Threatening Emergency Response (Priority 2).** The parties may establish a definition for what constitutes a Priority 2 call. If the parties amend this Contract to add a definition for a Priority 2 call, then the following Response Times shall apply to Priority 2 calls. When contacted by a PSAP with a Priority 2 call originating in Contractor's Service Area, Contractor shall place an ALS Ambulance on the scene with maximum Response Times as follows:
 - i. Fifteen minutes and zero seconds (15:00) in designated high-density areas.
 - ii. Twenty minutes and zero seconds (20:00) to calls in Bethel Island.
 - iii. Thirty minutes and zero seconds (30:00) in areas designated as low density.
 - c. **Non-Emergency Response (Priority 3).** Priority 3 calls are calls for a response to a non-emergency ambulance situation, and are dispatched with no emergency lights/sirens ("Priority 3"). When contacted by a PSAP with a Priority 3 call originating in Contractor's Service Area, Contractor shall place an ALS Ambulance on the scene with a maximum Response Time of thirty minutes and zero seconds (30:00) in areas designated as high density, and a maximum Response Time of forty-five minutes and zero seconds (45:00) in areas designated as low density.
 - d. **Non-Emergency Interfacility ALS Transports (Priority 4)**
 - i. **Scheduled; Three Hours Notice.** If Contractor receives a call for an ALS interfacility non-emergency transport with at least three (3) hours notice, Contractor shall place an ALS Ambulance on the scene within fifteen minutes zero seconds (15:00) of the scheduled pickup time.
 - ii. **Scheduled; Less Than Three Hours Notice.** If Contractor receives a call for an ALS interfacility non-emergency transport with less than three (3) hours notice, Contractor shall place an ALS Ambulance on the scene within sixty minutes zero seconds (60:00) of the time of the request.
4. **Medical Dispatch Improvement Collaboration.** Contractor and District shall cooperate to improve the dispatch of Emergency Ambulances during the term of this Contract, including without limitation, efforts to improve more specific prioritization of calls and modification of Response Time requirements, and taking into consideration the costs to Contractor in implementing changes.

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5. Response Time Calculation.

- a. Response Time Calculations. Contractor understands and agrees that on a monthly basis CCCEMSA will use Response Time data from District's CAD system via CCCEMSA's online compliance utility tool to calculate Ambulance Response Times to determine compliance with the Response Time Standards in Section H(3) above. At the end of each calendar month, a date within the last fifteen (15) days of the month will be randomly selected. The thirty-day period ending with the randomly selected date will be used to measure Response Time compliance.
- i. Response Time Area Subsets. Response Times will be measured for all responses within each ERZ in Contractor's Service Area, and are grouped by priority level. The different density areas within each ERZ will be grouped for compliance Response Time measurement.
- b. Time Call Received. For all requests for service, the term "Time Call Received" means the earlier of: (i) the time when an Emergency Medical Dispatch Center that directly dispatches the Ambulance receives adequate information to identify the location of the call and the priority level, and dispatches the call; and (ii) the time when an Emergency Medical Dispatch Center that directly dispatches the Ambulance receives adequate information to identify the location of the call and the priority level, and resources have been assigned, plus thirty (30) seconds.
- c. Arrival On Scene Time. For all requests for service, the term "Arrival On Scene Time" means the moment the first Emergency Ambulance arrives and stops at the exact location where the ambulance shall be parked while the crew exits to approach the patient, and notifies the Emergency Medical Dispatch Center that it is fully stopped; provided, that in situations where the Emergency Ambulance has responded to a location other than the scene (e.g., staging areas for hazardous materials/violent crime incidents, non-secured scenes, gated communities or complexes or wilderness locations), the term "Arrival On Scene Time" means the time the Emergency Ambulance arrives at the designated staging location or nearest public road access point to the patient's location; provided further, and subject to subsection (d) below, if an Emergency Ambulance fails to report its Arrival On Scene Time, the time of the next communication between the Emergency Medical Dispatch Center and that Emergency Ambulance shall be used as the Arrival On Scene Time.
- d. Failure to Report Arrival On Scene Time. If an Emergency Ambulance fails to report its Arrival On Scene Time, the time of the next communication with that Emergency Ambulance shall be used as the Arrival On Scene Time; provided, that Contractor may document the Emergency Ambulance's actual Arrival On Scene Time through other means (e.g., first responder, automatic vehicle location services, communications tapes/logs, etc.) so long as an auditable or unedited computer generated report is produced.
- e. Upgrades. If an Ambulance assignment is upgraded (e.g., from Priority 2 to Priority 1) prior to an Emergency Ambulance Arrival On Scene Time, Contractor's Response Time compliance shall be calculated based on the shorter of: (i) time elapsed from call receipt to time of upgrade plus the higher priority Response Time; and (ii) the lower priority Response Time.
- f. Downgrades. If a call is downgraded prior to Arrival on Scene Time, (e.g. from Priority 1 to Priority 2), Contractor's Response Time compliance shall be determined as follows:

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- i. If the time of the downgrade occurs after the Ambulance has exceeded the higher priority Response Time Standard, the more stringent higher priority Response Time Standard will apply; or,
 - ii. If the time of the downgrade occurs before the ambulance has exceeded the higher priority Response Time Standard, the less stringent lower priority Response Time Standard will apply. In all such cases documentation must be presented for validation of the reason why the priority status was downgraded. If the downgrade was justified in the sole discretion of District, the longer standard will apply.
 - g. Reassignment Enroute. If an Emergency Ambulance is reassigned enroute to a call, or turned around prior to Arrival On Scene Time (e.g., to respond to a higher priority request), compliance with Response Time Standards will be calculated based on the Response Time Standard applicable to the priority assigned to the initial response. The Response Time clock will not stop until an Ambulance has an Arrival On Scene Time for the call from which the Ambulance was diverted.
 - h. Cancelled Calls. If an Emergency Ambulance is cancelled by an authorized agency after an assignment has been made, but prior to an Arrival On Scene Time, Contractor's Emergency Ambulance Response Time clock will stop at the time of cancellation, and Response Time will be the elapsed time from the Time Call Received to the time the call was cancelled.
6. Response Density Reassessment. Contractor understands and agrees that under the CCCEMSA Contract, CCCEMSA may evaluate the call density and density zone structure to address changes occurring within each zone. Contractor shall work with District to define and implement any proposed changes to density reassessment throughout the term of this Contract. Response Time compliance changes pursuant to this section will be modified by readjusting the then current map (Exhibit B) defining the density designations by mutual agreement of the parties.
7. Response Time Exemptions. In calculating Contractor's Response Time performance, every emergency request from an Emergency Medical Dispatch Center originating from within Contractor's Service Area shall be included except as follows:
- a. Multiple Responses. In case of a multiple-response incident (i.e., where more than one ambulance is sent to the same incident), only the Response Time of the first arriving ALS Ambulance shall be counted.
 - b. Responses During an MCI or Disaster. During an MCI or disaster declared by the County, or during a declared disaster in a neighboring jurisdiction to which ambulance assistance is being provided as requested by County, CCCEMSA will determine, on a case-by-case basis, if Contractor may be temporarily exempt from response-time criteria. When District notifies Contractor that multi-casualty or disaster assistance is no longer required, Contractor shall return all of its resources to the Service Area and shall resume all operations as required under the Contract.
 - c. Good Cause. Contractor understands that under the CCCEMSA Contract, CCCEMSA may allow exemptions to Response Time requirements for good cause at CCCEMSA's sole discretion. At a minimum, the asserted ground(s) for exemption must have been a substantial factor in producing a particular excess Response Time and Contractor must have demonstrated a good faith effort to respond to the call(s). Good causes for an exemption may include, but are not limited to: incorrect or inaccurate dispatch information received from an Emergency Medical Dispatch Center; disrupted voice or

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data radio transmission (not due to Contractor equipment or infrastructure); material change in dispatch location; unavoidable telephone communications failure; inability to locate address due to non-existent address; inability to locate patient due to patient departing the scene; delays caused by traffic secondary to the incident; unavoidable delays caused by extreme inclement weather (e.g., fog); unavoidable delays caused by trains; delays resulting from depletion of resources as a result of County authorized mutual aid; calls to locations that are greater than ten (10) road miles from the nearest boundary of the high-density area, or calls to off-road locations; and extended delays at hospitals for transferring patients to receiving facility personnel.

- i. Contractor understands that equipment failure, Ambulance failure, lost Ambulance crews, or other causes deemed to be within Contractor's control or awareness are not grounds to grant an exemption to a Response Time Standard.

8. Exemption Request Procedure.

- a. CCCMSA Exemption Request Procedure. CCCCMSA has developed and adopted a Response Time Exemption Request Procedure (the "Exemption Request Procedure") that Contractor will assist District in following when CCCCMSA is considering whether an exemption to a Response Time Standard is appropriate.
- b. Request for Exemption Consideration.
 - i. Application for Exemption. Contractor will assist District in the Exemption Request Procedure process. Upon District learning that a penalty will be imposed under the CCCCMSA Contract, Contractor and District will discuss whether District should file a request for a Response Time exemption. If Contractor and District agree that a request for a Response Time Exemption should be filed, District shall file a timely request for a Response Time exemption with CCCCMSA. If Contractor requests that District file a request for a Response Time Exemption, but District declines to do so, and a penalty is imposed on District, Contractor will not be required to pay such penalty to District as provided in this Contract.
 - ii. Exemption Request Procedure. If District makes a request for an exemption to a required Response Time Standard to CCCCMSA, Contractor shall provide District with detailed documentation for each response for which it is seeking an exemption in connection with District's request that CCCCMSA exempt the identified responses from Response Time calculations and associated penalties. Any request for a Response Time exemption must be received by the CCCCMSA within ten (10) business days after the completion of the response. A request for an exemption received more than ten business days (10) after the completion of the response will not be considered.
 - iii. Exemption Review Process. If District disagrees with CCCCMSA's decision regarding a Response Time exemption request, it may follow the dispute resolution process set forth in the CCCCMSA Contract.
- c. Dispatch to Enroute Exemptions. Contractor understands and agrees that, at the sole discretion of CCCCMSA, calls with an extended period of time between ambulance dispatch and the ambulance being enroute of more than two (2) minutes may be excluded from consideration as exemptions.

9. Response Time Performance Reporting Requirements.

- a. Documentation of Incident Time Intervals. Contractor shall document all times necessary to determine total ambulance Response Time including, but not limited to,

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time call received by the Emergency Medical Dispatch Center, time ambulance crew assigned, time enroute to scene, arrival at scene time, total on-scene time, time enroute to hospital, total time to transport to hospital, arrival at hospital time, and time of transfer of patient care to hospital personnel. All times shall be recorded in an ePCR form and in District's computer aided dispatch system. Other times may be required to document specific activities such as arrival at patient side, times of defibrillation, administration of treatments and medications and other instances deemed important for clinical care monitoring and research activities.

- b. Interface to CAD and ePCR. Contractor and District shall work cooperatively to provide an interface with the CAD database and ePCR System for District and CCCEMSA to extract and corroborate Response Time performance. Contractor may not make changes to times entered into the CAD during or after the event. Any changes to times will be managed via the Exemption Request Procedure and documented in a separate system after review and approval by District and CCCEMSA.
- c. Response Time Performance Report.
 - i. Within ten (10) business days after the end of each month, Contractor shall document and report Response Time performance to District in writing, in a manner specified by District.
 - ii. Contractor shall report performance for each priority level in each ERZ.
 - iii. Contractor shall use Response Time data in an on-going manner to evaluate Contractor's performance and compliance with Response Time Standards in an effort to continually improve its Response Time performance levels.
 - iv. Contractor shall identify the causes of failures of performance, and shall document efforts to eliminate these problems on an on-going basis.
 - v. Contractor shall provide an explanation for every call exceeding the required Response Time Standard.
 - vi. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which a report was not delivered on time.
- d. Penalty Provisions.
 - i. Penalty for Failure to Report Arrival On Scene Time. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each time an Emergency Ambulance is dispatched and the ambulance crew fails to report and document an Arrival On Scene Time. Contractor, in order to rectify the failure to report an Arrival On Scene Time and to avoid District incurring a penalty under the CCCEMSA Contract, may demonstrate to the satisfaction of District and CCCEMSA an accurate on-scene time. Where an Arrival On Scene Time for a particular emergency call is not documented or demonstrated to be accurate, the Response Time for that call shall be deemed to have exceeded the required Response Time for purposes of determining Response Time compliance.
 - ii. Penalty for Failure to Comply with Response Time Requirements. District may impose a penalty on Contractor for each month District is penalized under the CCCEMSA Contract based on a failure to comply with the Response Time requirements in at least ninety percent (90.0%) of calls in any ERZ based on the percentage of compliance for all responses in the ERZ in the categories represented in Exhibit C (Penalties) attached hereto and incorporated herein. Failure of Contractor to achieve at least 88% Response Time compliance in each ERZ for Emergency Ambulance requests will require that Contractor submit and implement

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an Ambulance deployment plan that includes additional staffed ambulance hours aimed to achieve 90% compliance with Response Time Standards.

- iii. Priority 4 Response Time Measurement. Priority 4 (non-emergency ALS interfacility transfer) Response Times will be measured using Contractor's entire Service Area and not by priority levels for each ERZ.
 - iv. Repetitive Non-Compliance. For the purpose of measuring Response Time compliance, the term "Repetitive Non-Compliance" means, for any measured Response Time subset that (i) Contractor's Response Time compliance has been less than 90% for three (3) consecutive months, or (ii) there have been five (5) instances where Contractor's Response Time compliance was less than 90% in any twelve-month period. If Contractor's Response Times result in Repetitive Non-Compliance, District shall provide Contractor with written notice thereof, and Contractor shall submit a plan of corrective action to District within thirty (30) days after being notified of its Repetitive Non-Compliance.
 - v. Isolated Instances. Isolated instances of individual deviations from Response Time Standards shall not be treated as instances of Repetitive Non-Compliance.
 - vi. Insufficient Call Number. Any measured Response Time subset of measurement of calls that does not exceed 100 responses in a single month shall be added to the next month's responses and accumulated until the minimum of 100 responses is documented at which point compliance determinations will be made.
10. Penalties for Outlier Responses. An "Outlier Response" means a Response Time that is excessive for the category, such that it represents a potential threat to health and safety. District may impose a penalty on Contractor for any instance in which District is penalized under the CCEMSA Contract because the actual Response Time equals or exceeds the applicable Outlier Response Time set forth in Exhibit C (Penalties). Penalties will be based on ERZ and the priority level assigned to the call. The imposition of a penalty for an Outlier Response is in addition to a penalty assessed for Contractor's Response Time compliance requirements.
11. Additional Penalty Provisions. District may impose financial penalties on Contractor as delineated in Exhibit C (Penalties).
12. Stand-by. Contractor shall provide, at no charge to County or another requesting public safety agency, stand-by services at the scene of an emergency incident within the Service Area when directed by an Emergency Medical Dispatch Center. An ambulance unit placed on stand-by shall be dedicated to the incident for which it has been placed on stand-by. Any stand-by periods scheduled to exceed eight (8) hours must be approved in advance by District in writing. Contractor shall immediately notify the requesting agency incident commander when a stand-by exceeding one (1) hour may limit Contractor's ability to meet the Response Time Standards for the impacted ERZ, and shall notify District in writing by the following business day.

I. Personnel Standards

- 1. Employee Character. Contractor shall employ employees who are highly qualified, competent, and of high moral and ethical character, and who understand that they represent the County as emergency service providers.

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2. Prescreening of Employees. Contractor shall prescreen all Transport Employees and Transport Employee candidates to determine their qualifications, moral and ethical character, and that they are not prohibited from performing the duties for which they were hired.
 - a. Background Check. Contractor shall conduct background checks on all of its potential employees prior to employment, or if already employed, to undergo rechecks as needed. Contractor will additionally perform annual Department of Motor Vehicle driving record pulls for all Transport Employees. The initial background check shall include criminal history, verification of employment, verification of license/certifications and training required under this Contract for the position for which the individual was hired. Contractor shall provide the results of the criminal and background checks to District and CCCEMSA when background information is revealed that would result in licensure or certification action under California Health and Safety Code section 1798.200(c)(1) through (c)(12), or when requested by District or CCCEMSA. Contractor shall bear the costs associated with pre-employment and periodic background checks
 - b. U.S. Government Excluded Parties List System (EPLS). Contractor shall check all Transport Employees against the EPLS. Contractor shall not employ any person who has been listed as an excluded person on the EPLS.
 - c. Office of Inspector General (OIG). Contractor shall check all Transport Employees against the OIG's exclusion list. Contractor shall not employ any person who has been listed as an excluded person by the OIG.

3. Drug Testing. Contractor shall cause a biological fluid test for drugs to be conducted on all Transport Employees prior to employment, and require that the results of the drug test are negative to qualify for employment as a Transport Employee. The use or consumption of marijuana pursuant to a medical recommendation is not an exemption to the zero tolerance policy for drug use under this provision. Contractor will comply with the Drug-Free Workplace Act (41 U.S.C. section 8101 et seq.). Contractor shall implement (a) implement a zero tolerance policy for drug use and alcohol abuse that includes ensuring that employees are free from the influence of alcohol and intoxicating drugs while on-duty, and (b) prohibit any employee from using, possessing, concealing, manufacturing, transporting, selling, buying, or promoting the sale of any illegal drug.

4. Physical Ability. Contractor shall cause all Transport Employee candidates to undergo a physical ability test prior to employment, and upon returning to employment from leave of absence in excess of thirty (30) days, and upon returning from any injury that resulted in an employee missing at least thirty (30) days of work, by a licensed healthcare provider qualified to perform such tests. The physical ability test shall simulate the physical abilities needed to lift and transport patients and equipment in the field.

5. Credentials. Contractor shall cause all of its Transport Employees to be currently and appropriately credentialed.
 - a. Contractor shall retain on file at all times, copies of all current and valid licenses, certifications, and/or accreditations of all emergency medical personnel performing services pursuant to this Contract. Contractor shall make available to District and CCCEMSA, for inspection and copying during business hours, all records and documents retained on file pursuant to this provision.

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- b. Contractor shall employ Transport Employees that are currently certified, licensed and/or accredited at all times when assigned to provide services pursuant to this Contract. Contractor shall verify all state licenses and certifications for prehospital providers through the State's Central Registry, and for nurses through the State's Department of Consumer affairs nurse license search. Contractor shall visually verify all credentials and certifications.
6. Employee Records/Termination. Contractor shall provide District and CCCEMSA with a list of its currently employed Transport Employees, and shall update that list as soon as practical, and in no event later than thirty (30) days, after a paramedic or EMT leaves its employ. At minimum, the personnel list shall include the name, residential and mailing address, telephone number, CPR expiration dates, and California Driver License number of each person on the list. For each paramedic, the list shall also include the paramedic's California paramedic license number and expiration date and ACLS, PEPP/PALS, and PHTLS/ITLS expiration dates. For each EMT, the list shall also include the EMT's California certification number and expiration date.
 - a. In those cases where a paramedic or EMT leaves Contractor's employ as a result of a disciplinary cause, including administrative leave, suspension, retirement, or resignation while the employee has knowledge of a pending disciplinary cause, Contractor shall provide District and CCCEMSA with the basis for the termination, resignation, or retirement as well as the initial and final investigatory findings surrounding the alleged misconduct as soon as practical, but in no case, more than three (3) days.
 - b. Contractor shall notify District and EMSA, on the paramedic investigation request form or other form approved by EMSA for reporting paramedic misconduct, of each and every paramedic that leaves Contractor's employ as a result of a disciplinary cause, including suspension, retirement, or resignation while the employee has knowledge of a pending disciplinary cause. Contractor shall provide District with a copy of the paramedic investigation request or other approved form submitted to EMSA with supporting documents and attachments no later than the following business day.
7. Tuberculosis and Hepatitis. Contractor shall provide all new and existing Transport Employees with initial and annual tuberculosis testing at no cost to the Transport Employee. Contractor shall offer all of its new and existing clinical and operational employees Hepatitis B and annual influenza vaccinations.
8. Assault Management Training.
 - a. Contractor shall train all new and existing Transport Employees in the skills necessary to effectively manage patients with psychiatric, drug/alcohol, or other behavior or stress related problems, including communication, proper and legal use of force and restraints, and how to handle these patients safely.
 - b. Contractor shall offer its employees an annual refresher course in assault management that has been approved by CCCEMSA.
9. Paramedic Minimum Qualifications. Contractor's Transport Employees shall meet the following minimum Paramedic qualifications. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which District is penalized under the CCCEMSA Contract based on a Paramedic Transport Employee failing to satisfy these minimum qualifications.

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- a. Licensed as a paramedic in the State of California;
 - b. Accredited as a paramedic in the County, or alternatively, unaccredited but assigned to an ambulance with an accredited paramedic while the accreditation is pending. If an unaccredited paramedic is assigned to an ambulance with an accredited paramedic, the unaccredited paramedic pending accreditation shall not be permitted to perform any skill in CCCEMSA's optional scope of practice for paramedics. The unaccredited paramedic shall not work more than thirty (30) days without accreditation;
 - c. Currently certified in advanced cardiovascular life support according to the American Heart Association (AHA);
 - d. Currently certified in prehospital trauma life support (PHTLS) or international trauma life support (ITLS), or Contractor shall document that each paramedic has satisfactorily completed comparable training to master competency in the skills included in the PHTLS or ITLS curriculum and approved by the EMS Medical Director;
 - i. Paramedic personnel assigned to work with a currently PHTLS or ITLS certified partner may have up to three (3) months from date of hire to obtain said certification.
 - e. Currently certified in pediatric education for prehospital professionals (PEPP) or pediatric advanced life support (PALS).
 - i. Paramedic employees assigned to work with a currently PEPP or PALS certified partner may have up to three (3) months from date of hire to obtain said certification.
 - ii. Contractor shall supplement required PEPP/PALS training with annual infant and pediatric simulation training focused on early recognition and management of pre-arrest and other life threatening conditions.
 - iii. Contractor shall require Transport Employees to review prehospital procedures for Safely Surrendered Baby Program.
 - f. Currently trained and certified in CPR according to the current AHA's Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care at the Healthcare Provider or Prehospital Care Provider level;
 - g. Valid California driver license, ambulance drivers' license, and Medical Examiner certificate; and
 - h. Currently certified as an emergency vehicle operator according to the emergency vehicle operations course or equivalent training.
10. EMT Minimum Qualifications. Contractor's EMT Transport Employees assigned to provide EMT services pursuant to this Contract shall meet the following minimum qualifications. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which District is penalized under the CCCEMSA Contract based on an EMT Transport Employee failing to satisfy these minimum qualifications.
- a. Currently certified as an EMT in the State of California;
 - b. Valid California driver license, ambulance driver license, and a Medical Examiner certificate;
 - c. Currently trained and certified in CPR according to the current AHA's Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care at the Healthcare Provider level or Prehospital Care Provider level; and
 - d. Currently certified as an emergency vehicle operator according to the vehicle operations course or equivalent training or equivalent training.

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11. Supervisors. Contractor shall employ personnel assigned to supervisory positions, whether temporarily or permanently, that are well trained and qualified. Contractor shall take steps to employ supervisory personnel that are continually trained and prepared for any unforeseen event at no cost to the employee.
 - a. Credentials. All Transport Employee supervisory personnel shall be licensed and accredited in the County at the paramedic level, have at least three years paramedic experience with at least one of those years working in the County EMS System, and shall have successfully completed the Federal Emergency Management Institute – Incident Command System (ICS) series 100, 200, 300 and 400, and NIMS 700 and 800b, within 6 months of appointment. Supervisory personnel shall attend a CCCEMSA approved Ambulance Strike Team Leader course and shall be certified as AST Leaders within one (1) year of execution of this Contract. Transport Employee supervisory personnel shall all be trained, and shall receive refresher training, in critical incident stress management and actively participate as a CISM team member.
 - b. Professional Development. Prior to acting in a supervisory role, all candidates for Transport Employee supervisorial positions shall have received training from Contractor to enable the supervisor to effectively and successfully perform their duties. Examples of said training include, but in no way shall be limited to, conflict resolution management, training in relevant employment laws, multi-casualty incident plan and response, Contractor's policies and procedures, CCCEMSA event notification requirements, infection control and response to employee exposure, MHOAC activation, and dispatch procedures. Supervisory personnel shall receive annual refresher training at no cost to the employee.
12. System Status Controllers. Contractor shall employ system status controllers that are trained and highly qualified to provide system status management for ambulance operations, including the pre-positioning of ambulances throughout the response zones in a manner designed to meet Response Time Standards.
13. Uniforms/Appearance. Contractor provide uniforms to its Transport Employees who provide services pursuant to this Contract. The uniforms must be distinctive from all other ambulance service providers and shall bear the County approved EMS patch and the field providers' certification and license level, or supervisory capacity, and name. Uniforms and their insignia shall be approved by District and CCCEMSA. Contractor shall require its Transport Employees to properly wear their issued uniform, are well groomed, and maintain a professional appearance at all times.
14. Fatigue awareness and mitigation. Contractor shall develop a policy that stipulates the maximum amount of time an employee can continuously be on-duty; and rest/sleep requirements that must be followed for all employees that are continuously on-duty for more than twelve (12) hours.
15. Paramedic Preceptors. Contractor shall cooperate with CCCEMSA-approved paramedic training programs and with District and CCCEMSA to develop a paramedic preceptor program. The paramedic preceptor program shall provide adequate paramedic field internship positions in support of CCCEMSA approved programs. Preferential placement for paramedic field internships shall be provided to CCCEMSA approved paramedic programs.

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J. Fleet and Equipment.

1. Vehicles. Contractor shall acquire and maintain all ambulances and support vehicles necessary to perform its services pursuant to this Contract. All costs of maintenance including parts, supplies, spare parts and costs of extended maintenance agreements are the responsibility of Contractor.
2. Fleet Ambulance Requirement. Contractor shall maintain the number of ALS equipped and fully operating Ambulances that represents at least 120% of the peak staffing level established by Contractor. If a fraction is derived when multiplying the peak number of units by 120%, the number will be rounded up to the next whole integer (i.e., 32.4 would be rounded to 33). For example, if Contractor's peak number of ambulances is twenty-seven (27), then Contractor is to maintain a fleet of at least 33 ambulances ($27 \times 120\% = 32.4$ rounded to 33).
 - a. Contractor shall maintain a back-up fleet of Ambulances from its regional and national fleet as needed to supplement special events or disaster response within the County.
 - b. Contractor will submit a plan detailing number of units available and time frames needed to activate vehicles for system response, as well as the mechanism for assuring that required equipment is available on back-up units.
3. Fleet Vehicle Requirement. In addition to the fleet Ambulance requirement specified above, Contractor shall maintain the following minimum vehicle fleet:
 - a. one (1) bariatric capable transport unit;
 - b. one (1) specialized infectious disease capable transport unit
 - c. five (5) Supervisor vehicles;
 - d. three (3) support vehicles; and
 - e. One (1) disaster medical support unit or its equivalent
4. Vehicles.
 - a. Ambulances used in providing services under this Contract shall meet the standards of Title XIII, California Code of Regulations.
 - b. Ambulance vehicles used in providing services under this Contract shall bear the markings "Contra Costa County Fire - EMS" in at least four (4) inch letters on both sides. Such vehicles shall display the "9-1-1" emergency telephone number and state the level of service, "Paramedic Unit," on both sides.
 - c. All vehicles shall be marked to identify the company name, but shall not display any telephone number other than 9-1-1 or any other advertisement.
 - d. Overall design, color, and lettering are subject to the approval of District.
 - e. Each ambulance shall be equipped with functional GPS route navigation capabilities.
 - f. Contractor shall replace any Ambulance when it reaches five (5) years of service or 195,000 miles, whichever occurs first.
 - g. Contractor is responsible for all maintenance of Ambulances, support vehicles, and on-board equipment used in the performance of its work. Any Ambulance, support vehicle, and/or piece of equipment with any deficiency that compromises, or may reasonably compromise its function, shall be immediately removed from service.
 - i. Contractor shall remove Ambulances, support vehicles, and equipment that have defects, including significant visible but only cosmetic damage, from service for repair without undue delay.

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- h. Contractor shall maintain a vehicle maintenance program that is designed and conducted to achieve the highest standard of reliability appropriate to a modern high performance ambulance service. Contractor's vehicle maintenance program shall use appropriately trained personnel who are knowledgeable in: the maintenance and repair of ambulances, developing and implementing standardized maintenance practices, and shall incorporate an automated or manual maintenance program record keeping system.
- i. Contractor shall use patient point of care equipment on all Ambulances that meets Clinical Laboratory Improvement Amendments (CLIA) standards, and submit a description of the program to District.
- j. All costs of maintenance and repairs, including parts, supplies, spare parts and inventories of supplies, labor, subcontracted services, and costs of extended warranties, shall be at Contractor's expense.

5. Equipment.

- a. All Ambulances performing services pursuant to this Contract shall carry all emergency supplies and equipment identified in the County Ambulance Equipment and Supply list on file at CCCEMSA, 1340 Arnold Drive, Suite 126 Martinez, CA. Acquisition and maintenance of all equipment, including parts, supplies, spare parts, and costs of extended maintenance agreements, are the responsibility of Contractor.
 - i. Contractor shall maintain inventory control and equipment maintenance systems which keep the ambulance fleet fully stocked with quality equipment in good working order at all times.
 - ii. Contractor agrees that equipment and supply requirements may be changed with the approval of District due to changes in technology.
- b. District may inspect the Contractor's Ambulances at any time, without prior notice. If any Ambulance fails to meet the minimum in-service requirements contained in the Ambulance Equipment and Supply list as determined by CCCEMSA or District, District may:
 - i. Immediately order the Ambulance removed from service until the deficiency is corrected if the missing item is deemed a critical omission;
 - ii. Subject Contractor to a per-incident penalty as described in Exhibit C (Penalties) when District is penalized under the CCCEMSA Contract therefor;
 - iii. The foregoing shall not preclude dispatch of the nearest available Ambulance even though not fully equipped, in response to a life threatening emergency so long as another appropriately equipped ambulance of at least equal level of service is also dispatched to the scene. Contractor understands and agrees that under the CCCEMSA Contract, CCCEMSA may adopt protocols governing provisional dispatch of Ambulances not in compliance with minimum in-service requirements and Contractor shall comply with these protocols.
- c. Contractor shall maintain a system to exchange on a one-for-one basis medical supplies and equipment supplied by a fire first responder agency in connection with patient transport.

K. Communications.

- 1. System Integration. Contractor shall establish policies and procedures for the integration of radio and data communications with PSAPs, the Base Hospital, and on-scene incident command.

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2. Interim Communications Center Operations; Costs. Until District has established its Emergency Medical Dispatch Center, but in no event for more than ninety (90) days after the effective date of this Contract (the "Interim Dispatch Period"), Contractor shall operate a communications center and maintain all hardware and software (fixed, mobile, interfaces, and networks) necessary to receive and fulfill requests for emergency ambulance services made by County PSAPs. Contractor shall be capable of receiving and replying to requests for emergency ambulance services by voice and by CAD interface. Contractor's Emergency Medical Dispatch Center shall be capable of dispatching all Ambulance units used to provide Emergency Ambulance Services pursuant to this Contract. Contractor will invoice District for the costs of providing the interim dispatch services on a daily-rate basis to cover Contractor's costs of the interim dispatch services. District will pay invoices within 30 days of receipt of the invoice. During the Interim Dispatch Period:
 - a. Contractor shall maintain a CAD system that provides a complete audit trail for all Response Times and provides CCCEMSA access to the Response Time data at any time to review Contractor compliance.
 - b. Contractor shall provide CCCEMSA staff electronic access to allow real-time monitoring of CAD systems.
 - c. Contractor shall provide access to Contractor's CAD for CCCEMSA staff to audit and create reports for system performance monitoring.
 - d. Contractor shall pay all costs incurred to provide required CCCEMSA access to the CAD system.

3. Data Linkages. Contractor shall maintain data linkages specified in the current version of the County Message Transmission Network (MTN) Standard, which is incorporated herein by reference. A copy of the MTN standard is on file at CCCEMSA, 1340 Arnold Drive, Suite 126, Martinez, CA.

4. Continuity of Operations Plan; Implementation. Contractor's information systems hardware, software and personnel to be capable of receiving and processing required data including, but not limited to, the ability to continuously monitor data transfer system stability and resolve system failures.

5. Dispatch Staffing. During the Interim Dispatch Period, Contractor shall maintain emergency medical dispatch staffing levels so that electronic or telephonic notifications from a PSAP or an Emergency Medical Dispatch Center are answered or responded to within fifteen (15) seconds 95% of the time, and that ambulances are dispatched to respond to emergency requests within thirty (30) seconds 90% of the time, following the Emergency Medical Dispatch Center's receipt of information establishing a location and priority for the response. During the Interim Dispatch Period:
 - a. Lead Direction. Contractor shall have a senior dispatcher to supervise dispatch operations twenty four (24) hours per day, every day.
 - b. Dispatcher/ Call Taker. Contractor shall have a comprehensive dispatcher/call taker program to provide dispatch operations twenty four (24) hours per day. The dispatcher call taker program shall also contain requirements for employee eligibility, education and training.
 - c. Post-Interim Dispatch Period. Immediately following the Interim Dispatch Period:
 - i. Contractor shall provide staff to perform System Status Management (SSM) of ambulance crews, handle administrative phone calls relative to SSM, and carry out

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any other provision of SSM as required from within the Contra Costa Regional Fire Communications Center (CCRFCC).

- ii. Contractor shall provide supervision, management, training, and scheduling of its SSM personnel in the CCRFCC.
 - iii. Contractor shall provide additional staffing, as deemed necessary by the District, to handle the processing of phone calls, SSM, and dispatching of ambulances during the period of time that a CAD-to-CAD interface between the City of Richmond dispatch center and the CCRFCC is not available.
6. System Improvement. Contractor agrees to participate in a process to improve the medical call-taking and dispatch processes to achieve full implementation of prioritization of all requests for ambulance service and shall work with District and CCCEMSA to effect such changes. Contractor agrees to negotiate with District and CCCEMSA in good faith to achieve these goals.
7. Radio Equipment Requirements. Contractor is responsible for all mobile radio equipment and cellular phones used in the field, including obtaining radio channels and all necessary FCC licenses and other permits as may be required for the operation of the system.
- a. Contractor shall cause its communications system to be capable of receiving and transmitting all communications necessary to provide emergency ambulance services pursuant to this Contract, including communicating with hospitals and other public safety agencies as required in a declared disaster situation. Radio equipment used for ambulance-to-hospital communications shall be configured so that personnel providing patient care are able to directly communicate with the base or receiving hospital staff about the patient. Communication equipment used by Ambulance crews shall be capable of transmitting 12-lead ECGs to receiving facilities.
 - b. Contractor shall equip all Ambulances and supervisory vehicles used in performance of services in Contra Costa County with radio equipment for communications with Emergency Medical Dispatch Centers. Radios shall be programmed with appropriate frequencies/talk groups to function on the East Bay Regional Communications System and suitable for operation on the California On-Scene Emergency Coordination Radio System.
 - c. Contractor shall provide each crew member assigned to an Ambulance or supervisor unit with a portable radio.
 - d. Contractor shall operate its two-way radios in conformance with all applicable rules and regulations of the Federal Communication Commission (FCC), and in conformance with all applicable CCCEMSA rules and operating procedures.
 - e. Contractor shall provide access to cellular telephones for use on Ambulances and supervisory units.
8. AVL/Data Equipment Requirements. Contractor shall equip all ambulances with Automatic Vehicle Location (AVL) devices and mobile data terminals/computers (MDT). Contractor shall supply AVL feeds to District and other public safety agencies as authorized and requested by District.

L. Customer Service and Community Education.

- 1. Community Education. Contractor shall undertake a program of health status improvement and community education to support meaningful use, health information exchange, and

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exploration of alternative mobile health services models in partnership with District, CCCEMSA, Contra Costa County Public Health Services, and other health system partners. No later than January 1, 2017, and prior to January 1 of each year thereafter, Contractor shall provide District with: (a) a written plan of health status improvement and community education activities for the coming year; and (b) a summary of the prior year's health status improvement and community education accomplishments. Contractor shall endeavor to carry out health status improvement and community education programs in cooperation with existing healthcare and health promotion organizations, local public safety agencies, and other community organizations.

- a. Community Education Funding. Contractor shall allocate a minimum of \$300,000 annually towards the goals of the community education programs identified in this section and the annual plan referenced above, \$50,000 of which shall be expended on the activities set forth in subsections (c) through (e) below.
 - b. Public Health Initiatives. Contractor will participate in County public health initiatives to support activities that reduce injury throughout the community and support population health.
 - c. AED Program. At no cost to District, Contractor shall establish a program of automated external defibrillator ("AED") equipment placement, exchange and replacement supporting public access defibrillation and first responder AED programs. The AED program shall include, but is not limited to the following components:
 - i. Placement of AEDs based on identified need by CCCEMSA, District and Contractor;
 - ii. AED pad/electrode replacement for public access defibrillators, fire, law and community AED programs;
 - iii. AED and Hands Only CPR training support for sites where devices are placed, upon request; and
 - iv. Maintain an ATRUS dispatch platform in Contractor's communications center to support use of AEDs of bystanders.
 - d. Hands Only CPR. Contractor shall train a minimum of 2,000 individuals within the County in Hands Only CPR every year.
 - e. CCCEMSA Heartsafe Program. Contractor shall provide Hands Only CPR and AED training in schools in coordination with the CCCEMSA Heartsafe Program.
2. Community Outreach Coordinator. Contractor shall employ a full-time community outreach coordinator whose primary responsibilities will be to work with District and CCCEMSA and community organizations in carrying out Contractor's health status improvement and community education program to include Physician Orders for Life Sustaining Treatment, EMS for Children and injury prevention programs and events.
3. Customer Satisfaction.
- a. No later than six months after the effective date of this Contract, Contractor shall establish, monitor, and maintain patient and family friendly processes to support patient satisfaction and complaint resolution.
 - b. Contractor shall establish a hotline giving customers and system participants the ability to leave commendations, and suggestions for service improvements on a voice or electronic mailbox (the "Customer Hotline").
 - i. Contractor shall cause its supervisory or CQI leadership team to be automatically notified of incoming calls and messages to the Customer Hotline.

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- ii. Contractor shall respond to complaints and inquiries from patients and families, regardless of how notice occurs, within twenty four (24) hours.
- c. Contractor shall establish a single point of contact or ombudsmen responsible for monitoring and improving patient satisfaction and complaint resolution.
- d. Contractor shall track, trend and report to District monthly on the number and characteristics of comments, incidents or complaints including timeliness and satisfaction or complaint resolution associated with billing and patient care, to include:
 - i. Intake time
 - ii. Type of complaint e.g. billing, patient care. other
 - iii. Date resolved and disposition
 - iv. Total resolution time to address
- e. No later than twelve months after the effective date of this Contract, Contractor shall establish and maintain the reporting of patient satisfaction using a validated patient experience satisfaction survey tool based on Hospital Consumer Assessment of Healthcare Providers and Systems.
- 4. No later than eighteen months after the effective date of this Contract, Contractor shall incorporate clinical and patient safety performance metrics into the City and community reports provided by Battalion Chiefs as a service report card to the community.
- 5. Contractor shall participate in health care system partnerships and activities that improve the patient experience for high risk or frequent user populations.
- 6. Contractor will participate with County Public Health initiatives to support activities that reduce injury throughout the community and support population health.
 - a. Contractor shall collaborate with District, community, public health, CCCEMSA, and health system partners to reduce disparities and support community resiliency for high-risk populations.

M. Operational and Clinical Data Collection, Information Management and Reporting.

- 1. ePCR System. Contractor shall utilize an electronic patient care reporting system approved by District for patient documentation on EMS System responses, which includes all patient contacts, cancelled calls, and non-transports (the "ePCR System").
 - a. Contractor's ePCR System shall be National EMS Information System (NEMSIS) 3 Gold compliant.
 - b. Contractor shall make the ePCR System available to any interested Contra Costa County fire first responder agency that respond within Contractor's Service Area, provided that the fire first responder agency agrees to compensate Contractor for its cost of providing access to the ePCR System.
 - c. Contractor shall use the ePCR System to capture and transmit ePCRs and data, and will be used by CCCEMSA to perform clinical quality oversight for medical services provided by Contractor.
 - d. The ePCR System shall include the electronic sharing of data to the trauma registry, the credentialing database, data analytic/visualization tools, EMSA, Contractor's billing program, and any other appropriate database.
 - e. Contractor shall reasonably cooperate with District and CCCEMSA to identify and implement improvements to the ePCR System that will enable the CCCEMSA Medical Director and CCCEMSA staff to review the level of patient care being provided by Contractor.
 - f. Contractor shall create, complete, and transmit an ePCR to its electronic patient care system (e.g., Medserver) for every EMS response.

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2. CCCEMSIS. CCCEMSIS is a multi-system, multi-disciplinary data collection and management system. Contractor understands and agrees that CCCEMSA will make any comprehensive data analytic tool that is implemented, available to Contractor to facilitate enhanced clinical provider analytics, including the development of clinical provider performance scorecards. Contractor shall collaborate with District to develop an annual fee to support CCCEMSIS, based on Contractor's total EMS response volume for the prior calendar year. This amount shall not exceed sixty (60%) of the total cost for data system management and vendor maintenance and support. All fees paid by Contractor for data system management and vendor maintenance and support shall be used for this purpose only. CCCEMSA has represented to District in the CCCEMSA Contract that this payment shall be less than or equal to CCCEMSA's actual costs to provide CCCEMSIS and associated information systems. No funds shall be used by CCCEMSA in a manner that may violate 42 U.S.C. Section 1320a-7b, the federal Anti-Kickback Statute.

3. Dynamic Performance Monitoring. Contractor shall cooperate with District and CCCEMSA to utilize a mutually agreed upon data reporting application for the near real time evaluation of operational performance data, Response Time data, clinical data, and syndromic surveillance. The data reporting application will allow secure web-based access to CCCEMSIS. Contractor shall reasonably cooperate with District and CCCEMSA and the data reporting application provider to implement a dashboard, which will be a web-enabled platform that mines and presents data from a single or multiple disparate data sources for quick access to near real-time data that is critical information to enable CCCEMSA to monitor Contractor's performance and compliance with the provisions of this Contract. The data reporting application shall interface with the CCCEMSIS, Contractor's computer aided dispatch (CAD) system, and other CAD or data systems as requested by District.

4. Performance Reports.
 - a. Monthly and Annual Performance Reports. Contractor shall provide detailed monthly and annual Performance Reports in a format specified by District. The monthly Performance report shall be provided to District within ten (10) business days after the end of each month. The annual Performance Report shall be provided to District by the first work day in March of each year. The reports shall include, but not be limited to the following elements:
 - i. Aggregated responses, transports, and Response Time performance metrics, by each response zone, and by individual city or community
 - ii. Patient satisfaction metrics
 - iii. Customer service metrics
 - iv. Billing complaints and feedback metrics
 - v. Workforce satisfaction and turnover metrics
 - vi. Vehicle and equipment performance and safety metrics
 - vii. Aggregate employee injury and exposure statistics
 - viii. Deployment and unit hour metrics
 - ix. Mental health service metrics
 - x. Metrics identifying high users of 9-1-1 EMS services
 - xi. Community education program metrics
 - xii. Strategic plan goals/objectives for the year – completed system improvements and enhancements

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- xiii. Activities and results of the CQI plan
 - xiv. Additional information as may be reasonably requested by District with sufficient advance notice.
 - b. Penalties. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which District is penalized under the CCCEMSA Contract because a report was not delivered on time.
5. Focused Performance Audit Reports. Contractor shall comply with requests by District for data and audit reports on focused topics. These topics may include any services provided under this Contract. District shall provide a reasonable timeline for submission of requested focused audit reports at the time of the request.
6. Electronic Patient Care Record (ePCR); PCR's.
- a. ePCR System. Contractor shall require Transport Employees to enter electronic patient care reports (each, an "ePCR") entered in the ePCR System to be accurately completed to include all information listed in Section 100170 of Title 22 of the California Code of Regulations, and information shall be distributed according to EMS policies and procedures adopted by CCCEMSA.
 - b. Interim PCR's. Contractor and District will cooperate with CCCEMSA to identify required content and develop a procedure for Contractor's delivery of Interim PCR's to hospitals, which shall be implemented and followed by Transport Employees beginning no later than July 1, 2017. Once the Interim PCR policy has been agreed upon, and in no event after July 1, 2017, Contractor shall leave an Interim PCR, or a completed PCR at the hospital before departing the hospital.
 - c. Completed ePCR Submission. Contractor shall submit an ePCR to the treating facility within 24 hours of patient delivery.
 - d. Penalties. District may impose a penalty on Contractor in the amount set forth in Exhibit C (Penalties) for each instance in which District is penalized under the CCCEMSA Contract based on a failure to comply with subsections 6(b) and 6(c) above.

N. Integration with First Responder Programs.

- 1. Contractor shall pursue opportunities to integrate fire first-response components of the EMS System with the Emergency Ambulance Services provided under this Contract, and shall cooperate and support paramedic or Advanced EMT first response programs.
- 2. Contractor shall implement policies to facilitate scheduling time on ambulances to fulfill paramedic training, internship, and accreditation requirements for paramedics working in the County.
 - a. Contractor shall give precedence for field internships or ride-alongs to students from EMT and/or paramedic training programs based in the County.
- 3. Contractor shall support the development of an integrated fire first-response program. At a minimum Contractor shall:
 - a. Offer Contractor-sponsored CE programs to fire first responder personnel on a comparable basis as made available to Contractor's personnel. The fees charged to fire first responder personnel for Contractor-sponsored CE shall not exceed the fees charged to Contractor's personnel. Fire first responder personnel shall have access to enrollment in Contractor-sponsored CE on the same basis as Contractor's personnel.

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Contractor is not responsible for paying wages or stipends to the fire first responder personnel for participation in Contractor-sponsored CE activities.

- b. Designate from among Contractor's employees a single individual as Contractor's contact person/liaison for fire agencies within the Service Area.
- c. Establish a mechanism for first responder agencies to purchase equipment at enterprise purchasing rates.
- d. Provide pre-arranged transportation service to return firefighters who accompany an ambulance to the hospital promptly to their engine companies.

O. Disaster, Multi-Casualty and Mutual Aid Response.

1. Integration with the Regional Medical Health Operational Mutual Aid System. Contractor shall, to the best of its ability, assist in other EMS service areas both within and outside of Contra Costa County as directed by District because of medical disaster, MCI, or other reason necessitated for the safety, health and welfare of the public. During response to MCIs or disasters within or affecting the County, Contractor operations shall fall under coordination of the MHOAC as a function of the Medical/Health Branch in support of the County Emergency Operations Plan (EOP), and the California Master Mutual Aid System.
2. Mutual Aid Outside the County. Contractor shall not provide resources for mutual aid outside of the County unless directed to do so by District. Contractor's provision of mutual aid outside of the County shall be consistent with the California Public Health and Medical Emergency Operations Manual (EOM) as authorized by the MHOAC and the California Master Mutual Aid System.
3. MCI/Disaster Response Within the County. In the event of a MCI or other local emergency within Contra Costa County, Contractor shall perform in accordance with the County MCI plan and within the Incident Command System (ICS). Contractor shall use its best efforts to maintain primary emergency services, including suspension of non-emergency services as required.
 - a. Contractor shall maintain documentation of the number and nature of mutual aid responses it makes outside its Service Area and nature of mutual aid responses made by other agencies to calls originating within its Service Area.
 - b. Contractor shall provide a report on mutual aid activities to District when requested by District.
4. Liaison Staff. Contractor shall assign a field or dispatch manager/supervisor upon District's request, to respond to the designated emergency operations center as a liaison, in the event the County declares a disaster within the County.
5. Suspending Non-Emergency Services. In the event District directs Contractor to respond to a disaster in a neighboring jurisdiction, normal operations may be suspended at the discretion of District and Contractor shall respond in accordance with the disaster plan. Contractor shall use its best efforts to maintain primary emergency services and may suspend non-emergency services upon notification and concurrence with District.

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6. Ambulance Strike Team. Contractor shall be prepared to respond one Ambulance Strike Team staffed and equipped to the EMSA Ambulance Strike Team Guidelines when directed by District in accordance with a disaster mutual aid request.
7. Disaster Response Vehicle/Equipment. Contractor shall maintain a County-controlled, state-provided Disaster Medical Support Unit. In the absence of a DMSU, Contractor shall provide one vehicle as a disaster response vehicle. This vehicle shall not be an ambulance used in routine, day-to-day operations, but shall be kept in good working order and available for emergency response. This vehicle may be used to carry personnel and equipment to a disaster site. The following equipment shall be stored in this disaster vehicle: backboards and straps; cervical collars; head immobilization sets and foam wedges; PPE; splints for legs and arms; oxygen equipment; extra dressing and bandages; advanced life support equipment; especially IV therapy equipment; County approved disaster tags; and checklists for medical Incident Command personnel. This vehicle may be utilized as an ASTL vehicle upon written authorization of District. If this vehicle is utilized to support Contractor response within its Service Area, Contractor is responsible for restocking equipment and supplies utilized.
8. Continuity of Operations. No later than ninety (90) days after the effective date of this Contract, Contractor shall submit detailed written plans and procedures to District describing how it will mitigate the impacts to the Emergency Ambulance Services provided hereunder during all potential emergencies, disasters or work actions (i.e., power failure, information systems failure, earthquake), and provide continuous operations.
 - a. As least annually, Contractor shall review and revise the disaster mitigation plan submitted to District under this Section 8, and submit the revised version to District.
9. Internal Disaster Response Notification. Contractor shall implement a plan for immediate recall of personnel during multi-casualty incidents or other emergency condition. This plan shall include the capability of Contractor to alert off-duty personnel.
10. Incident Notification. Contractor shall have a mechanism in place to communicate current field information to appropriate District and CCCEMSA staff during multi-casualty incidents, disasters or other unusual occurrences.
11. Interagency Training for Exercises/Drills. Contractor shall participate in CCCEMSA sanctioned exercises and disaster drills and other interagency training in preparation for this type of response.
12. Ambulance Service Assistance. Contractor shall assist in providing ambulance service to any other Emergency Response Areas if the County's contract with its emergency ambulance service provider for that Emergency Response Area has been suspended or terminated, and if requested to do so by District.

P. Payment Provisions; Billing; Reporting.

1. Payment Provisions. Subject to the Payment Limit of this Contract and subject to the terms of this Contract, District will pay Contractor for each Ambulance Unit Hour depending on the number of Ambulance Unit Hours Contractor provides on a weekly basis

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as set forth in Exhibit D (Ambulance Unit Hours Rates) attached hereto, as full compensation for all services, work, expenses, and costs provided or incurred by Contractor in performing its obligations under this Contract (the "Per Unit Hour Rate"). For billing purposes, each Ambulance Unit Hour may be divided into 15 minute increments.

2. Ambulance Unit Hourly Rate Adjustments. Beginning on April 1, 2017, and on each April 1 thereafter, the Per Unit Hour Rate will increase by the percentage equal to the product of (a) District's collection realization percentage (i.e., the percentage of patient billings actually collected) for the preceding year, times (b) the increase in the rates that District charges for services under the CCEMSA Contract that is based on changes in the Consumer Price Index.
3. District Revenue Decrease; Contractor Cost Increase. In the event changed circumstances that are beyond the control of the respective parties result in an increase in the cost of Contractor providing services under this Contract, or a decrease in the revenue generated by District under the CCEMSA Contract, the parties agree to meet and discuss in good faith proposed revisions to this Contract that are mutually beneficial to both parties, including without limitation, increases or decreases in the Per Unit Hour Rates.
4. Invoices; Payment.
 - a. Ambulance Unit Hours Invoicing and Payment. Contractor shall submit monthly invoices to District for payment of Contractor's services. District shall pay Contractor invoices no later than thirty (30) days of receipt of an invoice and sufficient documentation to make payment therefor.
 - b. Penalty Invoicing and Payment. District shall invoice Contractor for any fines or penalties within 30 days after District's receipt of Contractor's monthly Performance Reports and after approval of the penalties determined by CCEMSA. Contractor shall pay District all penalties and fines no later than thirty (30) days after receipt of an invoice. For any disputes that have not been resolved to the satisfaction of CCEMSA, District, or Contractor, the invoice shall be paid in full and subsequent invoices will be adjusted if necessary to reflect the resolution of disputed amounts.
5. Cost Efficiencies and Operational Synergy. Throughout the term of this Contract, Contractor and District agree to meet and confer at least semi-annually to research, develop, and attempt to implement cost efficiencies and operational synergies wherever possible. Examples of such initiatives include joint or preferred purchasing agreements, joint training opportunities, and shared occupancy of facilities.
6. District Consulting Services Cost Reimbursement. Within thirty (30) days after the effective date of this Contract, Contractor shall reimburse District for consulting costs associated with the preparation and evaluation of District's initial request for qualifications of ambulance service providers, and District and Contractor's Proposal in response County's Emergency Ambulance Request for Proposals. District will provide supporting documentation and receipts of payments made for consulting services received. Contractor's reimbursement obligation shall not exceed \$200,000.

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7. No Contractor Billing or Collection. Contractor shall not seek to collect any amounts from patients, governmental agencies, insurance companies, or otherwise for the delivery of ambulance services pursuant to this Contract.
8. Audits/Inspections.
 - c. Unaudited Quarterly Statements. Contractor will provide District quarterly unaudited financial statements for its services provided pursuant to this Contract. These reports shall be provided in a format prescribed by District.
 - d. Annual Financial Audit. Upon District's request, Contractor will promptly provide annual financial statements in a format approved by District that have been audited by an independent Certified Public Accountant in accordance with generally accepted auditing standards. Statements shall be available within no more than one hundred twenty (120) calendar days after the close of each fiscal year. If Contractor's financial statements are prepared on a consolidated basis, then separately audited financial statements specifically related to the services provided under this Contract will be required.
 - e. County-Auditor Requested Information. Contractor will provide any information separately requested by the County Auditor-Controller's Office and allow full access to its financial records by the County Auditor-Controller's Office for the period covered by this Contract.
 - f. District Audit. Upon reasonable request, Contractor shall make its books, medical records, productivity reports, and financial or operational records available to District for review and audit as necessary to support District's application to County for a transport rate increase.
9. Contractor Business Office. Contractor shall maintain a business office within the County and a local or toll-free telephone number for all patient questions, complaints, or disputes made from locations within the County. Contractor shall provide prompt response to any queries or appeals from patients.
 - g. Contractor shall describe its methods for receiving, monitoring and responding to patient issues and complaints.
10. Patient Billing Information.
 - h. Contractor shall perform pre-billing functions for District and provide the patient billing information for each ambulance transport to include, without limitation:
 - i. Patient name unless John or Jane Doe;
 - ii. Patient address and/or telephone number;
 - iii. Patient date of birth and/or social security number;
 - iv. Patient insurance information if available; and
 - v. Reason for ambulance transportation
 - i. Contractor shall provide patient billing information to District in a format and substance that will allow District to:
 - i. electronically generate and submit Medicare and MediCal claims;
 - ii. itemize all procedures and supplies employed on patient bills;
 - iii. transmit the information to District's billing and collections subcontractor; and

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- j. Contractor shall cooperate with District as necessary to ensure that it is fulfilling District's requirements with respect to the sufficiency and timely provision of patient billing information.
- 11. Financial Reporting. On a monthly basis Contractor shall report to District trends in monthly total expenses, number of deployed unit hours, cost per unit hour, number of transports, cost per trip, and any other relevant expense data reasonably requested by District.
- 12. Contract Administration; Dispute Resolution Process.
 - k. Collaboration Committee Meetings. At least once a month, staff of Contractor, District, and CCCEMSA, whose attendance are necessary and appropriate, shall meet to discuss issues arising under this Contract. The purpose of the Collaboration Committee meetings is to provide a forum for formal discussion and resolution of issues arising in the performance and administration of this Contract.
 - l. Dispute Resolution Process. Without limiting the party's rights under Special Condition 32 (Event of Default) of this Contract, the parties agree to resolve any disputes arising under this Contract as set forth in this section.
 - i. Collaboration Committee. The Collaboration Committee will discuss relevant issues and make a good faith attempt to resolve them.
 - ii. Agency Heads. If the Collaboration Committee is unable to resolve an issue, the agency head of the party seeking resolution of an issue arising under this Contract shall contact the other party's agency head (i.e., District's Fire Chief, or Contractor's regional director) in an attempt to resolve the issue.

Q. Administrative.

- 1. Federal Healthcare Program Compliance Provisions. Contractor shall comply with all applicable Federal laws, rules and regulations for operation of its enterprise, ambulance services, and those associated with employees. This includes compliance with all laws and regulations relating to the provision of services to be reimbursed by Medicare, Medicaid, and other government funded programs.
- 2. Medicare and Medicaid Compliance Program Requirements. Contractor shall implement a comprehensive Compliance Program for all activities, particularly those related to documentation. Contractor's Compliance Program shall substantially comply with the current guidelines and recommendations outlined in the Office of Inspector General (OIG) Compliance Program Guidance for Ambulance Suppliers as published in the Federal Register on March 24, 2003 (03 FR 14255).
- 3. HIPAA, CAL HIPAA and HITECH Compliance Program Requirements. Contractor shall implement a comprehensive plan and develop the appropriate policies and procedures to comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 and the current rules and regulations enacted by the US Department of Health and Human Services as it relates to services provided under this Contract, including:
 - a. Standards for Privacy and Individually Identifiable Health Information;
 - b. Health Insurance Reform: Security Standards; and

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- c. Health Insurance Reform: Standards for Electronic Transaction Sets and Code Standards
4. HIPAA, CAL HIPAA and HITECH violations. Any violations of the HIPAA, CAL HIPAA and HITECH rules and regulations as they relate to the services provided under this Contract will be reported immediately to District along with Contractor's actions to mitigate the effect of such violations.
 5. State Compliance Provisions. Contractor shall comply with all applicable state and local laws, rules and regulations for businesses, ambulance services, and all applicable laws governing its employees. Contractor shall also comply with District and CCCEMSA policies, procedures, and protocols with regard to the services described in this Contract.
 6. Performance Oversight and Monitoring. Contractor understands and agrees that CCCEMSA will continuously review, inspect and monitor all aspects of Contractor's operations and performance necessary to ensure all services provided by Contractor to County residents and visitors meet the requirements stated in this Contract, the EMS Plan, CCCEMSA programs, policies, protocols, and procedures and as required by law. Contractor shall reasonably cooperate with CCCEMSA to fulfill this function, including providing access to all records, facilities and personnel as reasonably requested by District. Contractor shall provide monitoring tools and technology to allow District to monitor Contractor's performance under this Contract.
 7. Observation of Operations. Contractor acknowledges that CCCEMSA is authorized to investigate all aspects of Contractor's operation so that patient care services under Contractor's operation are performed in a safe and reliable manner. Contractor understands and agrees that CCCEMSA personnel may and will at any time directly observe Contractor operations including ride-alongs (in accordance with Contractor policies and applicable laws, e.g., HIPAA) with field supervisors and ambulance crews. Contractor agrees to grant access to CCCEMSA personnel for announced or unannounced observation, inspection, audit or review of any operational, clinical or support function, including but not limited to records, facilities, equipment, vehicles and personnel. During any inspection, audit or review, Contractor shall make requested records pertaining to any service rendered under this Contract available to District personnel and CCCEMSA personnel.
 8. Approval of Contractor Subcontracts, Plans, Programs, Policies, Protocols and Procedures. All plans, programs, policies, protocols and procedures that require CCCEMSA's approval by law or CCCEMSA policy, and any Contractor subcontracts for the performance of services under this Contract, shall be submitted to District for approval prior to their implementation.
 9. Contractor Obligation to Notify County. Contractor shall report to District in writing as soon as practicable any instance where it did not meet, or has reason to believe it may not be able meet, a material requirement stated in this Contract. Upon its receipt of a notice of a failure to perform or an anticipated failure to perform under this Contract, District shall perform a review and work with Contractor to develop the appropriate corrective action plan to be implemented by Contractor.

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10. Annual Performance Evaluation.

- a. District shall evaluate the performance of Contractor at least annually to determine compliance with this Contract. The following minimum information may be included in the evaluation:
 - i. Response Time performance standards assessed with reference to the minimum requirements in the Contract;
 - ii. Clinical performance standards assessed with reference to the minimum requirements in the Contract;
 - iii. Initiation of innovative programs to improve system performance;
 - iv. Workforce stability, including documented efforts to minimize employee turnover;
 - v. Compliance of pricing and revenue recovery efforts with rules and regulations and this Contract;
 - vi. Compliance with information reporting requirements; and
 - vii. Financial stability and sustainability.
- b. Contractor agrees to participate as requested by District in an annual joint report presentation by CCCEMSA and District to the County Board of Supervisors describing the Emergency Ambulance Services provided under this Contract during the subject year.

11. Ambulance Service Permit. Contractor shall comply with the County ambulance permitting process pursuant to Division 48 of the County Ordinance Code and CCCEMSA policies.12. Sharing of Information. Contractor shall not discourage or prevent its employees or agents from sharing information with District concerning the County's EMS System, including issues related to Contractor's operations.13. Notice of Labor Action. Contractor shall notify District of any threatened labor action or strike that would adversely affect its performance under this Contract. At the time of such a notice, Contractor shall provide District and other affected public entities with a written plan of proposed action to deliver continued service delivery as stated in this Contract in the event of any threatened work force action or strike.14. Cooperation With Evolving System. Contractor agrees to participate and assist in the development of system changes subject to negotiated costs, if any.15. Earned Contract Extension. Notwithstanding Section 22 (Nonrenewal) of the General Conditions of this Contract, District shall report to its Board of Directors on or before December 31, 2020, on Contractor's compliance with the terms of this Contract and the Board of Directors shall issue a finding as to Contractor's compliance with the terms of this Contract. Notwithstanding Paragraph 3 (Term) of this Contract, unless (a) this Contract is terminated by either party pursuant to its terms, or by mutual agreement prior to December 31, 2020, or (b) the CCCEMSA Contract is not extended, upon a finding by the Board of Directors that Contractor has been in substantial compliance with all terms of this Contract, the term of this Contract shall be extended to December 31, 2025. During its extended term, this Contract is nevertheless subject to all the terms and conditions applicable during its initial term. If this Contract is automatically extended, Contractor shall

Initials: _____
 Contractor County321

SERVICE PLAN
(Purchase of Services - Long Form)

Contract Number _____

continue to provide services as set forth in this Contract, subject to any amendments hereto.

16. No Advertising. Contractor shall not, in the course of providing services pursuant to this Contract, advertise, promote, or endorse any other service or product provided by Contractor or any other firm, unless Contractor has obtained the prior written approval of District.

R. Workforce Engagement and Benefits.

1. Workforce Engagement. Contractor shall adopt programs and key performance indicators to engage its workforce, which shall include, but not be limited to, assessing and evaluating the satisfaction of its employees on a regular basis and developing measures to improve employee satisfaction. Examples of workforce engagement programs that should be adopted by Contractor include, but are not limited to:
 - a. Annual employee reviews
 - b. Labor/Management Meetings
 - c. System Status Meetings/Deployment Improvement
 - d. Health and Safety Committee
 - e. Certification/Credentialing Support
 - f. Competitive Wage and Benefit Package
 - g. Employee Assistance Program (EAP).
 - h. Allied/ Interoperability Agency Training
 - i. Career Development
 - j. Critical Incident Stress Management
 - k. EMS Committee
 - l. Field Employee Recognition Program
 - m. Field/Base Communication Review
 - n. Professional Growth Opportunities/Training
 - o. Continued Education Opportunities
 - p. PEERS Pre Hospital Education and Evaluation Readiness Solutions Program
 - q. Newsletter
 - r. Healthcare charitable foundation program
 - s. Workforce harmony

S. Risk Management Program.

1. Illness and Injury Prevention. Contractor shall develop, implement, and maintain a comprehensive illness and injury prevention policy manual that includes an injury and illness prevention program, an infection control program, and a risk management program.
2. Incident Reporting, Investigation, and Corrective Actions
 - a. Contractor shall develop, implement, and maintain a program for incident reporting, investigation, and corrective action that effectively addresses each incident recognized or reported.
 - i. Incident Review - This performance improvement program shall include guidelines and processes to retrospectively review incidents and outline how risks for workplace safety for employees and patients can be improved.

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- ii. Investigation and Documentation – This program shall establish strict incident reporting standards that allow Contractor to respond immediately to adverse events, initiate a thorough and unbiased investigation, implement mitigation measures, and carry out corrective action in a timely manner. The program shall utilize an electronic safety reporting system that provides daily, monthly, and annual tracking of collisions and worker's compensation claims. All information shall be made available to CCCEMSA upon request.
3. Ethics and Compliance Program. Contractor shall develop, implement, and maintain a program that focuses on employee education and Contractor's compliance with all federal, state, and local payor regulations. The program must track changes in federal laws and regulations, as well as government enforcement affecting Contractor and Contractor's customers, ensuring Contractor is always in full compliance with all laws and regulations. The program shall, at a minimum, meet the guidance issued by the Office of Inspector General.

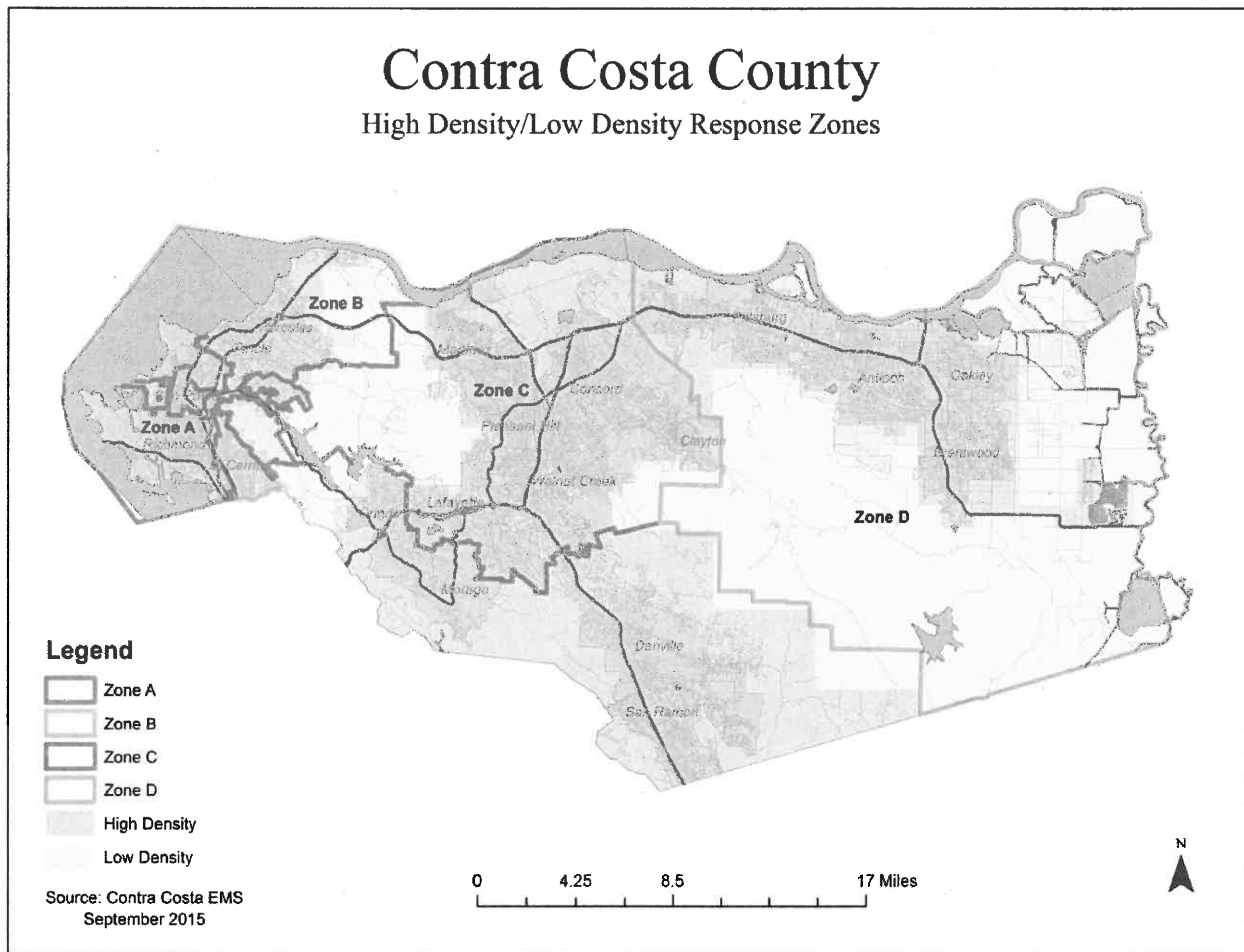
Initials: _____
Contractor County323

**SERVICE PLAN
(Purchase of Services - Long Form)**

Contract Number _____

Exhibit B

Response Density Map



Initials: _____
Contractor County325

SERVICE PLAN
(Purchase of Services - Long Form)

Contract Number _____

Exhibit C
Penalties

I. Response Time Penalties***Emergency Ambulance Requests - Priority 1 Responses for each ERZ***

Compliance %	Penalty
89% < 90%	\$15,000
88% < 89%	\$25,000
< 88%	\$50,000

Emergency Ambulance Requests - Priority 2 Responses for each of the ERZ

Compliance %	Penalty
89% < 90%	\$5,000
88% < 89%	\$10,000
< 88%	\$15,000

Emergency Ambulance Requests - Priority 3 Responses for each of the ERZ

Compliance %	Penalty
89% < 90%	\$2,500
88% < 89%	\$5,000
< 88%	\$7,500

Non-Emergency ALS Interfacility Transports - Priority 4 Responses for entire Service Area

Compliance %	Penalty
89% < 90%	\$4,000
88% < 89%	\$6,000
< 88%	\$7,500

Outlier Response Time Penalties

Priority Level	Outlier Response Times		Penalty per Outlier
	High Density Call	Low Density Call	
Priority 1	>18:59	>29:59	\$1,500
Priority 2	>22:59	>44:59	\$1,000
Priority 3	>39:59	>59:59	\$750

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Priority 4	>29:59 late for scheduled >89:59 for non- scheduled		\$500
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Initials: _____
Contractor County³²⁷

SERVICE PLAN
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II. Other Penalties.

Performance	Section Reference	Penalty
Provide timely Response Time reports and operational reports	Section H(9)(c) - Operational and Response Time reports; Section M(4) – Monthly and Annual	\$50 per report for each day after due date
Leave Interim PCR at hospital	Section M(6)(b) – Interim PCR delivery	\$50 for every instance when the Interim PCR is not left at the receiving facility prior to crew departure. (No later than July 1, 2017, See Section M(6)) A penalty of \$100 for every completed ePCR not provided to the facility within 24 hours of patient delivery.
Submit completed ePCR within 24 hours of patient delivery	Section M(6)(c) – ePCR submission within 24 hours	
Response and transport by a BLS unit when the Priority level calls for the patient to be transported by an ALS unit	Sections D(1)(b), and D(1)(d)(iii)	\$1,000 for each incident
Failure to provide timely quality improvement data and reports	Sections E(5), and E(12)	\$50 per report or data submission for each day after due date
Failure to provide timely unusual occurrence reports and investigation updates	Section E(5)(b); Section I(6)	\$100 per report for each day after the date the particular report was due
Failure to respond to an emergency request for an Emergency Ambulance	Section D(1)(b)	\$10,000 for each failure to respond to an Emergency Ambulance request.
Improper Paramedic or EMT certification	Section I(9) (Paramedic); Section I(10) (EMT)	\$250 per call responded to by improperly certified Paramedic or EMT

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Failure to document Against Medical Advice (AMA)	Section E(18)	\$500 for a Transport Employee's failure to document Against Medical Advice (AMA)
Dispatched Emergency Ambulance crew fails to report and document Arrival On Scene Time	Sections H(5)(d), and H(9)(d)	\$250 per incident
Ambulance fails to meet the minimum in- service requirements	Section J(5)	\$500 per Ambulance

Initials: _____
 Contractor _____ County³²⁹

**SERVICE PLAN
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Exhibit D

Ambulance Unit Hours Rates

Ambulance Unit Hours Per Week	Ambulance Unit Hour Rate
4,501 - 4,668	\$139.64
4,669 - 4,836	\$138.21
4,837 - 5,004	\$136.88
5,005 - 5,172	\$135.64
5,173 - 5,340	\$134.48
5,341 - 5,508	\$133.40
5,509 - 5,676	\$132.38
5,677 - 5,844	\$131.42
5,845 and over	\$130.51

Initials: _____
Contractor County³³⁰

**SPECIAL CONDITIONS
(Purchase of Services - Long Form)**

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The parties to this Contract agree that the Special Conditions set forth herein modify the Payment Provisions (Form P-1), and the General Conditions (Form L-5) of the Contract, and are part of this Contract. Capitalized terms used herein and not otherwise defined have the meaning given in the Service Plan of this Contract.

1. Right to Withhold. Section 4 (Right to Withhold) of the Payment Provisions (Form P-1) is hereby deleted in its entirety and replaced with the following:

“4. Intentionally Omitted.”

2. Records. Section 3 (Records) of the General Conditions of the Contract is hereby amended by adding the following language immediately following the end of subsection (b):

“c. Financial Records. Contractor shall maintain separate financial records for EMS services provided pursuant to this Contract in accordance with generally accepted accounting principles.

d. Records Review. With reasonable notification and during normal business hours, District shall have the right to review any and all business records including financial records of Contractor pertaining to this Contract. All records shall be made available to District at their office or other mutually agreeable location. The District may audit, copy, make transcripts, or otherwise reproduce such records, including but not limited to contracts, payroll, inventory, personnel and other records, daily logs, and employment agreements.”

3. Termination and Cancellation. Section 5 (Termination and Cancellation) of the General Conditions of the Contract is hereby deleted in its entirety and replaced with the following:

“a. Written Notice. In the event that Contra Costa County terminates the CCCEMSA Contract without cause, District may, in its sole discretion, terminate this Contract by providing written notice to Contractor that this Contract will be terminated on the same date that the CCCEMSA Contract is being terminated. District may, in its sole discretion, terminate this Contract without cause by giving Contractor twelve (12) months advance written notice of its intent to terminate this Contract. This Contract may be cancelled immediately by written mutual consent.

b. Event of Default. If Contractor has committed an Event of Default (as defined in Special Condition 32 (Event of Default) below), District may, upon written notice to Contractor, terminate this Contract. If District terminates this Contract based on an Event of Default, it may proceed with the work in any reasonable manner it chooses. The cost to District of completing Contractor's performance shall be deducted from any sum due the Contractor under this Contract, without prejudice to District's rights otherwise to recover its damages.

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- c. Cessation of Funding. Notwithstanding any contrary language in Paragraphs 5 and 11 of the General Conditions, in the event that federal, state, or other non-District funding for this Contract ceases, District may terminate this Contract with thirty (30) days written notice."
- 4. Modifications and Amendments. Section 8(b) (Minor Amendments) of the General Conditions is hereby deleted in its entirety and replaced with "[Reserved.]"
- 5. Disputes. Section 9 (Disputes) of the General Conditions is hereby deleted in its entirety and replaced with "[Reserved.]"
- 6. Insurance. Section 19 (Insurance) of the General Conditions of the Contract is hereby amended by deleting the section in its entirety and replacing it the following:
 - "19. Insurance. During the entire term of this Contract and any extension or modification hereof, Contractor shall keep in effect insurance policies meeting the following insurance requirements:
 - a. Liability Insurance. Contractor shall keep in effect malpractice insurance and commercial general liability insurance, including coverage for business losses, and for owned and non-owned vehicles, each with a minimum combined single limit coverage of \$11,000,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance shall be endorsed to include County and District, and their officers and employees as additional named insureds as to all services performed by Contractor under this Contract. Said policies shall constitute primary insurance as to County and District, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance programs shall not be required to contribute to any loss covered under Contractor's insurance policy or policies. Contractor shall provide District with a copy of the endorsement making the County and District an additional insured on Contractor's commercial general liability policies as required herein no later than the effective date of this Contract.
 - b. Workers' Compensation. Contractor shall provide workers' compensation insurance coverage for its employees.
 - c. Certificates of Insurance. Contractor shall provide District with certificates of insurance evidencing Contractor's liability, medical malpractice (if applicable), and worker's compensation insurance as required herein no later than the effective date of this Contract. If Contractor renews an insurance policy or acquires either a new

SPECIAL CONDITIONS
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insurance policy or amends the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor shall provide District with a current certificate of insurance evidencing such renewal, new policy, or amendment.

- d. Additional Insurance Provisions. No later than five days after Contractor receives: (i) a notice of cancellation, a notice of an intention to cancel, or a notice of a lapse in the Contractor's insurance coverage required by this Contract; or (ii) a notice of a material change to Contractor's insurance coverage required by this Contract, Contractor will provide District a copy of such notice of cancellation, notice of intention to cancel, notice of lapse of coverage, or notice of material change. Contractor's failure to provide District the notice as required by the preceding sentence is a default under this Contract."
- e. Performance Security Bond. Contractor shall furnish performance security in the amount of \$1,000,000 in one of the following forms:
 - i. A faithful performance bond issued by a bonding company, appropriately licensed and acceptable to District; or
 - ii. An irrevocable letter of credit issued pursuant to this provision in a form acceptable to the District and from a bank or other financial institution acceptable to the District."

9. Section 22 (Nonrenewal) of the General Conditions of the Contract is hereby amended by adding the following language the end of the section:

"Competitive Bid Required. Contractor acknowledges that District intends to conduct a competitive procurement process for the provision of emergency ambulance services within the Service Area following the expiration or termination of this Contract. Contractor acknowledges and agrees that District may select a different ambulance service provider to provide exclusive emergency ambulance services within all or some of the Service Area following the competitive procurement process.

Future Bid Cycles. Contractor acknowledges and agrees that its supervisory personnel, EMT's, paramedics, and control center personnel working in the EMS System have a reasonable expectation of long-term employment in the EMS System, even though private party providers of EMS System services may change from time to time. Accordingly, Contractor shall not penalize or bring personal hardship to bear upon any of its employees who apply for work on a contingent basis with competing bidders, and shall allow without penalty its employees to sign contingent employment agreements with competing bidders at employees' discretion. Contractor may, however, prohibit its employees from assisting competing bidders in preparing their bid proposals by revealing Contractor's trade secrets or other information about Contractor's business practices or field operations."

**SPECIAL CONDITIONS
(Purchase of Services - Long Form)**

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10. Additional Special Conditions. The following new sections are hereby added to the General Conditions immediately following Section 29 (No Implied Waiver) thereof as follows:

“30. Emergency Takeover.

- a. Public Health and Safety Risk Determination. If District has a reasonable belief that Contractor's failure to perform its obligations under this Contract, or that a labor dispute will prevent Contractor from performing its obligations under this Contract, and that such failure to perform will endanger public health and safety, and after Contractor has been given notice and reasonable opportunity to correct the failure of performance, District shall present the matter to the District Board of Directors. If the Board of Directors finds that Contractor's failure to perform its obligations under this Contract will endanger public health and safety, and that permitting Contractor to continue providing services under this Contract will endanger public health and safety, Contractor shall cooperate with District and County to effect an immediate emergency takeover by County of Contractor's ambulances and crew stations (an "Emergency Takeover"). The Emergency Takeover shall be completed within 72 hours after action by the Board of Directors.
- b. Delivery of Equipment. In the event of an Emergency Takeover, Contractor shall deliver to District the ambulances and associated equipment used in the Emergency Ambulance Services pursuant to this Contract, including supervisors' vehicles. Each ambulance shall be equipped, at a minimum, with the equipment and supplies necessary for the operation of an ALS Ambulance in accordance with Contra Costa County ALS Policies and Procedures. Equipment shall include the supplies at the minimum stocking levels for an ALS Ambulance.
- c. Lessor / Lessee Relationship.
 - i. Contractor shall deliver all ambulances, crew stations, and other facilities located in Contra Costa County and used pursuant to this Contract for storage or maintenance of vehicles, equipment, or supplies to District in mitigation of any damages to District. However, during the County's takeover of the ambulances, equipment, and facilities, District and Contractor shall be considered a lessee and lessor. Monthly rent payable to Contractor shall be equal to the aggregate monthly amount of Contractor's debt service on the vehicles and equipment and occupancy charges as documented by Contractor and as verified by the County Auditor. The County Auditor shall disburse these payments directly to Contractor's obligee. In the event an ambulance is unencumbered, or a crew station is not being rented, District shall pay Contractor the fair market rental value for the ambulance or crew station.

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- ii. All of Contractor's vehicles and related equipment necessary for the provision of Emergency Ambulance Services pursuant to this Contract are hereby leased to District during an Emergency Takeover period. Contractor shall maintain and provide to District a listing of all vehicles used in the performance of this Contract, including reserve vehicles, their license numbers, and the name and address of the lienholder, if any. Changes in lienholder, as well as the transfer, sale, or purchase of vehicles used to provide Emergency Ambulance Services hereunder shall be reported to District within thirty (30) days of said change, sale, transfer and purchase. Contractor shall inform and provide a copy of the takeover provisions contained herein to the lienholders within five (5) days of an Emergency Takeover.
- d. Recovery of Damages. Nothing herein shall preclude District from pursuing recovery from Contractor of rental and debt service payments made pursuant to subsection (c) above. Contractor shall not be precluded from disputing the Board's findings and the nature and amount of District's alleged damages. However, failure on the part of Contractor to cooperate fully with District and County to effectuate a safe and smooth Emergency Takeover shall itself constitute a breach of this Contract, even if it is later determined that the original declaration of breach by the Board of Directors was made in error.
- e. Contractor Indemnity. District shall indemnify, hold harmless, and defend Contractor against any and all claims arising out of the District's use, care, custody, and control of the stations, equipment and vehicles, including but not limited to, equipment defects, defects in material and workmanship, and negligent use of the vehicles and equipment during an emergency takeover. District and County shall have the right to authorize the use of the vehicles and equipment by another company. Should County require a substitute contractor to obtain insurance on the equipment, or should the County choose to obtain insurance on the vehicles and equipment, Contractor shall be a named additional insured on the policy, along with appropriate endorsements and cancellation notice.
- f. Return of Equipment. District agrees to return all Contractor vehicles and equipment to Contractor in good working order, normal wear and tear excepted, at the end of the Emergency Takeover period. For any equipment not so returned, District shall pay Contractor the fair market value of the vehicle and equipment at the time of takeover, less normal wear and tear, or shall pay Contractor the reasonable costs of repair, or shall repair and return the vehicles and equipment.
- g. Length of Emergency Takeover Period. District may unilaterally terminate the Emergency Takeover period at any time, and return the facilities and equipment to Contractor. The Emergency Takeover period shall last, in the County's judgment, no longer than is necessary to stabilize the EMS System

**SPECIAL CONDITIONS
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and to protect the public health and safety by whatever reasonable means the County chooses.

31. End Term Provisions. Contractor shall return to District all District issued equipment in good working order, normal wear and tear excepted, upon the expiration or termination of this Contract. For any District equipment not so returned, District shall repair or replace said equipment at Contractor's expense and deduct the cost thereof from any payments owed to Contractor. In the event Contractor is not owed any payments under this Contract, Contractor shall reimburse District for the actual cost of repairs and/or replacement.
32. Event of Default. Subject to the dispute resolution process set forth in Section P(11) of the Service Plan, if District believes Contractor has failed to perform or observe any material term, covenant or provision of this Contract (any such event, a "Default"), District shall deliver a written notice to cure such Default to Contractor ("Notice to Cure"). Within thirty (30) days following the date of the mailing of the Notice to Cure, Contractor shall cure the Default or, if the Default is not reasonably capable of cure within thirty (30) days, Contractor will be allowed to cure such Default if it provides District with a good faith plan to cure such Default, but only for so long as it diligently pursues cure of such Default and provides evidence thereof to District. If Contractor fails to cure such Default within thirty (30) days of the date the Notice to Cure is mailed or fails to provide a good faith plan to cure a Default incapable of cure within thirty (30) days, or fails to diligently pursue a cure of such Default incapable of cure within thirty (30) days (an "Event of Default"), then, in addition to any other rights available to District under law or equity, District may terminate this Contract as provided in Special Condition Section 5(b) ."

GENERAL CONDITIONS
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1. **Compliance with Law.** Contractor is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Contract, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment, including nondiscrimination.
2. **Inspection.** Contractor's performance, place of business, and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.
3. **Records.** Contractor must keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the County.
 - a. **Retention of Records.** Contractor must retain all documents pertaining to this Contract for five years from the date of submission of Contractor's final payment demand or final Cost Report; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this Contract's funding period. Upon request, Contractor must make these records available to authorized representatives of the County, the State of California, and the United States Government.
 - b. **Access to Books and Records of Contractor, Subcontractor.** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Contract, make available to the County, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and books, documents, and records of Contractor necessary to certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to the County, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor.

4. **Reporting Requirements.** Pursuant to Government Code Section 7550, Contractor must include in all documents and written reports completed and submitted to County in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section applies only if the Payment Limit of this Contract exceeds \$5,000.

GENERAL CONDITIONS
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5. Termination and Cancellation.

- a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-day advance written notice thereof to the other, and may be cancelled immediately by written mutual consent.
- b. **Failure to Perform.** County, upon written notice to Contractor, may immediately terminate this Contract should Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, County may proceed with the work in any reasonable manner it chooses. The cost to County of completing Contractor's performance will be deducted from any sum due Contractor under this Contract, without prejudice to County's rights to recover damages.
- c. **Cessation of Funding.** Notwithstanding any contrary language in Paragraphs 5 and 11, in the event that federal, state, or other non-County funding for this Contract ceases, this Contract is terminated without notice.

6. Entire Agreement. This Contract contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract will be deemed to exist or to bind any of the parties hereto.

7. Further Specifications for Operating Procedures. Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be clarified in a written letter signed by Contractor and the department head, or designee, of the county department on whose behalf this Contract is made. No written clarification prepared pursuant to this Section will operate as an amendment to, or be considered to be a part of, this Contract.

8. Modifications and Amendments.

- a. **General Amendments.** In the event that the total Payment Limit of this Contract is less than \$100,000 and this Contract was executed by the County's Purchasing Agent, this Contract may be modified or amended by a written document executed by Contractor and the County's Purchasing Agent or the Contra Costa County Board of Supervisors, subject to any required state or federal approval. In the event that the total Payment Limit of this Contract exceeds \$100,000 or this Contract was initially approved by the Board of Supervisors, this Contract may be modified or amended only by a written document executed by Contractor and the Contra Costa County Board of Supervisors or, after Board approval, by its designee, subject to any required state or federal approval.
- b. **Minor Amendments.** The Payment Provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, provided that such administrative amendment may not increase the Payment Limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.

9. Disputes. Disagreements between County and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final written determination by the head of the county department for which this Contract is made, or his designee, or in accordance with the applicable procedures (if any) required by the state or federal government.

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10. Choice of Law and Personal Jurisdiction.

- a. This Contract is made in Contra Costa County and is governed by, and must be construed in accordance with, the laws of the State of California.
- b. Any action relating to this Contract must be instituted and prosecuted in the courts of Contra Costa County, State of California.

11. Conformance with Federal and State Regulations and Laws. Should federal or state regulations or laws touching upon the subject of this Contract be adopted or revised during the term hereof, this Contract will be deemed amended to assure conformance with such federal or state requirements.

12. No Waiver by County. Subject to Paragraph 9. (Disputes) of these General Conditions, inspections or approvals, or statements by any officer, agent or employee of County indicating Contractor's performance or any part thereof complies with the requirements of this Contract, or acceptance of the whole or any part of said performance, or payments therefor, or any combination of these acts, do not relieve Contractor's obligation to fulfill this Contract as prescribed; nor is the County thereby prevented from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.

13. Subcontract and Assignment. This Contract binds the heirs, successors, assigns and representatives of Contractor. Prior written consent of the County Administrator or his designee, subject to any required state or federal approval, is required before the Contractor may enter into subcontracts for any work contemplated under this Contract, or before the Contractor may assign this Contract or monies due or to become due, by operation of law or otherwise.

14. Independent Contractor Status. The parties intend that Contractor, in performing the services specified herein, is acting as an independent contractor and that Contractor will control the work and the manner in which it is performed. This Contract is not to be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association. Contractor is not a County employee. This Contract does not give Contractor any right to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits County provides to its employees. In the event that County exercises its right to terminate this Contract, Contractor expressly agrees that it will have no recourse or right of appeal under any rules, regulations, ordinances, or laws applicable to employees.

15. Conflicts of Interest. Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Contract, no person having any such interests will be employed by Contractor. If requested to do so by County, Contractor will complete a "Statement of Economic Interest" form and file it with County and will require any other person doing work under this Contract to complete a "Statement of Economic Interest" form and file it with County. Contractor covenants that Contractor, its employees and officials, are not now employed by County and have not been so employed by County within twelve months immediately preceding this Contract; or, if so employed, did not then and do not now occupy a position that would create a conflict of interest under Government

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Code section 1090. In addition to any indemnity provided by Contractor in this Contract, Contractor will indemnify, defend, and hold the County harmless from any and all claims, investigations, liabilities, or damages resulting from or related to any and all alleged conflicts of interest. Contractor warrants that it has not provided, attempted to provide, or offered to provide any money, gift, gratuity, thing of value, or compensation of any kind to obtain this Contract.

16. **Confidentiality**. To the extent allowed under the California Public Records Act, Contractor agrees to comply and to require its officers, partners, associates, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that no person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.
17. **Nondiscriminatory Services**. Contractor agrees that all goods and services under this Contract will be available to all qualified persons regardless of age, gender, race, religion, color, national origin, ethnic background, disability, or sexual orientation, and that none will be used, in whole or in part, for religious worship.
18. **Indemnification**. Contractor will defend, indemnify, save, and hold harmless County and its officers and employees from any and all claims, demands, losses, costs, expenses, and liabilities for any damages, fines, sickness, death, or injury to person(s) or property, including any and all administrative fines, penalties or costs imposed as a result of an administrative or quasi-judicial proceeding, arising directly or indirectly from or connected with the services provided hereunder that are caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by County, Contractor will defend any such suits at its sole cost and expense. If County elects to provide its own defense, Contractor will reimburse County for any expenditures, including reasonable attorney's fees and costs. Contractor's obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor is not required to indemnify County for the proportion of liability a court determines is attributable to the sole negligence or willful misconduct of the County, its officers and employees. This provision will survive the expiration or termination of this Contract.
19. **Insurance**. During the entire term of this Contract and any extension or modification thereof, Contractor shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:
 - a. **Commercial General Liability Insurance**. For all contracts where the total payment limit of the contract is \$500,000 or less, Contractor will provide commercial general liability insurance, including coverage for business losses and for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance must be endorsed to include County and its officers and employees as additional insureds as to all services performed by Contractor under this Contract. Said policies must constitute primary insurance as to

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County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) will not be required to contribute to any loss covered under Contractor's insurance policy or policies. Contractor must provide County with a copy of the endorsement making the County an additional insured on all commercial general liability policies as required herein no later than the effective date of this Contract. For all contracts where the total payment limit is greater than \$500,000, the aforementioned insurance coverage to be provided by Contractor must have a minimum combined single limit coverage of \$1,000,000.

- b. **Workers' Compensation.** Contractor must provide workers' compensation insurance coverage for its employees.
 - c. **Certificate of Insurance.** The Contractor must provide County with (a) certificate(s) of insurance evidencing liability and worker's compensation insurance as required herein no later than the effective date of this Contract. If Contractor should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor must provide (a) current certificate(s) of insurance.
 - d. **Additional Insurance Provisions.** No later than five days after Contractor's receipt of: (i) a notice of cancellation, a notice of an intention to cancel, or a notice of a lapse in any of Contractor's insurance coverage required by this Contract; or (ii) a notice of a material change to Contractor's insurance coverage required by this Contract, Contractor will provide Department a copy of such notice of cancellation, notice of intention to cancel, notice of lapse of coverage, or notice of material change. Contractor's failure to provide Department the notice as required by the preceding sentence is a default under this Contract
20. **Notices.** All notices provided for by this Contract must be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to County must be addressed to the head of the county department for which this Contract is made. Notices to Contractor must be addressed to the Contractor's address designated herein. The effective date of notice is the date of deposit in the mails or of other delivery, except that the effective date of notice to County is the date of receipt by the head of the county department for which this Contract is made.
21. **Primacy of General Conditions.** In the event of a conflict between the General Conditions and the Special Conditions, the General Conditions govern unless the Special Conditions or Service Plan expressly provide otherwise.
22. **Nonrenewal.** Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased by County under a new contract following expiration or termination of this Contract, and Contractor waives all rights or claims to notice or hearing respecting any failure to continue purchasing all or any such services from Contractor.
23. **Possessory Interest.** If this Contract results in Contractor having possession of, claim or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this Contract results in the placement of taxable improvements on tax exempt land (Revenue & Taxation Code Section 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest. Contractor agrees that this provision complies with the notice

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requirements of Revenue & Taxation Code Section 107.6, and waives all rights to further notice or to damages under that or any comparable statute.

24. **No Third-Party Beneficiaries.** Nothing in this Contract may be construed to create, and the parties do not intend to create, any rights in third parties.
25. **Copyrights, Rights in Data, and Works Made for Hire.** Contractor will not publish or transfer any materials produced or resulting from activities supported by this Contract without the express written consent of the County Administrator. All reports, original drawings, graphics, plans, studies and other data and documents, in whatever form or format, assembled or prepared by Contractor or Contractor's subcontractors, consultants, and other agents in connection with this Contract are "works made for hire" (as defined in the Copyright Act, 17 U.S.C. Section 101 et seq., as amended) for County, and Contractor unconditionally and irrevocably transfers and assigns to Agency all right, title, and interest, including all copyrights and other intellectual property rights, in or to the works made for hire. Unless required by law, Contractor shall not publish, transfer, discuss, or disclose any of the above-described works made for hire or any information gathered, discovered, or generated in any way through this Agreement, without County's prior express written consent. If any of the works made for hire is subject to copyright protection, County reserves the right to copyright such works and Contractor agrees not to copyright such works. If any works made for hire are copyrighted, County reserves a royalty-free, irrevocable license to reproduce, publish, and use the works made for hire, in whole or in part, without restriction or limitation, and to authorize others to do so.
26. **Endorsements.** In its capacity as a contractor with Contra Costa County, Contractor will not publicly endorse or oppose the use of any particular brand name or commercial product without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely accepted scientific basis for such claims or without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not participate or appear in any commercially produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of Contra Costa County. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Supervisors, County officers, or others who may be authorized by the Board of Supervisors or by law to receive such views.
27. **Required Audit.** (A) If Contractor is funded by \$500,000 or more in federal grant funds in any fiscal year from any source, Contractor must provide to County, at Contractor's expense, an audit conforming to the requirements set forth in the most current version of Office of Management and Budget Circular A-133. (B) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, but such grant imposes specific audit requirements, Contractor must provide County with an audit conforming to those requirements. (C) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, Contractor is exempt from federal audit requirements for that year; however, Contractor's records must be available for and an audit may be required by, appropriate officials of the federal awarding agency, the General Accounting Office (GAO), the pass-through entity and/or the County. If any such audit is required, Contractor must provide County with such audit. With respect to the audits specified in (A), (B) and (C) above, Contractor is solely responsible for arranging for the conduct of the audit, and for its cost. County may withhold the estimated cost of the audit or 10 percent of the

GENERAL CONDITIONS
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contract amount, whichever is greater, or the final payment, from Contractor until County receives the audit from Contractor.

28. **Authorization.** Contractor, or the representative(s) signing this Contract on behalf of Contractor, represents and warrants that it has full power and authority to enter into this Contract and to perform the obligations set forth herein.
29. **No Implied Waiver.** The waiver by County of any breach of any term or provision of this Contract will not be deemed to be a waiver of such term or provision or of any subsequent breach of the same or any other term or provision contained herein.

Number: _____

HIPAA BUSINESS ASSOCIATE ATTACHMENT

To the extent, and as long as required by the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act, this HIPAA Business Associate Attachment ("Attachment") supplements and is made a part of the Contract identified as Number _____ (hereinafter referred to as "Agreement") by and between a Covered Entity (Contra Costa County for its Health Services Department, hereinafter referred to as "County") and Business Associate (the Contractor identified in the Agreement, hereinafter referred to as "Associate").

- A. County wishes to disclose certain information to Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"), defined below.
- B. County and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to the Agreement as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), and the regulations promulgated thereunder (collectively, the "HIPAA Regulations"), and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule, defined below, require County to enter into a contract containing specific requirements with Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations and contained in this Attachment.

In consideration of the mutual promises below and the exchange of information pursuant to this Attachment, the parties agree as follows:

1. **Definitions.** As used in this Attachment, the following terms have the following meanings:
 - a. **Breach** has the meaning given to such term under the HITECH Act set forth at 42 U.S.C. Section 17921.
 - b. **Business Associate** ("Associate") means an individual or entity that provides services, arranges, performs or assists in the performance of activities on behalf of the County and who uses or discloses PHI, pursuant to the HIPAA Regulations including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
 - c. **Covered Entity** ("County") means Contra Costa County for its Health Services Department.
 - d. **Data Aggregation** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
 - e. **Designated Record Set** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
 - f. **Electronic Media** is:
 - (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or
 - (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media.

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- g. **Electronic Protected Health Information (ePHI)** is any Protected Health Information that is stored in or transmitted by electronic media.
- h. **Electronic Health Record** has the meaning given to such term under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- i. **Health Care Operations** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
- j. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information set forth in 45 C.F.R. Parts 160 and 164, as in effect or as amended.
- k. **Protected Health Information** ("PHI") means any information in any form or medium, including oral, paper, or electronic: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes electronic Protected Health Information (45 C.F.R. Sections 160.103, 164.501).
- l. **Protected Information** means PHI provided by County to Associate or created or received by Associate on behalf of the County in connection with the Agreement.
- m. **Required by Law** has the same meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.103.
- n. **Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- o. **Security Rule** means the standards for protecting the security of electronic Protected Health Information in 45 C.F.R. Parts 160 and 164, as in effect or as amended.
- p. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to said Act including, but not limited to, 42 U.S.C. Section 17932(h).

Terms used, but not defined, in this Attachment will have the same meanings as those terms are given in the HIPAA Privacy Rule.

2. **Obligations of Associate.**

- a. **Permitted Uses.** Associate shall not use Protected Information except for the purpose of performing Associate's obligations under the Agreement and as permitted under the Agreement and this Attachment, or as Required by Law. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act.
- b. **Permitted Disclosures.** Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by County. However, Associate may disclose Protected Information (i) in a manner permitted pursuant to the Agreement and this Attachment, (ii) for the proper management and administration of Associate, (iii) as Required by Law, or (iv) for Data Aggregation purposes for the Health Care Operations of County. To the extent that Associate discloses Protected Information to a third party, Associate must obtain, prior to making any such disclosure (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Attachment and only disclosed as Required By Law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party

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 Contractor 345 County Dept.

to immediately notify Associate or any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach.

- c. **Prohibited Uses and Disclosures.** Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Associate shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out-of-pocket in full for the health care item or services to which the PHI solely relates (42 U.S.C. Section 17935(a)). Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of County and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by County to Associate for services provided pursuant to the Agreement.
- d. **Appropriate Safeguards.** Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Protected Information that it creates, receives, maintains, or transmits on behalf of County as required by the Agreement or this Attachment and in accordance with 42 C.F.R. Sections 164.308, 164.310, and 164.312. Associate shall comply with the policies and procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316.
- e. **Reporting of Improper Use or Disclosure.** Associate will notify County in writing within twenty-four (24) hours of its discovery of any security incident or any other use or disclosure of Protected Information not permitted by the Agreement or this Attachment of which Associate or its officers, employees or agents become aware, without unreasonable delay, and in no case later than ten (10) calendar days after discovery. Associate will take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- f. **Associate's Agents.** Associate agrees to ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Associate with respect to such Protected Information and implement the safeguards required by paragraph c, above, with respect to ePHI. Associate agrees to implement and maintain sanctions against agents and subcontractors who violate such restrictions and will mitigate the effects of any such violation.
- g. **Access to Protected Information.** Associate agrees to make Protected Information maintained by Associate or its agents or subcontractors in Designated Record Sets available to County for inspection and copying within ten (10) days of request by County to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.524. If Associate maintains an Electronic Health Records, Associate shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of Protected Information.** Within ten (10) days of receipt of a request from County for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors will make such Protected Information available to County for amendment and incorporate any such amendment to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or subcontractors, Associate must notify County within five (5) calendar days of the request, without unreasonable delay. County, and not Associate, will determine if and when to deny a request for an amendment of Protected Information maintained by Associate.
- i. **Availability and Accounting of Information.** Within ten (10) calendar days of notice by County of a request for an accounting of disclosure of Protected Information, Associate and its agents or subcontractors shall make available to County the information required to provide an accounting of disclosures to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.528, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(c), as determined by County. As set

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forth in, and as limited by, 45 C. F. R. Section 164.528, Associate need not provide an accounting to County of disclosures: (i) to carry out treatment, payment or health care operations, as set forth in 45 C.F.R. Section 164.502; (ii) to individuals of PHI about them as set forth in 45 C. F. R. 164.502; (iii) to persons involved in the individual's care or other notification purposes as set forth in 45 C. F. R. Section 164.510; (iv) for national security or intelligence purposes as set forth in 45 C.F.R. Section 164.512(k)(2); or (v) to correctional institutions or law enforcement officials as set forth in 45 C.F.R. Section 164.512(k)(5). Associate agrees to implement a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Associate maintains an electronic health record and is subject to this requirement. At a minimum, such information must include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and , if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Associate or its agents or subcontractors, Associate will send the request, in writing, to County within five (5) calendar days of receipt. It will then be County's responsibility to prepare and deliver or otherwise respond to the accounting request. Associate will not disclose any Protected Information except as set forth in Section 2.b. of this Attachment.

- j. **Governmental Access to Records.** Associate agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Associate's compliance with the HIPAA Privacy Rule. Associate agrees to provide County with copies of any Protected Information that Associate provides to the Secretary of the U.S. Department of Health and Human Services at the same time Associate provides such Protected Information to the Secretary of the U.S. Department of Health and Human Services.
- k. **Minimum Necessary.** Associate and its agents and subcontractors will only request, use, and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. **Data Ownership.** Associate acknowledges that Associate has no ownership rights with respect to Protected Information.
- m. **Retention of Protected Information.** Except as provided in Section 3.c. of this Attachment, Associate and its subcontractors and agents must retain all Protected Information throughout the term of the Agreement and must continue to maintain the information required by Section 2.h. of this Attachment for a period of six (6) years after termination or expiration of the Agreement. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Associate maintains an electronic health record and is subject to this requirement.
- n. **Associate's Insurance.** In addition to any other insurance requirements specified in the Agreement, Associate will, at its sole cost and expense, insure its activities in connection with this Attachment. Associate will obtain, keep in force and maintain insurance or equivalent program(s) of self-insurance with appropriate limits, as determined by County, at its sole discretion, that will cover losses that may arise from any breach of this Attachment, breach of security, or any unauthorized use or disclosure of Protected

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Contractor _____ County Dept. _____

Information. It is expressly understood and agreed that the insurance required herein does not in any way limit the liability of Associate with respect to its activities in connection with this Attachment.

- o. **Notification of Breach.** During the term of the Agreement, Associate shall notify County within twenty-four (24) hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall take (i) prompt corrective action to cure any such deficiencies; and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. In the event the breach was caused, directly or indirectly, by negligent misconduct on the part of Associate, Associate's agents or subcontractors, Associate will be solely responsible for all damages resulting from the breach.
- p. **Breach Pattern or Practice by County.** Pursuant to 42 U.S.C. Section 17934(b), if the Associate knows of a pattern of activity or practice of County that constitutes a material breach of violation of the County's obligations under the Agreement or Attachment, the Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Associate must terminate the Agreement, if feasible, or if termination is not feasible, report the problem to the Secretary of the U.S. Department of Health and Human Services. Associate shall provide written notice to County of any pattern of activity or practice of County that Associate believes constitutes a material breach or violation of the County's obligations under the Agreement or Attachment within five (5) days of discovery and shall meet with County to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- q. **Certification and Enforcement.** At any time during the term of the Agreement, and without advance notice, County and its authorized agents or contractors may examine Associate's facilities, systems, procedures and records as may be necessary to determine the extent to which Associate's security safeguards comply with HIPAA, HITECH Act, other HIPAA Regulations, and this Attachment.

3. **Termination.**

- a. **Material Breach.** A breach by Associate of any material provision of this Attachment, as determined by County, constitutes grounds for termination of the Agreement pursuant to General Conditions Paragraph 5. (Termination and Cancellation), Subsection b. (Failure to Perform), of the Agreement.
- b. **Reasonable Steps to Cure Breach.** If County knows of an activity or practice of Associate that constitutes a material breach or violation of Associate's obligations under the provisions of this Attachment, County may, in its sole discretion, terminate the Agreement pursuant to Section 3.a., above, or provide Associate an opportunity to cure such breach or end such violation. If Associate's efforts to cure such breach or end such violation are unsuccessful, County will either (i) terminate the Agreement, if feasible or (ii) if termination of the Agreement is not feasible, County will report Associate's breach or violation to the Secretary of the U.S. Department of Health and Human Services.
- c. **Effect of Termination.** Upon termination of the Agreement for any reason, Associate must return or destroy, at the exclusive option of County, all Protected Information that Associate, its agents and subcontractors, still maintain in any form, and Associate may not retain any copies of such Protected Information. If return or destruction is not feasible, Associate may retain the Protected Information and must continue to extend the protections of Sections 2.a., 2.b., 2.c., and 2.d. of this Attachment to such information and limit further use of such Protected Information to those purposes that make the return or destruction of such Protected Information infeasible. If Associate destroys the Protected Information, Associate must verify in writing to County that such Protected Information has been destroyed.

Initials: _____
Contractor County Dept.

4. **Disclaimer.** County makes no warranty or representation that compliance by Associate with this Attachment, HIPAA, HITECH Act, or the HIPAA Regulations, will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.
5. **Changes to HIPAA and its regulations.**
- a. **Compliance with Law.** The parties acknowledge that state and federal laws relating to electronic data security and privacy are evolving and that changes to this Attachment may be required to ensure compliance with such developments. The parties agree to take such action(s) as may be necessary to implement the standards and requirements of HIPAA, HITECH Act, the HIPAA Regulations, and other applicable state and federal laws relating to the security and/or confidentiality of PHI.
 - b. **Negotiations.** In the event that a state or federal law, statute, or regulation materially affects the Agreement or this Attachment, the parties agree to negotiate immediately and in good faith any necessary or appropriate revisions to the Agreement or this Attachment. If the parties are unable to reach an agreement concerning such revisions within the earlier of thirty (30) calendar days after the date of notice seeking negotiations or the effective date of a change in law or regulations, or if the change is effective immediately, then County may, in its sole discretion, immediately terminate the Agreement upon written notice to Associate.
6. **Miscellaneous Provisions.**
- a. **Assistance in Litigation or Administrative Proceedings.** Associate will make itself, and any subcontractors, employees or agent assisting Associate in the performance of its obligations under the Agreement, available to County, at no cost to County, to testify as witnesses or otherwise, in the event of litigation or administrative proceedings against County, its officers or employees, based upon a claimed violation of HIPAA, HITECH Act, the HIPAA Regulations, or other laws relating to security and privacy and arising out of the Agreement or this Attachment.
 - b. **No Third Party Beneficiaries.** Nothing express or implied in this Attachment is intended to confer, nor shall anything herein confer, upon any person other than County, Associate, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
 - c. **Interpretation.** The provisions of this Attachment prevail over any provisions in the Agreement that may conflict, or appear to be inconsistent with, any provision of this Attachment. This Attachment and the Agreement will be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The parties agree that any ambiguity in this Attachment will be resolved in favor of a meaning that complies, and is consistent, with HIPAA and the Privacy Rule.
 - d. **Notice to Secretary.** Associate understands and agrees that if County knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of Associate's obligations under this Attachment and the breach or violation continues and termination of the Agreement is not feasible, County will report the problem to the Secretary of the U.S. Department of Health and Human Services, as required by HIPAA, HITECH Act, and the HIPAA regulations.
 - e. **Survival.** The obligations of Associate pursuant to Sections 2.l. and 3.c. of this Attachment survive the termination or expiration of the Agreement.

STANDARD CONTRACT
(Purchase of Services – Long Form)

Number:
Fund/Org:
Account: 2310
Other:

1. **Contract Identification.**

Department: Contra Costa County Fire Protection District

Subject: Ambulance Billing, First Responder Billing, and Other Related Professional Services

2. **Parties.** The County of Contra Costa, California (County), for its Department named above, and the following named Contractor mutually agree and promise as follows:

Contractor: Advanced Data Processing, Inc.

Capacity: a Delaware Corporation

Address: 6451 North Federal Highway, Suite 1000, Fort Lauderdale, Florida 33308

3. **Term.** The effective date of this Contract is November 17, 2015. It terminates on December 31, 2020 unless sooner terminated as provided herein.

4. **Payment Limit.** County's total payments to Contractor under this Contract shall not exceed
\$ 8,500,000.

5. **County's Obligations.** County shall make to the Contractor those payments described in the Payment Provisions attached hereto which are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. **Contractor's Obligations.** Contractor shall provide those services and carry out that work described in the Service Plan attached hereto which is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

7. **General and Special Conditions.** This Contract is subject to the General Conditions and Special Conditions (if any) attached hereto, which are incorporated herein by reference.

8. **Project.** This Contract implements in whole or in part the following described Project, the application and approval documents of which are incorporated herein by reference.

STANDARD CONTRACT
(Purchase of Services – Long Form)

Number:
Fund/Org:
Account: 2310
Other:

9. **Legal Authority.** This Contract is entered into under and subject to the following legal authorities:

California Health & Safety Code Section 13861 and all legal authorities cited in the HIPAA Business Associate Attachment to this Contract, which is incorporated herein by this reference.

10. **Signatures.** These signatures attest the parties' agreement hereto:

COUNTY OF CONTRA COSTA, CALIFORNIA

BOARD OF SUPERVISORS By: _____ Chair/Designee	ATTEST: Clerk of the Board of Supervisors By: _____ Deputy
--	---

CONTRACTOR

Signature A Name of business entity: Advanced Data Processing, Inc. By: _____ (Signature of individual or officer) _____ (Print name and title A, if applicable)	Signature B Name of business entity: Advanced Data Processing, Inc. By: _____ (Signature of individual or officer) _____ (Print name and title B, if applicable.)
--	---

Note to Contractor: For corporations (profit or nonprofit) and limited liability companies, the contract must be signed by two officers. Signature A must be that of the chairman of the board, president, or vice-president; and Signature B must be that of the secretary, any assistant secretary, chief financial officer or any assistant treasurer (Civil Code Section 1190 and Corporations Code Section 313). All signatures must be acknowledged as set forth on Form L-2.

ACKNOWLEDGMENT/APPROVALS
(Purchase of Services - Long Form)

Number: _____

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 CONTRA COSTA)

On _____ (Date),

before me, _____ (Name and Title of the Officer),

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.

Signature of Notary Public



Place Seal Above

ACKNOWLEDGMENT (by Corporation, Partnership, or Individual)
(Civil Code §1189)

APPROVALS

RECOMMENDED BY DEPARTMENT

FORM APPROVED BY COUNTY COUNSEL

By: _____
Designee

By: _____
Deputy County Counsel

APPROVED: COUNTY ADMINISTRATOR

By: _____
Designee

PAYMENT PROVISIONS
(Fee Basis Contracts - Long and Short Form)

Number _____

1. **Payment Amounts.** Subject to the Payment Limit of this Contract and subject to the following Payment Provisions, County will pay Contractor the following fee as full compensation for all services, work, expenses or costs provided or incurred by Contractor:

[Check one alternative only.]

- ☐ a. \$ _____ monthly, or
- ☐ b. \$ _____ per unit, as defined in the Service Plan, or
- ☐ c. \$ _____ after completion of all obligations and conditions herein.
- ☒ d. Other: As set forth in Section D of the Service Plan.

2. **Payment Demands.** Contractor shall submit written demands for payment on County Demand Form D-15 in the manner and form prescribed by County. Contractor shall submit said demands for payment no later than 30 days from the end of the month in which the contract services upon which such demand is based were actually rendered. Upon approval of payment demands by the head of the County Department for which this Contract is made, or his designee, County will make payments as specified in Paragraph 1. (Payment Amounts) above.
3. **Penalty for Late Submission.** If County is unable to obtain reimbursement from the State of California as a result of Contractor's failure to submit to County a timely demand for payment as specified in Paragraph 2. (Payment Demands) above, County shall not pay Contractor for such services to the extent County's recovery of funding is prejudiced by the delay even though such services were fully provided.
4. **Right to Withhold.** County has the right to withhold payment to Contractor when, in the opinion of County expressed in writing to Contractor, (a) Contractor's performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program, work or records, or (c) Contractor has failed to sufficiently itemize or document its demand(s) for payment.
5. **Audit Exceptions.** Contractor agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions by appropriate county, state or federal audit agencies resulting from its performance of this Contract. Within 30 days of demand, Contractor shall pay County the full amount of County's obligation, if any, to the state and/or federal government resulting from any audit exceptions, to the extent such are attributable to Contractor's failure to perform properly any of its obligations under this Contract.

Initials: _____
Contractor County Dept.

**SERVICE PLAN OUTLINE
(Purchase of Services - Long Form)**

Number _____

SERVICE PLAN

A. GENERAL

Contra Costa County Fire Protection District (District) provides emergency and non-emergency medical services, including 911-system emergency ambulance transports, emergency medical services (EMS) first response, and interfacility transports, for residents and visitors in its jurisdiction (collectively, the "EMS Services"), and charges for the EMS services. District uses an ambulance services subcontractor, American Medical Response West ("AMR") to provide ambulance transport services. Contractor is in the business of providing billing, collection, and related consulting services and equipment for municipalities and other providers of medical services. The parties are entering into this Contract, pursuant to which Contractor will render the services as described herein.

B. CONTRACTOR SERVICES AND OBLIGATIONS

1. Revenue Cycle Management Services. Contractor shall provide revenue cycle management services for District as follows (the "Billing Services"):
 - a. Prepare and submit initial claims and bills to the parties responsible for payment of District's EMS Services, e.g.; individuals, Medicare, Medicaid, private insurance companies ("Payors"), for District promptly upon receipt thereof, and prepare and submit secondary claims and bills promptly after identification of the need to submit a secondary claim.
 - b. Assist District in identifying necessary documentation in order to process and bill Payor accounts.
 - c. Direct payments to a lockbox or bank account designated by District, over which only District and the Office of the Contra Costa County Treasurer will have signature authority.
 - d. Pursue appeals of Payor payment denials, partial payment denials, and payment rejections when deemed appropriate by District.
 - e. Respond to and follow up with Payors and respond to messages or inquiries from Payors.
 - f. Maintain records of all services performed and financial transactions conducted under this Contract.
 - g. Meet, as requested by District, with representatives of District to discuss results, problems, and recommendations.
 - h. Provide any District-designated collection agency with the data necessary for collection services to be performed when an account is referred to such agency.
 - i. Assist District in filing and maintaining required documentation and agreements with commonly-used Payors. District will maintain responsibility for enrollment, required

Initials: _____
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County Dept.

documentation, and agreements with out of state Payors, such as out of state Medicaid programs, and other Payors not commonly billed.

- j. Provide reasonably necessary training periodically, as requested by District, to District and AMR EMS personnel regarding the gathering of the necessary information and proper completion of run reports.
- k. Utilize up-to-date knowledge and information with regard to coding requirements and standards to comply with applicable federal, state, and local regulations.
- l. Provide a designated liaison for District, patient, and other Payor concerns.
- m. Provide a toll free telephone number for patients and other Payors to be answered as designated by District.
- n. Keep confidential information secure and shred and dispose of materials containing confidential information.
- o. Establish arrangements with hospitals to obtain/verify patient insurance and contact information.
- p. Respond to any District, Payor, and patient inquiries and questions promptly.
- q. Maintain appropriate accounting procedures for reconciling deposits, receivables, billings, patient accounts, adjustments, and refunds.
- r. Provide access to District for requested information in order for District to perform periodic audits. District will provide reasonable notice to Contractor for any planned audit that will be conducted during normal business hours of Contractor.
- s. Provide timely reports facilitating required aspects of monitoring, evaluating, auditing, and managing the services provided under this Contract.
- t. Process refund requests and provide District with documentation substantiating each refund requested.
- u. Assign billing to patient account numbers providing cross-reference to District-assigned ora AMR-assigned transport numbers.
- v. Maintain responsibility for obtaining missing or incomplete insurance and billing information.
- w. Provide accurate coding of medical claims based on information provided by District and AMR.
- x. Negotiate and arrange modified payment schedules for individuals unable to pay the full amount when billed.
- y. Retain accounts for a minimum of twelve (12) months (unless otherwise specified by mutual agreement) and after twelve (12) months turn over accounts for which no collection has been made (unless insurance payment is pending) to an agency designated by District.

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- z. Create, implement, and comply with a compliance plan consistent with the Compliance Program Guidance for Third Party Medical Billing Companies set forth at 63 Federal Register 70138 (December 18, 1998) promulgated by the Office of Inspector General (OIG) of the Department of Health and Human Services. Contractor shall assist District in conducting a claims review on an annual basis as described in the OIG Compliance Program Guidance.
- aa. Contractor shall implement a comprehensive plan and develop the appropriate policies and procedures to comply with the provisions of the Health Insurance Portability and Accountability Act of 1996, the HIPAA Business Associates Attachment attached to this Contract and incorporated herein, and the current rules and regulations enacted by the U.S. Department of Health and Human Services as it relates to services provided under this Contract.
2. Software Application and Data Storage Services.
- a. Right to Use. Contractor hereby grants to District, during the term of this Contract, a license to use and access Contractor's electronic billing system application (the "Billing Portal") solely to view District's accounts, run various reports, and access all data associated with Billing Services Contractor is providing under this Contract. District's access to the Billing Portal shall be real-time and read-only to obtain patient data and billing information. Contractor shall not in any way transfer to any third party or use in direct or indirect competition with District any information or data posted on the Billing Portal by or for the benefit of District and acknowledges that all such information is confidential. Contractor further acknowledges that its handling of information on behalf of District is or may be subject to federal, state or local laws, rules, regulation and restrictions regarding the privacy of consumer information. Contractor agrees to comply with all of such laws, rules and regulations and restrictions, including without limitation, the obligations set forth in the Business Associate Attachment attached hereto and incorporated into this Contract at its sole cost and expense. The provisions of this Access to Billing System and Security Section shall survive any termination or expiration of this Contract.
- b. User Restrictions. District shall not, and shall not permit others to, without the express written consent of Contractor: (A) use, receive, reproduce, copy, market, sell, distribute, license, sublicense, lease, timeshare, or rent the Billing Portal application or any component thereof; (B) modify, alter, translate or prepare derivative works based on the Billing Portal application or related documentation; (C) disassemble, decompile, decrypt or reverse engineer the Billing Portal application or in any way attempt to discover or reproduce source code for the Billing Portal application, or any portion thereof; or (D) develop or license any third party programs, applications, tools or other products that interface or interact with the Billing Portal. County agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Billing Portal or the related documentation.
- c. Internet Access. District is responsible for providing its own Internet access necessary to access the Billing Portal, and in no event shall District be provided with direct access (by modem or otherwise) to the Billing Portal server, other than access that is available to third parties generally through the Internet.
- d. Reporting. Operational and financial data reports for District will be available on the Billing Portal when the Billing Portal is available. The format and content of the data will be established and defined by Contractor and such reports may be added, modified or deleted without notice to

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District. Notwithstanding the foregoing, District may request that specific, custom reports be made available to it at the hourly rate that Contractor charges for this type of service.

- e. Acknowledgement with Respect to Reports. With respect to each report generated for District and made available through the Billing Portal, District acknowledges and agrees that: (A) such report represents a “snapshot” of a moment in time, and as such, the snapshot may not be accurate with respect to financial results on the whole; (B) the underlying data may be subject to correction from time-to-time, which may change the results of the report or its interpretation; and (C) the data represented in the report constitutes only a limited portion of all data available regarding District’s business. Accordingly, any particular report may not accurately represent the District’s then-current or future financial condition.
- f. Intellectual Property. District agrees that the equipment, computer hardware and software, billing and collection processing, Billing Portal and other related systems and equipment are the property and that certain portions thereof constitute trade secrets of Contractor, and that District will not, except as required under the California Public Records Act (California Government Code Section 6250, et seq.), release any trade secrets of Contractor to any third party without the prior written consent of Contractor. District further agrees that, in connection with the use of certain data entry devices, District may gain access to the intellectual property of third parties.
- g. Audit Rights. From time to time and upon reasonable prior written notice, Contractor may audit District’s use of the Billing Portal to help ensure that District is in compliance with the terms and conditions of this Contract, including, but not limited to, any payment terms. Any such audit will be conducted during regular business hours at the applicable facilities of District. District will identify and cooperate with Contractor (or its representatives) to provide Contractor (or its representatives) with reasonable access to all relevant equipment, personnel and records.
- h. Billing Records; Security. District acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems, including malware prevention software on Billing Portal user’s computers. District is responsible for requiring its Billing Portal users to use a password that is at least eight (8) characters in length, and contains three (3) of four (4) of the following characteristics: lowercase letter, uppercase letter, special character, or a number. Contractor is not responsible for the County’s loss or dissemination of passwords. Contractor shall maintain records in an electronic format that is readily accessible by District personnel and that meets federal and state requirements for maintaining patient medical records. Contractor shall provide appropriate storage and data back-up for records pertaining to District’s bills and collections hereunder, accessible to District at reasonable times.
- i. Billing Portal Services.
 - A. Contractor shall host the Billing Portal all related data using a web server that is owned, and operated by Contractor and, and will be delivered over the Internet.
 - B. Billing Portal Availability. Subject to the terms of this Contract, the Billing Portal shall be available to users not less than 99% of the time each calendar month excluding Planned Outages, or due to unexpected outages not in Contractor’s control, including but not limited to force majeure circumstances or Internet outages not in Contractor’s control (“Unplanned Outages”). Contractor shall notify District in writing, via electronic mail or facsimile, of any

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planned outages in the Billing Portal that are necessary for performing software updates or testing (a "Planned Outage") and Unplanned Outages. Contractor shall schedule, perform and maintain a duplicate record of District's data on backup Servers.

- C. Database and System Hosting. Contractor shall keep the Billing Portal safe and secure as required by law. Contractor is responsible for the installation, operation and maintenance of the Billing Portal. Billing Portal services include, without limitation, the following services (the "Hosting Services"):
- i. Routine monitoring of the Billing Portal and corrective action;
 - ii. Regular back-up procedures that will have minimal impact on the 24/7 availability of the hosted Billing Portal;
 - iii. Recovery procedures in the event of loss or corruption of the Billing Portal;
 - iv. Contractor (i) will not host the hosted Billing Portal on any servers outside the continental United States, (ii) will cause the Billing Portal to reside on servers with security features designed to prevent breaches of security, including without limitation, appropriate encryption, firewalls, and conforming to Tier 3-type Data Center security standards; and (iii) cause the Billing Portal to be audited under SAS 70/SSAE16 audits at least every two (2) years.
- D. Disaster and Recovery Plans. Contractor shall, maintain backup and recovery capabilities for critical functions in the event of a system failure. Contractor shall maintain multiple servers for both software and hardware redundancy and shall co-locate servers on which the Billing Portal and related data is located in geographically different locations. Should an interruption of system services occur at a primary production server, the system function will rollover and begin processing using the back-up until service is restored at the primary production server.
- E. Technical Support. Contractor shall provide District with technical environmental support services for the Billing Portal 24 hours per day, 7 days per week. Technical support may be accessed by District by calling the Technical Support Help Desk at 1-888-735-9559.

C. DISTRICT RESPONSIBILITIES

1. District shall use its best efforts to, or to cause AMR to, obtain and forward the following information ("Patient Information") for each person who receives medical services from District ("Patient"), to Contractor:
 - a. the Patient's full name and date of birth;
 - b. the mailing address (including zip code) and telephone number of the Patient or other party responsible for payment ("Guarantor");
 - c. Patient's social security number;
 - d. the name and address of the Patient's health insurance carrier, name of policyholder or primary covered party, and any applicable group and identification numbers;
 - e. auto insurance carrier address and/or agent's name and phone number if an automobile is involved;

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- f. the employer's name, address and Workers Compensation Insurance information if the incident is work related;
 - g. the patient's Medicare or Medicaid HIC numbers if applicable;
 - h. the Patient's or other responsible party's signed payment authorization and release of medical authorization form or other documentation sufficient to comply with applicable signature requirements;
 - i. the call times, transporting unit, and crew members with their license level, e.g., EMT-I or EMT-P;
 - j. odometer readings or actual loaded miles flown such that loaded miles may be calculated;
 - k. physician certification statements (PCS) for non-emergency transports that are to be billed to Medicare pursuant to CMS regulations; and
 - l. any other information that Contractor may reasonably require to bill the Patient or other Payor.
2. District will provide Contractor with necessary documents required by third parties to allow for the electronic filing of claims by Contractor on District's behalf.
 3. District will provide Contractor with its approved billing policies and procedures, including dispatch protocols, fee schedules, and collection protocols. District will be responsible for engaging any third party collection service for uncollectible accounts after Contractor has exhausted its collection efforts.
 4. District will provide a lock box or bank account address to Contractor and will instruct the lock box or bank custodian agency to forward all documents to Contractor for processing.
 5. District will cooperate with Contractor in all matters to ensure proper compliance with laws and regulations.
 6. District represents and warrants that all of its employees, personnel and, to the best of its knowledge as to its independent contractors involved in the delivery of medical services or otherwise performing services for District: (i) hold the licensure or certification required to perform such services; (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program; and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List. If any refunds of Patient accounts of District are required to be refunded to or offset by any government and commercial Payor as the direct result of a breach of the foregoing warranties (such a refund, an "Excluded Person Refund"), Contractor shall not be required to refund to District any commissions or fees earned or previously paid to Contractor as a result of its collection of such Excluded Person Refund or otherwise include such Excluded Person Refunds in its calculation of Ambulance Transport Net Collections and First Responder Net Collections as set forth herein.
 7. District agrees that it will forward to Contractor copies of checks, or other payment documentation requested by Contractor relating to the services provided under this Contract.
 8. District agrees to notify Contractor in the event that their Electronic Patient Care Reporting (ePCR)

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vendor performs any system upgrades. Notification may be made in writing to support@Intermedix.com.

D. FEES AND METHOD OF PAYMENT.

1. Fees. District shall pay Contractor a monthly amount representing fees for the services provided by Contractor, computed as follows:
 - a. Two and Ninety-Five Hundredths percent (2.95%) of all monies collected by Contractor for ambulance transport accounts provided by District less refunds ("Ambulance Transport Net Collections"), plus
 - b. Fifteen Percent (15.00%) of all monies collected by Contractor for first responder accounts provided by District less refunds ("First Responder Net Collections").
2. Invoices. Contractor shall submit monthly invoices for fees for the services to Contra Costa County Fire Protection District ATTN: Fiscal Special, Accounts Payable. District shall pay the amount invoiced within thirty (30) days of receipt of such invoice. In the event District disputes any part of the invoiced amounts, such dispute shall be raised in writing to Contractor within such thirty (30) day period. Contractor shall respond to any such notice of dispute within thirty (30) days of receipt thereof.
3. Bank Accounts. District agrees that it will be solely responsible for the cost and maintenance of any and all of District's bank accounts, lock-box, and/or remote deposit services. District, should it elect to participate in any credit card acceptance program, agrees to assume and be responsible for all costs associated with such program.
4. Taxes. If applicable to District, all amounts payable under this Contract are exclusive of all sales, use, value-added, withholding, and other taxes and duties. District shall promptly pay, and indemnify Contractor against, all taxes and duties assessed in connection with any such amounts, this Contract and its performance by any authority within or outside of the U.S., except for taxes payable on Contractor's net income.

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SPECIAL CONDITIONS

Contractor and District agree that these Special Conditions modify the General Conditions of the Contract and the HIPAA Business Associate Attachment to the Contract, and are part of the Contract.

1. References. All references in the General Conditions and the HIPAA Business Associate Attachment to "County" shall be deemed references to "District". The "Covered Entity" under the HIPAA Business Associate Attachment is District.

2. The first paragraph of Section 3 (**Records**) of the General Conditions is hereby deleted in its entirety and replaced with the following:

"3. Records. Contractor must keep and make available for inspection and copying by authorized representatives of the District, the State of California, and the United States Government, the Contractor's records pertaining to this Contract as may be required by the District."

3. Section 3(b) (**Access to Books and Records of Contractor, Subcontractor**) of the General Conditions is hereby deleted in its entirety and replaced with the following:

"b. Access to Books and Records of Contractor, Subcontractor. Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Contract, make available to the District, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and its related books, documents and records necessary certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to the District, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records related to this Contract to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor."

4. Section 5(b) (**Failure to Perform**) of the General Conditions is hereby deleted in its entirety and replaced with the following:

"i. Failure to Perform. If either party to this Contract believes the other party has failed to perform or observe any material term, covenant or provision of this Contract (a "Default"), the non-defaulting party shall deliver a written notice to the other party

specifying the nature of the failure of performance and request a cure ("Notice to Cure"). Within thirty (30) days following the date of the mailing of the Notice to Cure, the receiving party shall cure the Default or, if the Default is not reasonably capable of cure within thirty (30) days, the defaulting party will be allowed to cure such Default if it provides the non-defaulting party with a good faith plan to cure such Default, but only for so long as it diligently pursues cure of such Default and provides evidence thereof to the non-defaulting party. If the defaulting party fails to cure such Default within thirty (30) days of the date the Notice to Cure is mailed or fails to provide a good faith plan to cure a Default incapable of cure within thirty (30) days, or fails to diligently pursue a cure of such Default incapable of cure within thirty (30) days, then, in addition to any other rights available to the non-defaulting party under law or equity, the non-defaulting party may terminate this Contract by providing written notice to the other party.

- ii. Termination Due to Bankruptcy. If District or Contractor: (i) apply for or consent to the appointment of a petition in bankruptcy; (ii) make a general assignment for the benefit of creditors; (iii) file a petition or answer seeking reorganization or arrangement with creditors; (iv) take advantage of any insolvency, or (v) if any order, judgment, or decree shall be entered by any court of competent jurisdiction on the application of a creditor or otherwise, adjudicating either party bankrupt or approving a petition seeking reorganization of either party, or the appointment of a receiver, trustee or liquidator of either party or all or a substantial part of its assets (subsections (i) through (v), each a "Bankruptcy Event"), this Contract shall terminate automatically and immediately upon written notice from the other party to the party who is the subject of a Bankruptcy Event.
- iii. Rights Upon Termination. If this Contract is terminated for any reason, except for termination based on breach of this Contract by Contractor, Contractor shall be entitled to recover when due and payable hereunder, all amounts owed to Contractor hereunder accrued but unpaid as of the date of termination. For a period of ninety (90) days following termination of this Contract (the "Transition Period"), Contractor, at its sole discretion and upon written notice to District of its election to do so, may continue its billing and collection efforts as to those accounts referred to Contractor prior to the effective date of termination, subject to the terms and conditions of this Contract, for the fees set forth in this Contract. At the end of the Transition Period, Contractor shall return all records to District in a commercially standard format on a commercially standard media acceptable to District; provided, however, that Contractor may keep any copies of records as required by applicable law. The expiration or termination of this Contract, for whatever reason, will not relieve a party that has breached this Contract from liability for damages resulting from such breach, and will not destroy or diminish the binding force and effect of any of the provisions of this Contract that by their express terms survive the expiration or termination hereof."

5. Section 6 (**Entire Agreement**) of the General Conditions is hereby amended by deleting the word "Agreement" from the title of the Section and replacing it with "Contract".

6. Section 16 (**Confidentiality**) of the General Conditions is hereby deleted in its entirety and replaced with the following:

“16. Confidentiality and HIPAA Business Associate Obligations.

- a. **Confidentiality Laws.** To the extent allowed under the California Public Records Act (California Government Code Section 6250 et seq., the “Public Records Act”), Contractor and District agree to comply, and to require its officers, partners, associates, agents and employees, to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that no person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor and District agree to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.
- b. **Confidential Information.**
 - i. **Definition.** As used herein the term, “Confidential Information” means any nonpublic information pertaining to District employees or District operations, and Contractor’s proprietary information and trade secrets regarding its business, and any other information that a party marks confidential. The term “Confidential Information” does not include information which the party receiving the information can document: (A) was in the possession of or known by it without an obligation of confidentiality prior to receipt of the information; (B) is or becomes general public knowledge through no act or fault of the receiving party; (C) is or becomes lawfully available to the receiving party from a third party without an obligation of confidentiality; and (D) is independently developed by the receiving party without the use of any Confidential Information or violation of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), or the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”). District’s Confidential Information includes, but is not limited to, data, medical records, records concerning any individual relating to services provided, employment records, personnel data, payroll data, passwords to District computer systems, methods of accessing District computers and data, proprietary software, and any information or documents identified as confidential in a writing signed by District, and delivered to Contractor. Contractor’s Confidential Information expressly includes, without limitation, proprietary technical, marketing, financial, personnel, planning information.
 - ii. **Use and Disclosure.** Either party to this Contract may disclose Confidential Information (the “Discloser”) to the other party (the “Recipient”). Except as expressly permitted by this Contract or the HIPAA Business Associate Attachment attached to this Contract as Exhibit B to this Contract (the “HIPAA BAA”), and subject to applicable law, the Recipient shall:
 - A. not disclose Discloser’s Confidential Information except: (1) to the employees or contractors of the Recipient to the extent that they need to

know that Confidential Information for the purpose of performing the Recipient's obligations under this Contract, and who are bound by confidentiality terms with respect to that Confidential Information no less restrictive than those contained in this subsection (b), or (2) as required to be disclosed by law, to the extent required to comply with that legal obligation, provided that the Recipient will promptly notify the Discloser of such obligation;

- B. use the Discloser's Confidential Information only for the purpose of performing Recipient's obligations under this Contract;
 - C. use all reasonable care in handling and securing the Discloser's Confidential Information, and employ all reasonable data security measures that the Recipient ordinarily uses with respect to its own proprietary information of similar nature and importance; and
 - D. use and disclose Confidential Information that contains Protected Health Information as defined and in accordance with the terms of HIPAA BAA attached to this Contract.
- iii. **Public Records Act.** If District receives a request under the Public Records Act for disclosure of information that Contractor has specifically marked "Confidential" or "Proprietary," District will provide Contractor with written notice of such request (the "Notice of Request for Disclosure"). If Contractor has a reasonable basis for contending that the disclosure of such information is not required by the Public Records Act, Contractor shall, within eight (8) days following the date of mailing of the Notice of Request for Disclosure, notify District in writing of its objection to disclosure of the information and the basis therefor. If District determines that the information requested is not exempt from disclosure and intends to release the requested information in compliance with the Public Records Act, then it will provide written notice of such intent to Contractor ("Notice of Disclosure"), and the Contractor shall then have ten (10) days from the date of the Notice of Disclosure to seek relief from disclosure required under the Public Records Act in court. If District receives no written objection from Contractor within ten (10) days of the date of the Notice of Disclosure, District may disclose the information referenced in the Notice of Disclosure. Contractor is responsible for any attorneys' fees or costs District incurs as a result of Contractor's objection to disclosure.
- c. **Return of Confidential Information.** Upon the expiration or termination of this Contract, and subject to applicable law, the Recipient of Confidential Information will return it to the Discloser, and destroy or erase all of the Discloser's Confidential Information in tangible form, and the Recipient will promptly certify in writing to the Discloser that it has done so.
- d. **HIPAA Business Associate Exhibit/Changes In HIPAA.** Each party agrees to its obligations set forth in the HIPAA BAA attached to this Contract. The HIPAA BAA constitutes the complete and exclusive agreement of the parties with respect to Contractor's obligations regarding Protected Health Information, superseding and replacing any and all prior communications, representations, and understandings (both written and oral) regarding such subject matter; provided, however, that in the event of any additions, modifications or amendments to any

statute or regulation including HIPAA, the HITECH Act, or future federal regulations adopted pursuant thereto, then Contractor and District shall promptly enter into negotiations to revise the HIPAA BAA to reflect such changes.

- e. **Right to Injunctive Relief.** The parties expressly acknowledge and agree that the breach, or threatened breach, by a party of any provision of this Section 16 may cause the other party to be irreparably harmed, and that the harmed party may not have an adequate remedy at law. Therefore, the parties agree that upon a perceived breach of this Section 16, or a threatened breach, the harmed party may seek injunctive relief to prevent the other party from commencing or continuing any action constituting such breach. Nothing in this paragraph will be deemed to limit or abridge any other remedy available to either party at law or in equity.

7. Section 18 (**Indemnification**) of the General Conditions is hereby deleted in its entirety and replaced with the following:

- “18. **Indemnification.** Contractor will defend, indemnify, save, and hold harmless County and its officers and employees from any and all claims, demands, losses, costs, expenses, and liabilities for any damages, fines, sickness, death, or injury to person(s) or property, including any and all administrative fines, penalties or costs imposed as a result of an administrative or quasi-judicial proceeding, arising directly from or connected with the services provided hereunder that are caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by County, Contractor will defend any such suits at its sole cost and expense. If County elects to provide its own defense, Contractor will reimburse County for any expenditures, including reasonable attorney’s fees and costs. Contractor’s obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor is not required to indemnify County for the proportion of liability a court determines is attributable to the sole negligence or willful misconduct of the County, its officers and employees. This provision will survive the expiration or termination of this Contract.”

8. Section 25 (**Copyrights, Rights in Data, and Works Made for Hire**) of the General Conditions is hereby modified by deleting the word “Agreement” from the third sentence therein and replacing it with “Contract”.

9. A new Section 30 (**Limitation of Liability**) is added to the General Conditions immediately following Section 29 (No Implied Waiver) as follows:

- “30. **Limitation of Liability.** IN NO EVENT WILL A PARTY TO THIS CONTRACT BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING FROM THE PERFORMANCE OF THIS CONTRACT, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE.”

10. A new Section 31 (**Cyberinsurance**) is added to the General Conditions immediately following Section 30 (Limitation of Liability) as follows:

“31. **Cyberinsurance.** Contractor shall provide commercial cyberinsurance, in form and substance satisfactory to District, including without limitation, coverage for loss of data, breaches of personally identifiable information, call center services, credit monitoring remedies, and identity restoration services. Contractor shall cause such insurance to be endorsed to include District and its officers and employees as additional insureds. Such policies must constitute primary insurance as to District and its officers, agents, and employees, so that other insurance policies held by them or their self-insurance programs will not be required to contribute to any loss covered under Contractor’s insurance policy or policies. Contractor shall provide District with a copy of the endorsement making the District an additional insured on its commercial cyberinsurance policies as required herein no later than the effective date of this Contract.”

11. A new Section 32 (Infringement Indemnification) is added to the General Conditions immediately following Section 31 (Cyberinsurance) as follows:

“32. **Infringement Indemnification.** If a third party claims that Contractor’s billing system infringes any United States patent, copyright, trade secret or similar intellectual property right, Contractor shall defend District against such claim at Contractor’s expense and pay all damages that a court finally awards against District. If such a claim is made or appears possible, Contractor shall, within sixty (60) days of such claim, and at its option: (a) secure for District the right to continue to use the infringing portion of the billing system; or (b) modify or replace the billing system so that it is non-infringing but retains equivalent functionality. If neither of the foregoing options is reasonably available, Contractor shall require District to stop using the infringing module(s) of the billing system, and Contractor shall refund District an amount equal to the fees paid for use of the billing system that were unrealized by District. The foregoing notwithstanding, Contractor shall have no obligation to indemnify District for any infringement claim based on District’s modification or misuse of the billing system, if the claim would have been avoided had the billing system not been modified or misused.”

12. Section 2(n) (**Associate’s Insurance**) of the HIPAA Business Associate Attachment to the Contract is hereby amended by deleting the second sentence thereof and replacing it with the following:

“Associate will obtain, keep in force and maintain insurance with appropriate limits, as determined by County, at its sole discretion, that will cover losses that may arise from any breach of this Attachment, breach of security, or any unauthorized use or disclosure of Protected Information.”

13. Section 2(o) (**Notification of Breach**) of the HIPAA Business Associate Attachment to the Contract is hereby amended by deleting the first sentence thereof and replacing it with the following:

“During the term of the Agreement, Associate shall notify County within five (5) calendar days of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations.”

14. Section 2(p) (**Breach Pattern or Practice by District**) of the HIPAA Business Associate Attachment to the Contract is hereby amended by deleting the third sentence thereof and replacing it with the following:

“Associate shall provide written notice to County of any pattern of activity or practice of County that Associate believes constitutes a material breach or violation of the County’s obligations under the Agreement or Attachment within ten (10) days of discovery and shall meet with County to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.”

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1. **Compliance with Law.** Contractor is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Contract, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment, including nondiscrimination.
2. **Inspection.** Contractor's performance, place of business, and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.
3. **Records.** Contractor must keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the County.
 - a. **Retention of Records.** Contractor must retain all documents pertaining to this Contract for five years from the date of submission of Contractor's final payment demand or final Cost Report; for any further period that is required by law; and until all federal/state audits are complete and exceptions resolved for this Contract's funding period. Upon request, Contractor must make these records available to authorized representatives of the County, the State of California, and the United States Government.
 - b. **Access to Books and Records of Contractor, Subcontractor.** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, Contractor must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Contract, make available to the County, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Contract and books, documents, and records of Contractor necessary to certify the nature and extent of all costs and charges hereunder.

Further, if Contractor carries out any of the duties of this Contract through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to the County, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Contract and is binding on the heirs, successors, assigns and representatives of Contractor.

4. **Reporting Requirements.** Pursuant to Government Code Section 7550, Contractor must include in all documents and written reports completed and submitted to County in accordance with this Contract, a separate section listing the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of each such document or written report. This section applies only if the Payment Limit of this Contract exceeds \$5,000.

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5. Termination and Cancellation.

- a. **Written Notice.** This Contract may be terminated by either party, in its sole discretion, upon thirty-day advance written notice thereof to the other, and may be cancelled immediately by written mutual consent.
- b. **Failure to Perform.** County, upon written notice to Contractor, may immediately terminate this Contract should Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, County may proceed with the work in any reasonable manner it chooses. The cost to County of completing Contractor's performance will be deducted from any sum due Contractor under this Contract, without prejudice to County's rights to recover damages.
- c. **Cessation of Funding.** Notwithstanding any contrary language in Paragraphs 5 and 11, in the event that federal, state, or other non-County funding for this Contract ceases, this Contract is terminated without notice.

6. **Entire Agreement.** This Contract contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Contract will be deemed to exist or to bind any of the parties hereto.

7. **Further Specifications for Operating Procedures.** Detailed specifications of operating procedures and budgets required by this Contract, including but not limited to, monitoring, evaluating, auditing, billing, or regulatory changes, may be clarified in a written letter signed by Contractor and the department head, or designee, of the county department on whose behalf this Contract is made. No written clarification prepared pursuant to this Section will operate as an amendment to, or be considered to be a part of, this Contract.

8. Modifications and Amendments.

- a. **General Amendments.** In the event that the total Payment Limit of this Contract is less than \$100,000 and this Contract was executed by the County's Purchasing Agent, this Contract may be modified or amended by a written document executed by Contractor and the County's Purchasing Agent or the Contra Costa County Board of Supervisors, subject to any required state or federal approval. In the event that the total Payment Limit of this Contract exceeds \$100,000 or this Contract was initially approved by the Board of Supervisors, this Contract may be modified or amended only by a written document executed by Contractor and the Contra Costa County Board of Supervisors or, after Board approval, by its designee, subject to any required state or federal approval.
 - b. **Minor Amendments.** The Payment Provisions and the Service Plan may be amended by a written administrative amendment executed by Contractor and the County Administrator (or designee), subject to any required state or federal approval, provided that such administrative amendment may not increase the Payment Limit of this Contract or reduce the services Contractor is obligated to provide pursuant to this Contract.
9. **Disputes.** Disagreements between County and Contractor concerning the meaning, requirements, or performance of this Contract shall be subject to final written determination by the head of the county department for which this Contract is made, or his designee, or in accordance with the applicable procedures (if any) required by the state or federal government.

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10. **Choice of Law and Personal Jurisdiction.**

- a. This Contract is made in Contra Costa County and is governed by, and must be construed in accordance with, the laws of the State of California.
- b. Any action relating to this Contract must be instituted and prosecuted in the courts of Contra Costa County, State of California.

11. **Conformance with Federal and State Regulations and Laws.** Should federal or state regulations or laws touching upon the subject of this Contract be adopted or revised during the term hereof, this Contract will be deemed amended to assure conformance with such federal or state requirements.

12. **No Waiver by County.** Subject to Paragraph 9. (Disputes) of these General Conditions, inspections or approvals, or statements by any officer, agent or employee of County indicating Contractor's performance or any part thereof complies with the requirements of this Contract, or acceptance of the whole or any part of said performance, or payments therefor, or any combination of these acts, do not relieve Contractor's obligation to fulfill this Contract as prescribed; nor is the County thereby prevented from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.

13. **Subcontract and Assignment.** This Contract binds the heirs, successors, assigns and representatives of Contractor. Prior written consent of the County Administrator or his designee, subject to any required state or federal approval, is required before the Contractor may enter into subcontracts for any work contemplated under this Contract, or before the Contractor may assign this Contract or monies due or to become due, by operation of law or otherwise.

14. **Independent Contractor Status.** The parties intend that Contractor, in performing the services specified herein, is acting as an independent contractor and that Contractor will control the work and the manner in which it is performed. This Contract is not to be construed to create the relationship between the parties of agent, servant, employee, partnership, joint venture, or association. Contractor is not a County employee. This Contract does not give Contractor any right to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits County provides to its employees. In the event that County exercises its right to terminate this Contract, Contractor expressly agrees that it will have no recourse or right of appeal under any rules, regulations, ordinances, or laws applicable to employees.

15. **Conflicts of Interest.** Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Contract, no person having any such interests will be employed by Contractor. If requested to do so by County, Contractor will complete a "Statement of Economic Interest" form and file it with County and will require any other person doing work under this Contract to complete a "Statement of Economic Interest" form and file it with County. Contractor covenants that Contractor, its employees and officials, are not now employed by County and have not been so employed by County within twelve months immediately preceding this Contract; or, if so employed, did not then and do not now occupy a position that would create a conflict of interest under Government

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Code section 1090. In addition to any indemnity provided by Contractor in this Contract, Contractor will indemnify, defend, and hold the County harmless from any and all claims, investigations, liabilities, or damages resulting from or related to any and all alleged conflicts of interest. Contractor warrants that it has not provided, attempted to provide, or offered to provide any money, gift, gratuity, thing of value, or compensation of any kind to obtain this Contract.

16. **Confidentiality**. To the extent allowed under the California Public Records Act, Contractor agrees to comply and to require its officers, partners, associates, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that no person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.
17. **Nondiscriminatory Services**. Contractor agrees that all goods and services under this Contract will be available to all qualified persons regardless of age, gender, race, religion, color, national origin, ethnic background, disability, or sexual orientation, and that none will be used, in whole or in part, for religious worship.
18. **Indemnification**. Contractor will defend, indemnify, save, and hold harmless County and its officers and employees from any and all claims, demands, losses, costs, expenses, and liabilities for any damages, fines, sickness, death, or injury to person(s) or property, including any and all administrative fines, penalties or costs imposed as a result of an administrative or quasi-judicial proceeding, arising directly or indirectly from or connected with the services provided hereunder that are caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, subcontractors, or any persons under its direction or control. If requested by County, Contractor will defend any such suits at its sole cost and expense. If County elects to provide its own defense, Contractor will reimburse County for any expenditures, including reasonable attorney's fees and costs. Contractor's obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor is not required to indemnify County for the proportion of liability a court determines is attributable to the sole negligence or willful misconduct of the County, its officers and employees. This provision will survive the expiration or termination of this Contract.
19. **Insurance**. During the entire term of this Contract and any extension or modification thereof, Contractor shall keep in effect insurance policies meeting the following insurance requirements unless otherwise expressed in the Special Conditions:
 - a. **Commercial General Liability Insurance**. For all contracts where the total payment limit of the contract is \$500,000 or less, Contractor will provide commercial general liability insurance, including coverage for business losses and for owned and non-owned automobiles, with a minimum combined single limit coverage of \$500,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance must be endorsed to include County and its officers and employees as additional insureds as to all services performed by Contractor under this Contract. Said policies must constitute primary insurance as to

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County, the state and federal governments, and their officers, agents, and employees, so that other insurance policies held by them or their self-insurance program(s) will not be required to contribute to any loss covered under Contractor's insurance policy or policies. Contractor must provide County with a copy of the endorsement making the County an additional insured on all commercial general liability policies as required herein no later than the effective date of this Contract. For all contracts where the total payment limit is greater than \$500,000, the aforementioned insurance coverage to be provided by Contractor must have a minimum combined single limit coverage of \$1,000,000.

- b. **Workers' Compensation.** Contractor must provide workers' compensation insurance coverage for its employees.
 - c. **Certificate of Insurance.** The Contractor must provide County with (a) certificate(s) of insurance evidencing liability and worker's compensation insurance as required herein no later than the effective date of this Contract. If Contractor should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the coverage afforded through an endorsement to the policy at any time during the term of this Contract, then Contractor must provide (a) current certificate(s) of insurance.
 - d. **Additional Insurance Provisions.** No later than five days after Contractor's receipt of: (i) a notice of cancellation, a notice of an intention to cancel, or a notice of a lapse in any of Contractor's insurance coverage required by this Contract; or (ii) a notice of a material change to Contractor's insurance coverage required by this Contract, Contractor will provide Department a copy of such notice of cancellation, notice of intention to cancel, notice of lapse of coverage, or notice of material change. Contractor's failure to provide Department the notice as required by the preceding sentence is a default under this Contract
20. **Notices.** All notices provided for by this Contract must be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to County must be addressed to the head of the county department for which this Contract is made. Notices to Contractor must be addressed to the Contractor's address designated herein. The effective date of notice is the date of deposit in the mails or of other delivery, except that the effective date of notice to County is the date of receipt by the head of the county department for which this Contract is made.
21. **Primacy of General Conditions.** In the event of a conflict between the General Conditions and the Special Conditions, the General Conditions govern unless the Special Conditions or Service Plan expressly provide otherwise.
22. **Nonrenewal.** Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased by County under a new contract following expiration or termination of this Contract, and Contractor waives all rights or claims to notice or hearing respecting any failure to continue purchasing all or any such services from Contractor.
23. **Possessory Interest.** If this Contract results in Contractor having possession of, claim or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this Contract results in the placement of taxable improvements on tax exempt land (Revenue & Taxation Code Section 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest. Contractor agrees that this provision complies with the notice

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requirements of Revenue & Taxation Code Section 107.6, and waives all rights to further notice or to damages under that or any comparable statute.

24. **No Third-Party Beneficiaries.** Nothing in this Contract may be construed to create, and the parties do not intend to create, any rights in third parties.
25. **Copyrights, Rights in Data, and Works Made for Hire.** Contractor will not publish or transfer any materials produced or resulting from activities supported by this Contract without the express written consent of the County Administrator. All reports, original drawings, graphics, plans, studies and other data and documents, in whatever form or format, assembled or prepared by Contractor or Contractor's subcontractors, consultants, and other agents in connection with this Contract are "works made for hire" (as defined in the Copyright Act, 17 U.S.C. Section 101 et seq., as amended) for County, and Contractor unconditionally and irrevocably transfers and assigns to Agency all right, title, and interest, including all copyrights and other intellectual property rights, in or to the works made for hire. Unless required by law, Contractor shall not publish, transfer, discuss, or disclose any of the above-described works made for hire or any information gathered, discovered, or generated in any way through this Agreement, without County's prior express written consent. If any of the works made for hire is subject to copyright protection, County reserves the right to copyright such works and Contractor agrees not to copyright such works. If any works made for hire are copyrighted, County reserves a royalty-free, irrevocable license to reproduce, publish, and use the works made for hire, in whole or in part, without restriction or limitation, and to authorize others to do so.
26. **Endorsements.** In its capacity as a contractor with Contra Costa County, Contractor will not publicly endorse or oppose the use of any particular brand name or commercial product without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not publicly attribute qualities or lack of qualities to a particular brand name or commercial product in the absence of a well-established and widely accepted scientific basis for such claims or without the prior written approval of the Board of Supervisors. In its County-contractor capacity, Contractor will not participate or appear in any commercially produced advertisements designed to promote a particular brand name or commercial product, even if Contractor is not publicly endorsing a product, as long as the Contractor's presence in the advertisement can reasonably be interpreted as an endorsement of the product by or on behalf of Contra Costa County. Notwithstanding the foregoing, Contractor may express its views on products to other contractors, the Board of Supervisors, County officers, or others who may be authorized by the Board of Supervisors or by law to receive such views.
27. **Required Audit.** (A) If Contractor is funded by \$500,000 or more in federal grant funds in any fiscal year from any source, Contractor must provide to County, at Contractor's expense, an audit conforming to the requirements set forth in the most current version of Office of Management and Budget Circular A-133. (B) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, but such grant imposes specific audit requirements, Contractor must provide County with an audit conforming to those requirements. (C) If Contractor is funded by less than \$500,000 in federal grant funds in any fiscal year from any source, Contractor is exempt from federal audit requirements for that year; however, Contractor's records must be available for and an audit may be required by, appropriate officials of the federal awarding agency, the General Accounting Office (GAO), the pass-through entity and/or the County. If any such audit is required, Contractor must provide County with such audit. With respect to the audits specified in (A), (B) and (C) above, Contractor is solely responsible for arranging for the conduct of the audit, and for its cost. County may withhold the estimated cost of the audit or 10 percent of the

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contract amount, whichever is greater, or the final payment, from Contractor until County receives the audit from Contractor.

28. **Authorization**. Contractor, or the representative(s) signing this Contract on behalf of Contractor, represents and warrants that it has full power and authority to enter into this Contract and to perform the obligations set forth herein.
29. **No Implied Waiver**. The waiver by County of any breach of any term or provision of this Contract will not be deemed to be a waiver of such term or provision or of any subsequent breach of the same or any other term or provision contained herein.

HIPAA BUSINESS ASSOCIATE ATTACHMENT

To the extent, and as long as required by the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act, this HIPAA Business Associate Attachment ("Attachment") supplements and is made a part of the Contract identified as Number _____ (hereinafter referred to as "Agreement") by and between a Covered Entity (Contra Costa County for its Health Services Department, hereinafter referred to as "County") and Business Associate (the Contractor identified in the Agreement, hereinafter referred to as "Associate").

- A. County wishes to disclose certain information to Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"), defined below.
- B. County and Associate intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to the Agreement as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), and the regulations promulgated thereunder (collectively, the "HIPAA Regulations"), and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule, defined below, require County to enter into a contract containing specific requirements with Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations and contained in this Attachment.

In consideration of the mutual promises below and the exchange of information pursuant to this Attachment, the parties agree as follows:

1. **Definitions.** As used in this Attachment, the following terms have the following meanings:
 - a. **Breach** has the meaning given to such term under the HITECH Act set forth at 42 U.S.C. Section 17921.
 - b. **Business Associate** ("Associate") means an individual or entity that provides services, arranges, performs or assists in the performance of activities on behalf of the County and who uses or discloses PHI, pursuant to the HIPAA Regulations including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
 - c. **Covered Entity** ("County") means Contra Costa County for its Health Services Department.
 - d. **Data Aggregation** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
 - e. **Designated Record Set** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
 - f. **Electronic Media** is:
 - (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or
 - (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media.

- g. **Electronic Protected Health Information (ePHI)** is any Protected Health Information that is stored in or transmitted by electronic media.
- h. **Electronic Health Record** has the meaning given to such term under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- i. **Health Care Operations** has the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501, as in effect or as amended.
- j. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information set forth in 45 C.F.R. Parts 160 and 164, as in effect or as amended.
- k. **Protected Health Information** ("PHI") means any information in any form or medium, including oral, paper, or electronic: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes electronic Protected Health Information (45 C.F.R. Sections 160.103, 164.501).
- l. **Protected Information** means PHI provided by County to Associate or created or received by Associate on behalf of the County in connection with the Agreement.
- m. **Required by Law** has the same meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.103.
- n. **Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- o. **Security Rule** means the standards for protecting the security of electronic Protected Health Information in 45 C.F.R. Parts 160 and 164, as in effect or as amended.
- p. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to said Act including, but not limited to, 42 U.S.C. Section 17932(h).

Terms used, but not defined, in this Attachment will have the same meanings as those terms are given in the HIPAA Privacy Rule.

2. **Obligations of Associate.**

- a. **Permitted Uses.** Associate shall not use Protected Information except for the purpose of performing Associate's obligations under the Agreement and as permitted under the Agreement and this Attachment, or as Required by Law. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act.
- b. **Permitted Disclosures.** Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by County. However, Associate may disclose Protected Information (i) in a manner permitted pursuant to the Agreement and this Attachment, (ii) for the proper management and administration of Associate, (iii) as Required by Law, or (iv) for Data Aggregation purposes for the Health Care Operations of County. To the extent that Associate discloses Protected Information to a third party, Associate must obtain, prior to making any such disclosure (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Attachment and only disclosed as Required By Law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party

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to immediately notify Associate or any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach.

- c. **Prohibited Uses and Disclosures.** Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Associate shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out-of-pocket in full for the health care item or services to which the PHI solely relates (42 U.S.C. Section 17935(a)). Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of County and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by County to Associate for services provided pursuant to the Agreement.
- d. **Appropriate Safeguards.** Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Protected Information that it creates, receives, maintains, or transmits on behalf of County as required by the Agreement or this Attachment and in accordance with 42 C.F.R. Sections 164.308, 164.310, and 164.312. Associate shall comply with the policies and procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316.
- e. **Reporting of Improper Use or Disclosure.** Associate will notify County in writing within twenty-four (24) hours of its discovery of any security incident or any other use or disclosure of Protected Information not permitted by the Agreement or this Attachment of which Associate or its officers, employees or agents become aware, without unreasonable delay, and in no case later than ten (10) calendar days after discovery. Associate will take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- f. **Associate's Agents.** Associate agrees to ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Associate with respect to such Protected Information and implement the safeguards required by paragraph c, above, with respect to ePHI. Associate agrees to implement and maintain sanctions against agents and subcontractors who violate such restrictions and will mitigate the effects of any such violation.
- g. **Access to Protected Information.** Associate agrees to make Protected Information maintained by Associate or its agents or subcontractors in Designated Record Sets available to County for inspection and copying within ten (10) days of request by County to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.524. If Associate maintains an Electronic Health Records, Associate shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of Protected Information.** Within ten (10) days of receipt of a request from County for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors will make such Protected Information available to County for amendment and incorporate any such amendment to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Associate or its agents or subcontractors, Associate must notify County within five (5) calendar days of the request, without unreasonable delay. County, and not Associate, will determine if and when to deny a request for an amendment of Protected Information maintained by Associate.
- i. **Availability and Accounting of Information.** Within ten (10) calendar days of notice by County of a request for an accounting of disclosure of Protected Information, Associate and its agents or subcontractors shall make available to County the information required to provide an accounting of disclosures to enable County to fulfill its obligations under the Privacy Rule set forth at 45 C.F.R. Section 164.528, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(c), as determined by County. As set

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forth in, and as limited by, 45 C. F. R. Section 164.528, Associate need not provide an accounting to County of disclosures: (i) to carry out treatment, payment or health care operations, as set forth in 45 C.F.R. Section 164.502; (ii) to individuals of PHI about them as set forth in 45 C. F. R. 164.502; (iii) to persons involved in the individual's care or other notification purposes as set forth in 45 C. F. R. Section 164.510; (iv) for national security or intelligence purposes as set forth in 45 C.F.R. Section 164.512(k)(2); or (v) to correctional institutions or law enforcement officials as set forth in 45 C.F.R. Section 164.512(k)(5). Associate agrees to implement a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Associate maintains an electronic health record and is subject to this requirement. At a minimum, such information must include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and , if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Associate or its agents or subcontractors, Associate will send the request, in writing, to County within five (5) calendar days of receipt. It will then be County's responsibility to prepare and deliver or otherwise respond to the accounting request. Associate will not disclose any Protected Information except as set forth in Section 2.b. of this Attachment.

- j. **Governmental Access to Records.** Associate agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Associate's compliance with the HIPAA Privacy Rule. Associate agrees to provide County with copies of any Protected Information that Associate provides to the Secretary of the U.S. Department of Health and Human Services at the same time Associate provides such Protected Information to the Secretary of the U.S. Department of Health and Human Services.
- k. **Minimum Necessary.** Associate and its agents and subcontractors will only request, use, and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. **Data Ownership.** Associate acknowledges that Associate has no ownership rights with respect to Protected Information.
- m. **Retention of Protected Information.** Except as provided in Section 3.c. of this Attachment, Associate and its subcontractors and agents must retain all Protected Information throughout the term of the Agreement and must continue to maintain the information required by Section 2.h. of this Attachment for a period of six (6) years after termination or expiration of the Agreement. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Associate maintains an electronic health record and is subject to this requirement.
- n. **Associate's Insurance.** In addition to any other insurance requirements specified in the Agreement, Associate will, at its sole cost and expense, insure its activities in connection with this Attachment. Associate will obtain, keep in force and maintain insurance or equivalent program(s) of self-insurance with appropriate limits, as determined by County, at its sole discretion, that will cover losses that may arise from any breach of this Attachment, breach of security, or any unauthorized use or disclosure of Protected

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Information. It is expressly understood and agreed that the insurance required herein does not in any way limit the liability of Associate with respect to its activities in connection with this Attachment.

- o. **Notification of Breach.** During the term of the Agreement, Associate shall notify County within twenty-four (24) hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall take (i) prompt corrective action to cure any such deficiencies; and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. In the event the breach was caused, directly or indirectly, by negligent misconduct on the part of Associate, Associate's agents or subcontractors, Associate will be solely responsible for all damages resulting from the breach.
- p. **Breach Pattern or Practice by County.** Pursuant to 42 U.S.C. Section 17934(b), if the Associate knows of a pattern of activity or practice of County that constitutes a material breach of violation of the County's obligations under the Agreement or Attachment, the Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Associate must terminate the Agreement, if feasible, or if termination is not feasible, report the problem to the Secretary of the U.S. Department of Health and Human Services. Associate shall provide written notice to County of any pattern of activity or practice of County that Associate believes constitutes a material breach or violation of the County's obligations under the Agreement or Attachment within five (5) days of discovery and shall meet with County to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- q. **Certification and Enforcement.** At any time during the term of the Agreement, and without advance notice, County and its authorized agents or contractors may examine Associate's facilities, systems, procedures and records as may be necessary to determine the extent to which Associate's security safeguards comply with HIPAA, HITECH Act, other HIPAA Regulations, and this Attachment.

3. **Termination.**

- a. **Material Breach.** A breach by Associate of any material provision of this Attachment, as determined by County, constitutes grounds for termination of the Agreement pursuant to General Conditions Paragraph 5. (Termination and Cancellation), Subsection b. (Failure to Perform), of the Agreement.
- b. **Reasonable Steps to Cure Breach.** If County knows of an activity or practice of Associate that constitutes a material breach or violation of Associate's obligations under the provisions of this Attachment, County may, in its sole discretion, terminate the Agreement pursuant to Section 3.a., above, or provide Associate an opportunity to cure such breach or end such violation. If Associate's efforts to cure such breach or end such violation are unsuccessful, County will either (i) terminate the Agreement, if feasible or (ii) if termination of the Agreement is not feasible, County will report Associate's breach or violation to the Secretary of the U.S. Department of Health and Human Services.
- c. **Effect of Termination.** Upon termination of the Agreement for any reason, Associate must return or destroy, at the exclusive option of County, all Protected Information that Associate, its agents and subcontractors, still maintain in any form, and Associate may not retain any copies of such Protected Information. If return or destruction is not feasible, Associate may retain the Protected Information and must continue to extend the protections of Sections 2.a., 2.b., 2.c., and 2.d. of this Attachment to such information and limit further use of such Protected Information to those purposes that make the return or destruction of such Protected Information infeasible. If Associate destroys the Protected Information, Associate must verify in writing to County that such Protected Information has been destroyed.

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4. **Disclaimer.** County makes no warranty or representation that compliance by Associate with this Attachment, HIPAA, HITECH Act, or the HIPAA Regulations, will be adequate or satisfactory for Associate's own purposes. Associate is solely responsible for all decisions made by Associate regarding the safeguarding of PHI.
5. **Changes to HIPAA and its regulations.**
- a. **Compliance with Law.** The parties acknowledge that state and federal laws relating to electronic data security and privacy are evolving and that changes to this Attachment may be required to ensure compliance with such developments. The parties agree to take such action(s) as may be necessary to implement the standards and requirements of HIPAA, HITECH Act, the HIPAA Regulations, and other applicable state and federal laws relating to the security and/or confidentiality of PHI.
 - b. **Negotiations.** In the event that a state or federal law, statute, or regulation materially affects the Agreement or this Attachment, the parties agree to negotiate immediately and in good faith any necessary or appropriate revisions to the Agreement or this Attachment. If the parties are unable to reach an agreement concerning such revisions within the earlier of thirty (30) calendar days after the date of notice seeking negotiations or the effective date of a change in law or regulations, or if the change is effective immediately, then County may, in its sole discretion, immediately terminate the Agreement upon written notice to Associate.
6. **Miscellaneous Provisions.**
- a. **Assistance in Litigation or Administrative Proceedings.** Associate will make itself, and any subcontractors, employees or agent assisting Associate in the performance of its obligations under the Agreement, available to County, at no cost to County, to testify as witnesses or otherwise, in the event of litigation or administrative proceedings against County, its officers or employees, based upon a claimed violation of HIPAA, HITECH Act, the HIPAA Regulations, or other laws relating to security and privacy and arising out of the Agreement or this Attachment.
 - b. **No Third Party Beneficiaries.** Nothing express or implied in this Attachment is intended to confer, nor shall anything herein confer, upon any person other than County, Associate, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
 - c. **Interpretation.** The provisions of this Attachment prevail over any provisions in the Agreement that may conflict, or appear to be inconsistent with, any provision of this Attachment. This Attachment and the Agreement will be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The parties agree that any ambiguity in this Attachment will be resolved in favor of a meaning that complies, and is consistent, with HIPAA and the Privacy Rule.
 - d. **Notice to Secretary.** Associate understands and agrees that if County knows of a pattern of activity or practice of Associate that constitutes a material breach or violation of Associate's obligations under this Attachment and the breach or violation continues and termination of the Agreement is not feasible, County will report the problem to the Secretary of the U.S. Department of Health and Human Services, as required by HIPAA, HITECH Act, and the HIPAA regulations.
 - e. **Survival.** The obligations of Associate pursuant to Sections 2.1. and 3.c. of this Attachment survive the termination or expiration of the Agreement.



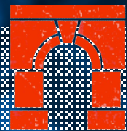
CITYGATE ASSOCIATES, LLC
PUBLIC SAFETY SERVICES

Independent Economic Review of the Ambulance Transport RFP Result

Board of Supervisors Briefing

County of Contra Costa

Presented on July 21, 2015



CITYGATE ASSOCIATES, LLC



What This Review Contains

- The background on current ambulance economics
- The structure of the Alliance business partnership
- Operational measures, since they drive costs (ambulance staffing)
- The reasonableness of the Alliance revenue estimations
- Citygate's Opinions, Fiscal Risk Control Strategies, and Implementation Recommendations, should the Alliance approach be approved by the Board of Supervisors



Citygate's Capstone Opinions

- It is undisputed that 9-1-1 ambulance system revenues are falling nationally to the point where some systems will no longer be able to operate without a public subsidy.
- If there are not enough health care system payments to cover the costs of ambulance care, the taxpayers in every community are the fallback resource to fund 9-1-1 ambulance services.



Risk Shift to the Fire District Taxpayer

- The Alliance proposal shifts the ultimate economic responsibility from the ambulance contractor (which will be guaranteed a fixed payment) to the taxpayers of the Contra Costa County Fire Protection District (CCCFPD).
- Even if this is an acceptable policy alternative, the CCCFPD is smaller in service area than the area covered by the ambulance contract.
- Consequently, the taxpayers in some non-CCCFPD service areas would have less exposure to ambulance fiscal risk in the case of system default.

Alliance Proposal Economics

- Costs and estimated revenues are conservative and consistent with the system demand for ambulances.
- As such, the Alliance Plan A offers similar services to the current system in a positively balanced economic model.
- To the Alliance's credit, its proposed Plans A and B are not reliant on using new revenue sources, such as Ground Emergency Medical Transport (GEMT) revenues on some types of Medi-Cal transports.

Alliance Proposal Economics (cont.)

- The Alliance's approach in projecting Average Patient Charges (APC) and expected net collections by payer type are both conservative and prudent.
- While this approach is reasonable, we believe that continued deterioration of net collections due to changes in payer mix remains one of the largest risks going forward.
- To shield against this, Citygate has made several contractual implementation recommendations to separate and ensure, to the degree possible, the economic solvency and sustainability of the system.



Expense to Revenue Comparisons

Economic Assumptions

- The Alliance projected declines in net collections from the recent past of 27.1% to 24.6% and a flat incident demand.

	PLAN A			PLAN B		
Description	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
Revenue	\$39,184,619	\$40,707,971	\$42,293,630	\$39,184,619	\$40,707,971	\$42,293,630
Expenses	\$37,211,143	\$38,327,477	\$39,477,301	\$36,741,220	\$37,843,457	\$38,978,760
Gain	\$1,973,476	\$2,380,494	\$2,816,329	\$2,443,399	\$2,864,514	\$3,314,870



Deployment Plan A vs. B

- The only major cost difference between the two plans is eight field employees and a small reduction in operating costs.
- There are no overhead personnel expense reductions.
- There is an addition in Plan B for a required annual payment of \$750,000 to the County EMS Agency for EMS system enhancement uses.

Plan B Difference	Amount
Plan B Cost Reductions	~ (\$1,220,000)
Plan B EMS Agency Fee	~ \$750,000
Plan B Net Reductions	~ (\$470,000)

The Fiscal Health of AMR

- The AMR profit component is segregated as a separate line item in the Alliance Expense Budget, providing a level of transparency.
- AMR allocated a reasonable 10% of total expenses to cover non-field Depreciation and Amortization, Interest, Taxes, thus leaving a reasonable level of Net Profit for AMR in the range of 3 to 6%.
- We note that AMR national liquidity ratios stayed very consistent between 2013 and 2014, and the profitability ratios improved from 2013 to 2014.



The Fiscal Health the CCCFPD

- Given the CCCFPD's current reserves and inclusion in the overall County tax distribution system, the CCCFPD has the funds to begin monthly payments to AMR for several months and fund other start-up costs, until new ambulance billing revenue catches up to expenditures.
- At that point, the CCCFPD must first repay its cash advances and then build the recommended ambulance enterprise reserves before it can true up revenue-to-ambulance rates or system enhancements.



Risk Control Strategies



Key Risk Control Strategies

1. Establish Alliance contracts as an Enterprise Operation, similar to other local governmental fee-for-service programs, such as water and sewer operations.
2. Establish a significant reserve fund of 6 months of revenues plus a capital equipment replacement reserve; also establish best practice financial policies.
3. Eventually calibrate transport fees to true costs through audits of expenses and adherence to stipulated contract provisions.



Key Risk Control Strategies (cont.)

4. When revenues exceed needed reserves, consider lowering transport fees, not cross-subsidizing non-Alliance CCCFPD or County EMS Agency operations.
5. Establish a County Board of Supervisors and CCCFPD “Compassionate” set of billing policies for CCCFPD-managed first responder and ambulance revenue collection to include a write-down and write-off policy.



Implementation Recommendations

Recommendations Should the Alliance Proposal Move Forward

1. Identify the fiscal relationship between the parties, their separate fiscal exposure for each other's decisions (such as staffing levels), and start-up capital costs.
2. Board policy should require that ambulance loss risk only be transferred to the taxpayer for unforeseen, catastrophic losses, as would be the case in the current system if the ambulance contractor were to fail.
3. Fine the contractor only for material breach, not small, per-minute fines.



Recommendations Should the Alliance Proposal Move Forward (cont.)

4. Rather than fine for small response time misses, require that the deployment plan account for equitable response time coverage for similar land use and population densities. Then if the Alliance delivers the required response time performance, only gross neglect to deploy or respond should trigger a fine and/or lead to default.
5. Define in the contract between the County EMS Agency and the CCCFPD a clear delineation of roles, responsibilities, and authorities as it pertains to operational authority and regulatory oversight.



Recommendations Should the Alliance Proposal Move Forward (cont.)

6. Require the CCCFPD to report to the Board of Supervisors quarterly on response times, payer mix, and a rolling revenue-to-date report and near-term revenue-to-expense forecast.
7. Annually require an independent audit of the revenues to expenses and the viability going forward of the contract terms. Once ambulance reimbursements settle under health care reform, the formal audits could possibly move to two-year cycles.



Questions?



CITYGATE ASSOCIATES, LLC

PUBLIC SAFETY SERVICES

MANAGEMENT CONSULTANTS

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FOLSOM, CA 95630
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INDEPENDENT FINANCIAL REVIEW OF ELEMENTS RELATED TO THE COUNTY'S AMBULANCE RFP

County of Contra Costa, CA
July 15, 2015



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SECTION 1—EXECUTIVE SUMMARY

Citygate Associates, LLC was retained by Contra Costa County to independently review the economics of the next generation ambulance proposals expected to be received in response to the County's February 27, 2015 Emergency Ambulance Service Request for Proposals (RFP). While this fiscal review was designed to analyze competing proposals, only one proposal was received from the Contra Costa County Fire Protection District (CCCFPD) and American Medical Response, West (AMR), which they labeled the "Alliance."

1.1 WHAT THIS REVIEW IS

This fiscal review therefore was directed at evaluating the Alliance proposal economics and the key drivers of those economics for reasonableness of methods and results. Additionally, the fiscal health of each provider was analyzed to understand the capacity of the Alliance to not just provide the promised service, but to reasonably weather economic downturns. The key areas covered by Citygate's review are:

- ◆ The background of ambulance economics
- ◆ The structure of the Alliance business partnership
- ◆ Operational measures, since they drive costs (ambulance staffing)
- ◆ The reasonableness of the Alliance revenue estimations
- ◆ Citygate's Opinions, Fiscal Risk Control Strategies, and Implementation Recommendations should the Alliance approach be approved by the Board of Supervisors.

1.2 WHAT THIS REVIEW IS NOT

This review is *not* a complete review of all aspects of the Alliance proposal, which is the purview of the County's separate proposal review committee and process. This fiscal analysis also does not examine the fiscal health and needs of the County EMS Agency and other EMS care needs in the County. This review provides enough background to compare the two service-to-cost plans (Plan A and B) proposed by the Alliance against reasonably expected revenues. The overall policy choice of whether to proceed with either plan proposed by the Alliance and make other decisions as to the services provided by the County EMS Agency and CCCFPD is up to the Board of Supervisors.

1.3 CITYGATE'S CAPSTONE OPINIONS

In the technical sections of this report (Sections 4 through 6), Citygate offers a total of 15 opinion statements. These statements are also found in list form for ease of reading in **Section 8** on page 56. These discrete opinions are collectively summarized in this Executive Summary.

It is undisputed that 9-1-1 ambulance system revenues are falling nationally to the point where some systems will no longer be able to operate without a public subsidy, as many have for over 30 years. Selecting the best alternative pathway and approach to managing the EMS fiscal risk will be a critical policy decision. The optimal path should contain fiscal and performance triggers as well as decision points to assist the Board in making the course corrections necessary to avoid long-term fiscal issues and hasty short-term operational changes. Identifying early warning flags that will provide the needed lead-time to make responsible and prudent decisions is a vital policy objective.

The approach to managing the ambulance system fiscal risk can take alternative forms. The Board may choose to become more fully involved by managing the ambulance service contract via its EMS Agency and the CCCFPD leadership for dispatch and field services coordination. This arrangement may contain certain operational and logistical advantages. Revenue collection and monitoring will be a key indicator of success. If a further decline of revenue collection is inevitable, early identification is critical. Timely development and implementation of mitigation alternatives is vital to long-term program sustainability. Alternatively, the Board can choose to operate under the old model of ambulance provider direct contracts and hope that the private provider would give sufficient notice if default becomes evident.

Generally speaking, as this report will describe, if there are not enough health care system payments to cover the costs of ambulance care, the taxpayers in every community are the fallback resource to fund 9-1-1 ambulance services. The current Alliance proposal shifts the ultimate economic responsibility from the ambulance contractor (which is guaranteed a fixed payment), to the taxpayers of the CCCFPD. Even if this is an acceptable policy alternative, the CCCFPD is smaller in service area than the area covered by the ambulance contract. Consequently, the taxpayers in some non-CCCFPD service areas would have less exposure to ambulance fiscal risk in the case of system default (for example, the taxpayers in the City of Richmond). This creates a greater burden on the CCCFPD taxpayer base from a risk perspective.

As for the overall economics of the Alliance proposal, they are conservative and consistent with the system demand for ambulances and the available revenues in the current and near-term system. As such, the Alliance Plan A offers similar services to the current system in a positively balanced economic model.

To the Alliance's credit, its proposed Plans A and B are not reliant on using new revenue sources, such as Ground Emergency Medical Transport (GEMT) revenues on some types of

Medi-Cal transports. As this study will describe, it is problematic that these revenues cannot be realized quickly, or at high volumes, so the Alliance was again conservative in its approach.

The Alliance's approach in projecting Average Patient Charges (APC) and expected net collections by payer type is both conservative and prudent. The question of payer mix is one of the most difficult and problematical aspects of this projection, given the uncertainties surrounding health care reform. AMR believes that much of the change resulting from the Affordable Care Act (ACA) has already been reflected in the 2014 payer mix data, that those shifts are stabilizing in 2015, and therefore projecting the status quo is the most prudent course of action at this time.

While this approach is reasonable, we believe that continued deterioration of net collections due to changes in payer mix remains one of the largest risks going forward, and one that will need to be evaluated in light of other risks and opportunities in the Alliance projections. To shield against this issue, Citygate has made several contractual implementation recommendations to separate and ensure, to the degree possible, the economic solvency *and sustainability* of the system.

1.3.1 Total Expense to Revenue Comparison for Plan A and B

Before reviewing total revenue to expenses, it must be understood that the Alliance projected declines in *net* collections from the recent past of 27.1% to 24.6%. Such declines could actually exceed that forecast if recent trends of rising deductibles and rejected payment claims above the Medicare or regional averages continue. What makes the 24.6% net revenue also disturbing is that, before the last recession and federal health care reform pressures, for decades a "low" net ambulance collection rate was 66%. Some communities collected more than that, although no community collected more than 90%. The Emergency Medical Services (EMS) industry is openly discussing the net collection percentage at which a public subsidy would need to occur since a private provider cannot be expected to run the system, incur all the risk, and make only a profit of 3-5%.

In summary, the total revenue to expense projection of the Alliance's Plan A and B are shown below:

Table 1—Alliance Plan A and B Economics

	PLAN A			PLAN B		
Description	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
Revenue	\$39,184,619	\$40,707,971	\$42,293,630	\$39,184,619	\$40,707,971	\$42,293,630
Expenses	\$37,211,143	\$38,327,477	\$39,477,301	\$36,741,220	\$37,843,457	\$38,978,760
Gain	\$1,973,476	\$2,380,494	\$2,816,329	\$2,443,399	\$2,864,514	\$3,314,870

1.4 THE FISCAL DIFFERENCES OF PLAN A AND PLAN B

The only major cost difference between the two plans is eight field employees and a small reduction in operating costs. There are no overhead personnel expense reductions. The Alliance made a public education commitment of \$300,000 per plan, exceeding the Plan A requirement of \$100,000 and meeting the Plan B requirement of \$300,000. The Alliance also met the requirement that it price and provide paramedic-level inter-facility transports (IFT) between health care facilities upon request. The Alliance's proposed pricing is in the middle of what could be expected, and the IFT billing will be completed by the CCCFPD and any resultant revenues remain with the Alliance.

There is an addition in Plan B for a required annual payment of \$750,000 to the County EMS Agency for system patient care enhancement uses and emerging issue pilot projects. This charge is theoretically funded from operational savings due to longer response times and shifted response time measurement zones in Plan B. The cost differences between the plans can be summarized as:

Table 2—Cost Differences for Plan B

Plan B Difference	Amount
Plan B Cost Reductions	~ (\$1,220,000)
Plan B EMS Agency Fee	~ \$750,000
Plan B Net Reductions	~ (\$470,000)

Given these statements by the Alliance on Plan A versus Plan B, the fact that the cost *savings* for Plan B are only \$470,000 net due to the charge for County EMS Agency program enhancement uses, and the better response times and system compliance provided by Plan A (to be explained in our report), it is obvious that Plan A provides shorter response times at a lower Unit Hour cost. In both Alliance Plan A and Plan B proposals, the **total** system costs per Unit Hour are:

Table 3—Total System Costs per Unit Hour for Plans A and B

Plan	Unit Hour Cost
Plan A	\$148.89
Plan B	\$152.52

Thus, the reduced coverage in Plan B actually costs *more* per Unit Hour than Plan A due to the EMS Agency programs enhancement fee mandated in Plan B.

Citygate observes that the deployment hours for Plan B are estimated from a software model used by AMR and, due to the changes in response zones, new estimations are involved. No

software model estimates are perfect. In deployment planning, different mathematical approaches yield different results.

Citygate would *strongly encourage the County* **not** to implement Plan B all at once, if at all. If chosen for implementation, the Alliance should be allowed to test some reductions in some areas and then, based on closely-observed metrics, make adjustments. This measured, incremental approach is consistent with the values of Continuous Quality Improvement (CQI).

1.5 THE FISCAL HEALTH OF AMR AND THE CCCFPD

The AMR profit component is segregated as a separate line item in the Alliance Expense Budget, providing a level of transparency. Also, AMR allocated a reasonable 10% of total expenses to cover non-field Depreciation and Amortization, Interest, Taxes, thus leaving a reasonable level of Net Profit for AMR in the range of 3 to 6%.

We note that AMR national liquidity ratios stayed very consistent between 2013 and 2014, and the profitability ratios improved from 2013 to 2014. Given the diversity of ambulance costs and declining payer type payments across the country, for AMR to have stable liquidity and profit ratios showing slight improvement, it suggests AMR is weathering the ambulance industry revenue decline as well as, if not better than, the other large national providers.

Given CCCFPD's current reserves and inclusion in the overall County tax collection and distribution system, the CCCFPD has the funds to begin monthly payments to AMR for several months and fund other start-up costs, until new ambulance billing revenue catches up to expenditures. At that point, the CCCFPD must first repay its cash advances and then build the recommended ambulance enterprise reserves before it can true up revenue to ambulance rates.

1.6 RISK CONTROL STRATEGIES AND IMPLEMENTATION RECOMMENDATIONS

In **Section 7** of this report Citygate offers several Fiscal Risk Control Strategies. They are summarized here:

- ◆ Risk Control Strategy #1: Establish Alliance contracts as an Enterprise Operation, similar to other local governmental fee-for-service programs, such as water and sewer operations.
- ◆ Risk Control Strategy #2: Establish a significant reserve fund of 6 months of revenues plus a capital equipment replacement reserve; also establish best practice financial policies as part of the business plan.
- ◆ Risk Control Strategy #3: Eventually calibrate transport fees to true costs through audits of expenses and adherence to stipulated contract provisions.

-
- ◆ Risk Control Strategy #4: When revenues exceed needed reserves, consider lowering transport fees, not cross-subsidizing non-Alliance CCCFPD or County EMS Agency operations.
 - ◆ Risk Control Strategy #5: Establish a County Board of Supervisors and CCCFPD “Compassionate” set of billing policies for CCCFPD-managed first responder and ambulance revenue collection to include a write-down and write-off policy.

Based on our Opinions and Fiscal Risk Control Strategies, Citygate recommends the CCCFPD, AMR, and the County EMS Agency pursue final implementation contracts, and offers the following best practice-based recommendations to guide this process:

1. Fully identify the fiscal relationship between the parties, their separate fiscal exposure for each other’s decisions (such as staffing levels), and start-up capital costs.
2. Board policy should require that ambulance loss risk only be transferred to the taxpayer for unforeseen, catastrophic losses, as would be the case in the current system if the ambulance contractor were to fail.
3. Fine the contractor only for material breach, not small, per-minute fines.
4. Rather than fine for small response time misses, require that the deployment plan account for equitable response time coverage for similar land use and population densities. Then if the Alliance delivers the required response time performance, only gross neglect to deploy or respond should trigger a fine and/or lead to default.
5. Define in the contract between the County EMS Agency and the CCCFPD a clear delineation of roles, responsibilities, and authorities as it pertains to operational authority and regulatory oversight.
6. Require the CCCFPD to report to the Board of Supervisors quarterly on response times, payer mix, and a rolling revenue-to-date report and near-term revenue-to-expense forecast.
7. Annually require an independent audit of the revenues to expenses and the viability going forward of the contract terms. Once ambulance reimbursements settle under health care reform, the formal audits could perhaps move to two-year cycles.

SECTION 2—BACKGROUND

2.1 CITYGATE'S DOCUMENT REVIEW

To conduct our fiscal adequacy review we collected multiple documents from the County Emergency Medical Services (EMS) Agency, including the 2014 EMS System Modernization report, the ambulance contract Request for Proposal (RFP), and current system performance data the EMS Agency receives from the existing contractor, American Medical Response, West (AMR).

Once the Alliance (comprised of the Contra Costa County Fire Protection District and AMR) proposal was received, we examined it along with the cost of services detailed fiscal information received. We then issued a substantial list of follow-up questions to the Alliance and met with its representatives to reach final understanding on the fiscal components of its proposal.

2.2 CITYGATE'S PROJECT METHODOLOGY

Citygate's review process consisted of the three critical steps described below.

First, before the proposal was received we independently built a deployment model to evaluate the response time and geographic coverage needed. This served as a baseline from which to compare the current system as understood by County staff with the single proposal received. Using this method, we endeavored to understand an appropriate level of ambulance staffing and spacing across the geography for the near term. Appropriate staffing is critical to an economically viable system since personnel costs drive the majority of system costs. We had to ensure that a proposal to provide fewer EMS field personnel than the number presently contracted would not be considered only because it could appear less expensive.

Second, once the deployment model was refined, the numbers of field personnel drove our expectations for the logistical support personnel needed, including the positions for training and Quality Assurance (QA). We also had to understand facility, supplies, equipment, and apparatus costs. The RFP requested that respondents deliver a detailed logistical staffing plan and line item budget. We compared the logistical staffing plan proposed to the estimates we independently formed and used our own EMS Agency operating experience to make the best evaluation. Again, the goal was to ensure that a proposal that provided fewer personnel than currently, or was insufficiently budgeted, would not receive a passing grade.

Third, we had to understand current ambulance revenues from all sources and prepare a revenue forecast based on the historical incident demand data for the last four years. We obtained not only the three years of County EMS data (2011-2013) supplied by the RFP, but we also obtained County EMS incident data from calendar year 2014 so we could use the most recent data available to the EMS Agency. We used both a historical and a Citygate data forecast to prepare a

revenue projection and assumptions that would be compared to the existing AMR system data and to proposals received.

Thus, three views exist for evaluating data and determining staffing: the system currently provided by AMR, the system “check model” as envisioned by Citygate, and the system envisioned by the respondent (Alliance). As a validation test, at least two of the three views should have reasonable agreement. If not, an explanation is necessary for the Board of Supervisors of why the operating and economic assumptions cannot be tightly relied upon.

SECTION 3—CURRENT STATE OF AMBULANCE ECONOMICS

3.1 THE STATE AND REGIONAL EMS PICTURE

Throughout California, Emergency Medical Services (EMS) systems, and especially ambulance providers, are facing unprecedented economic pressures. During the past ten years, large populations have shifted from higher-paying commercial insurance plans to lower-paying government plans. Many commercial insurance plans are also decreasing payment rates for ambulance transport. In total, more people are insured due to federal health care reform, but the average insurance payment rate has significantly decreased for ambulance care, causing some of Northern California's largest EMS systems and ambulance providers to lose millions of dollars annually, threatening their short- and long-term financial solvency. Three of the most significant factors influencing aggregate ambulance reimbursement are: (1) the increase in number of Medi-Cal insured; (2) the decreased reimbursement rates by commercial insurance companies; and (3) the increased number of high deductible health insurance plans.

3.1.1 Medi-Cal, Medicare, Covered California, and Commercial Insurance

Medi-Cal

Medi-Cal (California's version of Medicaid) reimburses ambulance providers at rates significantly less than the cost of providing ambulance services. Medi-Cal's average payment is approximately \$130 to \$150, which is approximately 15% to 25% of the *cost* of an ambulance transport.^{1,2} California law prohibits ambulance companies from billing the patient for the difference between the ambulance cost and Medi-Cal reimbursement, causing ambulance companies to write off this difference as a contractual allowance to accept Medi-Cal payments.³

Throughout California, most of the newly-covered patients who received insurance through the provisions of the Patient Protection and Affordable Care Act (PPACA or abbreviated as ACA) are new, previously undiscovered eligible enrollees to Medi-Cal, and estimates are that now a full 30% of Californians are covered by Medi-Cal. Across California as high as 80% of those in Medi-Cal are enrolled in Medi-Cal Managed Care, while 20% are enrolled in Medi-Cal Fee for Service.⁴ While both programs pay standard Medi-Cal rates and prohibit billing for the difference between the billed and reimbursed amounts, ambulance services owned or operated by public agencies who meet certain requirements can seek cost-based reimbursement for those

¹ "Medi-Cal Rates as of June 15, 2015." *California Department of Health Care Services, Medi-Cal*. 15 June 2015. Web. Accessed 18 June 2015. <<https://files.medi-cal.ca.gov/pubsdoco/rates/rateshome.asp>>

² "California's Ground Emergency Ambulance Transportation (GEMT) Certified Public Expenditure." *California Ambulance Association*. 17 July 2013. Web. Accessed 7 June 2015. <www.the-caa.org>

³ Citygate interviews with numerous ambulance industry representatives.

⁴ "Total Monthly Medicaid and CHIP Enrollment." *Henry J. Kaiser Family Foundation*. April 2015. Web. Accessed 16 June 2015. <<http://kff.org/health-reform/state-indicator/total-monthly-medicare-and-chip-enrollment/>>

patients who are covered by Medi-Cal Fee for Service through the Ground Emergency Medical Transport (GEMT) Program. The GEMT program will be explained in **Section 6.4**.

Medicare

Medicare sets its allowable ambulance payment rate through the Medicare Ambulance Fee Schedule, allowing charges only for an ambulance transport base rate and mileage charges to a hospital. Medicare will pay 80% of its allowable rate, regardless of the charges by the ambulance company, causing the ambulance company to write off the difference between its billed rate and Medicare's allowable rate. The patient or the patient's supplemental insurance must pay the remaining 20% balance between Medicare's allowable rate and the Medicare payment. Medicare's average transport payment is approximately \$540 to \$600 and thus is also below the full cost of a transport at both the Basic or Advanced Life Support (BLS or ALS) level of care.⁵

Commercial Insurance Plans

Historically, commercial (private) insurance companies paid 80% or greater of an ambulance company's billed charges, and the population covered by commercial insurance was much larger. Thus, commercial insurance helped transport providers cover losses generated by the lower-paying government insurance providers, such as Medi-Cal and Medicare.⁶

Commercial insurance rates of reimbursement are now also decreasing. Rather than paying the traditional 80% of the rate charged by ambulance companies, many commercial insurance companies now pay either Medicare rates, rates they unilaterally determine as "reasonable and customary," or charges based on a region's average rate structure. Many insurance companies also review ambulance records, routinely determine that a patient's condition did not warrant an ambulance, and disallow the entire charge.⁷

High Deductible Health Plans

Covered California, the state's health care exchange, provides five insurance plan levels, commonly called the "metal plans or metals" using labels such as gold, silver, and bronze. Two of the five, along with many commercial plans, are High Deductible Health Plans (HDHP). Such HDHP plans have a minimum individual deductible of \$1,300, but the average deductible for an individual HDHP is \$2,098, and 18% of workers have a deductible of at least \$3,000. Other plans are offered with \$4,000-\$5,000 deductibles. Enrollment in employer-sponsored HDHP plans has rapidly and significantly increased from 4% in 2006 to 20% of covered workers in

⁵ "Ambulance Fee Schedule Public Use Files." *Centers for Medicare and Medicaid Studies*. April 2015. Web. Accessed 17 June 2015. <<http://kff.org/health-reform/state-indicator/total-monthly-medicare-and-chip-enrollment/>>

⁶ Citygate interviews with numerous ambulance industry representatives.

⁷ Citygate interviews with numerous ambulance industry representatives and EMS Agency Administrators.

2014.⁸ The rate of growth of HDHP plans will continue to dramatically rise. Many people purchase HDHP plans because of their less expensive premiums, but cannot pay the prohibitively high deductible following a medical emergency.^{9, 10}

3.2 COVERED CONTRA COSTA

3.2.1 Health Insurance Coverage in Contra Costa County

Since 2005, Contra Costa County has seen an increase in patients covered by Medi-Cal (due to Covered California) and Medicare, and fewer patients covered by commercial insurance, private pay, and other contract pay sources. In 2005, 41.7% of patients receiving ambulance services had Medicare and Medi-Cal, which increased to 59.6% by 2011, and is now 69.2%. Conversely, in 2005, 36.5% of ambulance patients had commercial insurance, which decreased to 18.2% in 2011, and is now 14.4%. The percentage of ambulance patients without insurance or who have other pay sources was 21.0% in 2005, 22.2% in 2011, and now is 16.4%.¹¹

Through the ACA (Covered California), more people in Contra Costa County become insured every year. However, most people's status has changed from uninsured to underinsured, because they now are covered through Medi-Cal Expansion rather than a Covered California exchange-based plan. Since January 1, 2014, more than 80,000 persons in Contra Costa County received health insurance coverage through provisions of the ACA. Of these, approximately 65,000 persons (or 81%) have Medi-Cal. As mentioned above, Medi-Cal now insures approximately 30% of all persons in Contra Costa County. In Contra Costa County, 80% of those in Medi-Cal are enrolled in Medi-Cal Managed Care, while the remaining 20% are enrolled in Medi-Cal Fee for Service.¹²

Approximately 15,500 persons in Contra Costa County have an exchange-based health insurance plan provided through Covered California. Of those in Covered California, approximately 88% receive subsidies to reduce the cost.¹³ Subsidy levels are an important proxy to predict a person's

⁸ Renter, Elisabeth. "Should You Roll the Dice on a High Deductible Health Plan?" *US News and World Reports*. 10 November 2014. Web. Accessed 7 June 2015. <<http://health.usnews.com/health-news/health-insurance/articles/2014/11/10/should-you-roll-the-dice-on-a-high-deductible-health-plan>>

⁹ "Understanding High Deductible Health Plans." *Fair Health Consumer*. n.d. Web. Accessed 7 June 2015. <<http://fairhealthconsumer.org/reimbursementseries.php?id=48&terms=understanding-high-deductible-health-plans>>

¹⁰ "2014 Employer Health Benefits Survey." *Henry J. Kaiser Family Foundation (NORC at the University of Chicago, and Health Research & Educational Trust)*. 10 September 2014. Web. Accessed 8 June 2015. <<http://kff.org/health-costs/report/2014-employer-health-benefits-survey/>>

¹¹ Citygate analysis of data and documents submitted by Contra Costa County EMS Agency and AMR.

¹² Contra Costa Health Plan Chief Executive Officer Patricia Tanquary, interview by Citygate, 21 April 2015, Martinez.

¹³ Contra Costa Health Plan Chief Executive Officer Patricia Tanquary, interview by Citygate, 21 April 2015, Martinez.

ability to pay his or her insurance deductible, and in two of the five Covered California plans deductibles exceed \$1,300 annually.¹⁴

Approximately 15% of persons in Contra Costa County remain uninsured. Uninsured persons constitute a large, disproportionately share of high and repeat users of medical services (not just 9-1-1 ambulance service) within Contra Costa County.¹⁵

To place Medi-Cal’s average payment of approximately \$130 to \$150 per transport into perspective, the Contra Costa County rates per the 2015 County Ambulance RFP for Contract Year 1 for the base rate, plus the cost to drive 10 miles to the hospital and cost to provide oxygen to the patient, would total \$2,775. This Year 1 rate is higher than the current County equivalent rate that would yield a charge of \$2,582.

This amount does not include advanced paramedic treatment and drug rates, which are allowed separately by many insurance companies. It is therefore not at all unreasonable that a \$3,000-plus ambulance bill can be incurred and still not reach an individual’s deductible amount in his or her insurance coverage.

Ambulance companies have known for years that raising billed rates cannot cover the difference between the ambulance cost billed and the reimbursement provided. The marginal return on higher rates continually diminishes as insurance providers refuse to fully pay them. Stated this way, the County cannot simply increase rates to resolve the problem between the amounts billed and received.

3.3 AMR REVENUE HISTORY IN CONTRA COSTA COUNTY

To place the above observations into macro perspective for this RFP proposal analysis, Citygate asked AMR for historical revenue projections for its existing Contra Costa County Exclusive Operating Area (EOA) contract. We received data for all payer types, volumes, and receivables for the years 2005 through 2014. The 2013 and 2014 data is not complete yet as some receivables are aged and the books cannot be closed yet for those years. The mathematical trends are complicated as there are multiple moving parts (e.g., payer mix changes, ambulance rate changes, decline in receivables, and growth in incident volume). Generally, though, as receivables declined and operating costs increased, the average patient charge *increased* even as total revenues also *increased* due to volume growth.

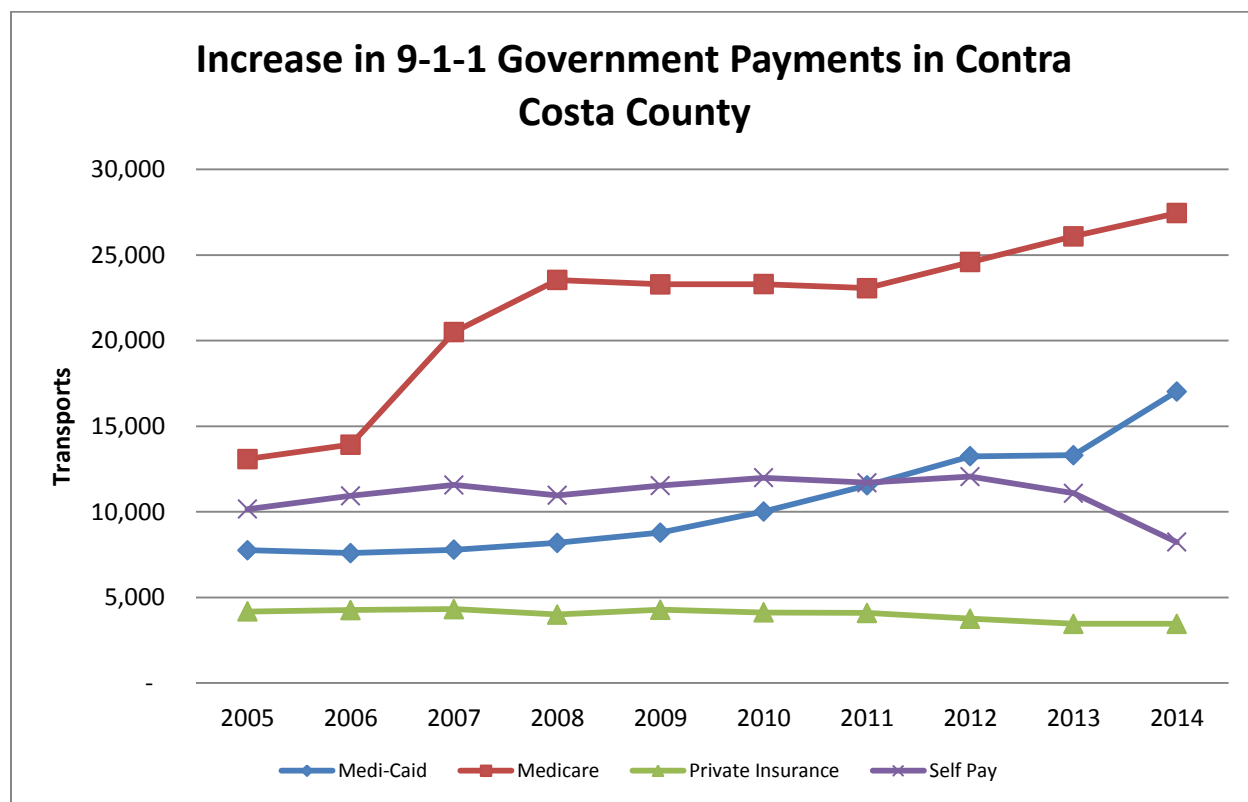
To place these movements into perspective, the ambulance industry uses a measure called “Net Revenue per Transport” or NRT. For this measure from 2005 to 2014, the NRT has fallen from \$613 to \$583.

¹⁴ Covered Contra Costa Plans. Citygate analysis.

¹⁵ Contra Costa Health Plan Chief Executive Officer Patricia Tanquary, interview by Citygate, 21 April 2015, Martinez.

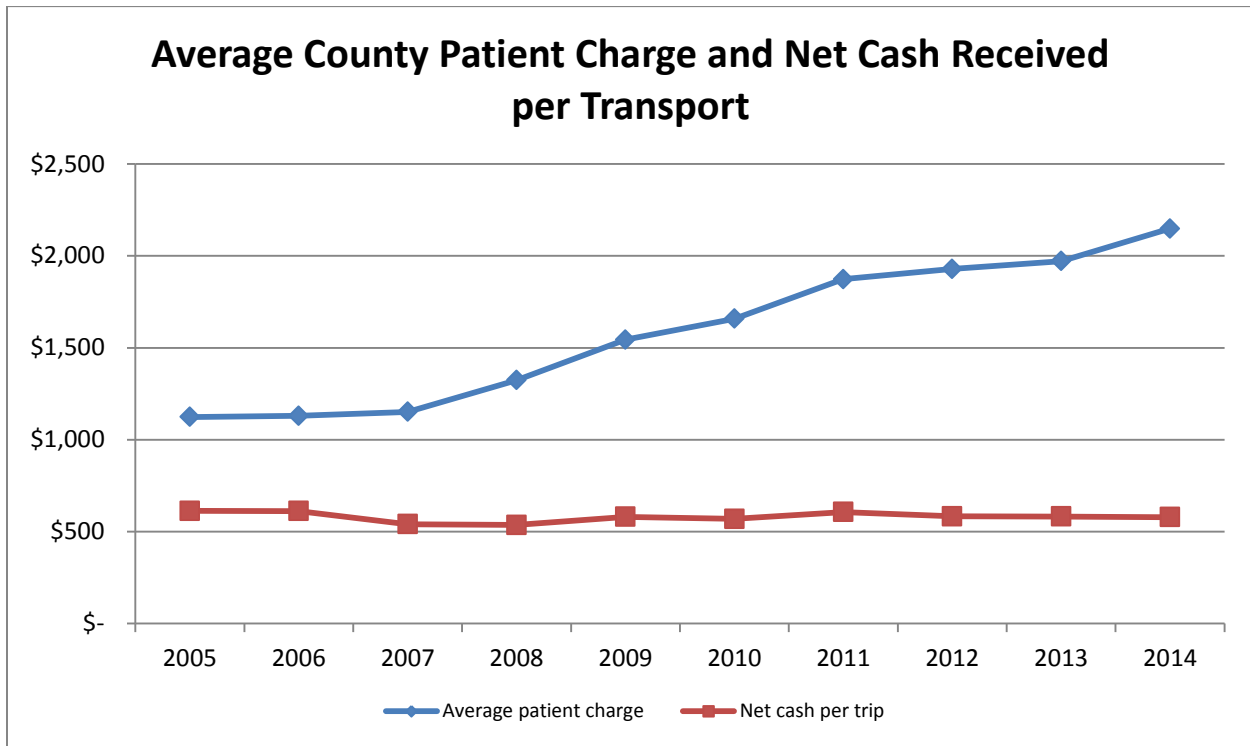
The following charts show the change over time for how payments shifted from the private pay and private insurance to public insurance—Medicare and Medi-Cal. These six charts contain Contra Costa County data, as provided by AMR at the request of Citygate. We received and verified the source data and methods with AMR’s Regional Finance Officer.

Figure 1—Increase in 9-1-1 Government Payments in Contra Costa County



To place this shift into an ambulance rates perspective, as total ambulance rates have risen just over double since 2005, the net revenue per trip has stayed relatively flat. This is why the ambulance industry tells clients that as payer mix has changed and reimbursements have been aggressively lowered by private pay sources, an ambulance system “can’t raise rates enough” to fix the revenue problem:

Figure 2—Average County Patient Charge and Net Cash Received per Transport



The next two charts show the volume trends ahead based on the last four years of system data:

Figure 3—Historical and Projected Annual Incident Volume

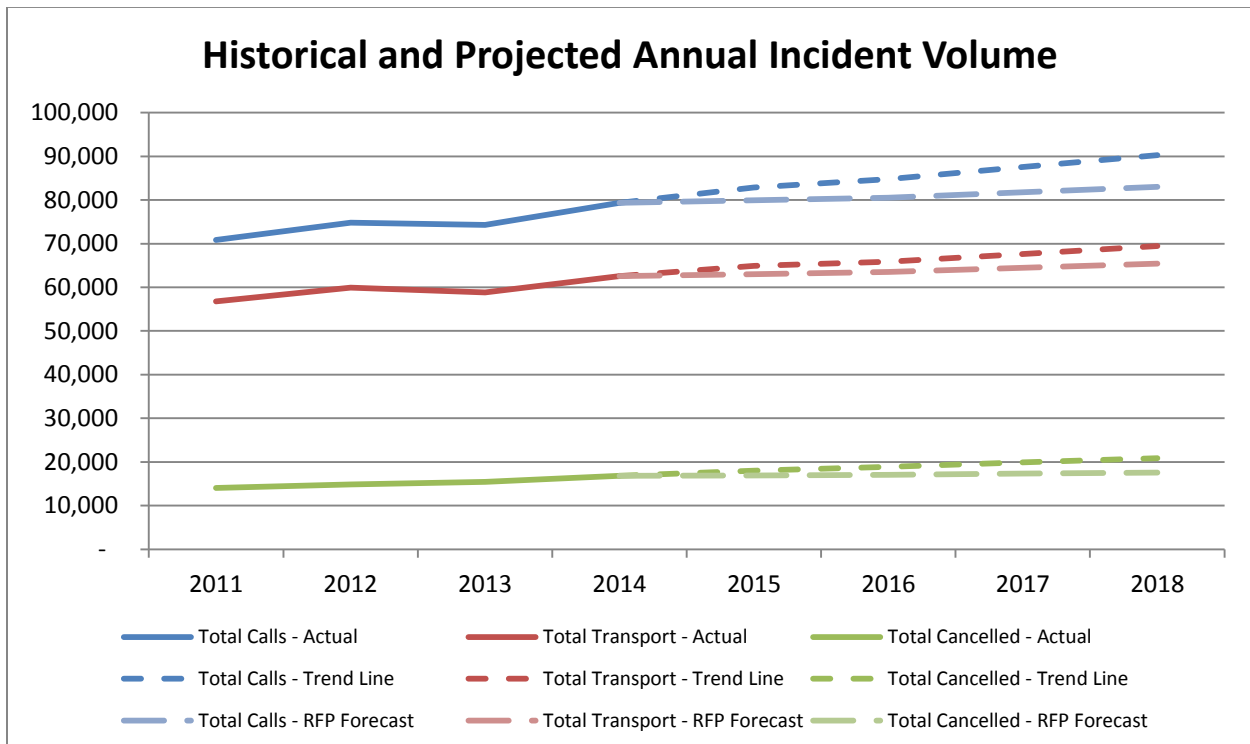
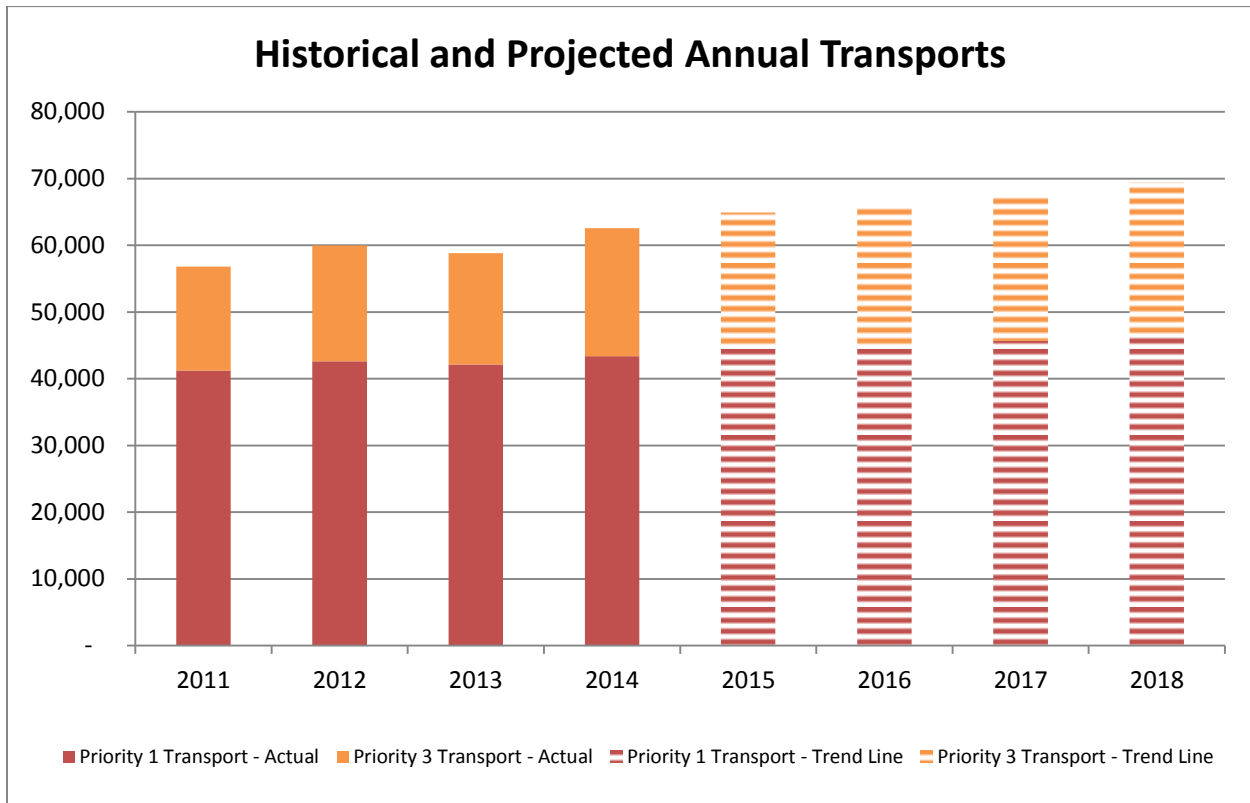


Figure 4—Historical and Projected Annual Transports



As will be discussed in the economics sections of this report (Sections 4 through 6), the Alliance proposal took a conservative revenue approach and used *flat* volume growth even though the above projection shows continuing volume *increases*.

The last two charts show the more variable movement month to month for incident demand and total transports:

Figure 5—Historical and Projected Monthly Incident Volume

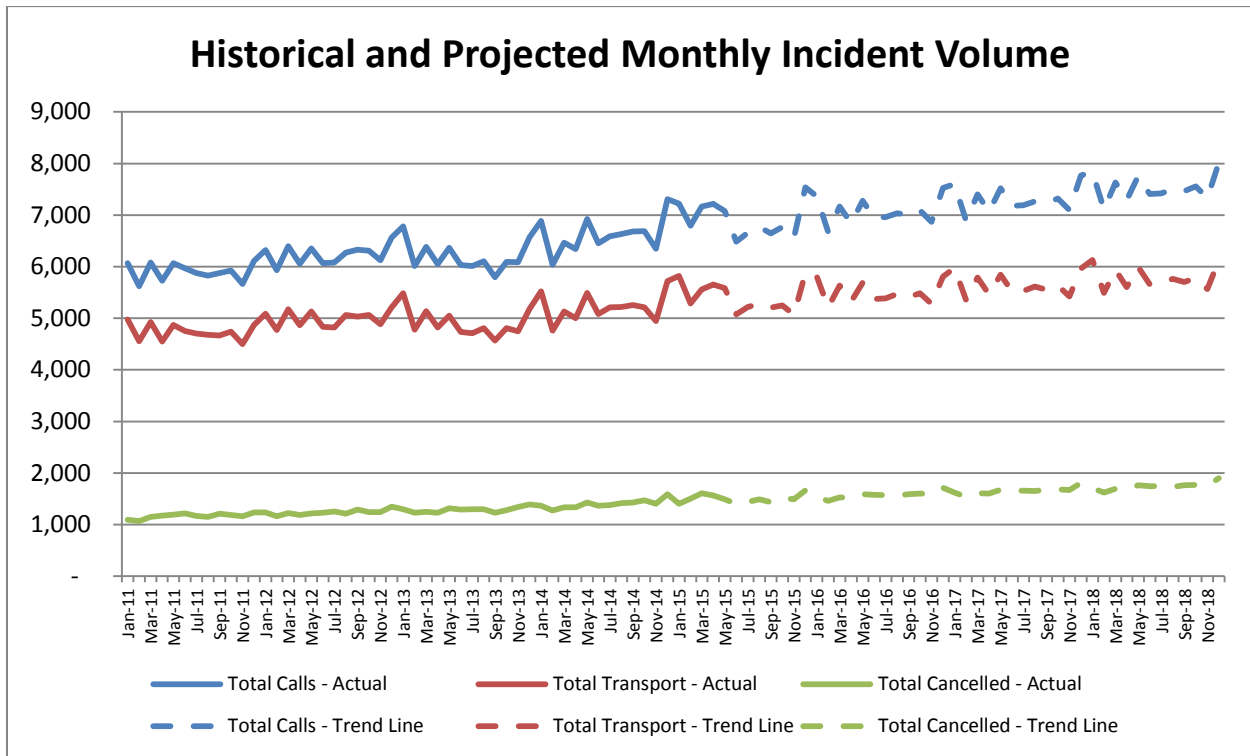
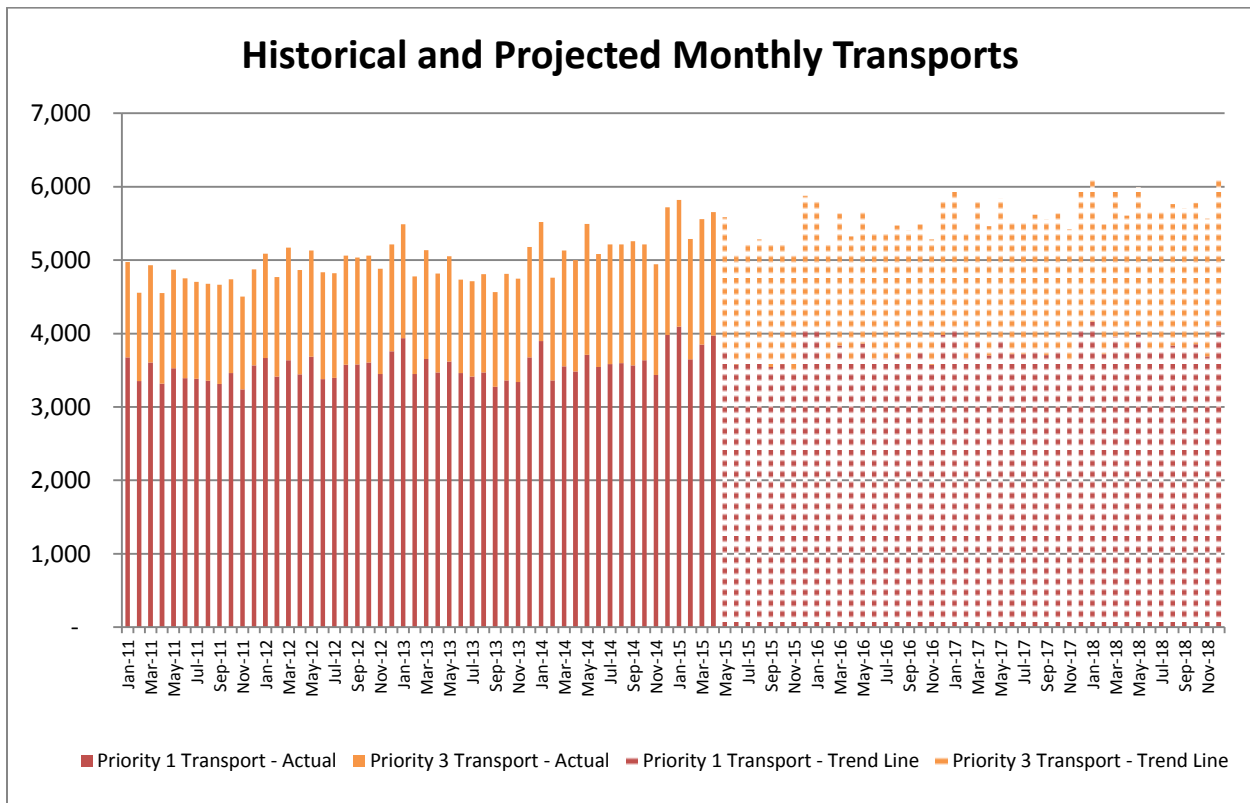


Figure 6—Historical and Projected Monthly Transports



While monthly demand is more fluid, these monthly projections show slightly *less* increased demand when compared to the annual demand trend lines. The Alliance revenue proposal is based on 63,500 transports in Contract Year 1 (2016), which, if the monthly trend line ends up more accurate than the annual projection, that volume may not be reached until late 2016. So again, the Alliance took a balanced, conservative position on its transport demand numbers as will be explained more fully in the sections to follow.

SECTION 4—THE BUSINESS STRUCTURE OF THE ALLIANCE PROPOSAL

4.1 **AMR'S SUBCONTRACT WITH CCCFPD**

In response to the Contra Costa County Local Emergency Medical Services Agency's (LEMSA) February 27, 2015 Request for Proposal (RFP) for Exclusive Operator for Emergency Ambulance Service, Contra Costa County Fire Protection District (CCCFPD) and American Medical Response, West (AMR), formed an alliance (referred to as the "Alliance") and submitted a single unified proposal to provide emergency ground ambulance services. No other proposal was received. The business structure of the Alliance between the CCCFPD and AMR is a subcontract relationship, in which the CCCFPD subcontracts with AMR to provide emergency ground ambulance services, at CCCFPD's direction, in the RFP's requested Response Areas, except for those portions that are in the jurisdiction of the Moraga-Orinda and San Ramon Valley Fire Protection Districts.

The CCCFPD will be the billing agent of record. It has secured its own National Provider Identification (NPI) number from the Center for Medicare and Medicaid Services and intend to bill for the ambulance services provided by AMR. The revenue received by CCCFPD, through patient billing and reimbursements from health insurers and other emergency ambulance transport revenue sources, would be used to offset the cost of its contract with AMR to provide the transport ambulance system as a complete, "turn key" operation. This billing arrangement *might* also allow CCCFPD to seek Ground Emergency Medical Transport (GEMT) cost-based reimbursement for emergency medical services provided by the CCCFPD (but this allowance is not an absolute guarantee as will be explained in **Section 6.4**).

4.1.1 **Deployment Plan A and B Costs to be Paid to AMR by CCCFPD**

Separate from the Alliance proposal to the County, is a contract between CCCFPD and AMR that stipulates that the CCCFPD will pay AMR for each ambulance unit/hour of emergency ground ambulance service that AMR provides, as full compensation for all services and costs provided or incurred by AMR in performing its obligations pursuant to the contract. According to the Alliance response to the RFP, for Plan A, during the first year of service (January 1, 2016 through December 31, 2016), CCCFPD will compensate AMR at a rate of \$135.19 per deployed Unit Hour. During the second year of service (January 1, 2017 through December 31, 2017), CCCFPD will compensate AMR at a rate of \$139.25 per hour. During the third year of service (January 1, 2018 through December 31, 2018), CCCFPD will compensate AMR at a rate of \$143.43 per hour. Compensation rates for year 4 and 5 were not identified; however, the CCCFPD/AMR contract contains an escalator clause which increases unit/hour payments beginning April 1, 2017. The amount of the escalator has not been quantified. Unless modified,

the payment limit of the subcontract will be approximately \$188,000,000 over the five years of the subcontract.

Note: The costs in the two tables below are the contractual obligations that CCCFPD must pay AMR, its subcontractor, regardless of the actual revenues received. Including costs in addition to those of AMR, the total Alliance costs per year and the resultant Unit Hour costs are higher. A comparison of total Alliance costs to total estimated revenues will be provided in a later section of this report.

Table 4—Plan A Staffing Hours and Costs¹

Plan A	Year 1	Year 2	Year 3
Average Weekly Staffed Unit Hours	4,788	4,788	4,788
Average Annual Staffed Unit Hours	249,660	249,660	249,660
AMR Burdened Unit Hour Cost	\$135.19	\$139.25	\$143.43
Estimated CCCFPD Payment to AMR	\$33,752,634	\$34,765,213	\$35,808,170

¹ All Unit Hours and costs from AMR *only* Plan A costs dated July 6, 2015.

The Alliance also submitted, as required, a second deployment plan called Plan B. The summary of that plan's *AMR staffing and costs* is:

Table 5—Plan B Staffing Hours and Costs

Plan B	Year 1	Year 2	Year 3
Average <i>Weekly</i> Staffed Unit Hours	4,620 ¹	4,620	4,620
Average <i>Annual</i> Staffed Unit Hours	240,900	240,900	240,900
AMR Burdened Unit Hour Cost	135.30 ²	\$139.35	\$143.54
Estimated CCCFPD Payment to AMR	\$32,592,803	\$33,570,588	\$34,577,705

¹ Unit Hours from Alliance updated Plan B proposal received on July 3, 2015.

² Unit Hour Cost per AMR Plan B fiscal spreadsheet for AMR *only* Plan B costs dated July 6, 2015.

4.1.2 Terms of the CCCFPD and AMR Contract

The Emergency Ambulance Services subcontract between the CCCFPD and AMR begins on January 1, 2016 and ends December 31, 2020. Through this contract AMR is responsible to provide 24-hour/day, 365-day/year paramedic-staffed emergency ambulance service within Contra Costa County in a manner that meets the standards articulated in the Contra Costa County EMS Agency's RFP and the CCCFPD's proposed contract with AMR. This includes owning and maintaining the ambulance fleet; employing paramedics and EMTs to staff the ambulances; providing quality improvement, training, and community outreach programs; providing field

supervision; and maintaining an electronic clinical care and billing records system. These services are normally expected of an ambulance provider servicing a 9-1-1 Exclusive Operating Area (911EOA) Emergency Ambulance contract in a metropolitan area, such as Contra Costa County. These roles are further detailed in **Section 4.3—AMR’s Role and Responsibilities in the Alliance Proposal**.

The contract also includes default provisions, providing CCCFPD the ability to take over AMR’s stations, ambulances, and equipment if AMR cannot correct certain material deficiencies within 7 days following notice of default by CCCFPD. AMR is not prohibited from conducting non-emergency work that does not interfere with the contract.

The contract also obligates AMR to provide equipment, programs, and services normally expected of an ambulance provider servicing a 911EOA Emergency Ambulance contract.

4.1.3 Alliance Proposal Risk Impact to the Taxpayer

In the Alliance proposal, the CCCFPD pays AMR, its subcontractor, a predetermined unit/hour fee to provide emergency ground ambulance services. CCCFPD will serve as the billing agent of record, and through a subcontractor separate from AMR, will bill Medicare, Medi-Cal, insurance companies, patients, and other potential revenue sources. In this arrangement, the financial risks associated with operation of the ambulance service, including decreasing reimbursement rates, accounts receivables management, and increased cost of staffing, materials, and supplies, is transferred from AMR to the CCCFPD, putting the CCCFPD and the taxpayers of the CCCFPD, not the balance of the taxpayers of Contra Costa County, at risk of financial loss. This risk, if realized as a liability, becomes a general liability of the CCCFPD and its taxpayers. Citygate believe that this financial risk is small, because the deployment plan and the revenue and expense budgets are realistic. Nonetheless, it is important to make note of this risk, because this subcontracting model is new and untested within California. Understanding, monitoring, and evaluating the implications associated with ongoing taxpayer risk for ambulance systems should be of the utmost importance to the CCCFPD management. This is especially important considering the changing health care payment environment in America.

Citygate believes that all governmental entities that directly provide ambulance service or subcontract for ambulance service are potentially at financial and operational risk. These risks include decreasing rates of reimbursement, unexpected changes in volume, and increasing costs of service, including labor, capital asset acquisition, and costs caused by regulatory changes.

Similarly, government jurisdictions that contract for ambulance services also retain some degree (albeit probably less) of financial and operational risk, because if net revenue decreases to less than the cost to provide the service, the jurisdiction is at risk to maintain the solvency of the ambulance operator by raising rates, providing a subsidy, or selecting a new provider.

Further, should an ambulance provider in financial trouble discharge the contract through bankruptcy, the governmental entity retains the responsibility of maintaining a stable ambulance

transport system, which may entail the financial and operational risks of engaging a new contractor or, directly at taxpayer expense, providing ambulance service, without time for a well-planned transition.

Citygate Opinion #1 – Alliance Economic Risk: It is undisputed that 9-1-1 ambulance system revenues are falling to the point where some, if not all, systems will no longer be able to operate without a public subsidy as many have for over 30 years. The choice before Contra Costa County is whether the Board wants to more fully be involved in managing the contractor via the CCCFPD, and if a revenue collapse is inevitable, be able to detect the problem with enough time to develop and implement thoughtful mitigation measures.

The other option is to operate the existing type of contract model and hope the private provider would provide enough notice before default. Ultimately, taxpayers are the fallback resource to fund 9-1-1 ambulance services. If ultimately the ambulance system needs an allocation of CCCFPD or County general discretionary resources to stabilize ambulance services, that could force the reduction of services in other areas. Monitoring and understanding how this issue evolves is critical if the County is to minimize the impact of a potentially damaging ambulance fiscal shock wave.

The CCCFPD and AMR “Alliance” is designed to provide full EMS system integration for the communities serviced. The Alliance notes that this organizational structure will provide single-source dispatch, integrated oversight for first response and transportation, consistent training for all responders, common and shared language and response culture, and eliminate redundancies in service.

4.2 CCCFPD ROLES AND RESPONSIBILITIES IN THE ALLIANCE PROPOSAL

The CCCFPD’s roles and responsibilities, as specified in the Alliance proposal, are coordinating the overall AMR contract and ensuring close coordination with all of the first responders in the ambulance service area. These actions do not replace, but enhance, the oversight functions mandated by state regulations to the County EMS Agency.

The Alliance support for first responder functions is compliant with the terms of the County’s RFP and includes costs for issues such as replacing first responder supplies and equipment, plus group supply purchasing savings or discounts. These first responder support costs are in the Alliance operating expense and revenue proposals.

For its coordination with AMR, CCCFPD is not adding significant personnel or costs in order to supply both AMR contract coordination and first responder coordination functions.

4.2.1 One Chief Officer Oversight Position

The Alliance proposal does not significantly change the number of personnel employed by the CCCFPD or AMR. In fact, only one new position is created in the Alliance organization: an EMS Chief, who will be employed by the CCCFPD. The EMS Chief will oversee first responder training, the clinical manager, and clinical education services support. The EMS Chief will also work closely with AMR's Medical Director and the County's EMS Medical Director and the AMR General Manager. The fully-benefitted cost of this new fire department chief officer position is budgeted at \$400,000 annually.

4.2.2 Ambulance Billing

In the current Contra Costa County EMS System, AMR directly bills insurance providers and patients for ambulance medical care and transport. In the Alliance proposal, the CCCFPD will perform first responder and ambulance billing through a contract with an external billing agency. AMR will continue to perform the "front end" billing process, which includes ensuring proper documentation, reconciling trip information, and timely submitting billing information to the external billing agency. CCCFPD expects to pay approximately about 5% of collections, if a percentage collection agreement is negotiated to the external billing contractor.

Ambulance billing systems contain a hard cost. In the current contract with the County, AMR performs the billing, the cost of which is included in its bills to patients under the County-approved ambulance rate structure. Under the Alliance approach, its plan to try to acquire supplemental Medi-Cal revenues known as GEMT (explained in **Section 6.4** of this report) possibly requires, under state regulations, that the billing to be performed by the CCCFPD, *not* its ambulance subcontractor. Given this is not yet settled, the Alliance proposal calls for a separate billing contractor under CCCFPD control. The cost of this is included in the Alliance cost structure at an estimated amount of \$2,078,548. Billing contracts can be priced at fixed rates or a percent of the amount billed. Because the Alliance does not know if it will be required to separate billing from AMR, at this time its proposal uses a cost that is closely estimated, but not agreed to contractually.

If the Alliance proposal is approved by the Board of Supervisors and implementation begins, Citygate hopes that the Alliance can make the case to the state that the more effective billing approach would be to let the current and capable AMR billing process remain in one integrated patient data system from point of dispatch to final patient destination.

In either case, the final Alliance costs cannot be determined until the billing question and costs are firmly fixed.

Billing for Inter-Facility Transports (IFT)

Another part of the EMS system RFP for 9-1-1 ambulance services allows the 9-1-1 ambulance operator to provide, at the request of hospitals, clinics, and others, a paramedic unit to transfer

patients between sites. As required, the Alliance priced this option in Appendix 19 of its response and identified a rate structure set at 50% of the Usual and Customary Rates (UCR) charged for 9-1-1 calls. The Alliance expects that requests for these services will be extremely low.

The billing for IFTs will be performed by the CCCFPD along with all other billing. Therefore, the IFT revenues are part of the overall Alliance revenue submittal and any revenues in excess of costs will remain with the CCCFPD for use within the Alliance structure.

4.2.3 Merged Dispatch

In the current Contra Costa County EMS System, the CCCFPD and AMR operate separate, geographically-distinct dispatch centers. In the Alliance proposal, AMR will relocate its medical dispatch personnel to the Contra Costa County Regional Fire Communications Center, allowing CCCFPD and AMR to operate one consolidated dispatch center that will provide fire and ambulance dispatching services. The Alliance's communication center provides the infrastructure, technologies, and redundancies normally associated with an emergency services dispatch center serving an urban or suburban area. This communication center will process medical requests for assistance using the Medical Priority Dispatch System including Medical Dispatch Quality Assurance, both of which are considered the state-of-the-art in EMS dispatch. Consolidated communication centers are associated with shorter call transfer and processing times, improved inter-organizational situational awareness, and improved coordination of fire and ambulance resources to complex incidents.

4.2.4 Separate Training/CQI for Fire Paramedics – “As Is”

The CCCFPD will not be merging or changing how it currently trains and conducts Continuous Quality Improvement (CQI) for the paramedics on its fire engines, so there are no new costs for these programs in the Alliance proposal.

4.3 AMR'S ROLES AND RESPONSIBILITIES IN THE ALLIANCE PROPOSAL

4.3.1 An Almost Identical AMR Effort to the Current Model

AMR's roles and responsibilities, as specified in the Alliance proposal, are nearly identical to its roles and responsibilities in the current Contra Costa County EMS System. AMR will have the sole responsibility for owning, maintaining, and upgrading the ambulance fleet. AMR is responsible to respond to all calls dispatched from the County-designated Public Safety Answering Points (PSAPs) with Advanced Life Support (ALS (paramedic-staffed)) ambulances. AMR is responsible to provide ALS service (paramedic-staffed ambulances), with the exception that Basic Life Support (BLS (EMT-staffed)) ambulances may be used for response to multi-unit responses and when BLS response is appropriate according to the Contra Costa County EMS Agency's policies and procedures. AMR must also provide equipment, programs, and services

normally expected of an ambulance provider servicing a 911EOA Emergency Ambulance contract.

The equipment, programs, and services that AMR must provide include:

- ◆ Performing comprehensive data analysis and quality improvement activities, using a dedicated quality improvement staff conducting practices according to the County's EMS Agency policies
- ◆ Assuring all personnel are properly vetted, licensed or certified, credentialed, and trained
- ◆ Providing field supervision using trained supervisors
- ◆ Providing continuing education for CCCFPD and AMR personnel
- ◆ Operating a dispatch center within the CCCFPD dispatch center, maintaining dispatch-related equipment, and dispatching ambulances to requests for emergency ambulance services
- ◆ Using and maintaining an electronic PCR system
- ◆ Providing records to CCCFPD to verify clinical and operational performance standards
- ◆ Employing a full-time Community Outreach Coordinator to work towards improving community health status and providing community education
- ◆ Maintaining disaster and multi-casualty incident capability, including the ability to recall personnel, staff a disaster response vehicle, and participate in disaster training and exercises.

In addition to the change in ambulance billing service described above, another significant change from the current Contra Costa County EMS System in the Alliance model is AMR's reporting structure to the County. In the current Contra Costa County ambulance contract, AMR is an independent organization. The Contra Costa County EMS Agency has an EOA contract directly with AMR, which is responsible to the EMS Agency for meeting the standards contained in that contract.

In the Alliance model, the EMS Agency will not have a direct contractual relationship with AMR. The EMS Agency will have a direct EOA contractual relationship with CCCFPD, which in turn has a subcontract agreement with AMR.¹⁶

This reporting relationship is reflected in the Alliance's organizational chart. In the Alliance, all CCCFPD and AMR positions and functions report into CCCFPD's command structure. The

¹⁶ The LEMSA and AMR must have a paramedic service provider agreement, pursuant to 22 CCR 100168 (b) (4).

manager of the consolidated communications center reports to CCCFPD's Assistant Support Chief, the CCCFPD's new billing contractor reports to CCCFPD's Administrative Chief, and AMR's positions report through the supervisors and general managers to CCCFPD Emergency Operations Assistant Chief. All Assistant Chief positions report to CCCFPD's Fire Chief. Additionally, in the field setting, AMR's personnel are contractually placed under the authority of the fire officer in charge.

Another significant change from the current Contra Costa County EMS System in the Alliance model is the consolidation of AMR dispatching into the CCCFPD communication center. AMR does experience cost savings from the dispatch merger, but these savings are already reflected in its lowered cost per Unit Hour charge to the CCCFPD.

SECTION 5—OPERATIONS REVIEW AS THE COST DRIVER

5.1 DEPLOYMENT LEVELS AND RESULTANT STAFFING

Determining the number of ambulances needed at any given hour across the diverse topography and populations of a large county is complicated. Current ambulance systems typically deploy a mix of 24-hour and partial-day units with overlapping schedules. The highest quantity and location of units is clustered in the hours of the day and in the communities having the greatest demand for service. In a deployment plan, a baseline number of units is placed across the geography to provide equitable response time to an emergency, assuming the closest assigned area unit is available.

The County RFP requested two deployment plans labeled A and B. Plan A is what the current system operates; the ambulance contract area is divided into four Emergency Response Zones (ERZs) for calculation of ambulance response times and penalties.

Under Plan B, the ambulance contract area is divided into three ERZs for calculation of ambulance response times and penalties. In aggregating performance zones from four to three, Plan B significantly expands areas designated as “urban” instead of “rural.” While Plan B increases the response time requirement in existing *urban* zones from 10:00 or 11:45 minutes/seconds to 12:45 minutes/seconds for the highest priority emergencies, the shift of the rural areas to urban lowers response time requirements from 16:45 minutes/seconds to 12:45 minutes/seconds. Thus, Plan B changes response time requirements in multiple areas.

Both plans are fully described in the County Ambulance RFP in Appendix 3 and will not be fully repeated here.

The calculation used to summarize a deployment plan is measured in “Unit Hours,” defined as the total number of two-person ambulance units on duty in each hour block (24 hours per day for a week or monthly cycle). In the case of Contra Costa County, the County is divided into response time measurement zones as the major population clusters are separated by large open space or rural areas.

Once the plan is set into motion, the ambulance contractor and County EMS Agency measure response times delivered by the deployment plan against a pre-determined policy goal. If the deployment plan under-delivers response time performance to an area, the deployment plan must be adjusted. If the response time performance exceeds the goal, then the deployment plan can be adjusted to save cost.

In the current system, AMR’s 2014 Unit Hour deployment plan delivered, on average, 17,140 Unit Hours per month. As a simple average, this is approximately 23 units per hour Countywide. After 2:00 am the quantity is lower; it is highest in the afternoon and early evening hours.

The previous 2004 AMR contract required a minimum of **17,437** Unit Hours per month. In September 2009, the Board of Supervisors allowed the Unit Hours to be slightly lowered to control excessive system costs. Averaged per month for calendar year 2014, AMR's Unit Hour plan delivered **17,140** Unit Hours. Starting in the fall of 2014, with the closure of Doctors Medical Center, the Unit Hours were increased because transports that could not be diverted to less acute clinic care needed to go to hospitals further away, increasing unit out of service times during incidents.

By January 2015, AMR's monthly Unit Hour plan had risen to **18,172**. In reviewing the 2014 incident demand data, and AMR's Unit Hour plan by hour per week for March 2015, Citygate finds that this early 2015 level of Unit Hours is the minimum necessary to meet system response time goals in each of the three zones.

5.1.1 Alliance Plan A Deployment

The Alliance deployment proposal under Plan A is for **20,748** Unit Hours per month. In its proposal the Alliance states:

“Core (lowest) deployment will be 18 ambulances, with a peak of 39 ambulances during the highest demand. As this is a performance-based contract and call demand is dynamic, we are committed to increasing units to match volume and contractual requirements. Analyzing the County call volume and hot spots, we will strategically deploy 12-hour units, with the ability of backfill, if needed.”

Citygate reviewed the proposed Unit Hour plan for one week against what AMR delivered in March/April of 2015 and found the Alliance slightly increased hours at key parts of the day and days of the week in the sample weekly ambulance schedule provided by the Alliance.

Citygate Opinion #2 – Plan A Deployment Hours: Citygate's extensive review of the incident demand data by zone, hour of the day, and day of the week found the proposed Alliance deployment plan capable of meeting the current needs of the requested Plan A.

5.1.2 Alliance Plan B Deployment

The Alliance deployment proposal under Plan B is for **20,020** Unit Hours per month. In its proposal the Alliance states:

“Core (lowest) deployment will be 18 ambulances, with a peak of 37 ambulances during the highest demand. As this is a performance-based contract and call demand is dynamic, we are committed to increasing units to match volume and contractual requirements. Analyzing the County call volume and hot spots, we will strategically deploy 12-hour units, with the ability of backfill, if needed.”

Citygate reviewed the proposed Unit Hour plan for one week against what AMR delivered on July 3, 2015 and found the Alliance slightly *decreased* Unit Hours at key parts of the day, and at key days of the week in the sample weekly ambulance schedule provided by the Alliance.

Citygate Opinion #3 – Plan B Deployment Plan Hours: Citygate’s extensive review of the incident demand data by zone, hour of the day, and day of the week found the proposed Alliance Plan B insufficiently documented regarding where the reductions and resultant reduced response times occur. *As such, it is not possible to state whether the plan will meet the response time objectives for the cost proposed.*

5.2 PLAN A LIKELY RESPONSE TIME COMPLIANCE

Contra Costa County’s current contract with AMR requires a 10-minute response 95% of the time for calls determined to need a “lights and sirens” response in the City of Richmond, while in the remainder of West County emergency response times are 11:45 minutes, 90% of the time (similar to the remainder of the County). The variation in response requirements between these communities was based on the goal of providing a paramedic within 10 minutes on scene, established by the County as part of the 2004 ambulance service agreement for areas not served by fire paramedic first response.

The 2015 Ambulance System RFP required, in Plan A, response time performance across four geographic zones. The zones are the City of Richmond, the balance of the West County, the Central County, and the East County. The response time measures are:

High Priority Emergencies – to 90% of the incidents from a low in Richmond of 10 minutes to 11:45 minutes/seconds across the mid-County and to rural East County areas at 16:45 minutes/seconds.

In documents to the County EMS Agency, and in the Alliance proposal, response times by AMR from March 1, 2014 through February 28, 2015 in the current five performance zones exceeded 90% in all zones ranging from a low of 91% to a high of 97%, with West County and more specifically Richmond, typically averaging 94-95%.

Citygate Opinion #4 – Plan A Response Time: Given the historical response time compliance reported by AMR under the current contract, as well as the increased Unit Hours in the Alliance Deployment Plan, Citygate is of the opinion that the Alliance can maintain the desired response time goals of the requested Deployment Plan A.

5.3 PLAN B LIKELY RESPONSE TIME COMPLIANCE

The County's RFP requested an alternative Response Plan B that reduced the response time zones to three and *increased* response time for 90% of the incidents ranging from a low of 12:45 minutes/seconds in urban/suburban areas to 20:00 minutes/seconds in rural areas. The goal was intended to allow a few less ambulances in the system for cost control given the lower severity incidents that dominate workload across the system.

The three response time zones were West, Central, and East County, with response time measures focused on population density areas. This plan removed the City of Richmond from being its own performance area.

Based on a one-week, Countywide ambulance deployment schedule, and the fact that Plan B merges Richmond into the western compliance zone, it is impossible to validate if the reductions in Plan B are excessive, or if they will even meet the County's lessor response time goals. There is no way to know if one zone is more affected by reductions than another zone.

While the Alliance offered a different Unit Hour deployment exhibit for Option/Plan B, it did not prefer its implementation. In its RFP response, the Alliance stated:

Our submission under Plan "A" provides shorter response times than provided for under option B and we believe that is what the public wants and demands. Our submission addresses the concerns that the LEMSA has for system sustainability, while simultaneously providing what the public wants in their ambulance delivery model, which is an efficient, cost-effective emergency response. Our plan is designed to meet the public's desire and does not require any subsidy from the County.

We have also provided a Plan "B" that includes longer response times for responding ambulances, thus decrease the cost of providing the service through reduction of unit hours. We would like to highlight that this plan comes at a significant cost to not only the patient that is required to wait longer for the arrival of the ambulance but also the County's first responders from all agencies as they will be required to remain on scene until the ambulance arrives. This includes all first responder such as fire, police, sheriff and highway patrol. Diminished resources due to increased response times for transport providers is not in the best interest of any of the County's stakeholders. Our submission of Plan "A" provides for all the needs identified in the modernization report at no cost to the County.

In response to further Plan B questions from Citygate Associates, the Alliance stated:

The unit hours proposed under Plan A are higher than our 2014 deployment. The difference in deployment is driven by several factors. First, the closure of Doctors

Medical Center earlier this year has resulted in a significant disruption to the previous deployment model requiring the addition of unit hours to maintain West County coverage. Next, while the current RFP does ease some response time requirements, it also provides additional complexity and cost by initiating outlier penalties and rolling daily compliance requirements. Lastly, both the District and AMR felt it was necessary to build a deployment plan that would ensure success, especially given the unknown effects of further first responder reductions in East Contra Costa County. As such, we built a robust deployment plan that may allow for future reductions once the system is stable.

Given these numerous system dynamics outlined above, the Alliance felt it would be imprudent to propose unit hour reductions under Plan B. Unit hour reductions would result in longer on-scene times for our local fire departments at a time when their resource capabilities are already stretched thin. In addition, such unit hour reductions would provide for less flexibility to address the recent system changes and those new requirements outlined in the RFP.

Citygate also observes that the deployment hours for Plan B are estimated from a software model used by AMR and, due to the changes in response zones, the deployment hour estimations are new. No software model estimates are perfect, and different mathematical approaches yield different results.

Even with historical incident data to model from, the 9-1-1 system demand is a *chaotic mathematical model*; it is not simply linear. There are many simultaneous and sometimes unexpected factors that generate 9-1-1 demand. The emergency system is not like a supermarket where a large volume of data supports how many checkout registers to have open on busy afternoons. In that scenario, the volume of use over time is very predictable. In a 9-1-1 system, an event such as a wildland fire, multi-patient auto accident, a heat wave, or hazardous materials leak can throw unexpected hourly demands on the system. It is preferable to have some reserve capacity in a system for such moments. Proposed Plan A has proven historically positive response times, and the Alliance has offered that plan in a cost-to-revenue structure that is positively balanced.

Citygate Opinion #5 – Plan B Response Time: The response time compliance for Plan B cannot be benchmarked to current system compliance given the change from four to three zones and a relaxation of response time measures. Citygate would *strongly encourage the County* **not** to implement Plan B all at once, if at all. If chosen for implementation, the Alliance should be allowed to test some reductions in some areas and then, based on closely-observed metrics, make adjustments. This measured, incremental approach is consistent with the values of Continuous Quality Improvement (CQI).

5.4 STAFFING FOR ADMINISTRATIVE, TRAINING, DISPATCH, AND COMMUNITY EDUCATION SUPPORT

The ambulance deployment plan drives the total number of paramedics and EMTs needed. Each of these types of employees needs state- and County-mandated training and quality assurance clinical oversight. Additionally, any ambulance operation needs support staff to provide administration, fiscal, supply, and ambulance fleet repair. An all-encompassing term for these positions and resultant costs would be administration and logistical support. The Alliance staffing proposal for Plan A requires 114 paramedics and 114 EMTs, totaling 228 personnel. Deployment Plan B only requires 8 fewer field personnel, so the following logistical support analysis only uses proposed Plan A, and there is a negligible decrease to oversight position costs under Plan B.

To provide the needed support for these field positions, AMR's portion of the Alliance will provide 47 full- and part-time positions across these categories:

Table 6—Administrative and Logistical Support

Position Title	Number of Positions
General Manager	1
Clinical Manager	1
Operations Manager	1
Data Analyst	1
Community Outreach	1
Clinical Education Specialist	1
Clinical Education Coordinator	1
Deputy Operations Manager	1
Logistics Supervisor	1
Administrative Supervisor	1
Administrative Assistant	1
Scheduling	2
EMS Operations Supervisor	9
Vehicle Service Technicians	7
Lead Mechanic	1
Vehicle Mechanic	3
Pre-billing Staff	3
Dispatchers	10
Assistant Medical Director	1
Total AMR Positions	47

In the Alliance proposal for administration, there is only one (CCCYPD) position added and expensed from ambulance revenues: an EMS Chief Officer to oversee the Alliance operations on behalf of CCCYPD. This position would presumably be the key liaison between AMR, fire operations staff, and the County's EMS Agency.

5.4.1 Community Education

The Ambulance RFP required the contractor to allocate \$100,000 under Plan A, and \$300,000 under Plan B, annually for community education and improvement activities. The Alliance proposal allocated \$300,000 under Plan A, exceeding the RFP requirement, and \$300,000 under Plan B, as required by the RFP.

This amount is shown in the proposed Alliance budget in two locations: (1) personnel costs, because people provide community training; and (2) a separate line item of \$50,000 for outreach supplies and publications. Personnel include a dedicated Community Education Coordinator that will be dedicated to providing support to the Community Education programs. In addition, members of the management team, Paramedics, and EMTs will be used to staff high volume community outreach programs, and those wages also are included in the Alliance budget.

5.4.2 Quality Control and Overall Logistical Positions Needs and Appropriateness

Quality emergency medical care and transport services are dependent upon an effective Continuous Quality Improvement (CQI) program that is tied to a living training plan and calendar. The CQI program focuses on both the individual care provider (EMT or paramedic) as well as on the system as a whole. It is both internal to the Department and external to the EMS community at large. Trend analysis through consistent data review, as well as individual run review (patient care report audits), are used to identify training needs. The four positions identified on the Alliance's organization chart (Community Outreach, Continuing Education Specialist, Continuing Education Coordinator, and Data Analyst) will provide the fundamentals for an effective CQI and training program.

Citygate Opinion #6 – Alliance Logistical Staffing Expense: Given the staffing provided by AMR, and a verbal confirmation that AMR support services staffing will remain the same as in the current contract, the CQI, training, and community education staff appears appropriate for the size of the projected AMR operation. CCCYPD will continue to separately manage the training and CQI for its firefighter/paramedics, as it does currently.

SECTION 6—ALLIANCE ECONOMIC PROPOSAL

6.1 TRANSPORT VOLUME OVER TIME

An ambulance system's revenues are fundamentally driven by total transports. Citygate's review of County EMS-provided raw data found that, in the calendar year of 2014, there were a total of 79,358 AMR initial responses in all zones in the County. This was an increase of about 5,000 response incidents over 2013.

These incidents resulted in a total of 63,488 transports to the region's hospitals. Over four years the number of *transports* has grown steadily:

Table 7—Number of Transports in Contra Costa County

Year	Transports
2011	57,590
2012	60,751
2013	60,804
2014	63,488

In Contract Year 1 (2016), the Alliance proposal has estimated total *transports* to be 63,500, or a growth rate of essentially zero. Citygate sees this flat-line projection as conservative and reasonable given the slight increase in overall incident demand from 2012 to 2014. Even given the closure of Doctors Medical Center, the Alliance believes that transport demand under the health care reform impacts will be flat for several years. In response to questions from Citygate about the demand for service assumptions, the Alliance stated:

In reviewing transport history, 2014 had considerably higher transport growth (4.4%) than the previous year growth (1.8%). The historic growth rates included years with both positive as well as negative transport growth rates. We identified 2014 as a higher than average year as the Affordable Care Act (ACA) was implemented and more patients had access to insurance and therefore utilized ambulance service. Based upon this information, we took a conservative approach to forecasting transport growth to ensure system stability and kept 2015 and 2016 projections flat.

Citygate Opinion #7 – Number of Transports Volume: Given the conservative projection of total transports for at least Contract Year 1 (2016), we find that the Alliance proposal had not inflated transport projections upon which to base revenues. If anything, the projections could end up being slightly low, thus providing a possible economic cushion by 2017.

6.2 BILLING BY PAYER TYPE

Table 2 on page 9 of the RFP provided the current breakdown of payer types for AMR in Contra Costa County:

Table 8—Payer Types from AMR in Contra Costa County

Payer Type	RFP Percent of Payer Type	2014 Actual	Alliance Proposal
Medicare and Medicare HMO	42.9%	43.2%	42.9%
Medi-Cal and Medi-Cal HMO	26.3%	26.8%	26.3%
Insurance	14.4%	14.5%	14.4%
Private Pay & Other	16.4%	15.5%	16.4%
Total	100.0%	100.0%	100.0%

In its revenue projections for the bid response, the Alliance assumed that the payer mix would remain the same for all three years of the projection period (2016-2018). In response to a question regarding why it assumed a constant payer-type mix, the Alliance stated:

It is AMR's practice in developing cost projections to keep payer mix steady, unless there are known factors that would result in a material change. At this point, the 2015 payer mix appears stable. The majority of the changes associated with the ACA occurred in 2014. With the future of the ACA uncertain at this time, we assumed the status quo was the most prudent approach to take.

Consequently, while the payer mix has clearly changed over time, Contra Costa County already has a much higher proportion of Medicare and Medi-Cal customers, a much lower proportion of Commercial Insurance than AMR's contracts in other regions, and supports AMR's response that much of the changes associated with ACA have already been reflected in the 2014 payer mix.

As discussed in **Section 3**, the trend in recent years has been a shift from higher-paying commercial insurance plans to lower-paying governmental plans. From the most recent 10-K for Envision Healthcare Holdings, Inc., the parent holding company for AMR, the payer breakdown for AMR in total (including all regions, not just Contra Costa County) was as follows:

Table 9—AMR National Payer Experience

Payer	2012	2013	2014
Medicare	28.6%	32.1%	30.4%
Medicaid (Medi-Cal)	6.3%	7.4%	8.8%
Insurance	41.4%	39.2%	36.8%
Self-pay & Other	23.7%	21.3%	24.0%
Total	100.0%	100.0%	100.0%

6.3 ALLIANCE REVENUE ESTIMATE MODEL

Regarding the revenue projection for Total (Gross) Charges, the Alliance appropriately used the stipulated ambulance rates for rate Contract Year 1, as required in Appendix 10 of the RFP, as well as the annual 3% rate increase specified on page 55 of the County’s Ambulance RFP.

Table 10—County RFP Ambulance Rates

Charge Type	Charge Amount
Emergency Base Rate	\$2,100.00
Mileage Rate (per loaded mile)	\$50.00
Oxygen	\$175.00
Treat and Refused Transport	\$450.00

The Alliance assumed 6 miles per transport, and oxygen usage on 60% of transports, resulting in an Average Patient Charge (APC) of approximately \$2,505. The Alliance took a conservative position related to “Treat and Refused Transport” charges. Given the unfavorable political considerations, and historically low net collection experience for Treat and Refused Transport fees, at this time AMR does not intend to pursue such fees even though the RFP and proposed contract would permit them to do so.

In terms of expected net collections by payer type, the Alliance again took a conservative approach to its revenue projections compared to AMR’s experience in 2014:

Table 11—AMR Contra Costa County Net Cash Collections by Type

Payer	2014 Actual	2016 Projected	2017 Projected	2018 Projected
Medicare	22.7%	18.8%	18.6%	18.4%
Medi-Cal	6.5%	5.5%	5.4%	5.2%
Insurance	92.0%	91.2%	91.2%	91.2%
Self-pay & Other	13.1%	12.1%	11.9%	11.7%
Average	27.1%	24.6%	24.5%	24.3%

This lower projected collection percentage is prudent given the recent trend in high deductible health plans, as well as the stipulated rate increases specified in the RFP, which will increase Total (Gross) Charges, but will not necessarily increase the amount collected, especially for Medicare and Medi-Cal customers.

Citygate Opinion #8 – Net Collections: The Alliance’s approach in projecting Average Patient Charges (APC) and expected net collections by payer type is both conservative and prudent. The question of payer mix is one of the most difficult aspects of this projection given the uncertainties surrounding health care reform. AMR believes that much of the change resulting from the ACA has already been reflected in the 2014 payer mix data and that projecting the status quo is the most prudent course of action at this time. While this approach is reasonable, we believe that continued deterioration of net collections due to changes in payer mix and increases in the number of high deductible health plans remains one of the largest risks going forward, and one that will need to be evaluated in light of other risks and opportunities in the Alliance projections (see **Section 6.5**).

6.4 GEMT ABSENCE, NEAR-TERM FORECAST, AND THE WIDE VARIANCE OF POSSIBLE REVENUES

6.4.1 Description of GEMT Program

The Ground Emergency Medical Transportation (GEMT) supplemental reimbursement program is a supplemental program designed to compensate governmental providers of GEMT services for up to 50% of the uncompensated cost of providing GEMT services to Medi-Cal *Fee for Service* beneficiaries. The GEMT program uses Certified Public Expenditures (CPE) for payment of the federal share of the supplemental reimbursement. The GEMT statute was enacted as California Welfare and Institution Code, Section 14105.94 on October 2, 2011, and approved in a State Plan Amendment by the Centers for Medicare and Medicaid Services (CMS) on September 4, 2013. The program is retroactive to January 30, 2010.

To qualify for GEMT program reimbursement, an EMS provider must meet the following criteria: (1) provide GEMT services to Medi-Cal beneficiaries; (2) be enrolled as a Medi-Cal provider for the period being claimed; and (3) be owned or operated by the state, a city, a county, a city and county, a fire protection district, a health care district, a community services district, a special district, or a federal Indian tribe. Eligible providers must also enter into a Provider Participation contract with the California Department of Health Care Services (DHCS) and agree to reimburse DHCS and the fiscal intermediary for their administrative expenses.

To receive supplemental reimbursement pursuant to the GEMT program, service providers submit an annual cost report to DHCS. The payment is based on claiming federal financial participation in CPEs that have been incurred by the public GEMT provider during the preceding fiscal year. Expenses that may be submitted in the cost report include direct and indirect costs, such as capital assets, including depreciation of buildings and equipment; salaries and benefits for line and management staff; and administrative and general expenses, such as operations and maintenance, insurance, and materials and supplies.

In the GEMT program, the participating provider is subject to retrospective audit after reimbursement is provided, creating a potential liability for the participating agency. Representatives of some fire departments that have received audits of their GEMT programs described the audit as being very thorough and detailed, more “like preparing to go to court.” This potential liability can be minimized by maintaining complete and original records justifying all claims made pursuant to the GEMT program.

6.4.2 CCCFPD’s Intent to Seek GEMT Reimbursement

The CCCFPD has stated that it intends to submit for GEMT reimbursement in the future, but has not included GEMT revenue in its budget. Citygate agrees with this decision, because there are numerous variables that make it difficult to quantify current and future benefits of the GEMT reimbursement for the Alliance. These variables include: (1) whether the GEMT program will expand to cover Medi-Cal *Managed Care* (HMO) beneficiaries; (2) characteristics of CCCFPD’s contracted billing services agreement; and (3) DHCS’s determination of CCCFPD’s allowable expenses.

6.4.3 The GEMT Program, Medi-Cal Fee for Service, and Medi-Cal Managed Care

The GEMT supplemental reimbursement program, as currently defined in statute, provides supplemental reimbursement for the federal share of providing GEMT services to Medi-Cal *Fee for Service* beneficiaries. The GEMT program does not provide supplemental reimbursement for GEMT services provided to Medi-Cal *Managed Care* beneficiaries. During the past two years, there have been two attempts at legislation to expand GEMT supplemental reimbursement to include Medi-Cal *Managed Care* beneficiaries, but those attempts have not been successful. It is likely these attempts will continue in the next legislative year.

In Contra Costa County, approximately 26% of ambulance transports are Medi-Cal beneficiaries. Also in Contra Costa County, only 20% of Medi-Cal beneficiaries are in *Fee for Service* programs. The majority of Medi-Cal beneficiaries (80%) are in Medi-Cal *Managed Care* Plans. Thus, the CCCFPD would be eligible to claim cost-based GEMT supplemental reimbursement on only approximately 5.2% of all ambulance transports.

6.4.4 Characteristics of Contracted Billing Service Agreement

Because CCCFPD has not entered into an agreement with a contracted billing service, it is not possible to determine whether DHCS would determine whether this expense would qualify for GEMT reimbursement. DHCS, in Policy and Procedure Letter 14-001, issued on December 18, 2014, clarified allowable reimbursement of GEMT contracted billing and accounting service costs. DHCS stated that expenditures for contracted billing services would be allowable for supplemental GEMT reimbursement only if those billing services are paid fees, based on a flat rate per transport or for the time of work rather than paid fees based on the amount collected, amount billed, or historical costs.

6.4.5 DHCS's Determination of the CCCFPD's Allowable GEMT Expenses

The GEMT statute requires, to be eligible for GEMT supplemental reimbursement, that the public provider “own and operate” the GEMT service. The GEMT statute also restricts reimbursable costs to those costs incurred by the public provider. On September 30, 2013, DHCS issued Policy and Procedure Letter 13-001, which clarified the meaning of “owns and operates” by explaining the intent of “costs incurred by the public provider” in the GEMT statute. DHCS stated:

Eligible Contracting Arrangements - satisfying "owns or operates"

Eligible public providers that contract for the provision of GEMT services to a private provider, and the public provider directly bills the Department of Health Care Services (DHCS) for GEMT services, satisfies the "owns or operates" requirement in Welfare and Institutions Code section 14105.94, subdivision (b), paragraph (3), and the public provider is eligible to participate in the GEMT program. However, the public provider may claim supplement reimbursement only for the costs the public provider incurs, not the contracted provider's costs. Therefore, costs eligible for reimbursement under this program would be the public provider's contract costs attributed only to providing GEMT services to Medi-Cal beneficiaries, billing costs, and the public provider's overhead costs allocated to the Medi-Cal GEMT services program, as allowed by State Plan Amendment (SPA) 09-024. The public provider may not claim supplemental reimbursement for any other cost incurred by the contracted private provider.

Eligible public providers that contract for the provision of GEMT services to a private provider, and the public provider also contracts out its billing activities to

a billing agent that bills DHCS on the public provider's behalf, satisfies the "owns or operates" requirement in Welfare and Institutions Code section 14105.94, subdivision (b), paragraph (3), and the public provider is eligible to participate in the GEMT program. However, the public provider may claim supplemental reimbursement only for its contract costs. Therefore, costs eligible for reimbursement under this program would be the public provider's contract costs attributed only to providing GEMT services to Medi-Cal beneficiaries, and the public provider's overhead costs (including the public provider's billing agent costs) allocated to the Medi-Cal GEMT services program, as allowed by SPA 09-024. The public provider may not claim supplemental reimbursement for any other cost incurred by the contracted private provider and the billing agent.

Non-Eligible Contracting Arrangements

If a public provider contracts for the provision of GEMT services and its billing activities to a private provider, and such private provider or its billing agent directly bills DHCS, then the public provider is not eligible to participate in the GEMT program because it does not satisfy the "owns or operates" requirement in Welfare and Institutions Code section 14105.94, subdivision (b), paragraph (3). Under this scenario, it is the private provider who "owns or operates" as the provider of GEMT services rather than the public provider. A public provider that contracts for the provision of GEMT services and its billing activities, and allows the contracted private provider or the private provider's billing agent to use the public provider's National Provider Identification number for billing to DHCS, does not satisfy the "owns or operates" requirement in Welfare and Institutions Code section 14105.94, subdivision (b), paragraph (3), and the public provider is not eligible to participate in the GEMT program.

If CCCFPD applies to DHCS for GEMT reimbursement, DHCS will evaluate the business, legal, and organizational structure between CCCFPD and AMR. DHCS will also assess CCCFPD's relationship with its separate contracted billing agency. DHCS will then determine which of CCCFPD's costs, incurred directly or through contract, are eligible for reimbursement pursuant to the GEMT program guidelines.

Citygate Opinion #9 – Fee for Service GEMT Availability: Citygate will not attempt to predict which of CCCFPD's costs DHCS will or will not allow for GEMT reimbursement, as the scope of the Fire Department / Ambulance Company / Billing Contractor hybrid has not been tried yet in California, to our knowledge, since the inception of the GEMT program. Therefore, given that the CCCFPD has just obtained DHCS's national provider number and must still apply to DHCS, the Alliance approach to not assume any GEMT reimbursement in its fiscal pro-forma was the correct, conservative approach.

6.4.6 Potential Expansion of the GEMT Program to Medi-Cal Managed Care

It is difficult to accurately predict the future of GEMT program reimbursement. GEMT advocates will likely continue to attempt to expand the GEMT program to include supplemental reimbursement for GEMT services provided to Medi-Cal *Managed Care* beneficiaries. Because approximately 80% to 85% of Medi-Cal beneficiaries statewide are in Medi-Cal *Managed Care* plans, expansion of GEMT services to these beneficiaries would significantly increase the cost-based reimbursement for eligible GEMT providers.

Should the GEMT program reimbursement be approved in law for Medi-Cal *Managed Care* beneficiaries, the cost-based reimbursement would be facilitated through Intergovernmental Transfers (IGTs) rather than certified public expenditures. IGTs are a mechanism used to secure federal funds for use by local or state government. IGTs do not require the use of a cost report. In the federal Medicaid program, the quantities of funds that can be transferred through IGTs are capped at the state and local level. The difference between the local cap and the amount already received through other IGTs is called “headroom.” Each county must assess whether it has adequate headroom within its local Medicaid IGT-based cap. If it does not have adequate headroom under the local cap, GEMT IGT claims will result in IGT revenue being reallocated from other existing in-county IGT programs, or denied due to the importance of other programs or the headroom cap. There is an approved pilot program in one other county that has open headroom, but it is unknown if IGT permission for EMS will be allowed statewide.

Citygate Opinion #10 – HMO GEMT: There is no near-term assurance in Contra Costa County that the IGT program for Medi-Cal *Managed Care* beneficiaries will become available. As such, the Alliance decision to not depend on GEMT funds for Medi-Cal *Managed Care* is correct.

6.5 PLAN A AND B REVENUE AND COST PROJECTION ANALYSIS

As the incumbent operator for Emergency Ambulance Service in Contra Costa County, AMR has unique insight into the factors that drive revenues and costs, and the recent trends in those factors. AMR has managed to continue to meet service obligations while maintaining profitability through very adverse trends in payer mix and net collection rates in recent years. The County Ambulance RFP stipulated ambulance rate for Contract Year 1 provides for a net increase of approximately 7.4% over existing rates in Contra Costa County. That increase enabled the Alliance to conservatively estimate a reduction in net collections and maintain profitability.

Clearly, one of the largest risks facing the Alliance and Contra Costa County is the uncertainty surrounding health care reform and the potential continuing shift of payer mix and deteriorating net collections below the already conservative Alliance revenue projection. While the Alliance

projected declines in net collections from 27.1% to 24.6%, such declines could actually exceed that forecast if recent trends of rising deductibles and rejected claims continue.

In considering the overall strength and weakness of the revenue projection, there are several potential opportunities that could offset the risks associated with payer mix and net collections.

As described in **Section 6.1** previously, the Alliance took a conservative approach to projecting transport volume over time. If transport volumes exceed the levels in the Alliance projection, there should be a positive impact to profit margins. This is because revenues should generally grow in proportion to transport volume increases, while costs will not likely grow as quickly due to certain fixed costs, and the improved economies of scale.

Similarly, the Alliance took the conservative approach of not projecting **any** incremental revenues associated with two potential new sources of revenue. The RFP would permit the contractor to charge for “Treat and Refused Transport” services, which the Alliance says it does not plan to do, at least initially. In addition, as described in **Section 6.4** previously, the potential for supplemental reimbursement under the GEMT program could be a source of incremental revenue. While both “Treat and Refused Transport” and GEMT revenues could have some incremental billing costs associated with them, their net collections would still contribute to the bottom line.

Cost projections are driven by the deployment plan, and a detailed analysis of the deployment plan, staffing levels, and operations is contained in **Section 5** of this report. The resulting cost per Unit Hour provided by the Alliance for the first three years of the contract is as follows, including a projection of 3% increases each year to cover increases in the collective bargaining agreement, merit increases, and inflation:

Table 12—Plan A and B Cost per Unit Hour

Plan	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
Plan A			
Cost per Unit Hour	\$148.89	\$153.36	\$157.96
Plan B			
Cost per Unit Hour	\$152.52	\$157.09	\$161.80

Combining the revenue and cost projections by year with the projected transport volumes yields the following results:

Table 13—Deployment Plan A

Description	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
Transport Volume	63,500	64,450	65,418
Net Revenue / Transport	\$617.08	\$631.62	\$646.51
Expenses / Transport	\$586.00	\$594.69	\$603.46
Gross Profit / Transport	\$31.08	\$36.94	\$43.05
Gross Profit Percentage	5.0%	5.8%	6.7%

The potential for supplemental reimbursement under the GEMT program is the largest opportunity, and growth in transport volumes above currently-projected levels could also provide a cushion. The strategies in **Section 7** regarding risk control will further help the County manage risk over the life of the contract.

Table 14—Deployment Plan B

Description	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
Transport Volume	63,500	64,450	65,418
Net Revenue / Transport	\$617.08	\$631.62	\$646.51
Expenses / Transport	\$578.60	\$587.18	\$595.84
Gross Profit / Transport	\$38.48	\$44.45	\$50.67
Gross Profit Percentage	6.2%	7.0%	7.8%

The only major cost difference between the two plans is that in Plan B there are eight less field employees and a small reduction in logistical expenses, such as insurance. There are no meaningful administrative and logistical personnel expense deductions.

Plan B contains a new and significant required annual payment of \$750,000 to the County EMS Agency for system administration uses. This charge is, in theory, to be funded from operational savings due to longer response times. The cost shifts between Plans A and B can be summarized as:

Table 15—Cost Differences Between Plans A and B

Plan Difference	Amount
Plan B Cost Reductions	~ (\$1,220,000)
Plan B EMS Agency Fee	~ \$750,000
Plan B Net Reductions	~ (\$470,000)

Given the comparison of Plan A and Plan B provided by the Alliance, and the fact that the cost *savings* for Plan B are only \$470,000 due to the charge for County EMS administration, it is obvious that Plan A provides better response times and compliance at a lower Unit Hour cost. In both Alliance Plan A and Plan B proposals, the **total** system costs per Unit Hour are:

Table 16—Total System Costs per Unit Hour for Plans A and B

Plan	Unit Hour Cost
Plan A	\$148.89
Plan B	\$152.52

Thus, the reduced coverage in Plan B actually costs *more* per Unit Hour than Plan A due to the EMS Agency fee mandated in Plan B.

Plan A also maintains a response time compliance zone in Richmond, which Citygate believes is positive due to the unique workload demands in that city. It does not make sense to Citygate to include a very busy area such as Richmond with adjoining areas that are far less busy. The result could well be that the high call volume areas either suffer slow response times as units are outside the city, or the low call volume areas suffer as their units are inside the city. It would be preferable to require the contractor to balance Richmond for compliance separate from the rest of the West County.

6.5.1 Total Expense to Revenue Performance for Plan A and B

It must be remembered that the Alliance projected declines in *net* collections from 27.1% to 24.6%. Net collection declines could actually exceed that forecast if recent trends of rising deductibles and rejected payment claims continue. What also makes the projected 24.6% net revenue disturbing is that, in the decades preceding the last recession and federal health care reform, a “low” ambulance collection rate was 66%. Some communities collected more; however, no communities collected more than 90%. Because private providers may not be able to run a regional ambulance system for a profit of only 3-5%, the EMS industry is openly discussing the question, “At what net collection rate will a public subsidy be required?”

In summary, for total revenue to expense, the two plans project:

Table 17—Plan A and B Economics

	PLAN A			PLAN B		
Description	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
Revenue	\$39,184,619	\$40,707,971	\$42,293,630	\$39,184,619	\$40,707,971	\$42,293,630
Expenses	\$37,211,143	\$38,327,477	\$39,477,301	\$36,741,220	\$37,843,457	\$38,978,760
Gain	\$1,973,476	\$2,380,494	\$2,816,329	\$2,443,399	\$2,864,514	\$3,314,870

Based on the above analysis, and our experience, Citygate offers the following:

Citygate Opinion #11 – Plan A Economics: The economic proposal for Plan A submitted by the Alliance is based on reasonable and generally conservative assumptions. Projected costs are less than conservatively estimated revenues. While there is no way to completely address the risks that are faced in the industry regarding the impact of health care reform, and trends of declining collections from insurance carriers, Plan A has a revenue safety cushion without the receipt of any GEMT supplemental revenues.

Citygate Opinion #12 – Plan B Economics: Given that Plan B provides a system with longer response times for a few less Unit Hours and small revenue cushion for the uncertainties in ambulance revenue trends, Citygate does not see a reason to implement a significant system change to, for the most part, simply generate new revenues to the County's EMS Agency. Citygate would rather see the Alliance build a larger revenue-to-cost projection to build its reserves first.

6.6 ESTIMATE OF AMR PROFIT AND REASONABLENESS

During our meeting with representatives from the Alliance, Citygate confirmed that the provision for profit for AMR under the contract with CCCFPD is contained in the Expense Budgets in Appendix 16 of the bid response under the line item titled "AMR Contract Administration Fees." Citygate compared the Administration Fee to total AMR expenses before the Fee and then total expenses, including CCCFPD expenses, which are presented in the table below:

Table 18—Deployment Plan A Expenses

Description	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
AMR Contract Admin Fee	\$3,375,263	\$3,476,521	\$3,580,517
Total <i>AMR</i> Expenses Fee	\$33,752,634	\$34,765,213	\$35,808,170
Fee as a % of AMR Expenses	10.0%	10.0%	10.0%
Total <i>Alliance</i> Expenses Fee	\$37,211,143	\$38,327,477	\$39,477,301
Fee as a % of Total Expense	9.1%	9.1%	9.1%

Based on discussions with representatives from AMR, this profit percentage effectively represents Earnings Before Interest and Taxes (EBIT), and actually also covers a small amount of Depreciation and Amortization for certain AMR non-field assets which were not included in the expense budgets.

Table 19—Deployment Plan B Expenses

Description	Year 1 (2016)	Year 2 (2017)	Year 3 (2018)
AMR Contract Admin Fee	\$3,259,280	\$3,357,059	\$3,457,771
Total <i>AMR</i> Expenses Fee	\$32,592,803	\$33,570,588	\$34,577,705
Fee as a % of AMR Expenses	10.0%	10.0%	10.0%
Total <i>Alliance</i> Expenses Fee	\$36,741,220	\$37,843,457	\$38,978,760
Fee as a % of Total Expense	8.9%	8.9%	8.9%

Citygate Opinion #13 – AMR Profit: The AMR profit component is segregated as a separate line item in the Alliance Expense Budget, providing a level of transparency. Also, AMR allocated a reasonable 10.0% of total expenses to cover non-field Depreciation and Amortization, Interest, Taxes, and leave a reasonable level of Net Profit for AMR.

6.7 AMR FISCAL HEALTH/CORPORATE REVIEW

AMR is the nation's largest medical transportation company. AMR is a wholly owned subsidiary of Envision Healthcare Holdings, Inc. (ticker symbol EVHC). In addition to AMR, EVHC also owns a subsidiary called EmCare. EmCare is a leading provider of integrated facility-based physician services, including emergency, anesthesiology, hospitalist/inpatient care, radiology, tele-radiology, and surgery. EmCare also offers physician-led care management solutions outside the hospital.

The following are some facts about AMR obtained from its company website:

- ◆ Number of employees: 18,000+
- ◆ Number of vehicles: 4,200
- ◆ Number of states served: 40, plus the District of Columbia
- ◆ Number of communities served: 2,100
- ◆ Number of patient transports in 2014: 3 million +

Citygate reviewed the 10-K reports for EVHC as submitted with the Alliance proposal and as filed with the U.S. Securities and Exchange Commission for the years ended December 31, 2012, 2013, and 2014. Selected liquidity and profitability ratios for EVHC are shown on the following table:

Table 20—Envision Healthcare Holdings, Inc. (EVHC) Fiscal Health Measures

Item	2012	2013	2014
Days Sales Outstanding	69.1	78.4	78.9
Net revenue	\$3,300,121	\$3,728,312	\$4,397,644
Trade accounts receivable, net	\$625,144	\$801,146	\$950,115
Current Ratio	1.57	2.40	2.36
Current assets	\$753,259	\$1,082,283	\$1,363,239
Current liabilities	\$478,694	\$451,329	\$576,868
Quick Ratio	1.48	2.29	2.26
Cash and cash equivalents	\$57,832	\$204,712	\$318,895
Securities (insurance collateral)	\$24,481	\$29,619	\$32,828
Trade accounts receivable, net	\$625,144	\$801,146	\$950,115
Current liabilities	\$478,694	\$451,329	\$576,868
Debt Ratio	0.87	0.63	0.62
Total liabilities	\$3,492,146	\$2,690,264	\$2,934,712
Total assets	\$4,036,833	\$4,300,017	\$4,703,753
Long-Term Debt-to-Equity Ratio	4.86	1.18	1.15
Long-term debt	\$2,647,098	\$1,895,381	\$2,025,877
Total equity	\$544,687	\$1,609,753	\$1,769,041
Interest Coverage Ratio	1.41	1.48	3.52
Income from operations	\$256,742	\$276,755	\$388,486
Interest expense	\$182,607	\$186,701	\$110,505

Item	2012	2013	2014
Operating Margin	7.8%	7.4%	8.8%
Income from operations	\$256,742	\$276,755	\$388,486
Net revenue	\$3,300,121	\$3,728,312	\$4,397,644
Net Profit Margin	1.2%	0.3%	2.7%
Net income	\$41,185	\$11,495	\$119,866
Net revenue	\$3,300,121	\$3,728,312	\$4,397,644
Return on Equity	5.6%	1.1%	7.1%
Net income	\$41,185	\$11,495	\$119,866
Average equity	\$729,089	\$1,077,220	\$1,689,397
Return on Assets	1.0%	0.3%	2.7%
Net income	\$41,185	\$11,495	\$119,866
Average assets	\$4,036,833	\$4,168,425	\$4,501,885

Citygate Opinion #14 – AMR Fiscal Strength: Citygate notes that AMR national liquidity ratios stayed very consistent between 2013 and 2014, and the profitability ratios improved from 2013 to 2014. Given the diversity of ambulance costs and declining payer type payments across the country, for AMR to have stable liquidity and profit ratios showing slight improvement, it suggests AMR is weathering the ambulance industry revenue decline as well as, if not better than, the other large national providers.

6.8 CCCFPD FISCAL HEALTH / CORPORATE REVIEW

6.8.1 CCCFPD Financial Capacity

Citygate conducted a preliminary review of CCCFPD's last three financial statements. The CCCFPD provides fire and emergency medical service activities to nine cities and certain unincorporated areas in the County. The CCCFPD is principally financed by property taxes and services, such as fire prevention plan review and inspections.

Citygate's initial review showed that the finances of the CCCFPD have been improving over the past three years, with steady increases in the unassigned fund balance as well as cash. From FY 2012/13 to FY 2013/14, the cash balance increased by approximately \$4.0 million. This is due to both an increase in property tax revenue and decrease in expenses.

The following tables 21 and 22 provide a snapshot of the CCCFPD balance sheet over the past three years as reported in the County's Comprehensive Annual Financial Reports (CAFR) for Fiscal Years 11-12, 12-13, and 13-14:

Table 21—CCCFPD “Balance Sheet” by Fiscal Year

Item	FY 2011-12	FY 2012-13	FY 2013-14
Assets			
Cash and investments	\$23,851,000	\$27,519,000	\$31,508,000
Accounts receivable and accrued revenue (net)	\$940,000	\$689,000	\$1,135,000
Inventories	\$551,000	\$760,000	\$666,000
Due from other funds	\$59,000	\$51,000	\$48,000
Notes receivable			
Prepaid items, deposits land held for resale	\$1,355,000	\$1,127,000	\$1,614,000
Restricted cash and investments			
Total Assets	\$26,756,000	\$30,146,000	\$34,971,000
Liabilities, Deferred Inflows of Resources, and Fund Balances			
Liabilities:			
Accounts payable and accrued liabilities	\$4,593,000	\$4,335,000	\$4,294,000
Due to other funds	\$157,000	\$106,000	\$118,000
Welfare program advances			
Unearned/deferred revenue	\$41,000	\$51,000	
Total Liabilities	\$4,791,000	\$4,492,000	\$4,412,000
Deferred Inflows of Resources:			
Unavailable Revenue			\$59
Fund Balances:			
Nonspendable	\$1,906,000	\$1,887,000	\$1,614,000
Restricted	\$12,393,000	\$10,092,000	\$10,623,000
Committed			
Assigned	\$7,666,000	\$13,675,000	\$18,263,000
Unassigned			
Total fund balances	\$21,965,000	\$25,654,000	\$30,500,000
Total Liabilities, Deferred Inflows of Resources, and Fund Balances	\$26,756,000	\$30,146,000	\$34,971,000

Over the past three years, tax revenue has grown by approximately \$8.0 million, or a 10% increase. This reflects a significant growth in income and is an indication of the recovery of the

property tax revenue post-recession. It does not show how much of the tax base recovery is related to increased assessed value and how much is related to new property tax base. This can be an important distinction because new property tax base may mean housing growth that will translate into service level requirements over time.

Table 22—CCCFPD Statement of Revenues, Expenditures, and Change in Fund Balance

Item	FY 2011-12	FY 2012-13	FY 2013-14
Revenue			
Taxes	\$77,270,000	\$80,202,000	\$85,274,000
Licenses, permits and franchise fees			
Fines, forfeitures			
Use of money and property	\$31,000	\$16,000	\$2,000
Intergovernmental	\$7,122,000	\$8,226,000	\$3,342,000
Charges for services	\$5,372,000	\$6,380,000	\$6,119,000
Other revenue	\$226,000	\$1,541,000	\$123,000
Total Revenue	\$90,021,000	\$96,365,000	\$94,860,000
Expenditures			
Current			
Public safety	\$93,978,000	\$92,700,000	\$90,033,000
Total Expenditures	\$93,978,000	\$92,700,000	\$90,033,000
Excess of revenues over expenditures	(\$3,957,000)	\$3,665,000	\$4,827,000
Other Financing Sources			
Transfers in	\$164,000	\$24,000	\$19,000
Transfers out			
Capital lease financing			
Total Other Financing Sources	\$164,000	\$24,000	\$19,000
Net Changes in Fund Balance	(\$3,793,000)	\$3,689,000	\$4,846,000
Fund Balance at Beginning of Year	\$25,758,000	\$21,965,000	\$25,654,000
Fund Balance at End of Year	\$21,965,000	\$25,654,000	\$30,500,000

Although the CCCFPD appears to be making significant strides on both the revenue and expenditure fronts, there are also areas with will present significant long-term financial challenges. These include retirement contribution rates and other post-employment benefits (OPEB) primarily due to retirement health care cost underfunding and increasing health care costs.

Citygate Opinion #15 – Fire District Economic Health: Given CCCFPD’s current reserves, and inclusion in the overall County tax distribution system, the CCCFPD has the funds to begin monthly payments to AMR for several months and fund other start-up costs until new ambulance billing revenue catches up to expenditures. At that point, the CCCFPD must first repay its cash advances and then build the recommended ambulance enterprise reserves before it can true up revenue to ambulance rates.

SECTION 7—FISCAL RISK CONTROL STRATEGIES

7.1 RISK CONTROL STRATEGY #1: ESTABLISH ALLIANCE CONTRACTS AS AN ENTERPRISE OPERATION

The Contra Costa County Fire Protection District (CCCFPD) is accounted for as a special revenue fund. Property taxes are the primary income source for CCCFPD's fire and emergency medical service activities. CCCFPD serves nine cities and certain unincorporated areas in the County. CCCFPD's financial activities are reported as a major fund in the County's comprehensive annual financial statement.

It is important to consider how CCCFPD will account for and manage the financial arrangement with AMR. It is beneficial to distinguish that CCCFPD's property taxes are the core revenue source for the fire and emergency medical services. Ideally, ambulance service expenses would be fully funded by transport fees. When governments engage in business-type activities where their intent is to either fully or partially recover the cost of the service, an enterprise accounting and management structure is a suitable approach.

General governmental funds often provide a focus that is proper for the flow of resources, while an enterprise fund provides a structure closely resembling a business orientation in which cost recovery is the focus. Ambulance services are financed and operated in a manner similar to a private business in which the intent of the governing body is to recover the cost (including depreciation) of goods and services to beneficiaries on a continuing basis, primarily through user fees.

Using the enterprise approach provides financial and management information that can be valuable from a public policy perspective:

- ◆ Measuring and monitoring business activity performance
- ◆ Analyzing the impact of financial and operational decisions
- ◆ Determining the full cost of providing the service
- ◆ Identifying any cost subsidy from the CCCFPD operating fund for providing the service
- ◆ Documenting short- and long-term financial inter-fund advances.

In practice, these types of governmental business funds are routinely used to account for activities where costs are fully recovered through user fees and charges (such as water, trash collection, and wastewater operations). They are also used for activities in which the primary source of financing comes from subsidies rather than user charges (such as transit operations).

Enterprise funds are reported using a flow of economic resource measurements as well as a full accrual basis accounting system. These are the same financial measurements used in commercial enterprises. Revenues are recognized when they are earned and expenditures are recognized as soon as the liability is incurred. This approach provides a proper platform for cost recovery purposes. In most cases the use of enterprise funds is permitted rather than required; however; Citygate believes, in this case, its usage would represent a best practice from a perspective of full cost recovery and transparent public policy accountability.

7.2 RISK CONTROL STRATEGY #2: ESTABLISH A SIGNIFICANT RESERVE FUND OF 6 MONTHS OF REVENUES PLUS A CAPITAL EQUIPMENT REPLACEMENT RESERVE

Reserve policies are a critical element in any business plan. The most critical questions are always, “What level of reserve is adequate to meet the needs of a particular type of reserve? When are reserves either too high or too low?” Insufficient reserve levels could jeopardize CCCFPD’s long-term financial sustainability, and unwarranted levels of reserves could impact the cost-effectiveness of services and ultimately undermine constituent confidence.

There are a variety of reasons to establish reserves, including:

- ◆ To handle cash flow challenges
- ◆ To provide insulation from economic impacts
- ◆ To maintain equipment and infrastructure (deferred maintenance)
- ◆ To meet bond/debt-related requirement
- ◆ To fund liabilities
- ◆ To bolster emergency preparedness
- ◆ To provide fee/rate stabilization for business activities
- ◆ To fund investments/opportunities in the future.

Evaluating reserve policies is a continual process, and reserve policies should be evaluated annually as part of the budget plan. These policies are closely tied with the economy and service delivery environment. Reserve policies cannot be adequately developed without a complete understanding of the CCCFPD’s core service requirements and significant cost and revenue drivers. It is particularly important that the reserve policies be continually evaluated and refined as additional operations, performance, revenue, and cost information are developed.

CCCFPD’s cash flow needs are similar to many special districts that derive their primary funding from property tax revenue. This source of funding is the typical means for supporting special district public safety-related activities, including fire protection services. CCCFPD receives the first property tax payment in late December. The lag time between the start of the fiscal year

(July 1st) and the first property tax payments received leaves a six-month dry financing period. Most of CCCFPD's employee-related expenses are consistently spread over the fiscal year. For CCCFPD to be a self-sustaining financial entity, it needs enough available cash to make it through the end of the fiscal year to the first property tax payment, assuming that it does not want to utilize restricted fund balances.

To monitor cash flow, an understanding of the month-to-month timing of revenue receipts and expenditure patterns is required. Fortunately, during the "dry period financing," between the receipt of property taxes, the County can simply charge the CCCFPD its pooled cash investment rate for short-term borrowing in order to meet typical cash flow needs.

The projected January 2016 start date in the Alliance proposal will provide a fiscal advantage because the CCCFPD will have received its first property tax payment. This will provide an additional cash flow cushion. A successful billing and collection process will be a critical factor in the cash flow requirements. Cash flow must be able to fund the difference between the monthly CCCFPD payments to AMR and received and accumulated transport revenue.

Given these anticipated cash flow challenges due to the periodic nature of revenue, the unknown financial risks associated with ambulance billing, and the changing and uncertain economics of the health care landscape, the Alliance should build a 6-month reserve for cash flow purposes. While monitoring cash flow will be a critical element of managing the AMR contract, it appears that the transport revenue collection model provides a reasonable starting point to understand the fiscal relationship between revenue collections and AMR contract payment.

Another critical component is equipment and infrastructure replacement funds. This component of the business plan should also have adequate reserve levels to meet the future needs of CCCFPD and should be supported by a multi-year capital replacement programs that details these future needs. From a long-term financial sustainability perspective, this represents a best practice.

Several other liabilities are important considerations for CCCFPD fire protection cost to revenue balance; those include equipment and infrastructure replacement, liabilities for pension related costs, sick leave, vacation, and other post-employment benefits (OPEB). To CCCFPD's credit, it has made progress on OPEB and pension liabilities and has improved its funding payments to these obligations annually.

CCCFPD's primary operating fund, and the Alliance enterprise fund, need established reserve policies. Initially, CCCFPD may be required to subsidize the Alliance enterprise fund, but this subsidy can be reimbursed at a later time. These subsidies need to be booked on each fund's balance sheet.

7.3 RISK CONTROL STRATEGY #3: EVENTUALLY CALIBRATE TRANSPORT FEES TO TRUE COSTS THROUGH AUDITS OF EXPENSES AND ADHERENCE TO STIPULATED CONTRACT PROVISIONS

With the enterprise fund established, the Alliance can better understand its costs. It should take the time to carefully determine its direct and indirect costs, including equipment and infrastructure. Because this can be even more complicated if costs are part of a General Fund operation, it may be beneficial to hire a firm to conduct a Cost of Service Fee Study.

7.4 RISK CONTROL STRATEGY #4: WHEN REVENUES EXCEED NEEDED RESERVES, CONSIDER LOWERING TRANSPORT FEES, NOT CROSS-SUBSIDIZING NON-ALLIANCE CCCFPD OR COUNTY EMS AGENCY OPERATIONS

The CCCFPD operation is primarily financed by property tax revenue and fees from fire prevention plan review and fire inspections. CCCFPD is a special revenue fund and is accounted for in the Contra Costa County comprehensive annual financial statements as a major fund. An enterprise fund established to account for transport services would be a separate and distinct accounting entity with a separate balance sheet, revenue budget, and expense budget. There may be certain CCCFPD employee costs that are allocated to the Alliance enterprise fund for direct and indirect services. These charges need to be carefully documented and justified because they may be eligible to become part of the transport fees base. Costs that are part of the basic/core fire protection operations should not be part of the ambulance fee structure. This cross-subsidization would violate the basis for establishing proper fees and charges in an enterprise fund. Any such inter-fund activity needs to be thoughtfully accounted for and budgeted.

Citygate believes it would be imprudent to, under the decreased deployment capacity in Plan B, pay \$750,000 up front to support County EMS Agency functions instead of saving for a reserve fund and then, if fiscally secure, lowering rates to individuals and insurance companies. The older systems that removed revenues for County EMS, dispatch, and first responder fire department functions are now under the worst economic stress. Additionally, the insurance company payers simply will not support \$2,500+ ambulance bills. The revenues in the system should first offset a medically necessary transport system, not other community health services or EMS agency oversight services.

If a subsidy is needed for a county EMS oversight operation, a public policy debate is needed to determine the funding source (several are available for a county to use). Additional non-transport costs should not be placed on the ambulance provider, and a new public subsidy should not be considered the fault of the ambulance company. With good fiscal practices for the ambulance contract, if for *direct costs* the ambulance provider cannot stay solvent, then a county can make a straightforward case to the public for a *transport* subsidy.

7.5 RISK CONTROL STRATEGY #5: ESTABLISH A COUNTY BOARD OF SUPERVISORS AND CCCFPD “COMPASSIONATE” SET OF BILLING POLICIES FOR CCCFPD-MANAGED FIRST RESPONDER AND AMBULANCE REVENUE COLLECTION TO INCLUDE A WRITE-DOWN AND WRITE-OFF POLICY

Through the AMR Compassionate billing program, a patient requesting a Compassionate billing discount applies to AMR, which then verifies the applicant’s income level and insurance coverage. If the applicant meets AMR’s criteria for a Compassionate billing discount, the applicant is informed as to the amount of the discount. In Contra Costa County and other services areas, AMR’s Compassionate billing policies have been well regarded by members of the Board of Supervisors, EMS agencies, and the public.

The County EMS Agency currently informs the public about the effective AMR Compassionate billing policy. However, since that program is AMR’s, not County Board of Supervisors policy, if the Alliance proposal is implemented, CCCFPD, as the billing entity, should adopt its own policy to legally guide its billing contractor.

Citygate recommends the County policy to be identical or similar to the one AMR currently uses.

SECTION 8—OPINIONS SUMMARY AND IMPLEMENTATION RECOMMENDATIONS

8.1 CITYGATE'S OPINIONS

Listed here for ease of summary reading are Citygate's Opinions:

Citygate Opinion #1 – Alliance Economic Risk: It is undisputed that 9-1-1 ambulance system revenues are falling to the point where some, if not all, systems will no longer be able to operate without a public subsidy as many have for over 30 years. The choice before Contra Costa County is whether the Board wants to more fully be involved in managing the contractor via the CCCFPD, and if a revenue collapse is inevitable, be able to detect the problem with enough time to develop and implement thoughtful mitigation measures.

The other option is to operate the existing type of contract model and hope the private provider would provide enough notice before default. Ultimately, taxpayers are the fallback resource to fund 9-1-1 ambulance services. If ultimately the ambulance system needs an allocation of CCCFPD or County general discretionary resources to stabilize ambulance services, that could force the reduction of services in other areas. Monitoring and understanding how this issue evolves is critical if the County is to minimize the impact of a potentially damaging ambulance fiscal shock wave.

Citygate Opinion #2 – Plan A Deployment Hours: Citygate's extensive review of the incident demand data by zone, hour of the day, and day of the week found the proposed Alliance deployment plan capable of meeting the current needs of the requested Plan A.

Citygate Opinion #3 – Plan B Deployment Plan Hours: Citygate's extensive review of the incident demand data by zone, hour of the day, and day of the week found the proposed Alliance Plan B insufficiently documented regarding where the reductions and resultant reduced response times occur. *As such, it is not possible to state whether the plan will meet the response time objectives for the cost proposed.*

Citygate Opinion #4 – Plan A Response Time: Given the historical response time compliance reported by AMR under the current contract, as well as the increased Unit Hours in the Alliance Deployment Plan, Citygate is of the opinion that the Alliance can maintain the desired response time goals of the requested Deployment Plan A.

Citygate Opinion #5 – Plan B Response Time: The response time compliance for Plan B cannot be benchmarked to current system compliance given the change from four to three zones and a relaxation of response time measures. Citygate would *strongly encourage the County* **not** to implement Plan B all at once, if at all. If chosen for implementation, the Alliance should be allowed to test some reductions in some areas and then, based on closely-observed metrics, make

adjustments. This measured, incremental approach is consistent with the values of Continuous Quality Improvement (CQI).

Citygate Opinion #6 – Alliance Logistical Staffing Expense: Given the staffing provided by AMR, and a verbal confirmation that AMR support services staffing will remain the same as in the current contract, the CQI, training, and community education staff appears appropriate for the size of the projected AMR operation. CCCFPD will continue to separately manage the training and CQI for its firefighter/paramedics, as it does currently.

Citygate Opinion #7 – Number of Transports Volume: Given the conservative projection of total transports for at least Contract Year 1 (2016), we find that the Alliance proposal had not inflated transport projections upon which to base revenues. If anything, the projections could end up being slightly low, thus providing a possible economic cushion by 2017.

Citygate Opinion #8 – Net Collections: The Alliance’s approach in projecting Average Patient Charges (APC) and expected net collections by payer type is both conservative and prudent. The question of payer mix is one of the most difficult aspects of this projection given the uncertainties surrounding health care reform. AMR believes that much of the change resulting from the ACA has already been reflected in the 2014 payer mix data and that projecting the status quo is the most prudent course of action at this time. While this approach is reasonable, we believe that continued deterioration of net collections due to changes in payer mix and increases in the number of high deductible health plans remains one of the largest risks going forward, and one that will need to be evaluated in light of other risks and opportunities in the Alliance projections.

Citygate Opinion #9 – Fee for Service GEMT Availability: Citygate will not attempt to predict which of CCCFPD’s costs DHCS will or will not allow for GEMT reimbursement, as the scope of the Fire Department / Ambulance Company / Billing Contractor hybrid has not been tried yet in California, to our knowledge, since the inception of the GEMT program. Therefore, given that the CCCFPD has just obtained DHCS’s national provider number and must still apply to DHCS, the Alliance approach to not assume any GEMT reimbursement in its fiscal pro-forma was the correct, conservative approach.

Citygate Opinion #10 – HMO GEMT: There is no near-term assurance in Contra Costa County that the IGT program for Medi-Cal *Managed Care* beneficiaries will become available. As such, the Alliance decision to not depend on GEMT funds for Medi-Cal *Managed Care* is correct.

Citygate Opinion #11 – Plan A Economics: The economic proposal for Plan A submitted by the Alliance is based on reasonable and generally conservative assumptions. Projected costs are less than conservatively estimated revenues. While there is no way to completely address the risks that are faced in the industry regarding the impact of health care reform, and trends of declining collections from insurance carriers, Plan A has a revenue safety cushion without the receipt of any GEMT supplemental revenues.

Citygate Opinion #12 – Plan B Economics: Given that Plan B provides a system with longer response times for a few less Unit Hours and small revenue cushion for the uncertainties in ambulance revenue trends, Citygate does not see a reason to implement a significant system change to, for the most part, simply generate new revenues to the County’s EMS Agency. Citygate would rather see the Alliance build a larger revenue-to-cost projection to build its reserves first.

Citygate Opinion #13 – AMR Profit: The AMR profit component is segregated as a separate line item in the Alliance Expense Budget, providing a level of transparency. Also, AMR allocated a reasonable 10.0% of total expenses to cover non-field Depreciation and Amortization, Interest, Taxes, and leave a reasonable level of Net Profit for AMR.

Citygate Opinion #14 – AMR Fiscal Strength: Citygate notes that AMR national liquidity ratios stayed very consistent between 2013 and 2014, and the profitability ratios improved from 2013 to 2014. Given the diversity of ambulance costs and declining payer type payments across the country, for AMR to have stable liquidity and profit ratios showing slight improvement, it suggests AMR is weathering the ambulance industry revenue decline as well as, if not better than, the other large national providers.

Citygate Opinion #15 – Fire District Economic Health: Given CCCFPD’s current reserves, and inclusion in the overall County tax distribution system, the CCCFPD has the funds to begin monthly payments to AMR for several months and fund other start-up costs until new ambulance billing revenue catches up to expenditures. At that point, the CCCFPD must first repay its cash advances and then build the recommended ambulance enterprise reserves before it can true up revenue to ambulance rates.

8.2 IMPLEMENTATION RECOMMENDATIONS

Based on our Opinions and Fiscal Risk Control Strategies, Citygate recommends the CCCFPD, AMR, and the County EMS Agency pursue final implementation contracts, and offers the following best practice-based recommendations to guide this process:

1. Fully identify the fiscal relationship between the parties, their separate fiscal exposure for each other’s decisions (such as staffing levels), and start-up capital costs.
2. Board policy should require that ambulance loss risk only be transferred to the taxpayer for unforeseen, catastrophic losses, as would be the case in the current system if the ambulance contractor were to fail.
3. Fine the contractor only for material breach, not small, per-minute fines.
4. Rather than fine for small response time misses, require that the deployment plan account for equitable response time coverage for similar land use and population

densities. Then if the Alliance delivers the required response time performance, only gross neglect to deploy or respond should trigger a fine and/or lead to default.

5. Define in the contract between the County EMS Agency and the CCCFPD a clear delineation of roles, responsibilities, and authorities as it pertains to operational authority and regulatory oversight.
6. Require the CCCFPD to report to the Board of Supervisors quarterly on response times, payer mix, and a rolling revenue-to-date report and near-term revenue-to-expense forecast.
7. Annually require an independent audit of the revenues to expenses and the viability going forward of the contract terms. Once ambulance reimbursements settle under health care reform, the formal audits could possibly move to two-year cycles.

APPENDIX A—LIST OF ACRONYMS

The following list of acronyms occurs throughout the report:

911EOA	9-1-1 Exclusive Operating Area <i>Sometimes referred to as Exclusive Operating Area or EOA</i>
ACA	Affordable Care Act <i>Sometimes referred to as PPACA, and sometimes called Covered California</i>
ALS	Advanced Life Support
AMR	American Medical Response, West
APC	Average Patient Charges
BLS	Basic Life Support
CCCFPD	Contra Costa County Fire Protection District
CMS	Centers for Medicare and Medicaid Services
CPE	Certified Public Expenditures
CQI	Continuous Quality Improvement
EBIT	Earnings Before Interest and Taxes
EMS	Emergency Medical Services
EMT	Emergency Medical Technician
EOA	Exclusive Operating Area
ERZ	Emergency Response Zone
EVHC	Envision Healthcare Holdings, Inc
GEMT	Ground Emergency Medical Transport
HDHP	High Deductible Health Plan
HMO	Health Maintenance Organization
IFT	Inter-Facility Transfers
IGT	Intergovernmental Transfers
LEMSA	Local Emergency Medical Services Agency
NPI	National Provider Identification
NRT	Net Revenue per Transport
OPEB	Other Post-Employment Benefits
PPACA	Patient Protection and Affordable Care Act <i>Sometimes referred to as ACA, and sometimes called Covered California</i>
PSAP	Public Safety Answering Points
QA	Quality Assurance
RFP	Request for Proposal
SPA	State Plan Amendment
UCR	Usual and Customary Rates

**Contra Costa County Fire Protection District
EMS Ambulance Transport Enterprise Fund
January - June 2016 Estimated Cash Flows**

	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>Total</u>
Expenditures:							
American Medical Response-West	0	0	3,080,802	2,882,041	3,080,802	2,981,422	12,025,067
Advanced Data Processing, Inc.	0	0	0	55,744	105,810	95,570	257,124
	0	0	3,080,802	2,937,785	3,186,612	3,076,992	12,282,192
Revenue:							
	0	0	1,889,623	3,586,785	3,239,675	3,586,785	12,302,869
Monthly Surplus / Deficit	0	0	(1,191,179)	649,000	53,063	509,793	20,677
Cumulative Fund Surplus/Deficit	0	0	(1,191,179)	(542,178)	(489,116)	20,677	

Assumptions:

1. 5,173 Unit Hours Per Week
2. \$134.48 /unit hour paid to AMR
3. 68,532 Transports per year (based on 2015 data from AMR-West)
4. \$2,505 Average Patient Charge
5. 24.6% Net Collections Rate
6. 2.95% Cost of Collections (payable to Advanced Data Processing, Inc.)



To: Board of Supervisors
 From: Mary N. Piepho, District III Supervisor
 Date: November 17, 2015

Subject: DETACHMENT OF OVERLAPPING TAX RATE AREAS FOR WATER SERVICE BETWEEN BYRON-BETHANY IRRIGATION DISTRICT AND THE DISCOVERY BAY COMMUNITY SERVICES DISTRICT

RECOMMENDATION(S):

1. ACKNOWLEDGE that the Discovery Bay Community Services District (DBCSD) and the Byron-Bethany Irrigation District (BBID) have overlapping boundaries.
2. ACKNOWLEDGE that both the DBCSD and BBID receive funding for water service, through property taxes or fees, but only DBCSD actually provides water service to the overlap areas.
3. ACKNOWLEDGE that the 2014 Contra Costa LAFCO Second Round Water/Wastewater Municipal Service Review indicated that it appears unlikely Discovery Bay residents will use BBID water and recommended that consideration be given to detaching the overlapping areas.
4. ACKNOWLEDGE that there are six Tax Rate Areas (TRAs) that overlap which, if detached from BBID, would result in nearly \$685,000 being reallocated to other affected taxing agencies each year.
5. DIRECT the County Administrator to return to the Board with a resolution of application for detachment in order to initiate the detachment process, and to provide notice to Contra Costa LAFCO, San Joaquin LAFCO and other interested agencies.
6. DIRECT the County Administrator to explore allocation of the BBID property tax revenues from the overlap areas to the East Contra Costa Fire Protection District (ECCFPD).

FISCAL IMPACT:

This Board Order does not have any fiscal impacts. However, if the decision is made to pursue detachment, there will be costs associated with that decision, including application fees, preparation of a map and legal description, fees for

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

Contact: Julie Enea, Senior Deputy County
Administrator (925) 335-1077

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of
Supervisors

By: , Deputy

cc:

FISCAL IMPACT: (CONT'D)

>

recording documents, State Board of Equalization fees, environmental review, staff costs, and other miscellaneous expenses that can be detailed as part of this Board's approval of a resolution of application for detachment.

There are six overlapping tax rate areas between BBID and DBCSD. If the six tax rate areas were to be detached from BBID, the *ad valorem* tax currently allocated to BBID (\$684,246 in FY 14/15) potentially could be reallocated to one or more of the other affected taxing agencies, which include: the County, County library, County Service Areas J-6 and L-100, Flood Control, East Contra Costa Fire Protection District, Contra Costa Resource Conservation District, Contra Costa Mosquito and Vector Control District, Byron, Brentwood, Knightsen Union Cemetery District, Bay Area Rapid Transit District, Bay Area Air Quality Management District.

TRA	FUND	DESCRIPTION	INCREMENT	BASE TAX \$ (FY 14-15)
60043	418100	BBID	13.03049	\$ 128,838.24
60047	418100	BBID	13.02890	\$ 39,568.79
60048	418100	BBID	13.03049	\$ 3,036.49
60050	418100	BBID	14.97784	\$ 597.81
60055	418100	BBID	14.97784	\$ 253,863.14
60056	418100	BBID	14.97784	<u>\$ 258,341.43</u>
				\$ 684,245.90

BACKGROUND:

The Byron-Bethany Irrigation District (BBID) is a 90-year old tri-county district providing agricultural water service to portions of Alameda, Contra Costa and San Joaquin counties. In addition, BBID provides raw untreated water to the Mountain House community and the City of Tracy. BBID's service area is approximately 30,000 acres. The current population within BBID service area and sphere of influence (SOI) is approximately 13,000. Little or no anticipated growth is projected at this time. San Joaquin is the principal county for BBID and related Local Agency Formation Commission (LAFCO) proceedings. By statute, the "principal" LAFCO is that LAFCO in the county that has the greatest portion of the entire assessed value based on the last equalized assessment roll.

The Town of Discovery Bay Community Services District (DBCSD) service area encompasses the developed and developing unincorporated community of Discovery Bay, composed of approximately 5,760 acres. Discovery Bay was originally established in the 1970s as a weekend and summer resort community. Today, Discovery Bay has evolved into a year-round home for over 13,500 residents. DBCSD provides a variety of services including water and wastewater for the community of nine square miles.

There are several areas where the DBCSD and BBID boundaries overlap. Both BBID and DBCSD are paid to provide water service to the properties in the overlap areas, either through a property tax allocation or fees. The 2014 Contra Costa LAFCO Second Round Water/Wastewater Municipal Service Review (MSR) noted that, because the two water systems have different infrastructure requirements and operate in different ways, it seems unlikely Discovery Bay residents will use BBID water. The MSR recommended that consideration be given to detaching the overlap areas from BBID's SOI/boundary. The MSR also noted that further study is needed to fully analyze the service and fiscal implications of such a detachment to both the residents and BBID.

Process for Detachment

A detachment is a change of organization governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code section 56000 et seq., ("CKH"). The CKH permits any "affected local agency" to apply to LAFCO for a change of organization, in this case, a detachment (§56654(a)). Contra Costa County is an "affected county" because it contains part of the district for which a change of organization is proposed (§56012). Section 56654(c) suggests giving a 21 day notice describing the proposal and the affected territory to LAFCO and to the interested agencies before a resolution of application is adopted.

Attachment A is a sample Inhabited District Detachment Flowchart. If this Board decides to pursue detachment, the process would begin with the Board adopting a resolution of application for detachment (§§ 56652, 56654 and 56756). A sample Resolution of Application is attached as **Attachment B**. The CKH requires that the application be filed with San Joaquin LAFCO as the “principal” county LAFCO for BBID (§§56066, 56658(a) and 56387). **Attachment C** is a portion of the San Joaquin LAFCO application form. The third page of the San Joaquin LAFCO form includes a list of 17 items that would have to be submitted as part of the application. The CKH governs the form and content of the application (§56652).

An application for detachment can be submitted alone or with an application to amend the BBID SOI to remove the overlap area from the BBID SOI. The CKH would also allow the County to include in its application a request that jurisdiction over the detachment proceedings be transferred to the Contra Costa LAFCO (§§56124 and 56388); however, San Joaquin LAFCO would not have to agree to this change of venue. A copy of the Contra Costa LAFCO’s application form is attached as **Attachment D** to indicate the type of information Contra Costa LAFCO may require if jurisdiction is transferred to this County. Due to statutory time requirements it is anticipated that a detachment would take no less than six months to complete, and likely more if a request is made to transfer the matter to Contra Costa LAFCO.

Fiscal Consequences of Detachment

Revenue and Taxation Code section 99 is the law that applies to the allocation of property tax revenues where there is a jurisdictional change (other than a city incorporation or a district formation) for local agencies “whose service area or service responsibility are altered by the jurisdictional change.” A detachment from BBID is clearly a jurisdictional change and an alteration of BBID’s service area. However, at this point, we don’t have enough information to know whether a detachment would result in alteration of BBID’s or DBCSD’s service responsibilities; for example, whether BBID in fact does supply back up water resources to DBCSD or whether there are agreements between the two agencies on this issue. That is something that would have to be explored further if the Board decides to proceed with a resolution of application for detachment.

Rev. & Tax §99(b)(5) authorizes the “county or counties” in which a special district service area is located to negotiate the allocation of property taxes following a jurisdictional change that would affect a service area. The statute provides, in pertinent part:

*In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the **county or counties** in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.*

Rev. & Tax §99 (b)(5) does not specifically address whether the “principal county” (San Joaquin County), the “affected county” (Contra Costa County), or both counties would be the negotiating parties for a tax exchange agreement. The statute also does not specifically address whether a county board of supervisors could adopt a resolution that allocates the taxes to a single affected taxing entity (e.g., ECCFPD) rather than proportionately to all affected taxing entities, as was done in the case of a detachment from the Mt. Diablo Health Care District, discussed below. Presumably, these are matters that would be resolved through discussions with the LAFCO that takes jurisdiction of the matter and the Auditor’s Office.

In 2012, when the City of Concord applied to take over the Mt. Diablo Health Care District as a subsidiary district, certain portions of the district were detached, leaving only the cities of Concord and Pleasant Hill as the jurisdiction of the subsidiary district. At that time, this Board approved a resolution that determined the tax exchange for the proposed Mt. Diablo Health Care District reorganization should be allocated proportionately to each remaining taxing agency in the detached area according to the proportion of base tax each such taxing entity received for the tax rate area. In effect, the Mt. Diablo Health Care District’s base and increment in the detached area was “absorbed” proportionately by the remaining taxing entities. **Attachment E** is a copy of the June 5,

2012, Board Order and Resolution taking this action.

Pursuant to Rev. & Tax §99 (b)(6), the LAFCO executive officer may not issue a certificate to complete the detachment process without an appropriate tax exchange agreement.

Finally, it should be noted that the law does not require LAFCO to approve a detachment. In evaluating whether to do so, the LAFCO with jurisdiction would evaluate the factors described in Government Code section 56668, including the effect of the proposed action on BBID, and any information or comments from landowners, voters or other local agencies.

CONSEQUENCE OF NEGATIVE ACTION:

Should the Board elect not to pursue the detachment, then the status quo, i.e. areas of overlap between BBID and the DBCSD, would continue.

ATTACHMENTS

Attachment A: Detachment Flow Chart

Attachment B: Sample Resolution for Detachment

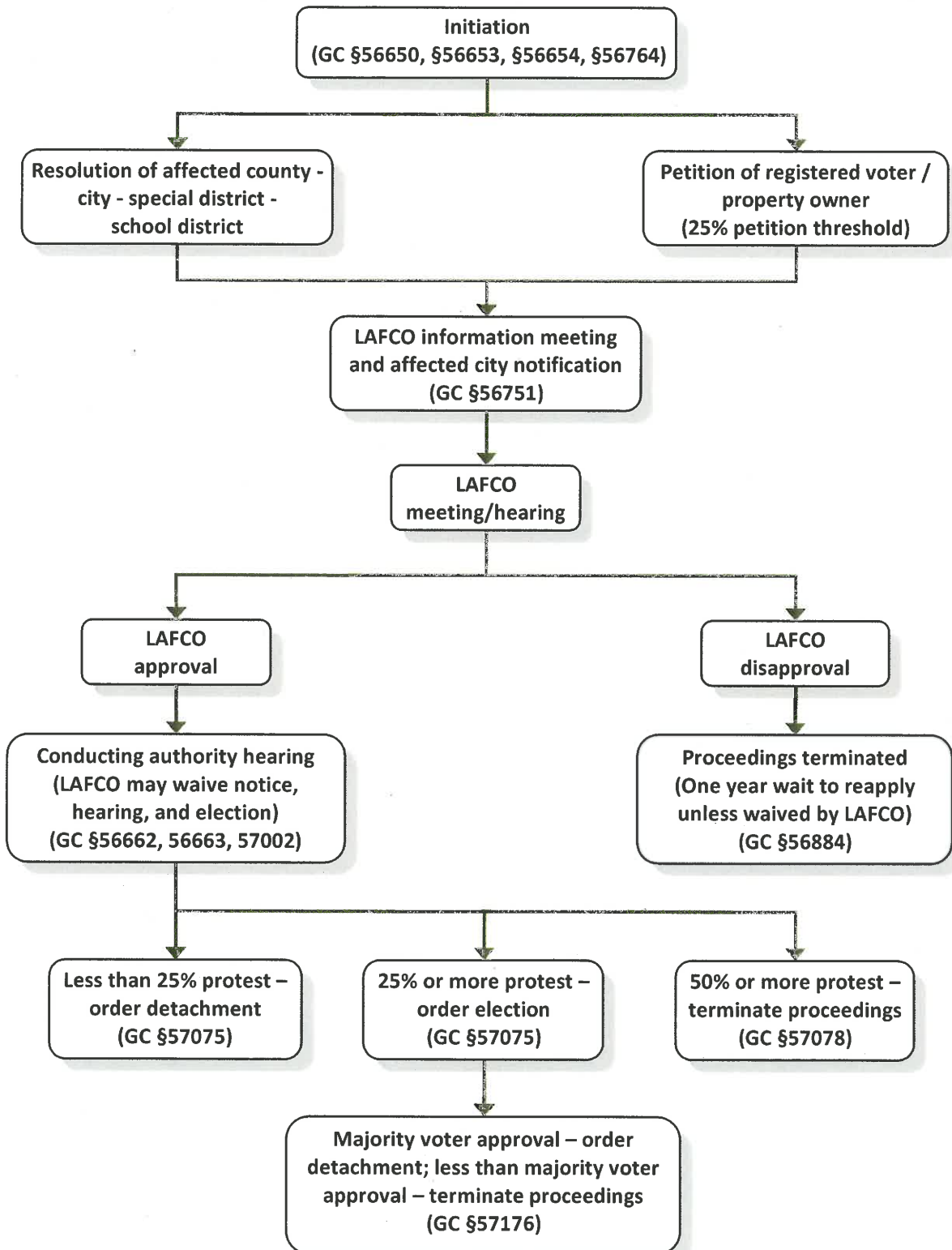
Attachment C: Portion of San Joaquin LAFCo Application

Attachment D: Sample of Contra Costa LAFCo Application

Attachment E: June 5, 2012 Mt. Diablo Health Care District Detachment

ATTACHMENT A

Inhabited District Detachment



ATTACHMENT B

(Sample Resolution of Application for Annexation/Detachment)

RESOLUTION OF APPLICATION OF THE (NAME OF LOCAL AGENCY)
INITIATING PROCEEDINGS FOR ANNEXATION TO (XXX) AND/OR
DETACHMENT FROM (YYY)
(short title)

WHEREAS, the (*name of Local Agency*) desires to initiate a proceeding for
(annexation/detachment) of boundaries specified herein;

NOW, THEREFORE, the (*Governing Body of the Local Agency*) does hereby
resolve and order as follows:

1. This proposal is made, and it is requested that proceedings be taken,
pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000,
commencing with section 56000 of the California Government Code.
2. This proposal is a (*annexation to X/detachment from Y*).
3. A map of the affected territory is set forth in Exhibit ____, attached hereto
and by reference incorporated herein.
4. It is desired that the proposal be subject to the following terms and
conditions: (*Insert requested terms and conditions here*)
5. The reasons for the proposal are to: (*Insert reasons here*)
6. The proposal (is/is not) consistent with the Sphere of Influence of the
(annexing/detaching local agency).
7. Consent is hereby given to the waiver of conducting authority proceedings
(optional section but recommended by LAFCO staff).

PASSED AND ADOPTED this _____ day of _____.

Mayor/Board President

AYES: _____

NOES: _____

ABSENT: _____

Reference: Government Code Section 56654

ATTACHMENT C

San Joaquin Local Agency Formation Commission 509 West Weber Avenue Stockton, CA 95203 209-468-3198 FAX 209-468-3199

JUSTIFICATION OF PROPOSAL

Please complete the following information to process an application under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: (Indicate N/A if Not Applicable)

SHORT TITLE OF THE PROPOSAL: _____

TYPE OF PROPOSAL

- | | | |
|---|--|---|
| <input type="checkbox"/> City Incorporation | <input type="checkbox"/> Sphere of Influence Amendment | <input type="checkbox"/> District Formation |
| <input type="checkbox"/> Consolidation | <input type="checkbox"/> Sphere of Influence Update | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> Detachment | <input type="checkbox"/> Addition of Services | <input type="checkbox"/> District Dissolution |
| <input type="checkbox"/> Reorganization (involving an Annexation and Detachment(s)) | | |

AGENCY CHANGES RESULTING FROM THIS PROPOSAL

Agency or Agencies gaining territory: _____

Agency or Agencies losing territory: _____

NOTIFICATION

Please indicate the names, addresses and telephone numbers of all Applicants, Applicant's Agents, and all affected Agencies who are to receive the hearing notice and the Executive Officer's Report:

Name

Mailing Address

Telephone

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Attach a separate sheet if necessary.)

ATTACHMENT C

PROJECT INFORMATION

Please provide project-related information for the following questions:

1. Do the proposed boundaries create an island of non-agency territory? ☐ Yes ☐ No
2. Do the proposed boundaries split lines of assessment or ownership? ☐ Yes ☐ No
3. Does the proposal involve public rights-of-way or easements? ☐ Yes ☐ No
4. Does the proposal involve public land or land assessed by the State? ☐ Yes ☐ No
5. Does any part of the proposal involve land under a Williamson Act Contract or Farmland Security Zone? ☐ Yes ☐ No
6. Does any part of the proposal involve land with a Wildlife/Habitat Easement or Agricultural Land Conservation Easement? ☐ Yes ☐ No

7. List the affected Assessor Parcel Numbers, Owners of record and Parcel Sizes:

<u>APN</u>	<u>Owner</u>	<u>Acreage</u>
------------	--------------	----------------

(Attach a separate sheet if necessary)

8. Physical Location of Proposal: _____
(Street or Road, distance from and name of Cross Street, quadrant of City)
9. Has an application been filed for an underlying project (such as Development Plan, Conditional Use Permit, or Tentative Subdivision Map)? ☐ Yes ☐ No
If Yes, please attach a Project Site Plan or Tentative Subdivision Map.
If No, please provide an estimate of when development will occur: _____
10. List those public services or facilities which will be provided to the affected territory as a result of the proposed action:
11. Indicate which of these services or facilities will require main line extensions or facility upgrades in order to serve the affected territory:
12. Provide any other justification that will assist the Commission in reviewing the merits of this request. (Attach a separate sheet if necessary)

ATTACHMENT C

INDEMNIFICATION AGREEMENT

As part of this application, applicant and real property in interest, if different, agreed to defend, indemnify, hold harmless, and release the San Joaquin Local Agency Formation Commission, its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against any of the above, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the San Joaquin Local Agency Formation Commission, its agents, officers, attorneys, or employees.

Executed at _____, California, on _____, 20__.

APPLICANT

Signature: _____

Title: _____

REAL PARTY IN INTEREST

(If different from Applicant)

Signature: _____

Title: _____

SUBMITTALS

In order for this application to be processed, the following information needs to be provided:

1. Two copies of this Justification of Proposal, completed and signed with original signatures;
2. Five prints of a full-scale proposal map showing the affected territory and its relationship to the affected jurisdiction (Refer to Guide for Preparation);
3. Five copies of an 8.5" x 11" or 11" x 17" reduction of the proposal map;
4. Three copies of a metes and bounds description of the affected territory;
5. One certified copy of the City Council and/or Special District Board Resolution of Application, or a petition making application to LAFCo (as appropriate);
6. Written permission from each affected property owner (or signature form);
7. One copy of the project environmental document (One Compact Disc if more than 25 pages);
8. One copy of the project Notice of Determination;
9. Three 8.5" x 11" copies of the Vicinity Map (if not included on the proposal map);
10. One copy of the plan for providing services along with a schematic diagram of water, sewer and storm drainage systems (refer to Government Code Section 56653);
11. One copy of the Pre-Zoning map or description (as required by Section 56375);
12. One copy of the Statement of Open Space (Ag) Land Conversion (refer to Section 56377);
13. One Copy of the Statement of Timely Availability of Water Supplies (refer to Section 56668(k));
14. One copy of the Statement of Fair Share Housing Needs (if residential land uses are included in the proposal) (refer to Section 56668(l));
15. One copy of the project design (site plan, development plan, or subdivision map);
16. One copy of the Residential Entitlement matrix form (if residential land uses are included in the proposal); and
17. Filing and processing fees in accordance with the LAFCo Fee Schedule and the State Board of Equalization Fee Schedule.

Additional information may be required during staff review of the proposal.

CERTIFICATION

The undersigned hereby certifies that all LAFCo filing requirements will be met and that the statements made in this application are complete and accurate to the best of my knowledge.

(Signature) _____

Print or Type Name: _____

Date: _____

Daytime Telephone: _____

474

ATTACHMENT C

ATTACHMENT D

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Proposal Justification Questionnaire for Annexations, Detachments and Reorganizations (Attach additional sheets as necessary)

1. Name of Application: (The name should match the title on the map and legal description, and list all boundary changes that are part of the application, including any County Service Areas (CSAs) that may need detachment as a result of a City annexation.)
2. Describe the acreage and general location; include street addresses if known:
3. List the Assessor's Parcels within the proposal area:
4. Reasons for the proposal: (Why is this proposal being filed? Identify other actions that are part of the overall project, i.e., a tract map or development permit.)
5. Land Use and Zoning - Present and Future
 - A. Describe the existing land uses within the proposal area. Be specific.
 - B. Describe any changes in land uses that would result from or be facilitated by this proposed boundary change.
 - C. Describe the existing zoning designations within the proposal area.
 - D. Describe any proposed change in zoning for the proposal area. Do the existing and proposed uses conform with this zoning?
 - E. (For City Annexations) Describe the prezoning that will apply to the proposal area upon annexation. Do the proposed uses conform with this prezoning?
 - F. List all known entitlement applications pending for the property (i.e., zone change, land division or other entitlements).

ATTACHMENT D

11. Impact on Agriculture

- A. Does the property currently produce a commercial agricultural commodity?
- B. Is the property fallow land under a crop rotational program or is it enrolled in an agricultural subsidy or set-aside program?
- C. Is the affected property Prime Agricultural Land as defined in Government Code §56064?
- D. Is any portion of the proposal area within a Land Conservation (Williamson) Act contract?
 - 1) If "yes," provide the contract number and date the contract was executed.
 - 2) If "yes", has a notice of non-renewal been filed? If so, when?
 - 3) If this proposal is an annexation to a city, provide a copy of any protest filed by the annexing city against the contract when it was approved.

12. Impact on Open Space

Is the affected property Open Space land as defined in Government Code Section 65560?

Describe the impacts of the proposal on open space per Government Code Section 56377.

13. Relationship to Regional Housing Goals and Policies (City annexations only)

If residential land uses are included in this proposal, please describe the extent to which the proposal will assist the annexing agency in achieving its fair share of regional housing needs as determined by ABAG [§56668(l)].

14. Population

- A. Describe the number and type of existing dwelling units within the proposal area.
- B. How many new dwelling units could result from or be facilitated by the proposal?

ATTACHMENT D

- A. Do agencies whose boundaries are being changed have existing bonded debt?
_____ If so, please describe.
- B. Will the proposal area be liable for payment of its share of this existing debt?
_____ If yes, how will this indebtedness be repaid (property taxes, assessments, water sales, etc.)
- C. Should the proposal area be included within any Division or Zone for debt repayment? _____ If yes, please describe.
- D. (For detachments) Does the detaching agency propose that the subject territory continue to be liable for existing bonded debt? _____. If yes, please describe.

19. Environmental Impact of the Proposal

- A. Who is the "lead agency" for this proposal? _____
- B. What type of environmental document has been prepared?
Categorically Exempt -- Class ____ EIR ____ Negative Declaration ____
Mitigated ND _____ Subsequent Use of Previous EIR _____ Identify the
prior EIR. _____
- C. If an EIR has been prepared, provide 13 disks and 1 hard copy of the Draft and Final EIR and one copy of the lead agency's resolution listing significant impacts, mitigation measures and, if adopted, a statement of overriding considerations.

20. Boundaries

- A. Why are these particular boundaries being used? Ideally, what other properties should be included in the proposal?
- B. If any landowners have included only part of the contiguous land under their ownership, explain why the additional property is not included.

21. Final Comments

ATTACHMENT D

TABLE A

Information regarding the areas surrounding the proposal area

	Existing Land Use	General Plan Designation	Zoning Designation
East			
West			
North			
South			

Other comments or notations:



Contra
Costa
County

To: Board of Supervisors

From: David Twa

Date: June 5, 2012

ARCHIVED DOCUMENT

Subject: Mt. Diablo Health Care District Tax Transfer

RECOMMENDATION(S):

ADOPT Resolution No. 2012/256 that determines the tax exchange for the proposed Mt. Diablo Health Care District reorganization (LAFC 12-02).

FISCAL IMPACT:

This agreement reallocates approximately \$39,702 from the detached portion of the Mount Diablo Health Care District to the remaining taxing entities in the tax rate areas. (Comprised of approximately \$8,290 County General Fund; \$850 County Library Fund; \$480 County Service Area P-6; \$2,382 Contra Costa County Fire Protection District; \$27,700 remaining taxing entities).

BACKGROUND:

The Local Agency Formation Commission ("LAFCO" or "Commission") initiated the Mt. Diablo Health Care District ("MDHCD" or "District") special study in response to past and ongoing concerns as to whether the MDHCD should continue as a special district and in response to findings contained in the 2007 Local Agency Formation Commission Municipal Service Review. LAFCO received the special study of governance options on January 11,

☒ APPROVE

☒ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **06/05/2012** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Mary N. Piepho, District III
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 5, 2012

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: Rich Seithel,
674-7869

ATTACHMENT E

BACKGROUND: (CONT'D)

2012.

The study identified several governance options and recommended dissolving MDHCD and appointing a successor agency to either continue the service or wind up the affairs of the District. In accordance with the special study, the Commission adopted a zero sphere of influence for MDHCD signaling the Commission's intent to dissolve the District and appoint a successor agency. LAFCO then continued the public hearing to March 14, 2012.

In March, the Commission was asked to consider governance options for the MDHCD. At that time, the Commission closed its public hearing and expressed an interest in a governance option to "reorganize" the District whereby the City of Concord would apply to LAFCO to shrink the boundaries of the District and establish MDHCD as a subsidiary district of the City of Concord. The City of Concord approved Resolution No. 12-29 (Attachment 2) on April 3, 2012 initiating proceedings for a reorganization.

On April 9, LAFCO staff distributed a Notice of Receipt of Application to all affected agencies. LAFCO 12-02, Mt. Diablo Health Care District Reorganization: Detachment/Establishment of Subsidiary District of the City of Concord, requesting the detachment from the MDHCD of all territory located outside of the exterior boundaries of the cities of Concord and Pleasant Hill. The portion of the District within the exterior boundaries of the City of Concord and the City of Pleasant Hill would be established as a subsidiary district of the City of Concord.

LAFCO's notice indicates that the District is the only agency whose service area or responsibility is being altered by the proposed jurisdictional change. In particular, District territory outside of the exterior boundaries of the City of Concord and the City of Pleasant Hill is being detached from the District.

Although the District includes parcels located in the City of Martinez, City of Clayton, and the City of Walnut Creek, the Assessor's Office advises that the only parcels where MDHCD receives a portion of the ad-valorem property tax, other than City of Concord and the City of Pleasant Hill, are parcels located in the unincorporated area of Contra Costa County. It is estimated that the District's FY 11-12 ad-valorem property tax from these detached parcels is approximately \$39,702. It is this \$39,702 that would be reallocated by this action.

Because territory is being detached from the District, the local agencies whose service area or responsibility is being altered (i.e. MDHCD) is required to negotiate an exchange of property tax revenues. Specifically, Revenue and Taxation Code Section 99(b)(5) provides, "In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Prior to entering into

ATTACHMENT E

negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation."

ARCHIVED DOCUMENT

Letters advising each individual MDHCD board member and the Interim Executive Director were mailed May 7, 2012 (the letters are attached Attachment 1). These letters serve as the notification and provision of adequate opportunity to comment on the property tax allocation negotiation required by Revenue and Taxation Code Section 99(b)(5).

The attached resolution 2012/256 stipulates that MDHCD's share of the base tax and the annual tax increment for all unincorporated areas being detached from the MDHCD (the "Subject Territory") shall be allocated to each remaining taxing entity in the Subject Territory tax rate areas proportionately according to the proportion of base tax each such taxing entity receives for such tax rate area. In summary, the MDHCD base and increment will be "absorbed" proportionately by the remaining taxing entities.

CONSEQUENCE OF NEGATIVE ACTION:

If this resolution is not adopted, the District's reorganization will be delayed and may result in delaying LAFCO public noticing.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Resolution No. 2012/256

MDHCD letters

City of Concord Resolution

ATTACHMENT E

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 06/05/2012 by the following vote:

AYES: ☐

NOES: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐

ARCHIVED DOCUMENT



Resolution No. 2012/256

Property Tax Exchange for Mt. Diablo Health Care District Detachment (LAFCO 12-02)

WHEREAS, Section 99(b)(5) of the California Revenue and Taxation Code provides that in the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation; and

WHEREAS, County staff notified Daymon Doss, Interim Executive Director of the Mt. Diablo Health Care District (the "MDHCD"), and each MDHCD board member in May 7, 2012 letters addressed to each of them (the letters are attached as Attachment 1), of the pending negotiation regarding the exchange of property tax revenues in connection with the MDHCD territory detachment, and each has had adequate opportunity to comment on the exchange of property tax revenues.

NOW, THEREFORE, BE IT RESOLVED:

The Board of Supervisors of Contra Costa County hereby determines that the property tax exchange for all unincorporated areas being detached from the MDHCD (the "Subject Territory"), as outlined in LAFCO 12-02 shall be in accordance, for the fiscal year in which the State Board of Equalization makes the tax rate area changes for this jurisdictional change, with the following:

- The MDHCD's share of the base tax and the increment allocation factor ("IAF") in the Subject Territory's tax rate areas shall be allocated to each remaining taxing entity identified in the Subject Territory's tax rate areas by allocating the base tax and the IAF that would otherwise be allocated to MDHCD to each remaining taxing entity according to the proportion of base tax each such taxing entity receives for such tax rate areas. The resulting new IAF for the Subject Territory tax rate areas will be used to allocate the annual tax increment for the effective year of the reorganization as well as in the future years.

Each of the taxing entities base tax and annual tax increment allocation factors may be subsequently modified only through negotiated exchanges in accordance with California Revenue and Taxation Code Sections 99 and/or 99.01 for subsequent jurisdictional changes. This resolution does not change the MDHCD's right to collect taxes for existing bond indebtedness.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 5, 2012

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Rich Seithel, 674-7869

By: , Deputy

cc: Auditor-Controller, County Administrator's Office, County Counsel, LAFCO, City of Concord, Department Conservation and Development, Mt. Diablo Health Care District

ATTACHMENT E

BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

ARCHIVED DOCUMENT

**A Resolution Initiating Proceedings for a
Reorganization Consisting of Detachment from the
Mt. Diablo Health Care District and Establishment of
the Mt. Diablo Health Care District as a Subsidiary
District of the City of Concord**

Resolution No. 12-29

WHEREAS, the City of Concord desires to initiate a reorganization proceeding as specified herein; and

WHEREAS, the reorganization consists of two changes of organization: (a) detachment from the Mt. Diablo Health Care District of all territory located within the District except for that territory that is contained within the exterior boundaries of the City of Concord and the City of Pleasant Hill and (b) establishment of the remaining District as a subsidiary district of the City of Concord; and

WHEREAS, upon detachment from the District of all territory located outside of the exterior boundaries of the Cities of Concord and Pleasant Hill, the remaining District will contain approximately 74,554 registered voters of which 55,861, or 74.9 percent, will reside within the City of Concord; and

WHEREAS, upon detachment from the District of all territory located outside of the Cities of Concord and Pleasant Hill, the remaining District will contain approximately 39.23 square miles (25,107 acres) of which 31.13 square miles (19,923 acres) or 79.5 percent, will be included within the City of Concord; and

WHEREAS, this proposed reorganization complies with requirements set forth in Government Code Section 57105 which state an order establishing the Mt. Diablo Health Care District as a subsidiary district may be adopted if upon the date of the order the Local Agency Formation Commission determines the portion of the District contained within the City of Concord represent both (a) 70 percent or more of the area of land within the district and (b) 70 percent or more of the number of registered voters who reside within the district.

//

//

1 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
2 **RESOLVE AS FOLLOWS:**

3 **Section 1.** This proposal is made, and it is requested that proceedings be taken, pursuant to the
4 Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000, commencing with section
5 56000 of the California Government Code.

6 **Section 2.** This proposal is a reorganization and consists of the following changes of
7 organization:

- 8 A. Detachment of territory from the Mt. Diablo Health Care District.
9 B. Establishment of the Mt. Diablo Health Care District as a subsidiary district of the City
10 of Concord.

11 **Section 3.** The area to be detached from the District consists of all territory within the
12 boundaries of the District as it exists on the date this resolution is adopted except for that portion of
13 the District located within the exterior boundaries of the Cities of Concord and Pleasant Hill.

14 **Section 4.** It is desired that the reorganization be subject to the following terms and
15 conditions:

- 16 A. Prior to the effective date of the reorganization the District shall fully fund its current
17 unfunded health care benefit liability.
18 B. All District assets and liabilities, real and fiscal, located within or identified with the
19 area being detached from the District shall remain assets and liabilities of the District.
20 C. Three of the five seats previously appointed by the District Board to the Health
21 Foundation Board shall be assigned by the City of Concord.
22 D. LAFCO shall waive its standard indemnification requirement.

23 **Section 5.** The reasons for the proposal are to:

- 24 A. Respond effectively to concerns expressed by the Contra Costa Grand Jury, Local
25 Agency Formation Commission, local agencies and the general public about the
26 effectiveness and cost of operating the Mt. Diablo Health Care District.
27 B. Ensure a greater portion of tax revenues and public funds received are used for their
28 intended health related purposes with lower administrative costs.

ATTACHMENT E

C. Allow governance by a local agency within whose boundaries are located the John Muir Medical Center (formerly the Mt. Diablo Community Hospital), Concord Health Center and Concord Public Health Clinic.

Section 6. The proposal is consistent with the Sphere of Influence of the Mt. Diablo Health Care District which the Local Agency Formation Commission has established as a "zero" Sphere of Influence.

Section 7. This resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Concord on April 3, 2012, by the following vote:

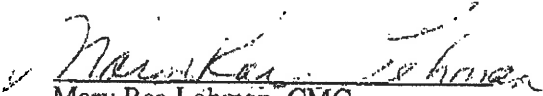
AYES: Councilmembers - T. Grayson, D. Helix, W. Shinn

NOES: Councilmembers - None

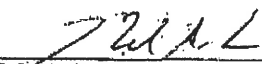
ABSTAIN: Councilmembers - R. Leone (Recused)

ABSENT: Councilmembers - L. Hoffmeister

I HEREBY CERTIFY that the foregoing Resolution No. 12-29 was duly and regularly adopted at a regular meeting of the City Council of the City of Concord on April 3, 2012.


Mary Rae Lehman, CMC
City Clerk

APPROVED AS TO FORM:


Mark S. Coon
Acting City Attorney



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Government Code 7507 - Chief Executive Acknowledgement of Future Costs of Benefits for Employees Represented by CNA and Other Specific Units

RECOMMENDATION(S):

ACCEPT written acknowledgment by the County Administrator (Chief Executive Officer) that he understands the current and future costs of the Retirement benefit changes for employees represented by the California Nurses' Association and Safety employees in specific units of Probation Management, Fire Management and AFSCME 512, as determined by the County's actuary in Actuarial Reports dated September 8, 2015 and October 12, 2015 respectively.

FISCAL IMPACT:

As shown in the valuations and the chart below, the result of the retirement changes described herein for employees would result in a savings of annual pensionable pay with the first hire in year one. Future valuation results will change with demographic and cost updates. These projections do accurately measure the direction of the proposed plan change costs. Over time, as more employees are hired into the new PEPR tier at a 2% COLA, the savings will become more significant. It should be noted that the figures presented in this report represent the savings associated only with the negotiation of a 2% COLA. The actual savings from both the new State law and the negotiated change beginning January 1 is the savings between the new PEPR tier with a 2% COLA and Tiers A and III with a 3% COLA.

Unit	Entry Age	Valuation Pay	% of Savings in Year 1
California Nurses' Association (L)	39	\$90,300	1.3%
Probation Management (B2)	45	\$101,200	4.4%
Fire Management (BF)	42	\$109,700	3.6%
AFSCME 512 Safety (KS/XAHA)	56	\$70,800	6.1%

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lisa Driscoll, County Finance Director, 335-1023

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Ann Elliott, Employee Benefits Manager, County Counsel

BACKGROUND:

At its meetings of August 15, 2015 and November 10, 2015, the Board of Supervisors accepted actuarial valuations of future annual costs of negotiated and proposed changes to Other Post Employment Benefits, as provided by the County's actuary in letters dated September 8, 2015 and October 12, 2015. The Board was informed that Government Code, Section 7507 requires with regard to local legislative boards, that the future costs of changes in retirement benefits or other post employment benefits as determined by the actuary, shall be made public at a public meeting prior to the adoption of any changes in public retirement plan benefits or other post employment benefits. The September 8, and October 12, 2015 reports fulfilled that requirement.

Government Code, Section 7507 also requires that if the future costs (or savings) of the changes exceed one-half of 1 percent of the future annual costs of the existing benefits for the body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. An actuary will be present at the meeting of November 17, 2015.

And finally, Section 7507 requires that upon the adoption of any benefit change to which the section applies, the person with responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary.

As the County Administrator (chief executive officer) and by approving this Board Order, I acknowledge in writing that I understand the current and future cost of the benefit changes presented to you today, as determined by the actuary and contained in the September 8, and October 12, 2015 letters from Buck Consultants (County's actuary).

CONSEQUENCE OF NEGATIVE ACTION:

Delayed implementation of the COLA reduction, resulting in loss of savings.

CHILDREN'S IMPACT STATEMENT:

None.

ATTACHMENTS

7507 Report for CNA dated September 8, 2015

7507 Report for Probation Management dated October 12, 2015

7507 Report for Fire Management dated October 12, 2015

7507 Report for AFSCME 512 Safety dated October 12, 2015

Buck Consultants, LLC
353 Sacramento Street
Suite 800
San Francisco, CA 94111

tel 415.392.0616
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September 8, 2015

Ms. Lisa Driscoll
Finance Director
Contra Costa County
651 Pine Street, 10th floor
Martinez, CA 94553

Re: Complying with California Government Code Section 7507 Regarding Changes to Pension
Benefits of California Nurses Association

Dear Ms. Driscoll:

We have been asked to estimate the effect on the County's current and future unfunded actuarial accrued liabilities and Annual Required Contributions resulting from a new tier of benefits in the structure of Assembly Bill 340 (AB340) with a 2.00% Cost of Living Adjustment (COLA) effective on January 1, 2016 or, alternatively, effective July 1, 2016. Both dates are used as potential effective dates for the proposed change for the members of California Nurses Association. We are comparing this benefit structure to the AB340 structure with a 3.00% COLA which the plan currently provides.

Because this change affects only future employees, it will have no effect on the unfunded actuarial accrued liabilities of Contra Costa County Employees' Retirement Association (CCCERA) as of the effective dates. We show the cost impacts on the charts below per one hire per year (results are averages of one male and one female). The costs shown are combined employee and employer normal costs. By going from a 3.00% COLA to a 2.00% COLA, the County will realize a savings. The savings are equal to the excess of the normal cost for an AB340 structure with a 3.00% COLA over the normal cost of an AB340 structure with a 2.00% COLA.

We have expressed the savings in annual dollar amounts and as percentages of covered payroll for calendar years 2016, 2017 and 2018 (2019 is also included for the July 1, 2016 effective date). These results are merely illustrative and the actual impact will depend upon the actual demographic characteristics of the employees as well as the pattern of future hiring. On the exhibit for the July 1, 2016 effective date, results shown for 2016 are for the six month period July 1 through December 31.

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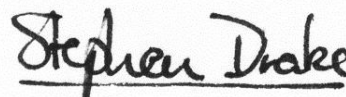
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The report was prepared under the supervision of David Kershner and Stephen Drake, who are both Enrolled Actuaries and Members of the American Academy of Actuaries. David Kershner is a Fellow of the Society of Actuaries and Stephen Drake is an Associate of the Society of Actuaries. Both meet the qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained in this report. This report has been prepared in accordance with all Applicable Actuarial Standards of Practice. We are available to answer any questions on the material contained in the report, or to provide explanations or further details as may be appropriate.

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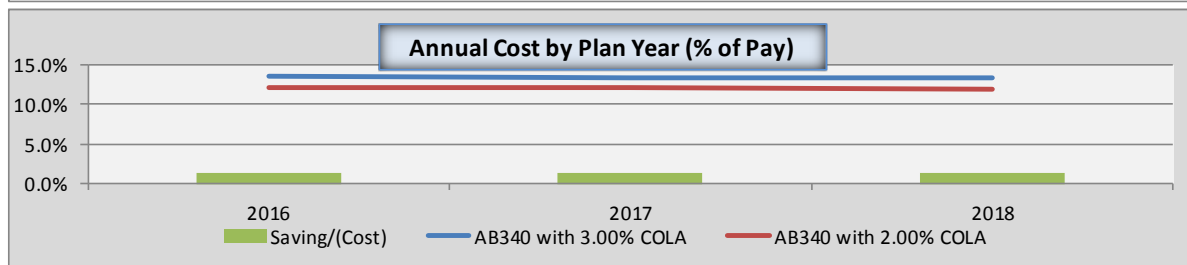
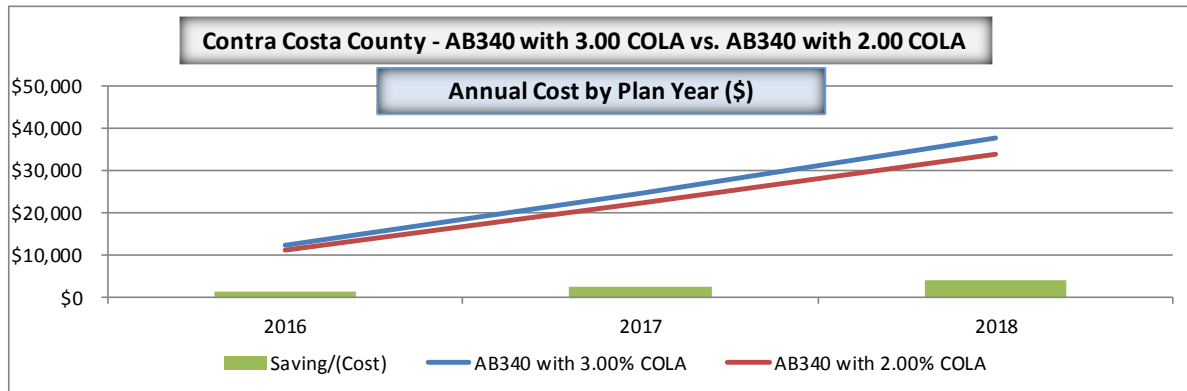


David J. Kershner, FSA, EA, MAAA
Principal and Consulting Actuary



Stephen Drake, ASA, EA, MAAA
Director, Retirement Actuary

California Nurses Association – January 1, 2016

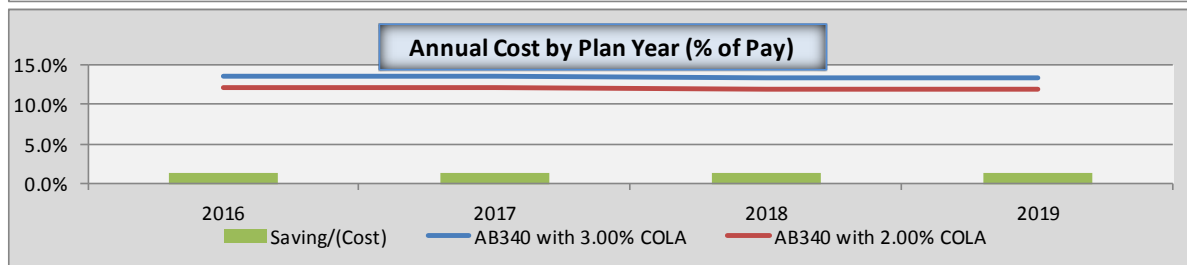
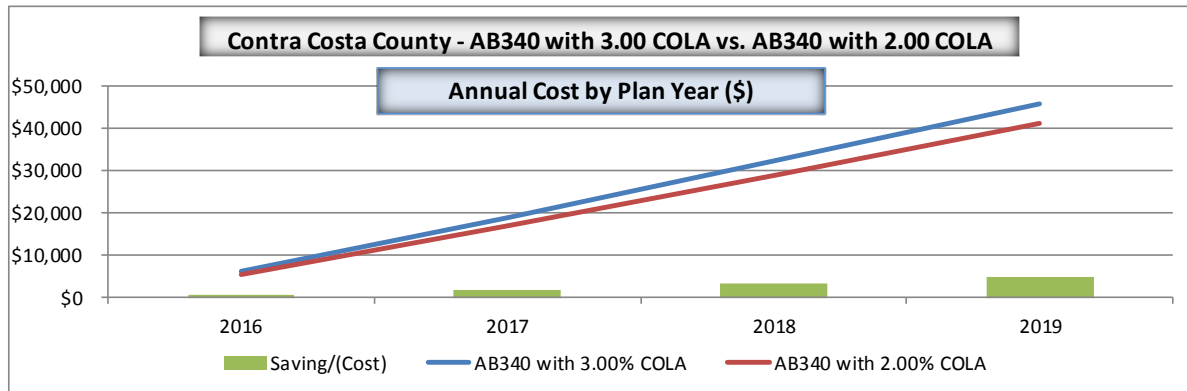


Calendar Year	2016	2017	2018
Valuation Pay	\$90,300	\$184,200	\$281,600
Annual Cost			
AB340 with 3.00% COLA			
i) \$	\$12,200	\$24,700	\$37,600
ii) % of Pay	13.5%	13.4%	13.4%
AB340 with 2.00% COLA			
i) \$	\$11,000	\$22,200	\$33,700
ii) % of Pay	12.2%	12.1%	12.0%
Saving/(Cost)			
i) \$	\$1,200	\$2,500	\$3,900
ii) % of Pay	1.3%	1.3%	1.4%

Notes:

- The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation.
- The County is assumed to hire one active employee at January 1 of each projection year (we have averaged results for one male and one female). The annual salary at entry is assumed to be \$100,400, \$103,900, and \$107,500 for the 2016, 2017, and 2018 hires, respectively. The age at entry for new hires is assumed to be 39. These assumptions were provided by the County.
- The maximum compensation limit for the retirement benefit is assumed to be \$120,870 for 2016 and it is expected to grow 2.00% per year.
- In the AB340 benefit structure, the multiplier is 2% at 62. The multiplier increases by 0.1% for ages above 62 to a maximum of 2.5% at 67. It decreases by 0.1% for ages below 62 to a minimum of 1.0% at 52.

California Nurses Association – July 1, 2016



Calendar Year	2016	2017	2018	2019
Valuation Pay	\$45,200	\$140,500	\$239,600	\$342,400
Annual Cost				
AB340 with 3.00% COLA				
i) \$	\$6,100	\$18,900	\$32,100	\$45,800
ii) % of Pay	13.5%	13.5%	13.4%	13.4%
AB340 with 2.00% COLA				
i) \$	\$5,500	\$17,000	\$28,800	\$41,100
ii) % of Pay	12.2%	12.1%	12.0%	12.0%
Saving/(Cost)				
i) \$	\$600	\$1,900	\$3,300	\$4,700
ii) % of Pay	1.3%	1.4%	1.4%	1.4%

Notes:

1. The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation.
2. The County is assumed to hire one active employee at July 1 of each projection year (we have averaged results for one male and one female). The annual salary at entry is assumed to be \$100,400, \$103,900, \$107,500, and \$111,300 for the 2016, 2017, 2018, and 2019 hires, respectively. The age at entry for new hires is assumed to be 39. These assumptions were provided by the County.
3. The maximum compensation limit for the retirement benefit is assumed to be \$120,870 for 2016 and it is expected to grow 2.00% per year.
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5. Results for 2016 are for six months only (July 1 through December 31).

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October 12, 2015

Ms. Lisa Driscoll
Finance Director
Contra Costa County
651 Pine Street, 10th floor
Martinez, CA 94553

Re: Complying with California Government Code Section 7507 Regarding Changes to Pension
Benefits of Probation Management

Dear Ms. Driscoll:

We have been asked to estimate the effect on the County's current and future unfunded actuarial accrued liabilities and Annual Required Contributions resulting from a new tier of benefits in the structure of Assembly Bill 340 (AB340) with a 2.00% Cost of Living Adjustment (COLA) effective on January 1, 2016 or alternatively, effective July 1, 2016. Both dates are used as potential effective dates for the proposed change for the members of Probation Management. We are comparing this benefit structure to the AB340 structure with a 3.00% COLA which the plan currently provides.

Because this change affects only future entrants, it will have no effect on the unfunded actuarial accrued liabilities of Contra Costa County Employees' Retirement Association (CCCERA) as of the effective dates. We show the cost impacts on the enclosed charts per one hire per year (results are averages of one male and one female). The costs shown are combined employee and employer normal costs. By going from a 3.00% COLA to a 2.00% COLA, the County will realize a savings. The savings are equal to the excess of the normal cost for an AB340 structure with a 3.00% COLA over the normal cost of an AB340 structure with a 2.00% COLA.

We have expressed the savings in annual dollar amounts and as percentages of covered payroll for calendar years 2016, 2017 and 2018 (2019 is also included for the July 1, 2016 effective date). These results are merely illustrative and the actual impact will depend upon the actual demographic characteristics of the employees as well as the pattern of future hiring. On the exhibit for the July 1, 2016 effective date, results shown for 2016 are for the six month period July 1 through December 31.

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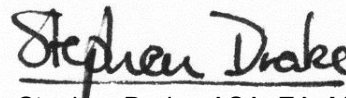
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The report was prepared under the supervision of David Kershner and Stephen Drake, who are both Enrolled Actuaries and Members of the American Academy of Actuaries. David Kershner is a Fellow of the Society of Actuaries and Stephen Drake is an Associate of the Society of Actuaries. Both meet the qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained in this report. This report has been prepared in accordance with all Applicable Actuarial Standards of Practice. We are available to answer any questions on the material contained in the report, or to provide explanations or further details as may be appropriate.

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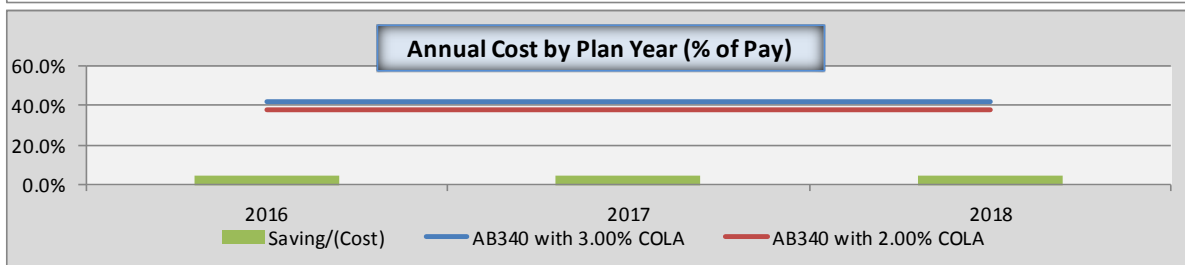
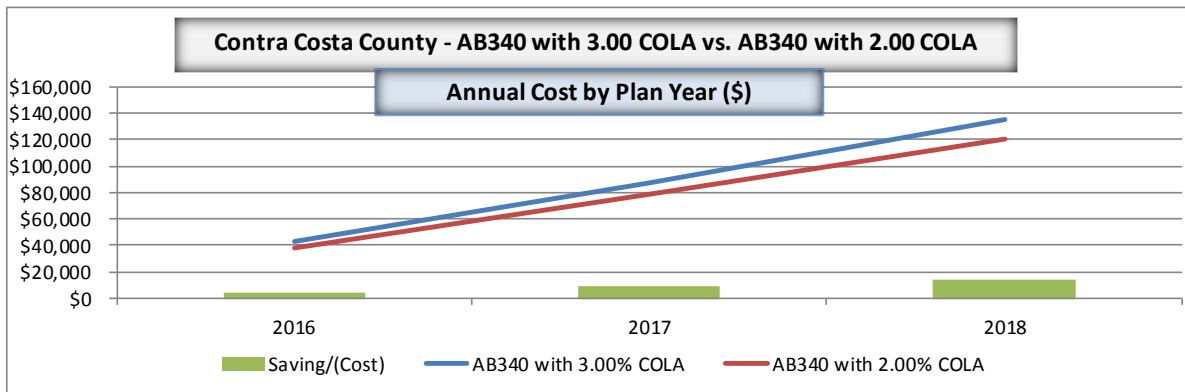


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Principal and Consulting Actuary



Stephen Drake, ASA, EA, MAAA
Director, Retirement Actuary

Probation Management – January 1, 2016

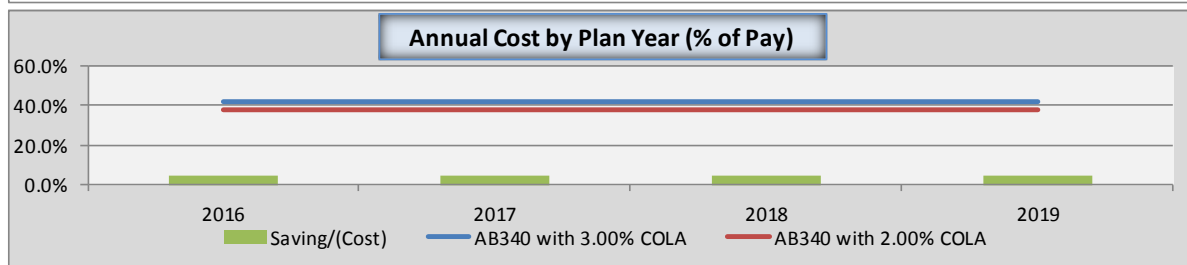
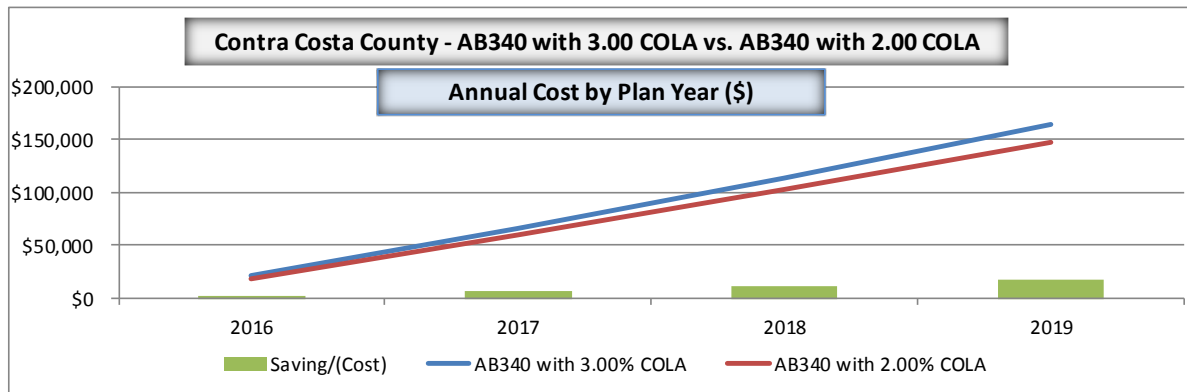


Calendar Year	2016	2017	2018
Valuation Pay	\$101,200	\$208,200	\$321,400
Annual Cost			
AB340 with 3.00% COLA			
i) \$	\$42,700	\$87,600	\$134,800
ii) % of Pay	42.2%	42.1%	41.9%
AB340 with 2.00% COLA			
i) \$	\$38,300	\$78,500	\$120,800
ii) % of Pay	37.8%	37.7%	37.6%
Saving/(Cost)			
i) \$	\$4,400	\$9,100	\$14,000
ii) % of Pay	4.4%	4.4%	4.3%

Notes:

- The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation for the Safety members.
- The County is assumed to hire one Safety employee into Probation Management at January 1 of each projection year (we have averaged results for one male and one female). The assumed age at entry for new hires is 45, and the annual salary is assumed to be \$111,800, \$115,700, and \$119,700 for the 2016, 2017, and 2018 hires, respectively. These assumptions were provided by the County.
- The maximum compensation limit for the retirement benefit is assumed to be 120% of \$120,870, or \$145,044, for 2016 and it is expected to grow 2.00% per year.
- In the AB340 benefit structure, the multiplier is 2.5% at 55. The multiplier increases by 0.1% for ages above 55 to a maximum of 2.7% at 57. It decreases by 0.1% for ages below 55 to a minimum of 2.0% at 50.

Probation Management – July 1, 2016



Calendar Year	2016	2017	2018	2019
Valuation Pay	\$50,600	\$158,400	\$272,300	\$392,900
Annual Cost				
AB340 with 3.00% COLA				
i) \$	\$21,400	\$66,700	\$114,400	\$165,000
ii) % of Pay	42.3%	42.1%	42.0%	42.0%
AB340 with 2.00% COLA				
i) \$	\$19,100	\$59,800	\$102,500	\$147,800
ii) % of Pay	37.7%	37.8%	37.6%	37.6%
Saving/(Cost)				
i) \$	\$2,300	\$6,900	\$11,900	\$17,200
ii) % of Pay	4.6%	4.3%	4.4%	4.4%

Notes:

- The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation for the Safety members.
- The County is assumed to hire one Safety employee into Probation Management at July 1 of each projection year (we have averaged results for one male and one female). The assumed age at entry for new hires is 45, and the annual salary is assumed to be \$111,800, \$115,700, \$119,700, and \$123,900 for the 2016, 2017, 2018, and 2019 hires, respectively. These assumptions were provided by the County.
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October 12, 2015

Ms. Lisa Driscoll
Finance Director
Contra Costa County
651 Pine Street, 10th floor
Martinez, CA 94553

Re: Complying with California Government Code Section 7507 Regarding Changes to Pension Benefits of Fire Management

Dear Ms. Driscoll:

We have been asked to estimate the effect on the County's current and future unfunded actuarial accrued liabilities and Annual Required Contributions resulting from a new tier of benefits in the structure of Assembly Bill 340 (AB340) with a 2.00% Cost of Living Adjustment (COLA) effective on January 1, 2016 or alternatively, effective July 1, 2016. Both dates are used as potential effective dates for the proposed change for the members of Fire Management. We are comparing this benefit structure to the AB340 structure with a 3.00% COLA which the plan currently provides.

Because this change affects only future entrants, it will have no effect on the unfunded actuarial accrued liabilities of Contra Costa County Employees' Retirement Association (CCCERA) as of the effective dates. We show the cost impacts on the enclosed charts per one hire per year (results are averages of one male and one female). The costs shown are combined employee and employer normal costs. By going from a 3.00% COLA to a 2.00% COLA, the County will realize a savings. The savings are equal to the excess of the normal cost for an AB340 structure with a 3.00% COLA over the normal cost of an AB340 structure with a 2.00% COLA.

We have expressed the savings in annual dollar amounts and as percentages of covered payroll for calendar years 2016, 2017 and 2018 (2019 is also included for the July 1, 2016 effective date). These results are merely illustrative and the actual impact will depend upon the actual demographic characteristics of the employees as well as the pattern of future hiring. On the exhibit for the July 1, 2016 effective date, results shown for 2016 are for the six month period July 1 through December 31.

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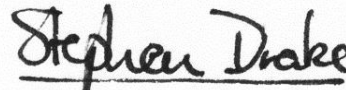
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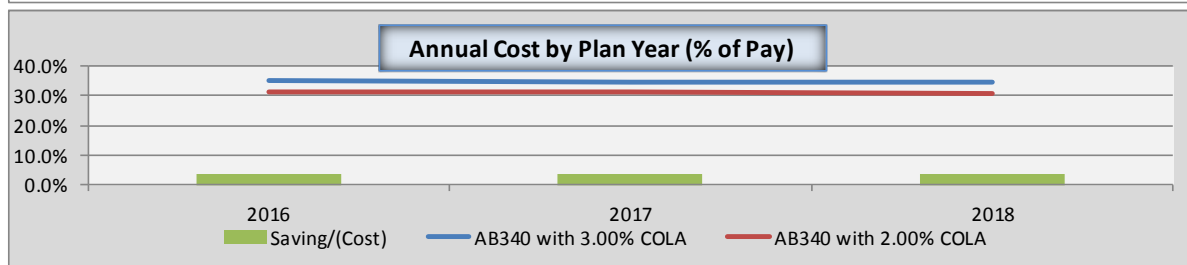
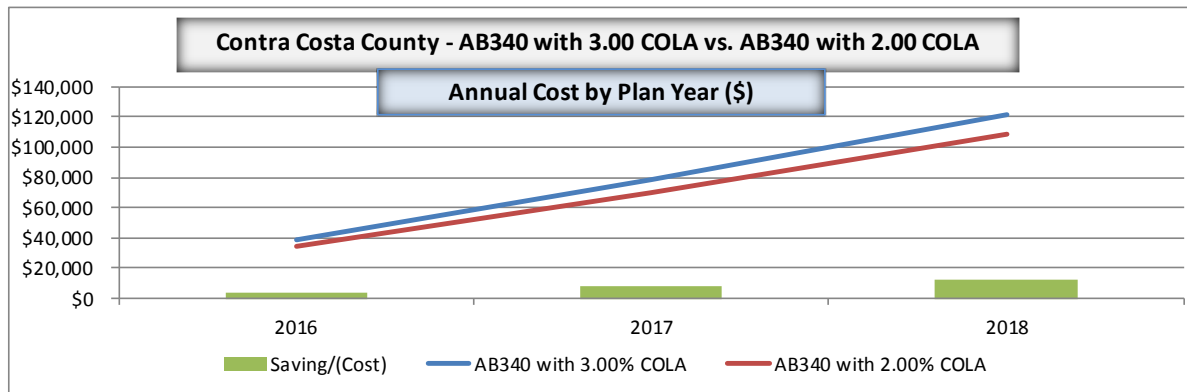


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Fire Management – January 1, 2016

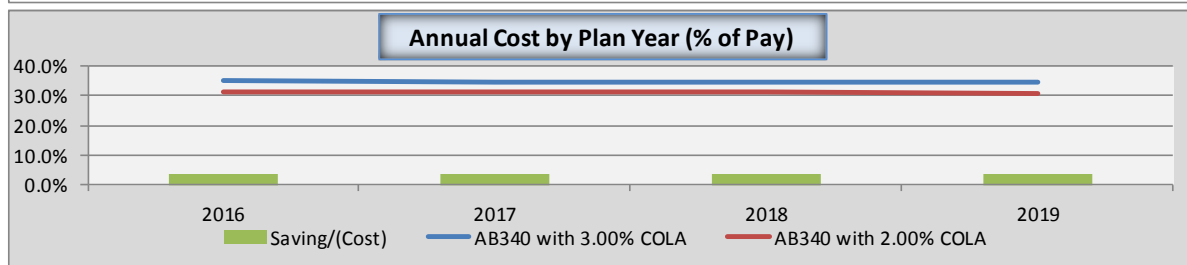
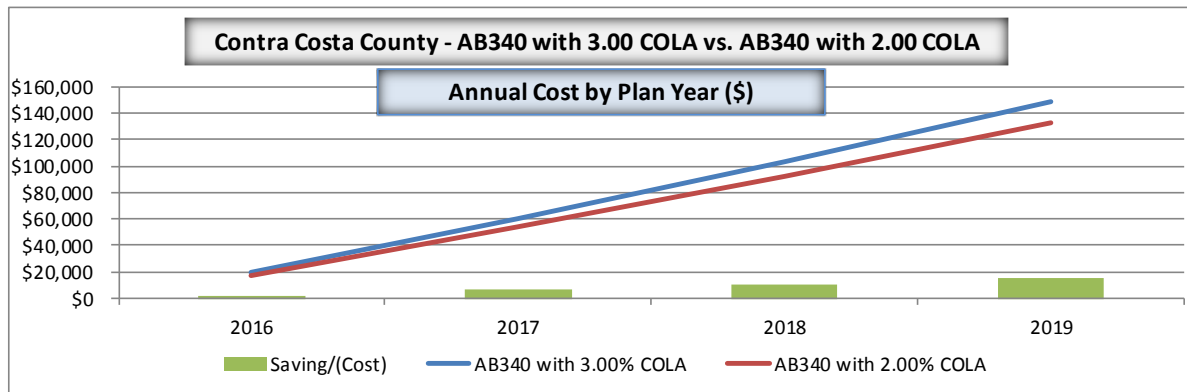


Calendar Year	2016	2017	2018
Valuation Pay	\$109,700	\$226,100	\$350,000
Annual Cost			
AB340 with 3.00% COLA			
i) \$	\$38,300	\$78,700	\$121,500
ii) % of Pay	34.9%	34.8%	34.7%
AB340 with 2.00% COLA			
i) \$	\$34,300	\$70,400	\$108,600
ii) % of Pay	31.3%	31.1%	31.0%
Saving/(Cost)			
i) \$	\$4,000	\$8,300	\$12,900
ii) % of Pay	3.6%	3.7%	3.7%

Notes:

- The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation for the Safety members.
- The County is assumed to hire one Safety employee into Fire Management at January 1 of each projection year (we have averaged results for one male and one female). The assumed age at entry for new hires is 42, and the annual salary is assumed to be \$121,100, \$125,300, and \$129,700 for the 2016, 2017, and 2018 hires, respectively. These assumptions were provided by the County.
- The maximum compensation limit for the retirement benefit is assumed to be 120% of \$120,870, or \$145,044, for 2016 and it is expected to grow 2.00% per year.
- In the AB340 benefit structure, the multiplier is 2.5% at 55. The multiplier increases by 0.1% for ages above 55 to a maximum of 2.7% at 57. It decreases by 0.1% for ages below 55 to a minimum of 2.0% at 50.

Fire Management – July 1, 2016



Calendar Year	2016	2017	2018	2019
Valuation Pay	\$54,900	\$171,900	\$296,200	\$428,700
Annual Cost				
AB340 with 3.00% COLA				
i) \$	\$19,200	\$59,900	\$103,000	\$148,900
ii) % of Pay	35.0%	34.8%	34.8%	34.7%
AB340 with 2.00% COLA				
i) \$	\$17,100	\$53,600	\$92,000	\$133,100
ii) % of Pay	31.1%	31.2%	31.1%	31.0%
Saving/(Cost)				
i) \$	\$2,100	\$6,300	\$11,000	\$15,800
ii) % of Pay	3.9%	3.6%	3.7%	3.7%

Notes:

- The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation for the Safety members.
- The County is assumed to hire one Safety employee into Fire Management at July 1 of each projection year (we have averaged results for one male and one female). The assumed age at entry for new hires is 42, and the annual salary is assumed to be \$121,100, \$125,300, \$129,700, and \$134,200 for the 2016, 2017, 2018, and 2019 hires, respectively. These assumptions were provided by the County.
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October 12, 2015

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Re: Complying with California Government Code Section 7507 Regarding Changes to Pension
Benefits of AFSCME 512 Safety

Dear Ms. Driscoll:

We have been asked to estimate the effect on the County's current and future unfunded actuarial accrued liabilities and Annual Required Contributions resulting from a new tier of benefits in the structure of Assembly Bill 340 (AB340) with a 2.00% Cost of Living Adjustment (COLA) effective on January 1, 2016 or alternatively, effective July 1, 2016. Both dates are used as potential effective dates for the proposed change for the members of AFSCME 512 Safety. We are comparing this benefit structure to the AB340 structure with a 3.00% COLA which the plan currently provides.

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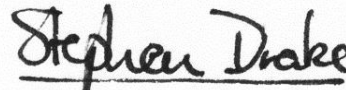
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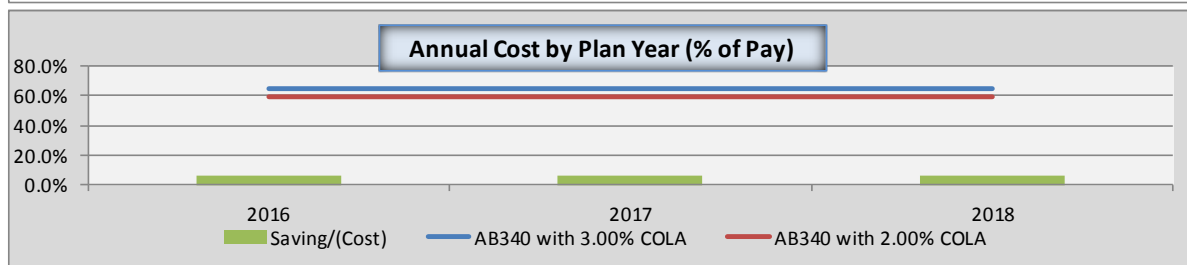
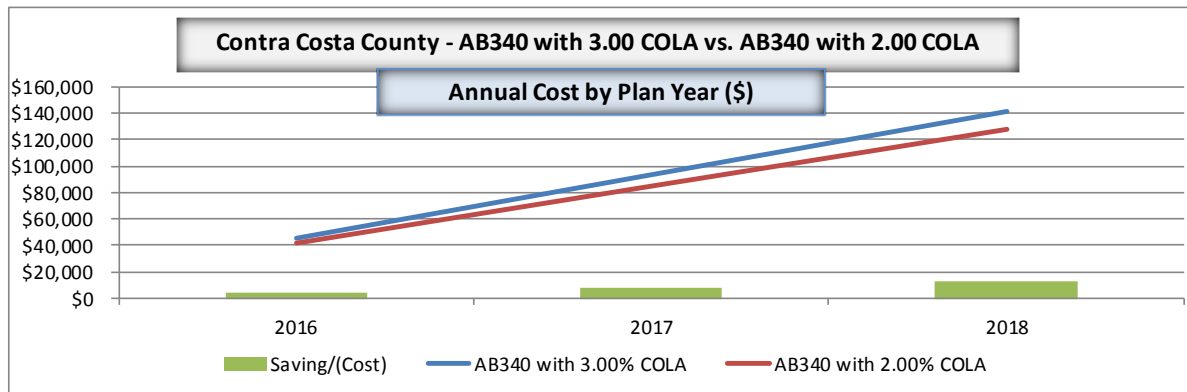


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AFSCME 512 Safety – January 1, 2016

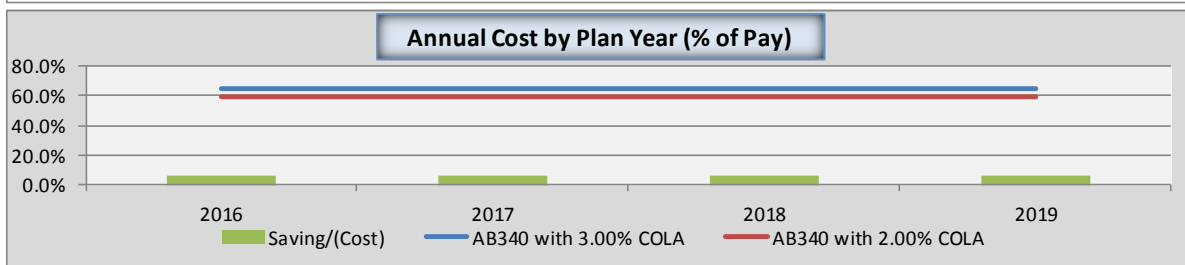
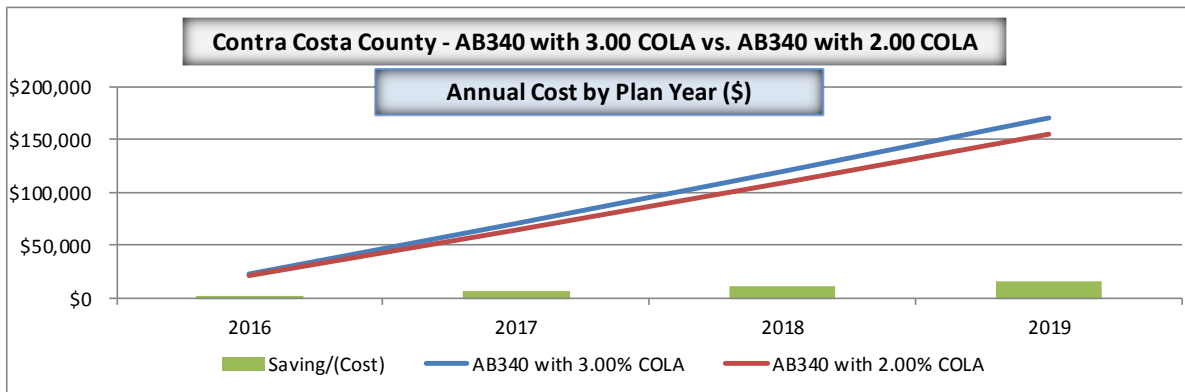


Calendar Year	2016	2017	2018
Valuation Pay	\$70,800	\$143,000	\$216,900
Annual Cost			
AB340 with 3.00% COLA			
i) \$	\$46,100	\$93,000	\$141,200
ii) % of Pay	65.1%	65.0%	65.1%
AB340 with 2.00% COLA			
i) \$	\$41,800	\$84,400	\$128,100
ii) % of Pay	59.0%	59.0%	59.1%
Saving/(Cost)			
i) \$	\$4,300	\$8,600	\$13,100
ii) % of Pay	6.1%	6.0%	6.0%

Notes:

- The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation for the Safety members.
- The County is assumed to hire one Safety employee into AFSCME 512 Safety at January 1 of each projection year (we have averaged results for one male and one female). The assumed age at entry for new hires is 56, and the annual salary is assumed to be \$79,700, \$82,500, and \$85,400 for the 2016, 2017, and 2018 hires, respectively. These assumptions were provided by the County.
- The maximum compensation limit for the retirement benefit is assumed to be 120% of \$120,870, or \$145,044, for 2016 and it is expected to grow 2.00% per year.
- In the AB340 benefit structure, the multiplier is 2.5% at 55. The multiplier increases by 0.1% for ages above 55 to a maximum of 2.7% at 57. It decreases by 0.1% for ages below 55 to a minimum of 2.0% at 50.

AFSCME 512 Safety – July 1, 2016



Calendar Year	2016	2017	2018	2019
Valuation Pay	\$35,400	\$109,500	\$185,100	\$262,700
Annual Cost				
AB340 with 3.00% COLA				
i) \$	\$23,000	\$71,200	\$120,500	\$170,900
ii) % of Pay	65.0%	65.0%	65.1%	65.1%
AB340 with 2.00% COLA				
i) \$	\$20,900	\$64,600	\$109,300	\$155,100
ii) % of Pay	59.0%	59.0%	59.0%	59.0%
Saving/(Cost)				
i) \$	\$2,100	\$6,600	\$11,200	\$15,800
ii) % of Pay	6.0%	6.0%	6.1%	6.1%

Notes:

1. The methods and assumptions used to determine the savings were the same as those used for the December 31, 2014 valuation for the Safety members.
2. The County is assumed to hire one Safety employee into AFSCME 512 Safety at July 1 of each projection year (we have averaged results for one male and one female). The assumed age at entry for new hires is 56, and the annual salary is assumed to be \$79,700, \$82,500, \$85,400, and \$88,400 for the 2016, 2017, 2018, and 2019 hires, respectively. These assumptions were provided by the County.
3. The maximum compensation limit for the retirement benefit is assumed to be 120% of \$120,870, or \$145,044, for 2016 and it is expected to grow 2.00% per year.
4. In the AB340 benefit structure, the multiplier is 2.5% at 55. The multiplier increases by 0.1% for ages above 55 to a maximum of 2.7% at 57. It decreases by 0.1% for ages below 55 to a minimum of 2.0% at 50.
5. Results for 2016 are for six months only (July 1 through December 31).



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Memoranda of Understanding with California Nurses Association

RECOMMENDATION(S):

ADOPT Resolution No. 2015/439 approving the Memorandum of Understanding between Contra Costa County and the California Nurses Association, implementing negotiated wage agreements and other economic terms and conditions of employment, for the period of August 1, 2014 through December 31, 2017.

FISCAL IMPACT:

The estimated cost of the negotiated contract between the County and the California Nurses Association is \$10.5 million for calendar year 2016, \$25.5 million for calendar year 2017, and \$28.2 million for calendar year 2018. The total contract cost is approximately \$64.2 million. The majority of employees represented by the California Nurses Association work in the hospital, which is an Enterprise Fund (Hospital Enterprise Fund 145000).

BACKGROUND:

The California Nurses Association (CNA) began bargaining with Contra Costa County on August 8, 2014. A Tentative Agreement was reached between the County and CNA on October 29, 2015 and ratified on November 6, 2015. The resulting Memorandum of Understanding, which is attached, includes modifications to wages, retirement, health care, and other benefit changes.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lisa Driscoll, County Finance
Director (925) 335-1023

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Harjit S. Nahal, Assistant County Auditor, Ann Elliott, Employee Benefits Manager, Lisa Lopez, Assistant Director of Human Resources

BACKGROUND: (CONT'D)

>

In summary, those changes are:

- Duration of Agreement - Section 64
 - The term of the agreement is from August 1, 2014 through December 31, 2017.
- Definitions
 - Adds definition of Per Diem employee.
- Association Recognition- Section 1
 - C N A is the formally recognized employee organization for the Registered Nurse Unit, Public Health Nurse Unit and Staff Nurse Unit.
- Nurse Representatives - Section 4
 - County agrees to pay six association members release time for successor bargaining.
- General Wages – Section 5.1
 - Effective December 1, 2015, the base rate of pay for all classifications represented by the Association will be increased by seven and one half percent (7.5%)
 - Effective July 1, 2016, the base rate of pay for all classifications represented by the Association will be increased by two and one half percent (2.5%).
 - Effective December 31, 2016, at 11:59 p.m., employees in multi-step hourly wage/salary classifications will be placed on a new ten-step hourly wage/salary ranges for their classifications with a 2.5% difference between each step. The new hourly wage/salary ranges for each classification are included in the MOU in Attachment D – 1 and D-2. The process in which employees will be placed is provided in Section 5.1- Salaries of the MOU.
 - Employees in the classification of Staff Nurse – Per Diem whose existing hourly wage rate is more than the wage rate at the top step of the new range will be placed at the top step of the new range. Such employees will be Y-Rated (frozen) at their existing hourly wage rate until such time as their existing hourly wage rate is equal to the hourly wage rate of the top step on the new ten-step hourly wage range.
 - Effective December 31, 2016, at 11:59 p.m., employees in the classifications of Advice Nurse (VWSK) and Advice Nurse II (VWTB) will be reclassified into a single new Advice Nurse (VWSN) classification.
 - Effective December 31, 2016, at 11:59 p.m., employees in the classifications of Registered Nurse- Experienced Level (VWXD) and Registered Nurse – Advanced Level (VWX4) will be reclassified into a single new Registered Nurse – Project (VWX5) classification.
 - Effective January 1, 2017, the base rate of pay for all classifications represented by the Association will be increased by three percent (3%).
 - Effective July 1, 2017, the base rate of pay for all classifications represented by the Association will be increased by three percent (3%).
- Longevity Pay – Section 5.2
 - Adds PHN Longevity differential of 2.5% at ten years.
- Charge Nurse Relief - Section 5.3.
 - Clarifies employees in the Registered Nurse Unit and Advice Nurse Unit are eligible for Charge Nurse Relief pay.
- Deep Class Exception- Section 5.4
 - Section will cease to apply as of January 1, 2017 as a result of the collapsing of the Advice Nurse I/II into one classification and Registered Nurse - Experienced and Registered Nurse – Advanced into one classification.
- Entrance Salary or Wage – Section 5.5
 - Employees will be placed at the first step of the salary or hourly wage range unless recommendation for appointment above the first step is authorized by the Director of Human Resources.
- Anniversary Dates – Section 5.6
 - Clarifies the anniversary date for a Per Diem employee is the first day of the calendar month after the calendar month when the employee successfully completes six months of County service.
- Increments within Range – Section 5.7

- Employees will be reviewed annually
- Effective January 1, 2018, employees not already at the maximum salary step shall be advanced to the next higher step in the salary range on their anniversary date.
- Effective November 1, 2015 through December 31, 2017, employees will not be granted any salary step increases/advancements.
- Part-Time Compensation – Section 5.8
 - Clarifies permanent part-time positions will be paid a monthly salary in the same ratio to the full-time monthly rate.
- Payment – Section 5.17
 - Per Diem employees shall be paid on the tenth and twenty-fifth day of each month.
- Pay Warrant Errors- Section 5.19
 - Adds language that overpayment repayment schedules shall not be longer than three times the length of time the overpayment occurred.
 - Union representation may be present at a meeting with management to discuss repayment schedule.
- Electronic Health Records Incentive Program – Section 5.20
 - No later than February 17, 2016, for the 2015 incentive payment year, Eligible Professionals who wish to obtain Electronic Health Record incentive payment for AIU to ccLink, must register and attest to meeting EHR Incentive Program requirements.
 - Eligible Professionals who receive or apply for an Electronic Health Record incentive payment by February 17, 2106, will reassign subsequent incentive payments to the County.
 - Eligible Professionals who do not receive or apply to receive an EHR incentive payment by February 17, 2016, will reassign all EHR incentive payments to the County.
 - Beginning with the 2016 incentive payment year and each year thereafter, will reassign EHR incentive payments to the County.
- Overtime/Continuous Shift - Section 7.4.
 - Adds overtime language for Per Diem employees. Per Diem employees are eligible to receive overtime pay for authorized work performed in excess of their designated shift. Differentials will be computed on employee's base rate of pay.
 - Per Diems are eligible to receive continuous shift pay provided in 7.3.
- Per Diem Differentials - Section 10.5
 - Per Diems are eligible to receive the following differentials : Evening Differential (12%), Night Differential (15%), Detention Facility Assignment Differential (10%), Emergency Department Differential (5%), Code Gray/STAT Differential (10%).
- Christmas and New Year's Day – Section 12.8
 - Deletes Thanksgiving Day from one of the three major holidays.
 - Employees now required to work either Christmas Day or New Year's Day.
- Per Diem Holiday Pay and Holiday Meal – Section 12.10
 - Per Diems scheduled to work on a holiday is entitled to receive up to eight hours of overtime.
 - Per Diems that work on Thanksgiving, Christmas or New Year's Day will be given a meal in the hospital cafeteria.
- Vacation Requests - Section 13.7
 - Deletes Thanksgiving from major holidays.
- Vacation Leave Accruals – Section 13.10
 - Total Accruals for granting vacation leave will include accrued (a) vacation credits, (b) compensatory time, (c) holiday compensatory time, (d) flexible compensatory time, and € professional sabbatical leave.
- Health, Life and Dental Care- Section 18
 - Employees will have access to CCHP Plan A & Plan B, Kaiser Permanente Plan A & Plan B, Health Net HMO Plan A and Plan B and Health Net PPO Plan A.
 - For Public Health Nurses hired after January 1, 2010, there will be no County paid subsidy for Retirement Health Coverage.
 - Medical and dental coverage during deferred retirement period is at the sole expense of the employee with no County contributions.
- Grievance Procedure – Section 24
 - Adds fifteen work day time frame in which grievances may be appealed from Step 2 to Step 3 of the

Grievance Procedure.

- Retirement – Section 29
 - Registered Nurse Unit – The County will continue to contribute 50% of the retirement contributions normally required of employees.
 - Effective January 1, 2012, employees in classifications in the Public Health Nurse Unit are responsible for 100% of the employee's basic retirement benefit contributions and COLA determined by CCCERA.
 - Registered Nurse Unit – New members of CCCERA on or after January 1, 2013, retirement benefits are governed by PEPRA. On or after January 1, 2016 the COLA allowance will not exceed 2%.
 - PHN Unit – employees who become new members of CCCERA on or after January 1, 2013, retirement benefits will be governed by PEPRA.
 - The Association will support legislation amending the County Employees Retirement Law of 1937 to clarify that the current Tier III disability provisions apply to employees who under PEPRA, become new members of CCCERA.
- Education Leave presented – Section 31
 - Clarifies classifications with class codes eligible to receive education leave (i.e. Registered Nurses, Advice Nurses, Family Nurse Practitioners and Public Health Nurses).
- Deferred Compensation Plan – Special Benefit for Public Health Nurses hired after January 1, 2010 – Section 35.A.
 - Language carried over from Local One MOU.
 - The County to contribute \$150 per month to employee's account.
- Deferred Compensation Loan Provision - Section 35.B
 - Adds language to the MOU providing the Deferred Compensation Loan Provision language adopted by the Board of Supervisors on June 26, 2012 (Resolution 2012/298).
- Personnel Files – Section 41
 - Counseling memos will be removed from all files after two (2) years.
- Permanent-Intermittent Employee Benefits - Section 48
 - Permanent Intermittent employees are eligible for prorated vacation and sick leave benefits based upon regular hours worked in the pay period.
 - Provide employees eligible to receive an offer of coverage from the County under the Affordable Care Act, with access to County medical plans at the full premium amount.
 - Additional special pay and benefits provided in Attachment H - Permanent Intermittent Employee Benefits.
- Per Diem Employee/Staff Nurse Unit – Section 49
 - Provide employees eligible to receive an offer of coverage from the County under the Affordable Care Act, with access to County medical plans at the full premium amount.
 - Family and Medical Leaves to be administered in accordance with applicable state and federal laws.
 - Meal Period and Rest Break. Employees shall be entitled to a 15 minute break for each four hours of work and scheduled a thirty minute unpaid lunch period for each eight hours of work. Employees in Juvenile Hall, Detention or the CCHP Advice Nurse Unit may be assigned an eight hour shift with an on-site meal period.
 - Per Diem employees may be terminated by the Appointing Authority at any time.
 - Effective January 1, 2016, eligible employees will be enrolled in State Disability Insurance.
 - Sick leave benefits are set forth in Administrative Bulletin 411.
 - MOU sections applicable to Per Diems are provided in Attachment I – Per Diem Employee Special Pays, Benefits and other items.
- Lunch Period/Rest Breaks – Section 51
 - Clarifies Advice Nurses assigned to work the night shift will be provided an on-site thirty minute paid meal period.
 - Nurses scheduled to work twelve hour shifts are entitled to a fifteen minute rest break during each six hour working period.
- Family Nurse Practitioners and Public Health Nurses - Section 52
 - Deletes twenty percent “at risk time” for Family Nurse Practitioners
 - Public Health Nurses. Provides specific language regarding PHN special benefits(i.e. PSPC committee, option for thirty minute or one hour lunch break, eight week or less reassignment

- language, Vacation assignments).
- Scope of Agreement - Section 58
 - The County and the Association agree that any past side letters or any other agreements not already incorporated into or attached to the MOU are deemed no longer effective.
- Patient Care Technology Review Procedures – Section 60
 - Language to expire December 31, 2017.
- New Technology and Staffing Ratio Dispute – Section 62
 - Language to expire December 31, 2017
- Side Letters were updated to incorporate all of the changes made during bargaining.

CONSEQUENCE OF NEGATIVE ACTION:

Employees would be out of contract, which may cause labor issues.

ATTACHMENTS

Resolution No. 2015/439

California Nurses Association and County MOU 8/1/14 thru 12/3/17

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/439

In The Matter Of: Memoranda of Understanding with California Nurses Association for the period of August 1, 2014 through December 31, 2017.

The Contra County Board of Supervisors acting in its capacity as the Governing Board of the County of Contra Costa
RESOLVES that:

The Memorandum of Understanding (MOU) between Contra Costa County and the California Nurses Association providing for wages, benefits and other terms and conditions of employment for the period beginning August 1, 2014 through December 31, 2017, for those classifications represented by the California Nurses Association is ADOPTED. A copy of the MOU is attached.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

**Contact: Lisa Driscoll, County Finance Director (925)
335-1023**

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Harjit S. Nahal, Assistant County Auditor, Ann Elliott, Employee Benefits Manager, Lisa Lopez, Assistant Director of Human Resources

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
CALIFORNIA NURSES ASSOCIATION



AUGUST 1, 2014 – DECEMBER 31, 2017

CALIFORNIA NURSES ASSOCIATION

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ATTACHMENTS

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
CALIFORNIA NURSES ASSOCIATION**

This Memorandum of Understanding (MOU) is entered into pursuant to the authority contained in Board of Supervisors' Resolution No. 81/1165 and has been jointly prepared by the parties.

The Employee Relations Officer (County Administrator) is the representative of Contra Costa County in employer-employee relations matters as provided in Board of Supervisors' Resolution No. 81/1165, Section 34-8.012.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees of said representation unit, and have freely exchanged information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This MOU shall be presented to the Contra Costa County Board of Supervisors as the joint recommendation of the undersigned for salary and employee benefit adjustments for the term set forth herein.

DEFINITIONS

DEFINITIONS

Appointing Authority: Department Head unless otherwise provided by statute or ordinance.

Association: California Nurses Association.

Class: A group of positions sufficiently similar with respect to the duties and responsibilities that similar selection procedures and qualifications may apply and that the same descriptive title may be used to designate each position allocated to the group.

Class Title: The designation given to a class, to each position allocated to the class, and to the employees allocated to the class.

County: Contra Costa County.

Demotion: The change of a permanent employee to another position in a class allocated to a salary range for which the top step is lower than the top step of the class which the employee formerly occupied, except as provided for under "Transfer," or as otherwise provided for in this MOU, in the Personnel Management Regulations, or in specific resolutions governing deep classifications.

Director of Human Resources: The person designated by the County Administrator to serve as the Assistant County Administrator-Director of Human Resources.

Eligible: Any person whose name is on an employment or reemployment or layoff list for a given classification.

Employee: A person who is an incumbent of a position or who is on leave of absence in accordance with provisions of this MOU and whose position is held pending his/her return.

Employment List: A list of persons who have been found qualified for employment in a specific class.

Layoff List: A list of persons who have occupied positions allocated to a class in the merit system and who have been involuntarily separated by layoff or displacement, or demoted by displacement, or have voluntarily demoted in lieu of layoff or displacement, or have transferred in lieu of layoff or displacement.

Per Diem Position: Per Diem employment is any employment that requires the services of a person on a daily basis, and that person is paid on an hourly basis and his/her classification has "per diem" in its title.

Permanent-Intermittent Position: Any position which requires the services of an incumbent for an indefinite period but on an intermittent basis, as needed, paid on an hourly basis.

Permanent Part-Time Position: Any position which will require the services of an incumbent for an indefinite period but on a regularly scheduled less than full-time basis.

Permanent Position: Any position which has required or which will require the services of an incumbent without interruption for an indefinite period.

Position: The assigned duties and responsibilities calling for the regular full-time, part-time or intermittent employment of a person.

Promotion: The change of a permanent employee to another position in a class allocated to a salary range for which the top step is higher than the top step of the class which the employee formerly occupied, except as provided for under "Transfer," or as otherwise provided for in this MOU, in the Personnel Management Regulations, or in specific resolutions governing deep classes.

Reallocation: The act of reassigning an individual position from one class to another class at the same range of the salary schedule or to a class which is allocated to another range that is within five percent (5%) of the top step, except as otherwise provided for in the Personnel Management Regulations, deep class resolutions, or other ordinances.

Reclassification: The act of changing the allocation of a position by raising it to a higher class or reducing it to a lower class on the basis of significant changes in the kind, difficulty or responsibility of duties performed in such position.

Reemployment List: A list of persons who have occupied positions allocated to any class in the merit system and who have voluntarily separated and are qualified for consideration for reappointment under the Personnel Management Regulations governing reemployment.

Resignation: The voluntary termination of permanent employment with the County.

Temporary Employment: Any employment which will require the services of an incumbent for a limited period of time, paid on an hourly basis, not in an allocated position or in permanent status.

Transfer: The change of an employee who has permanent status in a position to another position in the same class in a different department, or to another position in a class which is allocated to a range on the salary plan that is within five percent (5%) at top step as the class previously occupied by the employee.

SECTION 1 – ASSOCIATION RECOGNITION

SECTION 1 – ASSOCIATION RECOGNITION

California Nurses Association is the formally recognized employee organization for the Registered Nurses Unit, Public Health Nurse Unit, and Staff Nurse Unit and such organization has been certified as such pursuant to Chapter 34-12 of Resolution No. 81/1165.

SECTION 2 – ASSOCIATION SECURITY

2.1 Dues Deduction. Pursuant to Chapter 34-26 of Resolution No. 81/1165, only a majority representative may have dues deduction and as such, the Association has the exclusive privilege of dues deduction for all members in its units.

2.2 Agency Shop.

- A. The Association agrees that it has a duty to provide fair and nondiscriminatory representation to all employees in all classes in the units for which this section is applicable regardless of whether they are members of the Association.
- B. All employees employed in the representation unit on or after the effective date of this MOU shall, effective as provided in Subsection I and continuing until the termination of the MOU, either:
 - 1. Become and remain a member of the Association; or
 - 2. pay to the Association an agency shop fee in an amount which does not exceed an amount which may be lawfully collected under applicable constitutional, statutory, and case law, which under no circumstances shall exceed the monthly dues, initiation fees, and general assessments made during the duration of this MOU. It shall be the sole responsibility of the Association to determine an agency shop fee which meets the above criteria; or
 - 3. do both of the following:
 - a. Execute a written declaration that the employee is a member of a bona fide religion, body or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and
 - b. pay a sum equal to the agency shop fee described in Section 2.2 B.2 to a non-religious, non-labor, charitable fund chosen by the employee from the following charities: Family and Children's Trust Fund, Child Abuse Prevention Council and Battered Women's Alternative.

SECTION 2 – ASSOCIATION SECURITY

- C. The Association shall provide the County with a copy of the Association's Hudson Procedure for the determination and protest of its agency shop fees. The Association shall provide a copy of said Hudson Procedure to every fee payer covered by this MOU within one (1) month from the date it is approved and annually thereafter, and as a condition to any change in the agency shop fee. Failure by an employee to invoke the Association's Hudson Procedure within one (1) month after actual notice of the Hudson Procedure shall be a waiver by the employee of their right to contest the amount of the agency shop fee.
- D. The provisions of Section 2.2 B.2 shall not apply during periods that an employee is separated from the representation unit but shall be reinstated upon the return of the employee to the representation unit. The term separation includes transfer out of the unit, layoff, and leave of absence with a duration of more than thirty (30) days.
- E. Annually, the Association shall provide the Director of Human Resources with copies of the financial report which the Association annually files with the Department of Labor. Such report shall be available to employees in the unit. Failure to file such a report within sixty (60) days after the completion of its annual audit, or December 31, whichever is later, shall result in the termination of all agency shop fee deductions without jeopardy to any employee until said report is filed. Upon mutual agreement, this time limit may be extended to one hundred twenty (120) days.
- F. **Current Employees and New Employees.**
 - 1. An employee employed in or hired into a job class represented by the California Nurses Association shall be provided with an Employee Authorization for Payroll Deduction form by the Human Resources Department.
 - 2. If the form authorizing payroll deduction is not returned within thirty (30) calendar days after notice of this agency shop fee provision and the Association dues, agency shop fee, initiation fee or charitable contribution required under Section 2.2 B.3 are not received, the Association may, in writing, direct that the County withhold the agency shop fee and the initiation fee from the employee's salary, in which case the employee's monthly salary shall be reduced by an amount equal to the agency shop fee and the County shall pay an equal amount to the Association.
- G. The Association shall indemnify, defend and save the County harmless against any and all claims, demands, suits, orders, or judgments, or other forms of liability that arise out of or by reason of this Agency Shop Section, or action taken or not taken by the County under this Section. This includes but is not limited to the County's attorney fees and costs.
- H. The authorization of payroll deductions described in Subsection F. shall require the employee to agree to hold the County harmless from all claims, demands,

SECTION 2 – ASSOCIATION SECURITY

suits or other forms of liability that may arise against the County for or on account of any deduction made from the wages of such employee.

- I. The Human Resources Department shall furnish a complete and full list of all employees represented by the Association as soon as feasible after the execution of the new MOU and shall furnish a monthly list of all new hires to the Association thereafter. The list shall include: the first name, middle name, last name, home street address, home city, home zip code, home phone, employee identification number, department, full time equivalent (FTE), base rate, hire date, class, step, and job title of each employee. This list shall be in Excel format.

2.3 Communicating With Employees. The Association shall be allowed to use designated portions of bulletin boards or display areas in public portions of County buildings or in public portions of offices in which there are employees represented by the Association, provided the communications displayed have to do with matters within the scope of representation, and further provided that the employee organization appropriately posts and removes the information. The Department Head reserves the right to remove objectionable materials after notification to and discussion with the Association.

Representatives of the Association, not on County time, shall be permitted to place a supply of employee literature at specific locations in County buildings if arranged through the Labor Relations Manager; said representatives may distribute employee organization literature in work areas (except work areas not open to the public) if the nature of the literature and the proposed method of distribution are compatible with the work environment and work in progress.

Such placement and/or distribution shall not be performed by on-duty employees. The Association shall be allowed access to work locations in which it represents employees for the following purposes:

- A. to post literature on bulletin boards;
- B. to arrange for use of a meeting room;
- C. to leave and/or distribute a supply of literature as indicated above;
- D. to represent an employee on a grievance, and/or to contact an Association officer on a matter within the scope of representation.

In the application of this provision, it is agreed and understood that in each such instance, advance arrangements, including disclosure of which of the above purposes is the reason for the visit, will be made with the departmental representative in charge of the work area, and the visit will not interfere with County services.

2.4 Use of County Buildings. The Association shall be allowed the use of areas normally used for meeting purposes for meetings of County employees during non-work hours when:

- A. such space is available and its use by the Association is scheduled twenty-four (24) hours in advance;

SECTION 2 – ASSOCIATION SECURITY

- B. there is no additional cost to the County;
- C. it does not interfere with normal County operations;
- D. employees in attendance are not on duty and are not scheduled for duty;
- E. the meetings are on matters within the scope of representation.

The administrative official responsible for the space shall establish and maintain scheduling of such uses. The Association shall maintain proper order at the meeting and see that the space is left in a clean and orderly condition.

The use of County equipment (other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards) is strictly prohibited, even though it may be present in the meeting area.

2.5 Advance Notice. The Association shall, except in cases of emergency, have the right to reasonable notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board, or boards and commissions designated by the Board, and to meet with the body considering the matter.

The listing of an item on a public agenda, or the mailing of a copy of a proposal at least seventy-two (72) hours before the item will be heard, or the delivery of a copy of the proposal at least twenty-four (24) hours before the item will be heard, shall constitute notice.

In cases of emergency when the Board, or boards and commissions designated by the Board, determines it must act immediately without such notice or meeting, it shall give notice and opportunity to meet as soon as practical after its action.

2.6 Written Statement for New Employees. The County will provide a written statement to each new employee hired into a classification in any of the bargaining units represented by the Association, that the employee's classification is represented by the Association, and the name of a representative of the Association. The County will provide the employee with a packet of information which has been supplied by the Association and approved by the County.

2.7 Assignment of Classes to Bargaining Units. The County shall assign new classes in accordance with the following procedure:

- A. Initial Determination. When a new class title is established, the Chief of Labor Relations shall review the composition of existing representation units to determine the appropriateness of including some or all of the employees in the new class in one or more existing representation units, and within a reasonable period of time, shall notify all recognized employee organizations of his/her determination.

SECTION 3 – NO DISCRIMINATION

- B. Final Determination. His/her determination is final unless, within ten (10) days after notification, a recognized employee organization requests in writing to meet and confer thereon.
- C. Meet and Confer and Other Steps. He/she shall meet and confer with such requesting organizations (and with other recognized employee organizations where appropriate) to seek agreement on this matter within sixty (60) days after the ten (10) day period in B. (above), unless otherwise mutually agreed. Thereafter, the procedures in cases of agreement and disagreement, arbitration referral and expenses, and criteria for determination shall conform to those in Subsections D. through I. of Section 34-12.008 of Board of Supervisors' Resolution No. 81/1165.

SECTION 3 – NO DISCRIMINATION

There shall be no discrimination because of race, creed, color, national origin, sexual orientation or Association activities against any employee or applicant for employment by the County or by anyone employed by the County; and to the extent prohibited by applicable State and Federal law, there shall be no discrimination because of age. There shall be no discrimination against any disabled person solely because of such disability unless that disability prevents the person from meeting the minimum qualifications established for the position. There shall be no discrimination because of Association membership or legitimate Association activity against any employee or applicant for employment by the County or anyone employed by the County.

SECTION 4 – NURSE REPRESENTATIVES

4.1 Attendance at Meetings. Employees designated as nurse representatives of the Association shall be allowed to attend meetings held by County agencies during regular working hours on County time as follows:

- A. if their attendance is required by the County at a specific meeting;
- B. if their attendance is sought by a hearing body or presentation of testimony or other reasons;
- C. if their attendance is required for meetings scheduled at reasonable times agreeable to all parties required for settlement of grievances filed pursuant to Section 24 – Grievance Procedure of this Memorandum;
- D. if they are designated as a nurse representative in which case they may utilize a reasonable time at each level of the proceedings to assist an employee to present a grievance, provided the meetings are scheduled at reasonable times agreeable to all parties;
- E. if they are designated as spokesperson or representative of the Association, and as such, make representations or presentations at meetings or hearings on

SECTION 5 – SALARIES

wages, salaries, and working conditions; provided in each case, advance arrangements for time away from the employee's work station or assignment are made with the appropriate Department Head, and the County agency calling the meeting is responsible for determining that the attendance of the particular employee(s) is required;

- F. in order to reduce the impact to patient care, the County agrees to provide a maximum of four (4) hours per month of paid time for a designated nurse representative to attend grievance meetings scheduled outside of their regular shift. Such time will be paid at the nurses' base rate of pay and will not be considered as time worked for the purpose of calculating overtime pay. The Association may designate no more than six (6) representatives to be eligible for such payment.

4.2 Association Representative. Official representatives of the California Nurses Association shall be allowed time off on County time for meetings during regular working hours when formally meeting and conferring in good faith or consulting with the Chief of Labor Relations, or other management representatives on matters within the scope of representation, provided that the number of such representatives shall not exceed two (2) without prior approval of the Chief of Labor Relations, and that advance arrangements for the time away from the work station or assignment are made with the appropriate Department Head.

- A. Release Time for Successor Bargaining. Release Time for Bargaining: The County shall allow up to six (6) Association members paid release time during periods of Successor Bargaining.

4.3 Release Time for Training. The County shall provide the Association a maximum of two hundred forty (240) total hours per year of release time for Association-designated representatives to attend Association-sponsored training programs. Requests for release time shall be provided in writing to the Department and County Human Resources at least fifteen (15) days in advance of the time requested. Department Heads will reasonably consider each request and notify the affected employee whether such request is approved within one (1) week of receipt.

SECTION 5 – SALARIES

5.1 General Wages.

- A. Effective the first of the month following adoption of this MOU by the Board of Supervisors, the base rate of pay for all classifications represented by the Association will be increased by seven and one half percent (7.5%).
- B. Effective on July 1, 2016, the base rate of pay for all classifications represented by the Union will be increased by two and one half percent (2.5 %).
- C. Effective December 31, 2016, at 11:59 p.m., employees in multi-step hourly

SECTION 5 – SALARIES

wage/salary classifications will be placed on new ten-step hourly wage/salary ranges for their classifications with a 2.5% difference between each step. The new hourly wage/salary ranges for each classification are included with this MOU as Attachment D. Employees will be placed on the new ten-step hourly wage/salary ranges as follows:

1. Notwithstanding Sections 5.10 - Position Reclassification, 5.11 - Salary Reallocation and Salary on Reallocation, or 5.12 - Salary on Promotion:
 - a. Employees will be placed on the new hourly wage/salary range for their classification at the step that is the next highest base rate of pay above their current step.
 - b. Employees in the classification of Staff Nurse-Per Diem (VWWA) whose existing hourly wage rate is more than the wage rate at the top step of the new range will be placed at the top step of the new range. Such employees will be Y-rated (frozen) at their existing hourly wage rate until such time as their existing hourly wage rate is equal to the hourly wage rate of the top step on the new ten-step hourly wage range. The terms of this Y-rating will continue beyond expiration of this MOU until the Y-rating is complete.
2. Effective December 31, 2016, at 11:59 p.m., employees in the classifications of Advice Nurse (VWSK) and Advice Nurse II (VWTB) will be reclassified into a single new Advice Nurse (VWSN) classification. Employees will be placed on the ten-step salary range for the new Advice Nurse (VWSN) classification as set forth in C.1., above.
3. Effective December 31, 2016, at 11:59 p.m., employees in the classifications of Registered Nurse-Experienced Level (VWXD) and Registered Nurse-Advanced Level (VWXE) will be reclassified into a single new Registered Nurse (VWXG) classification. Employees will be placed on the ten-step salary range for the new Registered Nurse (VWXG) classification as set forth in C.1., above.
4. Effective December 31, 2016, at 11:59 p.m., employees in the classifications of Registered Nurse-Project Experienced Level (VWX3) and Registered Nurse-Project Advanced Level (VWX4) will be reclassified into a single new Registered Nurse-Project (VWX5) classification. Employees will be placed on the ten-step salary range for the new Registered Nurse-Project (VWX5) classification as set forth in C.1., above.
- D. Effective January 1, 2017, the base rate of pay for all classifications represented by the Association will be increased by three percent (3.0%).
- E. Effective July 1, 2017, the base rate of pay for all classifications represented by the Association will be increased by three percent (3.0%).

SECTION 5 – SALARIES

5.2 Longevity Pay. The following supplementary longevity payments shall be made based on the following criteria:

- A. Employees in the Registered Nurses Unit shall receive additional longevity pay in the amount of two and one-half percent (2.5%) under the following conditions:
 - 1. Completion of seven (7) years of County service; or
 - 2. Completion of twenty-four (24) months at top step of the current classification salary ranges covered by this agreement, whichever occurs first.
- B. Employees in the Registered Nurses Unit who have completed ten (10) years of employment shall receive additional pay in the amount of two and one-half percent (2.5%) for a total of five percent (5%).
- C. Employees in the Registered Nurses Unit who have completed fifteen (15) years of employment shall receive additional pay in the amount of two and one-half percent (2.5%) for a total of seven and one-half percent (7.5%).
- D. Employees in the Registered Nurses Unit who have completed twenty (20) years of employment shall receive additional pay in the amount of two and one-half percent (2.5%) for a total of ten percent (10%).
- E. Employees in the Public Health Nurse Unit with ten (10) years of County service will receive a two and one-half percent (2.5%) longevity pay differential.

5.3 Charge Nurse Relief. An employee in the Registered Nurse Unit and Staff Nurses Unit who, at the County's request, relieves a Charge Nurse when he/she is physically off the unit or otherwise unavailable for purposes of performing assigned administrative duties, attending education activities, or other approved leaves of absence for a shift, shall receive an additional twenty-five dollars (\$25.00) per shift. Such assignment shall be scheduled among qualified staff on a volunteer rotational basis. Charge Nurse relief will be paid on a prorated basis to an eligible employee if he/she performs relief duties for a minimum of half a scheduled shift. Charge Nurse relief will also be paid on a prorated basis to an eligible employee in an outpatient clinic who is "assigned responsibility" for clinic operations for four (4) or more hours during a given shift.

5.4 Deep Class Exception. The following provisions of this section shall apply to all employees except as modified by deep class resolutions. This section shall cease to apply as of January 1, 2017.

5.5 Entrance Salary or Wage. New employees shall generally be appointed at the first (1) step of the salary or hourly wage range established for the particular class of position to which the appointment is made. However, the appointing authority may recommend that an appointment be made at a step above the first (1) step of the range

SECTION 5 – SALARIES

based on education and experience, subject to authorization by the Director of Human Resources.

5.6 Anniversary Dates.

Permanent Employees: Except as may otherwise be provided for in deep class resolutions, anniversary dates for employees in permanent positions will be set as follows:

- A. New Employees. The anniversary date of a new employee is the first day of the calendar month after the calendar month when the employee successfully completes six (6) month's service; provided, however, if an employee began work on the first regularly scheduled workday of the month, the anniversary date is the first day of the calendar month when the employee successfully completes six (6) months service.
- B. Promotions. The anniversary date of a promoted employee is determined as for a new employee in Subsection 5.6 A. above.
- C. Transfer, Reallocation and Reclassification. The anniversary date of an employee who is transferred to another position or one whose position has been reallocated or reclassified to a class allocated to the same salary range or to a salary range which is within five percent (5%) of the top step of the previous classification, remains unchanged.
- D. Reemployments. The anniversary of an employee appointed from a reemployment list to the first step of the applicable salary range and not required to serve a probation period is determined in the same way as the anniversary date is determined for a new employee who is appointed the same date, classification and step and who then successfully completes the required probationary period.
- E. Notwithstanding other provisions of this Section 5, the anniversary of an employee who is appointed to a classified position from outside the County's merit system at a rate above the first step of salary range for the employee's new class, or who is transferred from another governmental entity to this County's merit system, is one (1) year from the first day of the calendar month after the calendar month when the employee was appointed or transferred; provided, however, when the appointment or transfer is effective on the employee's first regularly scheduled workday of that month, his/her anniversary is one (1) year after the first calendar day of that month.

Per Diem Employees: The anniversary date of a new employee is the first day of the calendar month after the calendar month when the employee successfully completes six (6) months of County service.

5.7 Increments Within Range.

- A. Permanent Employees:

1. Each employee will be reviewed annually.
2. Effective January 1, 2018, each employee, except those employees already at the maximum salary step, shall be advanced to the next higher step in their salary range on their anniversary date as set forth in Section 5.6.
3. Except as herein provided, increments within range shall not be granted more frequently than once a year, nor shall more than one (1) step within-range increment be granted at one time, except as otherwise provided in deep class resolutions. If an operating department verifies in writing that an administrative or clerical error was made in failing to submit the documents needed to advance an employee to the next salary step on the first of the month when eligible, said advancement shall be made retroactive to the first of the month when eligible.
4. Notwithstanding the provisions of this Section 5.7, between November 1, 2015, through December 31, 2017, employees will not be granted any salary step increases/advancements.

B. Per Diem Employees:

1. Each per diem employee will be reviewed annually.
2. Effective January 1, 2018, each employee, except those employees already at the maximum salary step, shall be advanced to the next higher step in their salary range on their anniversary date as set forth in Section 5.6.
3. Notwithstanding the provisions of this Section 5.7, between November 1, 2015, through December 31, 2017, per diem employees will not be granted an hourly wage rate step increases/advancements.

5.8 Part-Time Compensation. An employee in a permanent part-time position shall be paid a monthly salary in the same ratio to the full-time monthly rate to which the employee would be entitled as a full-time employee under the provisions of this Section 5 as the number of hours per week in the employee's part-time work schedule bears to the number of hours in the full-time work schedule of the department.

If employment is permanent-intermittent, depending on departmental requirements, payment for hours worked shall be made at the hourly rate established for the step of the salary range at which an employee is appointed. The County shall determine the differential paid to permanent-intermittent employees, provided it is no less than fifteen percent (15%) of the hourly rate.

5.9 Compensation for Portion of Month. Any employee in a permanent position who works less than any full calendar month, except when on earned vacation or

SECTION 5 – SALARIES

authorized sick leave, shall receive as compensation for services an amount which is in the same ratio to the established monthly rate as the number of days worked is to the actual working days in such employee's normal work schedule for the particular month; but if the employment is intermittent, compensation shall be on an hourly basis.

5.10 Position Reclassification. An employee who is an incumbent of a position which is reclassified to a class which is allocated to the same range of the basic salary schedule as is the class of the position before it was reclassified, shall be paid at the same step of the range as the employee received under the previous classification.

An incumbent of a position which is reclassified to a class which is allocated to a lower range of the basic salary schedule shall continue to receive the same salary as before the reclassification, but if such salary is greater than the maximum of the range of the class to which the position has been reclassified, the salary of the incumbent shall be reduced to the maximum salary for the new classification. The salary of an incumbent of a position which is reclassified to a class which is allocated to a range of the basic salary schedule greater than the range of the class of the position before it was reclassified shall be governed by the provisions of Section 5.12 – Salary on Promotion.

5.11 Salary Reallocation and Salary on Reallocation.

- A. In a general salary increase or decrease, an employee in a class which is reallocated to a salary range above or below that to which it was previously allocated, when the number of steps remain the same, shall be compensated at the same step in the new salary range the employee was receiving in the range to which the class was previously allocated. If the reallocation is from one salary range with more steps to a range with fewer steps or vice versa, the employee shall be compensated at the step on the new range which is in the same percentage ratio to the top step of the new range as was the salary received before reallocation to the top step of the old range, but in no case shall any employee be compensated at less than the first step of the range to which the class is allocated.
- B. In the event that a classification is reallocated from a salary range with more steps to a salary range with fewer steps on the salary schedule, apart from the general salary increase or decrease described in this Section 5.11.A, each incumbent of a position in the reallocated class shall be placed upon the step of the new range which equals the rate of pay received before the reallocation. In the event that the steps in the new range do not contain the same rates as the old range, each incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range, or if the new range does not contain a higher step, at the step which is next lower than the salary received in the old range.
- C. In the event an employee is in a position which is reallocated to a different class which is allocated to a salary range the same as, or above or below the salary range of the employee's previous class, the incumbent shall be placed at the step in the new class which equals the rate of pay received before reallocation. In the event that the steps in the range for the new class do not contain the same rates

as the range for the old class, the incumbent shall be placed at the step of the new range which is next above the salary rate received in the old range; or if the new range does not contain a higher step, the incumbent shall be placed at the step which is next lower than the salary received in the old range.

- D. In the event of reallocation to a deep class, the provisions of the deep class resolution and incumbent salary allocations, if any, shall supersede this Section 5.11.

5.12 Salary on Promotion. Any employee in a permanent position who is appointed to a position of a class allocated to a higher salary range than the class previously occupied, except as provided under Section 5.16, shall receive the salary in the new salary range which is next higher than the rate received before promotion. In the event this increase is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is at least five percent (5%) greater than the next higher step; provided, however, that the next step shall not exceed the maximum salary for the higher class. In the event of the appointment of a laid off employee from the layoff list to the class from which the employee was laid off, the employee shall be appointed at the step which the employee had formerly attained in the higher class unless such step results in a decrease in which case the employee is appointed to the next higher step. If, however, the employee is being appointed into a class allocated to a higher salary range than the class from which the employee was laid off, the salary will be calculated from the highest step the employee achieved prior to layoff, or from the employee's current step, whichever is higher.

5.13 Salary on Involuntary Demotion. Any employee in a permanent position who is demoted, except as provided under Section 5.15-Transfer, shall have his/her salary reduced to the monthly salary step in the range for the class of position to which he/she has been demoted next lower than the salary received before demotion. In the event this decrease is less than five percent (5%), the employee's salary shall be adjusted to the step in the new range which is five percent (5%) less than the next lower step; provided, however, that the next step shall not be less than the minimum salary for the lower class.

Whenever the demotion is the result of layoff, cancellation of positions, or displacement by another employee with greater seniority rights, the salary of the demoted employee shall be that step on the salary range which he/she would have achieved had he/she been continuously in the position to which he/she has been demoted, all within-range increments having been granted.

5.14 Salary on Voluntary Demotion. Whenever any employee in a permanent position voluntarily demotes to a position in a class having a salary range lower than that of the class from which he/she demotes, his or her salary shall remain the same if the steps in his or her new (demoted) salary range permit, and if not, the new salary shall be set at the step next below former salary.

5.15 Transfer. An employee in a permanent position who is transferred from one position to another as described under "Transfer" shall be placed at the step in the

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salary range of the new class which equals the rate of pay received before the transfer. In the event that the steps in the range for the new class do not contain the same rates as the range for the old class, the employee shall be placed at the step of the new range which is next above the salary rate received in the old range; or if the new range does not contain a higher step, the employee shall be placed at the step which is next lower than the salary received in the old range. If the transfer is to a deep class, the provisions of the deep class resolution on salary of transfers, if any, shall apply in lieu of the above provisions.

5.16 Pay for Work in Higher Classification. When an employee in a permanent position in the merit system is required to work in a classification for which the compensation is greater than that to which the employee is regularly assigned, the employee shall receive compensation for such work at the rate of pay established for the higher classification pursuant to Subsection 5.12 – Salary on Promotion of this Memorandum, commencing on the forty-first (41st) consecutive hour in the assignment, under the following conditions:

- A. The employee is assigned to a program, service, or activity established by the Board of Supervisors which is reflected in an authorized position which has been classified and assigned to the Salary Schedule.
- B. The nature of the departmental assignment is such that the employee in the lower classification becomes fully responsible for the duties of the position of the higher classification.
- C. Employee selected for the assignment will normally be expected to meet the minimum qualifications for the higher classification.
- D. Pay for work in a higher classification shall not be utilized as a substitute for regular promotional procedures provided in this memorandum.
- E. The appropriate authorization form has been submitted by the Department Head and approved by the County Administrator.
- F. Higher pay assignments shall not exceed six (6) months except through reauthorization.
- G. If approval is granted for pay for work in a higher classification and the assignment is terminated and later re-approved for the same employee within thirty (30) days, no additional waiting period will be required.
- H. Any incentives (e.g., the education incentive) and special differentials (e.g., bilingual differential and Emergency Department differential) accruing to the employee in his/her permanent position shall continue.
- I. During the period of work for higher pay in a higher classification, an employee will retain his/her permanent classification, and anniversary and salary review dates will be determined by time in that classification; except that if the period of work for higher pay in a higher classification exceeds one (1) year continuous

employment, the employee, upon satisfactory performance in the higher classification, shall be eligible for a salary review in that class on his/her next anniversary date. Notwithstanding any other salary regulations, the salary step placement of employees appointed to the higher class immediately following termination of the assignment shall remain unchanged.

- J. Allowable overtime pay, shift differential, and/or work location differentials will be paid on the basis of the rate of pay for the higher class.

5.17 Payment. On the tenth (10th) day of each month, the Auditor-Controller will draw a warrant upon the Treasurer in favor of each employee in a permanent position for the amount of salary due the employee for the preceding month; provided, however, that each employee (except those paid on an hourly rate) may choose to receive an advance on the employee's monthly salary, in which case the Auditor-Controller shall, on the twenty-fifth (25th) day of each month, draw his/her warrant upon the Treasurer in favor of such employee.

The advance shall be in an amount equal to one-third (1/3) or less, at the employee's option, of the employee's basic salary of the previous month except that it shall not exceed the amount of the previous month's basic salary less all requested or required deductions. The election to receive an advance shall be made on or before April 30 or October 31 of each year or during the first month of employment by filing on forms prepared by the Auditor-Controller a notice of election to receive a salary advance.

Each election shall become effective on the first day of the month following the deadline for filing the notice and shall remain effective until revoked. In the case of an election made pursuant to this section, all required or requested deductions from salary shall be taken from the second installment, which is payable on the tenth (10th) day of the following month.

For employees in per diem classifications, on the tenth (10th) and twenty-fifth (25th) day of each month, the Auditor-Controller will draw a warrant upon the Treasurer in favor of each employee for the amount of wages due the employee for the preceding pay period. The County reserves the right to change the frequency of pay dates.

5.18 Nursing Certification Test Fee Reimbursement. The County shall reimburse employees for test fees involved in taking National Certification tests upon presentation of certification.

5.19 Pay Warrant Errors. If an employee receives a pay warrant which has an error in the amount of compensation to be received and if this error occurred as a result of a mistake by the Auditor-Controller's Office, it is the policy of the Auditor-Controller's Office that the error will be corrected and a new warrant issued within forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays, from the time the department is made aware of and verifies that the pay warrant is in error.

Pay errors discovered by the County found in employee pay shall be corrected as soon as possible as to current pay rate but that no recovery of either overpayments or

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underpayments to an employee shall be made retroactively except for the six (6) month period immediately preceding discovery of the pay error. This provision shall apply regardless of whether the error was made by the employee, the appointing authority or designee, the Director of Human Resources or designee, or the Auditor-Controller or designee. Discovery of fraudulently accrued over or underpayments are excluded from this section for both parties.

When the County notifies an employee of an overpayment and proposed repayment schedule, the employee may accept the proposed repayment schedule or may request a meeting through the County Human Resources Department. If requested, a meeting shall be held to determine a repayment schedule which shall be no longer than three times (3) the length of time the overpayment occurred.

If requested by the employee, a Union representative may be present at a meeting with management to discuss a repayment schedule in the case of overpayments to the employee.

5.20 Electronic Health Records Incentive Program. The federal Medicaid (Medi-Cal) Electronic Health Records (“EHR”) Incentive Program (“EHR Incentive Program”), pursuant to the federal Health Information Technology for Economic Clinical Health (HITECH) Act provides incentive payments to an eligible professional (“EP”) for meaningful use of an EHR system. The terms “EHR Incentive Program,” “EHR,” “EP,” “meaningful use,” “adopt, implement, and upgrade (AIU),” and “incentive payments,” as used in this MOU, have the same meaning as those definitions in Part 495 of Title 42 the Code of Federal Regulations. In furtherance of the goals of the EHR Incentive Program, EPs who are employed in classifications represented by CNA will do the following:

- A. EPs will utilize the County’s certified EHR system, ccLink, in accordance with the meaningful use requirements of the EHR Incentive Program and any Health Services Department requirements. EPs will cooperate with all requests from the County to provide information, documentation, or validation of their meaningful use of ccLink.
- B. No later than February 17, 2016, for the 2015 incentive payment year, EPs who wish to obtain an EHR incentive payment for AIU to ccLink, must register and attest to meeting EHR Incentive Program requirements for AIU through the federal Centers for Medicare and Medicaid Services (CMS) EHR Incentive Program Registration and Attestation System and select the Medi-Cal EHR State Level Registry Medicaid arm of the EHR Incentive Program. An EP is solely responsible for any consequences, including but not limited to tax consequences, that result from his/her receipt of an EHR incentive payment for AIU. The Health Services Department will, upon request, assist EPs with the process to apply for the EHR incentive payment for AIU. EPs who receive or apply for an EHR incentive payment for AIU by February 17, 2016, will reassign subsequent incentive payments to the County as described in 5.20.C., below. EPs who do not receive or apply to receive an EHR incentive payment for AIU by February 17, 2016, will reassign all EHR incentive payments to the County as described in 5.20.C., below. The intent of this provision is that no EP will receive more than

SECTION 6 – DAYS AND HOURS OF WORK

one (1), if any, EHR incentive payments before reassignment of the EHR incentive payments to the County after February 17, 2016.

- C. Beginning with the 2016 incentive payment year and each year thereafter, EPs employed in classifications represented by CNA will reassign their EHR incentive payments to the County. The EPs will provide the County with any requested information and complete any necessary documentation to reassign their EHR incentive payments to the County. In consideration for the reassignment of the EHR incentive payments, the County and CNA agree to the wage increases set forth in Section 5.1.A, above.
- D. This Section 5.20 is not subject to the grievance procedure of this MOU.
- E. This Section 5.20 expires upon expiration of the EHR Incentive Program in 2021.

SECTION 6 – DAYS AND HOURS OF WORK

6.1 Days and Hours of Work. This language is intended to replace all language in the MOU's purporting to define work schedules, including flexible and alternate work schedules.

DEFINITIONS: The work schedules of each employee must conform with the following definitions:

- A. **Regular Work Schedule:** A regular work schedule is eight (8) hours per day, Monday through Friday, inclusive, for a total of forty (40) hours per week. The regular workweek of County employees begins at 12:01 a.m. Monday and ends at 12:00 midnight Sunday. For twenty-four (24) hour shift employees, including employees of inpatient units on 4/10 schedules, the normal workweek begins at 12:01 a.m. Sunday and ends at 12:00 midnight Saturday.
- B. **Flexible Work Schedule:** A flexible work schedule is any work schedule where an employee is regularly scheduled to work other than eight (8) hours per day between Monday and Friday, inclusive. The 9/80 and the 4/10 schedules are two examples of flexible work schedules.
- C. **Alternate Work Schedule:** An alternate work schedule is any work schedule where an employee is regularly scheduled to work five (5) days per week, but the employee's regularly scheduled two (2) days off are NOT Saturday and Sunday.
- D. **Workweek For Employees on Regular, Alternate, and 4/10 Work Schedules:** The 4/10 work schedule consists of four (4), ten (10) hour days that have the same start time with either a Monday or Friday off. The workweek for employees on a regular, alternate or 4/10 workweek begins at 12:01 a.m. on Monday and ends at 12:00 midnight on Sunday.

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- E. Workweek for Employees on a 9/80 Work Schedule: The 9/80 work schedule consists of a two (2) calendar week period during which an employee works a recurring schedule of thirty-six (36) hours in one calendar week and forty-four (44) hours in the next calendar week, but only forty (40) hours in the designated workweek. In the thirty-six (36) hour calendar week, the employee works four (4) nine (9) hour days and has the same day of the week off that is worked for eight (8) hours in the forty-four (44) hour calendar week. In the forty-four (44) hour calendar week, the employee works four (4) nine (9) hour days and one (1) eight (8) hour day. To ensure that the employee's regular work schedule does not result in unauthorized overtime, the employee's workweek begins one (1) minute after the midpoint of the employee's eight (8) hour workday, such that has worked four (4) hours of the eight (8) hour workday, so that four (4) of the hours of that workday are in one (1) workweek and the other four (4) hours are in the next workweek.

The parties agree to reopen the work schedule provisions of the MOU for the purpose of ensuring consistent practice among departments and applicable regulatory requirements. It is not the intent of the parties that such negotiations take away from or add to the current work schedule provisions, except to ensure that such provisions are consistently applied in accordance with the MOU, County policies and any legal requirements.

6.2 Four (4) Week Schedules/Weekend Schedules. For Registered Nurses assigned to areas that have twenty-four (24) hour staffing, a four (4) week work schedule will be published by Nursing Administration which provides that each Registered Nurse shall have every other weekend off. Registered Nurses may exchange days off within the four (4) week cycle but no Registered Nurse shall become eligible for overtime as the result of said exchange. Such exchange days off shall be subject to the approval of the appropriate Nursing Program Manager. Registered Nurses and Family Nurse Practitioners with twenty (20) years of service with the County shall, upon request, be granted every weekend off. The seniority date to be used to determine eligibility for weekends off after twenty (20) years of service will be the County Service Award date as defined in Section 45 – Length of Service Definition (for service awards and vacation accruals) of the MOU.

6.3 Time Changes: Pacific Standard Time and Daylight Savings Time. For those nurses who work on the shift when daylight savings time begins and ends each year, their work hours will be adjusted for that shift to the number of work hours they regularly work on that shift.

6.4 Low Census. In the event that there is a decrease in the hospital census requiring adjusting levels of nurse staffing and/or there are insufficient nurses who volunteer to use accruals or take time off without pay in order to reduce staffing to the necessary level, the County and Association agree to meet and confer upon request regarding formal low census provisions.

SECTION 7 – OVERTIME AND COMPENSATORY TIME

SECTION 7 – OVERTIME AND COMPENSATORY TIME

7.1 Overtime. Overtime is any authorized work performed in excess of forty (40) hours per week or (8) eight hours per day. Overtime for employees on other work schedules such as on ten (10) hour or twelve (12) hour shifts is any work performed beyond that work schedule or forty (40) hours per week. All overtime shall be compensated for at the rate of one and one-half (1-1/2) times the employee's base rate of pay (not including shift and other special differentials). Permanent part-time registered nurses shall be compensated at the straight time rate for those hours worked over and above the regular work schedule but less than eight (8) hours a day or forty (40) hours per week. Overtime for permanent employees is earned and credited in a maximum of one (1) minute increments and is compensated by either pay or compensatory time off.

Employees who work a double shift shall receive fifty-four dollars (\$54.00) in addition to all other compensation for each double shift worked. Registered Nurses who work from the beginning of their regularly scheduled shift to the conclusion of the next scheduled shift will be considered to have worked a double shift. If the second shift is not completed, the premium will be prorated. If the total hours worked, excluding lunch breaks, exceed sixteen (16) hours, additional prorated premium will be paid.

Employees entitled to overtime credit for holidays in positions which work around the clock (such as the County Hospital, Sheriff's Office, Jails, Juvenile Hall, and Boys' Ranch) shall be provided a choice as to whether they shall be paid at the overtime rate or shall receive compensatory time off at the rate of one and one-half (1-1/2) hours compensatory time off for each hour worked. Such compensatory time off, and the accumulation thereof, shall be in addition to the total vacation accumulation permitted under the terms of this MOU. The specific provisions of this accumulation are set forth in Section 12.5 – Accrual of Holiday Time of this MOU.

Regular overtime for twenty-four (24) hour institutional employees may be accrued as compensatory time in accordance with Section 7.2 of this MOU.

7.2 Compensatory Time. The following provisions shall apply:

- A. Employees may periodically elect to accrue compensatory time off in lieu of overtime pay. Eligible employees must notify their Department Head or designee of their intention to accrue compensatory time off or to receive overtime pay at least thirty (30) days in advance of the change.
- B. The names of those employees electing to accrue compensatory time off shall be placed on a list maintained by the Department. Employees who become eligible (i.e., newly hired employees, employees promoting, demoting, etc.) for compensatory time off in accordance with these guidelines, must elect to accrue compensatory time or they will be paid for authorized overtime hours worked.

SECTION 7 – OVERTIME AND COMPENSATORY TIME

- C. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the actual authorized overtime hours worked by the employee.
- D. Employees may not accrue a compensatory time- off balance that exceeds one hundred twenty (120) hours (i.e., eighty [80] hours at time and one-half [1-1/2]). Once the maximum balance has been attained, authorized overtime hours will be paid at the overtime rate. If the employee's balance falls below one hundred twenty (120) hours, the employee shall again accrue compensatory time off for authorized overtime hours worked until the employee's balance again reaches one hundred twenty (120) hours.
- E. Accrued compensatory time off shall be carried over for use in the next fiscal year; however, as provided in D. above, accrued compensatory time-off balances may not exceed one hundred twenty (120) hours.
- F. The use of accrued compensatory time off shall be by mutual agreement between the Department Head or designee and the employee. In cases of emergency, employees will be allowed to use compensatory time with the approval of their supervisor to supplement any unpaid hours. Such approval shall not be denied unless employee has received prior notice.

Compensatory time off shall not be taken when the employee should be replaced by another employee who would be eligible to receive, for time worked, either overtime payment or compensatory time accruals as provided for in this Section. This provision may be waived at the discretion of the Department Head or designee.

- G. When an employee promotes, demotes or transfers from one classification eligible for compensatory time off to another classification eligible for compensatory time off within the same department, the employee's accrued compensatory time-off balance will be carried forward with the employee.
- H. Compensatory time accrual balances will be paid off when an employee moves from one department to another through promotion, demotion or transfer. Said payoff will be made in accordance with the provisions and salary of the class from which the employee is promoting, demoting or transferring as set forth in I. below.
- I. Since employees accrue compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of authorized overtime worked, accrued compensatory time balances will be paid off at the straight time rate (two-thirds [2/3] of the overtime rate) for the employee's current salary whenever:
 - 1. the employee changes status and is no longer eligible for compensatory time off;
 - 2. the employee promotes, demotes or transfers to another department;
 - 3. the employee separates from County service;

SECTION 8 – CALL-BACK TIME

4. the employee retires.
- J. The Office of the County Auditor-Controller will establish time-keeping procedures to administer this Section.

7.3 Continuous Shifts. At the County's request, if an employee works two (2) continuous shifts (normally sixteen [16] continuous hours) which is outside the employee's regular work schedule and the first eight (8) hours fall on one day and the second eight (8) hours fall on the following day, the employee shall be paid a differential of one-half (1/2) the employee's base salary rate in addition to the employee's base salary rate for the second eight (8) hours. Additionally, such employees shall be provided a meal in the hospital cafeteria at no cost to the employee.

7.4 Per Diem Overtime Pay. Employees in the classifications of Staff Nurse-Per Diem (VWWA) and Staff Advice Nurse-Per Diem (VWXF) are eligible to receive overtime pay at the rate of one and one-half (1.5) times the employee's base rate of pay (not including differentials) for any authorized work performed in excess of the employee's eight (8), ten (10), or twelve (12) hour shift designation. Any differentials that are applicable to overtime hours worked will be computed on the employee's base rate of pay and not on the employee's overtime rate of pay. Overtime is earned and credited in one minute increments. No other provisions in this Section 7 apply to employees in per diem classifications, except Section 7.3 Continuous Shifts.

SECTION 8 – CALL-BACK TIME

8.1 Call-Back Pay. Any employee who is called back to duty shall be paid at the appropriate rate for the actual time worked plus one (1) hour. Such employee called back shall be paid a minimum of two (2) hours at the appropriate rate of each call back. This provision shall apply to employees who are not in on-call status.

8.2 Operating Room Call Back. A Registered Nurse who is in on-call status for the Operating Room and is called back to duty shall be paid for the actual time so spent plus one (1) hour, but not less than three (3) hours total for each call back.

SECTION 9 – ON-CALL DUTY

On-call duty is any time other than time when the employee is actually on duty during which an employee is not required to be on County premises but stand ready to immediately report for duty and must arrange so that the employee's superior can contact the employee on ten (10) minutes notice or less. An employee assigned to on-call time shall be paid one (1) hour of straight time pay for each four (4) hours on such on-call time.

SECTION 10 –SHIFT DIFFERENTIAL

However, Registered Nurses who are assigned to on call for the Operating Room or Post Anesthesia Recovery shall be paid one (1) hour of straight time pay for each two (2) hours on such on-call time.

SECTION 10 –SHIFT DIFFERENTIAL

10.1 Shift Differentials.

- A. Evening Shift. An employee who works an evening shift in which the employee works four (4) or more hours between 5:00 p.m. and 11:00 p.m. shall receive a shift differential of twelve percent (12%) of the employee's base pay.

Split shifts with more than one and one-half (1-1/2) hours between the two (2) portions of the shift shall also qualify for the twelve percent (12%) hourly differential.

- B. Night Shift. An employee who works a night shift in which the employee works four (4) or more hours between 11:00 p.m. and 8:00 a.m. shall receive a shift differential of fifteen percent (15%) of the employee's base pay.

C. Special Provisions.

1. An employee who works overtime shall receive shift differential in addition to overtime compensation only when the overtime hours independently satisfy the requirement for shift differential as stated above. The shift differential shall be computed on the employee's base salary.
2. Employees who have been regularly working a shift qualifying for shift differential immediately preceding the commencement of a vacation, paid sick leave period, paid disability or other paid leave, will have shift differential included in computing the pay for their leave. The paid leave of an employee who is on a rotating shift schedule shall include the shift differential that would have been received had the employee worked the shift for which the employee was scheduled during such period. Shift differential shall only be paid during paid sick leave and paid disability as provided above for the first thirty (30) calendar days of each absence.
3. Employees in the Registered Nursing Unit whose regular shift is extended such that it ends twelve (12) consecutive hours or more after its beginning shall receive shift differential paid at the differential rate appropriate for those additional hours in excess of eight (8). A Registered Nurse released from duty at the request of Nursing Administration prior to the completion of twelve (12) hours work will receive the appropriate shift differential on those hours worked in excess of eight (8) hours.
4. When a shift employee works on a recognized holiday, the employee shall be entitled to holiday pay and shift differential to be computed on the employee's base salary.

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10.2 Weekend Differential. Registered Nurses shall receive a weekend shift bonus of sixty dollars (\$60.00) per shift for each weekend shift worked which 1) falls on weekends for which the nurse is not scheduled to work in their normal work schedule; 2) falls between the beginning of the night shift on Friday and the end of the evening shift on Sunday; 3) is worked for the full duration of the shift; and 4) is not the result of a trade. The affected Registered Nurse is to note such qualifying shifts on his/her time sheets in order to receive this compensation.

10.3 Departmental Differentials. Each full-time, part-time and permanent-intermittent Registered Nurse who is assigned to one of the following units/services, will receive a salary differential of eighty dollars (\$80.00) per month: Surgery, Recovery, Labor and Delivery, Nursery, Postpartum, Pediatrics, Critical Care Unit, Intermediate Care Unit, Emergency Room, 4B, 5C, 5D, Mental Health Crisis Unit, 4A, Inpatient Psychiatry 4C/4D, Martinez Detention, West County Detention, or Juvenile Hall.

Registered Nurses assigned to the following units/services and Family Nurse Practitioners are not eligible for this differential: Education and Training, Specialty Clinic; Family Practice and Adult Medicine Clinics in Concord, Brentwood, Pittsburg, Antioch, Bay Point, North Richmond, and Richmond Health Centers; Adult Mental Health Dual Diagnosis Program, Public Health Clinic staffing pool, and Public Health Nursing pool.

10.4 Emergency Department Differential. A five percent (5%) base pay salary differential shall be paid for those Emergency Department RNs who qualify for an Emergency Department differential.

10.5 Per Diem Differentials.

A. Shift Differentials: Employees in the classification of Staff Nurse-Per Diem (VWWA) and Staff Advice Nurse-Per Diem (VWXF) who are paid on an hourly basis, are eligible for the following differentials under the stated circumstances:

1. Evening Shift: An employee will receive a shift differential of twelve percent (12%) of the employee's base hourly rate of pay for the employee's entire shift designation when the employee works four (4) or more hours between 5:00 p.m. and 11:00 p.m.
2. Night Shift. An employee will receive a shift differential of fifteen percent (15%) of the employee's base hourly rate of pay for the employee's entire shift designation when the employee works four (4) or more hours between 11:00 p.m. and 8:00 a.m.

B. Detention Facility Assignment. An employee in a per diem classification who works in Martinez Detention (2578), West County Detention (2580), Marsh Creek Detention (2585), Juvenile Hall (3120), Byron Boys Center (3160), Martinez Detention Infirmary (5700), West County Detention Infirmary (5701), Juvenile Hall Nursing (5702), Detention Mental Health Martinez (5710) or Detention Mental

SECTION 11 – SENIORITY, WORKFORCE REDUCTION, LAYOFF AND REASSIGNMENT

Health West County (5711) will receive a ten percent (10%) differential of the employee's base hourly rate of pay for each hour worked in that assignment.

- C. Emergency Department Differential. An employee in a per diem classification who works in the Emergency Department of Contra Costa Regional Medical Center will receive a five percent (5%) differential of the employee's base hourly rate of pay for each hour worked in the Emergency Department.
- D. Code Gray/STAT Team Differential. An employee in a per diem classification assigned by administration to respond to emergency Code Gray calls as a member of the STAT Team will receive a ten percent (10%) differential of the employee's base hourly rate of pay for a maximum of eight (8) hours. Assignment is conditional on an employee successfully completing the required non-violence training and maintaining the required certification.
- E. No other provisions of this Section 10 apply to employees in per diem classifications.

SECTION 11 – SENIORITY, WORKFORCE REDUCTION, LAYOFF AND REASSIGNMENT

11.1 Workforce Reduction. In the event that funding reductions or shortfalls in funding occur in a department or are expected, which may result in layoffs, the department will notify the Union and take the following actions:

- A. Identify the classification(s) in which position reductions may be required due to funding reductions or shortfalls.
- B. Advise employees in those classifications that position reductions may occur in their classifications.
- C. Accept voluntary leaves of absence from employees in those classifications which do not appear to be potentially impacted by possible position reductions when such leaves can be accommodated by the department.
- D. Consider employee requests to reduce their position hours from full time to part time to alleviate the impact of the potential layoffs.
- E. Approve requests for reduction in hours, lateral transfers, and voluntary demotions to vacant, funded positions in classes not scheduled for layoffs within the department, as well as to other departments not experiencing funding reductions or shortfalls when it is a viable operational alternative for the department(s).
- F. Review various alternatives which will help mitigate the impact of the layoff by working through the Tactical Employment Team (TET) program to:

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1. Maintain an employee skills inventory bank to be used as a basis for referrals to other employment opportunities.
 2. Determine if there are other positions to which employees may be transferred.
 3. Refer interested persons to vacancies which occur in other job classes for which they qualify and can use their layoff eligibility.
 4. Establish workshops to aid laid off employees in areas such as resume preparation, alternate career counseling, job search strategy, and interviewing skills.
- G. When it appears to the Department Head and/or Chief of Labor Relations that the Board of Supervisors may take action which will result in the layoff of employees in a representation unit, the Chief of Labor Relations shall notify the Union of the possibility of such layoffs and shall meet and confer with the Union regarding the implementation of the action.

11.2 Separation through Layoff.

- A. Grounds for Layoff. Any employee(s) having permanent status in position(s) in the merit service may be laid off when the position is no longer necessary, or for reasons of economy, lack of work, lack of funds or for such other reason(s) as the Board of Supervisors deems sufficient for abolishing the position(s).
- B. Order of Layoff. The order of layoff in a department shall be based on inverse seniority in the class of positions, the employee in that department with least seniority being laid off first and so on.
- C. Layoff by Displacement.
1. In the Same Class. A laid off permanent full-time employee may displace an employee in the department having less seniority in the same class who occupies a permanent-intermittent or permanent part-time position, the least senior employee being displaced first.
 2. In the Same Level or Lower Class. A laid off or displaced employee who had achieved permanent status in a class at the same or lower salary level as determined by the salary schedule in effect at the time of layoff may displace within the department and in the class of an employee having less seniority, the least senior employee being displaced first, and so on with senior displaced employees displacing junior employees.
- D. Particular Rules on Displacing.

SECTION 11 – SENIORITY, WORKFORCE REDUCTION, LAYOFF AND REASSIGNMENT

1. Permanent-intermittent and permanent part-time employees may displace only employees holding permanent positions of the same type respectively.
 2. A permanent full-time employee may displace any intermittent or part-time employee with less seniority 1) in the same class, or 2) in a class of the same or lower salary level if no full-time employee in a class at the same or lower salary level has less seniority than the displacing employees.
 3. Former permanent full-time employees who have voluntarily become permanent part-time employees for the purpose of reducing the impact of a proposed layoff with the written approval of the Director of Human Resources or designee retain their permanent full-time employee seniority rights for layoff purposes only and may in a later layoff displace a full-time employee with less seniority as provided in these rules.
- E. Seniority. An employee's seniority within a class for layoff and displacement purposes shall be determined by adding the employee's length of service in the particular class in question to the employee's length of service in other classes at the same or higher salary levels as determined by the salary schedule in effect at the time of layoff. Employees reallocated or transferred without examination from one class to another class having a salary within five percent (5%) of the former class, shall carry the seniority accrued in the former class into the new class. Employees reallocated to a new deep class upon its initiation or otherwise reallocated to a deep class because the duties of the position occupied are appropriately described in the deep class shall carry into the deep class the seniority accrued or carried forward in the former class and seniority accrued in other classes which have been included in the deep class. Service for layoff and displacement purposes includes only the employee's last continuous permanent County employment. Periods of separation may not be bridged to extend such service unless the separation is a result of layoff in which case bridging will be authorized if the employee is reemployed in a permanent position within the period of layoff eligibility. Approved leaves of absence as provided for in these rules and regulations shall not constitute a period of separation. In the event of ties in seniority rights in the particular class in question, such ties shall be broken by length of last continuous permanent County employment. If there remain ties in seniority rights, such ties shall be broken by counting total time in the department in permanent employment. Any remaining ties shall be broken by random selection among the employees involved.
- F. Eligibility for Layoff List. Whenever any person who has permanent status is laid off, has been displaced, has been demoted by displacement or has voluntarily demoted in lieu of layoff or displacement, or has transferred in lieu of layoff or displacement, the person's name shall be placed on the layoff list for the class of positions from which that person has been removed.
- G. Order of Names on Layoff. First, layoff lists shall contain the names of persons laid off, displaced, or demoted as a result of a layoff or displacement, or who

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have voluntarily demoted or transferred in lieu of layoff or displacement, or who have transferred in lieu of layoff or displacement. Names shall be listed in order of layoff seniority in the class from which laid off, displaced, demoted or transferred on the date of layoff, the most senior person listed first. In case of ties in seniority, the seniority rules shall apply except that where there is a class seniority tie between persons laid off from different departments, the tie(s) shall be broken by length of last continuous permanent County employment with remaining ties broken by random selection among the employees involved.

- H. Duration of Layoff and Reemployment Rights. The name of any person granted reemployment privileges shall continue on the appropriate list for a period of two (2) years. Persons placed on layoff lists shall continue on the appropriate list for a period of four (4) years.
- I. Certification of Persons From Layoff Lists. Layoff lists contain the name(s) of person(s) laid off, displaced or demoted by displacement or voluntarily demoted in lieu of layoff or displacement or transferred in lieu of layoff or displacement. When a request for personnel is received from the appointing authority of a department from which an eligible(s) was laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list from the department. When a request for personnel is received from a department from which an eligible(s) was not laid off, the appointing authority shall receive and appoint the eligible highest on the layoff list who shall be subject to a probationary period. A person employed from a layoff list shall be appointed at the same step of the salary range the employee held on the day of layoff.
- J. Removal of Names from Reemployment and Layoff Lists. The Director of Human Resources may remove the name of any eligible from a reemployment or layoff list for any reason listed below:
 - 1. For any cause stipulated in Section 404.1 of the Personnel Management Regulations.
 - 2. On evidence that the eligible cannot be located by postal authorities.
 - 3. On receipt of a statement from the appointing authority or eligible that the eligible declines certification or indicates no further desire for appointment in the class.
 - 4. If three (3) offers of permanent appointment to the class for which the eligible list was established have been declined by the eligible.
 - 5. If the eligible fails to respond to the Director of Human Resources or the appointing authority within ten (10) days to written notice of certification mailed to the person's last known address.

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6. If the person on the reemployment or layoff list is appointed to another position in the same or lower classification, the name of the person shall be removed.
 7. However, if the first permanent appointment of a person on a layoff list is to a lower class which has a top step salary lower than the top step of the class from which the person was laid off, the name of the person shall not be removed from the layoff list. Any subsequent appointment of such person from the layoff list shall result in removal of that person's name.
- K. Removal of Names from Reemployment and Layoff Certifications. The Director of Human Resources may remove the name of any eligible from a reemployment or layoff certification if the eligible fails to respond within five (5) days to a written notice of certification mailed to the person's last known address.
- 11.3 Notice.** The County agrees to give employees scheduled for layoff at least ten (10) workdays notice prior to their last day of employment.
- 11.4 Special Employment Lists.** The County will establish a Tactical Employment Team (TET) Employment Pool which will include the names of all laid-off County employees. Special employment lists for job classes may be established from the pool. Persons placed on a special employment list must meet the minimum qualifications for the class. An appointment from such a list will not affect the individual's status on a layoff list(s).
- 11.5 Reassignment of Laid Off Employees.** Employees who displaced within the same classification from full-time to part-time or intermittent status in a layoff, or who voluntarily reduced their work hours to reduce the impact of layoff, or who accepted a position of another status than that from which they were laid off upon referral from the layoff list, may request reassignment back to their pre-layoff status (full time or part time or increased hours). The request must be in writing in accord with each department's reassignment bid or selection process. Employees will be advised of the reassignment procedure to be followed to obtain reassignment back to their former status at the time of the workforce reduction. The most senior laid off employee in this status who requests such a reassignment will be selected for the vacancy; except when a more senior laid off individual remains on the layoff list and has not been appointed back to the class from which laid off, a referral from the layoff list will be made to fill the vacancy.
- 11.6 Further Study.** The County agrees to meet with the employees represented by the Labor Coalition and its member employee organizations (herein referred to as "Labor Coalition") for study of the concept of employee's waiver of displacement rights in a layoff.

SECTION 12 – HOLIDAYS

12.1 Holidays Observed. The County will observe the following holidays:

- A. January 1st, known as New Year's Day
Third Monday in January known as Dr. Martin Luther King, Jr. Day
Third Monday in February, known as Presidents' Day
The last Monday in May, known as Memorial Day
July 4th known as Independence Day
First Monday in September, known as Labor Day
November 11th, known as Veterans' Day
Fourth Thursday in November, known as Thanksgiving Day
The Friday after Thanksgiving Day
December 25th, known as Christmas Day

Such other days as the Board of Supervisors may by resolution designate as holidays.

- B. Employees in positions that are designated as twenty-four (24) hour positions will also observe the following additional holidays:

September 9th, known as Admission Day
Second Monday in October, known as Columbus Day
February 12th, known as Lincoln's Day

Family Nurse Practitioner positions are designated as twenty-four (24) hour positions.

- C. Employees who only observe the holidays listed in Subsection 12.1 A. above will accrue two (2) hours of personal holiday credit per month. Such personal holiday time may be taken in increments of one (1) hour, and preference of personal holidays will be given to employees according to their seniority in their department as reasonably as possible. No employee may accrue more than forty (40) hours of personal holiday credit. On separation from County service, an employee will be paid for any unused personal holiday credits at the employee's then current pay rate.
- D. Any holiday observed by the County that falls on a Saturday is observed on the preceding Friday and any holiday that falls on a Sunday is observed on the following Monday. However, for employees who are assigned to units or services that operate on a shift operational cycle that includes Saturdays and Sundays, holidays are observed on the day on which they fall regardless, if it is a Saturday or Sunday.

SECTION 12 – HOLIDAYS

12.2 Holiday is NOT Worked and Holiday Falls on Scheduled Work Day

- A. Holiday Observed – Full-time Employees:** Each full-time employee is entitled to observe a holiday (8 hours off work), without a reduction in pay, whenever a holiday is observed by the County. When a full-time employee is scheduled to work less than eight (8) hours on a holiday and the employee observes the holiday, the employee is also entitled to receive flexible pay or flexible compensation time at the rate one (1.0) times his/her base rate of pay (not including differentials) for the difference between eight (8) hours and the hours the employee was scheduled to work on the holiday.
- B. Holiday Observed in Excess of Eight (8) hours – Full time Employees:** When a holiday falls on a full-time employee's scheduled workday, the employee is entitled to only eight (8) hours off without a reduction in pay. If the workday is a nine (9) hour day, the employee must use one (1) hour of non-sick leave accruals. If the workday is a ten (10) hour day, the employee must use two (2) hours of non-sick leave accruals. If the workday is a twelve (12) hour day, the employee must use four (4) hours of non-sick leave accruals. If the employee does not have any non-sick leave accrual balances, leave without pay (AWOP) will be authorized.
- C. Holiday Observed - Part Time Employees:** When a holiday is observed by the County, each part time employee is entitled to observe the holiday in the same ratio as his/her number of position hours bears to forty (40) hours, multiplied by 8 (hours), without a reduction in pay. For example, a part time employee whose position hours are 24 per week is entitled to 4.8 hours off work on a holiday ($24/40$ multiplied by $8 = 4.8$). Hereafter, the number of hours produced by this calculation will be referred to as the "Part-Time employee's holiday hours."

When the number of hours in a part time employee's scheduled work day that falls on a holiday ("scheduled work hours") is less than the employee's "Part Time employee's holiday hours," the employee is also entitled to receive flexible pay or flexible compensation time at the rate of one (1.0) times his/her base rate of pay (not including differentials) for the difference between the employee's "scheduled work hours" and the employee's "Part-Time employee's holiday hours."

When the number of hours in a part time employee's scheduled work day that falls on a holiday ("scheduled work hours") is more than the employee's "Part Time employee's holiday hours," the employee must use non-sick leave accruals for the difference between the employee's "scheduled work hours" and the employee's "Part Time employee's holiday hours." If the employee does not have any non-sick leave accrual balances, leave without pay (AWOP) will be authorized.

12.3 Holiday is NOT Worked and Holiday Falls on Scheduled Day Off

- A. **Full-Time Employee:** When a holiday is observed by the County on the scheduled day off of a full-time employee, the employee is entitled to take eight (8) hours off work, without a reduction in pay, in recognition of the holiday. The employee is also entitled to receive eight (8) hours of flexible pay or flexible compensation time at the rate of one (1.0) times his/her base rate of pay (not including differentials) in recognition of his/her scheduled day off.
- B. **Part-Time Employee:** When a holiday is observed by the County on the scheduled day off of a part-time employee, the part-time employee is entitled to observe the holiday in the amount of the "Part-Time employee's holiday hours," without a reduction in pay, in recognition of the holiday. The employee is also entitled to receive flexible pay or flexible compensation time at the rate of one (1.0) times his/her base rate of pay (not including differentials) in the amount of the "Part-Time employee's holiday hours" in recognition of his/her scheduled day off.

12.4 Holiday is WORKED and Holiday Falls on Scheduled Work Day:

- A. **Full-Time Employee:** When a full-time employee works on a holiday that falls on the employee's scheduled work day, the employee is entitled to receive his/her regular salary. The employee is also entitled to receive holiday pay or holiday compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked up to a maximum of eight (8) hours. When a full time employee is scheduled to work more than eight (8) hours on a holiday (long shift) and the employee works more than the long shift hours, the employee is entitled to receive overtime pay or overtime compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked beyond the long shift hours.

When a full-time employee is scheduled to work less than 8 hours on a holiday (short shift) and the employee works that short shift, the employee is also entitled to receive flexible pay or flexible compensation time at the rate of one (1.0) times his/her base rate of pay (not including differentials) for the difference between eight (8) hours and the short shift hours.

- B. **Part-Time Employee:** When a part-time employee works on a holiday that falls on the employee's scheduled work day, the part-time employee is entitled to receive his/her regular salary. The part-time employee is also entitled to receive holiday pay or holiday compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked on the holiday, up to a maximum of eight hours.

When a part time employee is scheduled to work more than his/her "part time employee's holiday hours" on a holiday (long shift) and the employee works more than the long shift hours, the employee is entitled to receive overtime pay or

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overtime compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked beyond the long shift hours.

12.5 Holiday is Worked and Holiday Falls on Scheduled Day Off

- A. **Full-Time Employee:** When a full-time employee works on a holiday that falls on the employee's scheduled day off, the employee is entitled to receive his/her regular salary. The employee is also entitled to receive overtime pay or overtime compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked on the holiday. The full time employee is also entitled to receive eight (8) hours of flexible pay or flexible compensation time at the rate of one (1.0) times his/her base rate of pay (not including differentials) in recognition of his/her scheduled day off.
- B. **Part-Time Employee:** When a part-time employee works on a holiday that falls on the employee's scheduled day off, the employee is entitled to receive his/her regular salary. The part-time employee is also entitled to receive overtime pay or overtime compensation time at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked on the holiday. The part time employee is also entitled to receive flexible pay or flexible compensation time at the rate of one (1.0) times his/her base rate of pay (not including differentials) multiplied by the amount of the "Part-time employee's holiday hours" in recognition of his/her scheduled day off.

12.6 Holiday and Compensatory Time Provisions.

- A. **Maximum Accruals of Holiday Comp Time.** Holiday compensatory time may not be accumulated in excess of two hundred eighty-eight (288) hours. After two hundred eighty-eight (288) hours are accrued by an employee, the employee will receive holiday pay at the rate of one and one half (1.5) times his/her base rate of pay. Holiday compensatory time may be used by the employee at those dates and times determined by mutual agreement of the employee and the Department Head or designee.
- B. **Pay Off of Holiday Comp Time.** Holiday compensatory time will be paid off only upon a change in status. A change in status includes separation, transfer to another department, reassignment to a permanent-intermittent position, or the transfer, assignment, promotion, or demotion into a position that is not eligible for holiday compensatory time.
- C. **Maximum Accruals of Flexible Compensatory Time.** Flexible compensatory time may not be accumulated in excess of two hundred eighty-eight (288) hours. After two hundred eighty-eight (288) hours are accrued by an employee, the employee will receive flexible pay at the rate of 1.0 times his/her base rate of pay. Flexible compensatory time may be used by an employee on those dates and times determined by mutual agreement of the employee and the Department Head or designee.

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- D. Pay Off of Flexible Comp Time.** Flexible compensatory time will be paid off only upon a change in status. A change in status includes separation, transfer to another department, reassignment to a permanent-intermittent position, or the transfer, assignment, promotion, or demotion into a position that is not eligible for flexible compensatory time.

12.7 Permanent Intermittent Employee.

Holiday is Worked: Permanent intermittent employees who work on a holiday are entitled to receive overtime pay at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked on the holiday.

12.8 Christmas and New Year's Day . Each nurse qualifying for paid holidays shall not be scheduled for work on one of the following holidays each year: Christmas or New Year's Day. Thanksgiving day holiday will be treated as any other holiday.

12.9 Holiday Meal. Employees represented by the Association who are employed at the County Hospital and who are required to work on Thanksgiving, Christmas or New Year's Day will be provided a free meal in the Hospital Cafeteria at no cost to the employee only between the hours of 6:30 a.m. and 6:30 p.m.

12.10 Per Diem Holiday Pay and Holiday Meal. When an employee in the classification of Staff Nurse-Per Diem (VWWA) or Staff Advice Nurse-Per Diem (VWXF) works on a holiday set forth in Section 12.1.A, above, the employee is entitled to receive overtime pay at the rate of one and one half (1.5) times his/her base rate of pay (not including differentials) for all hours worked, up to a maximum of eight (8) hours. Employees in per diem classifications who work at the County Hospital and who are required to work on Thanksgiving, Christmas, or New Year's Day will be given a meal in the Hospital Cafeteria at no cost to the employee only between the hours of 6:30 a.m. and 6:30 p.m. No other provisions of this Section 12 apply to employees in per diem classifications.

SECTION 13 – VACATION LEAVE

13.1 Vacation Allowance. Permanent and provisional employees in permanent positions are entitled to vacation with pay. Accrual is based upon straight-time hours of working time per calendar month of service and begins on the date of appointment to a permanent position. Increased accruals begin on the first of the month following the month in which the employee qualifies. Accrual for portions of a month shall be in minimum amounts of one (1) hour calculated on the same basis as for partial month compensation pursuant to Section 5.9 of this MOU. Vacation credits may not be taken during the first six (6) calendar months of employment, not necessarily synonymous with probationary status, except where sick leave has been exhausted; and none shall be allowed in excess of actual accrual at the time vacation is taken. Vacation credits may be taken in one-tenth hour (6 minute) increments.

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13.2 Vacation Accrual Rates.

<u>Length of Service</u>	<u>Monthly Accrual Hours</u>	<u>Maximum Cumulative Hours</u>
Under 15 years	10	240
15 through 19 years	13-1/3	320
20 through 24 years	16-2/3	400
25 through 29 years	20	480
30 years and up	23-1/3	560

13.3 Vacation Accrual During Leave Without Pay. No employee who has been granted leave without pay or unpaid military leave shall accrue any vacation credit during the time of such leave, nor shall an employee who is absent without pay accrue vacation credit during the absence.

13.4 Professional Sabbatical Leave. Employees who have completed five (5) years or more of employment shall annually receive three (3) days of paid sabbatical leave. Employees who have completed seven (7) or more years of employment shall receive an additional day for a total of four (4) days of paid sabbatical leave. This leave shall be granted under the same provisions for vacation leave.

13.5 Vacation Allowance for Separated Employees. On separation from County service, an employee shall be paid for any unused vacation credits at the employee's then current pay rate.

13.6 Permanent Part-Time and Intermittent Employees. Employees in permanent part-time and permanent-intermittent positions shall accrue vacation benefits on a prorated basis as provided in Resolution No. 81/1165, Section 36-2.006.

13.7 Vacation Requests. Vacation for employees in the Hospital and Clinic Division Hospital Nursing Service (including the Detention Facilities) and Ambulatory Care Nursing Services shall be scheduled on an annual cycle, April 1 through March 30.

Employees must submit their written vacation request by February 1 of each year. The Hospital will post a schedule of vacations by March 1 of each year. The vacation schedule will be effective on April 1 of each year.

Only one (1) employee per classification from each work site and shift may be pre-approved for vacation at the same time. In case of conflict, the employee with the greater length of service in their classification will receive the requested vacation time. Less senior employees will be given the opportunity to request a different time before the annual schedule is posted.

Vacation requests submitted after February to the Nurses assigned Nursing Program Manager shall be considered on a first come basis and the County will respond to such requests within thirty (30) days from receipt. If staffing and patient care requirements do not permit all Registered Nurses requesting a certain vacation preference to take their vacations over the same period, length of service in their classification among those

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Registered Nurses who submit vacation requests at the same time shall be the determining factor within each work area. Arrangements for vacation replacements shall be the responsibility of Nursing Service, it being understood that denial of the vacation request may result if Nursing Service is unable to arrange for replacements.

Effective January 1, 2007, Employees may select vacations that include observed holidays set forth in this MOU, other than Christmas and New Year's Day. Christmas and New Year's Day, shall be rotated amongst staff rather than determined by seniority.

13.8 Vacation Leave on Reemployment from a Layoff List. Employees with six (6) months or more service in a permanent position prior to their layoff who are employed from a layoff list, shall be considered as having completed six (6) month's tenure in a permanent position for the purpose of vacation leave. The appointing authority or designee will advise the Auditor-Controller's Payroll Unit in each case where such vacation is authorized so that appropriate Payroll system override actions can be taken.

13.9 Policy for Family Nurse Practitioners. The following policy governs the approval of vacation requests and the vacation coverage responsibilities of the Family Nurse Practitioners.

Vacation requests for Family Nurse Practitioners in the Hospital and Clinics Division which are received in the Medical Staff office thirty-five (35) days in advance will be responded to within ten (10) days of the receipt of the request and will be approved or denied based on overall FNP staffing considerations for the time requested. Vacation requests which are received less than thirty-five (35) days in advance will also be considered, but preference will be given to those requests submitted with more than thirty-five (35) days advance notice.

13.10 Vacation Leave Accrual Usage. An employee's total accrual for the purpose of granting vacation leave shall include accrued: (a) vacation credits, (b) compensatory time, (c) holiday compensatory time, (d) Flexible compensatory time, and (e) professional sabbatical leave.

SECTION 14 – SICK LEAVE

14.1 Purpose of Sick Leave. The primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. It is a benefit extended by the County and may be used only as authorized; it is not paid time off which employees may use for personal activities.

14.2 Credits To and Charges Against Sick Leave. Sick leave credits accrue at the rate of eight (8) working hour's credit for each completed month of service, as prescribed by County Salary Regulations. Employees who work a portion of a month are entitled to a pro rata share of the monthly sick leave credit computed on the same basis, as is partial month compensation.

SECTION 14 – SICK LEAVE

Credits to and charges against sick leave are made in minimum amounts of one minute increments.

Unused sick leave credits accumulate from year to year. When an employee is separated other than through retirement, accumulated sick leave credits shall be canceled, unless the separation results from layoff, in which case the accumulated credits shall be restored if he/she is reemployed in a permanent position within the period of lay-off eligibility.

Upon the date of retirement, an employee's accumulated sick leave is converted to retirement time on the basis of one (1) day of retirement service credit for each day of accumulated sick leave credit.

14.3 Policies Governing the Use of Paid Sick Leave. As indicated above, the primary purpose of paid sick leave is to ensure employees against loss of pay for temporary absences from work due to illness or injury. The following definitions apply:

Immediate Family: Includes only the spouse, son, stepson, daughter, stepdaughter, father, stepfather, mother, stepmother, brother, sister, grandparent, grandchild, niece, nephew, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister in-law, foster children, aunt, uncle, cousin, stepbrother, stepsister, or domestic partner of an employee and/or includes any other person for whom the employee is the legal guardian or conservator, or any person who is claimed as a "dependent" for IRS reporting purposes by the employee.

Employee: Any person employed by Contra Costa County in an allocated position in the County service.

Paid Sick Leave Credits: Sick leave credits provided for by County Salary Regulations and Memoranda of Understanding.

Condition/Reason: With respect to necessary verbal contacts and confirmations which occur between the department and the employee when sick leave is requested or verified, a brief statement in non-technical terms from the employee regarding inability to work due to injury or illness is sufficient.

Accumulated paid sick leave credits may be used, subject to appointing authority approval, by an employee in pay status, but only in the following instances:

- A. Temporary Illness or Injury of an Employee. Paid sick leave credits may be used when the employee is off work because of a temporary illness or injury.
- B. Permanent Disability Sick Leave. Permanent disability means the employee suffers from a disabling physical injury or illness and is thereby prevented from engaging in any County occupation for which the employee is qualified by reason of education, training or experience. Sick leave may be used by permanently disabled employees until all accruals of the employee have been exhausted or until the employee is retired by the Retirement Board, subject to the following conditions:

1. An application for retirement due to disability has been filed with the Retirement Board.
 2. Satisfactory medical evidence of such disability is received by the appointing authority within thirty (30) days of the start of use of sick leave for permanent disability.
 3. The appointing authority may review medical evidence and order further examination as deemed necessary, and may terminate use of sick leave when such further examination demonstrates that the employee is not disabled, or when the appointing authority determines that the medical evidence submitted by the employee is insufficient, or where the above conditions have not been met.
- C. Communicable Disease. An employee may use paid sick leave credits when under a physician's order to remain secluded due to exposure to a communicable disease.
- D. Sick Leave Utilization for Pregnancy Disability. Employees, whose disability is caused or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery there from, shall be allowed to utilize sick leave credit to the maximum accrued by such employee during the period of such disability under the conditions set forth below:
1. Application for such leave must be made by the employee to the appointing authority accompanied by a written statement of disability from the employee's attending physician. The statement must address itself to the employee's general physical condition having considered the nature of the work performed by the employee, and it must indicate the date of the commencement of the disability as well as the date the physician anticipates the disability to terminate.
 2. If an employee does not apply for leave and the appointing authority believes that the employee is not able to properly perform her work or that her general health is impaired due to disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth or recovery therefrom, the employee shall be required to undergo a physical examination by a physician selected by the County. Should the medical report so recommend, a mandatory leave shall be imposed upon the employee for the duration of the disability.
 3. Sick leave may not be utilized after the employee has been released from the hospital unless the employee has provided the County with a written statement from her attending physician stating that her disability continues and the projected dates of the employee's recovery from such disability.

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- E. Medical and Dental Appointments. An employee may use paid sick leave credits:
1. For working time used in keeping medical and dental appointments or the employee's own care; and
 2. for working time used by an employee for pre-scheduled medical and dental appointments for an immediate family member.
- F. Emergency Care of Family. An employee may use paid sick leave credits for working time used in cases of illness or injury to an immediate family member.
- G. Death of Family Member. An employee may use paid sick leave credits for working time used because of a death in the employee's immediate family, or of the employee's domestic partner, but this shall not exceed three (3) working days, plus up to two (2) days of work time for necessary travel. Use of additional accruals including sick leave when appropriate may be authorized in conjunction with the bereavement leave at the discretion of the appointing authority.
- Additional leave time may also be provided in accordance with Sections 16.1 - Leave Without Pay and 16.5 - Family Care Leave or Medical Leave of this MOU.
- H. Legal Adoption of a Child. Paid sick leave credits may be used by an employee upon adoption of the child.
- I. Accumulated paid sick leave credits may not be used in the following situations:
1. Vacation: Paid sick leave credits may not be used for an employee's illness or injury which occurs while he is on vacation but the County Administrator may authorize it when extenuating circumstances exist and the appointing authority approves.
 2. Not in Pay Status: Paid sick leave credits may not be used when the employee would otherwise be eligible to use paid sick leave credits but is not in pay status.

14.4 Administration of Sick Leave. The proper administration of sick leave is a responsibility of the employee and the Department Head. The following procedures apply:

- A. Employee Responsibilities.
1. Employees are responsible for notifying their department of an absence prior to the commencement of their work shift or as soon thereafter as possible. Notification shall include the reason and possible duration of the absence.
 2. Employees in the Hospital Nursing Service are required to notify the Nursing Office at least two (2) hours prior to any shift if they are calling in

sick. Employees in the Ambulatory Care Nursing Service are required to call in at least one (1) hour prior to the scheduled shift and leave a message in voice mail. Notification shall include the reason and possible duration of the absence. If, due to circumstances beyond the employee's control, the employee is unable to call within the above-mentioned time frames, he/she will call as soon thereafter as possible.

3. Employees are responsible for keeping their department informed on a continuing basis of their condition and probable date of return to work.
4. Employees are responsible for obtaining advance approval from their supervisor for the scheduled time of pre-arranged personal or family medical and dental appointment.
5. Employees are encouraged to keep the department advised of 1) a current telephone number to which sick leave related inquiries may be directed, and 2) any condition(s) and/or restriction(s) that may reasonably be imposed regarding specific locations and/or persons the department may contact to verify the employee's sick leave.

B. Department Responsibilities. The use of sick leave may properly be denied if these procedures are not followed. Abuse of sick leave on the part of the employee is cause for disciplinary action.

Departmental approval of sick leave is a certification of the legitimacy of the sick leave claim. The Department Head or designee may make reasonable inquiries about employee absences. The department may require medical verification for an absence of three (3) or more working days. The department may also require medical verification for absences of less than three (3) working days for probable cause if the employee had been notified in advance in writing that such verification was necessary. Inquiries may be made in the following ways:

1. Calling the employee's residence telephone number or other contact telephone number provided by the employee if telephone notification was not made in accordance with departmental sick leave call-in guidelines. These inquiries shall be subject to any restrictions imposed by the employee under Section 14.4 A.
2. Obtaining the employee's signature on the Absence/Overtime Record or on another form established for that purpose, as employee certification of the legitimacy of the claim.
3. Obtaining the employee's written statement of explanation regarding the sick leave claim.
4. Requiring the employee to obtain a physician's certificate or verification of the employee's illness, date(s) the employee was incapacitated, and the employee's ability to return to work, as specified above.

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5. In absences of an extended nature, requiring the employee to obtain from their physician a statement of progress and anticipated date on which the employee will be able to return to work, as specified above.

Department Heads are responsible for establishing timekeeping procedures which will ensure the submission of a time card covering each employee absence and for operating their respective offices in accordance with these policies and with clarifying regulations issued by the Office of the County Administrator.

To help assure uniform policy application, the Director of Human Resources or designated management staff of the Human Resources Department should be contacted with respect to sick leave determinations about which the department is in doubt.

14.5 Disability.

- A. An employee physically or mentally incapacitated for the performance of duty is subject to dismissal, suspension or demotion, subject to the County Employees Retirement Law of 1937. An appointing authority after giving notice may place an employee on leave if the appointing authority has filed an application for disability retirement for the employee, or whom the appointing authority believes to be temporarily or permanently physically or mentally incapacitated for the performance of the employee's duties.
- B. An appointing authority who has reasonable cause to believe that there are physical or mental health conditions present in an employee which endanger the health or safety of the employee, other employees, or the public, or which impair the employee's performance of duty, may order the employee to undergo, at County expense and on the employee's paid time, a physical, medical examination by a licensed physician and/or a psychiatric examination by a licensed physician or psychologist, and receive a report of the findings on such examination. If the examining physician or psychologist recommends that treatment for physical or mental health problems, including leave, are in the best interests of the employee or the County in relation to the employee overcoming any disability and/or performing his or her duties, the appointing authority may direct the employee to take such leave and/or undergo such treatment.
- C. Leave due to temporary or permanent disability shall be without prejudice to the employee's right to use sick leave, vacation, or any other benefit to which the employee is entitled other than regular salary. The Director of Human Resources may order lost pay restored for good cause and subject to the employee's duty to mitigate damages.
- D. Before an employee returns to work from any absence for illness or injury, other leave of absence or disability leave exceeding two (2) weeks in duration, the appointing authority may order the employee to undergo, at County expense, a physical, medical, and/or psychiatric examination by a licensed physician, and

may consider a report of the findings on such examination. If the report shows that such employee is physically or mentally incapacitated for the performance of duty, the appointing authority may take such action as deemed necessary in accordance with appropriate provisions of this MOU.

14.6 Workers' Compensation and Continuing Pay. A permanent non-safety employee shall continue to receive the appropriate percent of regular monthly salary for all accepted claims filed before January 1, 2000. For all accepted claims filed with the County on or after January 1, 2000, the percentage of pay for employees entitled to Workers' Compensation shall be eighty-six percent (86%), except as provided below.

Employees injured on or after the implementation date of this provision for the majority of County employees shall receive eighty percent (80%) for twelve (12) consecutive months from the date of injury. Employees injured after twelve (12) months from the initial implementation date shall receive seventy-five percent (75%) for twelve (12) consecutive months from the date of injury. Employees injured after twenty-four (24) months from the initial implementation date shall receive seventy percent (70%) for twelve (12) consecutive months from date of injury. If Workers' Compensation becomes taxable, the County agrees to restore the current benefit level (one hundred percent [100%] of monthly salary) and the parties shall meet and confer with respect to funding the increased cost.

- A. Waiting Period. There is a three (3) calendar day waiting period before Workers' Compensation benefits commence. If the injured worker loses any time on the day of injury, that day counts as day one (1) of the waiting period. If the injured worker does not lose time on the day of injury, the waiting period will be the first three (3) calendar days the employee does not work as a result of the injury. The time the employee is scheduled to work during this waiting period will be charged to the employee's sick leave and/or vacation accruals. In order to qualify for Workers' Compensation the employee must be under the care of a physician. Temporary compensation is payable on the first three (3) days of disability when the injury necessitates hospitalization, or when the disability exceeds fourteen (14) days.
- B. Continuing Pay. A permanent employee shall receive the appropriate percentage as outlined above of regular monthly salary during any period of compensable temporary disability not to exceed one year. "Compensable temporary disability absence" for the purpose of this Section is any absence due to work-connected disability which qualifies for temporary disability compensation under Workers' Compensation Law set forth in Division 4 of the California Labor Code. When any disability becomes medically permanent and stationary, the salary provided by this Section shall terminate. No charge shall be made against sick leave or vacation for these salary payments. Sick leave and vacation rights shall not accrue for those periods during which continuing pay is received.

Employees shall be entitled to a maximum of one (1) year of continuing pay benefits for any one injury or illness.

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Continuing pay begins at the same time that temporary Workers' Compensation benefits commence and continues until either the member is declared medically permanent/stationary, or until one (1) year of continuing pay, whichever comes first, provided the employee remains in an active employed status. Continuing pay is automatically terminated on the date an employee is separated from County service by resignation, retirement, layoff, or the employee is no longer employed by the County. In these instances, employees will be paid Workers' Compensation benefits as prescribed by Workers' Compensation laws. All continuing pay will be cleared through the Office of the County Administrator, Risk Management Division.

Whenever an employee who has been injured on the job and has returned to work is required by an attending physician or Family Nurse Practitioner to leave work for treatment during working hours, the employee shall be allowed time off up to three (3) hours for such treatment without loss of pay or benefits, provided the employee notifies his/her supervisor of the appointment at least three (3) business office days prior to the appointment. Said visits are to be scheduled contiguous to either the beginning or end of the scheduled workday whenever possible. This provision applies only to injuries/illnesses that have been accepted by the County as work related.

- C. Applicable Pay Beyond One Year. If an injured employee remains eligible for temporary disability beyond one (1) year, applicable salary will continue by integrating sick leave and/or vacation accruals with Workers' Compensation benefits (vacation charges to be approved by the Department and the employee). If salary integration is no longer available, Workers' Compensation benefits will be paid directly to the employee as prescribed by Workers' Compensation laws.
- D. Rehabilitation Integration. An injured employee who is eligible for Workers' Compensation rehabilitation temporary disability benefits and whose disability is medically permanent and stationary will continue to receive applicable salary by integrating sick leave and/or vacation accruals with Workers' Compensation rehabilitation temporary disability benefits until those accruals are exhausted. Thereafter, the rehabilitation temporary disability benefits will be paid directly to the employee.
- E. Health Insurance. The County contribution to the employee's group insurance plan continues during the continuing pay period and during integration of sick leave or vacation with Workers' Compensation benefits.

E. Integration Formula. An employee's sick leave and/or vacation charges shall be calculated as follows:

$$C = 8 [1 - (W \div S)]$$

C = Sick leave or vacation charge per day
(in hours)

W = Statutory Workers' Compensation for a month

S = Monthly salary

14.7 Labor-Management Committee. On May 26, 1981, the Board of Supervisors established a labor-management committee to administer a rehabilitation program for disabled employees. It is understood that the benefits specified above in this Section 14 shall be coordinated with the rehabilitation program as determined by the labor-management committee.

14.8 Accrual During Leave Without Pay. No employee who has been granted a leave without pay or an unpaid military leave shall accrue any sick leave credits during the time of such leave, nor shall an employee who is absent without pay accrue sick leave credits during the absence.

14.9 State Disability Insurance (SDI).

A. General Provisions. Contra Costa County participates in the State Disability Insurance (SDI) program, subject to the rules and procedures established by the State of California. The County augments the SDI program with its SDI Integration Program. Changes to the State Disability Insurance program could affect the County's SDI Integration Program. Determination of SDI payments and eligibility to receive payments is at the sole discretion of the State of California. Employees eligible for SDI benefits are required to apply for SDI benefits and to have those benefits integrated with the use of their sick leave accruals on the following basis:

"Integration" means that employees are required to use their sick leave accruals to supplement the difference between the amount of the SDI payment and the employee's base monthly salary to the extent that the total payment does not exceed the employee's base monthly salary. Integration of sick leave with the SDI benefit is automatic and cannot be waived. Integration applies to all SDI benefits paid. For employees off work, on disability, and receiving SDI, the employee's County Department will make appropriate integration adjustments, including retroactive adjustments, if necessary. Employees must inform their Department of a disability in a timely manner in order for the Department to make appropriate integration adjustments. SDI benefit payments will be sent directly to the employee by the State of California.

When there are insufficient sick leave accruals available to fully supplement the difference between the SDI payment and the employee's base monthly salary, accruals other than sick leave may be used to supplement the difference between the amount of the SDI payment and the employee's base monthly salary. These accruals may be used only to the extent that the total payment does not exceed the employee's base monthly salary.

B. Procedures. Employees with more than 1.2 hours of sick leave accruals at the beginning of the disability integration period must integrate their sick leave accrual usage with their SDI benefit to the maximum extent possible.

SECTION 15 – CATASTROPHIC LEAVE BANK

When employees have 1.2 hours or less of sick leave accruals at the beginning of the disability integration period, the Department will automatically use 0.1 hours of sick leave per month for the duration of their SDI benefit.

When the SDI benefit is exhausted, integration terminates. The employee then may continue to use sick leave without integration and/or other accruals.

When sick leave accruals are totally exhausted, integration with the SDI benefit terminates.

Employees whose SDI claims are denied must present a copy of their claim denial to their Department. The Department will then authorize the use of unused sick leave and/or other accruals as appropriate.

- C. Method of Integration.** For purposes of integration with the SDI program, all full-time employees' schedules will be converted to eight (8) hour/five (5) day weekly work schedules.

The formula for full-time employees' sick leave integration charges is as follows:

L = $[(S - D) \div S] \times 8$
S = Employee Base Monthly Salary
H = Estimated Highest Quarter (3-mos) Earnings
[H = S x 3]
W = Weekly SDI Benefit from state of California SDI Weekly Benefit Table
C = Calendar Days in Each Month
D = Estimated Monthly SDI Benefit [D = (W ÷ 7)
x C]
L = Sick Leave Hours Charged per Day

Permanent part-time employees, permanent-intermittent employees, and full-time employees who are working a light/limited duty reduced schedule, will have their sick leave integration adjusted accordingly.

- D. Definition.** "Base Monthly Salary", for purposes of the SDI integration program, is defined as the salary amount of the employee's step on the salary schedule of the employee's classification at the time of integration.

14.10 Confidentiality of Information/Records. Any use of employee medical records will be governed by the Confidentiality of Medical Information Act (Civil Code Sections 56 to 56.26).

SECTION 15 – CATASTROPHIC LEAVE BANK

15.1 Program Design. The Human Resources Department will operate a Catastrophic Leave Bank which is designed to assist any County employee who has exhausted all paid accruals due to a serious or catastrophic illness, injury, or condition of the employee or family member. The program establishes and maintains a

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Countywide bank wherein any employee who wishes to contribute may authorize that a portion of his/her accrued vacation, compensatory time, holiday compensatory time or floating holiday be deducted from those account(s) and credited to the Catastrophic Leave Bank. Employees may donate hours either to a specific eligible employee or to the bank. Upon approval, credits from the Catastrophic Leave Bank may be transferred to a requesting employee's sick leave account so that employee may remain in paid status for a longer period of time, thus partially ameliorating the financial impact of the illness, injury, or condition.

Catastrophic illness or injury is defined as a critical medical condition, a long-term major physical impairment or disability which manifests itself during employment.

15.2 Operation. The plan will be administered under the direction of the Director of Human Resources. The Human Resources Department will be responsible for receiving and recording all donations of accruals and for initiating transfer of credits from the Bank to the recipient's sick leave account. Disbursement of accruals will be subject to the approval of a six (6) member committee composed of three (3) members appointed by the County Administrator and three (3) members appointed by the majority representative employee organizations. The committee shall meet as necessary to consider all requests for credits and shall make determinations as to the appropriateness of the request. The committee shall determine the amount of accruals to be awarded for employees whose donations are non-specific. Consideration of all requests by the committee will be on an anonymous requestor basis.

Hours transferred from the Catastrophic Leave Bank to a recipient will be in the form of sick leave accruals and shall be treated as regular sick leave accruals.

To receive credits under this plan, an employee must have permanent status, must have exhausted all time-off accruals to a level below eight (8) hours total, have applied for a medical leave of absence and have medical verification of need.

Donations are irrevocable unless the donation to the eligible employee is denied. Donations may be made in hourly blocks with a minimum donation of not less than four (4) hours from balances in the vacation, holiday, floating holiday, compensatory time, or holiday compensatory time accounts. Employees who elect to donate to a specific individual shall have seventy-five percent (75%) of their donation credited to the individual and twenty-five percent (25%) credited to the Catastrophic Leave Bank.

Time donated will be converted to a dollar value and the dollar value will be converted back to sick leave accruals at the recipient's base hourly rate when disbursed. Credits will not be on a straight hour-for-hour basis. All computations will be on a standard 173.33 basis, except that employees on other than a forty (40) hour week will have hours prorated according to their status. Any recipient will be limited to a total of one thousand forty (1,040) hours or its equivalent per catastrophic event; each donor will be limited to one hundred twenty (120) hours per calendar year.

No element of this plan is grievable. All appeals from either a donor or recipient will be resolved on a final basis by the Director of Human Resources.

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No employee will have any entitlement to catastrophic leave benefits. The award of catastrophic leave will be at the sole discretion of the committee, both as to amounts of benefits awarded and as to persons awarded benefits. Benefits may be denied, or awarded for less than six (6) months. The committee will be entitled to limit benefits in accordance with available contributions and to choose from among eligible applicants, on an anonymous basis, those who will receive benefits, except for hours donated to a specific employee. In the event a donation is made to a specific employee and the committee determines the employee does not meet the Catastrophic Leave Bank criteria, the donating employee may authorize the hours to be donated to the Bank or returned to the donor's account. The donating employee will have fourteen (14) calendar days from notification to submit his/her decision regarding the status of their donation, or the hours will be irrevocably transferred to the Catastrophic Leave Bank.

Any unused hours transferred to a recipient will be returned to the Catastrophic Leave Bank.

SECTION 16 – LEAVE OF ABSENCE

16.1 Leave Without Pay. Any employee who has permanent status may be granted a leave of absence without pay upon written request, approved by the appointing authority; provided, however, that leaves for pregnancy, pregnancy disability, serious health conditions, and family care shall be granted in accordance with applicable state and federal law.

16.2 General Administration – Leave of Absence. Requests for leave of absence without pay shall be made upon forms prescribed by the Director of Human Resources and shall state specifically the reason for the request, the date when it is desired to begin the leave and the probable date of return.

A. Leave without pay may be granted for any of the following reasons:

1. Illness, disability, or serious health condition;
2. pregnancy or pregnancy disability;
3. family care;
4. to take a course of study such as will increase the employee's usefulness on return to the employee's position;
5. for other reasons or circumstances acceptable to the appointing authority.

B. An employee must request family care leave at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable. If the need is not foreseeable, the employee must provide written notice to the employer within five (5) days of learning of the event by which the need for family care leave arises.

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- C. A leave without pay may be for a period not to exceed one (1) year, provided the appointing authority may extend such leave for additional periods. Procedure in granting extensions shall be the same as that in granting the original leave, provided that the request for extension must be made not later than thirty (30) calendar days before the expiration of the original leave.
- D. Nevertheless, a leave of absence for the employee's serious health condition or for family care (Family and Medical Leave Act herein after referred to as "FMLA") shall be granted to an employee who requests it for up to eighteen (18) weeks during a rolling twelve (12) month period (measured backward from the date an employee uses any FMLA leave) in accordance with Section 16.5 – Family Care Leave or Medical Leave.
- E. Whenever an employee who has been granted a leave without any pay desires to return before the expiration of such leave, the employee must submit a request to the appointing authority in writing at least fifteen (15) days in advance of the proposed return. Early return is subject to prior approval by the appointing authority. The Human Resources Department shall be notified promptly of such return.
- F. Except in the case of leave of absence due to family care, pregnancy, pregnancy disability, illness, disability, or serious health condition, the decision of the appointing authority granting or denying a leave or early return from leave shall be subject to appeal to the Director of Human Resources and not subject to appeal through the grievance procedure set forth in Section 24 of this MOU.

16.3 Furlough Days Without Pay. Subject to the prior written approval of the appointing authority, employees may elect to take furlough days or hours without pay (pre-authorized absence without pay), up to a maximum of fifteen (15) calendar days for any one period. Longer pre-authorized absences without pay shall have their compensation for the portion of the month worked computed in accord with Section 5.10 - Compensation for Portion of Month, of the MOU. Full-time and part-time employees who take furlough time shall have their vacation, sick leave, floating holiday and any other payroll-computed accruals computed as though they had worked the furlough time. When computing vacation, sick leave, floating holiday and other accrual credits for employees taking furlough time, this provision shall supersede Sections 13.5 – Vacation Allowance for Separated Employee, 14.2 – Credits To and Charges Against Sick Leave, 14.8 – Accrual During Leave Without Pay, and 15.1 – Catastrophic Leave Bank, Program Design of this MOU regarding the computation of vacation, sick leave, floating holiday and other accrual credits as regards furlough time only. For payroll purposes, furlough time (absence without pay with prior authorization of the appointing authority) shall be reported separately from other absences without pay to the Auditor-Controller. The existing VTO program shall be continued for the life of the contract.

16.4 Military Leave. Any employee who is ordered to serve as a member of the State Militia or the United States Army, Navy, Air Force, Marine Corps, Coast Guard or any division thereof shall be granted a military leave for the period of such service, plus ninety (90) days. Additionally, any employee who volunteers for service during a

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mobilization under Executive Order of the President or Congress of the United States and/or the State Governor in time of emergency shall be granted a leave of absence in accordance with applicable federal or state laws. Upon the termination of such service, or upon honorable discharge, the employee shall be entitled to return to the employee's position in the classified service provided such still exists and the employee is otherwise qualified, without any loss of standing of any kind whatsoever.

An employee who has been granted a military leave shall not, by reason of such absence, suffer any loss of vacation, holiday, or sick leave privileges which may be accrued at the time of such leave, nor shall the employee be prejudiced thereby with reference to salary adjustments or continuation of employment. For purposes of determining eligibility for salary adjustments or seniority in case of layoff or promotional examination, time on military leave shall be considered as time in County service.

Any employee who has been granted a military leave, may upon return, be required to furnish such evidence of performance of military service or of honorable discharge as the Director of Human Resources may deem necessary.

16.5 Family Care Leave or Medical Leave. Upon request to the appointing authority, any employee who has permanent status shall be entitled to at least eighteen (18) weeks leave during a rolling twelve (12) month period (measured backward from the date an employee uses any FMLA leave), less if so requested by the employee, for:

- A. medical leave of absence for the employee's own serious health condition which makes the employee unable to perform the functions of the employee's position; or
- B. family care leave of absence without pay for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious illness or health condition of a child, parent, spouse, or domestic partner of the employee.

16.6 Medical Certification. The employee may be asked to provide certification of the need for family care leave or medical leave. Additional period(s) of family care or medical leave may be granted by the appointing authority.

16.7 Intermittent Use of Leave. The eighteen (18) week entitlement may be in broken periods, intermittently on a regular or irregular basis, or may include reduced work schedules depending on the specific circumstances and situations surrounding the request for leave. The eighteen (18) weeks may include use of appropriate available paid leave accruals when accruals are used to maintain pay status, but use of such accruals is not required beyond that specified in Section 16.12 – Leave Without Pay – Use of Accruals. When paid leave accruals are used for a medical or family care leave, such time shall be counted as a part of the eighteen (18) week entitlement.

16.8 Aggregate Use for Spouse. In the situation where husband and wife are both employed by the County, the family care or medical leave entitlement based on the birth, adoption or foster care of a child is limited to an aggregate for both employees together of eighteen (18) weeks in a rolling twelve (12) month period (measured

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backward from the date an employee uses any FMLA leave). Employees requesting family care leave are required to advise their appointing authority(ies) when their spouse is also employed by the County.

16.9 Definitions. For medical and family care leaves of absence under this section, the following definitions apply:

- A. Child: A biological, adopted, or foster child, stepchild, legal ward, conservatee or a child who is under eighteen (18) years of age for whom an employee stands in loco parentis or for whom the employee is the guardian or conservator, or an adult dependent child of the employee.
- B. Parent: A biological, foster, or adoptive parent, a stepparent, legal guardian, conservator, or other person standing in loco parentis to a child.
- C. Spouse: A partner in marriage as defined in California Civil Code Section 4100.
- D. Domestic Partner: An unmarried person, eighteen (18) years or older, to whom the employee is not related and with whom the employee resides and shares the common necessities of life.
- E. Serious Health Condition: An illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of treatment or supervision and involves either inpatient care in a hospital, hospice or residential health care facility or continuing treatment or continuing supervision by a health care provider (e.g., physician or surgeon) as defined by state and federal law.
- F. Certification for Family Care Leave: A written communication to the employer from a health care provider of a person for whose care the leave is being taken which need not identify the serious health condition involved, but shall contain:
 - 1. the date, if known, on which the serious health condition commenced;
 - 2. the probable duration of the condition;
 - 3. an estimate of the amount of time which the employee needs to render care or supervision;
 - 4. a statement that the serious health condition warrants the participation of a family member to provide care during period of treatment or supervision;
 - 5. if for intermittent leave or a reduced work schedule leave, the certification should indicate that the intermittent leave or reduced leave schedule is necessary for the care of the individual or will assist in their recovery, and its expected duration.

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- G. Certification for Medical Leave: A written communication from a health care provider of an employee with a serious health condition or illness to the employer, which need not identify the serious health condition involved, but shall contain:
1. the date, if known, on which the serious health condition commenced;
 2. the probable duration of the condition;
 3. a statement that the employee is unable to perform the functions of the employee's job;
 4. if for intermittent leave or a reduced work schedule leave, the certification should indicate the medical necessity for the intermittent leave or reduced leave schedule, and its expected duration.
- H. Comparable Positions: A position with the same or similar duties and pay which can be performed at the same or similar geographic location as the position held prior to the leave. Ordinarily, the job assignment will be the same duties in the same program area located in the same city, although specific clients, caseload, co-workers, supervisor(s), or other staffing may have changed during an employee's leave.

16.10 Pregnancy Disability Leave. Insofar as pregnancy disability leave is used under Section 14.3.D – Sick Leave Utilization for Pregnancy Disability, that time will not be considered a part of the eighteen (18) week family care leave period.

16.11 Group Health Plan Coverage. Employees who were members of one of the group health plans prior to commencement of their leave of absence can maintain their health plan coverage with the County contribution by maintaining their employment in pay status as described in Section 16.12 - Leave Without Pay – Use of Accruals. During the eighteen (18) weeks of an approved medical or family care leave under Section 16.5 – Family Care Leave or Medical Leave, the County will continue its contribution for such health plan coverage even if accruals are not available for use to maintain pay status as required under Section 16.12 - Leave Without Pay – Use of Accruals. In order to maintain such coverage, employees are required to pay timely the full employee contribution to maintain their group health plan coverage either through payroll deduction or by paying the County directly.

16.12 Leave Without Pay – Use of Accruals.

- A. All Leaves of Absence. During the first twelve (12) month period of any leave of absence without pay, an employee may elect to maintain pay status each month by using available sick leave (if so entitled under Section 14.3 – Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, compensatory time off or other accruals or entitlements; in other words, during the first twelve (12) months, a leave of absence without pay may be "broken" into segments and accruals used on a monthly basis at the employee's discretion. After the first twelve (12) months, the leave period may not be "broken" into segments and

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accruals may not be used, except when required by LTD Benefit Coordination or SDI/Sick Leave Integration under Section 14.9 – State Disability Insurance, or as provided in the sections below.

- B. Family Care or Medical Leave. During the eighteen (18) weeks of an approved medical or family care leave, if a portion of that leave will be on a leave of absence without pay, the employee will be *required* to use *at least* 0.1 hour of sick leave (if so entitled under Section 14.3 – Policies Governing the Use of Paid Sick Leave), vacation, floating holiday, compensatory time off or other accruals or entitlements if such are available, although use of additional accruals is permitted under Subsection A. above.
- C. Leave of Absence/Long Term Disability (LTD) Benefit Coordination. An eligible employee who files an LTD claim and concurrently takes a leave of absence without pay will be required to use accruals as provided in Subsection B herein during the eighteen (18) week entitlement period of a medical leave specified above. If an eligible employee continues beyond the eighteen (18) weeks entitlement period on a concurrent leave of absence/LTD claim, the employee may choose to maintain further pay status only as allowed under Subsection A. herein.
- D. Sick leave accruals may not be used during any leave of absence, except as allowed under Section 14.3 – Policies Governing the Use of Paid Sick Leave.

16.13 Leave of Absence Replacement and Reinstatement. Any permanent employee who requests reinstatement to the classification held by the employee in the same department at the time the employee was granted a leave of absence shall be reinstated to a position in that classification and department and then only on the basis of seniority. In case of severance from service by reason of the reinstatement of a permanent employee, the provisions of Section 11 – Seniority, Workforce Reduction, Layoff and Reassignment shall apply.

16.14 Reinstatement From Family Care Medical Leave. In the case of a family care or medical leave, an employee on a 5/40 schedule shall be reinstated to the same or comparable position if the return to work is after no more than ninety (90) workdays of leave from the initial date of a continuous leave, including use of accruals, or within the equivalent on an alternate work schedule. A full-time employee taking an intermittent or reduced work schedule leave shall be reinstated to the same or comparable position if the return to work on a full schedule is after no more than seven hundred twenty (720) hours, including use of accruals, of intermittent or reduced schedule leave. At the time the original leave is approved, the appointing authority shall notify the employee in writing of the final date to return to work, or the maximum number of hours of leave, in order to guarantee reinstatement to the same or comparable position. An employee on a schedule other than 5/40 shall have the time frame for reinstatement to the same or comparable position adjusted on a pro rata basis.

16.15 Salary Review While on Leave of Absence. The salary of an employee who is on leave of absence from a County position on any anniversary date and who has not

SECTION 17 – JURY DUTY AND WITNESS DUTY

been absent from the position on leave without pay more than six (6) months during the preceding year shall be reviewed on the anniversary date. Employees on military leave shall receive salary increments that may accrue to them during the period of military leave.

16.16 Unauthorized Absence. An unauthorized absence from the work site or failure to report for duty after a leave request has been disapproved, revoked, or canceled by the appointing authority, or at the expiration of a leave, shall be without pay. Such absence may also be grounds for disciplinary action.

16.17 Non-Exclusivity. Other MOU language on this subject, not in conflict, shall remain in effect.

SECTION 17 – JURY DUTY AND WITNESS DUTY

17.1 Jury Duty. For purposes of this Section, jury duty shall be defined as any time an employee is obligated to report to the court.

When called for jury duty, County employees, like other citizens, are expected to discharge their jury duty responsibilities.

Employees shall advise their department as soon as possible if scheduled to appear for jury duty.

If summoned for jury duty in a Municipal, Superior, or Federal Court, or a Coroners jury, employees may remain in their regular County pay status, or they may take paid leave (vacation, floating holiday, etc.) or leave without pay and retain all fees and expenses paid to them.

When an employee is summoned for jury duty selection or is selected as a juror in a Municipal, Superior or Federal Court, employees may remain in a regular pay status if they waive all fees (other than mileage), regardless of shift assignment, and the following shall apply:

- A. If an employee elects to remain in a regular pay status and waive or surrender all fees (other than mileage), the employee shall obtain from the Clerk or Jury Commissioner a certificate indicating the days attended and noting that fees other than mileage are waived or surrendered. The employee shall furnish the certificate to his department where it will be retained as a department record. No "Absence/Overtime Record" is required.
- B. An employee who elects to retain all fees must take leave (vacation, floating holiday, etc.) or leave without pay. No court certificate is required but an "Absence/Overtime Record" must be submitted to the department payroll clerk.

Employees are not permitted to engage in any employment regardless of shift assignment or occupation before or after daily jury service that would affect their ability to properly serve as jurors.

SECTION 18 – HEALTH, LIFE AND DENTAL CARE

An employee on short notice standby to report to court, whose job duties make short notice response impossible or impractical, shall be given alternate work assignments for those days to enable them to respond to the court on short notice.

When an employee is required to serve on jury duty, the County will adjust that employee's work schedule to coincide with a Monday to Friday schedule for the remainder of their service, unless the employee requests otherwise. Participants in 9/80 or 4/10 work schedules will not receive overtime or compensatory time credit for jury duty on their scheduled days off.

Permanent-intermittent employees are entitled to paid jury duty leave only for those days on which they were previously scheduled to work.

17.2 Witness Duty. Employees called upon as a witness or an expert witness in a case arising in the course of their work or the work of another department may remain in their regular pay status and turn over to the County all fees and expenses paid to them, other than mileage allowance, or they may take vacation leave or leave without pay and retain all fees and expenses. Employees called to serve as witnesses in private cases or personal matters (e.g., accident suits and family relations) shall take vacation leave or leave without pay and retain all witness fees paid to them.

Retention or waiver of fees shall be governed by the same provisions as apply to jury duty as set forth in Section 17 of this MOU. Employees shall advise their department as soon as possible if scheduled to appear for witness duty. Permanent-intermittent employees are entitled to paid witness duty only for those days on which they were previously scheduled to work.

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18.1 County Plans. The County will offer medical and dental coverage for permanent full time employees (40/40) and permanent part time employees (whose positions are designated as 16/40 or more) and for their eligible family members, expressed in one of the Medical Plan contracts and one of the Dental Plan contracts between the County and the following providers:

- a. Contra Costa Health Plans (CCHP)
- b. Kaiser Permanente Health Plan
- c. Health Net
- d. Delta Dental
- e. DeltaCare (PMI)

In the event of death or disability on the job, Labor Code Sections 4700-4709 are applicable.

Medical Plans:

All eligible employees will have access to the following medical plans:

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- a. CCHP Plan A & Plan B
- b. Kaiser Permanente Plan A & Plan B
- c. Health Net HMO Plan A & Plan B
- d. Health Net PPO Plan A

18.2 Rate Information. The County Benefits Division will make medical and dental plan rate information available upon request to employees and departments. In addition, the County Benefits Division will publish and distribute to employees and departments information about rate changes as they occur during the year.

18.3 County Medical and Dental Plan Monthly Premium Subsidy

A. County Medical and Dental Plan Monthly Premium Subsidy:

1. The County subvention for medical plan will be as follows:

CCHP A	98%
CCHPA B	98%
Kaiser	80%
Health Net HMO	80%
Health Net PPO	56.41%

The County and C.N.A. will continue to equally share (50/50) the amount of any premium increases.

2. The County subvention for the Dental Plan will be as follows:

Delta Dental / CCHPA A/B	98%
PMI Delta Care / CHHP A/B	98%
Delta Dental	78%
PMI Delta Care	78%
Dental Only	County pays all but .01

- B. In the event that the County premium subsidy amounts are greater than one hundred percent (100%) of the applicable premium of any health or dental plan, for any plan year, the County's contribution will not exceed one hundred percent (100%) of the applicable plan premium.

- C. Any person who becomes age 65 on or after July 1, 2012 and who is eligible for Medicare must immediately enroll in Medicare Parts A and B.

18.4 Family Member Eligibility Criteria: The following persons may be enrolled as the eligible Family Members of a medical or dental plan Subscriber:

A. Medical Insurance

1. Eligible Dependents:

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- a. Employee's Legal Spouse
 - b. Employee's qualified domestic partner
 - c. Employee's child to age 26
 - d. Employee's Disabled Child who is:
 - (1) over age 26,
 - i. Unmarried; and,
 - ii. Incapable of sustaining employment due to a physical or mental disability that existed prior to the child's attainment of age 19.
2. "Employee's child" includes natural child, child of a qualified domestic partner, step-child, adopted child and a child specified in a Qualified Medical Child Support Order (QMCSO) or similar court order.

B. Dental Insurance

1. Eligible Dependents:
- a. Employee's Legal Spouse
 - b. Employee's qualified domestic partner
 - c. Employee's unmarried child who is:
 - (1) Under age 19; or
 - (2) Age 19, or above, but under age 24; and,
 - i. Resides with the Employee for more than 50% of the year excluding time living at school; and,
 - ii. Receives at least 50% of support from Employee; and,
 - iii. Is enrolled and attends school on a full-time basis, as defined by the school.
 - d. Employee's Disabled Child who is:
 - (1) Over age 19,
 - i. Unmarried; and,
 - ii. Incapable of sustaining employment due to a physical or mental disability that existed prior to the child's attainment of age 19.
2. "Employee's child" includes natural child, child of a qualified domestic partner, step-child, adopted child and a child specified in a Qualified Medical Child Support Order (QMCSO) or similar court order.

18.5 Partial Month. The County's contribution to the Health Plan premium is payable for any month in which the employee is paid. If an employee is not paid enough compensation in a month to pay the employee share of the premium, the employee must make up the difference by remitting the amount delinquent to the Auditor-Controller. The responsibility for this payment rests with the employee. If payment is

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not made, the employee shall be dropped from the health plan. An employee is thus covered by the health plan for the month in which compensation is paid.

18.6 Coverage During Absences. An employee on approved leave shall be allowed to continue his/her health plan coverage at the County group rate for twelve (12) months provided that the employee shall pay the entire premium for the health plan during said leave.

An employee on leave in excess of twelve (12) months may continue health plan coverage by converting to an individual health plan option (if available) or continuing group coverage subject to the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) provided the employee pays the entire cost of coverage, plus any administrative fees, for the option selected. The entire cost of coverage shall be paid at a place and time specified by the County. Late payment may result in cancellation of health plan coverage with no reinstatement allowed.

An employee who terminates County employment may convert to individual health plan coverage, if available, or may continue County group health plan coverage to the extent provided under COBRA by making premium payments to the County at a time and place specified by the County.

18.7 Retirement Coverage.

A. Upon Retirement:

1. Upon retirement, eligible employees and their eligible family members may remain in their County medical/dental plan, if immediately before their proposed retirement the employees and dependents are either active subscribers to one of the County contracted medical/dental plans, or if while on authorized leave of absence without pay, they have retained continuous coverage during the leave period by retaining their membership by continuing to pay their monthly premium by the deadlines established by the County, or by converting to individual conversion membership through the medical plan carrier, if available. The County will pay the medical/dental plan monthly premium subsidies set forth in Section 18.3.A. for eligible employees and their eligible family members. No County subsidy will be paid for life insurance, but eligible employees may continue to obtain life insurance from the County's carrier at the employee's sole expense.
2. For purposes of retiree health coverage eligibility, a year of service for part-time employees shall be defined as one thousand (1,000) paid hours, excluding Workers' Compensation and overtime worked within service anniversary year. For the purpose of this provision, employees shall accrue service credit while on Family and Medical Leave or in a paid status.

All employees covered by Section 18.1, who are hired after January 1, 2007, will be eligible for retiree health coverage pursuant to the terms

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outlined above, upon completion of fifteen (15) years of service with Contra Costa County. For the purposes of retiree health eligibility, a year of service shall be defined as one thousand (1,000) hours worked within an anniversary year. The existing method of crediting service while an employee is on an approved leave of absence will continue during the term of this agreement.

3. Public Health Nurse Unit Only: For employees in the Public Health Nurse Unit hired on or after January 1, 2010, and their eligible family members, no monthly premium subsidy will be paid by the County for any health and/or dental plan after they separate from County employment. However, any such eligible employee who retires under the Contra Costa County Employees' Retirement Association ("CCCERA") may retain continuous coverage of a county health or dental plan provided that (i) he or she begins to receive a monthly retirement allowance from CCCERA within 120 days of separation from County employment and (ii) he or she pays the full premium cost under the health and/or dental plan without any County premium subsidy.

18.8 Dual Coverage. On and after January 1, 2010, each employee and retiree may be covered only by a single County health (and/or dental) plan, including a CalPERS plan. For example, a County employee may be covered under a single County health and/or dental plan as either the primary insured or the dependent of another County employee or retiree, but not as both the primary insured and the dependent of another County employee or retiree.

On and after January 1, 2010, all dependents may be covered by the health and/or dental plan of only one spouse or one domestic partner. For example, when both husband and wife are County employees, all of their eligible children may be covered as dependents of either the husband or the wife, but not both.

For purposes of this Section 18.8 only, "County" includes the County of Contra Costa and all special districts governed by the Board of Supervisors, including, but not limited to, the Contra Costa County Fire Protection District.

18.9 Health Care Spending Account. The County will offer regular full-time and part-time (20/40 or greater) County employees the option to participate in a Health Care Spending Account (HCSA) Program designed to qualify for tax savings under Section 125 of the Internal Revenue Code, but such savings are not guaranteed. The HCSA Program allows employees to set aside a pre-determined amount of money from their paycheck, not to exceed the maximum amount authorized by federal law, per calendar year, before taxes, for health care expenses not reimbursed by any other health benefits plan with before tax dollars. HCSA dollars can be expended on any eligible medical expenses allowed by Internal Revenue Code Section 125. Any unused balance cannot be recovered by the employee.

18.10 Public Employees Retirement System (PERS) Long-Term Care. The County proposes to deduct and remit monthly premium and eligible lists to the PERS Long-

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Term Care Administrator, at no County administrative cost, for County employees who are eligible and voluntarily elect to purchase long-term care through the PERS Long-Term Care Program.

The County further agrees that County employees interested in purchasing PERS Long-Term Care may participate in meetings scheduled by PERS Long-Term Care on County facilities during non-work hours (e.g., coffee breaks, lunch hour).

18.11 Deferred Retirement. Employees covered by Section 18.1 - County Plans, who resign and file for a deferred retirement, and their eligible family members, may continue in their County group medical and/or dental plan. The following conditions and limitations apply:

- A. Medical and dental coverage during the deferred retirement period is at the sole expense of the employee, without any County contributions.
- B. Life insurance coverage is not included.
- C. To be eligible to continue medical and dental coverage, the employee must:
 - 1. be qualified for a deferred retirement under the 1937 Retirement Act provisions;
 - 2. be an active member of a County group medical and/or dental plan at the time of filing their deferred retirement application and elect to continue health benefits;
 - 3. be eligible for a monthly allowance from the Retirement System and direct receipt of a monthly allowance within twenty-four (24) months of their application for deferred retirement;
 - 4. file an election to defer retirement and to receive retiree health benefits hereunder with the County Benefits Division within thirty (30) days before their separation from county service.
- D. Deferred retirees who elect continued health benefits hereunder may maintain continuous membership in their County medical and/or dental plan group during the period of deferred retirement at their full personal expense, by paying the full premium for their medical and dental coverage on or before the tenth (10th) of each month to the Auditor-Controller. When they begin to receive retirement benefits, they will qualify for the same medical and/or dental plan coverage and County subvention to which similarly situated retirees who did not defer retirement are entitled.
- E. Deferred retirees may elect retiree health benefits hereunder but may elect not to maintain participation in their County medical and/or dental plan during their deferred retirement period. When they begin to receive retirement benefits, they will qualify for the same health coverage pursuant to Section 18.7, subsection (A), above, as similarly situated retirees who did not defer retirement, provided

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reinstatement to a County group health plan will only occur following a three (3) full calendar month waiting period after the month in which their retirement allowance commences.

- F. Employees who elect deferred retirement will not be eligible in any event for County health plan subvention unless the member draws a monthly retirement allowance within twenty-four (24) months after separation from County service.
- G. Deferred retirees and their eligible family members are required to meet the same eligibility provisions for retiree health coverage as similarly situated retirees who did not defer retirement.

18.12 Child Care. The County will continue to support the concept of non-profit childcare facilities similar to the “Kid’s at Work” program established in the Public Works Department.

18.13 Dependent Care Assistance Program: The County offers the option of enrolling in a Dependent Care Assistance Program (DCAP) designed to qualify for tax savings under Section 129 of the Internal Revenue Code, but such savings are not guaranteed. The program allows employees to set aside up to five thousand dollars (\$5,000) of annual salary (before taxes) per calendar year to pay for eligible dependent care (child and elder care) expenses. Any unused balance is forfeited and cannot be recovered by the employee.

18.14 Life Insurance Benefit Under Health and Dental Plans: For employees who are enrolled in the County’s program of medical or dental coverage as either the primary or the dependent, term life insurance in the amount of ten thousand dollars (\$10,000) will be provided by the County.

18.15 Supplemental Life Insurance: In addition to the life insurance benefits provided by this agreement, employees may subscribe voluntarily and at their own expense for supplemental life insurance. Employees may subscribe for an amount not to exceed five hundred thousand dollars (\$500,000), of which one hundred thousand (\$100,000) is a guaranteed issue, provided the election is made within the required enrollment periods.

18.16 Premium Conversion Plan: The County offers the Premium Conversion Plan (PCP) designed to qualify for tax savings under Section 125 of the Internal Revenue Code, but tax savings are not guaranteed. The program allows employees to use pre-tax dollars to pay health and dental premiums.

18.17 Prevailing Section: To the extent that any provision of this Section (Section 18 Health, Life & Dental Care) is inconsistent with any provision of any other County enactment or policy, including but not limited to Administrative Bulletins, the Salary Regulations, the Personnel Management Regulations, or any other agreement or order of the Board of Supervisors, the provision(s) of this Section (Section 18 Health, Life & Dental Care) will prevail.

SECTION 19 – PROBATIONARY PERIOD

SECTION 19 – PROBATIONARY PERIOD

19.1 Duration. All appointments from officially promulgated employment lists for original entrance or promotion shall be subject to a probationary period. This period shall be from six (6) months to two (2) years duration.

19.2 Probationary Period in Excess of Six Months. Those classes represented by the Association which have probation periods in excess of six (6) months: None.

19.3 Revised Probationary Period. When the probationary period for a class is changed, only new appointees to positions in the classification shall be subject to the revised probationary period.

19.4 Criteria. The probationary period shall commence from the date of appointment. It shall not include time served in provisional or temporary appointments or any period of continuous absence exceeding fifteen (15) calendar days except as otherwise provided by law. For those employees appointed to permanent-intermittent positions with a six (6) month probation period, probation will be considered completed upon serving one thousand (1,000) hours after appointment except that in no instance will this period be less than six (6) calendar months from the beginning of probation. If a permanent-intermittent probationary employee is reassigned to full time, credit toward probation completion in the full-time position shall be prorated on the basis of one hundred seventy-three (173) hours per month. For employees appointed to permanent part-time positions with a six (6) month probation period, probation will be considered completed after serving six (6) months in the permanent part-time position.

19.5 Rejection During Probation. An employee who is rejected during the probation period and restored to the eligible list shall begin a new probationary period if subsequently certified and appointed.

- A. **Appeal From Rejection.** Notwithstanding any other provisions of this section, an employee (probationer) shall have the right to appeal from any rejection during the probationary period based on political, or religious, or Union activities, or race, color, national origin, sex, age, disability, or sexual orientation, or as otherwise provided by law.
- B. The appeal must be written, must be signed by the employee and set forth the grounds and facts by which it is claimed that grounds for appeal exist under Subsection A and must be filed through the Director of Human Resources to the Merit Board by 5:00 p.m. on the seventh (7th) calendar day after the date of delivery to the employee of notice of rejection.
- C. The Merit Board shall consider the appeal, and if it finds probable cause to believe that the rejection may have been based on grounds prohibited in Subsection A, it may refer the matter to a Hearing Officer for hearing, recommended findings of fact, conclusions of law and decision, pursuant to the relevant provisions of the Merit Board rules in which proceedings the rejected probationer has the burden of proof.

SECTION 19 – PROBATIONARY PERIOD

- D. If the Merit Board finds no probable cause for a hearing, it shall deny the appeal. If, after hearing, the Merit Board upholds the appeal, it shall direct that the appellant shall begin a new probationary period unless the Merit Board specifically reinstates the former period.

19.6 Regular Appointment. The regular appointment of a probationary employee shall begin on the day following the end of the probationary period, subject to the condition that the Director of Human Resources receives from the appointing authority a statement in writing that the services of the employee during the probationary period were satisfactory and that the employee is recommended for permanent appointment. A probationary employee may be rejected at any time during the probation period without regard to the Skelly provisions of this MOU, without notice and without right of appeal or hearing. If the appointing authority has not returned the probation report, a probationary employee may be rejected from the service within a reasonable time after the probation period for failure to pass probation. The department will make every effort to process the probation report in a timely manner, with the intent of completing it before the end of the probation period. If the appointing authority fails to submit in a timely manner the proper written documents certifying that a probationary employee has served in a satisfactory manner and later acknowledges it was his or her intention to do so, the regular appointment shall begin on the day following the end of the probationary period. Notwithstanding any other provisions of the MOU, an employee rejected during the probation period from a position in the merit system to which the employee had been promoted or transferred from an eligible list, shall be restored to a position in the department from which the employee was promoted or transferred.

An employee dismissed for other than disciplinary reasons within six (6) months after being promoted or transferred from a position in the merit system to a position not included in the merit system shall be restored to a position in the classification in the department from which the employee was promoted or transferred.

A probationary employee who has been rejected or has resigned during probation shall not be restored to the eligible list from which the employee was certified unless the employee receives the affirmative recommendation from the appointing authority and is certified by the Director of Human Resources whose decision is final.

The Director of Human Resources shall not certify the name of a person restored to the eligible list to the same appointing authority by whom the person was rejected from the same eligible list, unless such certification is requested in writing by the appointing authority.

19.7 Layoff During Probation. An employee, who is laid off during probation, if reemployed in the same class by the same department, shall be required to complete only the balance of the required probation.

If reemployed in another department or in another classification, the employee shall serve a full probationary period. An employee appointed to a permanent position from a layoff or reemployment list is subject to a probation period if the position is in a

SECTION 20 – PROMOTION

department other than the department from which the employee separated, displaced, or voluntarily demoted in lieu of layoff. An appointment from a layoff or reemployment list is not subject to a probation period if the position is in the department from which the employee separated, displaced or voluntarily demoted in lieu of layoff.

19.8 Rejection During Probation of Layoff Employee. An employee who has achieved permanent status in the class before layoff and who subsequently is appointed from the layoff list and then rejected during the probation period shall be automatically restored to the layoff list, unless discharged for cause, if the person is within the period of layoff eligibility. The employee shall begin a new probation period if subsequently certified and appointed in a different department or classification than that from which the employee was laid off.

SECTION 20 – PROMOTION

20.1 Competitive Exam. Promotion shall be by competitive examination unless otherwise provided in this MOU.

20.2 Promotion Policy. The Director of Human Resources, upon request of an appointing authority, shall determine whether an examination is to be called on a promotional basis.

20.3 Promotion Via Reclassification Without Examination. Notwithstanding other provisions of this Section, an employee may be promoted from one classification to a higher classification and his/her position reclassified at the request of the appointing authority and under the following conditions:

- A. An evaluation of the position(s) in question must show that the duties and responsibilities have significantly increased and constitute a higher level of work.
- B. The incumbent of the position must have performed at the higher level for one (1) year.
- C. The incumbent must meet the minimum education and experience requirements for the higher class.
- D. The action must have approval of the Director of Human Resources.
- E. The Association approves such action.

The appropriate rules regarding probationary status and salary on promotion are applicable.

20.4 Requirements for Promotional Standing. In order to qualify for an examination called on a promotional basis, an employee must have probationary or permanent status in the merit system and must possess the minimum qualifications for the class. Applicants will be admitted to promotional examinations only if the requirements are met on or before the final filing date. If an employee who is qualified

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on a promotional employment list is separated from the merit system, except by layoff, the employee's name shall be removed from the promotional list.

20.5 Seniority Credits. Employees who have qualified to take promotional examinations and who have earned a total score, not including seniority credits, of seventy percent (70%) or more, shall receive, in addition to all other credits, five one hundredths (.05) of one percent for each completed month of service as a permanent County employee continuously preceding the final date for filing application for said examination. For purposes of seniority credits, leaves of absence shall be considered as service. Seniority credits shall be included in the final percentage score from which the rank on the promotional list is determined. No employee, however, shall receive more than a total of five percent (5%) credit for seniority in any promotional examination.

20.6 Physical Examination. County employees who are required as part of the promotional examination process to take a physical examination shall do so on County time at County expense.

SECTION 21 – TRANSFER

21.1 Requirements. The following conditions are required in order to qualify for transfer:

- A. The position shall be in the same class, or if in a different class shall have been determined by the Director of Human Resources to be appropriate for transfer on the basis of minimum qualifications and qualifying procedure;
- B. the employee shall have permanent status in the merit system and shall be in good standing;
- C. the appointing authority or authorities involved in the transaction shall have indicated their agreement in writing;
- D. the employee concerned shall have indicated agreement to the change in writing;
- E. the Director of Human Resources shall have approved the change.

Notwithstanding the foregoing, transfer may also be accomplished through the regular appointment procedure provided that the individual desiring transfer has eligibility on a list for a class for which appointment is being considered.

21.2 Procedure. Any employee or appointing authority who desires to initiate a transfer may inform the Director of Human Resources in writing of such desire stating the reasons therefore. If the Director of Human Resources considers that the reasons are adequate and that the transfer will be for the good of the County service and the parties involved, the Director of Human Resources shall inform the appointing authority

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or authorities concerned and the employee of the proposal and may take the initiative in accomplishing the transfer.

21.3 Bid Procedure. Permanent employees in all classes represented by this bargaining unit may bid on open jobs in the same classification throughout the Health Services Department. All open jobs will be offered to presently assigned permanent employees for bid. The following procedures shall apply:

- A. Responsibility. Implementation of the bidding procedure is the responsibility of the Supervisor ("Supervisor") of the vacated or newly created position.
- B. Job Notices Posted Five (5) Days Only. Open job notices shall be posted for five (5) calendar days in specific locations mutually agreed upon by the Association and the County. RN and FNP postings shall be maintained in binders at the Nursing Administration Office and at Health Services Personnel. All postings shall be retained for forty-five (45) days. The notice shall specify all job factors and shall be posted only once. If there are no bidders, the Department Head may fill the position by using the merit system eligible list or by making internal reassignments.

A late bid shall be accepted if the nurse can demonstrate he/she was authorized to be off during the entire posting period.
- C. All Open Jobs Must be Posted. All job openings which may occur by creation of new jobs, separation, promotion, demotion, or reassignment must be posted for permanent employee bidding.
- D. Eligible Bidders. All permanent full-time, permanent part-time and permanent-intermittent employees in the Health Services Department may bid on any open permanent position in the same classification anywhere else in the Health Services Department including Public Health. Employees who are in temporary or provisional positions and employees still on probation in a permanent position may not bid.
- E. Bidder Selection.
 - 1. Bids from within the unit of posting. It is agreed that employees currently working in the unit that has the posted vacancy would be the most qualified pool of candidates. The bid will be awarded to unit employees requesting hour or shift changes in accordance with this provision. In the case of two (2) or more candidates submitting a bid from within the unit of vacancy, the position will be awarded to the candidate holding the most RN unit seniority.

The manager may select the next most senior bidder within the unit of vacancy in the event that the most senior bidder within the unit of vacancy has more than two (2) written counseling or disciplinary memos administered within the past two (2) years; two (2) or more below standard

SECTION 22 – RESIGNATIONS

annual performance evaluations in the past four (4) years; or an active corrective action plan.

2. Bids for outside of the unit or posting: The Supervisor shall interview each employee submitting a bid and select the person to fill the position they deem most qualified by virtue of education, training, and experience. In the event two (2) or more bidders are equally well qualified, the position will be filled by the most senior employee submitting a bid. In all cases, the person selected must possess the minimum qualifications (as described in the job specification) for the skill level of the position they are selected to fill (i.e. trainee, entry, experienced, advanced, etc.). Unsuccessful bidders will be so notified in writing on forms agreed to between the Association and the department as soon as possible following the conclusion of the interviews, but not later than the date upon which the successful bidder is notified of selection. The bid results form is not an employment record and will not be used for subsequent employment-related decisions.
- F. No Old Job Claim. The selected bidder shall have no claim on the job that the selected bidder left. If the decision is made by either the supervisor or the employee to seek immediate reassignment, the employee must take another open job (not bid on). The old job may not be reclaimed because the employee once held it.
- G. Minimum Job Time—Three (3) Months. Employees must have had three (3) months in their reassigned position before they may bid on another open position. Time period begins the date they begin working in the new assignment.
- H. Bidding While on Leave. Employees interested in a particular assignment and wishing to be notified of an open position while on authorized absence from work (not day off) may leave a bid form or a self-addressed, stamped envelope with the Supervisor of the position in which they are interested.

21.4 Advanced Level Transfer and Training. The County agrees to modify the RN Advanced Level job classification to allow employees occupying such classifications to transfer to a different RN Advanced level position and maintain RN Advanced level pay, provided that the employee meets the expectations of the position specifications within six (6) months of the transfer.

SECTION 22 – RESIGNATIONS

An employee's voluntary termination of service is a resignation. Written resignations shall be forwarded to the Human Resources Department by the appointing authority immediately on receipt, and shall indicate the effective date of termination. Oral resignation shall be immediately confirmed by the appointing authority in writing to the employee and to the Human Resources Department and shall indicate the effective date of termination.

SECTION 22 – RESIGNATIONS

22.1 Resignation in Good Standing. A resignation giving the appointing authority written notice at least two (2) weeks in advance of the last date of service (unless the appointing authority requires a longer period of notice, or consents to the employee's terminating on shorter notice) is a resignation in good standing.

22.2 Constructive Resignation. A constructive resignation occurs and is effective when:

- A. an employee has been absent from duty for ten (10) consecutive working days without leave; and
- B. ten (10) more consecutive days have elapsed without response by the employee after the mailing of a notice of resignation by the appointing authority to the employee at the employee's last known address.

22.3 Effective Resignation. A resignation is effective when delivered or spoken to the appointing authority, operative either on that date or another date specified.

22.4 Revocation. A resignation that is effective is revocable only by written concurrence of the employee and the appointing authority.

22.5 Coerced Resignations.

- A. Time Limit. A resignation which the employee believes has been coerced by the appointing authority, may be revoked within seven (7) calendar days after its expression by serving written notice on the Director of Human Resources and a copy on the appointing authority.
- B. Reinstatement. If the appointing authority acknowledges that the employee could have believed that the resignation was coerced, it shall be revoked and the employee returned to duty effective on the day following the appointing authority's acknowledgment without loss of seniority or pay.
- C. Contest. Unless, within seven (7) days of the receipt of the notice, the appointing authority acknowledges that the resignation could have been believed to be coerced, this question should be handled as an appeal to the Merit Board. In the alternative, the employee may file a written election with the Director of Human Resources waiving the employee's right of appeal to the Merit Board in favor of the employee's appeal rights under the grievance procedure contained in Section 24 – Grievance Procedure.
- D. Disposition. If a final decision is rendered that determines that the resignation was coerced, the resignation shall be deemed revoked and the employee returned to duty effective on the day following the decision but without loss of seniority or pay, subject to the employee's duty to mitigate damages.

22.6 Eligibility for Reemployment. Within one (1) year of resignation in good standing from County service, a person who has had permanent status which included

SECTION 23 – DISMISSAL, SUSPENSION, AND DEMOTION

satisfactory completion of probation may make application by letter to the Director of Human Resources for placement on a reemployment list as follows: The class from which the person resigned, or any one class of equal or lesser rank in the occupational series and in which the person had previously attained permanent status, or for any class or deep class which has replaced the class in which the person previously had status, provided that the person meets the minimum requirements for the new class. If the appointing authority of the department from which the person resigned recommends reemployment, the Director of Human Resources shall grant reemployment privileges to the person. If the appointing authority does not recommend reemployment, the employee may appeal to the Director of Human Resources. Consideration of names from a reemployment list is mandatory if the appointing authority recommended reemployment of the individual(s) listed but is optional for other appointing authorities.

SECTION 23 – DISMISSAL, SUSPENSION, AND DEMOTION

23.1 Sufficient Cause for Action. The appointing authority may dismiss, suspend, or demote, any employee for cause. The following are sufficient causes for such action. The list is indicative rather than inclusive of restrictions and dismissal, suspension or demotion may be based on reasons other than those specifically mentioned:

- A. absence without leave;
- B. conviction of any criminal act involving moral turpitude;
- C. conduct tending to bring the merit system into disrepute;
- D. disorderly or immoral conduct;
- E. incompetence or inefficiency;
- F. insubordination;
- G. being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs, or consuming or using liquor or drugs during work hours and/or on County premises;
- H. neglect of duty;
- I. negligent or willful damage to public property or waste of public supplies or equipment;
- J. violation of any lawful or reasonable regulation or order given by a supervisor or Department Head;
- K. willful violation of any of the provisions of the merit system ordinance or Personnel Management Regulations;

SECTION 23 – DISMISSAL, SUSPENSION, AND DEMOTION

- L. material and intentional misrepresentation or concealment of any fact in connection with obtaining employment;
- M. misappropriation of County funds or property;
- N. unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by this MOU;
- O. dishonesty or theft;
- P. excessive or unexcused absenteeism and/or tardiness;
- Q. sexual harassment, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an individual's work performance, or creating an intimidating and hostile working environment.

23.2 Skelly Requirements. Notice of Proposed Action (Skelly Notice). Before taking a disciplinary action to dismiss, suspend for more than five (5) workdays (four [4] workdays for employees on 4/10 workweek), demote or reduce in salary any employee, the appointing authority shall cause to be served personally or by certified mail on the employee a Notice of Proposed Action which shall contain the following:

- A. A statement of the action proposed to be taken.
- B. A copy of the charges, including the acts or omissions and grounds upon which the action is based.
- C. If it is claimed that the employee has violated a rule or regulation of the County, department or district, a copy of said rule shall be included with the notice.
- D. A statement that the employee may review and request copies of materials upon which the proposed action is based.
- E. A statement that the employee has seven (7) calendar days to respond to the appointing authority either orally or in writing.

Employee Response. The employee upon whom a Notice of Proposed Action has been served shall have seven (7) calendar days to respond to the appointing authority either orally or in writing before the proposed action may be taken. Upon request of the employee and for good cause, the appointing authority may extend in writing the period to respond. If the employee's response is not filed within seven (7) days or during any extension, the right to respond is lost.

23.3 Leave Pending Employee Response. Pending response to a Notice of Proposed Action within the first seven (7) days or extension thereof, the appointing

SECTION 24 – GRIEVANCE PROCEDURE

authority for cause specified in writing may place the employee on temporary leave of absence with pay.

23.4 Length of Suspensions. Suspensions without pay shall not exceed thirty (30) days unless ordered by an arbitrator, an adjustment board, or the Merit Board.

23.5 Procedure on Dismissal, Suspension, or Disciplinary Demotion.

- A. In any disciplinary action to dismiss, suspend, or demote an employee having permanent status in a position in the merit system, after having complied with the Skelly requirements where applicable, the appointing authority shall make an order in writing stating specifically the causes for the action.
- B. Service of Order. Said order of dismissal, suspension, or demotion shall be filed with the Director of Human Resources, showing by whom and the date a copy was served upon the employee to be dismissed, suspended or demoted, either personally or by certified mail to the employee's last known mailing address. The order shall be effective either upon personal service or deposit in the U. S. Postal Service.
- C. Employee Appeals from Order. The employee may appeal an order of dismissal, suspension or demotion either to the Merit Board or through the procedures of Section 24 – Grievance Procedure of this MOU provided that such appeal is filed in writing with the Director of Human Resources within ten (10) calendar days after service of said order. An employee may not both appeal to the Merit Board and file a grievance under Section 24 – Grievance Procedure of this MOU.

23.6 Employee Representation Rights. The County recognizes an employee's right to representation during any disciplinary interview or meeting which may result in discipline. The County will not interfere with the representative's right to assist an employee to clarify the facts during the interview.

SECTION 24 – GRIEVANCE PROCEDURE

24.1 Definition and Procedural Steps. A grievance is any dispute which involves the interpretation or application of any provision of this MOU excluding, however, those provisions of this MOU which specifically provide that the decision of any County official shall be final. The interpretation or application of those provisions not being subject to the grievance procedure. The Union may represent the grievant at any stage of the process.

Grievances must be filed within thirty (30) calendar days of the incident or occurrence about which the grievant claims to have a grievance and shall be processed in the following manner:

Step 1. EMPLOYEE: The Union and any employee or group of employees who believes that a provision of this MOU has been misinterpreted or misapplied to his or

SECTION 24 – GRIEVANCE PROCEDURE

her detriment shall discuss the complaint with the grievant's immediate supervisor, who shall meet with the grievant within five (5) business days of receipt of a written request to hold such meeting.

Step 2. DEPARTMENT: If a grievance is not satisfactorily resolved in Step 1 above, the grievance may be submitted in writing to Health Services Personnel Department. This request shall be filed no more than ten (10) business days after the completion of Step 1. This formal written grievance shall state which provision of the MOU has been misinterpreted or misapplied, how misapplication or misinterpretation has affected the grievant, and the remedy he or she seeks. Each written grievance shall be copied to the Director of Human Resources. The HSD Personnel Department shall have ten (10) business days in which to respond to the grievance in writing. If either the Union or grievant request a meeting with the Department Head or his/her designee at this step, such a meeting will be held.

Step 3. BOARD OF ADJUSTMENT: Pursuant to a formal written request by the Union, as defined above, if the grievance is not satisfactorily resolved in Step 2, the Union may file, within fifteen (15) business days of the Step 2 response, a request to convene a Board of Adjustment. The Board of Adjustment shall be created to be composed of two (2) representatives of each party to this Agreement, for the purpose of passing on all claims, disputes and grievances arising between the parties during the term of this MOU. Said Board shall meet for consideration of any such matter referred to it within ten (10) business days after receipt of said written request. For cases other than those which are disciplinary in nature, the convening of the Board of Adjustment may be waived. The request of either party to extend the time limit for the convening of the Board of Adjustment due to extenuating circumstances will not be unreasonably denied. If the matter is not adjusted and is impassed, the moving party shall communicate in writing to the other party, within twenty (20) business days, following the meeting of the Board of Adjustment, their desire to proceed to arbitration. Failure of the moving party to comply with the twenty (20) business day time limit herein specified shall be deemed to be a conclusive waiver of the grievance.

Step 4. ARBITRATION: For grievances processed through the Board of Adjustment the following expedited procedure shall be utilized:

- A. The parties may mutually agree to the selection of an Arbitrator. Absent agreement on Arbitrator selection, the parties may request a panel from the State Mediation Service. The parties will strike from the Mediation panel list. The Arbitrator selected will provide the parties with hearing dates within thirty (30) calendar days of the request.
- B. The parties shall be allotted a minimum of twenty (20) business days from date of request to prepare the case for arbitration. Discharge cases will be heard first on the agenda followed by suspension cases based on date of occurrence unless mutually agreed otherwise.
- C. Each case will be argued orally unless either party requests to file post-hearing briefs. At the conclusion of the hearing, the arbitrator shall issue a decision

SECTION 25 - COMPENSATION COMPLAINTS

within three (3) business days from the close of the hearing. A written opinion and award will be furnished within thirty (30) calendar days thereafter.

- D. **INTERPRETATION OR APPLICATION DISPUTES:** For contract interpretation disputes which proceed to arbitration, the parties will mutually select an impartial Arbitrator. If the parties are unable to agree upon the selection of an arbitrator, they shall request a panel of Arbitrators from the FMCS or the State Mediation Service and they shall select an arbitrator by utilizing the strike-off method.
- E. Each party shall in good faith divulge to the other party all available material facts at the time said party acquires knowledge thereof concerning the matter in dispute. Nothing contained herein shall require either party to supply documents which are irrelevant.
- F. All jointly-incurred arbitration expenses shall be borne by the losing party. In the event of a dispute concerning the application of this section, the Arbitrator shall be empowered to determine the allocation of expenses.
- G. The Arbitrator shall not have the right to alter, amend, delete or add to any of the terms of this MOU.

In termination cases, it is agreed that if a grievant is reinstated to employment with full back pay, the County shall pay the jointly-incurred costs of the arbitration. If a grievant is not reinstated, the Union shall pay the jointly-incurred costs of the arbitration. If a grievant is reinstated with partial or no back pay, the parties shall split the jointly-incurred costs of the arbitration.

24.2 Time Limits. The time limits specified above may be waived by mutual agreement of the parties to the grievance. If the County fails to meet the time limits specified in Steps 1 through 4 above, the grievance will automatically move to the next step. If an employee fails to meet the time limits specified in Steps 1 through 4 above, the grievance will be deemed to have been settled and withdrawn.

24.3 Union Notification. An official, with whom a formal grievance is filed by a grievant, who is included in a unit represented by the Union, but is not represented by the Union in the grievance, shall give the Union a copy of the formal presentation.

SECTION 25 - COMPENSATION COMPLAINTS

The Employer is not required to pay any wage claim or portion thereof retroactively for a period of more than six (6) months immediately prior to the date of the Employer's receipt of written notice, of such claim. No change in this MOU or interpretations thereof (except interpretations resulting from Adjustment Board or arbitration proceedings hereunder) will be recognized unless agreed to by the County and the Association.

SECTION 26 - MERIT BOARD

SECTION 26 - MERIT BOARD

- A. All grievances of employees in representation units represented by the Association shall be processed under Section 24 – Grievance Procedure unless the employee elects to apply to the Merit Board on matters within its jurisdiction.
- B. No action under Step 3, and 4, of Subsection 24.1- Grievance Procedure, Definition and Procedural Steps shall be taken if action on the complaint or grievance has been taken by the Merit Board, or if the complaint or grievance is pending before the Merit Board.

SECTION 27 - NO STRIKE

- A. During the term of this MOU, the Association, its members and representatives, agree that it and they will not engage in, authorize, sanction, or support any strike, slowdown, stoppage of work, sickout, or refusal to perform customary duties.
- B. **For non CNA strikes:** In the case of a legally declared lawful strike against a private or public sector employer which has been sanctioned and approved by the labor body or council having jurisdiction, an employee who is in danger of physical harm shall not be required to cross the picket line, provided the employee advises his or her supervisor as soon as possible, and provided further that an employee may be required to cross a picket line where the performance of his or her duties is of an emergency nature and/or failure to perform such duties might cause or aggravate a danger to public health or safety.

CNA agrees that the following are essential Registered Nurses who will be allowed by CNA to work in the event of a strike by another union during the term of this MOU:

Unit	RNs/shift
CSU	3
ICU	4
IMCU	4
Nursery	2
L&D	4
Med	8
Surg	6
Post-P	2
OR	3 on days, 2 on-call PMs and Nights
PACU	2 on days, 1 on-call PMs and Nights
ED	7
Inpt Psych	6

SECTION 28 – BILINGUAL PAY

A salary differential of eighty dollars (\$80.00) per month shall be paid incumbents of positions requiring bilingual proficiency as designated by the appointing authority and Director of Human Resources. Said differential shall be paid to eligible employees in paid status for any portion of a given month. Designation of positions for which bilingual proficiency is required is the sole prerogative of the County. Effective July 1, 2008, the differential shall be increased to one hundred dollars (\$100) per month.

If during the calendar year of 2008, the County increases the Bilingual Pay for Public Employees Local One, the County will extend that increase to CNA bargaining unit members. The increase will be implemented with the same effective date as applicable for Public Employees Local One, on a prospective basis only.

SECTION 29 – RETIREMENT

29.1 Contribution.

- A. **Contribution for Registered Nurses Unit.** Pursuant to Government Code Section 31581.1, for employees in classifications in the Registered Nurses Unit, the County will continue to pay fifty percent (50%) of the retirement contributions normally required of employees. Such payments shall continue for the duration of this MOU, and shall terminate thereafter. Employees shall be responsible for payment of the employee's contribution for the retirement cost-of-living program as determined by the Board of Retirement of the Contra Costa County Employees' Retirement Association without the County paying any part of the employee's share. The County will pay the remaining one-half (1/2) of the retirement cost-of-living program contribution.
- B. **Contribution for Public Health Nurse Unit.** Effective on January 1, 2012 employees in classifications in the Public Health Nurse Unit are responsible for the payment of one hundred percent (100%) of the employees' basic retirement benefit contributions determined annually by the Board of Retirement of the Contra Costa County Employees' Retirement Association without the County paying any part of the employees' contribution. Employees are also responsible for the payment of the employees' contributions to the retirement cost of living program as determined annually by the Board of Retirement without the County paying any part of the employees' contributions. The County is responsible for one hundred percent (100%) of the employer's retirement contributions determined annually by the Board of Retirement.

29.2 Retirement Benefits for Registered Nurses Unit and Public Health Nurse Unit

- A. **Retirement Benefit for Registered Nurses Unit - Employees who become New Members of CCCERA on or after January 1, 2013.**

SECTION 29 - RETIREMENT

1. For employees who, under the California Public Employees Pension Reform Act of 2013 (PEPRA), become New Members of the Contra Costa County Employees Retirement Association (CCCERA) system on or after January 1, 2013, retirement benefits are governed by PEPRA, (Chapters 296, 297, Statutes of 2012). To the extent this Agreement conflicts with any provision of PEPRA, PEPRA will govern.
2. For employees who, under PEPRA, become New Members of CCCERA on or after January 1, 2016, the cost of living adjustment to the retirement allowance will not exceed two percent (2%) per year, and the cost of living adjustment will be banked.

B. Retirement Benefit for Public Health Nurses Unit- Employees who become New Members of CCCERA on or after January 1, 2013

1. For employees who, under PEPRA, become New Members of the Contra Costa County Employees Retirement Association (CCCERA) on or after January 1, 2013, retirement benefits are governed by the California Public Employees Pension Reform Act of 2013 (PEPRA), (Chapters 296, 297, Statutes of 2012). To the extent this Agreement conflicts with any provision of PEPRA, PEPRA will govern.
 2. For employees hired by the County after June 30, 2014, who, under PEPRA, become New Members of CCCERA, the cost of living adjustment to the retirement allowance will not exceed two percent (2%) per year, and the cost of living adjustment will be banked.
- C. For employees in the Registered Nurses Unit and Public Health Nurse Unit who, under PEPRA, become New Members of CCCERA, the disability provisions are the same as the current Tier III disability provisions.
- D. The County will seek legislation amending the County Employees Retirement Law of 1937 to clarify that the current Tier III disability provisions apply to employees in the Registered Nurses Unit and Public Health Nurse Unit who, under PEPRA, become New Members of CCCERA. CNA will support the passage of the legislation and upon the County's request, will call and send a letter (on CNA letterhead) in support of the bill to the state legislator sponsoring the bill. In addition, upon the County's request, CNA will testify in support of the bill before the state legislative committees considering the bill.

29.3 Tier III. Subject to the enactment of enabling legislation amending the 1937 Employees' Retirement Act to allow such election, the County will permit certain Tier II employees to elect a Tier III Retirement Plan under the following conditions:

- A. The County and the Labor Coalition must agree on the wording of the legislation and both parties must support the legislation.
- B. Except for disability, all benefit rights, eligibility for and amounts of all other benefit entitlements for Tier III, from and after the date of implementation, shall

SECTION 29 - RETIREMENT

be the same as Tier I. The disability benefits for Tier III shall be the same as the current Tier II disability provisions.

- C. The amount of the employee's required retirement contribution shall be established by the County Employees' Retirement Association and shall be based on the employee's age at entry into the retirement system.
- D. Employees represented by the Labor Coalition and enrolled in Tier II who have attained five (5) years of retirement credited service as of the effective date of the enabling legislation shall have a six (6) month period after such date to make a one (1) time irrevocable election of the Tier III Retirement Plan expressed herein subject to action by the Board of Supervisors to implement the Plan. Thereafter, employees represented by the Labor Coalition enrolled in Tier II who have attained five (5) years of retirement credited service shall have a ninety (90) day period to make a one (1) time irrevocable election of the Tier III Retirement Plan expressed herein.
- E.
 - 1. The County's employer contributions and subvention of employee contributions for Labor Coalition employees electing Tier III which exceed those which would be required for Tier II membership shall:
 - a. be funded by reducing the general wage increase agreed upon to be effective October 1, 1997, and the pay equity amounts attributable thereto, by a percentage sufficient to reduce the County's wage obligation by three (\$3) million dollars per year, and the general wage increase of all employees represented by the Labor Coalition shall be reduced accordingly; and
 - b. in the event the County's costs attributable to the creation and operation of Tier III exceed three (\$3) million dollars per year, or the County Employees' Retirement Association's actuaries determine in future years that the County's retirement costs have increased and that the increase is attributable to the creation of Tier III and/or the impact of Tier III on the County's retirement costs, such increase shall be funded by reducing the general wage increase(s) agreed upon in future years, and the pay equity amounts attributable thereto, to the extent that future wage increases are granted; and the general wage increase(s) of all employees represented by the Labor Coalition shall be reduced accordingly; and
 - c. in the event the County's costs attributable to the Tier III Retirement Plan are less than three (\$3) million dollars per year, the difference shall be divided by twelve (12) and each twelfth (12th) shall be augmented by an amount equal to the County's common pooled fund interest which would have accrued if one-twelfth (1/12th) had been invested in the first month of the past year, two-twelfths (2/12th) in the second month of the past year and so forth; and

SECTION 29 - RETIREMENT

- d. any savings to the County resulting from the creation and operation of Tier III shall be used to offset future County retirement cost increases attributable to the creation and operation of Tier III; and
 - e. County savings shall be held in an account by the Auditor-Controller which is invested in the County's common pooled fund and will accrue interest accordingly. The County will report yearly to the Labor Coalition on a) the beginning account balance, b) the interest earned, c) expenditures from the account to cover increased costs resulting from the Tier III Retirement Plan, and d) the ending account balance.
- 2. Any increased costs to the County, due to Tier III participation by employees not represented by the Labor Coalition, shall not be funded by reduction of general wage increases otherwise due to the employees represented by the Labor Coalition.
- 3. Subject to the provisions expressed above, any and all additional employer and County-paid employee contributions which exceed the sum of the County's legally required contributions under Tier II shall be recovered by reducing general wage increases to the employees represented by the Labor Coalition.
- 4. Any disputes regarding cost or savings shall be subject to binding arbitration upon demand of the Labor Coalition or the County.
- F.
 - 1. The enabling legislation shall provide that the Tier III Retirement Plan may be implemented only by an ordinance enacted by the Board of Supervisors.
 - 2. Board of Supervisors' action to implement the Tier III Retirement Plan shall be taken not earlier than seven (7) months after the effective date of the legislation plus thirty (30) days after an actuarial report on the County cost of the Plan is received by the County, provided that before enactment of the ordinance, the Labor Coalition has not notified the County in writing that a one percent (1%) wage increase shall be implemented by the County effective October 1, 1997, without interest, in lieu of implementation of the Tier III Retirement Plan.
- G. The establishment of the Tier III Retirement Plan pursuant to the terms of this Memorandum of Understanding shall be subject to approval by the Board of Retirement of the Contra Costa County Employees' Retirement Association.
- H. In the event the County is prevented from implementing the Tier III Retirement Plan for any reason on or before the termination date of this MOU, the agreement of the parties regarding a Tier III Retirement Plan shall expire and a one percent (1%) lump sum wage increase shall be implemented by the County within sixty (60) days after the determination that Tier III cannot be implemented

SECTION 30 – TRAINING REIMBURSEMENT

or as soon thereafter as practicable for the period covering October 1, 1997 through such termination date, without interest, in lieu of the Tier III Retirement Plan.

Effective January 1, 2005, Tier II of the retirement plan for employees represented by the California Nurses Association shall be eliminated and all employees in Tier II of the retirement plan shall be placed in Tier III.

- I. Effective January 1, 2005, employees in classifications in the Registered Nurses Unit who are in Tier II with ten (10) or more years of County/District service will be eligible to participate in the County's buy-back program. Employees may replace Tier II benefits with Tier III benefits as follows:
 1. Employee buys back two (2) years, County will buy back one (1) year for a total of three (3) years of buyback.
 2. Employee buys back four (4) years, County will buy back two (2) years for a total of six (6) years of buyback.
 3. Employee buys back six (6) years, County will buy back three (3) years for a total of nine (9) years of buyback.
- J. The Buy Back program set forth in Section 29.3 (Tier III) subsection I, which makes certain employees eligible to replace Tier II service time with Tier III service time on specified terms terminates on July 1, 2015. The Auditor-Controller will continue to facilitate payroll deduction, if applicable.

SECTION 30 – TRAINING REIMBURSEMENT

30.1 Career Development. Career development training reimbursement shall be limited to six hundred fifty dollars (\$650.00) per calendar year for employees who regularly work twenty-four (24) or more hours per week. Employees who regularly work less than twenty-four (24) hours per week shall be limited to two hundred dollars (\$200.00) per calendar year, and one hundred and twenty-five dollars (\$125.00) may be used for items listed under professional career development.

Up to three hundred and fifty dollars (\$350.00) per calendar year may be applied to continuing education courses or job-related software with the approval of the Manager/Division Head. Such reimbursement may be carried over into the next fiscal year; however, the maximum reimbursement in any fiscal year may not exceed seven hundred dollars (\$700.00).

Up to six hundred fifty dollars (\$650.00) may be reimbursed for professional career development with an emphasis in the following areas:

- A. University or college credit coursework required of an accredited nursing curriculum;

SECTION 31 – EDUCATION LEAVE

- B. Nursing/Medical textbooks, journals and on-line texts and journals that are directly related to the job;
- C. Attainment or renewal of national certification in specialty of nursing including review course tuition and materials;
- D. Attendance at educational meetings in areas of specialty of nursing or medicine;
- E. To offset costs required to meet minimum qualifications for a new specialty area of work within the first six (6) months of transition.

Employees in the classification of Nurse Practitioner may use the maximum career training reimbursement funds for which they are eligible for the purchase of job related computer hardware/software.

Reimbursement for and use of professional development costs shall be subject to department approval and proof of successful course completion and payment.

30.2 Advanced Cardiac Life Support Certification. The Health Services Department will provide Advanced Cardiac Life Support certification and re-certification classes to those employees who are required to be certified at a cost of no more than twenty-five dollars (\$25.00) to the employee.

SECTION 31 – EDUCATION LEAVE

- A. Each permanent full-time employee in the classification of Registered Nurse – Beginning (VWXC), Registered Nurse - Advanced (VWXE), Registered Nurse-Experienced (VWXD), Advice Nurse (VWSK), Advice Nurse II (VWTB), Charge Nurse (VWTF), Clinical Nurse Specialist (VWTA) and Health Education and Training Specialist (VWSM) with one (1) or more years of permanent service shall be entitled to forty (40) hours leave with pay each calendar year to attend Board of Registered Nurses approved continuing education courses, workshops, or classes. Employees in these classifications may carryover a maximum of eighty (80) hours of education leave per calendar year.
- B. **Family Nurse Practitioners.** Employees in the classification of Family Nurse Practitioner (VWSB) with one (1) or more years of permanent County service shall be entitled to sixty-four (64) hours leave with pay each calendar year to attend BRN or CME approved continuing education courses, institutions, workshops or classes. Employees in this classification may carryover eighty (80) hours of education leave per calendar year, and may also carryover additional education leave subject to approval.
- C. **Public Health Nurse.** Employees in the classification of Public Health Nurse (XXVA) and Public Health Nurse – Project (VVXI) with one (1) or more years of permanent County service shall be entitled to twenty-four (24) hours leave with pay each calendar year to attend Board of Registered Nurses approved

SECTION 32 – CLASSIFICATION

continuing education courses, workshops, or classes. Employees in these classifications may carry over education leave with the maximum carryover not to exceed forty-eight (48) hours per calendar year. This carryover will be granted without restriction.

- D. **Permanent Part-Time Employees.** Permanent part-time employees in the classification of Registered Nurse – Beginning (VWXC), Registered Nurse - Advanced (VWXE), Registered Nurse- Experienced (VWXD), Advice Nurse (VWSK), Advice Nurse II (VWTB), Charge Nurse (VWTF), Clinical Nurse Specialist (VWTA) and Health Education and Training Specialist (VWSM) shall be entitled to educational leave on a prorated basis.
- E. Written requests for such leave by all eligible classifications must be submitted in advance and may be denied only in the event such leave interferes with staffing.
- F. The leave herein above defined shall not apply to those courses or programs the employee is required by the County to attend. Mandatory class hours include, but are not limited to non-violence training, PALS, NRP, BLS, ACLS, and harassment prevention. These required courses will be taken at CCRMC.

An eligible employee assigned to the night shift, who attends a continuing education course of eight (8) hours duration outside scheduled work time, may receive educational leave pay for the actual course time and may be excused from the night shift immediately preceding or following the course attended.

An employee who attends a pre-approved course on a date for which he/she is not regularly scheduled to work or who completes a pre-approved home study course, will be granted CE time off for the number of hours equivalent to the CE units earned. Only Board of Registered Nurses and Continuing Medical Education approved courses will be approved. Such time off must be scheduled in advance by mutual agreement between the employee and the supervisor.

When an employee covered by this agreement separates from County service, any unused educational leave shall be canceled.

SECTION 32 – CLASSIFICATION

Existing classes of positions may be abolished or changed and new classes may be added to the classification plan by the Director of Human Resources subject to approval by the Board of Supervisors. The County will meet and confer with the Association on the minimum qualifications and salary of new classes. If the County wishes to add duties to classes represented by the Association, the Association shall be notified and upon request of the Association, representatives of the County will meet and consult with the Association over such duties.

SECTION 33 – SAFETY

SECTION 33 – SAFETY

The County shall expend every effort to see to it that the work performed under the terms and conditions of this MOU is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations.

To further this goal, the Contra Costa Regional Medical Center (CCRMC) commits to maintain Patient Care Assistance Teams (Lift Teams).

SECTION 34 – MILEAGE

The mileage allowance for use of personal vehicles on County business shall be paid according to the rates allowed by the Internal Revenue Service (IRS) and shall be adjusted to reflect changes in this rate on the date it becomes effective, or the first of the month following announcement of the changed rate by the IRS, whichever is later.

SECTION 35 – DEFERRED COMPENSATION LOAN PROVISION

- A. Deferred Compensation Plan – Special Benefit only for Public Health Nurses Hired after January 1, 2010: Commencing April 1, 2010 and for the duration of the Agreement, the County will contribute one hundred fifty dollars (\$150) per month to an employee's account in the Contra Costa County Deferred Compensation Plan or other designated tax qualified savings vehicle, for employees in the Public Health Nurse Unit who meet all of the following qualifications:
1. The employee was first hired by Contra Costa County on or after January 1, 2010 and,
 2. The employee is a permanent full-time or permanent part-time employee regularly scheduled to work at least 20 hours per week and has been so employed for at least 90 calendar days; and
 3. The employee defers a minimum of twenty-five dollars (\$25) per month to the Contra Costa County Deferred Compensation Plan or other designated tax qualified savings vehicle; and
 4. The employee has completed, signed and submitted to the Human Resources Department, Employee Benefits Service Unit the required enrollment form for the account, e.g. the Enrollment Form 457(b).
 5. The annual maximum contribution as defined under the relevant Internal Revenue Code provision has not been exceed for the employee's account for the calendar year.

SECTION 35 - DEFERRED COMPENSATION LOAN PROVISION

Employees who discontinue deferral or who defer less than the amount required by this provision for a period of one (1) month or more will no longer be eligible to receive the County contribution. To re-establish eligibility, employees must resume deferring the amount required by this provision.

No amount deferred by the employee or contributed by the County in accordance with this provision will count towards the "Base Contribution Amount" or the "Monthly Base Contribution Amount for Maintaining Program Eligibility" required for the County's Deferred Compensation Incentive in any other provision of this Agreement. No amount deferred by the employee or contributed by the County in accordance with any other provision in this Agreement will count toward the minimum required deferral required by this provision. The County's contribution amount in accordance with this provision will be in addition to the County contribution amount for which the employee may be eligible in accordance with any other provision in this contract.

Both the employee deferral and the County contribution to the Contra Costa County Deferred Compensation Plan under this provision, as well as any amounts deferred or contributed to the Contra Costa County Deferred Compensation Plan in accordance with any other provision of this contract, will be added together for the purpose of ensuring that the annual Plan maximum contributions as defined under IRS code Section 457(b), or other tax qualified designated savings vehicle, are not exceeded.

B. **Deferred Compensation Plan – Loan Provision:** On June 26, 2012, the Board of Supervisors adopted Resolution 2012/298 approving the California Nurses' Association to participate in the Deferred Compensation Plan Loan Program effective June 26, 2012. The following is a summary of the provisions of the loan program:

1. The minimum amount of the loan is \$1,000
2. The maximum amount of the loan is the lesser of 50% of the employee's balance or \$50,000, or as otherwise provided by law.
3. The maximum amortization period of the loan is five (5) years.
4. The loan interest is fixed at the time the loan is originated and for the duration of the loan. The loan interest rate is the prime rate plus one percent (1%).
5. There is no prepayment penalty if an employee pays the balance of the loan plus any accrued interest before the original amortization period for the loan.
6. The terms of the loan may not be modified after the employee enters into the loan agreement, except as provided by law.
7. An employee may have only one loan at a time.

SECTION 36 – DETENTION FACILITY DIFFERENTIAL

8. Payment for the loan is made by monthly payroll deduction.
9. An employee with a loan who is not in paid status (e.g. unpaid leave of absence) may make his/her monthly payments directly to the Plan Administrator by some means other than payroll deduction each month the employee is in an unpaid status (e.g. by a personal check or money order).
10. The Loan Administrator (MassMutual Life Insurance Company or its successor) charges a one-time \$50 loan initiation fee. This fee is deducted from the employee's Deferred Compensation account.
11. The County charges a one-time \$25 loan initiation fee and a monthly maintenance fee of \$1.50. These fees are paid by payroll deduction.

The County's website provides employees with the following information:

- a. Deferred Compensation Loan Provision
- b. FAQ's for the Loan Provision including loan status upon termination of employment and the consequences of defaulting on a loan
- c. Pros and Cons of borrowing from the Deferred Compensation Plan
- d. Loan Application and Agreement

SECTION 36 – DETENTION FACILITY DIFFERENTIAL

Employees who work in the County Detention Facility (including Marsh Creek, West County, Byron's Boy's Ranch, the Martinez Detention Facility and Juvenile Hall) shall receive a differential per hour worked at a premium of five percent (5%) of the hourly equivalent of the base rate. Effective the first of the month following the month in which this MOU is adopted by the Board of Supervisors, a five percent (5%) detention differential will be added to the current five percent (5%) detention differential, for a total of a ten percent (10%) detention differential.

SECTION 37 – JOINT ASSOCIATION/MANAGEMENT MEETING

- A. There shall be a Joint Association-Management Meeting every other month unless mutually waived or unless mutually agreed to meet more frequently. Release time or appropriate overtime or paid straight time will be provided for three (3) Association representatives: the Chief Nurse Representative, the Outpatient Nurse Representative and the FNP Nurse Representative, or their designees. Management may also have three (3) representatives: the Director of Hospital Nursing, the Director of Ambulatory Care Nursing and the Health Services Department Personnel Officer, or their designees. Both parties may agenda items in advance of the meeting and management shall provide

SECTION 38 – PROFESSIONAL PERFORMANCE COMMITTEES

reasonable information which is not confidential nor legally protected with a minimum of two (2) weeks advance notice. Other people may be invited to attend such meetings if mutually agreed upon in advance. Among issues for discussion shall be items related to communication and trust.

- B. Upon request of the Association, the County agrees to schedule meetings similar in concept for the Public Health Division.

SECTION 38 – PROFESSIONAL PERFORMANCE COMMITTEES

38.1 Professional Performance Committees. There shall be a single Health Services Registered Nurse Professional Performance Committee (PPC) which shall consist of two (2) subcommittees: one (1) for inpatient Registered Nurses and one (1) for outpatient Registered Nurses.

The Committee(s) may consider and discuss issues and subject matters of their own selection which are related to patient care and nursing practice. The Committee(s) may also formulate advisory recommendations and proposals concerning such matters. The Committee(s) shall not discuss economic matters, such as wages, hours and other economic conditions which may be subject to meet and confer.

Contra Costa County and California Nurses Association agree that it is in the best interest of the patients, employees and management to foster mature and cooperative labor-management relations. To that end, effective sixty (60) days after adoption of this agreement, the parties agree to supplement Section 38 – Professional Performance Committee with the following:

- A. The Committee may meet more often with agreement of Chief Nursing Officer.
- B. The Chair will meet with the Chief Nursing Officer prior to the quarterly meeting to set the agenda.
- C. The Committee can request attendance of the Chief Nursing Officer at any of the monthly meetings.
- D. Whenever the committee makes a written recommendation to the respective Director of Nursing and the Chief Nursing Officer, he/she will respond in writing to the committee within thirty (30) calendar days unless the Association and the County mutually agree that the time may be extended.
- E. If the meetings are scheduled during a committee member's off duty time, the employee will be paid up to two (2) hours of paid straight time. Such paid time shall not be considered hours worked for the purpose of overtime.

OBJECTIVES: The objectives of the Professional Performance Committee shall be:

SECTION 38 – PROFESSIONAL PERFORMANCE COMMITTEES

Nurse Practice:

- A. To work constructively for the improvement of patient care and nursing practice and to recommend to the Health Services Department the ways and means to improve patient care.
- B. The County agrees that Registered Nurses should not participate in job-related activities that they do not feel competent practicing and should discuss these concerns with their respective manager. If this dialogue does not end in a satisfactory conclusion, these concerns should be taken to the Professional Performance Committee.

Safety and Health: To consider constructively the improvement of safety and health conditions that may be hazardous and provide input for correction/elimination of those conditions to the Health Services Department Safety Committee.

Appropriate Staffing Levels: To review staffing, census and acuity levels and make recommendations regarding appropriate staffing levels that comply with state law.

38.2 Subcommittee Meetings. The Inpatient Subcommittee may schedule one (1) regular meeting each month during working hours which shall be scheduled to conflict as little as possible with nursing services. The County will release from duty no more than three (3) Registered Nurses assigned to the day shift, two (2) Registered Nurses assigned to the evening shift and one (1) Registered Nurse assigned to the graveyard shift for a period not to exceed two (2) hours for attendance at such a meeting.

The Outpatient Subcommittee may schedule one (1) regular meeting each month during working hours, provided that such meetings shall be scheduled to conflict as little as possible with the clinic schedule and shall be mutually agreeable to the County. The County will release from duty no more than three (3) nurses for a period not to exceed two (2) hours, including travel time.

The Committee(s) may decide to meet jointly in lieu of separate meetings if particular issues or subjects call for joint inpatient and outpatient consideration.

38.3 Committee Minutes. The Committee(s) shall maintain written minutes, shall provide copies to the Director of Hospital Nursing Services and Director of Ambulatory Care Nursing, and shall maintain copies in various locations for perusal by Registered Nurses.

38.4 Recommendations. Employees who are not employed at the Health Services Department may submit verbal or written advisory recommendations and proposals for improving patient care to a designated representative of the Department Head, and timely response will be provided.

38.5 PPC Family Nurse Practitioners. There shall be a separate Professional Performance Committee for the Family Nurse Practitioners. The Committee may consider and discuss issues and subject matters of their own selection which are

SECTION 38 – PROFESSIONAL PERFORMANCE COMMITTEES

related to patient care and nursing practice. The Committee may also formulate advisory recommendations and proposals concerning such matters. The Committee shall not discuss economic matters, such as wages, hours and other economic conditions which may be subject to meet and confer.

The Committee may schedule one (1) regular meeting each month during working hours which shall be scheduled to conflict as little as possible with clinic schedules or operational needs. The County will release from duty no more than three (3) Family Nurses Practitioners for a period not to exceed two (2) hours, including travel time, for attendance at such a meeting.

The Committee shall maintain written minutes and shall provide copies to the designated supervisor(s) of the Family Nurse Practitioners in the Hospital and Clinic and Public Health Divisions and shall maintain copies in various locations for perusal by the Family Nurse Practitioners.

38.6 Quarterly Meetings with Health Services Department Managers. The Chief Nursing Officer, Director of Hospital Nursing Services, Director of Ambulatory Care Nursing and other managers from the Health Services Department designated by the Contra Costa Regional Medical Center (CCRMC) Executive Director shall meet quarterly.

38.7 Agenda Items for Quarterly Meeting with the Health Services Department.

- A. Agendas will be established and distributed two (2) weeks in advance of the meetings.
- B. Subject matters appropriate for agenda items shall include objectives listed above as well as the following: Funding/budgets and organizational updates, anticipated operational changes, communication, educational development of staff, input to technology development.
- C. Items that are not appropriate for agenda items for quarterly meetings are grievances, disciplinary actions or matters subject to collective bargaining.

38.8 Recommendations for Action

- A. Joint recommendations of the PPC and staff may be referred from the Quarterly meetings to the Contra Costa Regional Medical Center (CCRMC) Executive Director for consideration.
- B. Two (2) Association committee members and two (2) management representatives shall meet with the Contra Costa Regional Medical Center (CCRMC) Executive Director to discuss said recommendations.

SECTION 39 – NOTICE OF HIRES AND SEPARATIONS

SECTION 39 – NOTICE OF HIRES AND SEPARATIONS

The County agrees to periodically mail to California Nurses Association the name, classification, and date of hire or termination of employees in classifications represented by California Nurses Association.

SECTION 40 – PROVISIONAL APPOINTMENT

Whenever an appointing authority makes a request for personnel to fill a position in a class for which no reemployment or employment list is available, or in a class for which no eligible or insufficient eligibles to complete the certification will accept appointment to the position, the Director of Human Resources may authorize the appointing authority to appoint any person who possesses the minimum qualifications for the class as set forth in the class specifications, provided that the names of eligibles available and the names of persons who have indicated the intention to take the next examination for the class shall be referred to the appointing authority at the time authorization is issued. In no case shall a permanent position be filled by a provisional appointment for a period exceeding six (6) calendar months except under the following conditions:

- A. If an examination has been announced for the class and recruitment of applicants is in process, the Director of Human Resources may authorize a continuation of provisional appointments until an eligible list is established.
- B. In case of a provisional appointment to a permanent position vacated by a leave of absence, such provisional appointment may be continued for the duration of said leave.

A provisional appointment shall be terminated within thirty (30) days after the date of certification of eligibles from an appropriate eligible list.

All decisions of the Director of Human Resources relative to provisional appointments are final and not subject to the grievance procedure.

SECTION 41 – PERSONNEL FILES

An employee and/or the employee's Union representative shall have the right to inspect and review the employee's departmental personnel file upon request at reasonable times and for reasonable periods during the regular business hours of 8:00 a.m. to 5:00 p.m. Documentation in the personnel file relating to the investigation of a possible criminal offense, and such information or letters of reference shall be specifically excluded from such inspection and review. The employee's Union representative, with written authorization by the employee, shall also have the right to inspect and review any official records(s) described above.

Counseling memos will be removed from all files after two (2) years.

SECTION 42 - REIMBURSEMENT FOR MEAL EXPENSES

SECTION 42 – REIMBURSEMENT FOR MEAL EXPENSES

Employees shall be reimbursed for meal expenses under the following circumstances and in the amount specified:

- A. When the employee is required by the Department Head to attend a meeting concerning County business or County affairs.
- B. When the employee is required to be out of the regular or normal work area during a meal hour because of a particular work assignment.
- C. When the employee is required to stay over to attend consecutive or continuing afternoon and night sessions of a board or commission.
- D. When the employee is required to incur expenses as host for official guests of the County, work as members of examining boards, official visitors, and speakers or honored guests at banquets or other official functions.
- E. When the employee is required to work three (3) or more hours of overtime; in this case the employee may be reimbursed in accordance with the Administrative Bulletin on Expense Reimbursement.

Meal costs will be reimbursed only when eaten away from home or away from the facility in the case of employees at twenty-four (24) hour institutions. Procedures and definitions relative to reimbursement for meal expenses shall be in accordance with the Administrative Bulletin on Expense Reimbursement.

SECTION 43 – COMPENSATION FOR LOSS OR DAMAGE TO PERSONAL PROPERTY

The loss or damage to personal property of employees is subject to reimbursement under the following conditions:

- A. The loss or damage must result from an event which is not normally encountered or anticipated on the job and which is not subject to the control of the employee.
- B. Ordinary wear and tear of personal property used on the job is not compensated.
- C. Employee tools or equipment provided without the express approval of the Department Head and automobiles are excluded from reimbursement.
- D. The loss or damage must have occurred in the line of duty.
- E. The loss or damage was not a result of negligence or lack of proper care by the employee.

SECTION 44 – SERVICE AWARDS

- F. The personal property was necessarily worn or carried by the employee in order to adequately fulfill the duties and requirements of the job.
- G. The loss or damage to employees' eyeglasses, dentures or other prosthetic devices did not occur simultaneously with a job-connected injury covered by Workers' Compensation.
- H. The amount of reimbursement shall be limited to the actual cost to repair damages. Reimbursement for items damaged beyond repair shall be limited to the actual value of the item at the time of loss or damage but not more than the original cost.
- I. The burden of proof of loss rests with the employee.
- J. Claims for reimbursement must be processed in accordance with the Administrative Bulletin on Compensation for Loss or Damage to Personal Property.

SECTION 44 – SERVICE AWARDS

The County shall continue its present policy with respect to service awards including time off; provided, however, that the type of award given shall be at the sole discretion of the County.

The following procedures shall apply with respect to service awards:

- A. Presentation Before the Board of Supervisors. An employee with twenty (20) or more years of service may go before the Board of Supervisors to receive his/her Service Award. When requested by a department, the Human Resources Department will make arrangements for the presentation ceremony before the Board of Supervisors and notify the department as to the time and date of the Board meeting.
- B. Service Award Day Off. Employees with fifteen (15) or more years of service are entitled to take a day off with pay at each five (5) years anniversary.

SECTION 45 – UNFAIR LABOR PRACTICE

Either the County or the Association may file an unfair labor practice as defined in Board of Supervisors' Resolution No. 81/1165 against the other. Allegations of an unfair labor practice, if not resolved in discussions between the parties within thirty (30) workdays from the date of receipt, may be heard and decided by a mutually agreed upon impartial third party.

SECTION 46 – LENGTH OF SERVICE DEFINITION

SECTION 46 – LENGTH OF SERVICE DEFINITION **(for service awards and vacation accruals)**

The length of service credits of each employee of the County shall date from the beginning of the last period of continuous County employment (including temporary, provisional, and permanent status, and absences on approved leave of absence). When an employee separates from a permanent position in good standing and within two (2) years is reemployed in a permanent County position, or is reemployed in a permanent County position from a layoff list within the period of layoff eligibility, service credits shall include all credits accumulated at time of separation, but shall not include the period of separation. The Director of Human Resources shall determine these matters based on the employee status records in his/her department.

SECTION 47 – PERMANENT PART-TIME EMPLOYEE BENEFITS

Permanent part-time employees receive prorated vacation and sick leave benefits. They are eligible for health, dental and life insurance benefits at the same rate as for full-time employees providing they work at least forty percent (40%) of full time (i.e., 16/40). If the employee works at least fifty percent (50%) of full time, County retirement participation is also included.

SECTION 48 – PERMANENT-INTERMITTENT EMPLOYEE BENEFITS

- A. Permanent-intermittent employees are eligible for prorated vacation and sick leave benefits based upon regular hours worked in the pay period.
- B. Permanent-Intermittent employees may be eligible for certain special types of pays and benefits in addition to wages under specifically defined circumstances. A list of those special pays and benefits that are applicable to permanent-intermittent employees is included as Attachment H. If a special pay or benefit that is described in this MOU does not specifically reference permanent-intermittent employees or the special pay or benefit is not included in Attachment H, then the special pay or benefit does not apply to permanent-intermittent employees.
- C. Health Benefit Coverage for Permanent Intermittent Employees. To access County health coverage, permanent intermittent employees represented by the Association must be eligible to receive an offer of coverage from the County under the federal Patient Protection and Affordable Care Act (“ACA”) (42 U.S.C. § 18081). Employees eligible to receive an offer of coverage (and qualified dependents), will be offered access to the County’s lowest cost, single individual health insurance plan that is available to the majority of County employees. Employees will be responsible for the full premium cost of coverage. This provision is not subject to the grievance process.

SECTION 49 – STAFF NURSE UNIT/PER DIEM EMPLOYEES

SECTION 49 – STAFF NURSE UNIT/PER DIEM EMPLOYEES

Per Diem employees may be eligible for certain special types of pays, benefits, and other items in addition to wages under specifically defined circumstances. A list of those special pays, benefits, and other items that are applicable to per diem employees is included as Attachment I. If a special pay, benefit, or other item that is described in this MOU does not specifically reference per diem employees or the special pay, benefit, or other items is not included in Attachment I, then the special pay, benefit, or other item does not apply to per diem employees.

- A. **Health Benefit Coverage for Per Diem Employees.** To access County health coverage, per diem employees represented by the Association must be eligible to receive an offer of coverage from the County under the federal Patient Protection and Affordable Care Act (“ACA”) (42 U.S.C. § 18081). Employees eligible to receive an offer of coverage (and qualified dependents), will be offered access to the County’s lowest cost, single individual health insurance plan that is available to the majority of County employees. Employees will be responsible for the full premium cost of coverage. This provision is not subject to the grievance process.
- B. **Family and Medical Leaves.** Eligibility of employees in per diem classifications for family or medical leaves under state or federal laws, such as the Family Medical Leave Act, California Family Rights Act, and Pregnancy Disability Leave Act, will be determined and administered in accordance with applicable state and/or federal laws
- C. **Meal Period/Rest Break.** Employees shall be entitled to a rest break of up to 15 minutes for each four (4) hours of work. Nurses shall coordinate rest breaks with the Nursing Program Manager, or designee, in accordance with patient care needs. During each shift of eight (8) hours or more, employees shall be scheduled for an unpaid meal period of at least thirty (30) minutes. Employees who work in Juvenile Hall, Detention, or the CCHP Advice Nurse Unit may be assigned a shift of eight (8) hours straight with a paid on-site meal period when the employee is not permitted to leave the facility. Employees who work a ten (10) hour shift between the hours of 9:30 pm to 9:00 am at the Contra Costa Regional Medical Center (CCRMC) may be assigned a paid on-site meal period when the employee is not permitted leave the facility.
- D. **No Discrimination.** There shall be no discrimination as prohibited by law because of age, sex, race, creed, color, national origin, religion, disability, sexual orientation or Association activities against anyone employed by the County. This provision is not subject to the Grievance Procedure.
- E. **Sick Leave.** Per diem employee sick leave benefits are set forth in Administrative Bulletin 411, Sick Leave Policy (Employees Not Subject to Labor Code § 245 et. Seq.)

SECTION 50 - PROVISIONAL EMPLOYEE BENEFITS

- F. **State Disability Insurance (SDI) General Provisions.** Effective as soon as possible, but no later than January 1, 2016, Contra Costa County will enroll employees in the Per Diem Unit in the State Disability Insurance (SDI) program subject to the rules and procedures established by the State of California. Determination of SDI payments and eligibility to receive payments is at the sole discretion of the State of California. SDI benefit payments will be sent directly to the employee by the State of California.
- G. **Termination of Employment.** Per diem employees serve at the pleasure of the Appointing Authority and may be terminated by the Appointing Authority or designee at any time. Termination of employment is not subject to the grievance procedure and is not subject to appeal. However, a Per Diem employee who is terminated may request a meeting with the Appointing Authority or designee and may be accompanied by a Union Representative.
- H. **Unit Information.** The County agrees to provide a list of represented employees no more than once each calendar year, upon written request by the union.
- I. **Workers' Compensation Coverage for Per Diem Employees.** Any Worker's Compensation coverage applicable to per diem nurses is determined by law. This section is not subject to the grievance procedure.

SECTION 50 – PROVISIONAL EMPLOYEE BENEFITS

Provisional Employees, who are not permanent employees of the County immediately prior to their provisional appointment, are eligible for vacation and sick leave benefits.

A provisional employee may participate in the County Group Health Plans of medical, dental and life insurance coverage wholly at the employee's expense. The County will not contribute to the employee's monthly premium. The employee will be responsible for paying the premium appropriately and punctually. Failure to meet the premium deadline will mean automatic and immediate withdrawal from the County Group Health Plan and reinstatement may only be effectuated during the annual open enrollment period.

SECTION 51 – LUNCH PERIOD / REST BREAK

SECTION 51 – LUNCH PERIOD / REST BREAK

Hospital nurses scheduled to work a full eight (8) hour shift within a spread of eight and one-half (8-1/2) hours shall receive not less than one-half (1/2) hour for lunch. If such nurse is required to work during all or any portion of the lunch period, such time worked shall be paid at the rate of time and one-half (1-1/2), provided the nurse actually works a full shift.

Nurses with one-half (1/2) hour lunch at the hospital shall receive priority service over non-employees in the hospital cafeteria.

Advice Nurses assigned to work the night shift Monday through Friday (10 p.m. – 6:00 a.m.) or Saturday and Sunday (10 p.m. – 6:30 a.m.) will be provided a one-half (1/2) hour paid lunch to remain on-site for the duration of the shift. There is no change in shift hours for nurses employed at Juvenile Hall or the Detention Facility and those shifts designated in the Advice Nurse Unit; those remaining on a straight eight (8) hour shift are always in paid status and on duty during lunch and shall remain on-site for the entire duration of the shift.

Nurses are entitled to a ten (10) minute rest break during each four (4) hour working period, and said rest break may be taken at any time during the four (4) hour period. Nurses scheduled to work twelve (12) hour shifts are entitled to a fifteen (15) minute rest break during each six (6) hour working period, and said rest break may be taken at any time during the six (6) hour period. In no event shall there be more than two (2) rest breaks during one shift. Nurses shall coordinate rest breaks with the Nursing Program Manager, or designee, in accordance with patient care needs.

SECTION 52 – FAMILY NURSE PRACTITIONERS (FNP)/PUBLIC HEALTH NURSES (PHN)

52.1 FNP Administrative Time.

- A. All Family Nurse Practitioners (FNPs) in the Hospital and Clinics Division will be granted administrative time as part of the regular schedule. Administrative time will be prorated for part-time FNPs as follows:

<u>Total Position Hours/Week</u>	<u>Average Admin Hours/Week</u>
32-40	4
24-31	3
20-23	2
<20	0

In the Public Health Division, FNP's will be granted administrative time on a pro rata basis and will be expected to continue to cover for FNP absences as needed.

SECTION 52 – FAMILY NURSE PRACTITIONERS (FNP)/PUBLIC HEALTH NURSES (PHN)

- B. The regular schedule for each FNP may include one (1), four (4) hour evening clinic per week and one (1) weekend assignment every eight (8) weeks, consisting of four (4) to eight (8) hours. FNP's with twenty (20) years of service shall not be required to work weekend shifts, but may volunteer to do so. However, in the event there are insufficient FNP staff to cover weekend assignments, the provisions outlined above regarding one (1) weekend assignments in eight (8) weeks may be temporarily waived.

In lieu of overtime and shift differential, any hours worked in Hospital and Clinic Division assignments in excess of eight (8) hours per day or forty (40) hours per week will be paid at the straight-time overtime rate (1.0). All evening and weekend assignments in the Hospital and Clinics Division will be paid an additional ten dollars (\$10.00) per hour.

FNP's assigned to work on a holiday will not be paid the ten dollars (\$10.00) per hour evening/weekend differential, but instead receive time and one-half (1-1/2) holiday pay.

52.2 FNP Meetings. An FNP who attends a Medical Staff meeting before 8:00 a.m. or after 5:00 p.m. on a day for which he/she is otherwise scheduled to work, will be compensated at the appropriate rate of pay. The division head for mid-level practitioners will be compensated for attending noon meetings of the Medical Executive Committee. FNP's will be compensated for attendance at other noon meetings only if attendance is mandated by the appointing authority or designee.

52.3 FNP Staff Development Time. Family Nurse Practitioners in the Hospital, Health Centers Division and Detention Centers, who are regularly scheduled to work sixteen (16) hours per week or more of Family Practice Clinics and/or Detention Clinics shall be eligible for staff development time. The nature of the staff development time shall be decided by the appropriate Department Head and could include such responsibilities as specialty clinic assignments, or activities which contribute to patients' health, system efficiency or quality care. Employees will be notified in writing of the decisions regarding their proposals. Employees may apply to use such time by submitting their proposal describing the goals and process of their work to the appointing authority or designee for approval. Approval of the use of staff development time shall be a specific period of time and may be discontinued at any time with a written explanation, at the discretion of the appointing authority or designee. Employees involved in such work shall be required to submit periodic reports as determined by the appointing authority or designee.

Employees will accumulate four (4) hours per month of staff development time. Such time can be used in blocks of four (4) hours per week not to exceed forty-eight (48) hours per calendar year. Unused hours do not carry over into the next year. Those employees who are scheduled to work less than full time may be assigned to these four (4) hours per month over and above their regularly scheduled hours.

SECTION 52 - FAMILY NURSE PRACTITIONERS (FNP)/PUBLIC HEALTH NURSES (PHN)

52.4 FNP Paid Personal Leave. Effective July 1, 2006, in lieu of overtime and shift differential, permanent full-time Family Nurse Practitioners with three (3) years of service in classes covered by this MOU will be credited with five (5) days of paid personal leave. Said leave will be prorated for permanent part-time employees but will not be credited for permanent-intermittent (on-call) employees.

This leave must be used during the calendar year in which credited and may not be carried forward. This paid personal leave is separate from paid vacation and will be accounted for accordingly. Upon separation from County service, there shall be no pay off for unused personal leave credits.

52.5 Public Health Nurses.

- A. The Public Health Nurse Professional Standards and Practices Committee (PSPC) shall continue for the duration of this MOU. The PSPC will be comprised of seven members.
- B. Public Health Nurses may take either a half-hour (1/2) or one-hour (1) lunch break, provided the operational needs of the department are met.
- C. If reassignments of less than eight (8) weeks duration are needed to cover for vacation relief, sick leave, temporary shifts in workload, training assignments or other short term needs, management shall solicit volunteers. If there are insufficient volunteers, assignments will be based on inverse seniority within the affected program.
- D. Vacations.
 - a. Vacations shall be scheduled on an annual cycle, April 1st through March 31st. Employees must submit their written vacation requests by February 1st of each year. Administration in each program or office will post a schedule of vacations by March 1st of each year.
 - b. At least one PHN from each office or program will receive scheduled absences, including continuing education and vacation, at any given time. With supervisor's approval, additional time off requests may be granted, based on staffing and caseload. The employee with the greater length of service in the Public Health Nurse classification will receive the requested vacation time. Less senior employees will be given the opportunity to request a different time before the annual schedule is posted and will be approved on a first come basis. In the event of a tie on the date of submission, seniority in the classification or series will serve as the tie breaker. Absences for sick leave, disability and regular days off will not be counted as scheduled absences.
 - c. An approved vacation will not be unilaterally canceled.

SECTION 53 - HEALTH EXAMINATION

- d. An employee voluntarily changing work position or assignment between programs or regional offices after March 1st must resubmit a vacation request for consideration on a first come basis.
- e. Vacations which include major holidays, Christmas and New Year's Day shall be rotated amongst staff rather than determined by seniority.

SECTION 53 – HEALTH EXAMINATION

Employees of the County who work in a Health Services Department facility will annually be required to complete a Health Questionnaire and take a Tuberculosis Skin Test. In the event that an employee had a positive reaction to a tuberculosis skin test, said employee will be requested to show proof of having had two (2) negative chest x-rays at least one (1) year apart.

Employees will also be requested to be screened for Rubella immunity. If the result of the Rubella test is negative, the appointing authority or designee will recommend that the employee become immunized. If the employee has direct patient contact and refuses to become immunized, an attempt will be made to relocate the employee to a non-patient care area if possible.

SECTION 54 – FLOATING

Floating of RNs shall be subject to patient care considerations and staffing needs, and shall be in compliance with the current in-patient floating policy (Attachment Q).

Nursing administration reserves the right to amend the policy to meet operational needs. Additionally, nursing administration agrees to seek input on changes in said policy from the Professional Performance Committee (PPC).

Any alleged violations to the float policy will be taken to the chair of the PPC; the committee chair will request a meeting with the Chief Nursing Officer to review and resolve the above. If there is no resolution at this step, the PPC chair may request initiation of the Nursing Review Panel as per Section 59 of the Memorandum of Understanding.

SECTION 55 – LEAVE DENIALS

Any properly submitted request for educational leave, vacation leave, or other leave of absence covered by this MOU shall normally not be denied without written explanation.

SECTION 56 – CODE GREY

SECTION 56 – CODE GREY

A ten percent (10%) base salary differential shall be paid for those shifts on which employees in classifications represented by CNA are specifically assigned by the administration to respond to emergency Code Grey calls.

Assignment to the Code Grey team is conditional on an employee having successfully completed required non-violence training and maintaining required certification. Assignment to the Code Grey team will first be based on volunteers. If there is not an adequate number of volunteers, assignment to the team will be made by management, with no more than one (1) RN per hospital unit being assigned at any given time. It is further understood that the above-referenced salary differential is based on an employee actually being assigned to Code Grey call.

SECTION 57 – ADOPTION

The provisions of this MOU shall be made applicable on the dates indicated and upon approval by the Board of Supervisors. Resolutions and Ordinances, where necessary, shall be prepared and adopted in order to implement these provisions. It is understood that where it is determined that an Ordinance is required to implement any of the foregoing provisions, said provisions shall become effective upon the first day of the month following thirty (30) days after such Ordinance is adopted.

SECTION 58 – SCOPE OF AGREEMENT AND SEPARABILITY OF PROVISION

58.1 Scope of Agreement. Except as otherwise specifically provided herein, this MOU fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties in any and all matters subject to meet and confer. Neither party shall during the term of this MOU, demand any change to the terms of this MOU, provided that nothing herein shall prohibit the parties from changing the terms of this MOU by mutual agreement. Any past side letters or any other agreements, excluding settlement agreements, that are not incorporated into or attached to this MOU are deemed expired upon approval of this MOU by the Board of Supervisors.

58.2 Separability of Provisions. Should any section, clause or provision of this MOU be declared illegal, unlawful or unenforceable, by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this MOU.

58.3 Personnel Management Regulations. Where a specific provision contained in a section of this MOU conflicts with a specific provision contained in a section of the Personnel Management Regulations (PMR's), the provision of this MOU shall prevail. Those provisions of the Personnel Management Regulations within the scope of representation which are not in conflict with the provisions of this MOU and those

SECTION 59 - SAFE STAFFING

provisions of the Personnel Management Regulations which are not within the scope of representation and as such remain in full force and effect.

SECTION 59 – SAFE STAFFING

Contra Costa Regional Medical Center acknowledges and complies with state legislation Safe Staffing (AB394). Contra Costa Regional Medical Center and California Nurses Association agree to work cooperatively to ensure the highest quality of patient care and optimal outcomes. Staff will be actively involved through the Professional Practice Committee, in development of core staffing processes as well as skill mix for patient care areas. In addition, any concerns regarding staffing issues will be addressed through the New Technology and Staffing Ratio Dispute Resolution process.

SECTION 60 – PATIENT CARE TECHNOLOGY REVIEW PROCEDURES

The Employer and the Union recognize that development and deployment of clinical technologies should be used to improve quality outcomes, patient safety, and that when used in the patient care setting:

- A. Technology must be consistent with the provision of safe, therapeutic and effective patient care, which promotes patient safety.
- B. Deployment of technology shall not limit the Registered Nurses in the performance of functions that are part of the Nursing Process, including full exercise of clinical judgment in assessment, evaluation, planning and implementation of care, nor from acting as patient advocate.
- C. Technology is intended to enhance, not degrade, nursing skills.
- D. The manner in which technology is used shall support patient confidentiality.
- E. Technology is intended to provide information and options for clinical decision-making. Clinicians will maintain accountability for actual clinical decision-making, including incorporating individualized patient needs, complications, co-morbidities, as appropriate.
- F. For technology selected after the date of this agreement, the Hospital will provide opportunities for Staff Nurses to provide input regarding new technology affecting the delivery of direct patient care.

This provision shall be subject to NEW TECHNOLOGY AND STAFFING RATIO DISPUTE RESOLUTION.

This provision shall terminate automatically on December 31, 2017, unless specifically renewed in a new successor MOU between the County and CNA.

SECTION 61 – CONSCIOUS SEDATION

SECTION 61 – CONSCIOUS SEDATION

As Conscious Sedation is a highly skilled, highly technical procedure, CCRMC is committed to providing a safe environment for patients by requiring all nursing personnel who perform this function to complete education and demonstrate competency. Nurses on temporary assignment at CCRMC will be required to demonstrate a level of competency equivalent to CCRMC employees before being assigned to perform conscious sedation.

SECTION 62 – NEW TECHNOLOGY AND STAFFING RATIO DISPUTE RESOLUTION

The County and CNA agree that the process contained herein shall be the exclusive means of resolving all disputes pertaining to new technology that impacts wages, hours, and terms and conditions of employment, and chronic staffing ratio patterns appealed by the Professional Practice Committee (PPC). The basic principles of staffing in the acute care setting should be based on the patients' care needs, the severity of condition, services needed, and the complexity surrounding those services. Disputes regarding the aforementioned will be handled as follows:

- A. Nursing Review Panel (NRP). A Nursing Review Panel (NRP) shall be convened within thirty (30) calendar days following written notification from the Professional Practice Committee (PPC) that disputes regarding chronic staffing ratio or principles of staffing as outlined above, or new technology that impacts wages, hours, and terms and conditions of employment, has not been resolved through the Professional Practice Committee.
 - 1. The NRP shall be comprised of a chair appointed or assumed by the Chief Nursing Officer (CNO), two (2) RNs selected by the County, and two (2) RNs selected by the PPC with at least one taken from the affected work area.
 - 2. Bargaining unit members on the NRP shall receive paid straight time for all time spent on the panel.
 - 3. The Panel shall make staffing adjustment recommendations to the CNO, based on compliance with state ratios. The CNO shall, within thirty (30) days of receiving the Panel's recommendations, provide his/her response to the PPC.
 - 4. In the event the CNO's action does not resolve the matter, the PPC may appeal the decision in writing to the CNO. Within thirty (30) calendar days of receiving the appeal, the CNO shall convene a Special Review Panel in accordance with the provisions of Section B., below.
- B. Special Review Panel (SRP)

SECTION 63 - AMBULATORY CARE NURSES

1. The SRP shall consist of three (3) members, one (1) RN selected by CNA, one (1) RN selected by the CNO or his/her designee, and a third (3rd) person selected by the other two (2) panel members to serve as a neutral chairperson. The parties will make a good faith effort to select a chairperson who is experienced in the healthcare industry and with expertise in staffing in acute care hospitals. If they are unable to find such a person, they shall select an arbitrator by mutual agreement to serve as chairperson. Nothing shall preclude the CNA and County panel members from bringing another individual to assist.
2. If the SRP is unable to achieve a resolution, the neutral third party may resolve the difference and such decision shall be final and binding on the parties.
3. Any resolution of the SRP, including any decision by the neutral third party, must take into consideration work area staffing ratio standards, and any other relevant information presented by the parties, and must be consistent with state and federal legislation prescribing levels and ratios. The SRP, including the neutral third party, shall have no jurisdiction to fashion any remedy that imposes an obligation on any hospital that exceeds, or is inconsistent with state or federal regulatory requirements or legislation.

This provision shall terminate automatically on December 31, 2017, unless specifically renewed in a new successor MOU between the County and CNA.

SECTION 63 - AMBULATORY CARE NURSES

Effective July 1, 2008, Experienced Level Registered Nurses in the Ambulatory Care specialty are eligible for Advance Level pay code (VWXE). Minimum criteria as defined by the Board of Registered Nursing.

The following Ambulatory Care Clinics are eligible for Advance Level Pay:

- 1) Dysplasia Clinic (DYSP)
- 2) Anti-Coagulation Clinic
- 3) INH Clinic
- 4) Resource Nurse (RES)
- 5) Amniotic Fluid Index (AFI)
- 6) Non-Stress Testing (NST)
- 7) Hematology/Oncology Clinic (HEM/ONC)
- 8) Referral Coordination Unit

The parties agree to meet and confer before the expiration of this MOU to establish, if necessary, new criteria for Advance Level Pay for Ambulatory Care.

SECTION 64 – DURATION OF AGREEMENT

SECTION 65 – AUTOMATED TIMEKEEPING REOPENER

1. On Call/Call Back pay
2. Shift differentials
3. CNA double shifts for employees working more than 8 hours
4. Overtime
5. Days and hours of work
6. Holiday pay
7. Rounding
8. Reporting of time

The parties understand and agree that the County will mitigate any pecuniary loss to Association members that may result from negotiated changes/additions to this Agreement in order to implement the Automated Timekeeping System.

Contra Costa County:
(Signature / Printed Name)

David T. Wright

Durcett, Lisa Vincoll

Angela Mead, Angela Mead

/

California Nurses Association (CNA):
(Signature / Printed Name)

Zachary Golden

Pat Doyle | Patrick Doyle

Erasmus/Walker / Rosalind Walker

John D. Schneider / John D. Schneider

Farina Khan

CALIFORNIA NURSES ASSOCIATION

ATTACHMENTS

- A – 1 Class and Salary Listing Monthly – Effective 7/1/15
- A – 2 Class and Salary Listing Hourly – Effective 7/1/15
- B – 1 Class and Salary Listing Monthly – Effective Month Following Adoption by BOS
- B – 2 Class and Salary Listing Hourly – Effective Month Following Adoption by BOS
- C – 1 Class and Salary Listing Monthly – Effective 7/1/16
- C – 2 Class and Salary Listing Hourly – Effective 7/1/16
- D – 1 Class and Salary Listing Monthly – Effective 12/31/16 Midnight
- D – 2 Class and Salary Listing Hourly – Effective 12/31/16 Midnight
- E – 1 Class and Salary Listing Monthly – Effective 1/1/17
- E – 2 Class and Salary Listing Hourly – Effective 1/1/17
- F – 1 Class and Salary Listing Monthly – 7/1/17
- F – 2 Class and Salary Listing Hourly – 7/1/17
- G. Medical/ Dental Plan Co-Pays 2016 Plan Year
- H. Permanent Intermittent Employee Benefits
- I. Staff Nurse Unit/Per Diem Employee Special Pays, Benefits and Other Items
- J. Acuity Based Staffing (Revised 10/1/06)
- K. Permanent-Intermittent and Part-Time RN's and FNP's
- L. Detention RN Advanced Level Pay Proposal
- M. Agreements Reached During 1995/96 Negotiations
- N. Mandatory Overtime Policy for Contra Costa Regional Medical Center In-Patient RN's
- O. Letter of Understanding – Mandatory Overtime for Contra Costa Detention Facilities
- P. Establishment of Weekend Only Schedules
- Q. Contra Costa County Regional Medical Center Floating Policy(Revised 5/11/12)
- R. Operating Room (OR) and Post Anesthesia Care Unit (PACU) On-Call Agreement
- S. Automated Time Keeping – Payroll Increments of Reporting Time

- T. Automated Time Keeping – Payroll Codes and Practices
- U. Operational Issues
- V. References to Classifications – Effective 1/1/17
- W. Per Diem Nurses Call-Off Notice

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 7/1/2015

REGISTERED NURSES UNIT (L3)			Salary Range by Step (Rounded)				
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5
VWSK	ADVICE NURSE	F	7,394.76	7,764.50	8,152.72		
VWTB	ADVICE NURSE II	F	8,690.76	8,908.02			
VWTF	CHARGE NURSE		8,477.45	8,901.32	9,346.39		
VWTA	CLINICAL NURSE SPECIALIST		8,393.93	8,813.63	9,254.31	9,717.02	10,202.88
VWSB	FAMILY NURSE PRACTITIONER		8,393.93	8,813.63	9,254.31	9,717.02	10,202.88
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		8,393.93	8,813.63	9,254.31	9,717.02	10,202.88
VW7A	NURSE PRACTITIONER TRAINEE		7,855.15				
VWXE	REGISTERED NURSE-ADVANCED	F, D	8,690.76	8,908.03			
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	6,625.11				
VWXD	REGISTERED NURSE-EXP LEVEL	F, D	7,305.59	7,488.23	7,675.44	7,867.32	8,142.68
VWX4	REGISTERED NURSE-PRJ ADV LEVEL	F, D	8,690.76	8,908.03			
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	6,625.11				
VWX3	REGISTERED NURSE-PRJ EXP LEVEL	F, D	7,305.59	7,488.23	7,675.44	7,867.32	8,142.68

PUBLIC HEALTH NURSE UNIT (LT)			Salary Range by Step (Rounded)												
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13
VVXA	PUBLIC HLTH NURSE	D	6,954.79	7,128.66	7,306.88	7,489.55	7,676.79	7,868.71	8,065.42	8,267.06	8,473.74	8,685.58	8,902.72	9,125.29	9,353.43
VVX1	PUBLIC HLTH NURSE-PROJECT		6,954.79	7,128.66	7,306.88	7,489.55	7,676.79	7,868.71	8,065.42	8,267.06	8,473.74	8,685.58	8,902.72	9,125.29	9,353.43

STAFF NURSES UNIT (L8)			Hourly Range											
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
VWXF	STAFF ADVICE NURSE-PER DIEM		41.63	42.67	43.74	44.83	45.95	47.10	48.28	49.49	50.72	51.99	53.29	
VWWA	STAFF NURSE-PER DIEM		39.69	41.68	43.76	45.95	48.25	50.66	53.19	55.85	58.65	61.58	64.66	67.89

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 7/1/2015

REGISTERED NURSES UNIT (L3)			Hourly Range for Illustrative Purposes Based Upon Average Month				
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5
VWSK	ADVICE NURSE	F	42.66	44.80	47.03		
VWTB	ADVICE NURSE II	F	50.14	51.39			
VWTF	CHARGE NURSE		48.91	51.35	53.92		
VWTA	CLINICAL NURSE SPECIALIST		48.43	50.85	53.39	56.06	58.86
VWSB	FAMILY NURSE PRACTITIONER		48.43	50.85	53.39	56.06	58.86
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		48.43	50.85	53.39	56.06	58.86
VW7A	NURSE PRACTITIONER TRAINEE		45.32				
VWXE	REGISTERED NURSE-ADVANCED	F, D	50.14	51.39			
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	38.22				
VWXD	REGISTERED NURSE-EXP LEVEL	F, D	42.15	43.20	44.28	45.39	46.98
VWX4	REGISTERED NURSE-PRJ ADV LEVEL	F, D	50.14	51.39			
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	38.22				
VWX3	REGISTERED NURSE-PRJ EXP LEVEL	F, D	42.15	43.20	44.28	45.39	46.98

PUBLIC HEALTH NURSE UNIT (LT)			Hourly Range for Illustrative Purposes Based Upon Average Month												
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13
VVXA	PUBLIC HLTH NURSE	D	40.12	41.13	42.16	43.21	44.29	45.40	46.53	47.69	48.89	50.11	51.36	52.65	53.96
VVX1	PUBLIC HLTH NURSE-PROJECT		40.12	41.13	42.16	43.21	44.29	45.40	46.53	47.69	48.89	50.11	51.36	52.65	53.96

STAFF NURSES UNIT (L8)			Hourly Range											
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
VWXF	STAFF ADVICE NURSE-PER DIEM		41.63	42.67	43.74	44.83	45.95	47.10	48.28	49.49	50.72	51.99	53.29	
VWWA	STAFF NURSE-PER DIEM		39.69	41.68	43.76	45.95	48.25	50.66	53.19	55.85	58.65	61.58	64.66	67.89

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective First of Month Following Adoption by Board of Supervisors +7.5%

REGISTERED NURSES UNIT (L3)			Salary Range by Step (Rounded)				
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5
VWSK	ADVICE NURSE	F	7,949.37	8,346.84	8,764.17		
VWTB	ADVICE NURSE II	F	9,342.57	9,576.12			
VWTF	CHARGE NURSE		9,113.26	9,568.92	10,047.37		
VWTA	CLINICAL NURSE SPECIALIST		9,023.47	9,474.65	9,948.38	10,445.80	10,968.10
VWSB	FAMILY NURSE PRACTITIONER		9,023.47	9,474.65	9,948.38	10,445.80	10,968.10
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		9,023.47	9,474.65	9,948.38	10,445.80	10,968.10
VW7A	NURSE PRACTITIONER TRAINEE		8,444.29				
VWXE	REGISTERED NURSE-ADVANCED	F, D	9,342.57	9,576.12			
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	7,121.99				
VWXD	REGISTERED NURSE-EXP LEVEL	F, D	7,853.51	8,049.85	8,251.09	8,457.37	8,753.38
VWX4	REGISTERED NURSE-PRJ ADV LEVEL	F, D	9,342.57	9,576.13			
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	7,121.99				
VWX3	REGISTERED NURSE-PRJ EXP LEVEL	F, D	7,853.51	8,049.85	8,251.09	8,457.37	8,753.38

PUBLIC HEALTH NURSE UNIT (LT)			Salary Range by Step (Rounded)												
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13
VVXA	PUBLIC HLTH NURSE	D	7,476.40	7,663.31	7,854.89	8,051.26	8,252.55	8,458.86	8,670.33	8,887.09	9,109.27	9,337.00	9,570.42	9,809.68	10,054.94
VVX1	PUBLIC HLTH NURSE-PROJECT		7,476.40	7,663.31	7,854.89	8,051.26	8,252.55	8,458.86	8,670.33	8,887.09	9,109.27	9,337.00	9,570.42	9,809.68	10,054.94

STAFF NURSES UNIT (L8)			Hourly Range											
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
VWXF	STAFF ADVICE NURSE-PER DIEM		44.75	45.87	47.02	48.19	49.40	50.63	51.90	53.20	54.53	55.89	57.29	
VVWA	STAFF NURSE-PER DIEM		42.67	44.81	47.05	49.40	51.87	54.46	57.18	60.04	63.05	66.20	69.51	72.98

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective First of Month Following Adoption by Board of Supervisors +7.5%

REGISTERED NURSES UNIT (L3)			Hourly Range for Illustrative Purposes Based Upon Average Month				
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5
VWSK	ADVICE NURSE	F	45.86	48.15	50.56		
VWTB	ADVICE NURSE II	F	53.90	55.25			
VWTF	CHARGE NURSE		52.58	55.21	57.97		
VWTA	CLINICAL NURSE SPECIALIST		52.06	54.66	57.39	60.26	63.28
VWSB	FAMILY NURSE PRACTITIONER		52.06	54.66	57.39	60.26	63.28
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		52.06	54.66	57.39	60.26	63.28
VW7A	NURSE PRACTITIONER TRAINEE		48.72				
VWXE	REGISTERED NURSE-ADVANCED	F, D	53.90	55.25			
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	41.09				
VWXD	REGISTERED NURSE-EXP LEVEL	F, D	45.31	46.44	47.60	48.79	50.50
VWX4	REGISTERED NURSE-PRJ ADV LEVEL	F, D	53.90	55.25			
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	41.09				
VWX3	REGISTERED NURSE-PRJ EXP LEVEL	F, D	45.31	46.44	47.60	48.79	50.50

PUBLIC HEALTH NURSE UNIT (LT)			Hourly Range for Illustrative Purposes Based Upon Average Month												
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13
VVXA	PUBLIC HLTH NURSE	D	43.13	44.21	45.32	46.45	47.61	48.80	50.02	51.27	52.55	53.87	55.21	56.59	58.01
VVX1	PUBLIC HLTH NURSE-PROJECT		43.13	44.21	45.32	46.45	47.61	48.80	50.02	51.27	52.55	53.87	55.21	56.59	58.01

STAFF NURSES UNIT (L8)			Hourly Range											
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
VWXF	STAFF ADVICE NURSE-PER DIEM		44.75	45.87	47.02	48.19	49.40	50.63	51.90	53.20	54.53	55.89	57.29	
VVWA	STAFF NURSE-PER DIEM		42.67	44.81	47.05	49.40	51.87	54.46	57.18	60.04	63.05	66.20	69.51	72.98

**CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 7/1/16 +2.5%**

REGISTERED NURSES UNIT (L3)			Salary Range by Step (Rounded)				
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5
VWSK	ADVICE NURSE	F	8,148.10	8,555.51	8,983.28		
VWTB	ADVICE NURSE II	F	9,576.13	9,815.52			
VWTF	CHARGE NURSE		9,341.09	9,808.14	10,298.55		
VWTA	CLINICAL NURSE SPECIALIST		9,249.06	9,711.51	10,197.09	10,706.94	11,242.30
VWSB	FAMILY NURSE PRACTITIONER		9,249.06	9,711.51	10,197.09	10,706.94	11,242.30
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		9,249.06	9,711.51	10,197.09	10,706.94	11,242.30
VW7A	NURSE PRACTITIONER TRAINEE		8,655.39				
VVXE	REGISTERED NURSE-ADVANCED	F, D	9,576.13	9,815.52			
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	7,300.04				
VWXD	REGISTERED NURSE-EXP LEVEL	F, D	8,049.85	8,251.09	8,457.37	8,668.80	8,972.22
VWX4	REGISTERED NURSE-PRJ ADV LEVEL	F, D	9,576.13	9,815.52			
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	7,300.04				
VWX3	REGISTERED NURSE-PRJ EXP LEVEL	F, D	8,049.85	8,251.09	8,457.37	8,668.81	8,972.22

PUBLIC HEALTH NURSE UNIT (LT)			Salary Range by Step (Rounded)												
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13
VVXA	PUBLIC HLTH NURSE	D	7,663.31	7,854.89	8,051.26	8,252.55	8,458.86	8,670.33	8,887.09	9,109.27	9,337.00	9,570.42	9,809.68	10,054.93	10,306.31
VVX1	PUBLIC HLTH NURSE-PROJECT		7,663.31	7,854.89	8,051.26	8,252.55	8,458.86	8,670.33	8,887.09	9,109.27	9,337.00	9,570.42	9,809.68	10,054.93	10,306.31

STAFF NURSES UNIT (L8)			Hourly Range											
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
VVXF	STAFF ADVICE NURSE-PER DIEM		45.87	47.02	48.19	49.40	50.63	51.90	53.20	54.53	55.89	57.29	58.72	
VVWA	STAFF NURSE-PER DIEM		43.74	45.93	48.22	50.63	53.16	55.82	58.61	61.54	64.62	67.85	71.25	74.81

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 7/1/16 +2.5%

REGISTERED NURSES UNIT (L3)			Hourly Range for Illustrative Purposes Based Upon Average Month				
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5
VWSK	ADVICE NURSE	F	47.01	49.36	51.83		
VWTB	ADVICE NURSE II	F	55.25	56.63			
VWTF	CHARGE NURSE		53.89	56.59	59.41		
VWTA	CLINICAL NURSE SPECIALIST		53.36	56.03	58.83	61.77	64.86
VWSB	FAMILY NURSE PRACTITIONER		53.36	56.03	58.83	61.77	64.86
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		53.36	56.03	58.83	61.77	64.86
VW7A	NURSE PRACTITIONER TRAINEE		49.93				
VVXE	REGISTERED NURSE-ADVANCED	F, D	55.25	56.63			
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	42.12				
VVXD	REGISTERED NURSE-EXP LEVEL	F, D	46.44	47.60	48.79	50.01	51.76
VWX4	REGISTERED NURSE-PRJ ADV LEVEL	F, D	55.25	56.63			
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	42.12				
VWX3	REGISTERED NURSE-PRJ EXP LEVEL	F, D	46.44	47.60	48.79	50.01	51.76

PUBLIC HEALTH NURSE UNIT (LT)			Hourly Range for Illustrative Purposes Based Upon Average Month												
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13
VVXA	PUBLIC HLTH NURSE	D	44.21	45.32	46.45	47.61	48.80	50.02	51.27	52.55	53.87	55.21	56.59	58.01	59.46
VVX1	PUBLIC HLTH NURSE-PROJECT		44.21	45.32	46.45	47.61	48.80	50.02	51.27	52.55	53.87	55.21	56.59	58.01	59.46

STAFF NURSES UNIT (L8)			Hourly Range											
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12
VVXF	STAFF ADVICE NURSE-PER DIEM		45.87	47.02	48.19	49.40	50.63	51.90	53.20	54.53	55.89	57.29	58.72	
VVWA	STAFF NURSE-PER DIEM		43.74	45.93	48.22	50.63	53.16	55.82	58.61	61.54	64.62	67.85	71.25	74.81

**CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 12/31/2016 MIDNIGHT**

REGISTERED NURSES UNIT (L3)			Salary Range by Step (Rounded)									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWSN	ADVICE NURSE	F	8,162.02	8,366.07	8,575.22	8,789.60	9,009.34	9,234.57	9,465.44	9,702.07	9,944.63	10,193.24
VWTF	CHARGE NURSE		9,357.05	9,590.97	9,830.75	10,076.52	10,328.43	10,586.64	10,851.31	11,122.59	11,400.66	11,685.67
VWTA	CLINICAL NURSE SPECIALIST		9,264.86	9,496.48	9,733.90	9,977.24	10,226.67	10,482.34	10,744.40	11,013.01	11,288.34	11,570.54
VWSB	FAMILY NURSE PRACTITIONER	F	9,264.86	9,496.48	9,733.90	9,977.24	10,226.67	10,482.34	10,744.40	11,013.01	11,288.34	11,570.54
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		9,592.49	9,832.30	10,078.11	10,330.06	10,588.31	10,853.02	11,124.35	11,402.45	11,687.52	11,979.70
VW7A	NURSE PRACTITIONER TRAINEE	F	8,654.53									
VWXG	REGISTERED NURSE	F, D	8,063.59	8,265.18	8,471.81	8,683.61	8,900.70	9,123.21	9,351.29	9,585.08	9,824.70	10,070.32
VWX5	REGISTERED NURSE-PROJECT	F, D	8,063.59	8,265.18	8,471.81	8,683.61	8,900.70	9,123.21	9,351.29	9,585.08	9,824.70	10,070.32
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	7,300.80									
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	7,300.80									

PUBLIC HEALTH NURSE UNIT (LT)			Salary Range by Step (Rounded)									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VVXA	PUBLIC HLTH NURSE	D	8,466.77	8,678.44	8,895.40	9,117.79	9,345.73	9,579.37	9,818.86	10,064.33	10,315.94	10,573.84
VVX1	PUBLIC HLTH NURSE-PROJECT		8,466.77	8,678.44	8,895.40	9,117.79	9,345.73	9,579.37	9,818.86	10,064.33	10,315.94	10,573.84

STAFF NURSES UNIT (L8)			Hourly Range									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWXF	STAFF ADVICE NURSE-PER DIEM		56.51	57.92	59.37	60.85	62.37	63.93	65.53	67.17	68.85	70.57
VVWA	STAFF NURSE-PER DIEM		55.82	57.22	58.65	60.12	61.62	63.16	64.74	66.36	68.02	69.72

**CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 12/31/2016 MIDNIGHT**

REGISTERED NURSES UNIT (L3)			Hourly Range for Illustrative Purposes Based Upon Average Month									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWSN	ADVICE NURSE	F	47.09	48.27	49.47	50.71	51.98	53.28	54.61	55.97	57.37	58.81
VWTF	CHARGE NURSE		53.98	55.33	56.72	58.13	59.59	61.08	62.60	64.17	65.77	67.42
VWTA	CLINICAL NURSE SPECIALIST		53.45	54.79	56.16	57.56	59.00	60.48	61.99	63.54	65.13	66.75
VWSB	FAMILY NURSE PRACTITIONER	F	53.45	54.79	56.16	57.56	59.00	60.48	61.99	63.54	65.13	66.75
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		55.34	56.72	58.14	59.60	61.09	62.61	64.18	65.78	67.43	69.11
VW7A	NURSE PRACTITIONER TRAINEE	F	49.93									
VWXG	REGISTERED NURSE	F, D	46.52	47.68	48.88	50.10	51.35	52.63	53.95	55.30	56.68	58.10
VWX5	REGISTERED NURSE-PROJECT	F, D	46.52	47.68	48.88	50.10	51.35	52.63	53.95	55.30	56.68	58.10
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	42.12									
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	42.12									

PUBLIC HEALTH NURSE UNIT (LT)			Hourly Range for Illustrative Purposes Based Upon Average Month									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VVXA	PUBLIC HLTH NURSE	D	48.85	50.07	51.32	52.60	53.92	55.27	56.65	58.06	59.52	61.00
VVX1	PUBLIC HLTH NURSE-PROJECT		48.85	50.07	51.32	52.60	53.92	55.27	56.65	58.06	59.52	61.00

STAFF NURSES UNIT (L8)			Hourly Range									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWXF	STAFF ADVICE NURSE-PER DIEM		56.51	57.92	59.37	60.85	62.37	63.93	65.53	67.17	68.85	70.57
VVWA	STAFF NURSE-PER DIEM		55.82	57.22	58.65	60.12	61.62	63.16	64.74	66.36	68.02	69.72

**CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 1/1/17 +3.0%**

REGISTERED NURSES UNIT (L3)			Salary Range by Step (Rounded)									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWSN	ADVICE NURSE	F	8,406.88	8,617.05	8,832.48	9,053.29	9,279.62	9,511.61	9,749.40	9,993.14	10,242.96	10,499.04
VWTF	CHARGE NURSE		9,637.76	9,878.70	10,125.67	10,378.81	10,638.28	10,904.24	11,176.85	11,456.27	11,742.67	12,036.24
VWTA	CLINICAL NURSE SPECIALIST		9,542.81	9,781.38	10,025.91	10,276.56	10,533.47	10,796.81	11,066.73	11,343.40	11,626.99	11,917.66
VWSB	FAMILY NURSE PRACTITIONER	F	9,542.81	9,781.38	10,025.91	10,276.56	10,533.47	10,796.81	11,066.73	11,343.40	11,626.99	11,917.66
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		9,880.26	10,127.27	10,380.45	10,639.96	10,905.96	11,178.61	11,458.08	11,744.53	12,038.14	12,339.10
VW7A	NURSE PRACTITIONER TRAINEE	F	8,914.17									
VWXG	REGISTERED NURSE	F, D	8,305.50	8,513.14	8,725.97	8,944.11	9,167.72	9,396.91	9,631.83	9,872.63	10,119.44	10,372.43
VWX5	REGISTERED NURSE-PROJECT	F, D	8,305.50	8,513.14	8,725.97	8,944.11	9,167.72	9,396.91	9,631.83	9,872.63	10,119.44	10,372.43
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	7,519.82									
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	7,519.82									

PUBLIC HEALTH NURSE UNIT (LT)			Salary Range by Step (Rounded)									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VVXA	PUBLIC HLTH NURSE	D	8,720.77	8,938.79	9,162.26	9,391.32	9,626.10	9,866.76	10,113.42	10,366.26	10,625.42	10,891.05
VVX1	PUBLIC HLTH NURSE-PROJECT		8,720.77	8,938.79	9,162.26	9,391.32	9,626.10	9,866.76	10,113.42	10,366.26	10,625.42	10,891.05

STAFF NURSES UNIT (L8)			Hourly Range									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWXF	STAFF ADVICE NURSE-PER DIEM		58.20	59.66	61.15	62.68	64.24	65.85	67.50	69.18	70.91	72.69
VVWA	STAFF NURSE-PER DIEM		57.50	58.94	60.41	61.92	63.47	65.06	66.68	68.35	70.06	71.81

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 1/1/17 +3.0%

REGISTERED NURSES UNIT (L3)			Hourly Range for Illustrative Purposes Based Upon Average Month									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWSN	ADVICE NURSE	F	48.50	49.71	50.96	52.23	53.54	54.87	56.25	57.65	59.09	60.57
VWTF	CHARGE NURSE		55.60	56.99	58.42	59.88	61.37	62.91	64.48	66.09	67.75	69.44
VWTA	CLINICAL NURSE SPECIALIST		55.05	56.43	57.84	59.29	60.77	62.29	63.85	65.44	67.08	68.76
VWSB	FAMILY NURSE PRACTITIONER	F	55.05	56.43	57.84	59.29	60.77	62.29	63.85	65.44	67.08	68.76
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		57.00	58.43	59.89	61.38	62.92	64.49	66.10	67.76	69.45	71.19
VW7A	NURSE PRACTITIONER TRAINEE	F	51.43									
VWXG	REGISTERED NURSE	F, D	47.92	49.11	50.34	51.60	52.89	54.21	55.57	56.96	58.38	59.84
VWX5	REGISTERED NURSE-PROJECT	F, D	47.92	49.11	50.34	51.60	52.89	54.21	55.57	56.96	58.38	59.84
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	43.38									
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	43.38									

PUBLIC HEALTH NURSE UNIT (LT)			Hourly Range for Illustrative Purposes Based Upon Average Month									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VVXA	PUBLIC HLTH NURSE	D	50.31	51.57	52.86	54.18	55.54	56.92	58.35	59.81	61.30	62.83
VVX1	PUBLIC HLTH NURSE-PROJECT		50.31	51.57	52.86	54.18	55.54	56.92	58.35	59.81	61.30	62.83

STAFF NURSES UNIT (L8)			Hourly Range									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWXF	STAFF ADVICE NURSE-PER DIEM		58.20	59.66	61.15	62.68	64.24	65.85	67.50	69.18	70.91	72.69
VVWA	STAFF NURSE-PER DIEM		57.50	58.94	60.41	61.92	63.47	65.06	66.68	68.35	70.06	71.81

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 7/1/17 +3.0%

REGISTERED NURSES UNIT (L3)			Salary Range by Step (Rounded)									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWSN	ADVICE NURSE	F	8,659.08	8,875.56	9,097.45	9,324.89	9,558.01	9,796.96	10,041.88	10,292.93	10,550.25	10,814.01
VWTF	CHARGE NURSE		9,926.89	10,175.07	10,429.44	10,690.18	10,957.43	11,231.37	11,512.15	11,799.96	12,094.95	12,397.33
VWTA	CLINICAL NURSE SPECIALIST		9,829.09	10,074.82	10,326.69	10,584.86	10,849.48	11,120.72	11,398.73	11,683.70	11,975.79	12,275.19
VWSB	FAMILY NURSE PRACTITIONER	F	9,829.09	10,074.82	10,326.69	10,584.86	10,849.48	11,120.72	11,398.73	11,683.70	11,975.79	12,275.19
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		10,176.67	10,431.09	10,691.87	10,959.16	11,233.14	11,513.97	11,801.82	12,096.86	12,399.29	12,709.27
VW7A	NURSE PRACTITIONER TRAINEE	F	9,181.59									
VWXG	REGISTERED NURSE	F, D	8,554.66	8,768.53	8,987.74	9,212.44	9,442.75	9,678.82	9,920.79	10,168.81	10,423.03	10,683.60
VWX5	REGISTERED NURSE-PROJECT	F, D	8,554.66	8,768.53	8,987.74	9,212.44	9,442.75	9,678.82	9,920.79	10,168.81	10,423.03	10,683.60
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	7,745.42									
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	7,745.42									

PUBLIC HEALTH NURSE UNIT (LT)			Salary Range by Step (Rounded)									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VVXA	PUBLIC HLTH NURSE	D	8,982.40	9,206.96	9,437.13	9,673.06	9,914.89	10,162.76	10,416.83	10,677.25	10,944.18	11,217.78
VVX1	PUBLIC HLTH NURSE-PROJECT		8,982.40	9,206.96	9,437.13	9,673.06	9,914.89	10,162.76	10,416.83	10,677.25	10,944.18	11,217.78

STAFF NURSES UNIT (L8)			Hourly Range									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWXF	STAFF ADVICE NURSE-PER DIEM		59.95	61.45	62.98	64.56	66.17	67.83	69.52	71.26	73.04	74.87
VVWA	STAFF NURSE-PER DIEM		59.22	60.71	62.22	63.78	65.37	67.01	68.68	70.40	72.16	73.96

CALIFORNIA NURSES ASSOCIATION
CLASS AND SALARY LISTING
Effective 7/1/17 +3.0%

REGISTERED NURSES UNIT (L3)			Hourly Range for Illustrative Purposes Based Upon Average Month									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWSN	ADVICE NURSE	F	49.96	51.21	52.49	53.80	55.14	56.52	57.93	59.38	60.87	62.39
VWTF	CHARGE NURSE		57.27	58.70	60.17	61.67	63.22	64.80	66.42	68.08	69.78	71.52
VWTA	CLINICAL NURSE SPECIALIST		56.71	58.12	59.58	61.07	62.59	64.16	65.76	67.41	69.09	70.82
VWSB	FAMILY NURSE PRACTITIONER	F	56.71	58.12	59.58	61.07	62.59	64.16	65.76	67.41	69.09	70.82
VWSM	HEALTH SVCS EDUC AND TRNG SPEC		58.71	60.18	61.68	63.23	64.81	66.43	68.09	69.79	71.53	73.32
VW7A	NURSE PRACTITIONER TRAINEE	F	52.97									
VWXG	REGISTERED NURSE	F, D	49.35	50.59	51.85	53.15	54.48	55.84	57.24	58.67	60.13	61.64
VWX5	REGISTERED NURSE-PROJECT	F, D	49.35	50.59	51.85	53.15	54.48	55.84	57.24	58.67	60.13	61.64
VWXC	REGISTERED NURSE-BEG LEVEL	F, D	44.69									
VWX2	REGISTERED NURSE-PRJ BEG LEVEL	F, D	44.69									

PUBLIC HEALTH NURSE UNIT (LT)			Hourly Range for Illustrative Purposes Based Upon Average Month									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VVXA	PUBLIC HLTH NURSE	D	51.82	53.12	54.44	55.81	57.20	58.63	60.10	61.60	63.14	64.72
VVX1	PUBLIC HLTH NURSE-PROJECT		51.82	53.12	54.44	55.81	57.20	58.63	60.10	61.60	63.14	64.72

STAFF NURSES UNIT (L8)			Hourly Range									
Job Code	Class Title	Flex Staff (F) / Deep Class (D)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
VWXF	STAFF ADVICE NURSE-PER DIEM		59.95	61.45	62.98	64.56	66.17	67.83	69.52	71.26	73.04	74.87
VVWA	STAFF NURSE-PER DIEM		59.22	60.71	62.22	63.78	65.37	67.01	68.68	70.40	72.16	73.96

MEDICAL/DENTAL PLANS 2016 Plan Year

Covered Offered

The County offers the following Plans:

Contra Costa Health Plans (CCHP), Kaiser Permanente, Health Net, Delta Dental and Delta Care USA (PMI) Dental.

Co-Pays

The health plan co-pays are as follows:

CCHP A:	\$0 Office Visit in the RMC Network \$0 Preferred Generic RX \$0 Preferred Brand RX \$0 Non-Preferred Brand RX
CCHP B:	\$0 Office Visit in the RMC Network \$5 Office Visit in the CPN Network \$3 Preferred Generic RX \$3 Preferred Brand RX \$3 Non-Preferred Brand RX
KAISER PERMANENTE PLAN A:	\$10 Office Visit \$10 Preferred Generic RX \$20 Preferred Brand RX \$20 Non-Preferred Brand RX \$10 Emergency Room
KAISER PERMANENTE PLAN B:	\$500 Deductible Per Person \$1000 Deductible Per Family \$20 Office Visit Copay (not subject to deductible) \$20 Urgent Care Copay (not subject to deductible) \$10 Lab & X-ray Copay (not subject to deductible) \$10 Preferred Generic RX \$30 Preferred Brand RX \$30 Non-Preferred Brand RX

10% Co-Insurance After Deductible for Inpatient Hospital,
Outpatient Surgical and Emergency Room
\$3000 per person and \$6000 per family Annual Out of
Pocket Maximum

HEALTH NET HMO Plan A:

\$10 Office Visit
\$10 Preferred Generic RX
\$20 Preferred Brand RX
\$35 Non-Preferred Brand or Generic RX
\$25 Emergency Room

HEALTH NET HMO Plan B:

\$20 Office Visit
\$50 Urgent Care Visit
\$1000 Inpatient Hospital Co-pay
\$500 Out-Patient Surgical Co-pay
\$100 Emergency Room Co-pay
\$10 Preferred Brand RX
\$20 Non-Preferred Brand RX
\$35 Non-Preferred Brand or Generic RX
\$2000 per person and \$6000 per family Annual Out of
Pocket Maximum

HEALTH NET PPO Plan A:

\$10 Office Visit in network
\$5 Preferred Generic RX
\$5 Preferred Brand RX
\$5 Non-Preferred Brand or Generic RX
\$50 Emergency Room Deductible, 10% Co-Insurance

DENTAL DENTAL PREMIER:

\$1,800 Annual Out of Pocket Maximum

ATTACHMENT H

CALIFORNIA NURSES ASSOCIATION (CNA)

Section 48 – Permanent-Intermittent Employee Benefits

CNA- Attachment H

Special Pays for Permanent-Intermittent Employees

1) Applicable to all Permanent-Intermittent Employees

Type of Pay	<u>MOU Section</u>
Jury Duty-Scheduled Work Day	17.1
Military Leave	16.4
County Overtime	7.1
FLSA Overtime	N/A
Sick Leave Hours Taken	14
Vacation Hours Taken	13
CNA Weekend Shift Bonus	10.2
CNA Weekend Only Shift 1	Attachment M
CNA Weekend Only Shift 2	Attachment M
CNA Nurse Representatives	4
Sabbatical Leave	13.4
Health Services Education Hours	31
Shift Differential Pay @ 12%	10.1
Shift Differential Pay @ 15%	10.1
Code Gray @ 10%	56
Negotiations Time Off	4.2

2) Applicable to only those Permanent-Intermittent employees in the specified classification/org.

Type of Pay	<u>MOU Section</u>	<u>Applicable Job Classification(s)</u>	<u>Applicable Assigned Org. (Org.#)</u>
FNP Weekend Differential Hospital/Clinics	52.1	VWSB	DPT: 0540
FNP Evening Differential Hospital/Clinics	52.1	VWSB	DPT: 0540
Charge Nurse Relief	5.4	VWXD, VWXE, VWSN, VWXG, VWX5	
Detention Assignment	10.3	VWXC, VWXD, VWX2, VWX3, VWXG, VWX5	5700, 5701, 5702, 5710, 5711
ER Assignment	10.4	VWXC, VWXD, VWXE, VWX2, VWX3, VWT4, VWXG, VWX5	6383
Detention Nurse Advanced Level	Att. C	VWX4, VWXE, VWXG, VWX5	5700, 5701, 5702, 5710, 5711
Double Shift Premium	7.1	VWXC, VWXD, VWX2, VWX3, VWX4, VWXG, VWX5	

STAFF NURSE UNIT/PER DIEM ATTACHMENT

Special Pays, Benefits, and Other Items that are applicable to Staff Nurse Unit/Per Diem employees:

These sections of the MOU are applicable to Per Diem Employees:

- Section 1 Association Recognition
- Section 2 Association Security
- Section 4 Nurse Representatives
- Section 5.1-5.17 Wages
- Section 7.3 Continuous Shifts
- Section 7.4 Per Diem Overtime Pay
- Section 8 Call-Back Time
- Section 9 On-Call Duty
- Section 10.5 Per Diem Differentials (Including Detention Facility Differential, Code Grey)
- Section 12.10 Per Diem Holiday Pay and Holiday Meal
- Section 24 Grievance Procedure
- Section 25 Compensation Complaints
- Section 27 No Strike
- Section 32 Classification
- Section 33 Safety
- Section 34 Mileage
- Section 35 Pay Warrant Errors
- Section 37 Joint Association/Management Meeting
- Section 39 Notice of Hires and Separations
- Section 41 Personnel Files
- Section 49 Staff Nurse Unit/Per Diem Employees
- Section 53 Health Examination
- Section 54 Floating
- Section 58 Adoption
- Section 59.1 Scope of Agreement
- Section 59.2 Separability of Provisions
- Section 62 Conscious Sedation
- Section 65 Duration of Agreement

If a special pay, benefit, or other item that is described in this MOU does not specifically reference per diem employees or the special pay, benefit, or other item is not included in this Attachment, then the special pay, benefit, or other item does not apply to per diem employees.

ATTACHMENT J

October 1, 2005

Dan Lawson
Labor Representative
California Nurses Association
2000 Franklin Street
Oakland, CA 94612

RE: ACUITY BASED STAFFING

Dear Mr. Lawson:

This is to confirm agreement reached regarding acuity based staffing.

Contra Costa Regional Medical Center will continue its current practice of staffing based on an acuity system, in conformance with accreditation and licensure requirements of JCAHO and Title XXII.

A staffing manual describing the acuity system will be maintained on each nursing unit and in nursing administration.

A joint committee will be convened for the purpose of establishing an annual review module of the patient classification system. The committee shall be composed of equal numbers of labor and management designated representatives who have been assigned responsibility for acuity and staffing decisions. The Charge Nurse for each unit/shift or designee will serve as the expert resource to other staff on issues relating to the acuity system.

Problems or concerns about the acuity system should be referred to the Professional Performance Committee (PPC), as provided for in Section 35. The Director of Nursing or designee will meet with the PPC upon request at a mutually agreeable time to discuss issues related to patient care and nursing practice.

Hours of the charge nurses that are not available for patient care shall not be counted in the hours per patient shift.

Dan Lawson
RE: ACUITY BASED STAFFING
October 1, 2005
Page 2

If this confirms to your understanding, please indicate your agreement by signing in the space provided below.


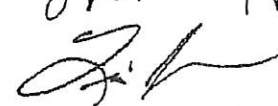
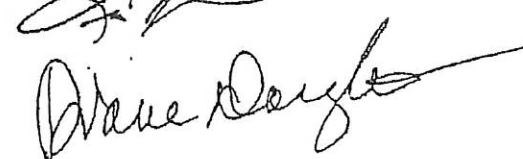
Sincerely,

Shelley Pighin
HSD Personnel Officer



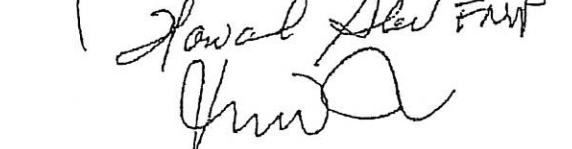

Confirmed

Dan Lawson
Labor Representative, CNA

3/17/2006


Sinthia Hellmuth

Diane Doyle


Date



Hawal Steel Corp



WILLIAM B. WALKER, M. D.
HEALTH SERVICES DIRECTOR



PERSONNEL SERVICES

597 Center Avenue, Suite 260
Martinez, California
94553-4669
Ph (925) 313-6600
Fax (925) 313-6627

September 18, 1999

Francisco Ugarte
California Nurses Association
8393 Capwell Drive #200
Oakland, CA 94621

RE: PERMANENT INTERMITTENT AND PART-TIME REGISTERED NURSES
AND FAMILY NURSE PRACTITIONERS

Dear Mr. Ugarte

This is to confirm agreement reached regarding increase in hours for Registered Nurses
and Family Nurse Practitioners.

Permanent intermittent and permanent part-time employees of the Hospital and Clinics
Division who wish to have the hours of their positions increased up to a maximum of
full-time must so request in writing during a thirty (30) day period beginning as follows:
December 1, 1999, April 1, 2000, October 1, 2000, April 1, 2001, October 1, 2001 and
April 1, 2002.

Hospital and Clinic Administration will evaluate those requests within thirty (30) days of
the application deadline by considering the actual work hours of the employee over the
past six months and the anticipated need for their assignment on an increased basis.
Those which are approved will be submitted for consideration by the County as a P-300
request within an additional sixty (60) days.

If this conforms to your understanding, please indicate your agreement by signing in the
space provided below.

Sincerely,

Lee Ann Adams

Health Services Department Personnel Services Officer

Confirmed

9/18/99

Francisco Ugarte
Labor Representative, CNA



• Contra Costa Community Substance Abuse Services • Contra Costa Emergency Medical Services • Contra Costa Environmental Health • Contra Costa Health Plan •
• Contra Costa Hazardous Waste Programs • Contra Costa Mental Health • Contra Costa Public Health • Contra Costa Regional Medical Center • Contra Costa Health Care

CNA Proposal March 17, 2006



DETENTION RN ADVANCED LEVEL PAY PROPOSAL

The County agrees to modify the RN Advanced Level classification job description to permit Detention nurses to promote to the Advanced level provided that they meet the criteria for promotion. The County also agrees to meet and confer with the Association to develop the criteria and establish an implementation date. The implementation date shall be no later than September 1, 2006.

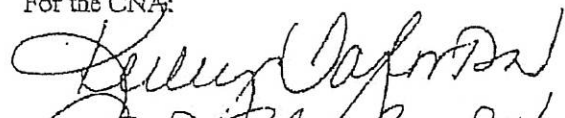
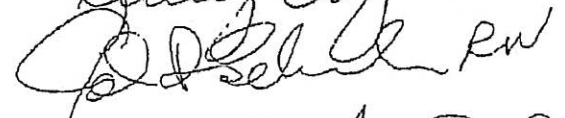

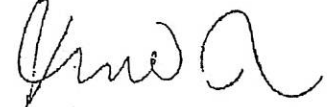

Upon a detention nurse becomes eligible for Advanced Level I pay (5% increase), his or her detention differential shall be correspondingly lowered by 5%. Upon a detention nurse becomes eligible for Advanced Level II pay (6% increase), his or her detention differential shall be discontinued.

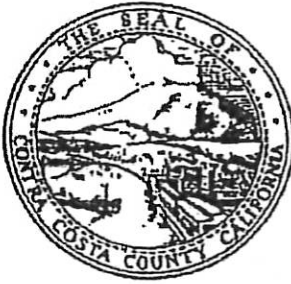
Date: 3/17/2006

For the County:


Thomas

Graham Hellmer

For the CNA:


Kelly Caporaso

Ed Schuch RN

Howard Albert FAP

Linda A

J. Saw



Health Services Department
Personnel Services
OFFICE OF THE DIRECTOR

Administrative Offices
897 Center Avenue, Suite 260
Martinez, California 94553-2858
(510) 313-6600

August 21, 1996

Joe Lindsey, Labor Representative
California Nurses Association
393 Capwell Drive #200
Oakland, CA 94621

RE: AGREEMENTS REACHED DURING 1995/96 NEGOTIATIONS

This letter will confirm our agreement reached during 1995/1996 Negotiations regarding CNA Proposal 19 - Patient Care:

Part 2: Assignment Despite Objection (TA July 1, 1996)

- A. The PPC committee will be provided a copy of the draft ADO response form in order to submit any suggested additions/changes to the Director of Nursing.
- B. The department will respond to an employee within 14 days of filing an ADO.
- C. A copy of the response shall be provided to the PPC chair.

Part 1: Orientation (TA July 30, 1996)

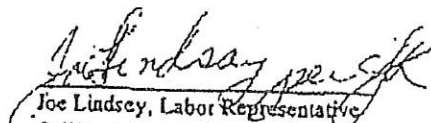
There will be a minimum of two (2) full shifts of orientation with a designated preceptor when a nurse is assigned to a new unit on a permanent basis. A nurse who is being oriented will not be included in core staffing for the unit.

If this conforms to your understanding, please indicate your agreement by signing in the space provided below.

Sincerely,


Roger L. Wong,
Health Services Personnel Officer

Confirmed:


Joe Lindsey, Labor Representative
California Nurses Association

ATTACHMENT N

November 11, 1999

Mr. Francisco Ugarte, Labor Representative
California Nurses' Association
2000 Franklin Street
Oakland, CA 94621

**RE: LETTER OF UNDERSTANDING - MANDATORY OVERTIME POLICY FOR
CONTRA COSTA REGIONAL MEDICAL CENTER IN-PATIENT RN'S**

Dear Mr. Ugarte:

This is to confirm that the use of mandatory overtime will be limited to those emergency staffing situations that involve local, state, or federally designated disasters/emergencies or emergency high census and/or high acuity. Emergency high census and/or high acuity means those situations where patients need to be diverted and/or transferred to another facility.

In the event emergency high census and/or high acuity exists necessitating mandatory overtime beyond a continuous twenty-four (24) hour period, CNA will be notified prior to implementation of a second twenty-four (24) hour period.

Before using mandatory overtime, the County will do the following:

- Seek volunteers from among the qualified nurses at the work site.
- Seek volunteers from among the qualified nurses who are not scheduled to work the shift in question.
- Contact nurses on the "Per Diem" list.
- Seek volunteers from among the qualified nurses who are working on other units.
- Contact the Nursing Registry for available, qualified nurses.

When mandatory overtime is implemented, it will be assigned on a rotated basis beginning with the least senior qualified nurse on duty. No nurse who is off duty and who has left the work site shall be required to work mandatory overtime. No nurse will be required to work mandatory overtime on a unit other than his/her normally assigned unit. Mandatory overtime will be limited to four (4) hours in a twenty-four (24) hour period. Nurses who

ATTACHMENT N

work mandatory overtime will be paid at the rate set forth in Section 7, Overtime, of the Memorandum of Understanding (MOU); however, the fifty-four dollars (\$54.00) will not be prorated under these circumstances.

The County will document the use of mandatory overtime.

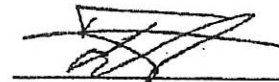
This side letter shall be in effect only for the duration of this MOU.

Sincerely,



Lee Ann Adams
Health Services Personnel Officer

Confirmed:



Francisco Ugarte
CNA Labor Representative

Nov 11, 97

COUNTY PROPOSAL
2005 County –C N A Negotiations
Presented: March 17, 2006

Date: 3/17/06

Frank Hunt
John Hellmuth

FOR THE CNA:
 Kelly Capron
 C. P. Palmer
 Howard Allen Ford
 [Signature]
 K. W. [Signature]

Revised Side letter on Overtime at the Detention Facility
2005 County-C N A Negotiations
February 17, 2006

February 17, 2006

Dan Lawson, Labor Representative
California Nurses' Association
200 Franklin Street
Oakland, CA 94621

RE: LETTER OF UNDERSTANDING -MANDATORY OVERTIME POLICY
FOR CONTRA COSTA COUNTY DETENTION FACILITIES

Dear Mr. Lawson:

This is to confirm that Contra Costa Health Services agrees that the use of mandatory overtime should be limited. We recognize the impact of the overtime on staff and agree to attempt to reduce the amount of overtime incurred at the Detention facilities. To that end, we will attempt to establish a larger Per Diem pool, and will include Detention in the on-call study for the feasibility of a PM or Day shift call schedule. A Per Diem pool will be established and cleared to work in Detention within the next six to nine months. Detention Facilities Management or designee will be responsible for staffing at the Detention Facilities.

Before mandatory overtime is implemented, the County will do the following:

- Seek volunteers from among the qualified nurses at the work site
- Seek volunteers from among the qualified nurses who are not scheduled to work the shift in question
- Contact nurses on the "Per Diem" list
- Contact the Nursing Registry for available, qualified nurses.

When mandatory overtime is implemented it will be assigned on a rotated basis. No nurse who is off duty and who has left the work site shall be required to work mandatory overtime. No nurse will be required to work mandatory overtime at a Detention facility other than his/her regularly assigned facility. Mandatory overtime will be limited to 8 hours in a 24-hour period. Nurses who work mandatory overtime will be paid at the rate set forth in Section 7, Overtime, of the Memorandum of Understanding (MOU).

ATTACHMENT O

Revised Side letter on Overtime at the Detention Facility
2005 County-C N A Negotiations
February 17, 2006

Representatives from the Health Services Department and the California Nurses Association agree to schedule meetings within 60 days of the ratification of this MOU to discuss the establishment of 12 hour and 12 hour weekend only positions. Establishment of such positions will be subject to agreement of the parties.

Sincerely,

Confirmed:

Shelley Pighin
Health Services Personnel Officer

Dan Lawson
C N A Labor Representative

Date: 3-17-06

FOR THE COUNTY:

Guthrie Hellmuth

FOR C N A:

T/A

1-18-

COUNTY COUNTER PROPOSAL to C N A NO. 10

2005 County - C N A Negotiations

Presented: January 18, 2006

Attachment, Side letter re: Weekends Only Schedules

Contra Costa Regional Medical Center agrees to establish weekend only nurse shifts consisting of two (2) twelve-hour shifts at straight time working between 7 a.m. Saturday and 7:30 a.m. Monday. The first shift will begin at 7:00 a.m. and end at 7:30 p.m. The second shift will begin at 7:00 p.m. and end at 7:30 a.m.

- All hours worked during the first shift shall be paid at straight time plus an eight percent (8%) differential, inclusive of shift differential;
- All hours worked during the second shift shall be paid at straight time plus a twenty percent (20%) differential, inclusive of shift differential;
- All benefits will be based on the number of position hours;
- Employees assigned to this schedule are required to work forty-six (46) out of fifty-two (52) weekends;
- Employees who work in excess of twelve (12) hours in a twenty-four (24) hour day or in excess of forty (40) hours in a week shall be paid at a rate of one and one-half of their straight-time hourly pay.

In addition, Representatives from Health Services and the California Nurses Association agree to schedule meetings within sixty (60) days of the ratification of the MOU to discuss establishment of other weekend only arrangements and compensation.

This agreement is subject to review six (6) months prior to expiration of this MOU to determine if it should be continued, modified or eliminated. Notwithstanding this agreement, the employee reserves the right to eliminate one or both twelve-hour shifts based on adverse impact on finances or operations. Employer reserves the right to determine the number and location of weekend shifts, and the necessity of twenty-four (24) hour coverage without staffing overlap.

Date: 1/18/06

FOR THE COUNTY:

Lynita R. Bates
[Signature]
Frances Hunt
Guthrie Hellmuth
Brianne Bogler
[Signature]

FOR THE C N A:

[Signature]
Howard H. H. H.
Kenny [Signature]
[Signature]
[Signature]

CONTRA COSTA REGIONAL MEDICAL CENTER
CONTRA COSTA HEALTH CENTERS

Policy #3.08

FLOATING

I. PURPOSE

Nursing management at Contra Costa Regional Medical Center is committed to providing safe, quality, and cost efficient care to our clients. We are committed to providing our staff with opportunities for growth and job satisfaction. Demonstrated competence within clinical cluster units and the definition of basic nursing care are mechanisms to provide safe, quality, and cost efficient care to our patients.

II. REFERENCES

Nursing Administration Policy, 3.05 Assignment of Nursing Staff to Patient Care
Nursing Administration Policy, 3.11 Patient Centered Classification System
Title 16, Business and Professions Code
Nurse Practice Act, Section 2725 (<http://www.rn.ca.gov/pdfs/regulations/npr-b-21.pdf>)
California Code of Regulations, Section 1443.5

III. POLICY

Nursing staff (Registered Nurses, Licensed Vocational Nurses, Licensed Psychiatric Technicians, and Certified Nursing Assistants are required to float in order to provide safe patient care.

IV. PROCEDURE

Note: Patient care needs will come first regardless of float order upon the discretion of the Nurse Program Manager and/or the Nursing Shift Coordinator.

1. Registered Nurses, Licensed Vocational Nurses, Licensed Psychiatric Technicians, and Certified Nursing Assistants are required to float. Charge Nurses and/or Relief Charge Nurses are exempt from floating. In an unanticipated emergency situation which threatens safe patient care delivery, the Charge Nurse and/or Relief Charge Nurse may be floated upon the discretion of the Nurse Program Manager (NPM) and/or Nursing Shift Coordinator (NSC).
2. The NPM will provide the Staffing Services with documentation of staff who have received orientation and/or competency training, if required, in a specific unit. This information will be entered into the Staffing and Scheduling System.
3. The NPM and/or NSC, and the Charge Nurse will collaboratively assess the needs of the unit in determination of staff to float. The Charge Nurse will assign the staff for float. The Staffing Services will indicate the following information on the staffing sheet:
 - Unit from which the nurse will float
 - Unit to which the nurse will float to, and
 - Classification of staff member to be floated.

4. Floating will be determined in the following order:
 - a. Volunteers (also outside their clinical clusters)
 - b. Registry/Travelers
Note: Day registries are booked specifically for a unit & shift thus usually do not float.
 - c. Per Diem
 - d. Beginning Level RN/new grad per diem to remain in hired unit for first 6 months of hire after which they will float on rotational basis. Experienced or Advanced Level RN to remain in hired unit for first 90 days of hire after which they will float on a rotational basis.
 - e. 10 years (and under) seniority, as a permanent employee in the bargaining unit, on a rotating basis
 - f. Over 10 years seniority, but less than 20 years, as a permanent employee in the bargaining unit, on a rotating basis.
 - g. More than 20 years seniority, as a permanent employee in the bargaining unit, on a rotating basis

CONTRA COSTA REGIONAL MEDICAL CENTER
CONTRA COSTA HEALTH CENTERS

Policy #3.08

5. Clinical Clusters:

UNITS	STAFFED TO CORE/RATIO	"FLOAT CLUSTERS"
Float to.....		Hospital
GASTRO INTESTINAL SERVICES (GI)	CORE	PACU SPECIAL PROCEDURE
POST ANESTHESIA CARE UNIT (PACU)	CORE	OR GI SPECIAL PROCEDURE
OPERATING ROOM (OR)	CORE	L&D assist with C-SECTIONS
EMERGENCY DEPT. (ED)	CORE	CCU
3E – Intermediate Care Unit (IMCU)	RATIO 1:3	CCU PACU ED GI 4A BASIC ASSIGNMENT
3D – Critical Care Unit (CCU)	RATIO 1:2	IMCU PACU ED GI 4A BASIC ASSIGNMENT
PSYCHIATRIC EMERGENCY SERVICE (PES)	CORE	4C – IN PATIENT PSYCHIATRIC UNIT
4A – TELEMETRY	RATIO 1:4	4B 5D IMCU PRE-OP
4B – MEDICAL	RATIO 1:5	5D 5C 4A IMCU
4C – IN PATIENT PSYCHIATRIC UNIT	RATIO 1:6	PES
LABOR & DELIVERY (L&D)	CORE	NURSERY 5C
NURSERY	RATIO	5C L&D
5C – POSTPARTUM	RATIO 1:4 MB	L&D NURSERY
5D – 5DP SURGICAL	RATIO 1:5	4B 5C PACU 4A IMCU
DETENTION JUVENILE SVCS		JUVENILE HALL ORIN ALLEN YOUTH REHAB FACILITY
DETENTION ADULT SVCS		Mtz Det. Fac. W. County Det. Fac. Marsh Creek Det. Fac.
OTHER STAFF		
PER-DIEM/PART TIME TEMPS RN'S	N/A	PER UNITS FLOAT CLUSTER RN IS ASSIGNED TO AND/OR VOLUNTARY BASIS AFTER COMPETENCY/ORIENTATION MET
REGISTRY/AGENCY/ TRAVELER RN'S	N/A	PER UNITS FLOAT CLUSTER RN IS ASSIGNED TO AND/OR VOLUNTARY BASIS AFTER COMPETENCY/ORIENTATION MET

Nursing staff may float out of their unit (except into 4C & PES) for the 1:1/2:1 close observation assignment.

- **Sister Units** are defined as units in which staff are oriented on hire and are indicated in the shaded areas above. Staff floating to a sister unit will be given an assignment, with consideration of the skill set needed for safe patient care.
- **Cluster Unit** indicate where staff are oriented and will be given a team (or shared) assignment in collaboration with a regular nurse from that unit. To give full assignment, the staff must have completed competency training.
- **Basic Assignments** are given in the event when the staff has not been oriented to that specific unit. Their assignments will be given in collaboration with a regular nurse from that unit. (See unit specific basic assignment – Attachment A)

**CONTRA COSTA REGIONAL MEDICAL CENTER
CONTRA COSTA HEALTH CENTERS**

Policy #3.08

The Charge Nurse and/or Relief Charge Nurse is responsible for assigning a regular nurse from that unit as a resource to the staff floating in order to assist, support safe patient care.

The Charge nurse may request the information of competency and or orientation of the float staff member from the NPM and or the NSC.

6. Hospital nursing staff will not be cancelled if needed in another area in which there are basic nursing care assignments to be carried out.
7. A staff member floated for a 1:1 or 2:1 close observation assignment will receive orientation checklist. (See attachment B)
8. Staff with orientation who have not floated within six months and staff with competency training who have not floated within one year will complete same shift unit specific orientation. The checklist will be given to the NPM and/or NSC. (See attachment C – Unit Specific Checklist)
9. Float orientation checklist must be completed and given to the NPM of the unit and/or the NSC for that shift. (See attachment D)
10. Float competency checklist must be completed and given to the NPM of the unit and/or the NSC for that shift. (See attachment E)

V. AUTHORITY/RESPONSIBILITY

Nursing Program Managers, Nursing Shift Coordinators, Directors of Nursing Operations, Chief Nursing Officer

VI. FORMS USED

Unit Specific Orientation Checklist
Close Observation Orientation Checklist
Float Log
Unit Specific Orientation Checklist

VII. RESPONSIBLE STAFF PERSON

NPM, NSC

Professional Practice Committee Review:
6/08

REVISED: 4/92; 4/95; 1/98; 2/01; 5/01; 7/03; 2/04; 4/04; 2/05; 1/06; 6/06; 6/08; 4/10; 5/9/12

SIDE LETTER

Operating Room (OR) and
Post Anesthesia Care Unit (PACU)
On-Call Agreement

5/11/12.

This side letter is by and between California Nurses Association ("CNA") and the County of Contra Costa ("County") and will be effective only after it is approved by the Board of Supervisors.

1. County will offer on-call assignments in the Operating Room ("OR") Unit and in Post Anesthesia Care Unit (PACU) to all permanent CNA nurses in these units based on unit seniority.
2. Starting with the nurse with the most unit seniority, each nurse will select his/her preferred two (2) shifts on the first rotation, two (2) shifts on the second rotation, one (1) shift on the third rotation, and one (1) shift on each rotation thereafter, until all shifts are covered.
3. During each rotation, each nurse may select only one weekend shift at a time.
4. If all shifts are not filled, and an involuntary assignment is necessary, the involuntary assignments will be made from the unit on a reverse seniority basis.
5. Unless authorized by the Nurse Program Manager ("NPM"), no nurse may be scheduled to work two consecutive on-call shifts (e.g., no 16 hours of on-call shifts during weekends and/or holidays).
6. When a nurse needs to cancel a previously scheduled on-call shift, the nurse must contact the NPM at least 72 hours in advance. The NPM will make every effort attempt to find the nurse another on-call shift to replace for the cancelled on-call shift, but a replacement on-call shift is not guaranteed. When the new scheduling system is automated, the replacement shift will be scheduled by seniority.
7. For unplanned absences between 5:00 p.m. and 8:00 a.m. Monday through Friday and anytime on weekends and holidays, the nurse must call the Staffing Services Office at least two hours prior to the start of the on-call shift. It is the Nursing Shift Coordinator's ("NSC") responsibility to find coverage for the on-call shift.

8. The nurse is only responsible for his/her on-call assignment. The NPM and the NSC are responsible for finding replacements for the uncovered shifts.

9. The staff will sign up for their rotation shifts by the due date assigned.

Date: 5/11/12

Contra Costa County:

(Signature / Printed Name)

California Nurses Association (CNA):

(Signature / Printed Name)

Diana Dougherty / Diana Dougherty [Signature] / [Signature]

[Signature] / Ted Curick Kathleen Avila / Kathleen Avila

Deborah Kal / Deborah Kal Anthony Pizzo / Anthony Pizzo

K. Powell / Kevin Powell E. Hoffe / ERICA HOFFE

Jaspreet Benegal / JASPREET BENEGAL Jerry Fillingim / Jerry Fillingim

Dorette McElum / Dorette McElum Farina Khan / Farina Khan

/

/

/

/

/

/

Contra
Costa
County



ATTACHMENT S
**Human Resources
Department**

Administration Building
651 Pine Street, Third Floor
Martinez, CA 94553-1292
(925) 335-1770

Ted J. Cwiek
Assistant County Administrator
Director of Human Resources

May 11, 2012

Jerry Fillingim
CNA Labor Representative
2000 Franklin Street
Oakland, CA 94612

RE: Automated Time Keeping – Payroll Increments of Reporting Time

Dear Jerry:

The parties commenced bargaining on or about March 9, 2012. On March 29, 2012, Contra Costa County (County) and the California Nurses Association (CNA) signed a tentative agreement stating that the Association will meet and confer with the County regarding implementation of an Automated Timekeeping System for all County employees. Over at least twelve meetings, the parties have engaged in numerous discussions about issues related to the implementation of an Automated Timekeeping System, including some issues that may require changes and/or additions to the Reporting of Time.

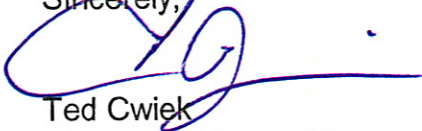
Both the County and CNA have acknowledged that there are payroll code practices that have not been consistent with the language of the MOU. This letter is to memorialize the discussions about this issue and the mutual acknowledgement of the County and CNA that the County plans to comply with the current MOU language and record overtime that is worked in six (6) minute increments beginning on June 1, 2012. CNA has asked for clarification of what this would mean with regard to various time sequences. In response, please see the enclosed document for that clarifying information.

[Handwritten signatures and notes]
Tentative Agreement
5/11/12
OK
KA
E H / A

ATTACHMENT S

If you have any questions, you may contact me at (925) 335-1770.

Sincerely,



Ted Cwiek
Director of Human Resources

Attachment

cc: Robert Campbell, Auditor-Controller
Elizabeth Verigin, Auditor-Controller
Dorette McCollum, Heath Services
Deborah Kal, Human Resources





#7

10:59 am

ATTACHMENT T
Human Resources
Department

Administration Building
651 Pine Street, Third Floor
Martinez, CA 94553-1292
(925) 335-1770

Ted J. Cwiek
Assistant County Administrator
Director of Human Resources

May 11, 2012

Jerry Fillingim
CNA Labor Representative
2000 Franklin Street
Oakland, CA 94612

RE: Automated Time Keeping – Payroll Codes and Practices

Dear Jerry:

The parties commenced bargaining for a successor MOU on or about March 9, 2012. The parties have met and conferred over wages, hours, and other terms and conditions of employment in at least twelve meetings and have engaged in numerous discussions about several issues related to the implementation of an Automated Timekeeping System. Two issues related to the Automated Timekeeping System that have been discussed are the issues of On Call/Call Back pay and Overtime pay.

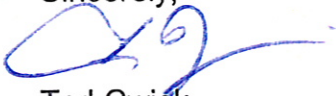
As you know, Section 8.1 of the MOU states, in part, that call-back pay applies to an "employee who is *called back* to duty". However, it was recently discovered that there have been instances where employees who had not yet left the facility but were held over to work overtime had their overtime coded as "Call Back Pay". This is to confirm that the parties have acknowledged that this coding is not a proper application of Section 8.1 and that beginning on June 1, 2012, such overtime will be coded as "overtime" and not as "Call Back Pay."

In addition, Section 7 of the MOU states that "Overtime is any authorized work performed in excess of forty (40) hours per week or eight (8) hours per day." In the process of collecting information for the implementation of the Automated Timekeeping System, it was discovered that some employees had received overtime pay when they had not actually "performed" work for eight (8) hours in a given day or forty (40) hours in a work week, because leave accruals used by those employees had been counted towards the 8 hour day and/or the 40 hour work week prerequisites. This is to confirm that the parties have acknowledged that Section 7 of the MOU specifies that overtime is based on hours worked and that beginning on June 1, 2012, only time actually worked,

not including leave accruals, will be counted to determine employee eligibility for overtime pay.

If you have any questions, you may contact me at (925) 335-1770.

Sincerely,



Ted Cwiek
Director of Human Resources

cc: Robert Campbell, Auditor-Controller
Elizabeth Verigin, Auditor-Controller
Dorette McCollum, Heath Services
Deborah Kal, Human Resources

#3 County Handout 4:47 pm

WILLIAM B. WALKER, M.D.
HEALTH SERVICES DIRECTOR
ANNA M. ROTH
CHIEF EXECUTIVE OFFICER
CONTRA COSTA REGIONAL MEDICAL CENTER



ATTACHMENT U
CONTRA COSTA REGIONAL
MEDICAL CENTER
2500 Alhambra Avenue
Martinez, California 94553-3191
Ph (925) 370-5000

May 2, 2012

Jerry Fillingim, Business Representative
California Nurses Association
20000 Franklin Street, Suite 300
Oakland, CA 94612

Dear Mr. Fillingim:

This letter confirms certain understandings reached during negotiations between Contra Costa County (County) and the California Nurses Association (CNA) relating to various operational issues.

Infectious Disease Control and Pandemic Plan

Upon request of the Professional Performance Committee (PPC), the Chief Nursing Officer along with appropriate staff will attend a meeting with the PPC to discuss the Contra Costa Health Services plan for Communicable Illness and Disease Training. After such meeting, the Chief Nursing Officer, at the request of CNA, will meet with CNA to discuss recommendations from CNA for improvements to the plan.

Safety Training for Clinic Staff

Upon request of the CNA, or nursing staff, the Safety Officer or designee for the Contra Costa Regional Medical Center will meet with nursing staff to review safety concerns for individual work sites. Nursing Staff will be notified of available training for development of skills in de-escalation of potentially hostile or difficult interaction with patients or the public.

Parking for On-Call Nurses

Employees represented by CNA who serve in On-Call capacity and who return to work after the main reception is closed, will receive a notice instructing them where these employees may find available parking spaces closer to the building.

Sincerely,

Jaspreet Benepal
Chief Nursing Officer

Cc: Ted Cwiek, Assistant County Administrator/
Director of Human Resources



Reference to Classifications Effective 1/1/17

Effective January 1, 2017 references to Advice Nurse (VWSK) and Advice Nurse II (VWTB) shall reference Advice Nurse (VWSN); Registered Nurse – Advanced (VWXE) and Registered Nurse – Experienced Level (VWXD) shall reference Registered Nurse (VWXG); and Registered Nurse- Project Advanced (VWXA) and Registered Nurse – Project Experienced Level (VWX3) shall reference Registered Nurse Project (VWX5).

William B. Walker, M.D.
Health Services Director
Dorette McCollum
Personnel Officer



ATTACHMENT W
PERSONNEL
SERVICES

1320 Arnold Drive Ste. 261
Martinez, California
94553-4359
Ph (925) 957-5240
Fax (925) 957-5260

Handwritten signatures and initials:
JPG
md
RP

May 8, 2013

Jerry Fillingim
Labor Representative
California Nurses Association
2000 Franklin Street
Oakland, CA 94612

Subject: Per Diem Nurses Call-Off Notice

Dear Mr. Fillingim:

Per diem nurses shall receive call-off notice as soon as possible after it is known that their services are not needed, with a good faith effort to call-off prior to one hour.

When per diem nurses confirm that they are needed and arrive, good faith effort will be made to have them work in another area of need commiserate with their skills and competencies.

Sincerely,



Jaspreet Benepal, RN
Chief Nursing Officer

cc:

Handwritten note: TA 5/10/13

CALIFORNIA NURSES ASSOCIATION

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Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Implementing Two Percent Cost of Living Adjustment to Retirement Benefit for California Nurses Association

RECOMMENDATION(S):

ADOPT Resolution No. 2015/444 making Government Code section 31870 (Two Percent Cost of Living Adjustment to Retirement Benefit) applicable to employees represented by the California Nurses Association, who become New Members of CCCERA on or after January 1, 2016, in the PEPRA Retirement Tier.

FISCAL IMPACT:

Implementation of a change in the Cost of Living Adjustment (COLA) to the pension benefit for employees represented by the California Nurses' Association, who become New Members of CCCERA on and after January 1, 2016, in the PEPRA Retirement Tier is intended to result in long term savings for both the employees and the County.

BACKGROUND:

In the Memorandum of Understanding ratified by the California Nurses' Association and approved by the Board of Supervisors on November 17, 2015, the parties agreed that employees represented by the California Nurses' Association who become New Members of CCCERA on or after January 1, 2016, in the PEPRA Retirement

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lisa Driscoll, County Finance
Director (925) 335-1023

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Ann Elliott, Employee Benefits Manager, Harjit S. Nahal, Assistant County Auditor, County Counsel

BACKGROUND: (CONT'D)

Tier will have up to a two percent banked COLA to their retirement benefit (Government Code, § 31870), rather than up to a three percent banked COLA (Government Code, § 31870.1) applicable to certain current members of CCCERA. Employees hired in 2015 on or after December 1, 2015, in classifications eligible for membership in CCCERA, become members of CCCERA on or after January 1, 2016. (Government Code, § 31552.)

This change became effective earlier for the Public Health Unit, which was previously part of Local 1 and recently, due to a unit modification, became represented by the California Nurses' Association. The Board of Supervisors adopted Resolution No. 2014/116 on April 22, 2014, which implemented a two percent (2%) retirement allowance for persons in the Public Health Unit who enter County employment on or after June 30, 2014.

To implement the Memorandum of Understanding with the California Nurses' Association, it is necessary to adopt the resolution to establish the change to the COLA for future employees in the PEPRA Tier. (Government Code, § 31483.)

CONSEQUENCE OF NEGATIVE ACTION:

Delay in implementation of newly negotiated two percent cost of living adjustment to retirement benefit.

ATTACHMENTS

Resolution No. 2015/444

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/444

SUBJECT: Implementing a New Cost of Living Adjustment to the Pension Benefit (Government Code Section 31870) for Employees Represented by the California Nurses' Association Hired On or After December 1, 2015, Who Become New Members of CCCERA in the PEPRA Retirement Tier

Whereas Government Code section 31485.9 authorizes the provision of different retirement benefits to different bargaining units for non-safety employees hired after a specified future date, when those benefits are adopted by the Board of Supervisors by majority vote pursuant to a Memorandum of Understanding; and

Whereas Government Code section 31483 provides that whenever the Board of Supervisors has adopted a resolution or ordinance making a particular provision of the County Employees Retirement Law of 1937 (Gov. Code, §§ 31450 et. seq.) applicable, the Board may, through a future resolution or ordinance, terminate the applicability of the provision as to employees of the County whose services commence after a future date specified in the latter ordinance or resolution; and

Whereas Government Code section 31870 provides for a Cost of Living Adjustment to the retirement allowance that shall not exceed two percent (2%) per year and that is banked; and

Whereas Government Code section 31552 provides that each person entering county employment becomes a member of the Contra Costa County Employees Retirement Association (CCCERA) on the first day of the calendar month after his/her entrance into county service, provided that the person enters a position eligible for membership in CCCERA; and

Whereas Resolution No. 2014/116 provides that for persons in the Public Health Unit, now represented by the California Nurses' Association, who enter County employment on or after June 30, 2014 and become New Members of CCCERA in the PEPRA Retirement Tier, the pension COLA to retirement allowance shall not exceed two percent (2%) and is banked; and

Whereas pursuant to section 31552, persons who enter County employment in classifications eligible for membership in CCCERA on or after December 1, 2015, become members of CCCERA on or after January 1, 2016; and

Whereas the County and the California Nurses' Association agreed in the Memorandum of Understanding ratified by the Association and approved by the Board of Supervisors on November 17, 2015, that for employees represented by the California Nurses' Association, other than the Public Health Unit covered by Resolution 2014/116, who become New Members of CCCERA on or after January 1, 2016, in the PEPRA Retirement Tier, the COLA to the employee's retirement allowance shall not exceed two percent (2%) per year and shall be banked; and

Whereas following adoption of this Resolution 2015/444, in all units represented by the California Nurses Association, the pension COLA for future entrants in the PEPRA Tier now will be the two percent (2%) banked COLA provided in Government Code section 31870.

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY RESOLVES THAT:

1. Government Code section 31870.1 (banked COLA not to exceed three percent) shall not apply to any employees represented by the California Nurses' Association, who are hired on or after December 1, 2015, who become New Members of CCCERA (as defined by PEPRA) in the PEPRA Retirement Tier. Instead, Government Code section 31870 (banked COLA not to exceed two percent) shall apply to such employees represented by the California Nurses' Association who are hired on or after December 1, 2015. This section 1 does not apply to employees in the Public Health Unit.

2 Resolution 2014/116, implementing Government Code section 31870, continues to apply to employees in the Public Health Unit hired on or after June 30, 2014, who become New Members in the PEPRA Retirement Tier.

3. The effective date of this resolution is November 17, 2015.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

**Contact: Lisa Driscoll, County Finance Director (925)
335-1023**

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Ann Elliott, Employee Benefits Manager, Harjit S. Nahal, Assistant County Auditor, County Counsel



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Implementing Two Percent Cost of Living Adjustment to Retirement Benefit for Employees in Specified Units

RECOMMENDATION(S):

Acting in its capacities as the Board of Supervisors and the Contra Costa County Fire District Board, ADOPT Resolution No. 2015/445 making Government Code section 31870 (Two Percent Cost of Living Adjustment to Retirement Benefit) applicable to safety employees in specified units, who become new members of the Contra Costa County Employee Retirement Association in the PEPR Retirement Tier on or after January 1, 2016

FISCAL IMPACT:

Implementation of a change in the Cost of Living Adjustment (COLA) to the pension benefit for employees in the specific units of Probation Management, Fire Management, and AFSCME, Local 512, who become new members of CCCERA on or after January 1, 2016, in the PEPR Retirement Tier, is intended to result in long term savings for both the employees and the County.

BACKGROUND:

The County has completed all negotiations with all bargaining groups with respect to a proposed change in the cost of living adjustment to the pension benefit. For purposes of implementing a two percent (2%) COLA to the pension benefit, both the unrepresented Probation Management Unit and the AFSCME 512 Safety Unit are tied to the

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lisa Driscoll, County Finance
Director (925) 335-1023

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Ann Elliott, Employee Benefits Manager, Harjit S. Nahal, Assistant County Auditor, County Counsel

BACKGROUND: (CONT'D)

>

Probation Peace Officers negotiation and the unrepresented Fire Management Unit is tied to the United Chief Officers Association. Per the new MOUs, all three of these bargaining groups have an effective date of January 1, 2016, for the two percent cost of living adjustment to the pension benefit for the PEPRA Retirement Tier.

Employees in the unrepresented Probation Management Unit, AFSCME 512 Safety Unit, and unrepresented Fire Management Unit who become new members of CCCERA in the PEPRA Retirement Tier, on or after January 1, 2016, also will have up to a two percent banked COLA to their retirement benefit (Government Code, § 31870), rather than up to a three percent banked COLA (Government Code, § 31870.1), applicable to some safety members of CCCERA.

Consistent with the bargaining group agreements, Resolution 2015/445 will effect the change to the pension COLA for all future employees of the Probation Management Unit, AFSCME 512 Safety Unit, and Fire Management Unit who become New Members of CCCERA in the PEPRA Tier on or after January 1, 2016. (Government Code, § 31483.)

CONSEQUENCE OF NEGATIVE ACTION:

Delay in implementation of newly negotiated two percent cost of living adjustment to retirement benefit.

ATTACHMENTS

Resolution No. 2015/445

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/445

SUBJECT: Implementing a New Cost of Living Adjustment to the Pension Benefit (Government Code Section 31870) for Employees in the Probation Management Unit, AFSCME 512 Safety Unit, and Fire Management Unit, Who Become New Members of CCCERA in the PEPRA Retirement Tier on or after January 1, 2016

Whereas Government Code section 31483 provides that whenever the Board of Supervisors has adopted a resolution or ordinance making a particular provision of the County Employees Retirement Law of 1937 (Gov. Code, §§ 31450 et. seq.) applicable, the Board may, through a future resolution or ordinance, terminate the applicability of the provision as to employees of the County whose services commence after a future date specified in the latter ordinance or resolution; and

Whereas Government Code section 31870 provides for a Cost of Living Adjustment (COLA) to the retirement allowance that shall not exceed two percent (2%) per year and that is banked; and

Whereas Government Code section 31552 provides that each person entering county employment becomes a member of the Contra Costa County Employees Retirement Association (CCCERA) on the first day of the calendar month after his/her entrance into county service, provided that the person enters a classification and position eligible for membership in CCCERA; and

Whereas pursuant to section 31552, persons who enter County employment in classifications eligible for membership in CCCERA on or after December 1, 2015, become members of CCCERA on or after January 1, 2016; and

Whereas the California Public Employees Pension Reform Act of 2013, Government Code sections 7522 et. seq. (PEPRA) established a new retirement benefit for all persons becoming New Members (as defined in PEPRA) of California public retirement systems on or after January 1, 2013, but did not address the Cost of Living Adjustment to the pension benefit for such persons; and

Whereas the District and the United Chief Officers' Association agreed in the Memorandum of Understanding ratified by the Association and approved by the Fire Board on August 25, 2015, that for safety employees represented by the Association who are hired on or after December 1, 2015, and become New Members of CCCERA in the PEPRA Tier, the COLA to the employee's retirement allowance shall not exceed two percent (2%) per year and shall be banked; and

Whereas the County and AFSCME, Local 512 agreed in the Memorandum of Understanding ratified by the Union and approved by the Board of Supervisors on July 29, 2014, that future agreement reached with the Probation Peace Officers' of Contra Costa County regarding the cost of living adjustment to the retirement allowance for PEPRA Safety Option Plan Two Safety members retirement will apply to Safety members of AFSCME, Local 512, effective on the same date; and

Whereas the County and the Probation Peace Officers' Association agreed in the Memorandum of Understanding ratified by the Association and approved by the Board of Supervisors on October 13, 2015, that for safety employees represented by the Association who are hired on or after December 1, 2015, and become New Members of CCCERA in the PEPRA Retirement Tier, the COLA to the employee's retirement allowance shall not exceed two percent (2%) per year and shall be banked; and

THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS in its capacity as governing Board of the County of Contra Costa and all districts of which it is ex-officio governing Board **RESOLVES THAT:**

1. Government Code section 31870.1 (banked COLA not to exceed three percent) shall not apply to any safety employees in the unrepresented Probation Management Unit, AFSCME 512 Safety Unit, and unrepresented Fire Management Unit hired on or after December 1, 2015, who become New Members of CCCERA (as defined in PEPRA) in the PEPRA Retirement Tier. Instead, Government Code section 31870 (banked COLA not to exceed two percent) shall apply to such safety employees in the

unrepresented Probation Management Unit, AFSCME 512 Safety Unit, and unrepresented Fire Management Unit who become New Members of CCCERA on or after January 1, 2016.

2. To the extent a previous Resolution adopted by the Board of Supervisors is inconsistent with this Resolution 2015/445, this Resolution governs the cost of living adjustment to the pension benefit for all safety employees in the unrepresented Probation Management Unit, AFSCME 512 Safety Unit, and unrepresented Fire Management Unit, who become New Members of CCCERA on or after January 1, 2016, and any inconsistent provision in such prior Resolution shall not apply.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

Contact: Lisa Driscoll, County Finance Director (925) 335-1023

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Ann Elliott, Employee Benefits Manager, Harjit S. Nahal, Assistant County Auditor, County Counsel



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Confirmation of Contract Renewals with the Non PERS Health Plans by Tier

RECOMMENDATION(S):

CONFIRM executed contract renewals with the Non PERS Health Plans for both two and three tier rate structures for the period January 1, 2016 through December 31, 2016; and ACKNOWLEDGE negotiated tier structures by bargaining group for the 2016 plan year.

FISCAL IMPACT:

This report is for informational purposes only and has no specific financial impact. The fiscal impact of subsidy changes for each Memoranda of Understanding was included in each associated Board action. For a report of contract renewal including fiscal impact, please refer to Board Order of August 25, 2015. If all employees and retirees were in either the two- or three-tier rate structure, it is assumed that total costs would be the same.

BACKGROUND:

Insurance coverage is an important benefit and a valuable recruitment and retention tool. To ensure that high quality insurance is available for Contra Costa County's eligible employees, the County contracts for group health, dental and life insurance as well as computer vision care coverage on an annual basis with a number of carriers/providers. The County has negotiated insurance and coverage contracts for calendar year January 1 through December 31, 2016. In order to ensure uninterrupted coverage for eligible enrolled members (eligible active employees, retired employees and survivors of retired employees) the authorization from the Board of Supervisors to renew insurance coverage was adopted by the Board of Supervisors on August 25, 2015.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lisa Driscoll, County Finance
Director (925) 335-1023

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Ann Elliott, Employee Benefits Manager, Harjit S. Nahal, Assistant County Auditor, County Counsel

BACKGROUND: (CONT'D)

>

New for the 2016 Plan year, the Board of Supervisors also authorized a new High Deductible Health Plan (HDHP). This new group health insurance plan begins calendar year January 1, 2016 and was offered to eligible county employees during open enrollment in 2015 for plan year 2016. Offering this coverage helps the County have available a low cost health insurance plan that provides minimum essential health benefits as specified in the Affordable Care Act and meets the coverage requirements in the law.

The County is able, for 2016, to offer employees, retirees and survivors a number of health insurance plans at rates that will increase below or slightly above the amount that Buck Consultants has identified as the national rate increase averages. Carriers have documented their proposed rate increases or decreases based on actual experience in providing coverage to enrollees/members during 2015. All health insurance contracts continue to offer essential health benefits and coverage compliant with the requirements of the Affordable Care Act (ACA).

Attached is a one-page report that lists both the two- and three-tier rate structures by plan for active employees for the 2016 Plan year. Eligibility for enrollment was determined by negotiated contract (Memorandum of Understanding). All retirees are in the two-tier rate structure for the 2016 Plan year. The following is a summary of tier by bargaining unit/group:

Bargaining Unit/Group	Two-Tiers	Three-Tiers
AFSCME, Local 512		X
AFSCME, Local 2700		X
California Nurses' Association	X	
CCC Defenders' Association/Attorneys Unit		X
CCC Defenders' Association/Investigators' Unit	X	
CCC Deputy District Attorneys' Association		X
IFPTE/ALF-CIO, Local 21		X
Local 1	X	
Physicians & Dentists Organization of CC	X	
Probation Peace Officers' Association		X
SEIU, Local 1021		X
Unrepresented, Classified and Exempt		X
Western Council of Engineers		X

It should be noted that all employees covered by CalPERS PEMHCA plans have been in three-tier rate structures for many years.

ATTACHMENTS

2016 Premium Rates by Tier Structure

2016 PLAN YEAR PREMIUMS

PLAN/COVERAGE DESCRIPTION	3 Tier TOTAL MONTHLY PREMIUM	PLAN/COVERAGE DESCRIPTION	2 Tier TOTAL MONTHLY PREMIUM
CONTRA COSTA HEALTH PLAN - BASIC PLAN A		CONTRA COSTA HEALTH PLAN - BASIC PLAN A	
Employee on Basic Plan	\$657.08	Employee on Basic Plan	\$709.06
Employee & 1	\$1,314.15	Employee & 1 or more dependents on Basic Plan	\$1,689.37
Employee & 2 or more dependents on Basic Plan	\$1,971.23		
CONTRA COSTA HEALTH PLAN - BASIC PLAN B		CONTRA COSTA HEALTH PLAN - BASIC PLAN B	
Employee on Basic Plan	\$728.38	Employee on Basic Plan	\$786.01
Employee & 1	\$1,456.77	Employee & 1 or more dependents on Basic Plan	\$1,867.68
Employee & 2 or more dependents on Basic Plan	\$2,185.15		
KAISER PERMANENTE - BASIC PLAN		KAISER PERMANENTE - BASIC PLAN A	
Employee on Basic Plan	\$749.80	Employee on Basic Plan	\$819.43
Employee & 1	\$1,499.60	Employee & 1 or more dependents on Basic Plan	\$1,910.33
Employee & 2 or more dependents on Basic Plan	\$2,249.39		
KAISER PERMANENTE - BASIC PLAN B		KAISER PERMANENTE - BASIC PLAN B	
Employee on Basic Plan	\$585.68	Employee on Basic Plan	\$656.63
Employee & 1	\$1,171.36	Employee & 1 or more dependents on Basic Plan	\$1,529.95
Employee & 2 or more dependents on Basic Plan	\$1,757.04		
HEALTH NET HMO PLAN - BASIC PLAN		HEALTH NET HMO PLAN - BASIC PLAN A	
Employee on Basic Plan	\$1,208.76	Employee on Basic Plan	\$1,294.30
Employee & 1	\$2,417.52	Employee & 1 or more dependents on Basic Plan	\$3,175.02
Employee & 2 or more dependents on Basic Plan	\$3,626.27		
HEALTH NET HMO PLAN - BASIC PLAN B		HEALTH NET HMO PLAN - BASIC PLAN B	
Employee on Basic Plan	\$840.55	Employee on Basic Plan	\$900.03
Employee & 1	\$1,681.10	Employee & 1 or more dependents on Basic Plan	\$2,207.86
Employee & 2 or more dependents on Basic Plan	\$2,521.65		
HEALTH NET CA & NAT'L PPO PLAN - BASIC PLAN		HEALTH NET CA & NAT'L PPO PLAN - BASIC PLAN A	
Employee on PPO Basic Plan	\$1,643.40	Employee on PPO Basic Plan	\$1,699.52
Employee & 1	\$3,286.80	Employee & 1 or more dependents on PPO Basic Plan	\$4,037.34
Employee & 2 or more dependents on Basic Plan	\$4,930.20		
HEALTH NET CA & NAT'L PPO PLAN - BASIC PLAN B		HEALTH NET CA & NAT'L PPO PLAN - BASIC PLAN B	
Employee on PPO Basic Plan	\$1,479.47	Employee on PPO Basic Plan	\$1,529.99
Employee & 1	\$2,958.94	Employee & 1 or more dependents on PPO Basic Plan	\$3,634.58
Employee & 2 or more dependents on Basic Plan	\$4,438.40		
KAISER PERMANENTE - HIGH DEDUCTIBLE PLAN			
Employee on Basic Plan	\$470.10		
Employee & 1	\$940.21		
Employee & 2 or more dependents on Basic Plan	\$1,410.32		



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Government Code 7507 Compliance - Other Post Employment Benefits - UCOA and UPFF, Local 1230

RECOMMENDATION(S):

ACCEPT actuarial valuation of future annual costs of proposed changes to Other Post-Employment Benefits, changing the County health care premium subsidy for employees represented by or retired from classifications that were represented by the United Chief Officers' Association and UPFF, Local 1230, as provided by the County's Actuary in letters dated November 10, 2015 and January 9, 2015 respectively.

FISCAL IMPACT:

As shown in the valuations, the result of the health plan changes described herein, if implemented, will create a \$22.6 million or 2.85% decrease in the Actuarial Accrued Liability and a \$2.5 or 2.86% decrease in the calculated Annual Required Contribution.

BACKGROUND:

On December 8, 2015, the Board of the Contra Costa County Fire Protection District may consider and may take formal action with respect to proposed changes in health care benefits affecting employees represented by the United Chief Officers' Association and UPFF, Local 1230 and persons who retired from classifications that were represented at the time of retirement by the United Chief Officers' Association and UPFF, Local 1230 and who are eligible for health care coverage.

The following is a summary of the recommended changes to health care benefits for UCOA:

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lisa Driscoll, County Finance
Director, 335-1023

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Ann Elliott, Employee Benefits Manager, Harjit S. Nahal, Assistant County Auditor, Jeff Carman, Chief CCCFPD, County Counsel

BACKGROUND: (CONT'D)

Health and Welfare, Life and Dental Care

- For the plan year that begins on January 1, 2016, the District will contribute up to an amount equivalent to 80% of the 2016 CalPERS Kaiser premium.
- For the plan year that begins on January 1, 2017, the District will pay a monthly premium subsidy for each health plan that is equal to the actual dollar monthly premium subsidy that is paid by the District for that plan as of November 30, 2016. If there is an increase in the monthly premium charged by a health plan for 2017, the District and the employee will each pay fifty percent (50%) of that increase. For each plan year thereafter, and for each plan, the District and the employee will each pay fifty (50%) of the monthly premium increase above the 2016 plan premiums.

Delta and PMI Delta Care

- For the plan year that begins on January 1, 2016, the District will pay a monthly premium subsidy for each dental plan that is equal to the actual dollar monthly premium subsidy that is paid by the District as of November 30, 2015. In addition, if there is an increase in the monthly premium charged by a dental plan for 2016, the District and the employee will each pay fifty percent (50%) of that increase. For each plan year thereafter, the District and the employee will each pay fifty percent (50%) of the monthly premium increase above the 2015 plan premium.

Dental Only

- Employees who elect dental coverage as stated above without health coverage will pay one cent (\$.01) per month for such coverage. Beginning on January 1, 2016, the District will pay a monthly dental premium subsidy for each dental plan that is equal to the actual dollar monthly premium subsidy that is paid by the District for 2015. If there is an increase in the premium charged by a dental plan for 2016, the District and the employee will each pay fifty percent (50%) of the increase. For each plan year thereafter, the District and the employee will each pay fifty percent (50%) of the premium increase that is above the 2015 plan premium.

The following is a summary of the recommended changes to health care benefits for UPFF, Local 1230:

Health & Welfare, Life & Dental

- For the plan year that begins on January 1, 2016, the District will pay a monthly premium subsidy for each health plan that is equal to the actual dollar monthly premium subsidy that is paid by the District as of November 30, 2015. If there is an increase in the monthly premium charged by a health plan for 2016, the District and the employee will each pay fifty percent (50%) of that increase. For each calendar year thereafter, the District and the employee will each pay fifty percent (50%) of the monthly premium increase above the 2015 plan premium.

Delta and PMI Delta Care

- For the plan year that begins on January 1, 2016, the District will pay a monthly premium subsidy for each health plan that is equal to the actual dollar monthly premium subsidy that is paid by the District as of November 30, 2015. In addition, if there is an increase in the monthly premium charged by a health plan for 2016, the District and the employee will each pay fifty percent (50%) of that increase. For each calendar year thereafter, the District and the employee will each pay fifty percent (50%) of the monthly premium increase above the 2015 plan premium.

Dental Only

- Employees who elect dental coverage as stated above without health coverage will pay one cent (\$.01) per month for such coverage. Beginning on January 1, 2016, the District will pay a monthly dental premium subsidy for each dental plan that is equal to the actual dollar monthly premium subsidy that is paid by the District for 2015. If there is an increase in the premium charged by a dental plan for 2016, the District and

the employee will each pay fifty percent (50%) of the increase. For each calendar year thereafter the District and the employee will each pay fifty percent (50%) of the premium increase that is above the 2015 plan premium.

- In the event, in whole or in part, that the above amounts are greater than one hundred percent (100%) of the applicable premium of any plan, the District's contribution will not exceed one hundred percent (100%) of the applicable plan premium.

Retirement Dental Coverage

- For employees hired on or after January 1, 2015, no monthly premium subsidy will be paid by the District for any dental plan after they separate from District employment.

Dual coverage

- On and after January 1, 2015, each employee and retiree may be covered by only a single District health and/or a single District dental plan, including CalPERS plans.
- On and after January 1, 2015, each dependent may be covered by the health and/or dental plan of only one spouse or one domestic partner.

CONSEQUENCE OF NEGATIVE ACTION:

Delayed implementation of health care rate revisions.

ATTACHMENTS

7507 Report for UCOA dated November 10, 2015

7507 Report for Local 1230 dated January 9, 2015



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November 10, 2015

Ms. Lisa Driscoll
County Finance Director
County Administrator's Office
651 Pine Street, 10th Floor
Martinez, CA 94553

***Contra Costa County Retiree Health Plan
Analysis of Proposed Retiree Health Benefit Change for United Chief Officers' Association
(UCOA) for the Contra Costa County Fire Protection District***

Dear Ms. Driscoll:

As requested, we have estimated the cost impact of a proposed change to retiree health benefits for the United Chief Officers' Association (UCOA). The proposed benefit change would apply to all UCOA employees and retirees for the Contra Costa County Fire Protection District ("District"). The purpose of this analysis is to estimate the change in the County's long-term other postemployment liability under GASB 45 (comparison of the present value of benefits, actuarial accrued liability, normal cost, annual required contribution, and projected benefit payments is shown before and after the proposed change) to comply with California Government Code Section 7507.

Current Plan

Currently, for eligible Fire Management retirees represented by United Chief Officers Association (UCOA) with bargaining unit code HA, the District will subsidize an amount equal to 80% of the CalPERS Kaiser Bay Area premium at each coverage level (employee only, employee + one, employee + two or more) for any region in which the retiree resides, but the District's subsidy will not exceed the total premium of a lower cost plan.

For retirees enrolled in a health plan from CalPERS, the District will subsidize 78% of the monthly dental premium.

For retirees who elect dental coverage without medical coverage, the District will subsidize an amount toward the monthly dental premium such that the retiree will pay one cent (\$0.01) per month for such coverage.

Proposed Plan

District Premium Subsidy on or after December 1, 2016: For the plan year that begins on January 1, 2017 and each calendar year thereafter, the maximum monthly premium subsidy the District will pay for each health plan is equal to the actual dollar monthly premium subsidy that is paid by the District for that plan as of November 30, 2016. In addition, if there is an increase in the monthly premium charged by a health plan for 2017, the District and the employee will each pay fifty percent (50%) of that increase. For each plan year thereafter, and for each plan, the District and the employee will each pay fifty (50%) of the monthly premium increase above the 2016 plan premiums.

For eligible retirees from bargaining unit HA enrolled in both a medical and dental plan, for the plan year that begins on January 1, 2016, the District will pay a monthly premium subsidy for each dental plan that is equal to the actual dollar monthly premium subsidy that is paid by the District as of November 30, 2015. In addition, if there is an increase in the monthly premium charged by a dental plan for 2016, the District and the employee will each pay fifty percent (50%) of that increase. For each plan year thereafter, the District and the employee will each pay fifty percent (50%) of the monthly premium increase above the 2015 plan premium.

For eligible retirees from bargaining unit HA enrolled in a dental plan only without health coverage, beginning on January 1, 2016, the District will pay a monthly dental premium subsidy for each dental plan that is equal to the actual dollar monthly premium subsidy that is paid by the District for 2015. If there is an increase in the premium charged by a dental plan for 2016, the District and the employee will each pay fifty percent (50%) of the increase. For each plan year thereafter, the District and the employee will each pay fifty percent (50%) of the premium increase that is above the 2015 plan premium.

Results

The results are estimated as of January 1, 2016. The estimated costs are based on valuation results as of January 1, 2014, projected to January 1, 2016, and reflect actual health premiums for 2016. Only the liabilities for active and retired UCOA members are shown in the comparison below.

	Current Plan Est. at 1/1/2016	Proposal Plan Est. at 1/1/2016	Difference
Present Value of Benefits			
Active Employees	\$2,102,000	\$1,714,000	(\$388,000)
Retirees	<u>\$5,840,000</u>	<u>\$5,012,000</u>	<u>(\$828,000)</u>
Total	\$7,942,000	\$6,726,000	(\$1,216,000)
Actuarial Accrued Liability			
Active Employees	\$1,605,000	\$1,320,000	(\$285,000)
Retirees	<u>\$5,840,000</u>	<u>\$5,012,000</u>	<u>(\$828,000)</u>
Total	\$7,445,000	\$6,332,000	(\$1,113,000)
Normal Cost Est. at June 30, 2016	\$70,000	\$57,000	(\$13,000)
Annual Required Contribution (ARC) Est. at 6/30/16	\$642,000	\$541,000	(\$101,000)

The items shown in the table above are defined as follows:

The **Present Value of Benefits** is the present value of projected benefits (projected claims less retiree contributions) discounted at the valuation interest rate (5.70%).

The **Actuarial Accrued Liability (AAL)** is the present value of benefits that are attributed to past service only. The portion attributed to future employee service is excluded. For retirees, this is equal to the present value of benefits. For active employees, this is equal to the present value of benefits prorated by service to date over service at the expected retirement age.

The **Normal Cost** is that portion of the District provided benefit attributable to employee service in the current year. Employees are assumed to have an equal portion of the present value of benefits attributed to each year of service from date of hire to expected retirement age.

The **Annual Required Contribution (ARC)** is equal to the Normal Cost plus an amount to amortize the unfunded AAL as a level dollar amount over a period of 30 years on a "closed" basis starting January 1, 2008. There are 22 years remaining as of January 1, 2016.

The table below contains a 20 year projection of projected benefit payments under the current and proposed benefit plans for UCOA members. The projected benefit payments are net of required retiree contributions, but include the value of the implicit premium rate subsidy for non-Medicare retirees for whom the same premium rate is charged as for actives. The estimated projected benefit payments are based on employees and retirees as of the valuation date. Future employees are not reflected in the table below.

Calendar Year	Projected Benefit Payments		
	Current Plan	Proposed Plan	Difference
2016	\$ 356,000	\$ 356,000	0
2017	389,000	382,000	(7,000)
2018	378,000	366,000	(12,000)
2019	415,000	396,000	(19,000)
2020	436,000	409,000	(27,000)
2021	467,000	432,000	(35,000)
2022	490,000	448,000	(42,000)
2023	500,000	450,000	(50,000)
2024	534,000	474,000	(60,000)
2025	563,000	495,000	(68,000)
2026	563,000	488,000	(75,000)
2027	590,000	507,000	(83,000)
2028	557,000	473,000	(84,000)
2029	551,000	463,000	(88,000)
2030	564,000	469,000	(95,000)
2031	529,000	433,000	(96,000)
2032	569,000	464,000	(105,000)
2033	540,000	435,000	(105,000)
2034	549,000	437,000	(112,000)
2035	508,000	396,000	(112,000)

Important Notes

Except where noted above, the results in this letter are based on the same data, methods, assumptions, and plan provisions that are used in the January 1, 2014, actuarial valuation report for the Contra Costa County ("County"), dated August 8, 2014. Appendices A through C contain a description of the current provisions assumptions and data used in the valuation report for UCOA employees and retirees.

In preparing our report, we relied, without audit, on information (some oral and some in writing) supplied by Contra Costa County's staff. This information includes but not limited to employee census data, financial information and plan provisions. While Milliman has not audited the financial and census data, they have been reviewed for reasonableness and are, in our opinion, sufficient and reliable for the purposes of our calculations. If any of this information as summarized in this report is inaccurate or incomplete, the results shown could be materially affected and this report may need to be revised.

All costs, liabilities, rates of interest, and other factors for the County have been determined on the basis of actuarial assumptions and methods which are individually reasonable (taking into account the experience of the County and reasonable expectations); and which, in combination, offer our best estimate of anticipated experience affecting the County. Further, in our opinion, each actuarial assumption used is reasonably related to the experience of the Plan and to reasonable expectations which, in combination, represent our best estimate of anticipated experience for the County.

This analysis is only an estimate of the Plan's financial condition as of a single date. It can neither predict the Plan's future condition nor guarantee future financial soundness. Actuarial valuations do not affect the ultimate cost of Plan benefits, only the timing of County contributions. While the valuation is based on an array of individually reasonable assumptions, other assumption sets may also be reasonable and valuation results based on those assumptions would be different. No one set of assumptions is uniquely correct. Determining results using alternative assumptions is outside the scope of our engagement.

The estimates as of January 1, 2016, are based on actual health plan premiums for 2016, but are based on census data and assumptions specified in the January 1, 2014, actuarial valuation. The actual valuation results for UCOA as of January 1, 2016, will differ based on changes in census data from 2014 and assumptions that will be established for the 2016 actuarial valuation. Furthermore, future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period); and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements. The County has the final decision regarding the appropriateness of the assumptions and actuarial cost methods.

This letter is prepared solely for the internal business use of Contra Costa County. To the extent that Milliman's work is not subject to disclosure under applicable public records laws, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. Milliman's consent to release its work product to any third party may be conditioned on the third party signing a Release, subject to the following exceptions:

- a) Contra Costa County may provide a copy of Milliman's work, in its entirety, to the County's professional service advisors who are subject to a duty of confidentiality and who agree to not use Milliman's work for any purpose other than to benefit the County.
- b) Contra Costa County may provide a copy of Milliman's work, in its entirety, to other governmental entities, as required by law.

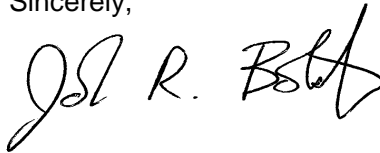
No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

The consultants who worked on this assignment are actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

The signing actuary is independent of the plan sponsor. We are not aware of any relationship that would impair the objectivity of our work.

On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, the report is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the applicable Actuarial Standards of Practice of the American Academy of Actuaries. The undersigned is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Sincerely,

A handwritten signature in black ink, appearing to read "J.R. Botsford".

John R. Botsford, FSA, MAAA
Principal and Consulting Actuary

JRB:dy
enc.

Appendix A. Summary of Benefits under Current Plan before Proposed Changes

The following description of retiree health benefits is intended to be only a brief summary and is not complete information.

Eligibility

Currently, employees may receive retiree health benefits if they retire from the County, are receiving a pension, and meet certain eligibility requirements as follows:

Safety employees - age 50 with 10 years of pension service or age 70 with a vested pension, or after 20 years of pension service with no age requirement.

Health Benefits

Currently, eligible retirees and their dependents are covered under the health plans sponsored by CalPERS (PEMHCA). The County will subsidize an amount equal to 80% of the CalPERS Kaiser premium at each coverage level (employee only, employee + one, employee + two or more) for the region in which the retiree resides, but the County's subsidy will not exceed the total premium of a lower cost plan.

For retirees enrolled in a health plan from CalPERS, the County will subsidize 78% of the monthly dental premium.

For retirees who elect dental coverage without medical coverage, the County will subsidize an amount toward the monthly dental premium such that the retiree will pay one cent (\$0.01) per month for such coverage.

All surviving spouses receive the same County subsidy as the retiree.

PEMHCA Health Plan Premium Rates

Eligible retirees can choose to enroll in health plans sponsored by CalPERS based on their residence region (Bay Area, Sacramento, Los Angeles, Northern California, Southern California and Out of State of California). The following table shows the monthly Bay Area retiree health insurance premiums for the 2015 and 2016 calendar years:

<i>Monthly Premium Rates – Effective January 1, 2015</i>						
	Single		2-Party		Family	
	Under 65	Over 65	Under 65	Over 65	Under 65	Over 65
Anthem HMO Select	\$ 662.41	\$ 445.38	\$ 1,324.82	\$ 890.76	\$ 1,722.27	\$ 1,336.14
Anthem HMO Traditional	827.57	445.38	1,655.14	890.76	2,151.68	1,336.14
Blue Shield	928.87	352.63	1,857.74	705.26	2,415.06	1,057.89
Blue Shield NetValue	870.60	352.63	1,741.20	705.26	2,263.56	1,057.89
Kaiser	714.45	295.51	1,428.90	591.02	1,857.57	886.53
PERS Choice	700.84	339.47	1,401.68	678.94	1,822.18	1,018.41
PERS Select	690.43	339.47	1,380.86	678.94	1,795.12	1,018.41
PERSCare	775.08	368.76	1,550.16	737.52	2,015.21	1,106.28
United Healthcare	850.67	267.41	1,701.34	534.82	2,211.74	802.23
CCHP	772.95	660.92	1,545.91	1,321.84	2,009.68	1,982.76

Effective January 1, 2016, CalPERS will no longer offer Medicare Advantage plans offered by Anthem and Blue Shield and will add a Health Net option for non-Medicare retirees only.

<i>Monthly Premium Rates – Effective January 1, 2016</i>						
	Single		2-Party		Family	
	Under 65	Over 65	Under 65	Over 65	Under 65	Over 65
Anthem HMO Select	\$ 721.79	N/A	\$ 1,443.58	N/A	\$ 1,876.65	N/A
Anthem HMO Traditional	855.42	N/A	1,710.84	N/A	2,224.09	N/A
Blue Shield	1,016.18	N/A	2,032.36	N/A	2,642.07	N/A
Blue Shield NetValue	1,033.86	N/A	2,067.72	N/A	2,688.04	N/A
HealthNet SmartCare	808.44	N/A	1,616.88	N/A	2,101.94	N/A
Kaiser	746.47	297.23	1,492.94	594.46	1,940.82	891.69
PERS Choice	798.36	366.38	1,596.72	732.76	2,075.74	1099.14
PERS Select	730.07	366.38	1,460.14	732.76	1,898.18	1099.14
PERSCare	889.27	408.04	1,778.54	816.08	2,312.10	1224.12
United Healthcare	955.44	320.98	1,910.88	641.96	2,484.14	962.94
CCHP *	N/A	N/A	N/A	N/A	N/A	N/A

* Not available for 2016, as of January 1, 2014 no UCOA employees and retirees were enrolled in this plan.

Dental Plan Premiums

The following table shows monthly retiree dental insurance premiums for the 2016 calendar year. County subsidies vary based on retiree's medical plan enrollment election and bargaining unit upon retirement.

Plan	Monthly Premiums
Delta Dental - \$1,600 Annual Maximum	
Retiree	\$ 42.45
Family	95.63
Delta Care (PMI)	
Retiree	\$ 29.06
Family	62.81

Appendix B. Actuarial Cost Method and Assumptions

The actuarial cost method used for determining the benefit obligations is the Projected Unit Credit Cost Method. Under this method, the actuarial present value of projected benefits is the value of benefits expected to be paid for current actives and eligible retirees and is calculated based on the assumptions and census data described in this report.

The Actuarial Accrued Liability (AAL) is the actuarial present value of benefits attributed to employee service rendered prior to the valuation date. The AAL equals the present value of benefits multiplied by a fraction equal to service to date over service at expected retirement. The Normal Cost is the actuarial present value of benefits attributed to one year of service. This equals the present value of benefits divided by service at expected retirement. Since retirees are not accruing any more service, their normal cost is zero. The actuarial value of assets is equal to the market value of assets as of the valuation date.

In determining the Annual Required Contribution, the Unfunded AAL is amortized as a level dollar amount over 30 years on a "closed" basis. There are 22 years remaining in the amortization period as of January 1, 2016. The actuarial assumptions are summarized below.

Economic Assumptions

Discount Rate (Liabilities) 5.70%

We have used a discount rate of 5.70% in this valuation to reflect the County's current policy of partially funding its OPEB liabilities. This rate is derived based on the fund's investment policy, level of partial funding, and includes a 2.50% long-term inflation assumption. County OPEB Irrevocable Trust assets are invested in the Public Agency Retirement Services' Highmark Portfolio. Based on the portfolio's target allocation (shown below), the average return of Trust assets over the next 30 years is expected to be 6.25%, which would be an appropriate discount rate if the County's annual contribution is equal to the ARC. If the County were to elect not to fund any amount to a Trust, the discount rate would be based on the expected return of the County's general fund (we have assumed a long term return of 3.50% for the County's general fund). Since the County is partially funding the Trust with a contribution of \$20 million per year, we used a blended discount rate of 5.70%.

Asset Class	Expected 1-Year Nominal Return	Targeted Asset Allocation
Domestic Equity Large Cap	8.14%	17.0%
Domestic Equity Mid Cap	8.92%	6.0%
Domestic Equity Small Cap	9.90%	8.0%
U.S. Fixed Income	4.69%	38.0%
International / Global Equity (Developed)	8.56%	16.0%
Real Estate	8.12%	4.0%
Cash	3.01%	1.0%
Alternatives	5.71%	10.0%
Expected Geometric Median Annual Return (30 years)		6.25%

Demographic Assumptions

Below is a summary of the assumed rates for mortality, retirement, disability and withdrawal, which are consistent with assumptions used in the December 31, 2012 CCCERA Actuarial Valuation.

Pre / Post Retirement Mortality

Healthy: RP-2000 Combined Healthy Mortality Table projected to 2030 with Scale AA, set back two years.

Disabled: RP-2000 Combined Healthy Mortality Table projected to 2030 with Scale AA, set forward three years.

Beneficiaries: RP-2000 Combined Healthy Mortality Table projected to 2030 with Scale AA, set back one year.

Disability

Age	UCOA
20	0.02%
25	0.22%
30	0.42%
35	0.56%
40	0.66%
45	0.94%
50	2.54%

Withdrawal – Sample probabilities of terminating employment with the County are shown below for selected years of County service.

Years of Service	UCOA
Less than 1	11.50%
1	6.50%
2	5.00%
3	4.00%
4	3.50%
5	3.00%
10	1.90%
15	1.40%
20 or more	1.00%

Retirement – For this report, we have applied the following retirement rates.

Age	UCOA	Age	UCOA
45	2%	60	40%
46	2%	61	40%
47	7%	62	40%
48	7%	63	40%
49	20%	64	40%
50	25%	65	100%
51	25%	66	100%
52	25%	67	100%
53	25%	68	100%
54	25%	69	100%
55	30%	70	100%
56	25%	72	100%
57	25%	73	100%
58	35%	74	100%
59	35%	75	100%

Coverage Election Assumptions

Retiree Coverage – We have assumed 90% of new retirees will elect medical and dental coverage at retirement.

Spouse Coverage – We have assumed 50% of new retirees electing coverage will elect spouse medical and dental coverage at retirement.

Spouse Age – Female spouses are assumed to be three years younger than male spouses.

Dependent Coverage – We have assumed 30% of retirees with no spouse coverage will elect coverage for a dependent child until age 65, and 50% of retirees with spouse coverage will elect coverage for a dependent child until age 65.

Health Plan Election – We have assumed that new retirees will remain enrolled in the same plan they were enrolled in as actives. For actives who waived coverage, we have assumed that they will elect Kaiser plan coverage.

Valuation of Retiree Premium Subsidy Due to Active Health Costs

The California PERS (PEMHCA) health plans charge the same premiums for retirees who are not yet eligible for Medicare as for active employees. Therefore, the retiree premium rates are being subsidized by the inclusion of active lives in setting rates. (Premiums calculated only based on retiree health claims experience would have resulted in higher retiree premiums.) GASB 45 requires that the value of this subsidy be recognized as a liability in valuations of OPEB costs. To account for the fact that per member health costs vary depending on age (higher health costs at older ages), we calculated equivalent per member per month (PMPM) costs that vary by age based on the age distribution of covered members, and based on relative cost factors by age. The relative cost factors were developed from the Milliman Health Cost GuidelinesTM. Based on the carrier premium rates and relative age cost factors assumptions, we developed age adjusted monthly PMPM health costs for 2014 to be used in valuing the implicit rate subsidy. The following tables show the age adjusted expected monthly claims cost for a male participant at age 64 for each health plan and relative age factors compared to a male age 64.

Plan	Monthly Age Adjusted Claims Cost for Age 64 Male	Dependent Child Cost Load
California PERS Plans (average)	\$ 1,100	\$ 219

Relative Claims Cost Factor Compared to Male age 64

Age	Male	Female
50	0.458	0.572
55	0.604	0.668
60	0.786	0.789
64	1.000	0.915

Since retirees eligible for Medicare (age 65 and beyond) are enrolled in Medicare supplemental plans, the premiums for retirees with Medicare are determined without regard to active employee claims experience and no such subsidy exists for this group for medical cost.

Medical Cost Inflation Assumption

We assumed future increases to the health costs and premiums are based on the “Getzen” model published by the Society of Actuaries for purposes of evaluating long term medical trend. Under the Patient Protection and Affordable Care Act of 2010, a Federal excise tax will apply for high cost health plans beginning in 2018. A margin to reflect the impact of the excise tax in future years is reflected in the assumed trend. The following table shows the assumed rate increases in future years for Medical premiums.

Calendar Year	Pre 65	Calendar Year	Post 65
2016	6.25%	2016	6.50%
2017 – 2018	6.75%	2017 – 2025	6.00%
2019	7.00%	2026 – 2032	5.75%
2020 – 2022	7.25%	2033	6.00%
2023 – 2024	7.00%	2034	6.75%
2025 – 2029	6.75%	2035	6.50%
2030 – 2033	6.50%	2036 – 2042	6.25%
2034 – 2036	6.25%	2043 – 2045	6.00%
2037 – 2038	6.00%	2046 – 2051	5.75%
2039 – 2043	5.75%	2052 – 2059	5.50%
2044 – 2050	5.50%	2060 – 2070	5.25%
2051 – 2061	5.25%	2071 – 2076	5.00%
2062 – 2074	5.00%	2077 – 2081	4.75%
2075 – 2079	4.75%	2082 +	4.50%
2080 +	4.50%		

Dental Cost We assumed Dental costs will increase 4.0% annually.

Appendix C. Summary of Participant Data

The following census of participants was used in the actuarial valuation and provided by Contra Costa County.

Active Employees

Age	UCOA
Under 25	0
25 – 29	0
30 – 34	0
35 – 39	1
40 – 44	1
45 – 49	6
50 – 54	3
55 – 59	1
60 – 64	0
65 & Over	<u>0</u>
Total	12
Average Age at Hire:	26.17
Average Age on Valuation Date:	48.25

Current Retirees

Age	UCOA
Under 50	0
50 – 54	5
55 – 59	9
60 – 64	7
65 – 69	4
70 – 74	0
75 – 79	0
80 – 84	0
85 & Over	<u>0</u>
Total	25
Average Age on Valuation Date:	59.2



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January 9, 2015

Ms. Lisa Driscoll
County Finance Director
County Administrator's Office
651 Pine Street, 10th Floor
Martinez, CA 94553

***Contra Costa County Retiree Health Plan
Analysis of Proposed Retiree Health Benefit Change for International Association of
Firefighters Local 1230 of the Contra Costa County Fire Protection District***

Dear Ms. Driscoll:

As requested, we have estimated the cost impact of a proposed change to retiree health benefits for the International Association of Firefighters Local 1230 ("Local 1230"). The proposed benefit change would apply to all Local 1230 employees and retirees for the Contra Costa County Fire Protection District ("District"). The purpose of this analysis is to estimate the change in the District's long-term other postemployment liability under GASB 45 (comparison of the present value of benefits, actuarial accrued liability, normal cost, annual required contribution, and projected benefit payments is shown before and after the proposed change) to comply with California Government Code Section 7507.

Current Plan

Currently, for eligible retirees from bargaining unit 4N, the District will pay a subsidy toward the cost of monthly medical premiums equal to 87% of the CalPERS Bay Area Basic Kaiser premium at each coverage level, but not more than the actual premium, if less.

For retirees enrolled in a health plan from CalPERS, the District will also subsidize an amount equal to 78% of the monthly dental premium. For retirees who elect dental coverage without medical coverage, the District will subsidize an amount toward the monthly dental premium such that the retiree will pay one cent (\$0.01) per month for such coverage.

Proposed Plan

District Premium Subsidy on or after January 1, 2016: For 2016 and each calendar year thereafter, the prior year's District subsidy for each medical plan and rate tier will increase by 50% of the actual premium increase in the medical plan and rate tier in which the member is enrolled.

For eligible retirees from bargaining unit 4N enrolled in both a medical and dental plan, the District will pay a subsidy equal to 50% of the cost of monthly dental premiums in 2016 and later. For retirees enrolled only in a dental plan, retirees are required to pay \$0.01 per month for dental coverage. For 2016 and later, the required monthly contribution from retirees would increase each year by 50% of the dental premium increase.

Results

	2014 Actuarial Valuation Results		
	Current Plan	Proposed Plan* (Local 1230 Change)	Difference
Present Value of Benefits			
Active Employees	\$625,243,000	\$607,882,000	(\$17,361,000)
Retirees	<u>\$567,919,000</u>	<u>\$554,996,000</u>	<u>(\$12,923,000)</u>
Total	\$1,193,162,000	\$1,162,878,000	(\$30,284,000)
Actuarial Accrued Liability			
Active Employees	\$355,929,000	\$347,330,000	(\$8,599,000)
Retirees	<u>\$567,919,000</u>	<u>\$554,996,000</u>	<u>(\$12,923,000)</u>
Total	\$923,848,000	\$902,326,000	(\$21,522,000)
Assets	\$129,426,000	\$129,426,000	
Unfunded AAL	\$794,422,000	\$772,900,000	(\$21,522,000)
Amortization of UAAL as of June 30, 2014	\$59,872,000	\$58,250,000	(\$1,622,000)
Normal Cost as of June 30, 2014	\$28,666,000	\$27,860,000	(\$806,000)
Annual Required Contribution (ARC)	\$88,538,000	\$86,110,000	(\$2,428,000)

* For comparison purposes, the liabilities associated with the proposed plan change were measured based on the 2014 premiums trended to 2015 using the trend assumption stated in our 2014 actuarial valuation. The actual calendar year 2015 medical and dental premiums may differ from the trended premiums and the liabilities based on actual 2015 premiums may also differ than the amounts shown above.

The items shown in the table above are defined as follows:

The **Present Value of Benefits** is the present value of projected benefits (projected claims less retiree contributions) discounted at the valuation interest rate (5.70%).

The **Actuarial Accrued Liability (AAL)** is the present value of benefits that are attributed to past service only. The portion attributed to future employee service is excluded. For retirees, this is equal to the present value of benefits. For active employees, this is equal to the present value of benefits prorated by service to date over service at the expected retirement age.

The **Normal Cost** is that portion of the District provided benefit attributable to employee service in the current year. Employees are assumed to have an equal portion of the present value of benefits attributed to each year of service from date of hire to expected retirement age.

The **Annual Required Contribution (ARC)** is equal to the Normal Cost plus an amount to amortize the unfunded AAL as a level dollar amount over a period of 30 years on a “closed” basis starting January 1, 2008. There are 24 years remaining as of January 1, 2014.

The table below contains a 25 year projection of projected benefit payments under the current and proposed benefit plans. The projected benefit payments are net of required retiree contributions, but include the value of the implicit premium rate subsidy for non-Medicare retirees for whom the same premium rate is charged as for actives. The projected benefit payments include only employees and retirees as of the valuation date (January 1, 2014). Future employees are not reflected in the table below.

Year	Projected Benefit Payments		
	Current Plan	Proposed Plan (Local 1230 Change)	Difference
2014	\$54,439,000	\$54,439,000	\$0
2015	56,181,000	56,181,000	0
2016	58,437,000	58,327,000	(110,000)
2017	61,348,000	61,112,000	(236,000)
2018	63,630,000	63,263,000	(367,000)
2019	66,025,000	65,520,000	(505,000)
2020	68,604,000	67,948,000	(656,000)
2021	70,593,000	69,768,000	(825,000)
2022	72,445,000	71,455,000	(990,000)
2023	74,411,000	73,259,000	(1,152,000)
2024	76,694,000	75,376,000	(1,318,000)
2025	78,735,000	77,233,000	(1,502,000)
2026	80,219,000	78,546,000	(1,673,000)
2027	81,526,000	79,667,000	(1,859,000)
2028	82,231,000	80,193,000	(2,038,000)
2029	82,931,000	80,705,000	(2,226,000)
2030	84,113,000	81,705,000	(2,408,000)
2031	84,428,000	81,848,000	(2,580,000)
2032	84,455,000	81,688,000	(2,767,000)
2033	85,136,000	82,202,000	(2,934,000)
2034	85,151,000	82,068,000	(3,083,000)
2035	84,817,000	81,589,000	(3,228,000)
2036	84,882,000	81,465,000	(3,417,000)
2037	84,839,000	81,301,000	(3,538,000)
2038	84,615,000	80,960,000	(3,655,000)

Important Notes

Except where noted above, the results in this letter are based on the same data, methods, assumptions, and plan provisions that are used in the January 1, 2014, actuarial valuation report for the Contra Costa County (“County”), dated August 8, 2014. Appendices A through C contain a description of the current provisions assumptions and data used in the valuation report.

In preparing our report, we relied, without audit, on information (some oral and some in writing) supplied by Contra Costa County's staff. This information includes but not limited to employee census data, financial information and plan provisions. While Milliman has not audited the financial and census data, they have been reviewed for reasonableness and are, in our opinion, sufficient and reliable for the purposes of our calculations. If any of this information as summarized in this report is inaccurate or incomplete, the results shown could be materially affected and this report may need to be revised.

All costs, liabilities, rates of interest, and other factors for the District have been determined on the basis of actuarial assumptions and methods which are individually reasonable (taking into account the experience of the District and reasonable expectations); and which, in combination, offer our best estimate of anticipated experience affecting the District. Further, in our opinion, each actuarial assumption used is reasonably related to the experience of the Plan and to reasonable expectations which, in combination, represent our best estimate of anticipated experience for the District.

This analysis is only an estimate of the Plan's financial condition as of a single date. It can neither predict the Plan's future condition nor guarantee future financial soundness. Actuarial valuations do not affect the ultimate cost of Plan benefits, only the timing of District contributions. While the valuation is based on an array of individually reasonable assumptions, other assumption sets may also be reasonable and valuation results based on those assumptions would be different. No one set of assumptions is uniquely correct. Determining results using alternative assumptions is outside the scope of our engagement.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period); and changes in plan provisions or applicable law. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements. The District has the final decision regarding the appropriateness of the assumptions and actuarial cost methods.

This letter is prepared solely for the internal business use of Contra Costa County. To the extent that Milliman's work is not subject to disclosure under applicable public records laws, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. Milliman's consent to release its work product to any third party may be conditioned on the third party signing a Release, subject to the following exceptions:

- a) Contra Costa County may provide a copy of Milliman's work, in its entirety, to the County's professional service advisors who are subject to a duty of confidentiality and who agree to not use Milliman's work for any purpose other than to benefit the County.
- b) Contra Costa County may provide a copy of Milliman's work, in its entirety, to other governmental entities, as required by law.

No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

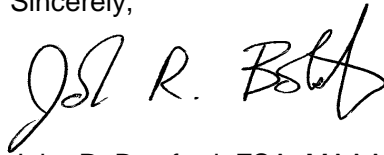
Lisa Driscoll
January 9, 2015
Page 5

The consultants who worked on this assignment are actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

The signing actuary is independent of the plan sponsor. We are not aware of any relationship that would impair the objectivity of our work.

On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, the report is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the applicable Actuarial Standards of Practice of the American Academy of Actuaries. The undersigned is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Botsford". The signature is fluid and cursive, with the first name "John" being the most prominent.

John R. Botsford, FSA, MAAA
Principal and Consulting Actuary

JRB:dy
enc.

Appendix A. Summary of Benefits under Current Plan before Proposed Changes

The following description of retiree health benefits is intended to be only a brief summary and is not complete information.

Eligibility

Currently, employees may receive retiree health benefits if they retire from the County, are receiving a pension, and meet certain eligibility requirements as follows:

General employees - age 50 with 10 years of pension service or age 70 with a vested pension, or after 30 years of pension service with no age requirement.

Safety employees - age 50 with 10 years of pension service or age 70 with a vested pension, or after 20 years of pension service with no age requirement.

Employees hired after December 31, 2006 and represented by the following bargaining groups (AFSCME, California Nurses Association, Deputy District Attorneys' Association, Public Defenders Association, IFPTE, Western Council of Engineers, SEIU, PEU, Probation Peace Officers Association, and Unrepresented) also must have 15 years of County service.

Employees hired on or after October 1, 2005, and represented by the Physicians' and Dentists' Organization also must have 15 years of County service.

Health Benefits

Currently, eligible retirees and their dependents are covered either under the Contra Costa Health Plans, Health Net plans, Kaiser plans, or health plans sponsored by CalPERS (PEMHCA). Coverage may be provided for a retiree and surviving spouse as long as retiree and surviving spouse monthly premium contributions are paid. The County may pay a subsidy toward eligible retirees' monthly medical and dental premiums. This subsidy may vary by bargaining unit and date of hire as described in this appendix. Employees hired on or after dates described in the table below and represented by the following bargaining groups must pay the entire cost of premiums to maintain coverage.

Bargaining Unit Name	Hire Date on or after which eligible retirees must pay entire cost of premiums
IFPTE, Unrepresented	January 1, 2009
AFSCME, Western Council of Engineers, SEIU, and PEU	January 1, 2010
Deputy District Attorneys Association	December 14, 2010
Probation Peace Officers Association of CCC	January 1, 2011
CCC Public Defenders Association	March 1, 2011

All surviving spouses must pay the entire cost of premiums to maintain coverage, with the exception of the following bargaining groups for whom the surviving spouse receives the same County subsidy as the retiree (covered by CalPERS health plans): A8 (Sheriff). BD (Fire Chief), BS (Sworn Exec. Mgmt.), HA, V#, VH, VN, 4N, BF, and XJ.

Bargaining Units V#, VH, VN, F8 and FW

Currently, for eligible retirees from the bargaining units listed in the table below, the County will contribute toward the cost of monthly premiums (medical and dental) in 2014 an amount equal to the actual dollar monthly premium amount paid by the County as of November 30, 2013, at each coverage level, plus 50% of the actual premium increase for 2014. For premium increases in 2015 and later, the County and retiree will split the increase evenly: the County will pay for 50% of the increase, and the retiree must pay for the other 50% of the increase.

Retirees who elected dental coverage without health coverage will pay one cent (\$0.01) per month for 2013, plus 50% of the actual premium increase for 2014. For premium increases in 2015 and later, the County and retiree will split the increase evenly: the County will pay for 50% of the increase, and the retiree must pay for the other 50% of the increase.

Bargaining Unit Code	Bargaining Unit Name	General / Safety
F8	Unrep Classified & Exempt-Othr	General
FW	Unrep CI & Ex-Sworn Peace Offc	Safety
V#	Sheriff's Sworn Mgmt Unit	Safety
VH	Deputy Sheriff's Unit-Sworn	Safety
VN	Deputy Sheriff's Unit-NonSworn	General

For employees hired between January 2, 2007, and September 30, 2011, and represented by the Deputy Sheriffs' Association, the County subsidy is subject to a vesting schedule as shown in the table below.

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

Bargaining Unit HA – Fire Management

Currently, for eligible Fire Management retirees represented by United Chief Officers Association (UCOA) with bargaining unit code HA, the County will subsidize an amount equal to 80% of the CalPERS Kaiser premium at each coverage level (employee only, employee + one, employee + two or more) for the region in which the retiree resides, but the County's subsidy will not exceed the total premium of a lower cost plan.

For retirees enrolled in a health plan from CalPERS, the County will subsidize 78% of the monthly dental premium.

For retirees who elect dental coverage without medical coverage, the County will subsidize an amount toward the monthly dental premium such that the retiree will pay one cent (\$0.01) per month for such coverage.

Bargaining Unit XJ – D.A. Investigators

Currently, for eligible retirees from the bargaining unit XJ, the County will pay a subsidy toward the cost of monthly premiums (medical and dental) in 2014 an amount equal to the actual dollar monthly premium amount paid by the County in 2013, depending on coverage level. For 2014 and later, the County subsidy will increase by 75% of the actual premium increase in Bay Area Kaiser rates.

For retirees enrolled in a health plan from CalPERS, the County will subsidize an amount equal to 78% of the monthly dental premium.

For retirees who elect dental coverage without medical coverage, the County will subsidize an amount toward the monthly dental premium such that the retiree will pay one cent (\$0.01) per month for such coverage.

Bargaining Units 1P, 1R, 4N, and L3

Currently, for eligible retirees from the following bargaining units, the County subsidizes a percentage of monthly premiums that varies depending on the medical and dental plan elected. Retirees from certain bargaining units described below also receive reimbursement of their Medicare Part B premiums as long as the total County subsidy does not exceed 100% of the medical plan premium.

Bargaining Unit Code	Bargaining Unit Name	General / Safety	Part B Reimbursement
1P	Physicians and Dentists Unit	General	Yes, stops in 2015
1R	Physicians & Dentists Unit-Residents	General	Yes, stops in 2015
4N	Fire Suppression & Prevention Unit	Safety	No
L3	Registered Nurses Unit	General	If retired on or before 6/30/2012 and age 65 on or before 10/31/2012

Retirees from the above listed units receive the following County subsidy based on the medical plan elected:

Medical Plan	Bargaining Unit	County Subsidy % (Medical)	County Subsidy % (Dental)
<u>Contra Costa Health Plan A and B</u>			
Without Dental	1P, 1R, L3	98%	0%
With Delta Dental	1P, 1R, L3	98%	98%
With PMI Delta Dental	1P, 1R, L3	98%	98%
<u>Kaiser, Health Net HMO</u>			
Without Dental	1P, 1R, L3	80%	0%
With Delta Dental	1P, 1R, L3	80%	78%
With PMI Delta Dental	1P, 1R, L3	80%	78%
<u>Health Net PPO</u>			
Without Dental	1P, 1R, L3	55%*	0%
With Delta Dental	1P, 1R, L3	55%*	78%
With PMI Delta Dental	1P, 1R, L3	55%*	78%
<u>All Medical Plans</u>			
Without Dental	4N	87% of Kaiser	0%
With Dental Plan	4N	87% of Kaiser	78%
Dental Only	All Units Listed Above	0%	All but \$0.01 / month

* Approximately 55% for 2014. Future increases are split evenly between the County and the retiree.

All other Bargaining Units - County Subsidy Frozen at the 2011 Level

Currently, eligible retirees from the following bargaining units listed receive County subsidies at the same amount agreed upon between the County and the Bargaining Units in 2011 towards the medical and dental premiums with no future increases to this subsidy amount.

Bargaining Unit Code	Bargaining Unit Name	General / Safety	Bargaining Unit Code	Bargaining Unit Name	General / Safety
1X	Phys & Dnts & Optometrist Unit	General	JF	CCC Defenders/Investigators	General
2I*		General	K2	Property Appraisers Unit	General
25	Social Services Unit	General	K5	Court Professional Svcs Unit	General
51	Professional Engineers Unit	General	K6	Supervisory Clerical Unit	General
99	DEFAULT BARGAINING UNIT	General	KK	Income Maintenance Program Unit	General
2D	Community Aide Unit	General	KL	Engineering Technician Unit	General
2I	Service Line Supervisors Unit	General	KM	Sheriff's Non-Sworn Mgmt Unit	General
2R	Superior Court Reporters-Ex	General	KU	Probation Supervisors Unit	Safety
3A	Superior Court Clerical Unit	General	KZ	Social Svcs Staff Special Unit	General
3B	Superior Court Barg Unit-Loc1	General	MA	District Attorneys' Unit	General
3G	Deputy Clerks Unit	General	N2	Property Appraisers Unit	General
3R	General Clerical Unit	General	PP	Probation Unit of CCC	Safety
A8	Elected Department Heads	General	QA	Agriculture & Animal Ctrl Unit	General
AJ	Elected Superior Court Judges	General	QB	LVN/Aide Unit	General
AM	Elected Municipal Court Judges	General	QC	Fam/Chld Svs Site Supv Unit	General
AS	Elected Board of Supvs Members	General	QE	Building Trades Unit	General
B8	Mgmt Classes-Classified & Exem	General	QF	Deputy Public Defender Unit/At	General
BA		General	QG	Deputy Public Defender Unit-In	General
BC	Superior Court Exempt Mgmt Gen	General	QH	Family and Children Services	General
BD	Mgmt Classified & Ex Dept Head	General	QM	Engineering Unit	General
BF	Fire District (MS) Safety Mgmt	Safety	QP		General
BH	Superior Ct Exempt Mgmt-DH	General	QS	General Services & Mtce Unit	General
BJ	Sup Ct Judicial Ofcrs Ex-Mgmt	General	QT	Health Services Unit	General
BS	Sheriff's Sworn Executive Mgmt	Safety	QV	Investigative Unit	General
C8	Management Project-Other	General	QW	Legal & Court Clerk Unit	General
CH	CS Head Start Mgmt-Project	General	QX	Library Unit	General
D8	Unrepresented Proj Class-Other	General	QY	Probation Unit	General
F8	Unrep Classified & Exempt-Other	General	S2		General
FC	Unrep Superior Ct Clerical Exempt	General	Z1	Supervisory Project	General
FD	Unrep Superior Ct Other Exempt	General	Z2	Non-Supervisory Project	General
FM	Unrep Muni Ct Reporter-Exempt	General	ZA	Supervisory Management	General
FR	Unrep Superior Ct Reprts-Exempt	General	ZB	Non-Supervisory Management	General
FS	Unrep Cl & Ex Student Workers	General	ZL	Supervisory Nurse	General
FX	Unrep Exempt Medical Staff	General	ZN	Non-Supervisory Nurse	General
JD	CCC Defenders/Attorneys	General			

* Coded as "21" in census data.

Health Insurance Premium Rates (non-PEMHCA)

The following table shows monthly retiree health insurance premiums for the 2014 calendar year for coverage under various health plans sponsored by Contra Costa County, and the County's subsidies as frozen at the 2011 level for the specified bargaining groups.

Medical Plan	County's Subsidy (Frozen in 2011)	2014 Premium Rate	County's Subsidy for 2014	Retiree's Share for 2014
<u>Contra Costa Health Plan A</u>				
Retiree on Basic Plan	\$ 509.92	\$ 612.77	\$ 509.92	\$ 102.85
Retiree & 1 or more dependents on Basic Plan	1,214.90	1,459.96	1,214.90	245.06
Retiree on Medicare Coordination of Benefits (COB) Plan	420.27	279.23	279.22	0.01
Retiree & 1 or more dependents on Medicare COB Plan	1,035.60	1,228.77	1,035.60	193.17
<u>Contra Costa Health Plan B</u>				
Retiree on Basic Plan	528.50	679.27	528.50	150.77
Retiree & 1 or more dependents on Basic Plan	1,255.79	1,614.06	1,255.79	358.27
Retiree on Medicare COB Plan	444.63	287.60	287.59	0.01
Retiree & 1 or more dependents on Medicare COB Plan	1,088.06	1,265.63	1,088.06	177.57
<u>Kaiser Permanente – Plan A</u>				
Retiree on Basic Plan	478.91	768.47	478.91	289.56
Retiree & 1 or more dependents on Basic Plan	1,115.84	1,790.52	1,115.84	674.68
Retiree on Medicare COB Plan	263.94	295.01	263.94	31.07
Retiree & 1 dependent on Medicare COB Plan	712.79	796.71	712.79	83.92
Retiree & 2 dependents on Medicare COB Plan	1,161.65	1,298.41	1,161.65	136.76
<u>Kaiser Permanente – Plan B</u>				
Retiree on Basic Plan	478.91	676.03	478.91	197.12
Retiree & 1 or more dependents on Basic Plan	1,115.84	1,575.17	1,115.84	459.33
Retiree on Medicare COB Plan	263.94	223.69	223.68	0.01
Retiree & 1 dependent on Medicare COB Plan	712.79	603.97	603.96	0.01
Retiree & 2 dependents on Medicare COB Plan	1,161.65	984.25	984.24	0.01
<u>Health Net HMO – Plan A</u>				
Retiree on Basic Plan	627.79	1,067.40	627.79	439.61
Retiree & 1 or more dependents on Basic Plan	1,540.02	2,618.43	1,540.02	1,078.41
Retiree on Medicare Seniority Plus Plan	409.69	514.28	409.69	104.59
Retiree & 1 dependent on Medicare Seniority Plus Plan	819.38	1,028.56	819.38	209.18
Retiree & 2 dependents on Medicare Seniority Plus Plan	1,229.07	1,542.84	1,229.07	313.77
<u>Health Net HMO – Plan B</u>				
Retiree on Basic Plan	627.79	836.04	627.79	208.25
Retiree & 1 or more dependents on Basic Plan	1,540.02	2,050.86	1,540.02	510.84
Retiree on Medicare Seniority Plus Plan	409.69	431.74	409.69	22.05
Retiree & 1 dependent on Medicare Seniority Plus Plan	819.38	863.48	819.38	44.10
Retiree & 2 dependents on Medicare Seniority Plus Plan	1,229.07	1,295.22	1,229.07	66.15

Health Insurance Premium Rates (continued)

Medical Plan	County's Subsidy (Frozen in 2011)	2014 Premium Rate	County's Subsidy for 2014	Retiree's Share for 2014
<u>Health Net Medicare COB</u>				
Retiree only	\$ 467.13	\$ 573.03	\$ 467.13	\$ 105.90
Retiree & spouse	934.29	1,146.06	934.29	211.77
<u>Health Net CA & Nat'l PPO – Basic Plan A</u>				
Retiree on PPO	604.60	1,365.43	604.60	760.83
Retiree & 1 or more dependents on PPO Basic Plan	1,436.25	3,243.69	1,436.25	1,807.44
Retiree on PPO Medicare Plan with Medicare Part A & B	563.17	924.22	563.17	361.05
Retiree & 1 or more dependents on PPO Medicare Plan with Medicare Part A & B	1,126.24	1,848.43	1,126.24	722.19
<u>Health Net CA & Nat'l PPO – Basic Plan B</u>				
Retiree on PPO	604.60	1,240.08	604.60	635.48
Retiree & 1 or more dependents on PPO Basic Plan	1,436.25	2,945.89	1,436.25	1,509.64
Retiree on PPO Medicare Plan with Medicare Part A & B	563.17	839.40	563.17	276.23
Retiree & 1 or more dependents on PPO Medicare Plan with Medicare Part A & B	1,126.24	1,678.80	1,126.24	552.5

The following table shows monthly retiree health insurance premiums for the 2015 calendar year for health coverage under Contra Costa Health Plans sponsored by the Contra Costa County.

Medical Plan	County's Subsidy (Frozen in 2011)	2015 Premium Rate	County's Subsidy for 2015	Retiree's Share for 2015
<u>Contra Costa Health Plan A</u>				
Retiree on Basic Plan	\$ 509.92	\$ 654.44	\$ 509.92	\$ 144.52
Retiree & 1 or more dependents on Basic Plan	1,214.90	1,559.24	1,214.90	344.34
Retiree on Medicare COB Plan	420.27	301.01	301.00	0.01
Retiree & 1 dependent on Medicare COB Plan	1,035.60	602.02	602.01	0.01
Family, 1 on Medicare COB Plan, and 1 or more on Basic Plan	1,035.60	963.23	963.22	0.01
<u>Contra Costa Health Plan B</u>				
Retiree on Basic Plan	528.50	725.46	528.50	196.75
Retiree & 1 or more dependents on Basic Plan	1,255.79	1,723.82	1,255.79	468.03
Retiree on Medicare COB Plan	444.63	310.03	310.02	0.01
Retiree & 1 dependent on Medicare COB Plan	1,088.06	620.06	620.05	0.01
Family, 1 on Medicare COB Plan, and 1 or more on Basic Plan	1,088.06	992.10	992.09	0.01

PEMHCA Health Plan Premium Rates

Eligible retirees from the bargaining units 4N, A8, B8, BD, BF, BS, F8, FW, HA, V#, VH, VN, and XJ can choose to enroll in health plans sponsored by CalPERS based on their residence region (Bay Area, Sacramento, Los Angeles, Northern California, Southern California and Out of State of California). The following table shows the monthly Bay Area retiree health insurance premiums for the 2014 calendar year:

	Monthly Premium Rates – 2014					
	Single		2-Party		Family	
	Under 65	Over 65	Under 65	Over 65	Under 65	Over 65
Blue Shield	\$ 836.59	\$ 298.21	\$ 1,673.18	\$ 596.42	\$ 2,175.13	\$ 894.63
Blue Shield NetValue	704.01	298.21	1,408.02	596.42	1,830.43	894.63
Kaiser	742.72	294.97	1,485.44	589.94	1,931.07	884.91
PERSCare	720.04	327.36	1,440.08	654.72	1,872.10	982.08
PERS Choice	690.77	307.23	1,381.54	614.46	1,796.00	921.69
PERS Select	661.52	307.23	1,323.04	614.46	1,719.95	921.69
Anthem HMO Select	657.33	341.12	1,314.66	682.24	1,709.06	1,023.36
Anthem HMO Traditional	728.41	341.12	1,456.82	682.24	1,893.87	1,023.36
United Healthcare	764.24	193.33	1,528.48	386.66	1,987.02	579.99
PORAC	634.00	397.00	1,186.00	791.00	1,507.00	1,264.00
CCHP	723.74	618.84	1,281.39	1,071.59	1,674.11	1,359.41

Dental Plan Premiums

The following table shows monthly retiree dental insurance premiums for the 2014 calendar year. County subsidies vary based on retiree's medical plan enrollment election and bargaining unit upon retirement.

Plan	Monthly Premiums
Delta Dental - \$1,800 Annual Maximum	
Retiree	\$ 44.27
Family	100.00
Delta Dental - \$1,600 Annual Maximum	
Retiree	\$ 42.45
Family	95.63
Delta Care (PMI)	
Retiree	\$ 29.06
Family	62.81

Excluded Bargaining Units – Not Eligible for Plan Participation

Members of the following bargaining units are not eligible for participation in the County's retiree health plan.

Bargaining Unit Code	Bargaining Unit Name	General / Safety
8I	IHSS Public Authority-Mgmt	General
8J	IHSS Public Authority-Non Mgmt	General
8P	Special Co Class Codes-Payroll	General
B9	Mgmt East CCFPD (Non-MS)	Safety

Appendix B. Actuarial Cost Method and Assumptions

The actuarial cost method used for determining the benefit obligations is the Projected Unit Credit Cost Method. Under this method, the actuarial present value of projected benefits is the value of benefits expected to be paid for current actives and eligible retirees and is calculated based on the assumptions and census data described in this report.

The Actuarial Accrued Liability (AAL) is the actuarial present value of benefits attributed to employee service rendered prior to the valuation date. The AAL equals the present value of benefits multiplied by a fraction equal to service to date over service at expected retirement. The Normal Cost is the actuarial present value of benefits attributed to one year of service. This equals the present value of benefits divided by service at expected retirement. Since retirees are not accruing any more service, their normal cost is zero. The actuarial value of assets is equal to the market value of assets as of the valuation date.

In determining the Annual Required Contribution, the Unfunded AAL is amortized as a level dollar amount over 30 years on a "closed" basis. There are 24 years remaining in the amortization period as of January 1, 2014. The actuarial assumptions are summarized below.

Economic Assumptions

Discount Rate (Liabilities) 5.70%

We have used a discount rate of 5.70% in this valuation to reflect the County's current policy of partially funding its OPEB liabilities. This rate is derived based on the fund's investment policy, level of partial funding, and includes a 2.50% long-term inflation assumption. County OPEB Irrevocable Trust assets are invested in the Public Agency Retirement Services' Highmark Portfolio. Based on the portfolio's target allocation (shown below), the average return of Trust assets over the next 30 years is expected to be 6.25%, which would be an appropriate discount rate if the County's annual contribution is equal to the ARC. If the County were to elect not to fund any amount to a Trust, the discount rate would be based on the expected return of the County's general fund (we have assumed a long term return of 3.50% for the County's general fund). Since the County is partially funding the Trust with a contribution of \$20 million per year, we used a blended discount rate of 5.70%.

Asset Class	Expected 1-Year Nominal Return	Targeted Asset Allocation
Domestic Equity Large Cap	8.14%	17.0%
Domestic Equity Mid Cap	8.92%	6.0%
Domestic Equity Small Cap	9.90%	8.0%
U.S. Fixed Income	4.69%	38.0%
International / Global Equity (Developed)	8.56%	16.0%
Real Estate	8.12%	4.0%
Cash	3.01%	1.0%
Alternatives	5.71%	10.0%
Expected Geometric Median Annual Return (30 years)		6.25%

Demographic Assumptions

Below is a summary of the assumed rates for mortality, retirement, disability and withdrawal, which are consistent with assumptions used in the December 31, 2012 CCCERA Actuarial Valuation.

Pre / Post Retirement Mortality

Healthy: For General Members: RP-2000 Combined Healthy Mortality Table projected to 2030 with Scale AA, set back one year.

For Safety Member: RP-2000 Combined Healthy Mortality Table projected to 2030 with Scale AA, set back two years.

Disabled: For General Members: RP-2000 Combined Healthy Mortality Table projected to 2030 with Scale AA, set forward six years for males and set forward seven years for females.

For Safety Member: RP-2000 Combined Healthy Mortality Table projected to 2030 with Scale AA, set forward three years.

Beneficiaries: Beneficiaries are assumed to have the same mortality as a General Member of the opposite sex who had taken a service (non-disability) retirement.

Disability

Age	General Tier 3	Safety (All Tiers)
20	0.01%	0.02%
25	0.02%	0.22%
30	0.03%	0.42%
35	0.05%	0.56%
40	0.08%	0.66%
45	0.13%	0.94%
50	0.17%	2.54%

Withdrawal – Sample probabilities of terminating employment with the County are shown below for selected years of County service.

Years of Service	General	Safety
Less than 1	13.50%	11.50%
1	9.00%	6.50%
2	9.00%	5.00%
3	6.00%	4.00%
4	4.50%	3.50%
5	4.00%	3.00%
10	2.75%	1.90%
15	2.10%	1.40%
20 or more	2.00%	1.00%

Retirement – For this valuation, we have applied the Tier 3 rates for all General employees and Tier A rates for all Safety employees since nearly all current employees are in these two pension tiers.

Age	General Tier 3	Safety Tier A	Age	General Tier 3	Safety Tier A
45	0%	2%	60	15%	40%
46	0%	2%	61	20%	40%
47	0%	7%	62	27%	40%
48	0%	7%	63	27%	40%
49	0%	20%	64	30%	40%
50	4%	25%	65	40%	100%
51	3%	25%	66	40%	100%
52	3%	25%	67	40%	100%
53	5%	25%	68	40%	100%
54	5%	25%	69	40%	100%
55	10%	30%	70	40%	100%
56	10%	25%	72	40%	100%
57	10%	25%	73	40%	100%
58	12%	35%	74	40%	100%
59	12%	35%	75	100%	100%

Coverage Election Assumptions

Retiree Coverage – We have assumed 90% of new retirees will elect medical and dental coverage at retirement. For new retirees who were members of certain bargaining units indicated in appendix A and hired after a certain date indicated (eligible retirees must pay entire cost of premium to maintain coverage), we have assumed 50% will elect medical and dental coverage at retirement.

Spouse Coverage – We have assumed 50% of new retirees electing coverage will elect spouse medical and dental coverage at retirement.

Spouse Age – Female spouses are assumed to be three years younger than male spouses.

Dependent Coverage – We have assumed 30% of retirees with no spouse coverage will elect coverage for a dependent child until age 65, and 50% of retirees with spouse coverage will elect coverage for a dependent child until age 65.

Health Plan Election – We have assumed that new retirees will remain enrolled in the same plan they were enrolled in as actives. For actives who waived coverage, we have assumed that they will elect Kaiser plan coverage.

Valuation of Retiree Premium Subsidy Due to Active Health Costs

The County and California PERS (PEMHCA) health plans charge the same premiums for retirees who are not yet eligible for Medicare as for active employees. Therefore, the retiree premium rates are being subsidized by the inclusion of active lives in setting rates. (Premiums calculated only based on retiree health claims experience would have resulted in higher retiree premiums.) GASB 45 requires that the value of this subsidy be recognized as a liability in valuations of OPEB costs. To account for the fact that per member health costs vary depending on age (higher health costs at older ages), we calculated equivalent per member per month (PMPM) costs that vary by age based on the age distribution of covered members, and based on relative cost factors by age. The relative cost factors were developed from the Milliman Health Cost GuidelinesTM. Based on the carrier premium rates and relative age cost factors assumptions, we developed age adjusted monthly PMPM health costs for 2014 to be used in valuing the implicit rate subsidy. The following tables show the age adjusted expected monthly claims cost for a male participant at age 64 for each health plan and relative age factors compared to a male age 64.

Plan	Monthly Age Adjusted Claims Cost for Age 64 Male	Dependent Child Cost Load
CCHP A	\$ 1,164	\$ 157
CCHP B	1,431	329
Kaiser A	1,384	246
Kaiser B	1,278	264
Health Net HMO A	1,878	394
Health Net HMO B	1,621	369
Health Net PPO	1,903	316
California PERS Plans (average)	1,100	219

Relative Claims Cost Factor Compared to Male age 64

Age	Male	Female
50	0.458	0.572
55	0.604	0.668
60	0.786	0.789
64	1.000	0.915

Since retirees eligible for Medicare (age 65 and beyond) are enrolled in Medicare supplemental plans, the premiums for retirees with Medicare are determined without regard to active employee claims experience and no such subsidy exists for this group for medical cost.

Medical Cost Inflation Assumption

We assumed future increases to the health costs and premiums are based on the “Getzen” model published by the Society of Actuaries for purposes of evaluating long term medical trend. Under the Patient Protection and Affordable Care Act of 2010, a Federal excise tax will apply for high cost health plans beginning in 2018. A margin to reflect the impact of the excise tax in future years is reflected in the assumed trend. The following table shows the assumed rate increases in future years for Medical premiums.

Calendar Year	County Plans * Pre 65	Calendar Year	PEMHCA Plans Pre 65	Calendar Year	All Plans * Post 65
2014	6.50%	2014	7.00%	2014	7.25%
2015	5.25%	2015	5.75%	2015	6.00%
2016	5.75%	2016	6.25%	2016	6.50%
2017	6.50%	2017 – 2018	6.75%	2017 – 2025	6.00%
2018 – 2020	5.75%	2019	7.00%	2026 – 2032	5.75%
2021 – 2023	6.50%	2020 – 2022	7.25%	2033	6.00%
2024 – 2028	6.25%	2023 – 2024	7.00%	2034	6.75%
2029	6.50%	2025 – 2029	6.75%	2035	6.50%
2030 – 2035	6.25%	2030 – 2033	6.50%	2036 – 2042	6.25%
2036	6.00%	2034 – 2036	6.25%	2043 – 2045	6.00%
2037 – 2040	5.75%	2037 – 2038	6.00%	2046 – 2051	5.75%
2041 – 2048	5.50%	2039 – 2043	5.75%	2052 – 2059	5.50%
2049 – 2063	5.25%	2044 – 2050	5.50%	2060 – 2070	5.25%
2064 – 2074	5.00%	2051 – 2061	5.25%	2071 – 2076	5.00%
2075 – 2079	4.75%	2062 – 2074	5.00%	2077 – 2081	4.75%
2080 +	4.50%	2075 – 2079	4.75%	2082 +	4.50%
		2080 +	4.50%		

* For Contra Costa Health Plan A and B, actual increase from calendar year 2014 to 2015 was used.

Dental Cost We assumed Dental costs will increase 4.0% annually.

Appendix C. Summary of Participant Data

The following census of participants was used in the actuarial valuation and provided by Contra Costa County.

Active Employees

Age	General	Safety	Total
Under 25	44	10	54
25 – 29	377	124	501
30 – 34	732	168	900
35 – 39	838	203	1,041
40 – 44	883	236	1,119
45 – 49	1,043	226	1,269
50 – 54	1,148	85	1,233
55 – 59	997	34	1,031
60 – 64	663	17	680
65 & Over	<u>257</u>	<u>4</u>	<u>261</u>
Total	6,982	1,107	8,089

Average Age at Hire: 45.93

Average Age on Valuation Date: 10.31

Current Retirees

Age	General	Safety	Total
Under 50	22	69	91
50 – 54	104	146	250
55 – 59	390	163	553
60 – 64	821	211	1,032
65 – 69	1,155	255	1,410
70 – 74	869	125	994
75 – 79	619	86	705
80 – 84	444	72	516
85 & Over	<u>595</u>	<u>60</u>	<u>655</u>
Total	5,019	1,187	6,206

Average Age on Valuation Date: 69.92



Contra
Costa
County

To: Board of Supervisors

From: Julia R. Bueren, Public Works Director/Chief Engineer

Date: November 17, 2015

Subject: APPROVE and AUTHORIZE the Purchasing Agent to Execute a Purchase Order with Municipal Maintenance Equipment

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Purchasing Agent, on behalf of the Public Works Department, to execute a purchase order with Municipal Maintenance Equipment, in an amount not to exceed \$388,988, for the purchase of a Vac-Con Combination Sewer and Storm Drain Cleaner mounted on a Peterbilt 365 Truck Chassis for Public Works Road and Flood Control Maintenance, Countywide.

FISCAL IMPACT:

61% Local Road Fund and 39% General Fund.

BACKGROUND:

To be used for cleaning and flushing storm drain catchbasins and culverts. This purchase is replacing an existing vehicle in the road maintenance fleet that has been removed from service and disposed of because it was beyond economical repair. There are approximately 9000 catchbasins and 2000 culverts within the County that this specific machine services through scheduled maintenance and during emergency responses.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Mike Giles,
925-313-7041

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

Negative action would result in the inability to effectively provide routine maintenance to storm catchbasins and drains which can result in property damage and jeopardizing the road and flood control infrastructure.



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 17, 2015

Subject: Approving the Parcel Map and Subdivision Agreement for minor subdivision MS03-00007, Alamo area.

RECOMMENDATION(S):

ADOPT Resolution No. 2015/425 approving the Parcel Map and Subdivision Agreement for minor subdivision MS03-00007, for a project being developed by Maurice Storch, as recommended by the Public Works Director, Alamo area. (District II)

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The Public Works Department has reviewed the conditions of approval for minor subdivision MS03-00007 and has determined that all conditions of approval for the Parcel Map approval have been satisfied.

CONSEQUENCE OF NEGATIVE ACTION:

The Parcel Map and the Subdivision Agreement will not be approved and recorded.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: J. A.B. LaRocque,
925-313-2315

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

ATTACHMENTS

Resolution No.

2015/425

Parcel Map

Subdivision Agreement

Bond

Recorded at the request of: **BOARD OF SUPERVISORS**

Return To: **PUBLIC WORKS DEPARTMENT, ENGINEERING SERVICES DIVISION**

**THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board**

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐

NO: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐

Resolution No. 2015/425

IN THE MATTER OF approving the Parcel Map and Subdivision Agreement for minor subdivision MS03-00007, for a project being developed by Maurice Storch, Alamo area. (District II)

WHEREAS The following documents were presented for Board approval this date:

I. Map

The Parcel Map of minor subdivision MS03-00007, property located in the Alamo area, Supervisorial District II, said map having been certified by the proper officials.

II. Subdivision Agreement

A Subdivision Agreement with Maurice Storch, principal, whereby said principal agrees to complete all improvements as required in said Subdivision Agreement within two (2) years from the date of said agreement. Accompanying said Subdivision Agreement is security guaranteeing completion of said improvements as follows:

A. Cash Bond Performance amount: \$1,000

Auditor's Deposit Permit No. 691322

Date: August 10, 2015

Submitted by: Maurice Storch

B. Surety Bond Bond Company: Indemnity Company of California

Bond Number: 802955S

Date: August 3, 2015

Performance Amount: \$35,000

Labor & Materials Amount: \$18,000

Principal: Maurice Storch

III. Tax Letter

Letter from the County Tax Collector stating that there are no unpaid County taxes heretofore levied on the property included in said map and that the 2015-2016 tax lien has been paid in full.

All deposit permits are on file with the Public Works Department.

NOW, THEREFORE, BE IT RESOLVED:

1. That said subdivision, together with the provisions for its design and improvement, is DETERMINED to be consistent with the County's general and specific plans.
2. That said Parcel Map is APPROVED and this Board does hereby REJECT on behalf of the public any streets, paths, or easements shown thereon as dedicated to public use.
3. That said subdivision agreement is also APPROVED.

Contact: J. A.B. LaRocque, 925-313-2315

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Design/Construction, Dept. of Development & Conservation - Current Planning, T - 09-17-2017, Maurice Storch, 645 Miner Road, Orinda, CA 94507, Indemnity Co of California P.O. Box 19725 Irvine CA 92623

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 11, AND A PORTION OF THE SOUTHWEST 1/4 OF SECTION 12, ALL IN TOWNSHIP 1 SOUTH RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA
NOVEMBER 2013

THE UNDERSIGNED PARTIES HAVING A RECORD TITLE IN THE REAL PROPERTY BEING SUBDIVIDED DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP.

THE AREAS DESIGNATED "SCENIC EASEMENTS" ARE AREAS THAT MAY NOT BE BUILT UPON OR DEVELOPED WITHOUT THE CONSENT OF CONTRA COSTA COUNTY, ITS SUCCESSORS OR ASSIGNEE, AS MORE PARTICULARLY DESCRIBED IN A GRANT DEED TO CONTRA COSTA COUNTY RECORDED CONCURRENTLY WITH THE FILING OF THIS MAP. THE FOREGOING IS NOT A DEDICATION TO OR FOR USE BY, THE GENERAL PUBLIC. THIS MAP SHOWS ALL EASEMENTS ON THE PREMISES, OR OF RECORD.

CRAIG CHASE CARA B. CHASE
CO-TRUSTEES OF THE CHASE FAMILY TRUST

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 }

ON 10-22-2015 *⁽¹⁰⁾ 2015 BEFORE ME. Aracelys Martinez, Notary Public

PERSONALLY APPEARED CRICK CHASE and CURA B. CHASE

ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) [REDACTED] WHO PROVIDED TO ME [REDACTED] SUBMITTED TO THE FOREGOING STATEMENT AND ACKNOWLEDGED TO ME THAT [REDACTED] AND THAT I ACCEPTED THE SIGNATURE(S) ON THE STATEMENT. THE PERSON(S) [REDACTED] FOR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED EXECUTED THE STATEMENT [REDACTED] CERTAINTY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA [REDACTED] THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT. [REDACTED] WITNESS MY HAND.

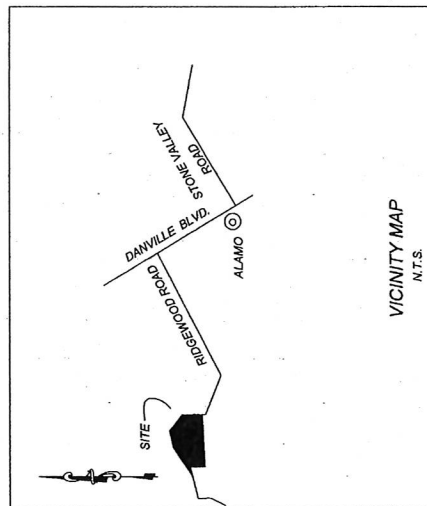
SIGNATURE: Michael G. Hayes

PRINT NAME: Andelina Martinez

MY COMMISSION NUMBER: 2097724

MY COMMISSION EXPIRES: 2.17.2019

PRINCIPAL COUNTY OF BUSINESS: Contra Costa County



STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

I, DAVID TWA, CLERK OF THE BOARD OF SUPERVISORS AND THE COUNTY ADMINISTRATOR OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA DO HEREBY CERTIFY THAT THE ABOVE NAMED PERSONS HAVE BEEN PRESENTED TO SAID BOARD OF SUPERVISORS FOR CONSIDERATION FOR A REGULAR MEETING THEREOF HELD ON THE DAY OF _____, 20____, AND THAT SAID BOARD DID THEREUPON BY RESOLUTION DULY PASSED AND ADOPTED AT SAID MEETING DID APPROVE SAID MAP AND DID REJECT ON BEHALF OF THE PUBLIC ALL OF THE COMMENTS, REQUESTS, SUGGESTIONS, OBJECTIONS, PETITIONS, DEMANDS, COMPLAINTS, AND APPEALS OF THE PUBLIC CONCERNING THE PROPOSED EASEMENTS SHOWN THEREIN ALONG THE STREETS, ROADS, AVENUES, PARCELS OR EASEMENTS SHOWN THEREAS DEDICATED TO THE PUBLIC USE.

FURTHER I CERTIFY THAT ALL TAX LIENS HAVE BEEN SATISFIED AND THAT ALL TAXES HAVE BEEN PAID.

IN WITNESS WHEREOF, I HAVE SET MY HAND THIS _____ DAY OF _____ 201_____

DAVID TWA

CLERK OF THE BOARD OF SUPERVISORS,
AND COUNTY ADMINISTRATOR

BY: DEPUTY CLERK

BUILDING INSPECTION STATEMENT
A GEOTECHNICAL INVESTIGATION REPORT, PREPARED BY BEAR ENGINEERING GROUP, INC. DATED 8/18/2014, PROJECT NO. 2014.100 HAS BEEN RECEIVED AND APPROVED. THE REPORT IS ON FILE IN THE BUILDING INSPECTION DIVISION CONTRA COSTA COUNTY.

**DEPUTY DIRECTOR
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
BUILDING INSPECTION DIVISION**

BY: Jason Cuzzo DATE: 10/26 2015

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY AND RECORD DATA IN CONFORMANCE WITH THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF CRAIG AND CARA B. CHASE ON OCTOBER 6, 2014 AND IS TRUE AND COMPLETE AS SHOWN. I HEREBY STATE THAT THIS MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. I FURTHER STATE THAT THE MONUMENTS SHOWN ON THE PARCEL MAP ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

Robert L. Wheat
ROBERT L. WHEAT P.L.S. NO. 5753
DATE: OCT. 8, 2015

THIS MAP WAS EXAMINED BY ME AND IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE APPROVED TENTATIVE MAP. ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH AND I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT

DATED: _____

BY: JAMES A. STEIN P.L.S. NO.6571
COUNTY SURVEYOR

PLANNING COMMISSION OF CONTRA COSTA, STATE OF CALIFORNIA, HAS APPROVED THE VESTING TENTATIVE MAP OF THIS SUBDIVISION UPON WHICH THIS FINAL MAP IS BASED.

ARUNA BHAT
DEPUTY DIRECTOR
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
COMMUNITY DEVELOPMENT DIVISION

BY: Linda Bhat DATE: Oct 22, 2015

FILED THIS _____ DAY OF _____, 20____ AT _____, M. IN BOOK _____ OF
PARCEL MAPS. AT PAGE _____ AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY.

JOSEPH E. CANCIAMILLA
COUNTY RECORDER IN AND FOR THE COUNTY
OF CONTRA COSTA, STATE OF CALIFORNIA

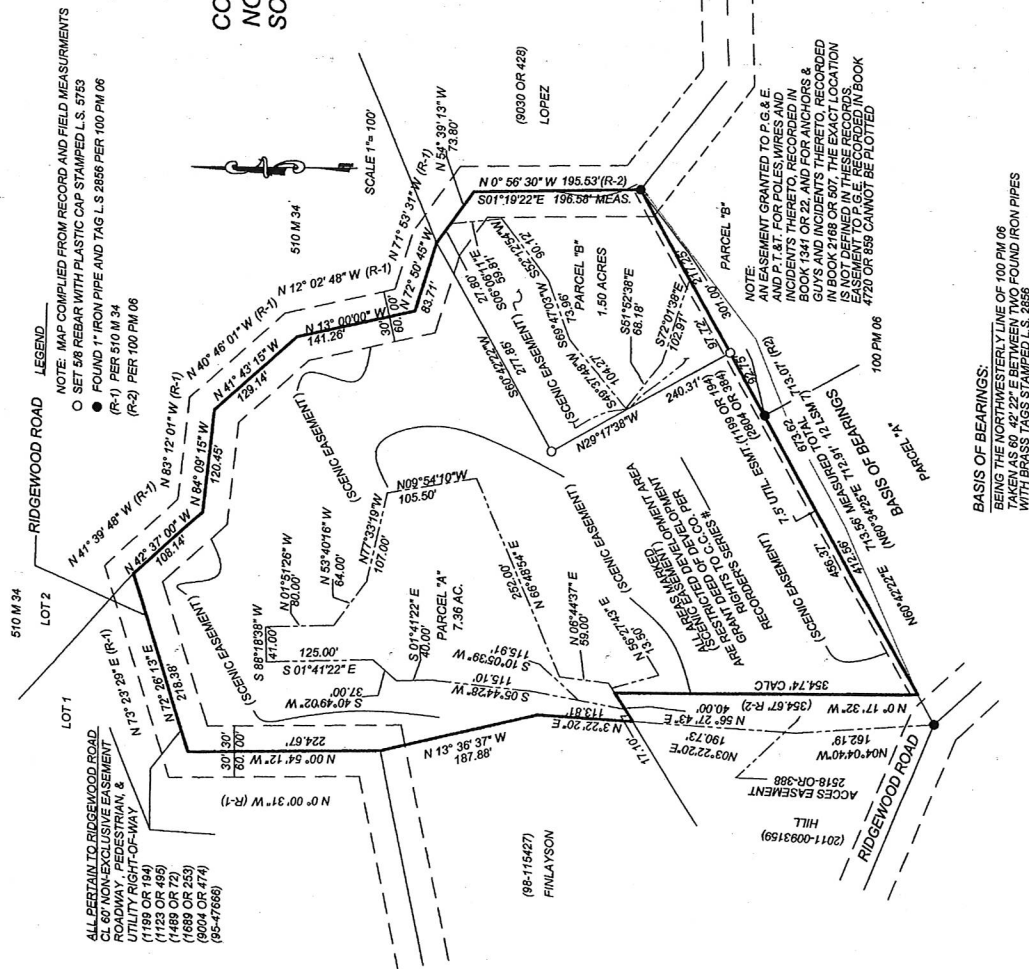
BY: _____
DEPUTY COUNTY RECORDER

PARCEL MAP

SUBDIVISION MS03-0007

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 11, AND A PORTION OF THE SOUTHWEST 1/4 OF SECTION 12, ALL IN TOWNSHIP 1 SOUTH RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN

COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA
NOVEMBER 2013
WHEAT LAND SURVEYING
LIVERMORE, CALIFORNIA
SCALE 1" = 100'



BASIS OF BEARINGS:
BEING THE NORTHWESTERLY LINE OF 100 PM 06
TAKEN AS 80° 42' 22\"/>

SUBDIVISION AGREEMENT
(Gov. Code, §§ 66462 and 66463)

Subdivision: MS03-0007
Subdivider: Maurice Storch

Effective Date: _____
Completion Period: Two (2) years

THESE SIGNATURES ATTEST TO THE PARTIES' AGREEMENT HERETO:

CONTRA COSTA COUNTY

Julia R. Bueren, Public Works Director

By: _____

RECOMMENDED FOR APPROVAL:

By: 
Engineering Services Division

FORM APPROVED: Silvano B. Marchesi, County Counsel

SUBDIVIDER


Print Name Maurice Storch

Print Title _____

Print Name: _____

Print Title: _____

[Note: If Subdivider is a corporation, two officers must sign. The first must be the chairman of the board, president or any vice president; the second must be the secretary, assistant secretary, chief financial officer or any assistant treasurer. (Corp. Code, § 313; Civ. Code, § 1190.) If Subdivider is a limited liability company, Subdivider shall sign in the manner required of corporations, or by two managers, or by one manager, pursuant to the articles of organization (see Corp. Code, §§ 17151, 17154, 17157.) If Subdivider is a partnership, any authorized partner may sign. Signatures by Subdivider must be notarized.]

1. PARTIES & DATE. Effective on the above date, the County of Contra Costa, California (hereinafter "County"), and the above-mentioned Subdivider mutually promise and agree as follows concerning this Subdivision:

2. IMPROVEMENTS. Subdivider agrees to install certain road improvements (both public and private), drainage improvements, signs, street lights, fire hydrants, landscaping and such other improvements (including appurtenant equipment) as required in the improvement plans for this Subdivision as reviewed and on file with the Contra Costa County Public Works Department, as required by the Conditions of Approval for this Subdivision, and in conformance with the Contra Costa County Ordinance Code, including future amendments thereto (hereinafter "Ordinance Code").

Subdivider shall complete said improvements (hereinafter "Work") within the above completion period from date hereof, as required by the California Subdivision Map Act (Gov. Code, §§ 66410 et. seq.) in a good workmanlike manner, in accordance with accepted construction practices and in a manner equal or superior to the requirements of the Ordinance Code and rulings made thereunder; and where there is a conflict among the improvement plans, the Conditions of Approval and the Ordinance Code, the stricter requirements shall govern.

3. IMPROVEMENTS SECURITY. Upon executing this Agreement, the Subdivider shall, pursuant to Gov. Code § 66499 and the County Ordinance Code, provide as security to the County:

A. For Performance and Guarantee: \$ 1,000.00 cash, plus additional security, in the amount of \$ 35,000.00, which together total one hundred percent (100%) of the estimated cost of the Work. Such additional security is presented in the form of:

_____ Cash, certified check or cashier's check.
X _____ Acceptable corporate surety bond.
_____ Acceptable irrevocable letter of credit.

With this security, Subdivider guarantees performance under this Agreement and maintenance of the Work for one year after its completion and acceptance against any defective workmanship or materials or any unsatisfactory performance.

B. For Payment: Security in the amount: \$ 18,000.00, which is fifty percent (50%) of the estimated cost of the Work. Such security is presented in the form of:

_____ Cash, certified check, or cashier's check
X _____ Acceptable corporate surety bond.
_____ Acceptable irrevocable letter of credit.

With this security, Subdivider guarantees payment to the contractor, to its subcontractors and to persons renting equipment or furnishing labor or materials to them or to the Subdivider.

Upon acceptance of the Work as complete by the Board of Supervisors and upon request of Subdivider, the amounts held as security may be reduced in accordance with Sections 94-4.406 and 94-4.408 of the Ordinance Code.

4. GUARANTEE AND WARRANTY OF WORK. Subdivider guarantees that the Work shall be free from defects in material or workmanship and shall perform satisfactorily for a period of one (1) year from and after the Board of Supervisors accepts the Work as complete in accordance with Article 96-4.6, "Acceptance," of the Ordinance Code. Subdivider agrees to correct, repair, or replace, at Subdivider's expense, any defects in said Work.

The guarantee period does not apply to road improvements for private roads that are not to be accepted into the County road system.

5. PLANT ESTABLISHMENT WORK. Subdivider agrees to perform plant establishment work for landscaping installed under this Agreement. Said plant establishment work shall consist of adequately watering plants, replacing unsuitable plants, doing weed, rodent and other pest control and other work determined by the Public Works Department to be necessary to ensure establishment of plants. Said plant establishment work shall be performed for a period of one (1) year from and after the Board of Supervisors accepts the Work as complete.

6. IMPROVEMENT PLAN WARRANTY. Subdivider warrants the improvement plans for the Work are adequate to accomplish the Work as promised in Section 2 and as required by the Conditions of Approval for the Subdivision. If, at any time before the Board of Supervisors accepts the Work as complete or during the one year guarantee period, said improvement plans prove to be inadequate in any respect, Subdivider shall make whatever changes are necessary to accomplish the Work as promised.

7. NO WAIVER BY COUNTY. Inspection of the Work and/or materials, or approval of the Work and/or materials or statement by any officer, agent or employee of the County indicating the Work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said Work and/or materials, or payments therefor, or any combination or all of these acts, shall not relieve the Subdivider of its obligation to fulfill this Agreement as prescribed; nor shall the County be thereby stopped from bringing any action for damages arising from the failure to comply with any of the terms and conditions hereof.

8. INDEMNITY. Subdivider shall defend, hold harmless and indemnify the indemnitees from the liabilities as defined in this section:

A. The indemnitees benefitted and protected by this promise are the County and its special districts, elective and appointive boards, commissions, officers, agents and employees.

B. The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, and including personal injury, death, property damage, inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before County reviewed said improvement plans or accepted the Work as complete, and including the defense of any suit(s), action(s), or other proceeding(s) concerning said liabilities and claims.

C. The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this Agreement and attributable to Subdivider, contractor, subcontractor, or any officer, agent, or employee of one or more of them.

D. Non-Conditions. The promise and agreement in this section are not conditioned or dependent on whether or not any indemnitee has prepared, supplied, or approved any plan(s) or specification(s) in connection with this Work or Subdivision, or has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of any indemnitee.

9. COSTS. Subdivider shall pay, when due, all the costs of the Work, including but not limited to the costs of relocations of existing utilities required thereby; inspections; material checks and tests; and other costs incurred by County staff arising from or related to the Work, and prior to acceptance of the Work as complete or expiration of any applicable warranty periods, whichever is later.

10. SURVEYS. Subdivider shall set and establish survey monuments in accordance with the filed map and to the satisfaction of the County Road Commissioner-Surveyor before acceptance of the Work as complete by the Board of Supervisors.

11. NON-PERFORMANCE AND COSTS. If Subdivider fails to complete the Work within the time specified in this Agreement, and subsequent extensions, or fails to maintain the Work, County may proceed to complete and/or maintain the Work by contract or otherwise and Subdivider agrees to pay all costs and charges incurred by County (including, but not limited to, engineering, inspection, surveys, contract, overhead, etc.) immediately upon demand.

Once action is taken by County to complete or maintain the Work, Subdivider agrees to pay all costs incurred by County, even if Subdivider subsequently completes the Work.

Should County sue to compel performance under this Agreement or to recover costs incurred in completing or maintaining the Work, Subdivider agrees to pay all attorney's fees, staff costs and all other expenses of litigation incurred by County in connection therewith, even if Subdivider subsequently proceeds to complete the Work.

12. INCORPORATION/ANNEXATION. If, before the Board of Supervisors accepts the Work as complete, the Subdivision is included in territory incorporated as a city or is annexed to an existing city, except as provided in this paragraph, County's rights under this Agreement and/or any deposit, bond, or letter of credit securing said rights shall be transferred to the new or annexing city. Such city shall have all the rights of a third party beneficiary against Subdivider, who shall fulfill all the terms of this Agreement as though Subdivider had contracted with the city originally. The provisions of paragraph 8 (Indemnity) shall continue to apply in favor of the indemnitees listed in paragraph 8.A. upon any such incorporation or annexation.

13. RECORD MAP. In consideration hereof, County shall allow Subdivider to file and record the final map or parcel map for said Subdivision.

14. RIGHT OF ENTRY. Subdivider hereby consents to entry onto the Subdivision property, and onto any other property over which Subdivider has land rights and upon which any portion of the Work is to be installed pursuant to the improvement plans, by County and its forces, including contractors, for the purpose of inspection, and, in the event of non-performance of this Agreement by Subdivider, completion and/or maintenance of the Work.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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 SAN FRANCISCO)

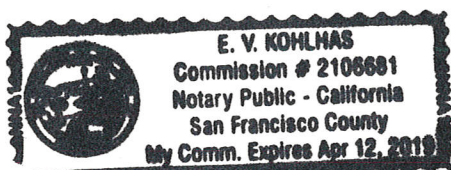
On AUGUST 5, 2015 before me, E V KOHLHAS,
Date Here Insert Name and Title of the Officer

personally appeared MAURICE STORCH
Name(s) of Signer(s)

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.



Signature E V KOHLHAS
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: SUBDIVISION AGREEMENT Document Date: 8-5-2015

Number of Pages: TWO Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: MAURICE STORCH

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

- ☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

Subdivision: MS03-0007
Bond No.: 802955S
Premium: \$1,050.00 / two years
Any claim under this Bond should be sent
to the following address:
Indemnity Company of California
P.O. Box 19725
Irvine, CA 92623

**IMPROVEMENT SECURITY BOND
FOR SUBDIVISION AGREEMENT**
(Performance, Guarantee and Payment)
(Gov. Code, §§ 66499-66499.10)

1. **RECITAL OF SUBDIVISION AGREEMENT.** The Principal has executed an agreement with the County of Contra Costa (hereinafter "County") to install and pay for street, drainage and other improvements in Subdivision 03-0007 as specified in the Subdivision Agreement, and to complete said work within the time specified for completion in the Subdivision Agreement, all in accordance with State and local laws and rulings thereunder in order to satisfy conditions for filing of the Final Map or Parcel Map for said subdivision. Under the terms of the Subdivision Agreement, Principal is required to furnish a bond to secure the faithful performance of the Subdivision Agreement and payment to laborers and materialmen.

2. **OBLIGATION.** Maurice Storch, as Principal,
and Indemnity Company of California, a corporation organized and existing
under the laws of the State of California and authorized to transact surety business in California, as Surety, hereby jointly and
severally bind ourselves, our heirs, executors, administrators, successors and assigns to the County of Contra Costa, California to pay it:

(A. Performance and Guarantee) THIRTY FIVE THOUSAND AND NO CENTS Dollars
(\$ 35,000.00) for itself or any city assignee under the above Subdivision Agreement.

(B. Payment) EIGHTEEN THOUSAND AND NO CENTS Dollars
(\$ 18,000.00) to secure the claims to which reference is made in Title XV (commencing with Section 3082) of Part 4 of Division III of the Civil Code of the
State of California.

3. **CONDITION.** This obligation is subject to the following condition.

A. The condition of this obligation as to Section 2.(A) above is such that if the above bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the County of Contra Costa (or city assignee), its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefor, here shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the County of Contra Costa (or city assignee) in successfully enforcing such obligation, and to be taxed as costs and included in any judgment rendered.

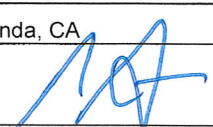
B. The condition of this obligation, as to Section 2.(B) above, is such that said Principal and the undersigned as corporate surety are held firmly bound unto the County of Contra Costa and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid Subdivision Agreement and referred to in the aforesaid Civil Code for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, and that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the County of Contra Costa (or city assignee) in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

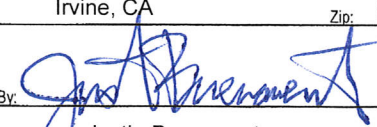
It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

C. No change, extension of time, alteration, or addition to the terms of said Subdivision Agreement or the work to be performed thereunder or any plan or specifications of said work, agreed to by the Principal and the County of Contra Costa (or city assignee) shall relieve any Surety from liability on this bond; and consent is hereby given to make such change, extension of time, alteration or addition without further notice to or consent by Surety; and Surety hereby waives the provisions of Civil Code Section 2819 and holds itself bound without regard to and independently of any action against the Principal whenever taken.

SIGNED AND SEALED on August 3rd, 20 15.

Principal: Maurice Storch
Address: 645 Miner Road
Orinda, CA Zip: 94563
By: 
Print Name: Maurice Storch
Title: Subdivider

Surety: Indemnity Company of California
Address: P.O. Box 19725
Irvine, CA Zip: 92623
By: 
Print Name: Justin Buenaventura
Title: Attorney-in-Fact

[Note: All signatures must be acknowledged. For corporations, two officers must sign. The first signature must be that of the chairman of the board, president, or vice-president; the second signature must be that of the secretary, assistant secretary, chief financial officer, or assistant treasurer. (Civ. Code, § 1190 and Corps. Code, § 313.)]

Form Approved by County Counsel
[Rev. 1/06]

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 San Bernardino)

On August 3, 2015 before me, N. Cruz, Notary Public
(insert name and title of the officer)

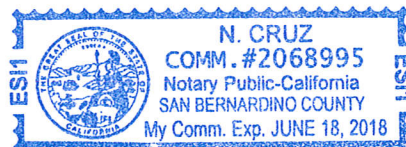
personally appeared Justin Buenaventura,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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.

Signature [Signature]

(Seal)



**POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
INDEMNITY COMPANY OF CALIFORNIA
PO Box 19725, IRVINE, CA 92623 (949) 263-3300**

KNOW ALL BY THESE PRESENTS that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each hereby make, constitute and appoint:

Jennifer Wayne, Justin Buenaventura, John Van Bokkelen, Jeff Aase, Will Mingram, Jeffrey R. Davis, Rachel Holbrook, Trisha Bella Locke-Zamora, jointly or severally

as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Boards of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of January 1st, 2008.

RESOLVED, that a combination of any two of the Chairman of the Board, the President, Executive Vice-President, Senior Vice-President or any Vice President of the corporations be, and that each of them hereby is, authorized to execute this Power of Attorney, qualifying the attorney(s) named in the Power of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of either of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporations when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective officers and attested by their respective Secretary or Assistant Secretary this December 1, 2014.

By: *Daniel Young*
Daniel Young, Senior Vice-President

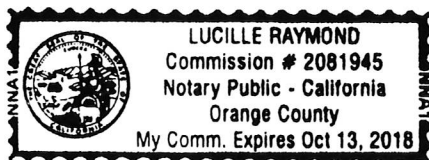
By: *Mark J. Lansdon*
Mark J. Lansdon, Vice-President

State of California
County of Orange



On December 1, 2014 before me, Lucille Raymond, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Daniel Young and Mark J. Lansdon
Name(s) of Signer(s)



Place Notary Seal Above

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.

Signature

Lucille Raymond
Lucille Raymond, Notary Public

CERTIFICATE

The undersigned, as Secretary or Assistant Secretary of DEVELOPERS SURETY AND INDEMNITY COMPANY or INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked and, furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, this 3rd day of August, 2015

By: *Cassie J. Berrisford*
Cassie J. Berrisford, Assistant Secretary

ID-1380(Rev.12/14)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

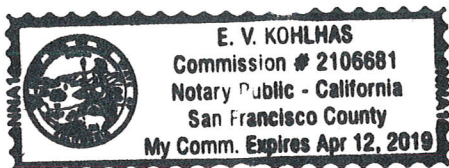
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of SAN FRANCISCO)
 On AUGUST 5, 2015 before me, E V KOHLHAS,
 Date Here Insert Name and Title of the Officer
 personally appeared MAURICE STORCH
 Name(s) of Signer(s)

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.



Signature E V KOHLHAS
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: IMPROVEMENT SECURITY BOND Document Date: 8-5-2015
 Number of Pages: ONE Signer(s) Other Than Named Above: -

Capacity(ies) Claimed by Signer(s)

Signer's Name: MAURICE STORCH
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____



Contra
Costa
County

To: Board of Supervisors
From: Keith Freitas, Airports Director
Date: November 17, 2015

Subject: APPROVE and AUTHORIZE the Director of Airports, or designee, to execute a hangar rental agreement with Buchanan Field Airport Hangar tenant

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Director of Airports, or designee, to execute a month-to-month hangar rental agreement with Ken Ericsson for a T-hangar at Buchanan Field Airport effective November 21, 2015 in the monthly amount of \$394.10, Pacheco area.

FISCAL IMPACT:

The Airport Enterprise Fund will realize \$4,729.20 annually.

BACKGROUND:

On September 1, 1970, Buchanan Airport Hangar Company entered into a 30-year lease with Contra Costa County for the construction of seventy-five (75) hangars and eighteen (18) aircraft shelters at Buchanan Field Airport. Buchanan Airport Hangar Company was responsible for the maintenance and property management of the property during that 30-year period.

On September 1, 2000, the County obtained ownership of the aircraft hangars and shelters, pursuant to the terms of the above lease.

On February 13, 2007, Contra Costa County Board of Supervisors approved the new Large Hangar Lease Agreement for use with the larger East Ramp

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Beth Lee, (925)
681-4200

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

Hangars.

On February 3, 2008, Contra Costa County Board of Supervisors approved the amended T-Hangar Lease Agreement which removed the Aircraft Physical Damage Insurance requirement. The new amended T-hangar Lease Agreement will be used to enter into this aircraft rental agreement.

CONSEQUENCE OF NEGATIVE ACTION:

A negative action will cause a loss of revenue to the Airport Enterprise Fund.

ATTACHMENTS

Ken Ericsson Hangar Agreement

CONTRA COSTA COUNTY - BUCHANAN FIELD AIRPORT

T-HANGAR AND SHADE HANGAR RENTAL AGREEMENT

1. **PARTIES:** November 21, 2015 ("Effective Date"), the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("Airport"), Ken Ericsson ("Renter"), hereby mutually agree and promise as follows:
2. **RENTER AND AIRCRAFT INFORMATION:** Simultaneous with the execution of this T-Hangar and Shade Hangar Rental Agreement ("**Rental Agreement**") by Renter, Renter shall complete the Renter and Aircraft Information Form. A completed copy of the Renter and Aircraft Information Form is attached hereto as Exhibit "A" and incorporated herein. Renter must also provide to Airport at that time, for inspection and copying, (1) the original current Aircraft Registration or, if the aircraft described in Exhibit A is under construction, the plans for and proof of ownership of such aircraft; and (2) the insurance information required by Section 16 below.
3. **PURPOSE:** The purpose of this Rental Agreement is to provide for the rental of a T-Hangar or Shade Hangar space at the Contra Costa County - Buchanan Field Airport for the storage of the aircraft described in the Renter and Aircraft Information Form ("**Renter's Aircraft**").
4. **PREMISES:** For and in consideration of the rents and faithful performance by Renter of the terms and conditions set forth herein, Airport hereby rents to Renter and Renter hereby rents from Airport that T-Hangar or Shade Hangar shown as # E-13 on the T-Hangar and Shade Hangar Site Plan, attached hereto as Exhibit B and incorporated herein. This T-Hangar or Shade Hangar is part of the T-Hangar and Shade Hangar Site ("**T-Hangar Site**") and shall hereinafter be described as the "**T-Hangar.**"

Renter has inspected the T-Hangar and hereby accepts the T-Hangar in its present condition, as is, without any obligation on the part of Airport to make any alterations, improvements, or repairs in or about the T-Hangar.
5. **USE:** The T-Hangar shall be exclusively by Renter for the storage of Renter's Aircraft. In addition to the storage of Renter's Aircraft, Renter may use the T-Hangar for (1) the homebuilding, restoration and/or maintenance of Renter's Aircraft, provided that such homebuilding, restoration and/or maintenance is performed by Renter only and in conformance with all applicable statutes, ordinances, resolutions, regulations, orders, circulars (including but not limited to FAA Advisory Circular 20-27) and policies now in existence or adopted from time to time by the United States, the State of California, the County of Contra Costa and other government agencies

with jurisdiction over Buchanan Field Airport; (2) the storage of and materials directly related to the storage, construction of homebuilt planes homebuilding, restoration, and/or maintenance of Renter's Aircraft; (3) the storage of one boat, or one recreational vehicle, or one motorcycle, or one automobile, provided that Renter first provides to Airport proof of Renter's ownership and original registration of any stored boat or vehicle, for inspection and copying; and/or (4) the storage of comfort items (such as a couch, small refrigerator, etc.) that the Director of Airports, in his sole discretion, determines will not impede the use of the hangar for the storage of Renter's Aircraft, and are not prohibited by applicable building and fire codes. The T-Hangar shall not be used for any purpose not expressly set forth in this Section 5. Use.

The use of all or a portion of the T-Hangar for the storage of aircraft not owned or leased by Renter is prohibited. ("Aircraft not owned or leased by Renter" means any aircraft in which Renter does not have an ownership interest or which is not directly leased to Renter). Renter shall present proof of said ownership interest or lease to Airport upon request in addition to that information provided in Exhibit A.

If Renter's Aircraft is or becomes non-operational, it may be stored in the T-Hangar only if it is being homebuilt or restored by Renter. Prior to the commencement of any such homebuilding or restoration, Renter shall provide to Airport (1) a copy of the purchase agreement or (2) a valid federal registration number. If Renter's Aircraft is not registered as of the Effective Date, upon completion of construction, Renter shall register and apply for an airworthiness certificate for Renter's Aircraft in accordance with all applicable federal statutes and regulations and provide the original registration and certification to Airport, for inspection and copying, immediately upon receipt by Renter. On or before January 1 of each year, if the homebuilding or restoration has not been completed, Renter shall provide a written annual report to the Director of Airports that details the homebuilding or restoration activity performed, work still required to be completed and an estimate of time of completion.

6. **TERM:** This Rental Agreement shall be from month to month commencing **November 21, 2015**, and shall continue until terminated. This Rental Agreement may be terminated by any party upon thirty (30) days written notice to the other party.

7. **RENT:**

- A. **Monthly Rent and Additional Rent.** Renter shall pay \$ **394.10** in rent per month ("**Monthly Rent**") due and payable in advance on the first day of each calendar month, beginning on the commencement date of this Rental Agreement. Unless directed to do otherwise by Airport, Renter shall pay rent only in cash or by personal check, certified check, or money order. If the term of this Rental Agreement begins on a day other than the first day of the month, the Monthly Rent stated above for the first month shall be prorated



Contra
Costa
County

To: Board of Supervisors
From: Keith Freitas, Airports Director
Date: November 17, 2015

Subject: APPROVE and AUTHORIZE the Director of Airports, or designee, to execute a hangar rental agreement with Buchanan Field Airport Hangar tenant

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Director of Airports, or designee, to execute a month-to-month hangar rental agreement with Sean McLellan for a Large T-hangar at Buchanan Field Airport effective November 1, 2015 in the monthly amount of \$748.23, Pacheco area.

FISCAL IMPACT:

The Airport Enterprise Fund will realize \$8,978.76 annually.

BACKGROUND:

On September 1, 1970, Buchanan Airport Hangar Company entered into a 30-year lease with Contra Costa County for the construction of seventy-five (75) hangars and eighteen (18) aircraft shelters at Buchanan Field Airport. Buchanan Airport Hangar Company was responsible

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Beth Lee, (925)
681-4200

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

for the maintenance and property management of the property during that 30-year period.

On September 1, 2000, the County obtained ownership of the aircraft hangars and shelters, pursuant to the terms of the above lease.

On February 13, 2007, Contra Costa County Board of Supervisors approved the new Large Hangar Lease Agreement for use with the larger East Ramp Hangars.

On February 3, 2008, Contra Costa County Board of Supervisors approved the amended T-Hangar Lease Agreement which removed the Aircraft Physical Damage Insurance requirement. The new amended T-hangar Lease Agreement will be used to enter into this aircraft rental agreement.

CONSEQUENCE OF NEGATIVE ACTION:

A negative action will cause a loss of revenue to the Airport Enterprise Fund.

ATTACHMENTS

Sean McLellan Hangar Agreement

CONTRA COSTA COUNTY - BUCHANAN FIELD AIRPORT

LARGE AIRCRAFT HANGAR RENTAL AGREEMENT

1. **PARTIES:** Effective November 1, 2015 (the “Effective Date”), the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (“Airport”), and Sean McLellan (“Renter”), hereby mutually agree and promise as follows:
 2. **RENTER AND AIRCRAFT INFORMATION:** Simultaneous with the execution of this Large Aircraft Hangar Rental Agreement (this “Rental Agreement”) by Renter, Renter shall complete a Renter and Aircraft Information Form attached hereto as Exhibit A for each of the aircraft to be stored in Renter’s Large Aircraft Hangar. A completed copy of the Renter and Aircraft Information Form is attached hereto as Exhibit A and incorporated herein. Renter must also provide to Airport at that time, for inspection and copying, (1) the original current aircraft registration for each of Renter’s Aircraft or, if any of Renter’s Aircraft described in Exhibit A is under construction, the plans for and proof of ownership of such aircraft; and (2) the insurance information required by Section 16 below for each of Renter’s Aircraft.
 3. **PURPOSE:** The purpose of this Rental Agreement is to provide for the rental of a large aircraft hangar space at the Contra Costa County - Buchanan Field Airport for the storage of the aircraft described in the Renter and Aircraft Information Form attached hereto as Exhibit A (individually or collectively, as the case may be, “Renter’s Aircraft”).
 4. **PREMISES:** For and in consideration of the rents and faithful performance by Renter of the terms and conditions set forth herein, Airport hereby rents to Renter and Renter hereby rents from Airport that large aircraft hangar shown as # F-04 on the Large Aircraft Hangar Site Plan, attached hereto as Exhibit B and incorporated herein (hereinafter referred to as the “Large Aircraft Hangar.”).
- Renter has inspected the Large Aircraft Hangar and hereby accepts the Large Aircraft Hangar in its present condition, as is, without any obligation on the part of Airport to make any alterations, improvements, or repairs in or about the Large Aircraft Hangar.
5. **USE:** The Large Aircraft Hangar shall be used exclusively by Renter for the storage of Renter’s Aircraft. In addition to the storage of Renter’s Aircraft, Renter may use the Large Aircraft Hangar for (1) the homebuilding, restoration and/or maintenance of Renter’s Aircraft, provided that such homebuilding, restoration and/or

maintenance is performed by Renter only and in conformance with all applicable statutes, ordinances, resolutions, regulations, orders, circulars (including but not limited to FAA Advisory Circular 20-27) and policies now in existence or adopted from time to time by the United States, the State of California, the County of Contra Costa and other government agencies with jurisdiction over Buchanan Field Airport; (2) the storage of and materials directly related to the storage, construction of homebuilt planes homebuilding, restoration, and/or maintenance of Renter's Aircraft; (3) the storage of one boat, or one recreational vehicle, or one motorcycle, or one automobile, provided that Renter first provides to Airport proof of Renter's ownership and original registration of any stored boat or vehicle, for inspection and copying; and/or (4) the storage of comfort items (such as a couch, small refrigerator, etc.) that the Director of Airports, in his sole discretion, determines will not impede the use of the hangar for the storage of Renter's Aircraft, and are not prohibited by applicable building and fire codes. The Large Aircraft Hangar shall not be used for any purpose not expressly set forth in this Section 5. Use.

The use of all or a portion of the Large Aircraft Hangar for the storage of aircraft not owned or leased by Renter is prohibited. (the term "aircraft not owned or leased by Renter" means any aircraft in which Renter does not have an ownership interest or which is not directly leased to Renter). Renter shall present proof of said ownership interest or lease to Airport upon request in addition to that information provided in Exhibit A.

If Renter's Aircraft is or becomes non-operational, it may be stored in the Large Aircraft Hangar only if it is being homebuilt or restored by Renter. Prior to the commencement of any such homebuilding or restoration, Renter shall provide to Airport (1) a copy of the purchase agreement or (2) a valid federal registration number. If Renter's Aircraft is not validly registered with the FAA as of the Effective Date, upon completion of construction, Renter shall register such aircraft and apply for an airworthiness certificate for Renter's Aircraft in accordance with all applicable federal statutes and regulations and provide the original registration and certification to Airport, for inspection and copying, immediately upon receipt by Renter. On or before January 1 of each year, if the homebuilding or restoration has not been completed, Renter shall provide a written annual report to the Director of Airports that details the homebuilding or restoration activity performed, work still required to be completed and an estimate of time of completion.

6. **TERM:** This Rental Agreement shall be from month to month commencing **November 1, 2015**, and shall continue until terminated. This Rental Agreement may be terminated by any party upon thirty (30) days written notice to the other party.

7. **RENT**

- A. Monthly Rent and Additional Rent.** Renter shall pay \$ 748.23 in rent per month ("**Monthly Rent**") due and payable in advance on the first day of each calendar month, beginning on the commencement date of this Rental Agreement. Unless directed to do otherwise by Airport, Renter shall pay rent only in cash or by personal check, certified check, or money order. If the term of this Rental Agreement begins on a day other than the first day of the month, the Monthly Rent stated above for the first month shall be prorated based on a thirty-day month and shall be due and payable at the time the Renter signs this Rental Agreement.

The Monthly Rent shall be adjusted annually by the change in Consumer Price Index ("**CPI**"), as defined hereinbelow, for the latest one year period ending December 31 of each year. CPI, as used herein, shall mean the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or its successor. Notwithstanding anything in the foregoing to the contrary, (1) at no time will the Monthly Rent be decreased by CPI adjustment; and (2) no single increase in Monthly Rent shall exceed 6 percent of the applicable Monthly Rent. The new Monthly Rent will take effect thirty (30) days after Airport gives written notice to Renter of the new Monthly Rent amount.

All other payments due from Renter to Airport under this Rental Agreement, including, but not limited to, administrative late charges, interest, and returned check charges, shall be deemed additional rent ("**Additional Rent**"). Airport shall apply any moneys received from Renter to the oldest amount due on Renter's account. Any amounts owed by Renter to Airport prior to the execution of this Rental Agreement shall be deemed due under this Rental Agreement on the commencement date of this Rental Agreement.

- i. Administrative Late Charge and Interest.** If Renter fails to pay Monthly Rent or Additional Rent by the fifth day after it is due, Renter shall be liable for an administrative late charge in the amount of fifty dollars (\$50.00), plus interest at the rate of 1.5% per month, which shall be due and payable seven (7) days after Airport gives Renter an invoice of said demand for payment of Monthly Rent or Additional Rent that is not paid on its due date. Airport and Renter hereby agree that it is and will be impracticable and extremely difficult to ascertain and fix



Contra
Costa
County

To: Board of Supervisors
From: Sharon Offord Hymes, Risk Manager
Date: November 17, 2015

Subject: Final Settlement of Claim, Rodney M. Conyers vs County of Contra Costa

RECOMMENDATION(S):

RECEIVE this report concerning the final settlement of Rodney M. Conyers and AUTHORIZE payment from the Workers' Compensation Internal Service Fund in an amount not to exceed \$45,000, less permanent disability payments.

FISCAL IMPACT:

Workers' Compensation Internal Service Fund payment of \$45,000 less permanent disability payments.

BACKGROUND:

Attorney Gregory M. Stanfield, defense counsel for the County, has advised the County Administrator that within authorization an agreement has been reached settling the workers' compensation claim of Rodney M. Conyers vs County of Contra Costa. The Board's November 3, 2015 closed vote was: Supervisors Gioia, Andersen, Piepho, Mitchoff and Glover - Yes. This action is taken so that the terms of this final settlement and the earlier November 3, 2015 closed session vote of this Board authorizing its negotiated settlement are known publicly.

CONSEQUENCE OF NEGATIVE ACTION:

Case will not be settled.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Sharon Hymes-Offord
925.335.1450

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: Sharon Offord Hymes, Risk Manager
Date: November 17, 2015

Subject: Final Settlement of Claim, Sarah S. Smith vs Contra Costa County Probation

RECOMMENDATION(S):

RECEIVE this report concerning the final settlement of Sarah S. Smith and AUTHORIZE payment from the Workers' Compensation Internal Service Fund in an amount not to exceed \$85,000, less permanent disability payments.

FISCAL IMPACT:

Workers' Compensation Internal Service Fund payment of \$85,000, less permanent disability payments.

BACKGROUND:

Attorney Gregory M. Stanfield, defense counsel for the County, has advised the County Administrator that within authorization an agreement has been reached settling the workers' compensation claim of Sarah S. Smith vs. Contra Costa County Probation. The Board's November 3, 2015 closed session vote was: Supervisors Gioia, Andersen, Piepho, Mitchoff and Glover - Yes. This action is taken so that the terms of this final settlement and the earlier November 3, 2015 closed session vote of this Board authorizing its negotiated settlement are known publicly.

CONSEQUENCE OF NEGATIVE ACTION:

Case will not be settled.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Sharon Hymes-Offord
925.335.1450

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CHILDREN'S IMPACT STATEMENT:

None.



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: November 17, 2015

Subject: Public report of litigation settlement agreements that became final during the period of October 1, 2015 through October 31, 2015.

RECOMMENDATION(S):

RECEIVE public report of litigation settlement agreements that became final during the period of October 1, 2015 through October 31, 2015, as recommended by County Counsel.

FISCAL IMPACT:

Settlement amounts are listed below.

BACKGROUND:

Two agreements to settle pending litigation, as defined in Government Code section 54956.9, became final during the period of October 1, 2015 through October 31, 2015.

Hasan Arda Aksu v. County of Contra Costa, et al., USDC Case No. C12-4268 CRB (ND Cal.). On September 22, 2015, the Board approved settlement of this lawsuit arising out of the plaintiff's arrest. Settlement in the amount of \$260,000 was authorized in closed session by a 4-0 vote, Supervisor Gioia absent. The settlement agreement was fully executed on October 7, 2015. The funding source is the Risk Management Liability Internal Service Fund.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Thomas Geiger, 925
335-1800

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Thomas Geiger, Assistant County Counsel, Sharon Hymes-Offord, Risk Manager

BACKGROUND: (CONT'D)

Mitchell Katz v. County of Contra Costa, et al., USDC Case No. C11-05771 CRB (ND Cal.). On September 22, 2015, the Board approved settlement of this lawsuit arising out of the plaintiff's arrest. Settlement in the amount of \$340,000 was authorized in closed session by a 4-0 vote, Supervisor Gioia absent. The settlement agreement was fully executed on October 7, 2015. The funding source is the Risk Management Liability Internal Service Fund.

This report includes final settlements of litigation matters handled by the Office of the County Counsel. This report does not include litigation settlements that were reported by the Risk Management Division of the County Administrator's Office as a consent item on the Board's open session agenda.

CONSEQUENCE OF NEGATIVE ACTION:

The report would not be accepted.

CHILDREN'S IMPACT STATEMENT:

N.A.



Contra Costa County

To: Board of Supervisors
 From: David Twa, County Administrator
 Date: November 17, 2015

Subject: claims

RECOMMENDATION(S):

DENY claims filed by Jon & Melissa Almgren, Eli Dominguez, Louise Paul, Rajenai Spencer, and Margaret Vaca.

FISCAL IMPACT:

No Fiscal Impact.

BACKGROUND:

*

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Joellen Balbas
925-335-1906

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: APPROVE the Board Meeting minutes for July, September and October 2015

RECOMMENDATION(S):

APPROVE Board meeting minutes for July, September, and October 2015, as on file with the Office of the Clerk of the Board.

FISCAL IMPACT:

None.

BACKGROUND:

Government Code Section 25101(b) requires the Clerk of the Board to keep and enter in the minute book of the Board a full and complete record of the proceedings of the Board at all regular and special meetings, including the entry in full of all resolutions and of all decisions on questions concerning the allowance of accounts. The vote of each member on every question shall be recorded.

CONSEQUENCE OF NEGATIVE ACTION:

Contra Costa County will fail to meet the requirements of Government Code Section 2510(b).

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Joellen Balbas
925-335-1906

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: ACCEPT Board Members meeting reports for October 2015

RECOMMENDATION(S):

ACCEPT Board members meeting reports for October 2015.

FISCAL IMPACT:

None.

BACKGROUND:

Government Code section 53232.3(d) requires that members of legislative bodies report on meetings attended for which there has been expense reimbursement (mileage, meals, lodging ex cetera). The attached reports were submitted by the Board of Supervisors members in satisfaction of this requirement.

CONSEQUENCE OF NEGATIVE ACTION:

The Board of Supervisors will not be in compliance with Government Code 53232.3(d).

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Joellen Balbas
925.335.1906

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

ATTACHMENTS

District II October 2015 Report

District IV October 2015
Report

District I October 2015 Report

District III October 2015 Report

Supervisor Candace Andersen – Monthly Meeting Report *October 2015*

Date	Meeting	Location
5	County Administrator	Martinez
5	SWAT	Lafayette
5	First 5 Family & Children	Danville
6	Board of Supervisors	Martinez
7	CCCERA	Concord
8	STAND! Event	Concord
8	Mental Health Comm	Concord
8	Mayors Conf	Walnut Creek
9	O & S Meeting	Danville
10	Moraga Historical Soc	Moraga
12	Family & Human Services	Martinez
13	Board of Supervisors	Martinez
13	ABAG	Oakland
14	LAFCO	Martinez
15	CCCTA	Concord
15	East Bay EDA	Oakland
16	TEP Ad Hoc	Walnut Creek
17	Alzheimers Kick off	Walnut Creek
19	Iron Horse Trail Meeting	Sacramento
19	TVTC	Danville
19	TriValley Heroes Awards	Pleasanton
20	Board of Supervisors	Martinez
21	Tri Valley Mayors Summit	Pleasanton
22	CCCERA	Concord
22	East Bay EDA	Danville
23	EBRCSA	Dublin
28	CCCSWA/Rate setting	Walnut Creek
29	County Connection	Concord
29	Lafayette Rotary	Lafayette
29	CCCSWA	Concord

**Supervisor Karen Mitchoff
October 2015**

DATE	MEETING NAME	LOCATION	PURPOSE
10/1/2015	Pleasant Hill Oversight Board	Pleasant Hill	Decisions on agenda items
10/1/2015	Legislation Committee	Martinez	Decisions on agenda items
10/1/2015	Hiring Outreach and Oversight Committee	Martinez	Decisions on agenda items
10/3/2015	Concord Senior Center Event	Concord	Community Outreach
10/5/2015	CCCSWA Personnel Committee Meeting	Walnut Creek	Decisions on agenda items
10/6/2015	Board of Supervisors Meeting	Martinez	Decisions on agenda items
10/7/2015	BAAQMD Board Meeting	San Francisco	Regional Air Quality Issues
10/7/2015	ABAG Regional Planning Committee	Oakland	Decisions on agenda items
10/8/2015	TRANSPAC	Pleasant Hill	Decisions on agenda items
10/8/2015	STAND!'s Rebuilding Lives Luncheon	Concord	Community Outreach
10/8/2015	Contra Costa Mayor's Conference	Walnut Creek	Community Outreach
10/12/2015	Internal Operations	Martinez	Decisions on agenda items
10/13/2015	Board of Supervisors Meeting	Martinez	Decisions on agenda items
10/13/2015	ABAG Special Board Meeting	Oakland	Decisions on agenda items
10/15/2015	Industrial Association of Contra Costa County's Luncheon	Pleasant Hill	Community Outreach
10/20/2015	Board of Supervisors Meeting	Martinez	Decisions on agenda items
10/21/2015	BAAQMD Board Meeting	San Francisco	Regional Air Quality Issues
10/21/2015	CCTA Board Meeting	Walnut Creek	Decisions on agenda items
10/22/2015	BAAQMD Mobile Source Committee	San Francisco	Regional Air Quality Issues
10/22/2015	East Bay Leadership Council's Luncheon w/Senator Glazier	Concord	Community Outreach
10/26/2015	BAAQMD Legislative Meeting	San Francisco	Regional Air Quality Issues

Supervisor John Gioia

October – 2015 Monthly Meeting Statement (REVISED)

Government Code section 53232.3(d) requires that members of legislative bodies report on meetings attended for which there has been expense reimbursement (mileage, meals, lodging, etc.)

Meeting Date: October 28, 2015

Meeting: Workforce Development Board Youth Ecology Corps Meeting

Location: Santa Rosa, CA

Supervisor Gioia sought reimbursement from the County for one meeting that he attended in his capacity as a County Supervisor during the month of October, 2015.

Supervisor Mary Nejedly Piepho -October 2015 AB1234 Report
(Government Code Section 53232.3(d) requires that members of legislative bodies report on meetings attended for which there has been expense reimbursement (mileage, meals, lodging, etc)).

Date	Meeting Name	Location	Purpose
2-Oct	Interview with East County Today	Brentwood	Community Outreach
3-Oct	Diablo Regional Arts Association Event	Walnut Creek	Community Outreach
5-Oct	Meeting with Building Industry Association, Bob Glover	Martinez	Business Meeting
5-Oct	Finance Committee Meeting	Martinez	Business Meeting
5-Oct	Constituent Meeting	Martinez	Business Meeting
5-Oct	Meeting with County Staff	Martinez	Business Meeting
5-Oct	Meeting with Hospital Council, Rebecca Rozen	Martinez	Business Meeting
6-Oct	Board of Supervisors Meeting	Martinez	Business Meeting
6-Oct	Meeting with County Administrator, David Twa	Martinez	Business Meeting
6-Oct	Constituent Meeting	Martinez	Business Meeting
17-Oct	John Marsh Historic Trust, 2nd Annual Heritage Day Event	Brentwood	Community Outreach
19-Oct	Phone Meeting with Deputy Sheriffs Association	Brentwood	Business Meeting
19-Oct	Phone Meeting with PG&E	Brentwood	Business Meeting
19-Oct	Phone Meeting with County Staff	Brentwood	Business Meeting
19-Oct	Phone Meeting with Delta Protection Commission, Executive Director Erik Vink	Brentwood	Business Meeting
19-Oct	* Meeting with Delta Stewardship Council Staff, Jessica Pearson	Sacramento	Business Meeting
20-Oct	Public Service Announcement - Domestic Violence Awareness Month	Martinez	Community Outreach
20-Oct	Board of Supervisors Meeting	Martinez	Business Meeting
20-Oct	Meeting with County Staff on Ag Land Uses	Martinez	Business Meeting
21-Oct	Meeting with County Staff on Pharmaceutical Disposal	Martinez	Business Meeting

21-Oct	Meeting with County Staff on Workforce Development Board	Martinez	Business Meeting
21-Oct	Meeting with SEIU, Local 2015	Martinez	Business Meeting
21-Oct	* Phone Meeting with Delta Stewardship Council, Jessica Pearson and Randy Fiorini	Martinez	Business Meeting
21-Oct	Meeting with Stakeholders RE: Marsh Creek Trail Corridor	Martinez	Business Meeting
21-Oct	Phone Meeting with Delta Protection Commission, Executive Director Erik Vink	Martinez	Business Meeting
22-Oct	* Delta Stewardship Council Meeting	Sacramento	Business Meeting
23-Oct	* Delta Stewardship Council Meeting	Sacramento	Business Meeting
25-Oct	Washington D.C. Delta Water Advocacy Trip	Washington D.C.	Business Meeting
26-Oct	Washington D.C. Delta Water Advocacy Trip	Washington D.C.	Business Meeting
27-Oct	Washington D.C. Delta Water Advocacy Trip	Washington D.C.	Business Meeting
28-Oct	Washington D.C. Delta Water Advocacy Trip	Washington D.C.	Business Meeting
29-Oct	Washington D.C. Delta Water Advocacy Trip	Washington D.C.	Business Meeting
30-Oct	Washington D.C. Delta Water Advocacy Trip	Washington D.C.	Business Meeting

* Reimbursement may come from an agency other than Contra Costa County



Contra
Costa
County

To: Board of Supervisors
From: John Gioia, District I Supervisor
Date: November 17, 2015

Subject: Declaring the week of November 20, 2015 as "Transgender Awareness Week" in Contra Costa County.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Kate Rauch
510-231-8691

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

ATTACHMENTS

Resolution No.
2015/383

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2015/383

Declaring the week of November 20, 2015 as “Transgender Awareness Week” in Contra Costa County.

WHEREAS, the Contra Costa Health Service’s Pride Initiative recognizing the growing visibility of transgender people and their unmet healthcare needs, in November 2014, in collaboration with Kaiser Walnut Creek, the Transgender Law Center, Planned Parenthood and the Rainbow Community Center provided a training on Transgender Primary Care. Primary care and mental health providers from CCHS, Planned Parenthood, Sutter Health, John Muir, Behavioral Health Division, La Clinica and other Contra Costa providers joined together to learn about and improve Transgender health care throughout Contra Costa; and

WHEREAS, Transgender people are becoming more visible in American society and popular culture. Actress Laverne Cox appeared on the cover of Time in May 2014, and the following November was declared one of Glamour’s Women of the Year. In May 2015, Caitlyn Jenner was interviewed on national prime time television and appeared on the cover of Vanity Fair in June 2015. Author Janet Mock released her memoir of growing up transgender, Redefining Realness, in February 2014. And Amazon Studios recently debuted “Transparent,” a critically acclaimed comedy-drama about the ramifications when a transgender woman comes out to her family; and

WHEREAS, Transgender Americans are experiencing a unique moment in history. Rising visibility, unprecedented advocacy, and changing public opinion are working to provide transgender people greater legal protections than ever before. At the same time, many transgender people, particularly transgender women and transgender people of color, still face enormous barriers to their safety, health, and well-being; and

WHEREAS, for transgender and gender-expansive youth, parental support is incredibly important. In light of growing transgender visibility in recent years, more and more children and their families are looking for transgender youth resources; and

WHEREAS, culturally competent healthcare providers and administrators can help end the health disparities faced by transgender people through providing welcoming, knowledgeable and equitable care to the transgender community. To improve visibility and inclusiveness CCRMC, the Public Health and Behavior Health Division have hung the Transgender Flag for the Transgender Day of Remembrance in November for the past three years; and

WHEREAS, many transgender and gender variant people and activists show bravery and strength, particularly those working within intersections of identity and oppression, demonstrating the spirit of survival in advocating and creating friendly and welcoming spaces for themselves across Contra Costa County – including but not limited to: Diablo Valley Girls, the Brown Boi Project, Gender Spectrum, Contra Costa Health Services, RYSE, Neighborhood House of North Richmond, Planned Parenthood Shasta-Pacific, the Native American Health Center in Richmond, the Center for Human Development, Rainbow Community Center’s Transgender Support Group and Gender Voice Support Group, among others; and

WHEREAS, November 20th “International Transgender Day of Remembrance” provides a meaningful opportunity to honor transgender people, including those who are victims of violence, to take a stand against intolerable and unacceptable hatred and prejudice, and to acknowledge the many dedicated Contra Costa individuals and groups working to support the transgender community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Contra Costa County acknowledges the County’s Transgender and gender nonconforming youth, seniors, residents, and employees as valued and respected members of our community, and BE IT FURTHER RESOLVED that the Board of Supervisors of Contra Costa County declares the week of November 20, 2015 as “Transgender Awareness Week” in Contra Costa County, and encourages a safe and accepting environment for all members of the community in Contra Costa, with special attention to our transgender and gender nonconforming communities.

JOHN GIOIA

Chair,
District I Supervisor

CANDACE ANDERSEN

MARY N. PIEPHO

District II Supervisor

District III Supervisor

KAREN MITCHOFF
District IV Supervisor

FEDERAL D. GLOVER
District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors

From: Supervisor John Gioia and County Administrator David Twa

Date: November 17, 2015

Subject: Presentation recognizing Russell Watts' service during 2015/2016 as President of the CA Treasurer and Tax Collectors Association

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Terry Speiker,
925-335-1096

By: , Deputy

cc:

ATTACHMENTS

Resolution No.
2015/443

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2015/443

RECOGNIZING the contributions of Russell V. Watts for his extraordinary service to the citizens of Contra Costa County and the California Association of County Treasurer-Tax Collectors

WHEREAS, Russell began his career with Contra Costa County in 2002 when he accepted the offer to be Chief Deputy Treasurer-Tax Collector; and

WHEREAS, Russell served in that position until June of 2010 when he was first elected Treasurer-Tax Collector, then re-elected to a second term in June of 2014; and

WHEREAS, Russell serves as ex officio member on the Board of Trustees of the Contra Costa Employees Retirement Association, serves on the County's Debt Advisory Committee, the OPEB Trust Advisory Group, and is the Plan Administrator for the Public Agencies Post-Retirement Health Care Plan Trust; and

WHEREAS, Russell was first nominated and elected to serve on the California Association of County Treasurer-Tax Collectors (CACTTC) as Sergeant-at-Arms in 2010 and has successively served with distinction in the positions of Treasurer, Secretary, Second Vice-President, First Vice President, and President Elect; and

WHEREAS, Russell has now been elected to the position of President and Chief Executive Officer of CACTTC for the 2015 – 16 year whereby he directs the Executive Committee in the coordination of all CACTTC functions and represents the association before the state legislature and state offices as needed; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Contra Costa County does hereby recognize and commend Russell V. Watts for his extraordinary service to the County and the California Association of County Treasurer-Tax Collectors. PASSED by a unanimous vote of the Board of Supervisors members present this day of November 17, 2015.

JOHN GIOIA

Chair,
District I Supervisor

CANDACE ANDERSEN

District II Supervisor

MARY N. PIEPHO

District III Supervisor

KAREN MITCHOFF

District IV Supervisor

FEDERAL D. GLOVER

District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Joseph E. Canciamilla, Clerk-Recorder
Date: November 17, 2015

Subject: 2015 Contra Costa County Combined Charities Campaign

RECOMMENDATION(S):

ACCEPT report from the 2015 Charity Drive Coordinators and ADOPT Resolution No. 2015/409, regarding the results of the 2015 Contra Costa County Combined Charities Campaign.

FISCAL IMPACT:

The expenses to administer the program were \$1,000. The 2015 Contra Costa County Combined Charities Campaign raised \$166,880 through donations from 638 Contra Costa employees.

BACKGROUND:

Contra Costa County employees have a long history of generously supporting the annual Combined Charities Campaign. Many needy families -- some our friends, neighbors, even family members -- depend on non-profit organizations for assistance. These charitable organizations need our assistance so they can continue the valuable services they provide for the vulnerable populations of our communities. In 2014, approximately 555 County employees donated over \$149,825 to support a variety of charities.

The Clerk-Recorder-Elections Department was designated to Chair the 2015 Annual Combined Charities

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Melissa Hickok,
335-7899

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

Campaign, with the County Library Department as Co-Chair. In 2016, the Library will take the lead, assisted by another County Department.

The 2015 Campaign kicked off with a Department Coordinator luncheon on September 15th, where the process was explained and discussed. Past coordinators shared their ideas about what had been successful in their departments. One of the goals this year was to encourage more participation among County staff and increase the number of donors with incentives of weekly raffle prizes. The campaign ran through the month of October 2015.

Contra Costa County employees opened their hearts and chose charities that were meaningful to them. To make it convenient for County staff, donations were arranged through monthly payroll deductions. It makes it easy for the employees to donate and gives the charities the security of having regular income through the year for planning purposes. The size of the donation was not important, because every dollar counts. This year's theme was "Your Change Can Make a Change", which continues with the idea that there is no donation too small to matter.

The 2015 Combined Charities Campaign raised \$166,880. This was a 11.4% increase from 2014, raising an additional \$16,935. 638 County employees participated, which was an 15% increase in participation among staff.

Contra Costa is proud of our employees and thank them for their generosity and support for this important program.

ATTACHMENTS

Resolution No. 2015/409

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2015/409

The 2015 Contra Costa County Combined Charities Campaign

WHEREAS Contra Costa County conducted the annual Combined Charities Campaign during the month of October, 2015 on behalf of the Community Health Charities of California, Bay Area Black United Fund, EarthShare of California, Local Independent Charities of America and United Way of the Bay Area ; and WHEREAS these organizations provide vitally needed community services to ease suffering, improve personal health, and protect our environment; and
WHEREAS this Board endorses a single fundraising drive among County employees to promote philanthropy and to provide employees with the opportunity to donate to charitable organizations that are personally important to them; and
WHEREAS Joe Canciamilla, County Clerk-Recorder, Chairperson, and Jessica Hudson, County Librarian, Co-Chairperson; coordinated and conducted the Campaign, with the assistance of Department Coordinators from each County Department; and
WHEREAS through the dedicated efforts of this group, was able to increase contributions by 11.3% to a total amount of \$163,720, and increase the number of participants by 9.3% to 621; and
WHEREAS the Board acknowledges this accomplishment, thanks the chairpersons and the coordinators for their successful efforts; and
WHEREAS Contra Costa County has a large group of employees that have demonstrated compassion, caring, and generosity; and
WHEREAS the Board congratulates the Chairpersons, coordinators, and employees for a successful campaign;
NOW, THEREFORE, BE IT RESOLVED that all County employees are urged to donate, within their means, to the County Charities Campaign to help support the worthwhile programs operated by the participating organizations.

JOHN GIOIA
Chair,
District I Supervisor

CANDACE ANDERSEN
District II Supervisor

MARY N. PIEPHO
District III Supervisor

KAREN MITCHOFF
District IV Supervisor

FEDERAL D. GLOVER
District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 17, 2015

Subject: Resolution recognizing Mike Doyle of the Danville Town Council

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Gayle Israel
925-957-8860

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

ATTACHMENTS

Resolution No.
2015/437

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2015/437

RECOGNIZING MIKE DOYLE OF THE DANVILLE TOWN COUNCIL

Whereas, Mayor Mike Doyle has served on the Danville (a.k.a. Camelot) Town Council since 1991, and has served as Mayor five times, with his most recent term ending December, 2015; and

Whereas, Mike Doyle has been instrumental in assuring Danville has substantial reserves, an excellent credit rating and a balanced budget, consistently resisting the temptation to spend beyond the Town’s means; and

Whereas, Mike Doyle has maintained a tight rein on growth and development, Danville has not allowed the overbuilding and endless sprawl that now devastates communities both environmentally and financially; and

Whereas, Mike is a person who passionately cares about his community; a councilmember who has the ear of the people and regularly passes on their concerns to those who run the city on a day to day basis. Mike also realizes the importance of regional approaches to such problems as transportation; and

Whereas, Mike and his wife Joe Anne of over 50 years, who spent her career helping the children in our community at Greenbrook, Tassajara Hills and at St. Isidore’s Elementary Schools, raised their five children in Danville.

Now, therefore be it resolved that the Board of Supervisors of Contra Costa County does hereby thank **Mike Doyle For his dedication to the Town of Danville and it’s residents.** **PASSED** by a vote of the Board of Supervisors this 17th day of November, 2015.

JOHN GIOIA

Chair,
District I Supervisor

CANDACE ANDERSEN

District II Supervisor

MARY N. PIEPHO

District III Supervisor

KAREN MITCHOFF

District IV Supervisor

FEDERAL D. GLOVER

District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 17, 2015

Subject: Resolution Recognizing November as National Family Caregivers Month

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Gayle Israel
925-957-8860

By: , Deputy

cc:

ATTACHMENTS

Resolution No.
2015/441

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2015/441

Resolution recognizing November as National Family Caregivers Month.

WHEREAS, November 2015, has been designated as "National Family Caregivers Month" and Contra Costa County joins with others in recognizing and celebrating the devotion, commitment, and hard work of the over 9,000 In-Home Supportive Services caregivers in Contra Costa County; and

WHEREAS, the State of California has declared the second week in November as "In-Home Supportive Services Home Care Worker Recognition Week," and

WHEREAS, "Family Caregivers Month" is a time to promote increased awareness about the challenges caregivers and consumers face due to the growing needs within the diverse population of Contra Costa County; and

WHEREAS, In-Home Supportive Services is a cost-effective, successful program that has provided the County's growing senior population and people with disabilities with the option to remain safely and independently in their own homes, rather than being forced into nursing homes, which on average can be six times more expensive for the State; and

WHEREAS, Contra Costa County thanks the thousands of caregivers in our community and acknowledges their generosity of spirit, patience, endurance and strength, which enables the elderly and disabled to remain independent and in their own homes.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, County of Contra Costa, State of California, hereby proclaim November 2015 as "FAMILY CAREGIVERS MONTH" in Contra Costa County.

JOHN GIOIA

Chair,
District I Supervisor

CANDACE ANDERSEN

District II Supervisor

MARY N. PIEPHO

District III Supervisor

KAREN MITCHOFF

District IV Supervisor

FEDERAL D. GLOVER

District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: John Gioia, District I Supervisor
Date: November 17, 2015

Subject: APPOINTMENTS TO THE CSAC BOARD OF DIRECTORS

RECOMMENDATION(S):

ADOPT Resolution No. 2015/411 to appoint Supervisor John Gioia as the Board's representative and to re-appoint Supervisor Karen Mitchoff as the Board's alternate representative on the California State Association of Counties' (CSAC) Board of Directors for a one-year term ending November 28, 2016, and to update the master list of Board of Supervisors committee assignments.

FISCAL IMPACT:

None.

BACKGROUND:

CSAC has asked that the Board of Supervisors make its appointments to the CSAC Board of Directors for 2016 prior to the Annual Meeting on December 1-4 in Monterey. I am asking the Board of Supervisors to appoint me as its representative on the CSAC Board of Directors so that I may continue the work I initiated as CSAC President in 2013/14. I am recommending that Supervisor Karen Mitchoff be re-appointed as the Board's alternate representative.

CONSEQUENCE OF NEGATIVE ACTION:

It is important the the Board take action to appoint a 2015/16 representative to the CSAC Board of Directors so that the County may be represented at the CSAC Annual Meeting on December 1-4, 2015.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

Contact: Julie Enea, Senior Deputy County
Administrator (925) 335-1077

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of
Supervisors

By: , Deputy

cc: CAO, CSAC

ATTACHMENTS

Resolution No. 2015/411

Attachment I to Resolution No. 2015/411_Board Committee
Assignments

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐

NO: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2015/411

IN THE MATTER OF APPOINTING A COUNTY SUPERVISOR TO THE CALIFORNIA STATE ASSOCIATION OF COUNTIES BOARD OF DIRECTORS FOR THE 2015/16 TERM

WHEREAS adoption of a new Master Resolution with a complete roster of all appointments is required by Board policy whenever terms expire or new appointments are made;

NOW, THEREFORE, THE BOARD OF SUPERVISORS RESOLVES TO:

1. APPOINT Supervisor John Gioia as the Board of Supervisors' representative and reappoint Supervisor Karen Mitchoff as the Board's alternate representative to the California State Association of Counties' Board of Directors to a term ending on November 28, 2016.
2. AFFIRM the appointments of Board members and other individuals to serve on Board committees, special county committees and regional boards / committees / commissions as specified on Attachment I, categorized as Type 1 for Board Standing Committee appointments; Type II for Other Internal Committee appointments, Type III for Regional Committee appointments, Type IV for Special Restriction Committee appointments, and Type V for Ad Hoc Committee appointments.
3. INDICATE that this RESOLUTION supersedes in its entirety Resolution No. 2015/28, which was adopted by the Board of Supervisors on February 10, 2015.

Contact: Julie Enea, Senior Deputy County Administrator
(925) 335-1077

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: CAO, CSAC

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

**ATTACHMENT I TO
RESOLUTION NO. 2015/411**

as adopted on November 17, 2015

			Term	
Type*	Committee Name	Appointee	Expiration	Stipend Information
I	Airport Committee, Chair	Karen Mitchoff	12/31/2015	NO STIPEND
I	Airport Committee, Vice Chair	Mary Piepho	12/31/2015	NO STIPEND
I	Family & Human Services Committee, Chair	Federal Glover	12/31/2015	NO STIPEND
I	Family & Human Services Committee, Vice Chair	Candace Andersen	12/31/2015	NO STIPEND
I	Finance Committee, Chair	Mary Piepho	12/31/2015	NO STIPEND
I	Finance Committee, Vice Chair	Federal Glover	12/31/2015	NO STIPEND
I	Hiring Outreach & Oversight Committee	Federal Glover	12/31/2015	NO STIPEND
I	Hiring Outreach & Oversight Committee	Karen Mitchoff	12/31/2015	NO STIPEND
I	Internal Operations Committee, Chair	Karen Mitchoff	12/31/2015	NO STIPEND
I	Internal Operations Committee, Vice Chair	John Gioia	12/31/2015	NO STIPEND
I	Legislation Committee, Chair	Karen Mitchoff	12/31/2015	NO STIPEND
I	Legislation Committee, Vice Chair	Federal Glover	12/31/2015	NO STIPEND
I	Public Protection, Chair	John Gioia	12/31/2015	NO STIPEND
I	Public Protection, Vice Chair	Federal Glover	12/31/2015	NO STIPEND
I	Transportation, Water & Infrastructure Committee, Chair	Candace Andersen	12/31/2015	NO STIPEND
I	Transportation, Water & Infrastructure Committee, Vice Chair	Mary Piepho	12/31/2015	NO STIPEND

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

**ATTACHMENT I TO
RESOLUTION NO. 2015/411**

as adopted on November 17, 2015

Type*	Committee Name	Appointee	Term Expiration	Stipend Information
II	Bay Area Counties Caucus	Karen Mitchoff	12/31/2015	NO STIPEND
II	Bay Area Counties Caucus, Alternate	Candace Andersen	12/31/2015	NO STIPEND
II	Bay Area Regional Interoperable Communications System (BayRICS) Authority	Mike Casten	12/31/2015	NO STIPEND
II	BayRICS Authority, Alternate	Elise Warren	12/31/2015	NO STIPEND
II	California Identification System Remote Access Network Board (Cal-ID RAN Board)	Mary Piepho	12/31/2015	NO STIPEND
II	Central Contra Costa Solid Waste Authority	Candace Andersen	12/31/2015	STIPEND of \$50/meeting; max of 2 paid/month
II	Central Contra Costa Solid Waste Authority	Karen Mitchoff	12/31/2015	STIPEND of \$50/meeting; max of 2 paid/month
II	City-County Relations Committee	Federal Glover	12/31/2015	NO STIPEND
II	City-County Relations Committee	Mary Piepho	12/31/2015	NO STIPEND
II	City-County Relations Committee, Alternate	Karen Mitchoff	12/31/2015	NO STIPEND
II	Contra Costa Health Plan Joint Conference Committee	Karen Mitchoff	12/31/2015	NO STIPEND
II	Contra Costa Health Plan Joint Conference Committee	Candace Andersen	12/31/2015	NO STIPEND
II	Dougherty Valley Oversight Committee	Mary Piepho	12/31/2015	NO STIPEND
II	Dougherty Valley Oversight Committee	Candace Andersen	12/31/2015	NO STIPEND
II	East Bay Regional Communication System (EBRCS) Authority Governing Board	Candace Andersen	12/31/2015	NO STIPEND
II	East Bay Regional Communication System (EBRCS) Authority Governing Board, Alternate	Karen Mitchoff	12/31/2015	NO STIPEND
II	East Contra Costa County Habitat Conservancy, Governing Board	Mary Piepho	12/31/2015	NO STIPEND
II	East Contra Costa County Habitat Conservancy, Governing Board, Alternate	Federal Glover	12/31/2015	NO STIPEND
II	East Contra Costa Regional Fee & Finance Authority	Mary Piepho	12/31/2015	NO STIPEND
II	East Contra Costa Regional Fee & Finance Authority, Alternate	Federal Glover	12/31/2015	NO STIPEND
II	East County Water Management Association	Mary Piepho	12/31/2016	STIPEND of \$170/meeting; max 6 per month
II	East County Water Management Association, Alternate	Federal Glover	12/31/2016	STIPEND of \$170/meeting; max 6 per month
II	eBART (Bay Area Rapid Transit) Partnership Policy Advisory Committee	Federal Glover	12/31/2015	NO STIPEND
II	eBART (Bay Area Rapid Transit) Partnership Policy Advisory Committee	Mary Piepho	12/31/2015	NO STIPEND
II	First 5 Children and Families Commission Alternate Member	Karen Mitchoff	12/31/2015	NO STIPEND
II	Hazardous Waste Management Facility Allocation Committee	Karen Mitchoff	12/31/2015	STIPEND of \$150 per meeting.

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

**ATTACHMENT I TO
RESOLUTION NO. 2015/411**

as adopted on November 17, 2015

Type*	Committee Name	Appointee	Term Expiration	Stipend Information
II	Hazardous Waste Management Facility Allocation Committee, Alternate	Candace Andersen	12/31/2015	STIPEND of \$150 per meeting.
II	Library Needs Assessment Steering Committee	Karen Mitchoff	12/31/2015	NO STIPEND/inactive
II	Medical Services Joint Conference Committee, Chair	John Gioia	12/31/2015	NO STIPEND
II	Medical Services Joint Conference Committee, Vice Chair	Federal Glover	12/31/2015	NO STIPEND
II	North Richmond Waste and Recovery Mitigation Fee Committee	John Gioia	12/31/2015	NO STIPEND
II	North Richmond Waste and Recovery Mitigation Fee Committee, Alternate	Luz Gomez	12/31/2015	NO STIPEND
II	Open Space/Parks & East Bay Regional Parks District Liaison Committee, Chair	Federal Glover	12/31/2015	NO STIPEND
II	Open Space/Parks & East Bay Regional Parks District Liaison Committee, Vice Chair	Mary Piepho	12/31/2015	NO STIPEND
II	Pleasant Hill BART/Contra Costa Centre Joint Powers Authority Board of Trustees	Karen Mitchoff	12/31/2015	NO STIPEND
II	Pleasant Hill BART/Contra Costa Centre Joint Powers Authority Board of Trustees	Candace Andersen	12/31/2015	NO STIPEND
II	State Route 4 Bypass Authority	Mary Piepho	12/31/2015	NO STIPEND
II	State Route 4 Bypass Authority, Alternate	Federal Glover	12/31/2015	NO STIPEND
II	SWAT (Southwest Area Transportation Committee)	Candace Andersen	12/31/2015	NO STIPEND
II	SWAT, Alternate	Karen Mitchoff	12/31/2015	NO STIPEND
II	TRAFFIX (Measure J Traffic Congestion Relief Agency)	Candace Andersen	12/31/2015	NO STIPEND
II	TRAFFIX (Measure J Traffic Congestion Relief Agency), Alternate	Karen Mitchoff	12/31/2015	NO STIPEND
II	TRANSPAC (Central County Transportation Partnership and Cooperation)	Karen Mitchoff	12/31/2015	NO STIPEND
II	TRANSPAC, Alternate	Candace Andersen	12/31/2015	NO STIPEND
II	TRANSPLAN (East County Transportation Planning)	Mary Piepho	12/31/2015	NO STIPEND
II	TRANSPLAN, Alternate	Federal Glover	12/31/2015	NO STIPEND
II	Tri-Valley Transportation Council	Candace Andersen	12/31/2015	NO STIPEND
II	Urban Counties Caucus	Federal Glover	12/31/2015	NO STIPEND
II	Urban Counties Caucus, Alternate	Karen Mitchoff	12/31/2015	NO STIPEND
II	WCCTAC (West County Transportation Advisory Committee)	John Gioia	12/31/2015	NO STIPEND
II	WCCTAC, Alternate	Federal Glover	12/31/2015	NO STIPEND
II	West Contra Costa Integrated Waste Management Authority	Federal Glover	12/31/2015	STIPEND of \$50 per meeting.

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

ATTACHMENT I TO
RESOLUTION NO. 2015/411

as adopted on November 17, 2015

			Term	
Type*	Committee Name	Appointee	Expiration	Stipend Information
II	West Contra Costa Integrated Waste Management Authority, Alternate	John Gioia	12/31/2015	STIPEND of \$50 per meeting.

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

**ATTACHMENT I TO
RESOLUTION NO. 2015/411**

as adopted on November 17, 2015

Type*	Committee Name	Appointee	Term Expiration	Stipend Information
III	ABAG Regional Planning Committee	Karen Mitchoff	12/31/2015	STIPEND of \$150 per meeting.
III	Bay Area Air Quality Management District Board of Directors	Karen Mitchoff	1/20/2016	Per diem of \$100/meeting + travel exp; max \$6,000
III	Bay Area Air Quality Management District Board of Directors	John Gioia	6/17/2017	Per diem of \$100/meeting + travel exp; max \$6,000
III	Central Contra Costa Transit Authority (CCCTA) Board of Directors	Candace Andersen	5/1/2015	STIPEND of \$100 per meeting; up to \$200 month
III	Central Contra Costa Transit Authority (CCCTA) Board of Directors Alternate	Karen Mitchoff	5/1/2015	STIPEND of \$100 per meeting; up to \$200 month
III	Contra Costa Transportation Authority Board of Commissioners (seat 1)	Federal Glover	1/31/2017	STIPEND of \$100 per meeting; up to \$400 month
III	Contra Costa Transportation Authority Board of Commissioners (Seat 2)	Karen Mitchoff	1/31/2016	STIPEND of \$100 per meeting; up to \$400 month
III	Contra Costa Transportation Authority Board of Commissioners, Alternate (Seat 1)	John Gioia	1/31/2017	STIPEND of \$100 per meeting; up to \$400 month
III	Contra Costa Transportation Authority Board of Commissioners, Second Alternate (Seat 1)	Candace Andersen	1/31/2017	STIPEND of \$100 per meeting; up to \$400 month
III	Contra Costa Transportation Authority Board of Commissioners, Third Alternate (Seat 1)	Mary Piepho	1/31/2017	STIPEND of \$100 per meeting; up to \$400 month
III	Contra Costa Transportation Authority, Alternate (Seat 2)	Candace Andersen	1/31/2016	STIPEND of \$100 per meeting; up to \$400 month
III	Local Agency Formation Commission	Federal D. Glover	5/7/2018	STIPEND of \$150 per meeting.
III	Local Agency Formation Commission	Mary N. Piepho	5/7/2018	STIPEND of \$150 per meeting.
III	Local Agency Formation Commission, Alternate	Candace Andersen	5/7/2016	STIPEND of \$150 per meeting.
III	Metropolitan Transportation Commission	Federal Glover	2/1/2019	STIPEND of \$100/meeting; up to \$500/month per agency.
III	Regional Airport Planning Committee	Karen Mitchoff	12/31/2015	inactive
III	San Joaquin Valley Rail Committee	Mary Piepho	12/31/2015	NO STIPEND
III	San Joaquin Valley Rail Committee	Federal Glover	12/31/2015	NO STIPEND
III	Tri Delta Transit Authority, Board of Directors (Seat 1)	Federal Glover	12/31/2016	STIPEND of \$100/month
III	Tri Delta Transit Authority, Board of Directors (Seat 2)	Mary N. Piepho	12/31/2015	STIPEND of \$100/month
III	Water Emergency Transportation Authority (WETA), Community Advisory Committee	Federal Glover	12/31/2015	NO STIPEND
III	WETA, Community Advisory Committee, Alternate	John Gioia	12/31/2015	NO STIPEND

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

**ATTACHMENT I TO
RESOLUTION NO. 2015/411**

as adopted on November 17, 2015

Type*	Committee Name	Appointee	Term Expiration	Stipend Information
IV	ABAG (Association of Bay Area Counties) General Assembly	Federal Glover	12/31/2015	NO STIPEND
IV	ABAG Executive Board (Seat 1)	Karen Mitchoff	6/30/2016	STIPEND of \$150 per meeting.
IV	ABAG Executive Board (Seat 2)	Candace Andersen	6/30/2016	STIPEND of \$150 per meeting.
IV	ABAG Executive Board, Alternate 1	John Gioia	6/30/2016	STIPEND of \$150 per meeting.
IV	ABAG Executive Board, Alternate 2	Mary N. Piepho	6/30/2016	STIPEND of \$150 per meeting.
IV	ABAG General Assembly	Karen Mitchoff	12/31/2015	NO STIPEND
IV	ABAG General Assembly, Alternate	Candace Andersen	12/31/2015	NO STIPEND
IV	ABAG General Assembly, Alternate	John Gioia	12/31/2015	NO STIPEND
IV	Bay Conservation & Development Commission	John Gioia	12/31/2015	STIPEND of \$100 per meeting; max of 4 meetings.
IV	Bay Conservation & Development Commission, Alternate	Federal Glover	12/31/2015	STIPEND of \$100 per meeting; max of 4 meetings.
IV	CCCERA (Contra Costa County Employees Retirement Association) Board of Trustees	Candace Andersen	6/30/2017	STIPEND of \$100 per meeting.
IV	Clayton Redevelopment Successor Agency Oversight Board	Karen Mitchoff	Unspecified	NO STIPEND
IV	Concord Redevelopment Successor Agency Oversight Board	Karen Mitchoff	Unspecified	NO STIPEND
IV	Contra Costa County Redevelopment Successor Agency Oversight Board	Federal Glover	Unspecified	NO STIPEND
IV	Contra Costa County Redevelopment Successor Agency Oversight Board	Karen Mitchoff	Unspecified	NO STIPEND
IV	CSAC (California State Association of Counties) Board of Directors	John Gioia	11/28/2016	NO STIPEND
IV	CSAC Board of Directors, Alternate	Karen Mitchoff	11/28/2016	NO STIPEND
IV	Delta Diablo Sanitation District Governing Board	Federal Glover	12/31/2015	STIPEND of \$170 per meeting; max of 6 meetings.
IV	Delta Diablo Sanitation District Governing Board, Alternate	Karen Mitchoff	12/31/2015	STIPEND of \$170 per meeting; max of 6 meetings.
IV	Delta Protection Commission	Mary Piepho	12/31/2015	NO STIPEND
IV	Delta Protection Commission, Alternate	Karen Mitchoff	12/31/2015	NO STIPEND
IV	Doctors Medical Center Management Authority Governing Board	John Gioia	Unspecified	NO STIPEND
IV	First 5 Children and Families Commission Member	Candace Andersen	12/31/2015	NO STIPEND
IV	Kensington Solid Waste Coordinating Committee	John Gioia*	Unspecified	NO STIPEND
IV	Law Library Board of Trustees	Thomas Cain	12/31/2015	NO STIPEND
IV	Mental Health Commission	Candace Andersen	12/31/2015	NO STIPEND
IV	Mental Health Commission, Alternate	Mary Piepho	12/31/2015	NO STIPEND

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

**ATTACHMENT I TO
RESOLUTION NO. 2015/411**

as adopted on November 17, 2015

			Term	
Type*	Committee Name	Appointee	Expiration	Stipend Information
IV	North Coast Shoreline Joint Powers Authority	Federal Glover	12/31/2015	NO STIPEND
IV	North Coast Shoreline Joint Powers Authority	John Gioia	12/31/2015	NO STIPEND
IV	Pittsburg Redevelopment Successor Agency Oversight Board	Federal D. Glover	Unspecified	NO STIPEND
IV	Pleasant Hill Redevelopment Successor Agency Oversight Board	Karen Mitchoff	Unspecified	NO STIPEND
IV	Sacramento-San Joaquin Delta Conservancy Board	Karen Mitchoff	Unspecified	NO STIPEND
IV	Sacramento-San Joaquin Delta Conservancy Board, Alternate	Mary N. Piepho	Unspecified	NO STIPEND
IV	San Pablo Redevelopment Successor Agency Oversight Board	John Gioia**	Unspecified	NO STIPEND
IV	Walnut Creek Redevelopment Successor Agency Oversight Board	Karen Mitchoff	Unspecified	NO STIPEND

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments

BOARD OF SUPERVISORS COMMITTEE ASSIGNMENTS FOR 2015

**ATTACHMENT I TO
RESOLUTION NO. 2015/411**

as adopted on November 17, 2015

			Term	
Type*	Committee Name	Appointee	Expiration	Stipend Information
V	Industrial Safety Ordinance/Community Warning System Ad Hoc Committee	John Gioia	Unspecified	NO STIPEND
V	Industrial Safety Ordinance/Community Warning System Ad Hoc Committee	Federal D. Glover	Unspecified	NO STIPEND
V	Northern Waterfront Economic Development Ad Hoc Committee	Federal D. Glover	Unspecified	NO STIPEND
V	Northern Waterfront Economic Development Ad Hoc Committee	Mary N. Piepho	Unspecified	NO STIPEND
V	Sustainability Ad Hoc Committee, Chair	John Gioia	Unspecified	NO STIPEND
V	Sustainability Ad Hoc Committee, Vice Chair	Federal D. Glover	Unspecified	NO STIPEND
		* or his designee		
		** Appointed by CCC Fire Protection District Board		

Note: Type I: Internal Standing Committees; Type II: Internal appointments; Type III: Regional appointments; Type IV: Special/Restricted appointments



Contra Costa County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Reclamation District 799

RECOMMENDATION(S):

APPOINT in lieu of election Karla Fratus and Richard Kent for a term of four years, commencing in December 2015 and ending in December 2019, to serve on the Board of Trustees of Reclamation District 799.

FISCAL IMPACT:

None.

BACKGROUND:

The Board of Supervisors has received correspondence (attached) from Dina Holder, District Secretary for Reclamation District 799 requesting appointment to the Board of Trustees of the District in lieu of elections. Ms. Holder reports that the Board of Trustees of the District, at their regular meeting on July 30, 2015, adopted a resolution to call for an all mailed ballot election to fill the four year terms for two trustees that are set to expire in December 2015. Subsequent to posting the notice calling for nominations, the District received two filing petitions; one from Karla Fratus and one from Richard Kent; the election on November 10, 2015 was uncontested. According to Ms. Holder, Ms. Fratus and Mr. Kent are qualified and willing to serve as Trustees to the District Board. At this time, the District respectfully requests that the Board of Supervisors appoint uncontested nominees Karla Fratus and Richard Kent to a four year term of office on the Board of Trustees of Reclamation District 799; the term will begin in December, 2015 and end in December 2019.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Theresa Speiker
925-335-1096

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

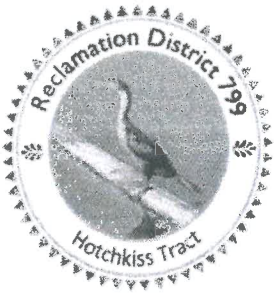
The proposed nominees to the Reclamation District 799 Board of Trustees would not occur.

CHILDREN'S IMPACT STATEMENT:

None.

ATTACHMENTS

Reclamation District 799



Reclamation District 799 (Hotchkiss Tract)

PO Box 353 Bethel Island Rd. Bethel Island, CA 94511

Phone: 925-684-2398 Fax: 925-684-2399

Website: www.rd799.com

Email: dinard799@outlook.com

Board of Trustees:

President –James Hopwood

& Trustees: Arthur John Hanson, Richard Kent, Jim Price, and Karla Fratus

September 22, 2015

Contra Costa County Board of Supervisors
651 Pine St., Room 107
Martinez, CA 94553

Honorable Board of Supervisors:

I am the District Secretary of Reclamation District 799 (hereinafter “District”).

At the July 30, 2015 regular meeting of the Board of Trustees of Reclamation District 799, the board adopted Resolution 2015-9 “Directing an All Mailed Ballot Election” (see attached Resolution 2015-9) as two trustee terms are set to expire in December 2015.

A Notice Calling for Nominations (“Notice”) was posted on August 27, 2015, in various locations around the District, at the Bethel Island Post Office and on the District’s web site (www.rd799.com). The Notice was also published in the Oakley Press on August 28, 2015 (see attached Proof of Publication). The Nomination period ended on Thursday, September 17, 2015 at 5:00 pm.


At the close of the Nomination period, the District had only received two completed Official Filing Petitions; one for Karla Fratus and one for Richard Kent (see attached Official Filing Petitions).

Therefore, the all mailed ballot District election scheduled for November 10, 2015 is uncontested and no election will be conducted.

We respectfully request that the Board of Supervisors appoint Karla Fratus and Richard Kent to the Board of Trustees of Reclamation District 799 for a term of four years, commencing in December 2015 and that these appointments take place at the next Board of Supervisors meeting.

Physical Address: 6325 Bethel Island Rd. Bethel Island, CA 94511

Thank you very much for your courtesy and cooperation.


Dina Holder
District Secretary
Reclamation District 799

Enclosures

cc: Contra Costa County Registrar of Voters
Contra Costa County Counsel



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 17, 2015

Subject: APPOINT Kaila Vidal to the Private/Non-Profit Seat No. 3 of the Economic Opportunity Council

RECOMMENDATION(S):

APPOINT Kaila Vidal to the Private/Non-Profit Seat No. 3 on the Economic Opportunity Council, with a term ending on June 30, 2019, as recommended by the Employment and Human Services Director.

FISCAL IMPACT:

None

BACKGROUND:

Ms. Vidal was recommended for appointment to the Private/Non-Profit Seat No. 3 with a term end date of June 30, 2019 by the Economic Opportunity Council on October 8, 2015. Her address is 4258 Goldenhill Drive, Pittsburg, CA 94565.

CONSEQUENCE OF NEGATIVE ACTION:

The Economic Opportunity Council will be unable have a quorum to conduct routine business.

CHILDREN'S IMPACT STATEMENT:

None

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: CSB (925)
681-6345

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Christina Reich, Nancy Sparks, Cassandra Youngblood



Contra
Costa
County

To: Board of Supervisors
From: PUBLIC PROTECTION COMMITTEE
Date: November 17, 2015

Subject: APPOINTMENT OF THE CY2016 COMMUNITY CORRECTIONS PARTNERSHIP (CCP) AND
CCP-EXECUTIVE COMMITTEE

RECOMMENDATION(S):

1. APPOINT the individuals identified in Exhibit A to serve on the 2016 Community Corrections Partnership (CCP), pursuant to Penal Code § 1230(b)(2); and
2. APPOINT the individuals identified in Exhibit B to serve on the 2016 Community Corrections Partnership Executive Committee, pursuant to Penal Code § 1230.1(b).

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The California Legislature passed Assembly Bill 109 (Chapter 15, Statutes of 2011), which transferred responsibility for supervising certain lower-level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to counties. Assembly Bill 109 (AB109) took effect on October 1, 2011 and realigned three major areas of the criminal justice system. On a prospective basis, the legislation:

- Transferred the location of incarceration for lower-level offenders (specified nonviolent, non-serious, non-sex offenders) from state prison to local county jail and provides for an expanded role for post-release supervision for these offenders;

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Timothy Ewell,
925-335-1036

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

>

- Transferred responsibility for post-release supervision of lower-level offenders (those released from prison after having served a sentence for a non-violent, non-serious, and non-sex offense) from the state to the county level by creating a new category of supervision called Post-Release Community Supervision (PRCS); and
- Transferred the custody responsibility for parole and PRCS revocations to local jail, administered by county sheriffs.

AB109 also created an Executive Committee of the local Community Corrections Partnership (CCP) and tasked it with recommending a Realignment Plan (Plan) to the county Board of Supervisors for implementation of the criminal justice realignment. The Community Corrections Partnership is identified in statute as the following:

Community Corrections Partnership

1. Chief Probation Officer (Chair)
2. Presiding Judge (or designee)
3. County supervisor, CAO, or a designee of the BOS
4. District Attorney
5. Public Defender
6. Sheriff
7. Chief of Police
8. Head of the County department of social services
9. Head of the County department of mental health
10. Head of the County department of employment
11. Head of the County alcohol and substance abuse programs
12. Head of the County Office of Education
13. CBO representative with experience in rehabilitative services for criminal offenders
14. Victims' representative

Later in 2011, the Governor signed Assembly Bill 117 (Chapter 39, Statutes of 2011), which served as “clean up” legislation to AB109. Assembly Bill 117 (AB117) changed, among other things, the composition of the local CCP-Executive Committee. The CCP-Executive Committee is currently identified in statute as the following:

Community Corrections Partnership-Executive Committee

1. Chief Probation Officer (Chair)
2. Presiding Judge (or designee)
3. District Attorney
4. Public Defender
5. Sheriff
6. A Chief of Police
7. The head of either the County department of social services, mental health, or alcohol and drug services (as designated by the board of supervisors)

Although AB109 and AB117 collectively place the majority of initial planning activities for Realignment on the local CCP, it is important to note that neither piece of legislation cedes powers vested in a county Board of Supervisors' oversight of and purview over how AB109 funding is spent. Once the Plan is adopted, the Board of Supervisors can choose to implement that Plan in any manner it may wish.

Today's recommended actions were approved by the Public Protection Committee (PPC) at the November 9, 2015 meeting. The Committee recommends an appointment term of one-year for all non *ex-officio* seats and plans to make appointment/reappointment recommendations to the Board of Supervisors annually. The PPC continues to acknowledge that, under California law, the Police Chief seat is appointed by the Board of Supervisors and

recommends that the appointee be rotated between the cities with the highest number of AB 109 population (which currently are Richmond, Pittsburg, Antioch and Concord). The PPC is recommending the appointment of Police Chief Allan Cantando from the City of Antioch for to serve on the CY2016 CCP and CCP-Executive Committees.

CONSEQUENCE OF NEGATIVE ACTION:

The Community Corrections Partnership (CCP) and CCP-Executive Committee will not be formally seated for calendar year 2016.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

Exhibit A - 2016 Community Corrections Partnership

Exhibit B - 2016 Community Corrections Partnership Executive Committee

EXHIBIT A - 2016 COMMUNITY CORRECTIONS PARTNERSHIP

<u>Seat</u>	<u>Appointee</u>	<u>Term Expiration</u>
Chief Probation Officer (<i>Chair</i>)	Philip F. Kader	<i>ex-officio</i>
Presiding Judge (<i>or designee</i>)	Mimi Lyster-Zemmelman (<i>designee of Presiding Judge</i>)	<i>ex-officio</i>
County supervisor, CAO, or a designee of the BOS	David J. Twa, County Administrator	December 31, 2016
District Attorney	Mark A. Peterson	<i>ex-officio</i>
Public Defender	Robin Lipetzky	<i>ex-officio</i>
Sheriff	David O. Livingston	<i>ex-officio</i>
Chief of Police	Allan Cantando, City of Antioch	December 31, 2016
Head of the County department of social services	Kathy Gallagher, Employment and Human Services Director	<i>ex-officio</i>
Head of the County department of mental health	Cynthia Belon, Director of Behavioral Health Services	<i>ex-officio</i>
Head of the County department of employment	Stephen Baiter, Executive Director-Workforce Development Board	<i>ex-officio</i>
Head of the County alcohol and substance abuse programs	Fatima Matal Sol, Interim Director of Alcohol and Other Drugs	<i>ex-officio</i>
Head of the County Office of Education	Karen Sakata, Incoming County Superintendent of Schools	<i>ex-officio</i>
CBO representative with experience in rehabilitative services for criminal offenders	Roosevelt Terry	December 31, 2016
Victim's Representative	Devorah Levine, Zero Tolerance Program Manager	December 31, 2016

EXHIBIT B - 2016 COMMUNITY CORRECTIONS PARTNERSHIP EXECUTIVE COMMITTEE

<u>Seat</u>	<u>Appointee</u>	<u>Term Expiration</u>
Chief Probation Officer (<i>Chair</i>)	Philip F. Kader	<i>ex-officio</i>
Presiding Judge (<i>or designee</i>)	Mimi Lyster-Zemmelman (<i>designee of Presiding Judge</i>)	<i>ex-officio</i>
District Attorney	Mark A. Peterson	<i>ex-officio</i>
Public Defender	Robin Lipetzky	<i>ex-officio</i>
Sheriff	David O. Livingston	<i>ex-officio</i>
Chief of Police	Allan Cantando, City of Antioch	December 31, 2016
Representative approved by BOS from the following CCP members:	Kathy Gallagher, Employment and Human Services Director	December 31, 2016
*Head of County department of Social Services		
*Head of County department of mental health		
*Head of County department of alcohol and substance abuse programs		



Contra
Costa
County

To: Board of Supervisors
From: David O. Livingston, Sheriff-Coroner
Date: November 17, 2015

Subject: Appropriation Adjustment - 2014 DNA Backlog Reduction Grant

RECOMMENDATION(S):

APPROVE Appropriation Adjustment No. **5016** authorizing new revenue in the Sheriff's Office (0255) in the amount of \$270,309 from the U.S. Department of Justice, 2014 DNA Backlog Reduction Grant and appropriating it for the continued funding of personnel and equipment in the Forensic Services Division.

FISCAL IMPACT:

No County costs. Revenue: \$270,309, 100% Federal revenue, no County match required. (CFDA #16.714)

BACKGROUND:

The Office of the Sheriff has received DNA Backlog Reduction Program Grant funds for many years. These funds have been used in the past to fund DNA analysts and per diem investigators who process DNA samples collected during investigations to aid in criminal prosecutions. The 2014 DNA Backlog Reduction Program Grant will be used to provide County-wide support in the Sheriff's Office Forensic Services Division. The Forensic Services Division provides state-of-the-art forensic DNA testing for law enforcement agencies in the County.

CONSEQUENCE OF NEGATIVE ACTION:

The Sheriff's Office will not be able to appropriate the new revenue and anticipated expenditures related to the grant award.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Liz Arbuckle (925)
335-1529

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Liz Arbuckle, Heike Anderson, Tim Ewell

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

Appropriations and Revenue Adjustment No. 5016

CONTRA COSTA COUNTY
APPROPRIATION ADJUSTMENT

T/C 27

AUDITOR-CONTROLLER USE ONLY

FINAL APPROVAL NEEDED BY:

☒ BOARD OF SUPERVISORS

☐ COUNTY ADMINISTRATOR

ACCOUNT CODING		BUDGET UNIT: Sheriff's Office (0255)			
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE
2515	1014	PERMANENT OVERTIME			72,301 00
2515	1042	F.I.C.A.			2,000 00
2515	1044	RETIREMENT EXPENSE			4,000 00
2515	1060	EMPLOYEE GROUP INSURANCE			372 00
2515	1063	UNEMPLOYMENT INSURANCE			1,000 00
2515	1070	WORKERS COMPENSATION INS			1,000 00
2515	2310	NON CNTY PROF SPCLZD SVCS			92,687 00
2515	2479	OTHER SPECIAL DPMTAL EXP			319 00
2515	4954	MEDICAL & LAB EQUIPMENT			96,630 00
TOTALS			0	00	270,309 00

APPROVED

EXPLANATION OF REQUEST

AUDITOR-CONTROLLER

BY: [Signature] DATE 11/3/15

COUNTY ADMINISTRATOR:

BY: [Signature] DATE 11/9/15

BOARD OF SUPERVISORS:

YES

NO:

To appropriate 2014 DNA Backlog Reduction Grant

[Signature]

SIGNATURE

Piscal Officer
TITLE

11/2/2015
DATE

APPROPRIATION

APOO

5016

ADJ. JOURNAL NO

BY: _____ DATE: _____

(M129 Rev 2/06)

CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT
T/C 24

ACCOUNT CODING		BUDGET UNIT: (0255) Sheriff's Office			
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE		<DECREASE>
2515	9551	FED AID CRIME CONTROL	270,309	00	
TOTALS			270,309	00	0 00

APPROVED

AUDITOR-CONTROLLER

BY:  DATE 11/3/15

COUNTY ADMINISTRATOR:

BY:  DATE 11/9/15

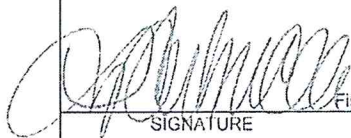
BOARD OF SUPERVISORS:

YES:

NO:

EXPLANATION OF REQUEST

To appropriate 2014 DNA Backlog Reduction Grant



SIGNATURE

Fiscal Officer

TITLE

11/2/2015

DATE

BY: _____ DATE _____

(M 8134 Rev. 2/86)

REVENUE ADJ.
JOURNAL NO.

RAOO

5016



Contra
Costa
County

To: Board of Supervisors
From: Philip F. Kader, County Probation Officer
Date: November 17, 2015

Subject: Appropriation Adjustment for Proud Parenting Program

RECOMMENDATION(S):

APPROVE Appropriation and Revenue Adjustment No. **5017** authorizing new revenue in the amount of \$117,238 from the State of California for the continued facilitation of Proud Parenting Programs.

FISCAL IMPACT:

Funds from the Proud Parenting Program will be used to fund a portion of a Probation Manager's salary & benefits (\$10,000) and a contract with STAND! For Families Free of Violence to facilitate the program (\$107,238), total of \$117,238.

BACKGROUND:

The Proud Parenting Program provides parent education, parent-child activities, and case management for young parents who are at risk of committing child abuse due to their histories of domestic violence or child abuse, involvement in the criminal justice system, or other risk factors. Since 2010, Proud Parents, facilitated by STAND! For Families Free of Violence, has served 137 fathers involved with the Probation Department. The \$117,238 grant is for the period July 1, 2015 through June 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

The new revenue and associated expenditures will not be properly recognized in the department operating budget.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Danielle Fokkema,
925-313-4195

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CHILDREN'S IMPACT STATEMENT:

Services provided as funded by this supplemental application will improve the quality of life for youth in the juvenile justice system and their children and provide a service to which they might not otherwise have access.

ATTACHMENTS

Appropriation and Revenue Adjustment No. 5017

CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT
T/C 24

ACCOUNT CODING		BUDGET UNIT: 0308 Probation Programs			
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE		<DECREASE>
3060	9435	Miscellaneous State Aid	117,238	00	00
TOTALS			117,238	00	00

APPROVED

AUDITOR-CONTROLLER:

BY: [Signature] DATE 11/6/15

COUNTY ADMINISTRATOR:

BY: [Signature] DATE 11/9/15

BOARD OF SUPERVISORS:

YES:

NO:

EXPLANATION OF REQUEST

To appropriate revenue received from the State of California for the Proud Parenting Program.

Danielle Fokkema ASO 11-5-15
SIGNATURE TITLE DATE

BY: _____ DATE _____

REVENUE ADJ. RA00 5017
JOURNAL NO.

CONTRA COSTA COUNTY
APPROPRIATION ADJUSTMENT

T/C 27

AUDITOR-CONTROLLER USE ONLY

FINAL APPROVAL NEEDED BY:

- ☒ BOARD OF SUPERVISORS
☒ COUNTY ADMINISTRATOR

ACCOUNT CODING		BUDGET UNIT: 0308 Probation Programs			
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE
3060	1011	Permanent Salaries			10,000 00
3060	2310	Non Cnty Prof Spclzd Svcs			107,238 00
TOTALS				00	117,238 00

APPROVED

AUDITOR-CONTROLLER:

BY: [Signature] DATE 11/6/15

COUNTY ADMINISTRATOR:

BY: [Signature] DATE 11/9/15

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST

To appropriate revenue received from the State of California for the Proud Parenting Program.

Danielle Jokema ASO 11-5-15
SIGNATURE TITLE DATE

APPROPRIATION APOO 5017
ADJ. JOURNAL NO.



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: Retitle CCTV Production Specialist to Media Production Technician and add one position to CCTV

RECOMMENDATION(S):

ADOPT position adjustment resolution no. 21730 to retitle the classification of CCTV Production Specialist (represented) (ADDL) to Media Production Technician (represented) (ADDL) at salary plan and pay grade ZB5 1304 (\$4,048 - \$4,920) (represented) and add one position in the Office of Communication and Media.

FISCAL IMPACT:

This action will result in an annual cost of \$83,000, of which \$17,000 is due to pension costs.

BACKGROUND:

The merging of web streaming and video-on-demand viewing of PEG programming with the long-standing cable broadcasting of government meetings and other videos requires a technical skill set not reflected in the current makeup of CCTV. A Production Specialist position title has been updated to reflect current technical needs of CCTV and affiliated channels, as well as other web-based production and publishing protocols.

CONSEQUENCE OF NEGATIVE ACTION:

If this action is not approved, the classification would not accurately reflect the operational role of this position.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Betsy Burkhart (925)
313-1180

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Laura Strobel, MJ DeJesus-Saepharn, Cheryl Koch, James Hicks, Betsy Burkhart

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

P300 21730

POSITION ADJUSTMENT REQUEST

NO. 21730
DATE 8/11/2015

Department County Administrator - CCTV

Department No./

Budget Unit No. 0003 Org No. 1200 Agency No. 03

Action Requested: Retitle CCTV Production Specialist to Media Production Technician and add one position to the Office of Communication and Media

Proposed Effective Date: 9/1/2015

Classification Questionnaire attached: Yes ☐ No ☐ / Cost is within Department's budget: Yes ☐ No ☐

Total One-Time Costs (non-salary) associated with request: _____

Estimated total cost adjustment (salary / benefits / one time):

Total annual cost \$83,000.00

Net County Cost \$0.00

Total this FY \$42,000.00

N.C.C. this FY \$0.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 100% PEG Fees & Franchise Fees

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.

Betsy Burkhart

(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT

Theresa Speiker

8/11/15

Deputy County Administrator

Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE _____

ADOPT Position Adjustment Resolution No. 21730 to retitle the classification of CCTV Production Specialist (represented) (ADDL) to Media Production Technician (represented) (ADDL) at salary plan and pay grade ZB5 1304 (\$4,048 - \$4,920) (represented) and add one position in the Office of Communication and Media.

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: ☒ Day following Board Action.

☐ _____(Date)

Lisa Lopez

11/5/2015

(for) Director of Human Resources

Date

COUNTY ADMINISTRATOR RECOMMENDATION:

DATE

11/12/15

☒ Approve Recommendation of Director of Human Resources

☐ Disapprove Recommendation of Director of Human Resources

☐ Other: _____

Theresa Speiker

(for) County Administrator

BOARD OF SUPERVISORS ACTION:

Adjustment is APPROVED ☐ DISAPPROVED ☐

David J. Twa, Clerk of the Board of Supervisors
and County Administrator

DATE _____

BY _____

APPROVAL OF THIS ADJUSTMENT CONSTITUTES A PERSONNEL / SALARY RESOLUTION AMENDMENT

POSITION ADJUSTMENT ACTION TO BE COMPLETED BY HUMAN RESOURCES DEPARTMENT FOLLOWING BOARD ACTION

Adjust class(es) / position(s) as follows:

REQUEST FOR PROJECT POSITIONS

Department _____

Date 11/12/2015

No. xxxxxx

1. Project Positions Requested:
2. Explain Specific Duties of Position(s)
3. Name / Purpose of Project and Funding Source (do not use acronyms i.e. SB40 Project or SDSS Funds)
4. Duration of the Project: Start Date _____ End Date _____
Is funding for a specified period of time (i.e. 2 years) or on a year-to-year basis? Please explain.
5. Project Annual Cost
 - a. Salary & Benefits Costs: _____
 - b. Support Costs: _____
(services, supplies, equipment, etc.)
 - c. Less revenue or expenditure: _____
 - d. Net cost to General or other fund: _____
6. Briefly explain the consequences of not filling the project position(s) in terms of:
 - a. potential future costs
 - b. legal implications
 - c. financial implications
 - d. political implications
 - e. organizational implications
7. Briefly describe the alternative approaches to delivering the services which you have considered. Indicate why these alternatives were not chosen.
8. Departments requesting new project positions must submit an updated cost benefit analysis of each project position at the halfway point of the project duration. This report is to be submitted to the Human Resources Department, which will forward the report to the Board of Supervisors. Indicate the date that your cost / benefit analysis will be submitted
9. How will the project position(s) be filled?
 - ☐ a. Competitive examination(s)
 - ☐ b. Existing employment list(s) Which one(s)? _____
 - ☐ c. Direct appointment of:
 - ☐ 1. Merit System employee who will be placed on leave from current job
 - ☐ 2. Non-County employee

Provide a justification if filling position(s) by C1 or C2

USE ADDITIONAL PAPER IF NECESSARY



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services
Date: November 17, 2015

Subject: Add one Health Services Administrator Level C position in the Health Services Department

RECOMMENDATION(S):

ADOPT Position Adjustment Resolution No. 21781 to add one (1) permanent full-time Health Services Administrator Level C (VANH) position at salary plan grade and level ZB2-1723 (\$6,315 - \$7,694) in the Health Services Department. (Represented)

FISCAL IMPACT:

Upon approval, this request has an annual cost of approximately \$149,880 with estimated pension costs of \$32,777 already included. The entire cost is 100% offset by Medi-Cal Waiver funds.

BACKGROUND:

The Department of Health Care Services and the Centers for Medicare and Medicaid Services reached a conceptual agreement on the California Medicaid Waiver Program which will result in the strengthening of public health care. The core elements of the agreement include delivery system transformation and alignment incentive programs for district/municipal hospitals known as PRIME (Public hospital Redesign and Incentives in Medi-Cal) and Whole Person Care Pilot Program which is a county-based voluntary program which is designed to provide a more integrated care and improved health outcomes for high risk populations. The Health Services Department is requesting to

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Jo-Anne Linares, (925)
957-5240

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

add a Health Services Administrator Level C position to manage and coordinate these multi-million dollar programs by building upon the success of the 2010 Delivery System Reform Incentive Program (DSRIP) and launching the Whole Person Care Program (WPCP).

CONSEQUENCE OF NEGATIVE ACTION:

If this action is not approved, there will not be adequate staff to manage the DSRIP and WPCP programs which will impact patient care services to vulnerable population, and the Department will also lose the funding available for these programs.

CHILDREN'S IMPACT STATEMENT:

N/A

ATTACHMENTS

P300 No. 21781

POSITION ADJUSTMENT REQUEST

NO. 21781
DATE 11/3/2015

Department Health Services

Department No./

Budget Unit No. 0540 Org No. 6544 Agency No. A18

Action Requested: Add one permanent full-time Health Services Administrator - Level C (VAHN) position in the Health Services Department.

Proposed Effective Date: 11/18/2015

Classification Questionnaire attached: Yes ☐ No ☒ / Cost is within Department's budget: Yes ☐ No ☒

Total One-Time Costs (non-salary) associated with request: \$0.00

Estimated total cost adjustment (salary / benefits / one time):

Total annual cost \$149,880.04

Net County Cost \$0.00

Total this FY \$87,430.02

N.C.C. this FY \$0.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 100% Medi-Cal Waiver funds

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.

Jo-Anne Linares

(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT

Enid Mendoza

11/6/2015

Deputy County Administrator

Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE _____

Exempt from Human Resources review under delegated authority.

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: ☐ Day following Board Action.

☐ _____(Date)

(for) Director of Human Resources

Date

COUNTY ADMINISTRATOR RECOMMENDATION:

DATE 11/6/2015

☐ Approve Recommendation of Director of Human Resources

☐ Disapprove Recommendation of Director of Human Resources

☒ Other: Approve as requested by the department.

Enid Mendoza

(for) County Administrator

BOARD OF SUPERVISORS ACTION:

Adjustment is APPROVED ☐ DISAPPROVED ☐

David J. Twa, Clerk of the Board of Supervisors
and County Administrator

DATE _____

BY _____

APPROVAL OF THIS ADJUSTMENT CONSTITUTES A PERSONNEL / SALARY RESOLUTION AMENDMENT

POSITION ADJUSTMENT ACTION TO BE COMPLETED BY HUMAN RESOURCES DEPARTMENT FOLLOWING BOARD ACTION

Adjust class(es) / position(s) as follows:

REQUEST FOR PROJECT POSITIONS

Department _____

Date 11/8/2015

No. xxxxxx

1. Project Positions Requested:
2. Explain Specific Duties of Position(s)
3. Name / Purpose of Project and Funding Source (do not use acronyms i.e. SB40 Project or SDSS Funds)
4. Duration of the Project: Start Date _____ End Date _____
Is funding for a specified period of time (i.e. 2 years) or on a year-to-year basis? Please explain.
5. Project Annual Cost
 - a. Salary & Benefits Costs: _____
 - b. Support Costs: _____
(services, supplies, equipment, etc.)
 - c. Less revenue or expenditure: _____
 - d. Net cost to General or other fund: _____
6. Briefly explain the consequences of not filling the project position(s) in terms of:
 - a. potential future costs
 - b. legal implications
 - c. financial implications
 - d. political implications
 - e. organizational implications
7. Briefly describe the alternative approaches to delivering the services which you have considered. Indicate why these alternatives were not chosen.
8. Departments requesting new project positions must submit an updated cost benefit analysis of each project position at the halfway point of the project duration. This report is to be submitted to the Human Resources Department, which will forward the report to the Board of Supervisors. Indicate the date that your cost / benefit analysis will be submitted
9. How will the project position(s) be filled?
 - ☐ a. Competitive examination(s)
 - ☐ b. Existing employment list(s) Which one(s)? _____
 - ☐ c. Direct appointment of:
 - ☐ 1. Merit System employee who will be placed on leave from current job
 - ☐ 2. Non-County employee

Provide a justification if filling position(s) by C1 or C2

USE ADDITIONAL PAPER IF NECESSARY



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 17, 2015

Subject: U.S. Bank Funding for Small Business Development Center

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to apply for and accept funding from U.S. Bank in an amount not to exceed \$10,000 for advising and training services to low-to-moderate income business owners in Contra Costa County for the period of October 1, 2015 through September 30, 2016.

FISCAL IMPACT:

\$10,000.00: 100% funding by U.S. Bank Corporation. (No County match)

BACKGROUND:

U.S. Bank funding will be used to provide support services to low-to-moderate income County residents and striving entrepreneurs to encourage business growth in small business development. The Contra Costa Small Business Development Center (SBDC) provides localized programming and personalized advising to qualified individuals to promote economic impact and human capital development. SBDC supports a state-wide initiative to create sustainable employment with minimal investment in training & preparations including apprenticeship programs and community colleges, both integral partners in workforce development,

CONSEQUENCE OF NEGATIVE ACTION:

If not approved, funding will not be available to provide necessary services.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Gina Chenoweth (925)
313-1648

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors

From: Julia R. Bueren, Public Works Director/Chief Engineer

Date: November 17, 2015

Subject: AUTHORIZE application requesting Community Development Block Grant Funds for improvements at Lefty Gomez Community Center, Rodeo area.

RECOMMENDATION(S):

AUTHORIZE the Public Works Director, or designee, to submit an application requesting Community Development Block Grant funds for building improvements at Lefty Gomez Community Center, Rodeo area. (District V)

FISCAL IMPACT:

Total project cost is funded by 75% Community Development Block Grant Funds and 25% County Service Area R-10/Zone 38 Funds.

BACKGROUND:

The purpose of this project is to improve the restrooms at the Lefty Gomez Community Center building located at 470 Parker Avenue in unincorporated Rodeo. Built in 1979, the Lefty Gomez Community Center serves thousands of residents in the greater Rodeo community each year. The facility is typically rented for weddings, baby showers, birthday parties, community events, meetings and classes.

These improvements will serve lower to moderate income residents in the community of Rodeo who rely on Lefty Gomez Community Center for large group gatherings,

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Susan Cohen, Special
Districts, 925-313-2160

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: V. Skerritt, Special Districts, J. Chen, Special Districts, G. Lemus, DCD, M. Stella, Finance

BACKGROUND: (CONT'D)

and the improvements will enhance the overall aesthetic appearance of the building.

Because of the building's age and the high level of its use, the restrooms are in need of improvements. To achieve this goal the Public Works Department recommends the following: replace the restroom partitions in two restrooms; replace restroom fixtures; paint restroom walls, doors and floor.

The Public Works Department identifies grant funding opportunities to stretch local dollars to provide additional improvements to the unincorporated communities in the County. The CDBG is intended to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low and moderate income persons. The program is authorized under Title 1 of the Housing and Community Development Act of 1974 and is administered through the United States Department of Housing and Urban Development.

CONSEQUENCE OF NEGATIVE ACTION:

Without authorization the Public Works Department will not have the opportunity to receive CDBG funding for this project.

CHILDREN'S IMPACT STATEMENT:



Contra
Costa
County

To: Board of Supervisors
From: Jessica Hudson, County Librarian
Date: November 17, 2015

Subject: Grant for Concord Library from the Pacific Library Partnership

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$11,000 from the Pacific Library Partnership to create music instruction workshops and sound mixing activities, for the period January 1 through June 30, 2016.

FISCAL IMPACT:

No Library Fund match.

BACKGROUND:

The above grant will support the library's goal to provide music instruction and sound equipment use in the library and will provide an opportunity for teens in the community to create peer relationships and gain confidence offering by Drum Quest, a 26 week workshop series for teens that includes drum instruction, stage performance technique, and sound recording activities. The grant will provide funds to expand on a past grant, Music Quest, by providing music instruction, sound equipment, instruments, and a workshop booklet. Drum Quest will be implemented at the library as a way to supplement the need for low income teens to be exposed to music and arts experiences. If the Concord Library receives the funds from this grant, the Drum Quest project will be able to offer free drum workshops for teens that will connect them with instruments, stage performance technique, and sound recording.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Alison McKee,
925-927-3292

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

The library will not be able to provide instructional workshops or instruments, and will not be able to expand the program.

CHILDREN'S IMPACT STATEMENT:

The library has gained overall support from local middle school in the City of Concord for this project. Oak Grove and El Dorado Middle School will be promoting the program and events to all of the parents and students and throughout the school district. This program supports outcome number one: **"Children Ready for and Succeeding in School"** and outcome number four, **"Families that are Safe, Stable and Nurturing"**. Free music workshops and sound recording activities will allow teens to experience the power of music and the arts, which will allow for a stronger and safer community for teens. Teens that are involved in music do well in other parts of their education. They learn to work as a group and gain confidence when performing in front of others. Also, listening to music can facilitate teens reading and can increase their reading achievement. In turn, music can help teens to think creatively, communicate effectively, and also helps to improve standardized test scores and increases higher graduation rates.



Contra
Costa
County

To: Board of Supervisors
From: Jessica Hudson, County Librarian
Date: November 17, 2015

Subject: Grant to the Library from the Pacific Library Partnership

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$12,500 from the Pacific Library Partnership to provide a bike program and materials at the El Cerrito Library for the period January 1 through December 31, 2016.

FISCAL IMPACT:

No Library Fund match.

BACKGROUND:

The El Cerrito Library is requesting funds from the Pacific Library Partnership in support of various programs and services related to bicycling. Safe bicycle riding is an environmentally low-impact means of transportation and can be used effectively in combination with public transit. Bicycling is also a great way for youth and adults both to get exercise and to connect with their community. The Library seeks a \$12,500 grant in order to support the safe use of bicycles in El Cerrito for health, sustainability, and ease of transit, as well as to support bikes as a means of providing library services out in the community. Funds would be used to support a series of bicycle education workshops, maintenance tools and supplies for the use of patrons both at the workshops and to checkout and use at home, and a cargo bike-trailer combination "Bikemobile".

CONSEQUENCE OF NEGATIVE ACTION:

The El Cerrito Library will not be able to offer a rich assortment of bicycle-related programs and services.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Alison McKee,
925-927-3290

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CHILDREN'S IMPACT STATEMENT:

This grant would support the outcomes **Children and Youth Healthy and Preparing for Productive Adulthood and Communities that are Safe and Provide a High Quality of Life for Children and Families** by providing instruction in safe bicycle riding for El Cerrito youth. Bicycling is an inexpensive mode of transportation and recreation for children and teens. In riding bicycles rather than riding in automobiles youth can get exercise and learn independence at the same time.



Contra
Costa
County

To: Board of Supervisors
From: Jessica Hudson, County Librarian
Date: November 17, 2015

Subject: Grant to Library from Pacific Library Partnership

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$15,000 from the Pacific Library Partnership to create a Regenerative, Self-Assembling Open-Source 3D Printing System for the period of January 1, 2016 through December 31, 2016.

FISCAL IMPACT:

No Library Fund match. The cost of a new 3D printer is approximately \$450. The cost for the 3D printer to regenerate itself once is about \$60 (which includes the cost of the tools purchased as well as the filament). Labor for assembly will be provided by library staff at no additional cost as part of a public education program.

BACKGROUND:

The Contra Costa County Library is requesting funds from the Pacific Library Partnership to support the creation of a Regenerative, Self-Assembling Open-Source 3D Printing System. In order to ensure universal patron access to technology and to keep current with popular innovations, the Contra Costa County Library plans to have a 3D printer in every community library available for patron use, library programming, and small-scale fabrication of replacement parts. This grant will allow the Library to purchase the components to construct a RepRap "Prusa Mendel i2" 3D printer. One of these printers can produce an identical copy of itself using 3D printing files freely available online, which will allow the Library to equip all 26 community libraries of the Contra Costa County Library with a 3D printer.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Alison McKee,
925-927-3290

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

The Contra Costa County Library will not be able to purchase a RepRap “Prusa Mendel i2” 3D printer that will create 25 copies of itself, one for each community library.

CHILDREN'S IMPACT STATEMENT:

This grant will support the outcomes **Children Ready for and Succeeding in School** and **Communities that are Safe and Provide a High Quality of Life for Children and Families**. Having a 3D printer permanently located at every branch as regular library equipment will make 3D printing available for ordinary patron use and help facilitate creativity, design, and STEM/STEAM education as well as spur innovation through providing universal public access to emerging technology. This program will also offer valuable electronics and mechanical assembly experience and science-based literacy to volunteers and other participants that will enrich their lives and enhance their future job opportunities with hands-on experience through library programming.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Grant Amendment #28-789-6 from the U. S. Department of Veteran Affairs Northern California Health Care System

RECOMMENDATION(S):

APPROVE and AUTHRORIZE the Health Services Director, or his designee, to execute Grant Agreement #VA261-15-C-0239 (County #28-789-6) with the U. S. Department of Veteran Affairs Northern California Health Care System, effective October 1, 2015, to increase the amount payable to the County by \$7,008.60 from \$175,506 to a new total of \$182,514.60, to provide housing support to homeless veterans accessing services at the West County Adult Interim Housing Program, and extend the term from September 30, 2015 through September 30, 2016.

FISCAL IMPACT:

Approval of this Agreement will result in an additional amount of \$7,008.60 to the County for the period from October 1, 2015 through September 30, 2016, for operation of the West County's Adult Interim Housing Program in Richmond. (No County match).

BACKGROUND:

The Health Services Department seeks continuous funding to provide interim housing and support services for homeless veterans that access the West County emergency shelter program. Each year, the County shelters serve over 150 veterans. The VA Northern California HealthCare

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Cynthia Belon,
957-5501

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios

BACKGROUND: (CONT'D)

System is providing funding for valuable housing and services to homeless veterans of Contra Costa County.

Approval of this Grant Amendment #28-789-6 will allow the County to receive continuous funding to support emergency shelter housing for homeless veterans of Contra Costa County to include meals, case management, and on-site mental health and substance abuse services, through September 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this Agreement is not approved, the County will not receive funding to support services provided to veterans requiring homeless shelter.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: David O. Livingston, Sheriff-Coroner
Date: November 17, 2015

Subject: California Department of Boating & Waterways Inland Boat Operator Training Grant

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Sheriff-Coroner, designee, or Mary Jane Robb - Sheriff's Chief of Management Services, to apply for and accept a California Department of Boating and Waterways Boating and Marine Safety and Operations Training Grant in an initial amount of \$12,300 for the training of marine patrol personnel for period of November 3, 2015 to the end of the grant funding.

FISCAL IMPACT:

\$12,300 Initial Revenue. No County match required.

BACKGROUND:

The State of California Department of Boating and Waterways (DBW) is prepared to award a training grant to the Sheriff's Office to provide Marine Patrol training for Boating Safety officers throughout the State. The grant funds shall be used for personnel costs, purchases of necessary training materials and equipment and related costs associated with providing maritime officer training courses. DBW recognizes the critical importance of providing professional maritime boating safety and education training and, as such, requested the Sheriff's Marine Patrol to take part in maritime officer training courses.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Sandra Brown,
925-335-1553

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

Not accepting this grant funding would cost the County funds from the General Fund for training of personnel.

CHILDREN'S IMPACT STATEMENT:

No impact.



**Contra
Costa
County**

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 17, 2015

Subject: Approval to reduce number of Head Start childcare slots

RECOMMENDATION(S):

AUTHORIZE the Employment & Human Services Director, or designee, to reduce Head Start part-day slots from 1571 to 1501 effective November 1, 2015.

FISCAL IMPACT:

The department seeks to reduce the number of Head Start part-day slots by 70 due to increased cost of doing business. The current funding per Head Start slot is \$9,912 whereas the San Francisco Bay Area funding per childcare slot is \$10,300. If approved, the new funding per slot will rise to \$10,374 which aligns with the area median standard.

BACKGROUND:

Head Start is a federal program that promotes the school readiness of children ages birth through five from low-income families by enhancing their cognitive, social and emotional development. Head Start programs provide a learning environment that supports children's growth in the following domains: language and literacy; cognition and general knowledge; physical development and health; social and emotional development; and approaches to learning.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: CSB (925)
681-6304

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Jagjit Bhambra, Katherine Mason

BACKGROUND: (CONT'D)

Head Start also provides comprehensive services which include health, nutrition, social and other services determined as necessary via family needs assessments. Services are designed to be responsive to each child and family's ethnic, cultural, and linguistic heritage. Services are provided through a variety of service models including: centers or schools that children attend part or full day, family childcare homes and/or the children's own homes wherein a Head Start staff visit once per week to provide in-home services. Children who receive home-based services gather periodically with other enrolled families for group learning experiences facilitated by Head Start staff.

Contra Costa County submits an application annually to U.S. Health and Human Services Department, Administration for Children and Families as the Head Start grantee. The annual application includes newly identified goals and objectives for the program. The board approved submission of the 2016 Head Start grantee application on August 18, 2015. The 2016 grantee application already reflects the reduced number of childcare slots. This board order seeks approval to begin the slot reduction effective November 1, 2015. This action is being sought due to the increased cost of doing business.

The current funding per Head Start slot is \$9,912 whereas the average funding per slot for the San Francisco Bay Area is \$10,300. The reduction will allow the department to absorb the increased cost of providing childcare. Children currently receiving care in these slots will be funded by a different funding source (California Department of Education, Part-day State Preschool funding) thereby avoiding displacement of children and staff. This action was approved by the Contra Costa County Head Start Policy Council on August 19, 2015 and by the the federal Administration for Children and Families on October 8, 2015.

CONSEQUENCE OF NEGATIVE ACTION:

If not approved, County will not receive funding to operate Head Start childcare centers.

CHILDREN'S IMPACT STATEMENT:

The Community Services Bureau of the Employment & Human Services Department's Head Start program supports three of Contra Costa County's community outcomes - Outcome 1: "Children Ready for and Succeeding in School," Outcome 3: "Families that are Economically Self-sufficient," and, Outcome 4: "Families that are Safe, Stable, and Nurturing." These outcomes are achieved by offering comprehensive services, including high quality early childhood education, nutrition, and health services to low-income children throughout Contra Costa County.

ATTACHMENTS

Head Start Grant Narrative

**Contra Costa County Employment & Human Services Department
Community Services Bureau
2016 Head Start Program Continuation Grant Funding Application**

**EXECUTIVE SUMMARY
INCOMING FUNDS NARRATIVE STATEMENT**

1. PROJECT/PROGRAM TITLE. Head Start Program Continuation Grant Funding Application for Budget Period 1/1/16 through 12/31/16.

2. FUNDING AGENCY. Department of Health and Human Services, Administration for Children and Families (ACF), Office of Head Start (OHS).

3. SUBMITTAL STATUS. This is a submission of application for continuation grant funding for FY 2016.

4. PROPOSED TERM. Funding must be requested annually. The standard one year budget period is from 1/1/16 through 12/31/16. The budget summary is below.

5. CURRENT FUNDING. Funding for Head Start is provided by federal dollars. Contra Costa County, as Grantee, is required to generate a 20% non-federal match of the total project budget, which may be in cash or in-kind contributions, fairly valued.

6. FUTURE FUNDING. An application for continuation grant funding must be submitted each year.

7. BUDGET SUMMARY

Budget Categories:	FY 2016 HS Program Operation
Personnel	\$ 4,180,228
Fringe Benefits	\$ 2,804,869
T & TA	\$ 118,498
Travel	\$ -0-
Supplies	\$ 270,000
Contractual	\$ 6,385,500
Other	\$ 1,065,328
Sub-Total of Direct Charges	\$14,824,423
Indirect Costs	\$ 865,307
Total Federal Amount Being Requested	\$15,689,730
Non-Federal Share	\$ 3,922,433
Total Federal and Non-Federal	\$19,612,163
<i>PA22/PA20 Requested Amount for First Baptist (Delegate Agency) included in Total Amount above</i>	\$2,052,356

8. STAFFING REQUIREMENTS. As Grantee, Contra Costa County operates the Head Start Program, which is administered and staffed by the Employment & Human Services Department, Community Services Bureau.

9. PROGRAM NEED. The Community Services Bureau serves the needs of low-income children (3-5 years of age under Head Start, and prenatal - 3 yrs under Early Head Start) and their families, by providing quality childcare, child development, and other services such as medical, mental health and dental needs.

10. RELATIONSHIP TO OTHER PROGRAMS. The Community Services Bureau's Head Start program combines Federal Head Start and State Child Development funding into one cohesive program. The Bureau also has strong collaborations with other departments within the County and partners with community based organizations, local private businesses, schools, non-profits, and volunteer organizations.

11. PROJECT GOALS. (Same goals and objectives for both Head Start and Early Head Start)

Goal 1: Poor health and nutrition are significantly correlated to children and families living in poverty. CSB will address the need to improve indicators of nutritional health through increased education, and physical activity.

Goal 2: Disabilities and mental health needs continue to trend upwards. CSB will expand mental health and disabilities assessment, treatment and case management linkage opportunities for children and families.

Goal 3: Exposure to violence has a lasting impact on children's development including their emotional, mental and physical health. CSB seeks to provide positive and enduring change that increases child attachment by providing services to promote the safety and well-being of children and families.

12. Goal 4: CSB will provide ongoing learning opportunities to enhance employees' career development and assist in meeting new job requirements.

STATED OBJECTIVES.

- By December 2016, CSB will implement the use of Otoacoustic Emissions (OAE) screenings for all infants/toddlers and preschool-age children who are non-responsive to audiometric screenings.
- By July 2016, CSB will implement an autism screening in an effort to link children and families to the appropriate interventions.
- By December 2016, CSB will implement an in-reach program at the Contra Costa County Detention Facilities in partnership with Contra Costa County Probation and the County Office of Education.
- By July 2016, CSB will enhance its violence prevention and safety program for children, families, and staff.
- By December 2016, CSB will roll out the Family Development Credential training program to Comprehensive Services staff.
- Through September 30, 2018, CSB will continue to support teaching staff in pursuit of their degrees through leveraging of resources and ongoing partnerships with community colleges.

13. ACTIVITY SUMMARY. Program continues to provide high-quality services.

14. EVALUATION METHOD(S). Measurable, results-based child and family outcomes have been implemented, such as the required State of California's Desired Results Developmental Profile, for programs providing services through collaboration with the State of California Department of Education.

15. CHANGES COMPARED TO PRIOR YEAR (if any). Goals and Objectives cover FY 2013 – FY 2018. Policy Council has been involved in the development, review and evaluation process of the goals and objectives.

16. POTENTIAL CONTROVERSIAL ISSUES. None. Public perception of the Head Start and Early Head Start programs remain positive. The Policy Council approved submission of this grant at their August 19, 2015 meeting.



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 17, 2015

Subject: Approve and Authorize contract with Plan B Works

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract with Plan B Works in an amount not to exceed \$235,000, to assist in the creation of asset management decision support tools, for the period of November 10, 2015 through November 9, 2016.

FISCAL IMPACT:

100% General Fund Venture Capital Funds

BACKGROUND:

In August of 2009, the Board of Supervisors adopted a Real Estate Asset Management Plan (RAMP); the RAMP stated that “a real estate management strategy should be developed that integrates information to strategically assess and plan for County facilities needs over time.” Despite the adoption of the RAMP, little was done to rectify the operational ‘silos’ that existed among those divisions involved with asset management: Real Estate, Facilities Maintenance, Capital Projects, and Finance. These silos resulted in a dearth of the decision support data that is critical to asset management.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Barry Schamach (925)
313-2185

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

On April 1, 2013, the Public Works Director approved a contract with Estrada Consulting, Inc. (Estrada). Thru this first contract (Phase I), Julian Branston, business analyst for Estrada, performed a thorough analysis of those Public Works Department workflows and systems related to asset management. The main deliverable for Phase I was a Feasibility Study Report (FSR) dated February 7, 2014, entitled “Asset Management Solutions: A Feasibility Study Report for Public Works.” The FSR indicated that rigorous data standardization was necessary as a precursor to the acquisition and deployment of any software solution. Additionally, the FSR identified the need for increased inter-divisional awareness, as well as the development of performance metrics to measure the quality of asset management.

On May 6, 2014, the Public Works Director approved a second contract with Estrada (Phase II), during which Julian Branston coordinated the conversion of several ‘paper-only’ data sources into a standardized format, developed an ‘asset management data standard’ that is now used throughout the Public Works Department, and created cross-functional teams that identified high-level RAMP performance metrics. Julian Branston also determined that the current ‘program accounting’ structure of the County finance system was inadequate at capturing ‘per asset’ costs, which are a critical component of any asset management plan. An update on Phase II was presented to the Public Works Director and Deputies on May 13, 2015; the consensus was to move forward with the recommended actions and to contract with Julian Branston, now owner of Plan B Works, to work towards the RAMP objectives.

Under the scope of this contract, Plan B Works (Contractor) will work with cross-functional teams on performance metrics; additionally, Contractor will work with cross-functional teams to re-engineer the current approach to capturing building costs in the County finance system. With technical assistance from Public Works’ Information Technology staff, Contractor will also assist in the creation of an asset management tool that provides decision support data to Public Works and the County Administrator’s Office. Contractor will work to develop an internal Facilities Condition Assessment (FCA) methodology that will ultimately eliminate the current need for periodic analysis by the ISES Corporation.

CONSEQUENCE OF NEGATIVE ACTION:

Without approval from the Board of Supervisors, an Asset Management Dashboard will not be created. The result will be that insufficient and inaccurate decision support data will be provided to the asset managers in the Public Works Department.

CHILDREN'S IMPACT STATEMENT:



**Contra
Costa
County**

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Novation Contract #24-315-47 with Young Men's Christian Association of the East Bay

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Novation Contract #24-315-47 with Young Men's Christian Association of the East Bay, a non-profit corporation, in an amount not to exceed \$805,168, to provide on-site school counseling services for the period from July 1, 2015 through June 30, 2016. This Contract includes a six-month automatic extension through December 31, 2016, in an amount not to exceed \$402,584.

FISCAL IMPACT:

This Contract is funded 48% by Federal Financial Participation, 48% Mental Health Realignment, and 4% by non-medical Mental Health Realignment. (No rate increase)

BACKGROUND:

This Contract meets the social needs of County's population by providing counseling and therapy services for emotionally disturbed students in selected junior high schools in the West Contra Costa Unified School District to impact attendance records and decrease the use of acute mental health system-of-care services.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Cynthia Belon, (925)
957-5201

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: D Morgan, N Rios

BACKGROUND: (CONT'D)

On December 2, 2014, the Board of Supervisors approved Novation Contract #24-315-46 with Young Men's Christian Association of the East Bay, for the period from July 1, 2014 through June 30, 2015, which included a six-month automatic extension through December 31, 2015, for the provision of on-school-site counseling services for emotional and behavioral disturbed students in West County junior high schools.

Approval of Novation Contract #24-315-47, replaces the automatic extension under the prior Contract and allows Contractor to continue providing services, including modifications to County's standard indemnification provision, through June 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, there will be fewer school and community-based services in West County for seriously emotionally disturbed youth, which may result in the need for acute Mental Health system-of-care services.

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Children ready for and succeeding in school"; "Families that are safe, stable, and nurturing"; and "Communities that are safe and provide a high quality of life for children and families". Expected program outcomes include an increase in positive social and emotional development as measured by the Child and Adolescent Functional Assessment Scale (CAFAS).



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Amendment/Extension #26-590-18 with The Greeley Company, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee to execute on behalf of the County, a Contract Amendment/Extension #26-590-18 with The Greeley Company, Inc., a corporation, effective October 1, 2015, to amend Contract #26-590-11 (as amended by Contract Amendment/Extensions #26-590-12 through #26-590-14, and Contract Amendments #26-590-15 through #26-590-17), to increase the payment limit by \$250,000 from \$992,800 to a new total payment limit of \$1,242,800, and to extend the term from December 31, 2015 through December 31, 2016.

FISCAL IMPACT:

CCHP Enterprise Fund II. This Amendment/Extension is 100% offset by salary savings and member premiums funded. (No Rate increase)

BACKGROUND:

On January 14, 2014, the County Administrator approved and Purchasing Services Manager executed Contract #26-590-11 (as amended by Contract Amendment/Extensions #26-590-12 through #26-590-14, and Contract Amendments #26-590-15 through #26-590-17) with The Greeley Company, Inc., for the period from September 1, 2013 through December 31, 2015, to provide consulting services

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Pat Godley,
925-957-5410

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: J Pigg, N Rios

BACKGROUND: (CONT'D)

at Contra Costa Regional Medical Center and Contra Costa Health Centers and Contra Costa Health Plan, including, Referral Management Director services. At the time of negotiations, the payment limit was based on target levels of utilization; however, the utilization during the term of the agreement was higher than originally anticipated. Approval of Contract Amendment Agreement #26-590-18 will allow the Contractor to provide additional utilization review and case management consulting services for Contra Costa Health Plan, through December 31, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this amendment is not approved, Contra Costa Health Plan will not be able to receive additional utilization review and case management consulting services from this Contractor.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 17, 2015

Subject: Contract with Dahlin Group, Inc., for planning services for the Oak Park Sale of Surplus (South Pleasant Hill Parcels)

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract with Dahlin Group, Inc., in an amount not to exceed \$191,000, to provide planning services for the Oak Park Sale of Surplus (South Pleasant Hill Parcels), for the period of September 1, 2015 to August 31, 2017, Pleasant Hill area.

FISCAL IMPACT:

All costs associated with this contract will be offset by 100% of the Oak Park Sale of Surplus proceeds.

BACKGROUND:

Contra Costa County (County) and the Contra Costa County Flood Control & Water Conservation District (District) together own a total of three (3) properties in the South Pleasant Hill area. The County owns one 10 acre parcel on Oak Park Boulevard south of the Pleasant Hill Middle School, which is currently vacant (the School District has an ownership interest in 2 of the 10 acres). The District owns 6 acres to the north of the Pleasant Hill Middle School and is also currently vacant. The County also owns the Pleasant Hill Library and Administrative offices on a

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Karen Laws,
925-313-2228

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

4.8 acre parcel south and west of the Pleasant Hill Middle School.

In February 2014, the Board of Supervisors authorized County staff to work with the City of Pleasant Hill (City) regarding the disposition of the County and District parcels. County staff has been in discussions with City staff on the allowable uses and development of the property. In preparation of placing the parcels on the market, Dahlin Group, Inc. was selected after a solicitation process to assist staff with planning services for the County and District's parcels.

CONSEQUENCE OF NEGATIVE ACTION:

Staff will not be able to move forward with the planning process, which would delay placing parcels on the market.



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 17, 2015

Subject: APPROVE a Purchase Order with Air Products Group

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Purchasing Agent, or designee, to execute, on behalf of the Public Works Director, a purchase order with Air Products Group in an amount not to exceed \$200,000, for heating, ventilation and air conditioning filtration components for the period of October 1, 2015 through September 30, 2018, Countywide.

FISCAL IMPACT:

This cost is to be funded through Facilities Services' Maintenance budget. (100% General Fund)

BACKGROUND:

Facilities Services maintains all County buildings. Heating, ventilation and air conditioning filtration is part of this maintenance. Each building maintained by Facilities uses several types and sizes of air filters, each designed for specific purposes (e.g., pollen removal, bio hazard prevention, etc.). Solicitation of air filtration components was completed on Bidsync No. 1510-159. This request is for a three year purchase order.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Stan Burton, (925)
313-7077

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

If this purchase order is not approved, then purchasing through Air Products Group for heating, ventilation and air conditioning filtration will discontinue.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Contract #26-768-4 with Fred Nachtwey, M.D.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract #26-768-4 with Fred Nachtwey, M.D., an individual, in an amount not to exceed \$164,000, to provide pulmonary services at Contra Costa Regional Medical Center and Contra Costa Health Centers (CCRMC), for the period from November 1, 2015 through October 31, 2016.

FISCAL IMPACT:

This Contract is funded 100% Hospital Enterprise Fund I. (No rate increase)

BACKGROUND:

On December 9, 2014, the Board of Supervisors approved Contract #26-768-3 with Fred Nachtwey, M.D. for the provision of pulmonary services including, but not limited to; consultation, and medical procedures at CCRMC, through October 31, 2015. Approval of Contract #26-768-4 will allow the Contractor to provide pulmonary services at CCRMC through October 31, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, patients requiring pulmonary services at CCRMC will not have access to Contractor's services.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Samir Shah, M.D.,
925-370-5525

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: K Cyr, N Rios

CHILDREN'S IMPACT STATEMENT:

Not applicable.



**Contra
Costa
County**

To: Board of Supervisors

From: Julia R. Bueren, Public Works Director/Chief Engineer

Date: November 17, 2015

Subject: AWARD Construction Contract for Emergency and Imaging Department Expansion and Reconfiguration on the 3rd Floor at CCRMC (WH504B)

RECOMMENDATION(S):

- (1) APPROVE the design, plans, and specifications for the above project.
- (2) DETERMINE that the bid submitted by C. Overaa & Co. ("Overaa") complied with the requirements of the County's Outreach Program for this project, as provided in the project specifications, and FURTHER DETERMINE that Overaa submitted a responsive and responsible bid for this project.
- (3) AWARD the construction contract for the above project to Overaa in the amount of \$1,846,000 and DIRECT that the Public Works Director, or designee, prepare the contract.
- (4) DIRECT that Overaa shall submit two good and sufficient security bonds (performance and payment bonds) in the amount of \$1,846,000 each.
- (5) ORDER that, after the contractor has signed the contract and returned it, together with the bonds, evidence of insurance, and other required documents, and the Public Works Director has reviewed and found them to be sufficient, the Public Works Director, or designee, is authorized to sign the contract for this Board.
- (6) ORDER that, in accordance with the project specifications and/or upon signature of the contract by the Public Works

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Ramesh Kanzaria, (925)
313-2000

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: PW Accounting, PW CPM Division Manager/Project Manager, PW CPM Clerical, Auditor's Office, County Counsel's Office, County Administrator's Office, County Administrator's Office

RECOMMENDATION(S): (CONT'D)

Director, or designee, any bid bonds posted by the bidder is to be exonerated and any checks or cash submitted for security shall be returned.

(7) AUTHORIZE the Public Works Director, or designee, to sign any escrow agreements prepared for this project to permit the direct payment of retentions into escrow or the substitution of securities for moneys withheld by the County to ensure performance under the contract, pursuant to Public Contract Code Section 22300.

(8) AUTHORIZE the Public Works Director, or designee, to order changes or additions to the work pursuant to Public Contract Code Section 20142.

(9) DELEGATE, pursuant to Public Contract Code Section 4114, to the Public Works Director, or designee, the Board's functions under Public Contract Code Sections 4107 and 4110.

(10) DECLARE that, should the award of the contract to Overaa be invalidated for any reason, the Board would not in any event have awarded the contract to any other bidder, but instead would have exercised its discretion to reject the bid received.

FISCAL IMPACT:

100% Hospital Enterprise Funds.

BACKGROUND:

The main purpose of this project is to expand the Emergency Department (ED) fast track area at the Contra Costa Regional Medical Center (CCRMC) to help decrease the number of annual patient visits to the ED. Currently, the ED is operating at twice the design capacity.

The project, which involves approximately 5,960 square feet of interior modifications and improvements for fast track and patient triage on the third floor (Emergency and Imaging Departments), will result in reconfiguration of waiting and reception, triage and registration, exam rooms, medication room, radiology reading room, offices and work areas requiring new partitions, suspended ceilings, flooring, painting, casework, plumbing, HVAC, electrical, telephone/data communications, etc. The area of interior improvements is located in the west side of the five-story hospital building.

Plans and specifications for the project have been prepared for the Public Works Department by HDR Architecture, Inc. and have been filed with the Clerk of the Board by the Public Works Director. The construction cost estimate is \$3,079,000, and the general prevailing wage rates are on file with the Clerk of the Board of Supervisors and will be the minimum rates paid on this project. Bids were received and opened by the Public Works Department on October 22, 2015, and the bid results are as follows:

BIDDER	BASE BID
C. Overaa & Co., Richmond	\$1,846,000
Vila Construction Co., Richmond	\$1,898,158
Taber Construction, Concord	\$1,910,000

All three bids were below the Architect's Estimate of \$3,079,000. Staff has evaluated the low bid submitted by Overaa and their good faith effort documentation. Staff has determined that Overaa's bid is responsive and their good faith effort documentation is in compliance with the County's Outreach Program. The Public Works Director recommends that the Board award the construction contract for this project to Overaa, the lowest responsible and responsive bidder, in the amount of \$1,846,000, which is \$1,233,000 less than the Architect's Estimate.

The general prevailing rates of wages, which shall be the minimum rates paid on this project, are on file with the Clerk of the Board, and copies are available to any party upon request.

CONSEQUENCE OF NEGATIVE ACTION:

If this project is not approved and authorized, the Emergency Department at the Contra Costa Regional Medical Center will continue to operate at twice the design capacity.



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 17, 2015

Subject: Revised Loan Agreements with Community Housing Development Corporation of North Richmond for the Heritage Point Project in North Richmond

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute a first amendment to the Amended and Restated Predevelopment Loan Agreement with the Community Housing Development Corporation of North Richmond, to increase the principal amount of the loan by \$152,500 to a new loan amount of \$436,200 for predevelopment activities related to the Heritage Point project.

FISCAL IMPACT:

No General Funds are being used to make this loan. The loan is being made with funds available to the County in its capacity as the Housing Successor Agency to the former Contra Costa County Redevelopment Agency.

BACKGROUND:

Predevelopment Loan Agreement

In 2011, the former Contra Costa County Redevelopment Agency (Agency) entered into a Predevelopment Loan Agreement with Community Housing Development Corporation of North Richmond (CHDC) for Phase II of the North Richmond Town Center Project. Phase II is on the eastern side of Fred Jackson Way, directly across the street from Phase I of the project. (Phase I was completed several years ago and includes the award winning Heritage Senior Apartments, North Richmond Health Center, the County Service Integration Team and streetscape improvements along Fred Jackson Way between Chesley Avenue and Grove Street.) Phase II encompasses six parcels and is referred to as Heritage Point.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Maureen Toms
(925)674-7878

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

>

As a result of the dissolution of the Agency in February 2012, the County became the Housing Successor Agency to the Agency, the owner of the property on which Phase II may be constructed, and the lender under the Predevelopment Loan Agreement.

In December 2014, the parties entered into an Amended and Restated Predevelopment Loan Agreement (Amended and Restated Agreement). Under the Amended and Restated Agreement, the loan amount was increased from \$131,700 to \$283,700, using Housing Successor Agency funds in the form of housing bonds. The purpose of the proposed first amendment to the Amended and Restated Agreement is to make an additional \$152,500 of funds available to the project, increasing the loan amount to \$436,200. These additional funds are also Housing Successor Agency funds in the form of housing bonds.

The additional funds being made available to CHDC will be used to offset the cost of preparing construction drawings, finalizing long-term project financing and applying for grant funding for the project. To date, the funds made available under the Amended and Restated Agreement have been used to (i) fully define the project, (ii) determine project feasibility, (iii) identify infrastructure needs, (iv) perform studies to inform a project-level environmental review process, and (v) initiate and complete the land use entitlement process. If the project is ultimately determined to be feasible, the funds made available under the Amended and Restated Agreement, as amended, will be rolled into the permanent project financing. With that financing the loan will be forgivable under certain conditions. If it is determined that the project is not feasible, the loan will be forgiven and all deliverables will be assigned to the County for use with another future developer.

Technical Assistance Loan Agreement

On April 1, 2014, the County entered a loan agreement with CHDC, under which the County made a technical assistance loan to CHDC in the amount of \$48,000 using HOME funds. CHDC has completed the scope of work for which the technical assistance loan was made. The project is now fully entitled and the term of the technical assistance loan has been extended to be coterminous with the Amended and Restated Agreement.

CONSEQUENCE OF NEGATIVE ACTION:

Should the Board elect not to approve the loan amendment, CHDC will be unable to complete the necessary construction drawings or finalize the long-term financing of the project.

ATTACHMENTS

Amended Agreement

Promissory Note

FIRST AMENDMENT
TO
AMENDED AND RESTATED PREDEVELOPMENT LOAN AGREEMENT
(Heritage Point)

This first amendment to the Amended and Restated Predevelopment Loan Agreement (the “First Amendment”) is dated November __, 2015, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the “County”), and COMMUNITY HOUSING DEVELOPMENT CORPORATION OF NORTH RICHMOND, a California nonprofit public benefit corporation (“Borrower”).

RECITALS

- A. In 2011, Borrower and the Redevelopment Agency of Contra Costa County (the “Agency”) entered into a predevelopment loan agreement dated April 12, 2011 (the “Original Loan Agreement”). Pursuant to the Original Loan Agreement, Borrower borrowed One Hundred Thirty-One Thousand Seven Hundred Dollars (\$131,700) (the “Original Loan”) of low and moderate income housing funds from. The Original Loan was used to finance certain predevelopment costs in connection with the potential development of six parcels located in the 1500 block of Fred Jackson Way in North Richmond, as more particularly described in Exhibit A (the “Property”). In furtherance of Borrower’s proposal to construct rental housing on the Property that is affordable to low-income households (such housing, the “Development”), the Agency acquired the Property.
- B. As a result of the dissolution of the Agency in February 2012, and pursuant to California Health and Safety Code Section 34176(a), the County is the Housing Successor Agency to the Agency. When it became the Housing Successor Agency, the County became the owner of the Property, the lender under the Original Loan Agreement, and the holder of the Original Note.
- C. In 2014, Borrower and the County entered into an Amended and Restated Predevelopment Loan Agreement dated December 2, 2014 (the “Agreement”). The Agreement replaced the Original Loan Agreement.
- D. Concurrent with the execution of the Agreement, (i) the County loaned Borrower an additional One Hundred Fifty-Two Thousand Dollars (\$152,000), bringing the total loan amount to Two Hundred Eighty-Three Thousand Seven Hundred Dollars (\$283,700) (the “2014 Loan Amount”), (ii) the County cancelled the promissory note that evidenced Borrower’s obligation to repay the Original Loan, and (iii) Borrower executed a new promissory note evidencing its obligation to repay the 2014 Loan Amount (the “2014 Note”).
- E. The parties now desire to amend the Agreement to (i) make an additional One Hundred Fifty-Two Thousand Five Hundred Dollars (\$152,500) (the “2015 Additional Funds”) of

low and moderate income housing funds available to Borrower in the form of a loan, bringing the total loan to Four Hundred Thirty-Six Thousand Two Hundred Dollars (\$436,200), and (ii) revise the Predevelopment Budget that is part of the Agreement.

- F. Concurrent with the execution of this First Amendment, (i) Borrower is executing a new promissory note evidencing its obligation to repay the full Four Hundred Thirty-Six Thousand Two Hundred Dollars (\$436,200), and (ii) the County is cancelling the 2014 Note.

The parties therefore agree to amend the Agreement as follows:

AGREEMENT

1. Unless defined in this First Amendment, all defined terms used in this First Amendment have the meaning ascribed to them in the Agreement.

2. Section 1.1(w) is deleted in its entirety and replaced with the following:

(w) “Loan” means the loan made by the County to Borrower in the amount of Four Hundred Thirty-Six Thousand Two Hundred Dollars (\$436,200).

3. Section 1.1(y) is deleted in its entirety and replaced with the following:

(y) “Note” means the promissory note executed by Borrower evidencing Borrower’s obligation to repay the Loan.

4. Section 1.1(aa) is deleted in its entirety and replaced with the following:

(aa) “Predevelopment Budget” means the proforma predevelopment budget, including sources and uses of funds, attached hereto and incorporated herein as Exhibit B-1, which may be amended with the approval of the County as set forth in this Agreement.

5. Section 1.2 – Exhibits is deleted in its entirety and replaced with the following:

Section 1.2 Exhibits

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

EXHIBIT A:	Legal Description of the Property
EXHIBIT B-1:	Predevelopment Budget
EXHIBIT C:	Predevelopment Schedule

6. Section 2.1 – Loan is deleted in its entirety and replaced with the following:

Section 2.1 Loan

On and subject to the terms and conditions of this Agreement, the County shall lend to Borrower the 2015 Additional Funds, which is the unfunded balance of the Loan. The Loan may only be used for the purposes set forth in Section 2.3. Borrower's obligation to repay the Loan is evidenced by the Note.

7. Section 2.6 – Conditions Precedent to Disbursement of Predevelopment Loan Funds is deleted in its entirety and replaced with the following:

Section 2.6 Conditions Precedent to Disbursement of Predevelopment Loan Funds

The disbursements made pursuant to this Section 2.6 may not exceed the amount of the 2015 Additional Funds. The County is not obligated to disburse any portion of the 2015 Additional Funds, or take any other action under this Agreement, unless the following conditions have been and continue to be satisfied:

(a) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement.

(b) Borrower has delivered to the County all of Borrower's organizational documents and a copy of a corporate resolution authorizing Borrower's execution of this Agreement, as modified by the First Amendment.

(c) There exists no material adverse change in the financial condition of Borrower from that shown by the financial statements and other data and information furnished by Borrower to the County prior to the date of this Agreement.

(d) Borrower has furnished the County with evidence of the insurance coverage meeting the requirements of Section 4.5 below.

(e) Borrower has executed and delivered the Loan Documents to the County and has caused all other documents, instruments, and policies required by the Loan Documents to be delivered to the County.

(f) The County has determined that the undisbursed proceeds of the Loan, together with other funds or firm commitments for funds that the Borrower has obtained in connection with assessing the feasibility of the Development, are not less than the amount that is necessary to pay the Predevelopment Costs and to satisfy all of the covenants contained in this Agreement.

(g) The County has received a written draw request from Borrower, including certification that the condition set forth in Section 2.6(a) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Predevelopment

Budget, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred.

Notwithstanding any other provisions of this Agreement, the County has no obligation to disburse any portion of the Loan to Borrower following: (i) termination of this Agreement; or (ii) the occurrence of an Event of Default.

8. Section 3.3 – Financing Proposal is deleted in its entirety and replaced with the following:

Section 3.3 Financing Proposal

(a) Borrower shall prepare an updated Financing Proposal and submit it to the County for review no later than January 15, 2016.

(b) The “Financing Proposal” is a statement that sets forth (i) a preliminary estimate of the cost of constructing the Development, based on the Site Plans, and (ii) an estimate of the funds available from government and private sources to pay the cost of constructing the Development.

(c) Borrower shall attach to the updated Financing Proposal any site plans prepared by Architect that show the basic physical characteristics of the Development, including the location and scale of any improvements (the “Site Plans”). The Site Plans may include preliminary building plans, sections and elevations. Borrower shall cause the Site Plans to serve as the basis for the Borrower's application for Land Use Approvals and for the preparation of the Design Development Documents.

(d) The County shall review and comment on the updated Financing Proposal within thirty (30) days after receipt. If the County requires modifications to the updated Financing Proposal, the County will give Borrower specific comments on the updated Financing Proposal and Borrower shall submit a revised updated Financing Proposal within thirty (30) days after notification of the County’s request for revision. Borrower shall follow this procedure for resubmission of a revised updated Financing Proposal until the updated Financing Proposal is found by the County to be feasible.

(e) Borrower shall identify and apply for any government loans and grants, private loans and grants, and equity financing necessary for the construction of the Development.

[Remainder of Page Intentionally Left Blank]

9. All other terms of the Agreement remain unchanged.

The parties are signing this First Amendment as of the date set forth in the introductory paragraph.

COUNTY:

COUNTY OF CONTRA COSTA, a political
subdivision of the State of California

By: _____
John Kopchik, Director
Department of Conservation and Development

Approved as to form:

Sharon L. Anderson
County Counsel

By: _____
Kathleen Andrus
Deputy County Counsel

BORROWER:

COMMUNITY HOUSING DEVELOPMENT
CORPORATION OF NORTH RICHMOND,
a California nonprofit public benefit corporation

By: _____

Name: _____

Its: _____

EXHIBIT B-1

Predevelopment Budget

REQUEST FOR HERITAGE POINT PREDEVELOPMENT FUNDING

Dated: October 2, 2015
prepared by: CHDC/Cherene Sandidge, sug
Submitted to: Maureen Toms

Line Item Budget Spent Funds	Loan #1 RDA FUNDS	Loan #2 HOME -TA FUNDS	NeighborWorks (Non County) FUNDS	TOTAL Heritage Pt PreDev BUDGET AMOUNT	Loan #3 Housing Bond FUNDS 12/3/14	PREDEVELOPMENT TOTAL	Loan #4 Housing Bond FUNDS 10/2015	COUNTY LOANS ONLY	COMMENTS
LEGAL	\$ 1,867.50	\$ -	\$ -	\$ 1,867.50	\$ 5,000.00	\$ 6,867.50	\$ 13,000.00	\$ 19,867.50	Review pre-development Agreement
ARCHITECTUAL						\$ -		\$ -	
Kodama	\$ 11,752.50			\$ 11,752.50		\$ 11,752.50	\$ -	\$ 11,752.50	No longer applicable
YHLA	\$ -	\$ 32,719.00		\$ 32,719.00	\$ 30,000.00	\$ 62,719.00	\$ 40,000.00	\$ 102,719.00	Design Schmatics/Entitlements
SGT (Full Circle Architect)	\$ 3,000.00	\$ 7,522.50		\$ 10,522.50	\$ 8,000.00	\$ 18,522.50	\$ 12,000.00	\$ 30,522.50	Charette/Scheduling Admin/Peer Review
								\$ -	
								\$ -	
						\$ -		\$ -	
SOFT COSTS									
Market Study	\$ 7,402.70			\$ 7,402.70		\$ 7,402.70	\$ -	\$ 7,402.70	Keyser Marsten
Soft Cost Contingency/Financial Consultants	\$ 1,278.54	\$ -		\$ 1,278.54		\$ 1,278.54	\$ 13,000.00	\$ 14,278.54	Cap/Trade Consultants
Transform/Cal Eemod	\$ 2,000.00			\$ 2,000.00		\$ 2,000.00	\$ 7,500.00	\$ 9,500.00	Cap/Trade Consultants
Archeological Study	\$ 1,795.50			\$ 1,795.50		\$ 1,795.50		\$ 1,795.50	
								\$ -	
								\$ -	
LAND ANALYSIS									
Geo Tech Report					\$ 15,000.00	\$ 15,000.00		\$ 15,000.00	Testing/Soil Sampling
Phase 1 PSI	\$ 67.00	\$ 2,300.00		\$ 2,367.00	\$ 3,000.00	\$ 5,367.00		\$ 5,367.00	Phase 1 Report
Survey (Median Island)					\$ 5,000.00	\$ 5,000.00		\$ 5,000.00	Survey
Survey (Canumay)	\$ 25.00	\$ 5,458.50		\$ 5,483.50		\$ 5,483.50		\$ 5,483.50	Survey
DCD-General Plan	\$ 5,000.00	\$ -		\$ -	\$ 6,000.00	\$ 11,000.00		\$ 11,000.00	General Plan
DCD-Development Plan/Subdivision	\$ 20,450.00	\$ -		\$ 20,450.00	\$ -	\$ 20,450.00		\$ 20,450.00	Subdivision/Development Plan
DCD-CEQA Consultants/GreenRated				\$ -	\$ 25,000.00	\$ 25,000.00	\$ 2,000.00	\$ 27,000.00	
Contingency/					\$ 9,000.00	\$ 9,000.00	\$ 5,000.00	\$ 14,000.00	
PGE Consultant							\$ 10,000.00	\$ 10,000.00	
Final C3/CCCP PW							\$ 5,000.00	\$ 5,000.00	
						\$ -		\$ -	
						\$ -		\$ -	
Developer Costs									
Project Admin & Salary	\$ 71,530.00		\$ 42,337.50	\$ 113,867.50	\$ 24,000.00	\$ 137,867.50	\$ 15,000.00	\$ 152,867.50	
Syndication Consultant	\$ -		\$ -	\$ -		\$ -		\$ -	
CHDC/GP Fee-unknown	\$ 5,487.00			\$ 5,487.00	\$ -	\$ 5,487.00		\$ 5,487.00	
SUG				\$ -	\$ 22,000.00	\$ 22,000.00	\$ 30,000.00	\$ 52,000.00	
	\$ -					\$ -		\$ -	
	\$ 131,655.74	\$ 48,000.00	\$ 42,337.50	\$ 221,993.24	\$ 152,000.00	\$ 373,993.24	\$ 152,500.00	\$ 526,493.24	

ORIGINAL BUDGET

RECAP ANALYSIS

NOTE:

RDA	\$ 131,700.00
TA	\$ 48,000.00
NWks	\$ 25,000.00
	\$ 204,700.00
TA Agreement Shorted	\$ 300.00
	\$ 205,000.00
Add: New	
Neighborworks	\$ 25,000.00
	\$ 230,000.00
Less: TA Agreement	
shorted amount	\$ (300.00)
	\$ 229,700.00
	\$ (221,993.24)
Less Funds Spent:	
Unspent Neighborwks	\$ 7,706.76
Less: Didn't draw From	\$ (44.26)
CCC Funds -Unspent	
Unspent Neighborwks	
Funds Adjusted:	\$ 7,662.50

1. Loan #4 will pick-up at Draw Request #20
2. Items in "RED" are newly added to bridge to March 2016

SECOND AMENDED AND RESTATED
PROMISSORY NOTE
(Heritage Point)

\$436,200

Martinez, California
_____, 2015

FOR VALUE RECEIVED, the undersigned Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation, (the "Borrower") hereby promises to pay to the order of the County of Contra Costa, a political subdivision of the State of California ("Holder"), the principal amount of Four Hundred Thirty-Six Thousand Two Hundred Dollars (\$436,200), plus interest thereon pursuant to Section 2 below.

This Second Amended and Restated Promissory Note (the "Note") replaces in its entirety that promissory note executed by Borrower for the benefit of Holder dated _____, 2014, in the principal amount of Two Hundred Eighty-Three Thousand Seven Hundred Dollars (\$283,700) (the "2014 Note"). Upon execution of this Note by Borrower, the 2014 Note will be cancelled and returned to Borrower.

All capitalized terms used but not defined in this Note have the meanings set forth in the Loan Agreement.

1. Borrower's Obligation. This Note evidences Borrower's obligation to repay Holder the principal amount of Four Hundred Thirty-Six Thousand Two Hundred Dollars (\$436,200) with interest for the funds loaned to Borrower by Holder to finance predevelopment expenses in connection with Heritage Point pursuant to the Amended and Restated Predevelopment Loan Agreement between Borrower and Holder dated December 2, 2014, as amended from time to time (the "Loan Agreement").

2. Interest.

(a) Subject to the provisions of Subsection (b) below, the Loan bears simple interest at a rate of three percent (3%) per annum from the date of disbursement until full repayment of the principal balance of the Loan.

(b) If an Event of Default occurs, interest will accrue on all amounts due under this Note at the Default Rate until such Event of Default is cured by Borrower or waived by Holder.

3. Term and Repayment Requirements. Principal and interest under this Note is due and payable as set forth in Section 2.7 of the Loan Agreement. In any event, the unpaid principal balance, together with any accrued interest, is due and payable not later than December 31, 2016.

4. No Assumption. This Note is not assumable by the successors and assigns of Borrower without the prior written consent of Holder.

5. Collateral. As security for this Note, Borrower has assigned to Holder Borrower's rights and obligations in and to various contracts and work products, which are more particularly described in the Assignment Agreement. The terms of the Assignment Agreement are hereby incorporated into this Note and made a part hereof.

6. Terms of Payment.

(a) Borrower shall make all payments due under this Note in currency of the United States of America to Holder at Department of Conservation and Development, 30 Muir Road, Martinez, CA 94553, Attention: [REDACTED], or to such other place as Holder may from time to time designate.

(b) All payments on this Note are without expense to Holder. Borrower shall pay all costs and expenses, including reasonable attorney's fees of Holder, incurred in connection with the payment of this Note and the release of any security hereof.

(c) All payments received will be applied first to accrued interest then to the outstanding principal amount.

(d) Notwithstanding any other provision of this Note, if, for any reason whatsoever, the payment of any sums by Borrower pursuant to the terms of this Note would result in the payment of interest that exceeds the amount that Holder may legally charge under the laws of the State of California, then the amount by which payments exceed the lawful interest rate will automatically be deducted from the principal balance owing on this Note, so that in no event is Borrower obligated under the terms of this Note to pay any interest that would exceed the lawful rate.

(e) The obligations of Borrower under this Note are absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

7. Event of Default; Acceleration.

(a) Upon the occurrence of an Event of Default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note will, at the option of Holder, become immediately due and payable without further demand.

(b) Holder's failure to exercise the remedy set forth in Subsection 7(a) above or any other remedy provided by law upon the occurrence of an Event of Default does not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other Event of Default. The acceptance by Holder of any payment that is less than the total of all amounts due and payable at the time of such payment does not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of Holder, except as and to the extent otherwise provided by law.

8. Waivers.

(a) Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Borrower.

(b) No extension of time for payment of this Note or any installment hereof made by agreement of Holder with any person now or hereafter liable for payment of this Note will operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

9. Miscellaneous Provisions.

(a) All notices to Holder or Borrower are to be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as Holder and Borrower may therein designate.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note is governed by the laws of the State of California.

(d) The times for the performance of any obligations hereunder are to be strictly construed, time being of the essence.

(e) The Loan Documents, of which this Note is a part, contain the entire agreement between the parties as to the Loan. This Note may not be modified except upon the written consent of the parties.

IN WITNESS WHEREOF, Borrower is executing this Promissory Note as of the day and year first above written.

COMMUNITY HOUSING DEVELOPMENT
CORPORATION OF NORTH RICHMOND,
a California nonprofit public benefit corporation

By: _____

Name: _____

Its: _____



**Contra
Costa
County**

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Contract #23-441-4 with DJR Healthcare Consulting, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute on behalf of the County, Contract #23-441-4 with DJR Healthcare Consulting, Inc., a corporation, in an amount not to exceed \$579,600, to provide professional management and oversight of the Department's Information Technology (IT) Unit, for the period from January 1, 2016 through December 31, 2017.

FISCAL IMPACT:

This Contract is funded 100% by Hospital Enterprise Fund I. (Rate increase)

BACKGROUND:

On January 21, 2014, the Board of Supervisors approved Contract #23-441-3 with DJR Healthcare Consulting, Inc. to provide professional management and oversight of the Department's IT Unit including, but not limited to, providing a qualified Chief Information Officer who will provide day to day on-site management, act as the technical expert with regard to all Health Services Department IT Systems, lead the IT Steering Committee, develop formal written strategic plans, policies and procedures, create processes for identifying system user needs and translate them

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Patrick Godley,
957-5405

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios

BACKGROUND: (CONT'D)

into system enhancements, work in collaboration with Department staff, physicians, providers and clients of IT systems, for the period from January 1, 2014 through December 31, 2015.

Approval of Contract #23-441-4 will allow the Contractor to continue to provide services, through December 31, 2017.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, the Department would not have management and oversight of the Health Services Department's IT Unit, which is responsible for supporting the technology infrastructure including, but not limited to, clinical systems development, data analysis, reporting, end-user training and customer support services for the Contra Costa Regional Medical Center and Contra Costa Health Centers, Contra Costa Health Plan, Public Health, Environmental Health, Emergency Medical Services, Behavioral Health Services Division and Office of the Director/Finance Division.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Novation Contract #74-331-7 with Helios Healthcare, LLC

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Novation Contract #74-331-7 with Helios Healthcare, LLC a limited liability company, in an amount not to exceed \$473,840, to provide sub-acute skilled nursing care services for the period from July 1, 2015 through June 30, 2016. This Contract includes a six-month automatic extension through December 31, 2016, in an amount not to exceed \$236,920.

FISCAL IMPACT:

This Contract is funded 100% Mental Health Realignment. (No Rate Increase)

BACKGROUND:

This Contract meets the social needs of County's population in that it provides sub-acute skilled nursing care services for County's seriously and persistently mentally ill (SMPI) and neurobehavioral clients.

On December 2, 2014, the Board of Supervisors approved Novation Contract #74-331-6

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Cynthia Belon,
957-5201

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: E Suisala, N Rios

BACKGROUND: (CONT'D)

with Helios Healthcare, LLC., for the period from July 1, 2014 through June 30, 2015, which included a six-month automatic extension through December 31, 2015, for the provision of sub-acute skilled nursing care services.

Approval of Novation Contract #74-331-7, replaces the automatic extension under the prior Contract and allows the Contractor to continue providing services through June 30, 2016, including mutual indemnification to hold harmless both parties for any claims arising out of the performance of this contract.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, there will be fewer sub-acute skilled nursing care services available for County's seriously mentally ill and neurobehavioral clients.

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Children Ready For and Succeeding in School"; "Families that are Safe, Stable, and Nurturing"; and "Communities that are Safe and Provide a High Quality of Life for Children and Families". Expected program outcomes include an increase in positive social and emotional development as measured by the Child and Adolescent Functional Assessment Scale (CAFAS).



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Contract #74-128-17 with Charis Youth Center

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract #74-128-17 with Charis Youth Center, a non-profit corporation, in an amount not to exceed \$300,000, to provide mental health services, including Therapeutic Behavioral Services (TBS) for Seriously Emotionally Disturbed (SED) adolescents, for the period from July 1, 2015 through June 30, 2016. This Contract includes a six-month automatic extension through December 31, 2016, in an amount not to exceed \$150,000.

FISCAL IMPACT:

This Contract is funded 50% Federal Financial Participation and 50% Mental Health Realignment. (Rate increase)

BACKGROUND:

This Contract meets the social needs of County's population in that it provides intensive and rehabilitative day treatment programs, including medication support and

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Cynthia Belon,
957-5201

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: E Suisala, N Rios

BACKGROUND: (CONT'D)

mental health services for wards of the Court to reduce the need for hospitalization.

On October 7, 2014, the Board of Supervisors approved Contract #74-128-16 with Charis Youth Center, for the period from January 1, 2015 through June 30, 2015, with a six-month automatic extension through December 31, 2015, for the provision of a day treatment program and TBS for SED adolescents.

Approval of Contract #74-128-17 will replace the automatic extension and allow Contractor to continue providing services, through June 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, SED adolescents will not have access to Contractor's residential treatment program and TBS services, possibly necessitating placement in higher levels of care, as the County solicits and engages an alternative contractor.

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Children Ready For and Succeeding in School"; "Families that are Safe, Stable, and Nurturing"; and "Communities that are Safe and Provide a High Quality of Life for Children and Families". Expected program outcomes include an increase in positive social and emotional development as measured by the Child and Adolescent Functional Assessment Scale (CAFAS).



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Amendment #26-672-4 with Siri Sunderi Cheng, M.D.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract Amendment Agreement #26-672-4 with Siri Sunderi Cheng, M.D., an individual, effective September 1, 2015, to amend Contract #26-672-2 (as amended by Amendment Agreement #26-672-3), to increase the payment limit by \$75,000 from \$1,065,000 to a new contract payment limit of \$1,140,000 and no change in the original term of October 1, 2013 through September 30, 2016.

FISCAL IMPACT:

This contract is funded 100% Hospital Enterprise Fund I. (No rate increase)

BACKGROUND:

On December 3, 2013, the Board of Supervisors approved Contract #26-672-2 (as amended by Amendment Agreement #26-672-3) with Siri Sunderi Cheng, M.D., for the provision of otolaryngology services including but not limited to; clinic coverage, consultation, on-call coverage, administrative services, and medical and/or surgical procedures at Contra Costa Regional Medical Center and Contra Costa Health Centers (CCRMC), for the period from October 1, 2013 through September

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Samir Shah, M.D.,
925-370-5525

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: K Cyr, N Rios

BACKGROUND: (CONT'D)

30, 2016. At the time of negotiations, the payment limit was based on target levels of utilization. However, the utilization during the term of the agreement was higher than originally anticipated. Approval of Contract Amendment Agreement #26-672-4 will allow the Contractor to continue to provide additional clinics and services at CCRMC through September 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this amendment is not approved, patients requiring otolaryngology services at CCRMC may not have access to Contractor's additional clinical services.

CHILDREN'S IMPACT STATEMENT:

Not applicable



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Novation Contract #74-321-9 with Bay Area Community Resources, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Novation Contract #74-321-9 with Bay Area Community Resources, Inc., a non-profit corporation, in an amount not to exceed \$1,182,280, to provide school-based mental health services to Seriously Emotionally Disturbed (SED) students for the period from July 1, 2015 through June 30, 2016. This Contract includes a six-month automatic extension through December 31, 2016, in an amount not to exceed \$591,140.

FISCAL IMPACT:

This Contract is funded 50% Federal Financial Participation; 50% Mental Health Realignment. (Rate increase)

BACKGROUND:

This Contract meets the social needs of County's population by providing school-based mental health services to County-designated SED elementary, middle school and high school students within the West Contra Costa Unified School District, and their families.

On October 21, 2014, the Board of Supervisors approved Novation Contract #74-321-8 with

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Cynthia Belon,
957-5201

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: E Suisala, N Rios

BACKGROUND: (CONT'D)

Bay Area Community Resources, Inc., for the period from July 1, 2014 through June 30, 2015, which included a six-month automatic extension through December 31, 2015, for the provision of school-based mental health services for SED students.

Approval of Novation Contract #74-321-9 replaces the automatic extension under the prior Contract, allowing the Contractor to continue providing services through June 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, there will be fewer school-based mental health services available to SED students and their families possibly resulting in the need for higher levels of care.

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Children Ready For and Succeeding in School"; "Families that are Safe, Stable, and Nurturing"; and "Communities that are Safe and Provide a High Quality of Life for Children and Families". Expected program outcomes include an increase in positive social and emotional development as measured by the Child and Adolescent Functional Assessment Scale (CAFAS).



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Purchase Order with Qiagen, Inc.

RECOMMENDATION(S):

Approve and authorize the Purchasing Agent, on behalf of Health Services Department, to execute a blanket Purchase Order with Qiagen, Inc., in the amount of \$300,000.00 to purchase Quantiferon collection blood tubes and test kits for the period December 1, 2015 to November 30, 2016.

FISCAL IMPACT:

Total cost of \$300,000 is included in the fiscal year 2015-16 budget. Funds will come from both patient billing (private pay, MediCal, MediCare, etc.) and a \$65,000 contract with Chevron Corp. to perform this testing for their employees.

BACKGROUND:

Qiagen Inc. has been used by the Health Services Department for over ten (10) years. Qiagen provides the reagents required for use with testing instruments in our Public Health Laboratory. The reagents are necessary for specimens to be tested for tuberculosis, both active and latent infections. The Quantiferon test is a specific blood test that detects TB antigen in the blood of patients who have been exposed to the tuberculosis organism. A positive test would alert the provider to provide treatment and alleviate disease in later years.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Daniel Peddycord,
313-6712

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios

CONSEQUENCE OF NEGATIVE ACTION:

The consequences of negative actions would be that the health care system would not be able to detect TB antigen in those patients who have been exposed, resulting in higher health care cost when they develop disease in later years. The tests would then need to be conducted by outside labs at a greater cost to the County. Public Heath Lab also uses the reagents purchased from Qiagen to conduct similar testing for the Chevron Corporation which generates revenue for CCC. Without the reagents we would not be able to conduct the tests.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Contract #23-419-10 with Perseus Corporation

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract #23-419-10 with Perseus Corporation, a corporation, in an amount not to exceed \$139,000, to provide consultation and technical assistance to the Health Services Department on third party cost reports, for the period from November 1, 2015 through October 31, 2016.

FISCAL IMPACT:

This Contract is funded 100% Hospital Enterprise Fund I. (Rate increase)

BACKGROUND:

On December 2, 2014, the Board of Supervisors approved Contract #23-419-9 with Perseus Corporation, for the period from November 1, 2013 through October 31, 2015, for the provision of consultation and technical assistance on preparation and submission of third party cost reports including, acting as the primary liaison between the Health Services Department and the State and Federal government with regard to all interactions, audits, review of cost reports and/or claims filed. Approval of Contract #23-419-10 will allow Contractor to continue providing services through October 31, 2016.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Patrick Godley,
925-957-5410

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: K Cyr, N Rios

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, the Contractor will not provide oversight and review of third party cost reports that the Department is required to file with federal and state agencies.

CHILDREN'S IMPACT STATEMENT:

Not Applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Blanket Purchase Order with Curascript, Inc.

RECOMMENDATION(S):

Approve and authorize the Purchasing Agent, on behalf of the Health Services Department, to execute a Purchase Order with Curascript, Inc. in an amount not to exceed \$900,000, for the hormone implants to be used at the Contra Costa Regional Medical Center, for the period December 1, 2015 through November 30, 2017.

FISCAL IMPACT:

100% funding is included in the Hospital Enterprise Fund I Budget.

BACKGROUND:

Curascript, Inc. is a pharmaceutical company that provides hormone implants used in the Obstetrics/Gynecology Units at the Contra Costa Regional Medical Center and Health Centers.

CONSEQUENCE OF NEGATIVE ACTION:

If this Purchase Order is not approved, we will not be able to take care of our patient population at the Contra Costa Regional Medical Center and Health Centers.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Anna Roth,
370-5101

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios, Crystal Grayson



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Blanket Purchase Order with Watermark Medical, Inc.

RECOMMENDATION(S):

Approve and authorize the Purchasing Agent, on behalf of the Health Services Department, to execute a Purchase Order with Water Mark Medical, Inc., in the amount of \$216,000, for the rental of Ares Home Sleep Testing (HST), Sleep Apnea Evaluation Systems at Contra Costa Medical Center and Health Centers, for the period from September 1, 2015 through August 31, 2016.

FISCAL IMPACT:

100% funding is included in the Hospital Enterprise Fund I Budget.

BACKGROUND:

There has been an increase in the number of patients needing to be tested to rule out Obstructive Sleep Apnea. This increase has been caused by not only the general recognition of the disorder, but also the delay caused by the testing only being conducted in one location (Martinez). The additional devices will be taken to other service areas.

CONSEQUENCE OF NEGATIVE ACTION:

If this purchase order is not approved, there will be a delay of the patients that need to be tested.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Anna Roth,
370-5101

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios, Crystal Grayson



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Novation Contract #24-778-24 with FamiliesFirst, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Novation Contract #24-778-24 with FamiliesFirst, Inc., a non-profit corporation, in an amount not to exceed \$734,160, to provide mental health services to seriously emotionally disturbed (SED) children including school- and community-based services, and Therapeutic Behavioral Services (TBS) for the period from July 1, 2015 through June 30, 2016. This Contract includes a six-month automatic extension through December 31, 2016, in an amount not to exceed \$367,080.

FISCAL IMPACT:

This Contract is funded 30% Federal Financial Participation; 30% County Mental Health Realignment; 40% by Mt. Diablo Unified School District. (No rate increase)

BACKGROUND:

This Contract meets the social needs of County's population by providing a variety of mental health services to SED children at schools located within Mt. Diablo Unified

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Cynthia Belon,
957-5201

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: E Suisala, N Rios

BACKGROUND: (CONT'D)

School District as well TBS for County-referred children in need of short-term behavioral intervention.

On December 2, 2014, the Board of Supervisors approved Novation Contract #24-778-23 with FamiliesFirst, Inc., for the period from July 1, 2014 through June 30, 2015, which included a six-month automatic extension through December 31, 2015, for the provision of mental health services to SED children including school- and community-based services, day treatment and TBS.

Approval of Novation Contract #24-778-24 replaces the automatic extension under the prior Contract and allows Contractor to continue to provide services through June 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, SED children will not receive the mental health services as needed and will experience out of County and out of State placement.

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Children Ready For and Succeeding in School"; "Families that are Safe, Stable, and Nurturing"; and "Communities that are Safe and Provide a High Quality of Life for Children and Families". Expected program outcomes include an increase in positive social and emotional development as measured by the Child and Adolescent Functional Assessment Scale (CAFAS).



**Contra
Costa
County**

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Novation Contract #74-031-21 with Summitview Child and Family Services, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Novation Contract #74-031-21 with Summitview Child and Family Services, Inc., a non-profit corporation, in an amount not to exceed \$200,000, to provide rehabilitative day treatment, medication support, mental health treatment, and therapeutic behavioral services for seriously emotionally disturbed (SED) adolescents, for the period from July 1, 2015 through June 30, 2016. This Contract includes a six-month automatic extension through December 31, 2016, in an amount not to exceed \$100,000.

FISCAL IMPACT:

This Contract is funded 50% Federal Financial Participation and 50% Mental Health Realignment. (No rate increase)

BACKGROUND:

This Contract meets the social needs of County's population by providing residential day treatment services including: rehabilitative day treatment, medication support, and other mental health services to Medi-Cal eligible, SED adolescents.

On November 2, 2014, the Board of Supervisors approved Novation Contract #74-031-20 with Summitview Child and Family Services, Inc., for the period from July 1, 2014 through June 30, 2015, which included a six-month automatic extension through December 31, 2015, for the provision of rehabilitative day treatment, medication support, mental health treatment, and TBS.

☒ APPROVE

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☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Cynthia Belon,
957-5201

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: E Suisala, N Rios

BACKGROUND: (CONT'D)

Approval of Novation Contract #74-031-21 replaces the automatic extension under the prior Contract and allows the Contractor to continue providing services, through June 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, SED children will not have access to Contractor's services and may require higher levels of care.

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Children Ready For and Succeeding in School"; "Families that are Safe, Stable, and Nurturing"; and "Communities that are Safe and Provide a High Quality of Life for Children and Families". Expected program outcomes include an increase in positive social and emotional development as measured by the Child and Adolescent Functional Assessment Scale (CAFAS).



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Contract #26-786-3 with Peter A. Castillo, M.D., Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract #26-786-3 with Peter A. Castillo, M.D., Inc., a corporation, in an amount not to exceed \$382,000, to provide urogynecology services at Contra Costa Regional Medical Center and Health Centers (CCRMC) for the period from December 1, 2015 through November 30, 2016.

FISCAL IMPACT:

This Contract is funded 100% Hospital Enterprise Fund I. (No rate increase)

BACKGROUND:

In December 2014, the County Administrator approved and the Purchasing Services Manager executed Contract #26-786 (as amended by Contract Amendments #26-786-1 and #26-786-2) with Peter A. Castillo, M.D., for the provision of urogynecology services including administrative duties and medical and/or surgical procedures at CCRMC for the period from December 1, 2014 through November 30, 2015.

Approval of

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Samir Shah, M.D.,
925-370-5525

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: K Cyr, N Rios

BACKGROUND: (CONT'D)

Contract #26-786-3 will allow Contractor to continue providing urogynecology services at CCRMC through November 30, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, patients requiring urogynecology services will not have access to Contractor's services.

CHILDREN'S IMPACT STATEMENT:

Not Applicable



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Amendment #26-761-1 with Rawel Randhawa, M.D.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract Amendment Agreement #26-761-1 with Rawel Randhawa, M.D., an individual, effective December 15, 2015, to amend Contract #26-761, to increase the payment limit by \$112,000, from \$900,000 to a new payment limit of \$1,012,000, with no change in the original term of March 1, 2014 through February 29, 2016.

FISCAL IMPACT:

This amendment is funded 100% by Hospital Enterprise Fund I. (No rate increase)

BACKGROUND:

On March 25, 2014, the Board of Supervisors approved Contract #26-761 with Rawel Randhawa, M.D. for the provision of gastroenterology services at Contra Costa Regional Medical Center and Contra Costa Health Centers, for the period from March 1, 2014 through February 29, 2016.

At the time of negotiations, the payment limit was based on target levels of utilization. However, at the request of the Division, the Contractor will provide additional gastroenterology services. Therefore, the Division is

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☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Samir Shah, MD,
370-5525

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios

BACKGROUND: (CONT'D)

recommending a contract payment limit increase for the year two term of the agreement.

Approval of Contract Amendment Agreement #26-761-1 will allow the Contractor to provide additional gastroenterology clinic and on-call coverage and surgical procedures through February 29, 2016.

CONSEQUENCE OF NEGATIVE ACTION:

If this amendment is not approved, Contractor will not be able to provide additional gastroenterology services at Contra Costa Regional Medical Center and Contra Costa Health Centers.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: Philip F. Kader, County Probation Officer
Date: November 17, 2015

Subject: Contract with STAND! for Families Free of Violence

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Probation Officer, or designee, to execute a contract with STAND! For Families Free of Violence in the amount of \$107,238 to provide parenting training for participants ages 14-25 who are involved with the criminal justice system, for the period of July 1, 2015 through June 30, 2016.

FISCAL IMPACT:

\$107,238; 100% State Proud Parenting Grant Program. Funding for Parenting Training is received from the Proud Parenting Grant awarded by the Board of State and Community Corrections and will not require any General Funds.

BACKGROUND:

In June 2015 the Contra Costa County Probation Department applied to the Board of State and Community Corrections for funds to continue facilitation of Proud Parenting Programs for young fathers and mothers involved in the criminal justice system, for the period July 1, 2015 through June 30, 2016. The Department was successful in its application and will now enter into a contract with STAND! to continue services for youth ages 14-25 involved in the criminal justice system.

CONSEQUENCE OF NEGATIVE ACTION:

The Probation Department will be unable to contract with STAND! For Families Free of Violence for Proud Parenting services.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Danielle Fokkema,
925-313-4195

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CHILDREN'S IMPACT STATEMENT:

Services provided will improve the quality of life for youth in the juvenile justice system and their children and provide a service to which they might not otherwise have access.



Contra
Costa
County

To: Board of Supervisors

From: Ed Woo, Chief Information Officer

Date: November 17, 2015

Subject: CONTRACT WITH ORACLE AMERICA, INC., FOR PEOPLESOFT ENTERPRISE SOFTWARE LICENSES, MAINTENANCE AND SUPPORT

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Chief Information Officer, or designee, to execute an Executable Quote and Oracle Master Agreement with Oracle America, Inc., in an amount not to exceed \$313,262 for PeopleSoft Enterprise software licenses, and maintenance and support for the period December 1, 2015 through November 30, 2016.

FISCAL IMPACT:

The \$313,262 is budgeted under Org #1695 FY 2014-2015 and FY 2015-2016, supported through countywide inter-departmental charges to all departments.

BACKGROUND:

The PeopleSoft Human Capital Management (HCM) system is currently used to process the county's payroll, in addition to maintaining Human Resources and Employee Benefits records.

During the Fit Gap Analysis, it was proposed to implement additional functionality for certain HCM modules, which will enable the County to streamline business processes. The modules that they propose we implement are: (1) Benefits Administration, which would minimize the current manual and labor intensive benefits process; (2) eDevelopment, which would allow greater employee self-service; and (3) eProfile Manager's Desktop, which would enable managers to have workflow and reporting capabilities.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF
SUPERVISORS**

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

, County Administrator and Clerk of the Board of Supervisors

Contact:

By: , Deputy

cc:

BACKGROUND: (CONT'D)

In accordance with Administrative Bulletin No 611.0, County Departments are required to obtain Board approval for single item purchases over \$100,000. The County Administrator's Office has reviewed this request and recommends approval.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to approve the agreement will result in an inability to automate the Benefits Administration and the Employee Self-service modules on the newly updated County payroll system, which will increase the risk that the County will be unable to process employee Payroll, Human Resources and Employee Benefits timely and accurately.



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 17, 2015

Subject: Ayers Ranch Property Tax Exchange

RECOMMENDATION(S):

ADOPT Resolution No. 2015/415 determining the allocation of property tax between the County of Contra Costa and the City of Concord for the Ayers Ranch Area.

FISCAL IMPACT:

This tax sharing proposal would provide for the County to share a portion of its current share of property taxes in the Ayers Ranch Area with the City of Concord. Under the terms of the agreement, the County will transfer 70% of its base property tax revenue and 70% of its increment revenues from the area to the City of Concord, estimated at \$130,000 annually, upon annexation. (100% County General Fund)

BACKGROUND:

The proposed Ayers Ranch Area Reorganization to the City of Concord involves the future annexation of +/- 188.6 acres that are within the sphere of influence of the City and generally located southeast of Bailey Rd, northeast of Concord Blvd., southwest of Concord Naval Weapons Station and northwest of Ayers Rd. Included in the property tax exchange agreement is the Laurel Place/Pleasant View Annexation to the City of Concord (LAFCO 09-07) that was approved by LAFCO on August 12, 2015. LAFCO 09-07 includes 5.86 acres at the northwesterly end of Laurel Drive.

Ayers Ranch is an unincorporated island surrounded by the City of Concord containing approximately 306 residential parcels. Most of the residential properties in the Ayers Ranch area were originally constructed with septic systems. Septic systems have been failing, creating the need for these property owners to either repair their septic systems or receive sanitary sewer service from the City of Concord.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Rich Seithel
674-7869

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Bob Campbell, Valerie Barone, Eric Gelston, John Osborne

The City is considering annexation of the Ayers Ranch Area in order to provide a logical boundary and to facilitate the provision of City services, in particular sanitary sewer service, in accordance with Government Code Section 56133. Government Code Section 56133 states:

- 1.

BACKGROUND: (CONT'D)

A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county;

- *The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization, and;*
- *The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory.*

On September 8, 2015, the City of Concord adopted Resolution # 15-59 establishing a non-binding strategy to annex the Ayers Ranch Area within the sphere of influence by the year 2030. The application of the proposed 70/30 property tax allocation/exchange will occur once the entire Ayers Ranch Area is annexed to the City of Concord. The proposed property tax exchange will satisfy Government Code Section 56133 and allow the City to apply for, and the Commission to consider, Out of Agency Service Agreements until the whole of Ayers Ranch is annexed. As noted above, the City of Concord has set the goal and timeline for completing the annexation of Ayers Ranch by the year 2030. Attached is a map of the Ayers Ranch Area and the City of Concord Resolution # 15-59.

CONSEQUENCE OF NEGATIVE ACTION:

Should the Board elect not to adopt Resolution No. 2015/415, the City of Concord will be unable to apply for an Out of Agency Service Agreement to provide sanitary sewer service in replacement of failing septic systems.

ATTACHMENTS

Resolution No. 2015/415

Exhibit A Map of Ayers Area

Concord Resolution

LAFCO Reso 09-07

LAFCO 09-07 map and legal description

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/415

In the matter of Determination of Property Tax Exchange for the Ayers Ranch Reorganization to the City of Concord

WHEREAS, Section 99 of the Revenue and Taxation Code provides that a city and county shall agree by resolution to exchange property tax revenues among themselves and any affected agencies in the event of a jurisdictional change; and

WHEREAS, the Ayers Ranch Reorganization, involving annexation of territory to the City of Concord, is excluded from the application of the master property tax transfer agreement (County Resolution 80/1369) between the City and the County because the assessed value exceeds \$10 million dollars; and

WHEREAS, the City of Concord intends to annex the territory known to the parties as the Ayers Ranch Reorganization Area (hereafter the "Ayers Ranch Area") by the year 2030; and

WHEREAS, the Ayers Ranch Area includes substantially the territory described in attached Exhibit A; and

WHEREAS, the City of Concord and the County recognize that properties within the Ayers Ranch Area have a need for City services; and

WHEREAS, the Ayers Ranch Area includes County Service Areas P-6 and L-100 which will be required to be detached at the time of annexation; and

WHEREAS, parcels outlined in attached LAFCO 09-07 are to be included in the property tax exchange described in this resolution upon successful annexation of the entire Ayers Ranch Area.

Now, Therefore, Be It Resolved:

In accordance with Section 99 of the Revenue and Taxation Code, the property tax transfer for the affected agencies upon the complete annexation of the Ayers Ranch Area outlined in Exhibit A to the City of Concord shall be:

a. Initial Year

1. Base tax. City shall be allocated 70% of the County's base tax for the affected territory and the County shall be allocated the balance.
2. Annual tax increment. City shall have an annual tax increment allocation factor established for each tax rate area in the affected territory equal to 70% of the County's annual tax increment allocation factor for the tax rate area. The County's new annual tax increment allocation factor shall be its former factor minus the City's factor as derived in the preceding sentence.

b. Subsequent Years.

1. In each subsequent year, City's and County's allocation of property taxes from the affected territory will be made as set forth in Revenue and Taxation Code Sections 96.1 and 96.5. Each agency each year will be allocated its base tax (i.e. the tax allocated to the agency in the preceding year including the previous year's annual tax increment) plus its share of the current year's annual tax increment for the affected territory, such share being calculated by multiplying the tax resulting from growth in assessed valuation in the affected territory during the year times the agency's annual tax increment allocation factor(s) for that territory. The result (i.e. base plus increment) becomes the base tax for the next year's tax allocation calculations. Each agency's base tax and annual tax increment allocation factors may be

subsequently modified only through negotiated exchanges in accordance with Revenue and Taxation Code Sections 99 and/or 99.01 for subsequent jurisdictional changes.

c. County Service Areas Detachment.

100% of County Service Areas P-6 and L-100 allocations are to be transferred to City upon annexation of the Ayers Ranch Area and detachment of CSA P-6 and L-100.

d. Property Tax Allocation Agreement.

1. City and County agree that this Agreement shall apply to determine the allocation between the parties of property tax revenue generated from the Reorganization Area in lieu of the negotiation process set forth in California Revenue and Taxation Code Section 99(e).

This resolution does not change the property tax revenues accruing to other agencies serving the subject territory or the affected districts' rights to collect taxes for existing bonded indebtedness.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

Contact: Rich Seithel 674-7869

ATTESTED: November 17, 2015

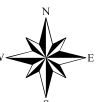
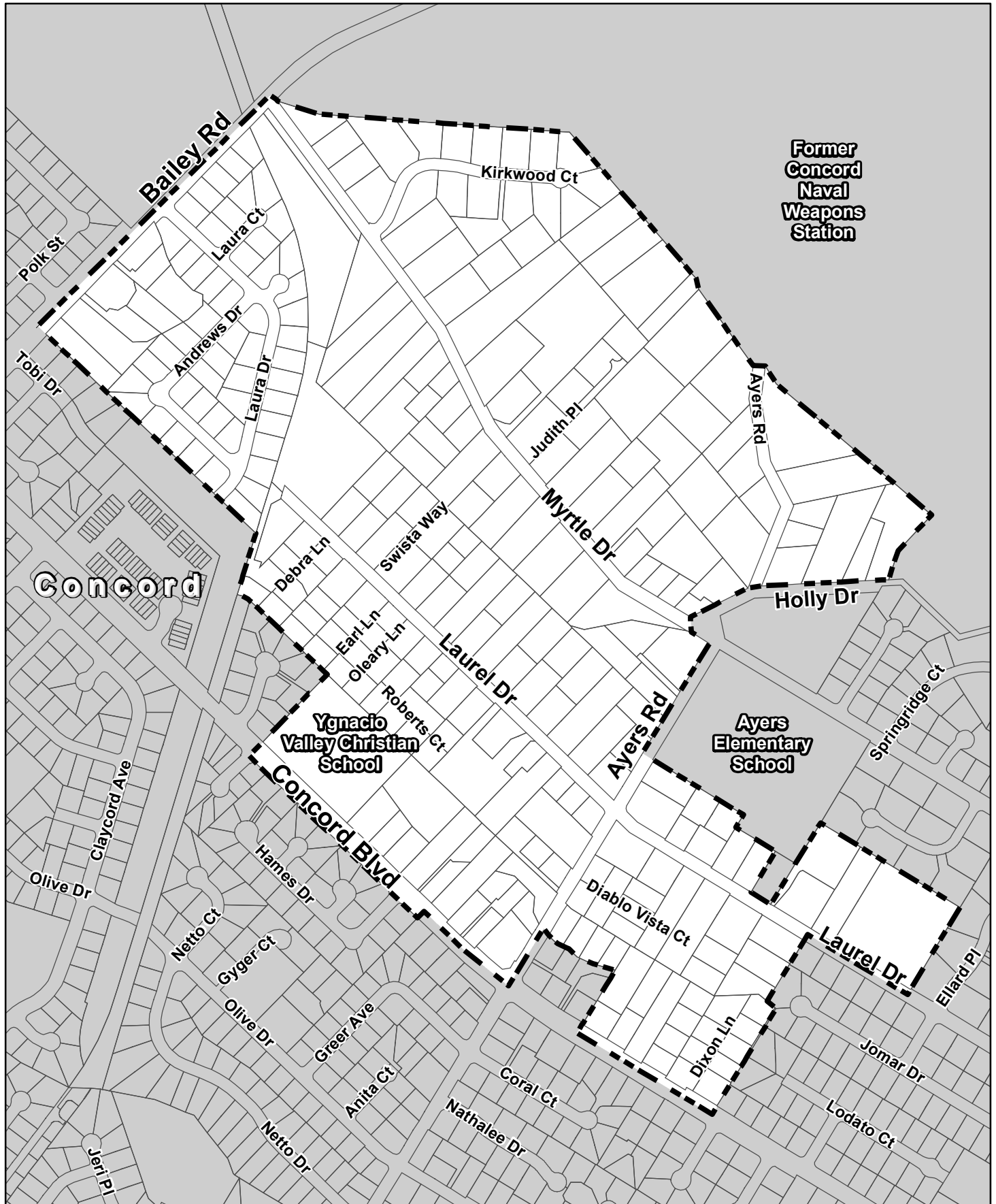
David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Bob Campbell, Valerie Barone, Eric Gelston, John Osborne

Ayers Ranch Area

Exhibit A



**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Establishing a Non-Binding Strategy to
Annex the "Ayers Ranch" Sphere of Influence by the
Year 2030 in a Single Phase Approach**

Resolution No. 15-59

WHEREAS, orderly growth and development is essential to the social, fiscal, and economic well-being of the City of Concord; and

WHEREAS, in the past the City Council of the City of Concord (Council) has pursued annexations within a portion of the City of Concord's Sphere of Influence (SOI) commonly known as Ayers Ranch; and

WHEREAS, the City Council recognizes that properties within the Ayers Ranch Sphere of Influence (hereafter the "Ayers Ranch area" and identified in attached Exhibit A) have a need for City services; and

WHEREAS, the City of Concord's General Plan and Zoning Map identifies land use and pre-zoning for the Ayers Ranch area; and

WHEREAS, the City of Concord plans to submit application(s) to the Contra Costa Local Agency Formation Commission ("LAFCO") in the foreseeable future for annexation of territory known to the parties as the Ayers Ranch area, which would be an annexation of substantially all of the territory described in Exhibit A; and

WHEREAS, the City Council believes that a unified non-binding single phase process as depicted on Exhibit A attached, is the most orderly process for annexing Ayers Ranch within the City's Sphere of Influence; and

WHEREAS, the City Council has set the goal and timeline for completing the annexation of Ayers Ranch by the year 2030, subject to conformity with all applicable legal requirements; and

WHEREAS, the City Council hereby directs staff to continue to conduct public outreach to the residents of the Ayers Ranch area on a regular basis, to inform them of the benefits and services that the City of Concord provides; and

//

1 **WHEREAS**, the City Council hereby directs staff to continue to inform the residents of the
2 Ayers Ranch SOI of the cost and environmental consequences of failing septic systems in relation to
3 the affordable long-term benefit of receiving City sewer services; and

4 **WHEREAS**, the City Council hereby directs staff to continue to inform and promote to the
5 residents of the Ayers Ranch SOI the fact that their annexation to the City of Concord will not result
6 in an increase to their property taxes; and

7 **WHEREAS**, the City Council hereby directs staff to report back to the Council on an annual
8 basis regarding their public outreach efforts and the status of any potential annexation of the Ayers
9 Ranch Area.

10 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD, DOES**
11 **RESOLVE AS FOLLOWS**

12 establishing a non-binding strategy to annex the Ayers Ranch Sphere of Influence by the year
13 2030 in a single phase approach.

14 **Section 1.** This resolution shall become effective immediately upon its passage and adoption.

15 **PASSED AND ADOPTED** by the City Council of the City of Concord on September 8, 2015,
16 by the following vote:


17 **AYES:** Councilmembers - E. Birsan, L. Hoffmeister, R. Leone, T. Grayson

18 **NOES:** Councilmembers - D. Helix


19 **ABSTAIN:** Councilmembers - None

20 **ABSENT:** Councilmembers - None

21 **I HEREBY CERTIFY** that the foregoing Resolution No. 15-59 was duly and regularly
22 adopted at a regular meeting of the City Council of the City of Concord on September 8, 2015.

23 
24 Joelle Fockler, CMC
City Clerk

25 **APPROVED AS TO FORM:**

26 
27 Mark S. Coon
City Attorney

I certify that this is a true copy of
a document on file in this office.

28 Attachment: Exhibit A - Ayers Ranch Sphere of Influence Area

 
City Clerk
City of Concord, California

RESOLUTION NO. 09-07

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
LAUREL PLACE/PLEASANT VIEW ANNEXATION TO THE CITY OF CONCORD AND
CORRESPONDING DETACHMENT FROM COUNTY SERVICE AREA P-6**

WHEREAS, a proposal to annex territory to the City of Concord was filed with Executive Officer of the Contra Costa Local Agency Formation Commission by an affected landowner pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of this proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the Laurel Place/Pleasant View Annexation proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, at a public hearing on August 12, 2015, the Commission amended the proposal to include the concurrent detachment of the subject property from County Service Area (CSA) P-6; and

WHEREAS, the Local Agency Formation Commission determines the Laurel Place/Pleasant View Annexation proposal to be in the best interests of the affected area and the organization of local governmental agencies within Contra Costa County;

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. Determine that Contra Costa County, as Lead Agency, prepared and adopted a Mitigated Negative Declaration relating to the Laurel Place Lots pursuant to the California Environmental Quality Act (CEQA).
2. Determine that Contra Costa LAFCO, as a Responsible Agency, prepared an Addendum to the County's Mitigated Negative Declaration and has considered the Addendum with the adopted Mitigated Negative Declaration.
3. Said boundary reorganization is hereby approved.
4. The subject proposal is assigned the distinctive short-form designation:

**LAUREL PLACE/PLEASANT ANNEXATION TO THE CITY OF CONCORD AND
CORRESPONDING DETACHMENT FROM COUNTY SERVICE AREA P-6**

5. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.

Contra Costa LAFCO
Resolution No. 09-07

6. The subject territory shall be liable for any existing bonded indebtedness of the annexing agency, if applicable.
7. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
8. Prior to recordation, the applicant shall deliver an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
9. LAFCO will defer recordation of annexation map for up to one year (August 2, 2016) to allow the developer time to complete site and house construction and obtain necessary County permits.
10. Said territory is found to be inhabited.
11. The proposal has 100% landowner consent; no affected landowners/registered voters opposed the annexation. Said conducting authority proceedings are hereby waived.
12. All subsequent proceedings in connection with this boundary reorganization shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

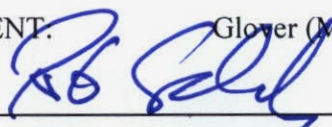
PASSED AND ADOPTED THIS 12th day of August 2015, by the following vote:

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin

NOES: none

ABSTENTIONS: none

ABSENT: Glover (M), Piepho (M)



ROB SCHRODER, CHAIR, CONTRA COSTA LAFCO

I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.

Dated: August 12, 2015



Lou Ann Texeira, Executive Officer

EXHIBIT "A"

ANNEXATION NO. XX - YY

ANNEXATION TO THE CITY OF CONCORD

GEOGRAPHIC DESCRIPTION

All that certain property, situate in portions of Section 3, Township 1 North, Range 1 West and Section 34, Township 2 North, Range 1 West, Mount Diablo Base and Meridian, in the County of Contra Costa, State of California, described as follows:

Beginning at the northwesterly terminus of the centerline of Laurel Drive, 50.00 feet wide, said point being 1,935.61 feet northwesterly from the centerline intersection of Ayers Road;

Thence, (1) South $16^{\circ} 51' 56''$ West 28.05 feet;

Thence, (2) South $46^{\circ} 09' 54''$ East 246.07 feet;

Thence, (3) South $43^{\circ} 48' 45''$ West 387.64 feet, to the Concord City Limit;

Thence, continuing along the Concord border, (4) North $46^{\circ} 10' 46''$ West 52.18 feet;

Thence, (5) North $46^{\circ} 8' 18''$ West, 10.80 feet;

Thence, (6) on a tangent curve concave to the southwest, having a radius of 56.30 feet, through a central angle of $26^{\circ} 59' 46''$, an arc length of 26.53 feet and a chord distance of 26.28 feet to a point on said curve, a radial (7) to said point bearing North $16^{\circ} 51' 56''$ East;

Thence, (8) North $73^{\circ} 8' 4''$ West, 24.82 feet;

Thence, (9) North $16^{\circ} 51' 56''$ East, 268.00 feet;

Thence, (10) departing from the Concord border, North $16^{\circ} 51' 56''$ East, 594.52 feet;

Thence, (11) on a tangent curve concave to the northwest, having a radius of 1,158.63 feet, through a central angle of $11^{\circ} 44' 39''$, an arc length of 237.49 feet and a chord distance of 237.07 feet to a point on said curve, a radial (12) to said point bearing South $84^{\circ} 52' 43''$ East;

Thence, (13) South $73^{\circ} 08' 04''$ East 84.25 feet;

Thence, (14) South 16°51' 56" West 149.93 feet;

Thence, (15) South 46°10' 11" East 414.40 feet;

Thence, (16) South 43°50' 05" West 402.65 feet;

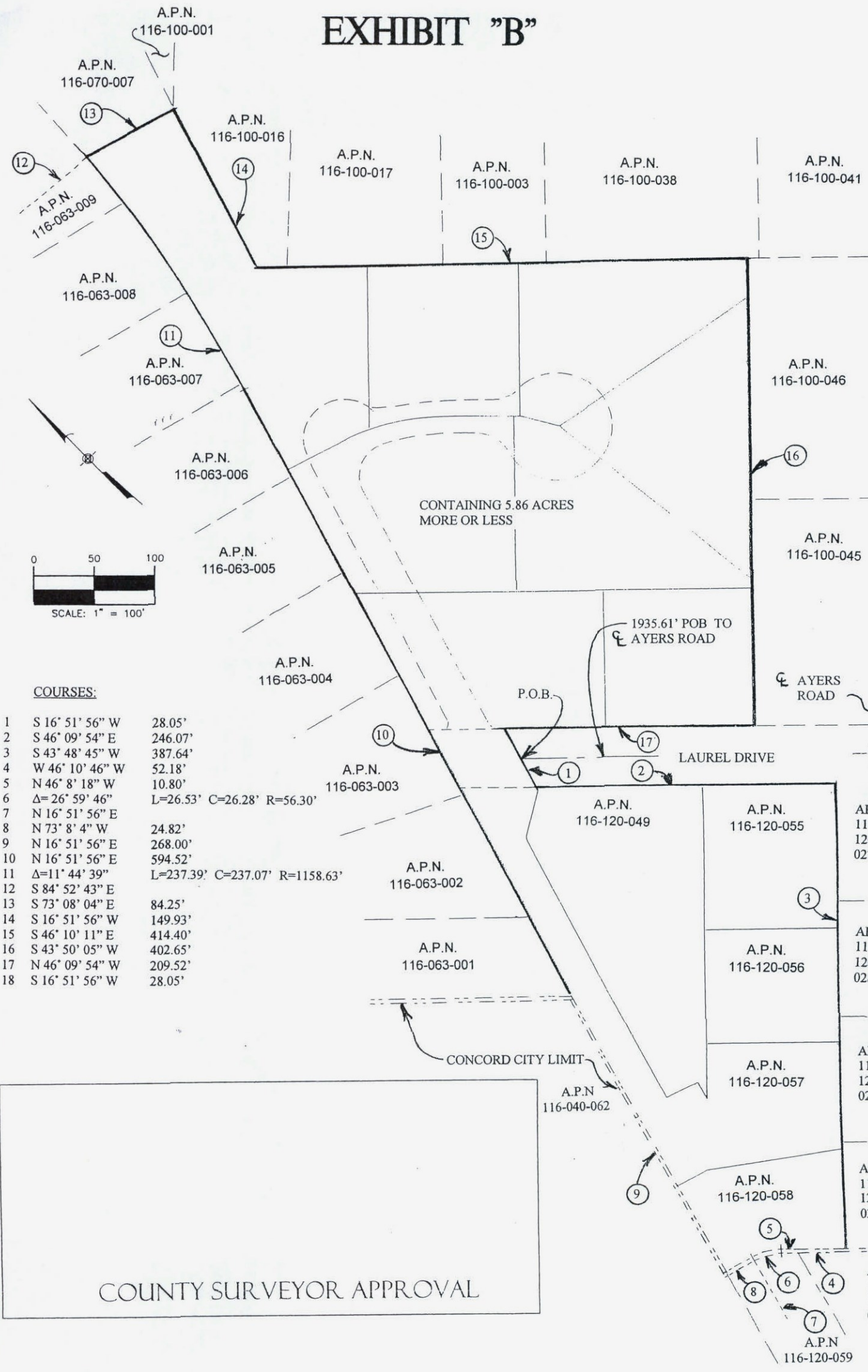
Thence, (17) North 46°09' 54" West 209.52 feet;

Thence, (18) South 16° 51' 56" West 28.05 feet to the centerline of said Laurel Drive and the Point of Beginning and containing 5.86 acres of land, more or less.

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

County Surveyor Approval

EXHIBIT "B"





**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 17, 2015

Subject: Note Sale Resolution - Golden Oak Manor, Oakley

RECOMMENDATION(S):

1. ADOPT Resolution No. 2015/434 authorizing the issuance of a Multifamily Housing Revenue Note in a principal amount not to exceed \$5,800,000 to finance the acquisition and rehabilitation of Golden Oak Manor in Oakley (the "Development").
2. FIND and DECLARE that the recitals contained in the proposed Resolution are true and correct.
3. AUTHORIZE the issuance of a County of Contra Costa Multifamily Housing Revenue Note (Golden Oak Manor) Series 2015A in an aggregate principal amount not to exceed \$5,800,000.
4. APPROVE the form of, and authorize the County to execute, the Funding Loan Agreement between the County of Contra Costa (the "County") and Citibank, N.A. (the "Funding Lender").
5. APPROVE the form of, and authorize the County to execute, the Borrower Loan Agreement between the County and Golden Oak Manor II, L.P. (the "Borrower").
6. APPROVE the form of, and authorize the County to execute, the Regulatory Agreement and Declaration of Restrictive Covenants between the County and Borrower.
7. APPROVE the form of, and authorize the County to execute, the Assignment of Deed of Trust by the County to the Funding Lender.
8. AUTHORIZE the Designated Officers of the County to execute and deliver the Note to the Funding Lender.
9. APPOINT Quint & Thimmig, LLP as bond counsel for the transaction.
10. AUTHORIZE and DIRECT the Designated Officers of the County to do any and all things and take any all actions, and execute and deliver any and all certificates, agreements, and other documents which the officer may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Note in accordance with the Resolution.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Kristen Lackey (925)
674-7888

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

FISCAL IMPACT:

No impact to the General Fund. At the closing for the Note, the County is reimbursed for costs incurred in the issuance process. Annual expenses for monitoring of Regulatory Agreement provisions ensuring units in the Development will be rented to low income households are accommodated in the documents for the Note. The Note will be solely secured by and payable from revenues (e.g. Development rents, reserves, etc.) pledged under the Note documents. No County funds are pledged to secure the Note.

BACKGROUND:

The recommended action is the adoption of a Resolution by the Board, as the legislative body of the County, authorizing the issuance of a Multifamily Housing Revenue Note, the proceeds of which will be used to finance the acquisition and rehabilitation of Golden Oak Manor, a 50 unit senior housing development located at 5000 Kelsey Lane in Oakley. The development will include 49 units reserved for low income seniors.

The ownership entity for the development will be Golden Oak Manor II, L.P., a California limited partnership with Golden Oak Manor EAH, LLC serving as managing general partner of the Borrower. Golden Oak Manor EAH, LLC is an affiliate of EAH, Inc., a local non-profit housing developer that has developed over 7,000 units of housing over the past 46 years. Merritt Community Capital Corporation will be the tax credit investor special limited partner.

On May 5, 2015, the Board of Supervisors adopted Resolution No. 2015/138 expressing the Board's intent to issue multi-family housing revenue bonds for the Development. That Resolution authorized the submittal of an application by the County for tax-exempt private activity bond authority from the California Debt Limit Allocation Committee. Subsequent to the adoption of that Resolution, the County, as required by Section 147(f) of the Internal Revenue Code, held a noticed public hearing to permit interested parties to comment on the proposed financing and the Development. That hearing was held on May 26, 2015 with no comments received from the public. The Board adopted Resolution No. 2015/193 on June 9, 2015 to authorize proceeding with the issuance of the Note pursuant to Section 147(f) of the Internal Revenue Code.

On September 16, 2015, the California Debt Limit Allocation Committee awarded the County authority to issue the Note in a maximum principal amount of \$5,800,000. That authority will be used to issue and sell the Note directly to Citibank, N.A., with the proceeds of the Note to be used to fund a loan by the County to Golden Oak Manor II, L.P. In addition to the proceeds of the Note, the Development will utilize other forms of financing detailed in Attachment A. The transaction is expected to close by December 16, 2015.

CONSEQUENCE OF NEGATIVE ACTION:

Negative action would prevent the County from issuing a Multifamily Housing Revenue Note in order to provide a loan to Golden Oak Manor II, L.P. to finance the acquisition and rehabilitation of Golden Oak Manor.

ATTACHMENTS

Resolution No. 2015/434

Att E Golden Oak Assignment

Att A Golden Oak Plan of Finance

Att B Golden Oak FLA

Att C Golden Oak BLA

Att D Golden Oak RA

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐

NO: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2015/434

RESOLUTION AUTHORIZING THE ISSUANCE OF A MULTIFAMILY HOUSING REVENUE NOTE IN A PRINCIPAL AMOUNT NOT TO EXCEED \$5,800,000 TO FINANCE THE ACQUISITION AND REHABILITATION OF A MULTIFAMILY RENTAL HOUSING PROJECT FOR GOLDEN OAK MANOR II, L.P., AND OTHER MATTERS RELATING THERETO

WHEREAS, the County of Contra Costa (the "County") is authorized pursuant to Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act") to issue bonds and notes for the purpose of financing multifamily rental housing facilities; and

WHEREAS, Golden Oak Manor II, L.P., a California limited partnership (the "Borrower") has requested that the County issue a multifamily housing revenue note (the "Note") and loan the proceeds of the Note to the Borrower to finance the acquisition and rehabilitation by the Borrower of a 50 unit senior residential rental housing development (the "Development") located at 5000 Kelsey Lane in Oakley, California; and

WHEREAS, on May 26, 2015, the Community Development Bond Program Manager of the County held a public hearing on the proposed issuance of the Note by the County for, and the financing, ownership and operation of, the Development, as required under the provisions of the Internal Revenue Code (the "Code") applicable to tax-exempt obligations, following published notice of such hearing, and communicated to the Board of Supervisors of the County all written and oral testimony received at the hearing; and WHEREAS, on June 9, 2015, the Board of Supervisors of the County adopted Resolution No. 2015/193 authorizing the issuance of the Note to finance the Development in satisfaction of public approval requirements of the Code; and

WHEREAS, the California Debt Limit Allocation Committee adopted its Resolution No. 15-103 on September 16, 2015 allocating \$5,800,000 of the State of California ceiling on private activity bonds for 2015 to the County for the purpose of financing the Development; and

WHEREAS, in order to assist in the financing of the Development, the County has determined to issue the Note, as authorized by the Act, and sell the Note to Citibank, N.A. (the "Bank") pursuant to a funding loan agreement (the "Funding Loan Agreement") between the County and the Bank, and to use the proceeds of the sale of the Note to the Bank to make a loan to the Borrower pursuant to a borrower loan agreement (the "Borrower Loan Agreement") between the County and the Borrower, with amounts due from the County to the Bank under the Note and the Funding Loan Agreement to be payable solely from amounts paid by the Borrower under the Borrower Loan Agreement; and

WHEREAS, there have been prepared various documents with respect to the issuance by the County of the Note, copies of which are on file with the Clerk of the Board, and the Board of Supervisors now desires to approve the issuance of the Note and the execution and delivery of such documents by the County; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Note as contemplated by this Resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Contra Costa, as follows:

Section 1. The Board of Supervisors hereby finds and declares that the foregoing recitals are true and correct.

Section 2. Pursuant to the Act and the Funding Loan Agreement, the Note designated as "County of Contra Costa Multifamily

Housing Revenue Note (Golden Oak Manor), Series 2015A” in an aggregate principal amount of not to exceed \$5,800,000, is hereby authorized to be issued. The Note shall be executed by the manual or facsimile signature of the Chair of the Board of Supervisors (the “Chair”), in the form set forth in and otherwise in accordance with the Funding Loan Agreement.

Section 3. The Funding Loan Agreement between the County and the Bank, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Chair of the Board of Supervisors, the Vice-Chair of the Board of Supervisors, the County Administrator, the Director of Conservation and Development and the Community Development Bond Program Manager (collectively, the “Designated Officers”) is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Funding Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Funding Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof, provided that no additions or changes shall authorize an aggregate principal amount of the Note in excess of the amount set forth in Section 2 above), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Funding Loan Agreement by the County. The date, maturity date, interest rate or rates, privileges, manner of execution, place of payment, terms of redemption and other terms of the Note shall be as provided in the Funding Loan Agreement as finally executed.

Section 4. The Borrower Loan Agreement between the County and the Borrower, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized to execute and deliver the Borrower Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Borrower Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such changes to be conclusively evidenced by the execution and delivery of the Borrower Loan Agreement by the County.

Section 5. The regulatory agreement and declaration of restrictive covenants relating to the Development, between the County and the Borrower (the “Regulatory Agreement”), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Regulatory Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Regulatory Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Regulatory Agreement by the County.

Section 6. The Assignment of Deed of Trust, by the County to the Bank (the “Assignment”), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Assignment in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Assignment upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Assignment by the County.

Section 7. The Note, when executed, shall be delivered to the Bank (as the purchaser of the Note), in accordance with written instructions executed on behalf of the County by any one of the Designated Officers of the County, which instructions said officers are hereby authorized, for and in the name and behalf of the County, to execute and deliver. Such instructions shall provide for the delivery of the Note to the Bank upon the funding by the Bank of the initial advance of the purchase price of the Note as described in Section 2.1(b) of the Funding Loan Agreement.

Section 8. The law firm of Quint & Thimmig LLP is hereby designated as Bond Counsel to the County for the Note. The fees and expenses of such firm for matters related to the Note shall be payable solely from the proceeds of the Note or contributions by the Borrower.

Section 9. All actions heretofore taken by the officers and agents of the County with respect to the issuance of the Note are hereby approved, confirmed and ratified, and the proper officers of the County, including the Designated Officers, are hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Note in accordance with this Resolution, including but not limited to any certificates, agreements and other documents described in the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement or the Assignment, or otherwise necessary to issue the Note and consummate the transactions contemplated by the documents approved by this Resolution.

Section 10. This Resolution shall take effect upon its adoption.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

Contact: Kristen Lackey (925) 674-7888

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

AFTER RECORDING RETURN TO:

Citibank, N.A.
Transaction Management Group/Post Closing
390 Greenwich Street, 2nd Floor
New York, NY 10013
Attn: Tanya Jimenez

Citi Deal Id #[_____]

ASSIGNMENT OF DEED OF TRUST

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic, organized and existing under the laws of the State of California (“**Assignor**”), pursuant to that certain Funding Loan Agreement of even date herewith (“**Funding Loan Agreement**”) between Assignor and **CITIBANK, N.A.** (“**Assignee**”), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents assign, without recourse, to Assignee all of Assignor’s right, title and interest in and to, subject to the Unassigned Rights (as defined in the Funding Loan Agreement), and its obligations under (except for such obligations as cannot be assigned as a matter of law) the instruments (“**Assigned Instruments**”) described on Schedule 1 attached hereto. This Assignment is dated for reference purposes only as of the 1st day of December, 2015, and will not be effective and binding on the parties hereto unless and until the Closing Date occurs.

TOGETHER with the Note described in the Assigned Instruments, and the money due and to become due thereon, with the interest thereon, TO HAVE AND TO HOLD the same unto the said Assignee forever, subject only to all the provisions contained therein, AND the said Assignor hereby constitutes and appoints the Assignee as the Assignor’s true and lawful attorney, irrevocable in law or in equity, in the Assignor’s name, place and stead, but at Assignee’s cost and expense, to have, use and take all lawful ways and means for the recovery of all of the said money and interest; and in case of payment, to discharge the same as fully as the Assignor might or could if these presents were not made.

Overriding Limitations. In no event shall Assignor:

(i) prosecute its action to a lien on the Project (as defined in that certain Borrower Loan Agreement by and between Golden Oak Manor II, L.P., a California limited partnership (“**Borrower**”), and Assignor (the “**Loan Agreement**”); or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of Borrower to timely pay the principal of, interest on, or other amounts due under, the Loan or of causing Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by Assignee or Servicer of any of their rights under the Loan Documents upon the occurrence of an event of default by Borrower under the Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Loan.

Definitions. All capitalized terms that are used and are not defined herein shall have the respective meanings ascribed to them in the Loan Agreement. In all references herein to any parties, persons, entities or corporations the use of any particular gender on the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Assignment of Deed of Trust or caused this Assignment of Deed of Trust to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

ASSIGNOR:

COUNTY OF CONTRA COSTA, CALIFORNIA

By: _____
John Kopchik
Director, Department of Conservation and
Development

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 _____)
)
COUNTY OF _____)

On _____, 20__ 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 _____
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Seal)

**SCHEDULE 1
TO
ASSIGNMENT OF DEED OF TRUST**

ASSIGNEE:

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attn: Desk Head, Transaction Management Group

ASSIGNED INSTRUMENTS:

1. Multifamily Note by Borrower to Assignor dated as of December [___], 2015, in the original principal amount of up to \$[5,300,000].
2. Borrower Loan Agreement by and between Assignor and Borrower dated as of December 1, 2015.
3. Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof executed by Borrower for the benefit of Assignor, which is being recorded immediately prior hereto in the Recorder's Office of Contra Costa County, California and encumbers the real property (and improvements thereon) that is more particularly described on **Exhibit A**.

EXHIBIT A

LEGAL DESCRIPTION

That certain real property situated in the City of Oakley, County of Contra Costa, State of California, more particularly described as follows:

[_____]

Attachment A
Golden Oak Manor
Multifamily Housing Revenue Note
Plan of Finance*

	<u>Construction</u>	<u>Permanent</u>
Tax Exempt Note	\$ 5,800,000	\$ 1,738,600
County CDBG/HOME	\$ 1,108,741	\$ 1,058,741
4% Low Income Housing Tax Credits	\$ 300,000	\$ 3,399,234
City of Oakley	\$ 1,250,648	\$ 1,200,648
Seller Take-Back, Project Reserves, Operating Income, and Sponsor Loan	\$ 568,669	\$ 1,881,581
Deferred Developer Fee		\$ 172,126
Total	\$ 9,028,058	\$ 9,450,930

** The amounts below will be refined during the transaction closing.*

FUNDING LOAN AGREEMENT

between

**CITIBANK, N.A.,
as Funding Lender**

and

**COUNTY OF CONTRA COSTA, CALIFORNIA,
as Governmental Lender**

dated as of December 1, 2015

relating to:

\$ _____

**County of Contra Costa, California
Multifamily Housing Revenue Note
(Golden Oak Manor), Series 2015A**

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EXHIBIT A FORM OF GOVERNMENTAL LENDER NOTE

EXHIBIT B FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

FUNDING LOAN AGREEMENT

This Funding Loan Agreement, dated as of December 1, 2015 (this "**Funding Loan Agreement**"), is entered into by CITIBANK, N.A., (together with any successor hereunder, the "**Funding Lender**"), and the COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic, organized and existing under the laws of the State of California (together with its successors and assigns, the "**Governmental Lender**").

RECITALS:

WHEREAS, the Governmental Lender is a political subdivision and body, corporate and politic, duly organized and validly existing under the laws of the State of California; and

WHEREAS, the Governmental Lender is empowered pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (the "**Act**") to: (a) make loans to provide financing for residential rental developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income; (b) incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of, prepayment premium, if any, on and interest on such indebtedness of the Governmental Lender; and

WHEREAS, Golden Oak Manor II, L.P., a California limited partnership (the "**Borrower**"), has requested that the Governmental Lender to enter into this Funding Loan Agreement under which the Funding Lender will (i) advance funds (the "**Funding Loan**") to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the "**Borrower Loan**") to the Borrower to finance the acquisition and rehabilitation of a 50-unit multifamily rental housing development to be located at 5000 Kelsey Lane in the City of Oakley, California, known as Golden Oak Manor; and

WHEREAS, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into a Borrower Loan Agreement of even date herewith (as it may be supplemented or amended, the "**Borrower Loan Agreement**"), whereby the Borrower agrees to make loan payments to the Governmental Lender in an amount that, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Borrower Note (as defined herein) and the obligations of the Borrower under the Borrower Note will be secured by a lien on

and security interest in the Project (as defined herein) pursuant to a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) of even date herewith (the "**Security Instrument**"), made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender its Multifamily Housing Revenue Note (Golden Oak Manor), Series 2015A, dated the Closing Date (the "**Governmental Lender Note**") evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make the Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Note, subject to the terms hereof, have in all respects been duly authorized.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1. Definitions. For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

(b) The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms "agree" and "agreements" contained herein are intended to include and mean "covenant" and "covenants."

(c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(d) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to "Approved Accounting Method" refer to such principles as they exist at the date of application thereof.

(e) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(f) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(g) References to the Governmental Lender Note as "tax-exempt" or to the "tax-exempt status" of the Governmental Lender Note are to the exclusion of interest on the Governmental Lender Note (other than any portion of the Governmental Lender Note held by a "substantial user" of the Project or a "related person" within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(h) The following terms have the meanings set forth below:

"Act" means Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code.

"Additional Borrower Payments" shall have the meaning given such term in the Borrower Loan Agreement.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

"Approved Transferee" means (a) a "qualified institutional buyer" ("QIB") as defined in Rule 144A promulgated under the Securities Act that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (b) an affiliate of the Funding Lender, or (c) a trust or custodial arrangement established by the Funding Lender or one of its affiliates the beneficial interests in which will be owned only by QIBs.

"Authorized Amount" means \$_____, the maximum principal amount of the Funding Loan under this Funding Loan Agreement.

"Authorized Governmental Lender Representative" shall mean the Governmental Lender's Chair, Vice Chair, County Administrator, Director of the Department of Conservation and Development or Community Development Bond Program Manager, and/or person or persons designated to act on behalf of the Governmental Lender by a certificate filed with the Borrower, Funding Lender and Servicer, if any, containing the specimen signatures of such person or persons and signed on behalf of the Governmental Lender by an Authorized Governmental Lender Representative. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative

"Borrower" means Golden Oak Manor II, LP, a California limited partnership.

"Borrower Controlling Entity" shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the manager or managing member of the Borrower.

"Borrower Loan" shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the aggregate principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

"Borrower Loan Agreement" shall mean the Borrower Loan Agreement, of even date herewith, between the Governmental Lender and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

"Borrower Loan Agreement Default" shall mean any event of default set forth in 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall "exist" if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable cure period.

"Borrower Loan Amount" shall mean \$_____, the maximum principal amount of the Borrower Loan under the Borrower Loan Agreement.

"Borrower Loan Documents" shall have the meaning given such term in the Borrower Loan Agreement.

“Borrower Note” shall mean the “Borrower Note” as defined in the Borrower Loan Agreement.

“Business Day” shall mean any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Closing Costs” has the meaning given to the term Costs of Funding in the Borrower Loan Agreement.

“Closing Date” shall mean December 15, 2015, the date that initial Funding Loan proceeds are disbursed hereunder.

“Code” means the Internal Revenue Code of 1986 as in effect on the date of execution and delivery of the Governmental Lender Note or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Conversion” has the meaning given to such term in the Borrower Loan Agreement.

“Conversion Date” shall have the meaning given such term in the Construction Funding Agreement.

“Construction Funding Agreement” means that certain Construction Funding Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during rehabilitation of the Project, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Contingency Draw-Down Agreement” means the Contingency Draw-Down Agreement of even date herewith between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Control” shall mean, with respect to any Person, either (a) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

“Default” shall mean the occurrence of an event, which, under any Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an event of default under the applicable Funding Loan Document or a Borrower Loan Agreement Default.

“Draw-Down Notice” shall mean a notice described in Section 1.01 of the Contingency Draw-Down Agreement regarding the conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Equity Investor” shall mean Merritt Community Capital Fund XVIII, L.P., a California limited partnership, and its affiliates, successors and assigns.

“Event of Default” shall have the meaning ascribed thereto in Section 9.1 hereof.

“Fair Market Value” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (c) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (d) any commingled investment fund in which the City and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment. To the extent required by the Regulations, the term “investment” will include a hedge.

“Fitch” shall mean Fitch, Inc.

“Funding Lender” shall mean Citibank N.A., a national banking association, and any successor under this Funding Loan Agreement and the Borrower Loan Documents.

“Funding Loan Agreement” shall mean this Funding Loan Agreement, by and between the Funding Lender and the Governmental Lender, as it may from time to time be supplemented, modified or amended by one or more indentures or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“Funding Loan Documents” shall mean (a) this Funding Loan Agreement, (b) the Borrower Loan Agreement, (c) the Regulatory Agreement, (d) the Tax Certificate, (e) the Borrower Loan Documents, (f) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (g) all amendments, modifications, renewals and substitutions of any of the foregoing.

“Government Obligations” shall mean noncallable, nonprepayable (a) direct, general obligations of the United States of America, or (b) any obligations unconditionally guaranteed as to the full and timely payment of all amounts due thereunder by the full faith and credit of the United States of America (including obligations held in book entry form), but specifically excluding any mutual funds or unit investment trusts invested in such obligations.

“Governmental Lender” shall mean the County of Contra Costa, California.

“Governmental Lender Note” shall mean the Governmental Lender Note described in the recitals of this Funding Loan Agreement.

“Highest Rating Category” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating category given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax-exempt municipal debt established by S&P is “A1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG1” (for fixed rate) or “VMIG1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (a) both S&P and Moody’s rate a Permitted Investment and (b) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

“Maturity Date” shall mean _____ 1, ____.

“Maximum Rate” shall mean the lesser of (a) 12% per annum, and (b) the maximum interest rate that may be paid on the Funding Loan under State law.

“Minimum Beneficial Ownership Amount” shall mean an amount no less than fifteen percent (15%) of the outstanding principal amount of the Funding Loan.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Noteowner” or “owner of the Governmental Lender Note” means the owner, or as applicable, collectively the owners, of the Governmental Lender Note as shown on the registration books maintained by the Funding Lender pursuant to Section 2.4(e).

“Negative Arbitrage Deposit” has the meaning set forth in the Contingency Draw-Down Agreement.

“Ongoing Governmental Lender Fee” shall mean the Governmental Lender Annual Fee (as that term is defined in the Regulatory Agreement) that is payable after the Closing Date.

“Opinion of Counsel” shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

“Permitted Investments” shall mean, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement, but only to the extent that the same are acquired at Fair Market Value:

(a) Government Obligations.

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America (other than the Federal Home Loan Mortgage Corporation) or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Obligations, in each case rated in the Highest Rating Category, of (i) any state or territory of the United States of America, (ii) any agency, instrumentality, authority or political subdivision of a state or territory or (iii) any public benefit or municipal corporation the principal of and interest on which are guaranteed by such state or political subdivision.

(d) Any written repurchase agreement entered into with a Qualified Financial Institution whose unsecured short-term obligations are rated in the Highest Rating Category.

(e) Commercial paper rated in the Highest Rating Category.

(f) Interest bearing negotiable certificates of deposit, interest bearing time deposits, interest bearing savings accounts and bankers’ acceptances, issued by a Qualified Financial Institution if either (i) the Qualified Financial Institution’s unsecured short term obligations are rated in the Highest Rating Category or (ii) such deposits, accounts or acceptances are fully collateralized by investments described in clauses (a) or (b) of this definition or fully insured by the Federal Deposit Insurance Corporation.

(g) An agreement held by the Funding Lender for the investment of moneys at a guaranteed rate with a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or Second Highest Rating Category, or whose obligations are unconditionally guaranteed or insured by a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or Second Highest Rating Category; provided that such agreement is in a form acceptable to the Funding Lender; and provided further that such agreement includes the following restrictions:

(1) the invested funds will be available for withdrawal without penalty or premium, at any time that the Funding Lender is required to pay moneys from the Fund(s) established under this Funding Loan Agreement to which the agreement is applicable;

(2) the agreement, and if applicable the guarantee or insurance, is an unconditional and general obligation of the provider and, if applicable, the guarantor or insurer of the agreement, and ranks *pari passu* with all other unsecured unsubordinated obligations of the provider, and if applicable, the guarantor or insurer of the agreement;

(3) the Funding Lender receives an Opinion of Counsel, which may be subject to customary qualifications, that such agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and, if applicable, an Opinion of Counsel that any guaranty or insurance policy provided by a guarantor or insurer is legal, valid, binding and enforceable upon the guarantor or insurer in accordance with its terms; and

(4) the agreement provides that if during its term the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, is withdrawn, suspended by any rating agency or falls below the Second Highest Rating Category, the provider must, within ten days, either: (A) collateralize the agreement (if the agreement is not already collateralized) with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Funding Lender or a third party custodian, such collateralization to be effected in a manner and in an amount reasonably satisfactory to the Funding Lender, or, if the agreement is already collateralized, increase the collateral with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Funding Lender or a third party custodian, in an amount reasonably satisfactory to the Funding Lender, (B) at the request of the Funding Lender, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium unless required by law or (C) transfer the agreement, guarantee or insurance, as applicable, to a replacement provider, guarantor or insurer, as applicable, then meeting the requirements of a Qualified Financial Institution and whose unsecured long term obligations are then rated in the Highest Rating Category or Second Highest Rating Category. The agreement may provide that the down graded provider may elect which of the remedies to the down grade (other than the remedy set out in (B)) to perform.

Notwithstanding anything else in this paragraph (g) to the contrary and with respect only to any agreement described in this paragraph (g) or any guarantee or insurance for any such agreement which is to be in effect for any period after the Conversion Date, any reference in this paragraph to the "Second Highest Rating Category" will be deemed deleted so that the only acceptable rating category for such an agreement, guarantee or insurance will be the Highest Rating Category.

(h) Subject to the ratings requirements set forth in this definition, shares in any money market mutual fund (including those of the Funding Lender or any of its affiliates) registered under the Investment Company Act of 1940, as amended, that have been rated "AAAm G" or "AAAm" by S&P or "Aaa" by Moody's so long as the portfolio of such money market mutual fund is limited to Government Obligations and agreements to repurchase Government Obligations. If approved in writing by the Funding Lender, a

money market mutual fund portfolio may also contain obligations and agreements to repurchase obligations described in paragraphs (b) or (c). The money market mutual fund must be rated "AAAm G" or "AAAm" by S&P, or "Aaa" by Moody's. If at any time (i) both S&P and Moody's rate a money market mutual fund and (ii) one of those ratings is below the level required by this paragraph, then such money market mutual fund will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency.

(i) Any other investment authorized by the laws of the State, if such investment is approved in writing by the Funding Lender.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment with a final maturity or any agreement with a term greater than one year from the date of the investment. This exception (1) shall not apply to Permitted Investments listed in paragraphs (g) and (i).

(2) Except for any obligation described in paragraph (a) or (b), any obligation with a purchase price greater or less than the par value of such obligation.

(3) Any asset backed security, including mortgage backed securities, real estate mortgage investment conduits, collateralized mortgage obligations, credit card receivable asset backed securities and auto loan asset backed securities.

(4) Any interest only or principal only stripped security.

(5) Any obligation bearing interest at an inverse floating rate.

(6) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(7) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

(8) Any investment described in paragraph (d) or (g) with, or guaranteed or insured by, a Qualified Financial Institution described in clause (iv) of the definition of Qualified Financial Institution if such institution does not agree to submit to jurisdiction, venue and service of process in the United States of America in the agreement relating to the investment.

(9) Any investment to which S&P has added an "r" or "t" highlighter.

"Person" shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal

government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Pledged Revenues” shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Lender Note, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon.

“Prepayment Premium” shall mean (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any Prepayment Premium as set forth in the Borrower Note) and (ii) any premium payable on the Governmental Lender Note pursuant to this Funding Loan Agreement.

“Project” shall have the meaning given to that term in the Borrower Loan Agreement.

“Qualified Financial Institution” shall mean any (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank, savings and loan association, or insurance company or association chartered or organized under the laws of any state of the United States of America, (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, (v) government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, (vi) securities dealer approved in writing by the Funding Lender the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation and (vii) other entity which is acceptable to the Funding Lender. With respect to an entity which provides an agreement held by the Funding Lender for the investment of moneys at a guaranteed rate as set out in paragraph (g) of the definition of the term “Permitted Investments” or an entity which guarantees or insures, as applicable, the agreement, a “Qualified Financial Institution” may also be a corporation or limited liability company organized under the laws of any state of the United States of America.

“Qualified Project Costs” shall have the meaning given to that term in the Regulatory Agreement.

“Regulations” shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“Regulatory Agreement” shall mean that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of the date hereof, by and between the Governmental Lender and the Borrower, as hereafter amended or modified.

“Remaining Funding Loan Proceeds Account” has the meaning set forth in the Contingency Draw-Down Agreement.

“Remaining Funding Loan Proceeds Account Earnings Subaccount” has the meaning set forth in the Contingency Draw-Down Agreement.

“Required Transferee Representations” shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

“Resolution” shall mean the resolution of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

“Second Highest Rating Category” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the second highest rating category given by that rating agency for that general category of security. By way of example, the Second Highest Rating Category for tax-exempt municipal debt established by S&P is “AA” for a term greater than one year, with corresponding ratings by Moody’s of “Aa.” If at any time (a) both S&P and Moody’s rate a Permitted Investment and (b) one of those ratings is below the Second Highest Rating Category, then such Permitted Investment will not be deemed to be rated in the Second Highest Rating Category. For example, an Investment rated “AA” by S&P and “A” by Moody’s is not rated in the Second Highest Rating Category.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security” shall have the meaning assigned to it in Section 4.1.

“Security Instrument” shall mean the Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) (as amended, restated and/or supplemented from time to time) of even date herewith, made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

“Servicer” shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

“Servicing Agreement” shall mean any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

"S&P" shall mean Standard & Poor's Ratings Services, a division of McGraw Hill Financial, Inc., and its successors.

"State" shall mean the State of California.

"Tax Certificate" shall mean the Certificate as to Arbitrage, dated the Closing Date, executed and delivered by the Governmental Lender and the Borrower, together with the Certificate Regarding Use of Proceeds, dated the Closing Date, executed and delivered by the Borrower.

"Tax Counsel" shall mean (a) Quint & Thimmig LLP, or (b) any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

"Tax Counsel Approving Opinion" shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

"Tax Counsel No Adverse Effect Opinion" shall mean an opinion of Tax Counsel to the effect that the taking of the action specified therein will not impair the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

"UCC" shall mean the Uniform Commercial Code as in effect in the State.

"Unassigned Rights" shall mean the Governmental Lender's rights to (a) reimbursement and payment of its fees, costs and expenses and the Rebate Amount under Section 2.5 of the Borrower Loan Agreement and Section 4A(d) of the Regulatory Agreement, (b) access to the Project under Section 5.17 of the Borrower Loan Agreement, (c) indemnification under Section 5.15 of the Borrower Loan Agreement and Section 9 of the Regulatory Agreement, (d) attorneys' fees under Sections 5.11, 5.14 and 10.05 of the Borrower Loan Agreement, (e) receive notices, reports and other statements and its rights to consent to certain matters, including but not limited to its right to consent to amendments to this Funding Loan Agreement, the Borrower Loan Agreement and the Regulatory Agreement, and otherwise as provided in this Funding Loan Agreement and the Borrower Loan Agreement, (f) seek performance by the Borrower of its obligations under the Regulatory Agreement, and (g) seek performance of, and enforce, various tax covenants as described in Section 2.2(b)(i) of the Borrower Loan Agreement, including but not limited to those in Sections 5.34 and 5.35 of the Borrower Loan Agreement.

"Written Certificate," "Written Certification," "Written Consent," "Written Direction," "Written Notice," "Written Order," "Written Registration," "Written Request," and "Written Requisition" shall mean a written certificate, direction, notice, order or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative or an

authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer or such other Person as required under the Funding Loan Documents.

“**Yield**” shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

Section 1.2. Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the rehabilitation hereof.

Section 1.3. Date of Funding Loan Agreement. The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

Section 1.4. Designation of Time for Performance. Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

Section 1.5. Interpretation. The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of rehabilitation that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

ARTICLE II

TERMS; GOVERNMENTAL LENDER NOTE

Section 2.1. Terms.

(a) **Principal Amount.** The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

(b) **Draw-Down Funding.** The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender directly to the Borrower for the account of the Governmental Lender as and when needed to make each advance in accordance with the disbursement provisions of the Borrower Loan Agreement and the Construction Funding Agreement. Upon each advance of principal of the Borrower Loan under the Borrower Loan Agreement and the Construction Funding Agreement, a like amount of the Funding Loan shall be deemed concurrently and simultaneously advanced under this Funding Loan Agreement, including the initial advance of \$_____. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded hereunder after December 1, 2018; provided, however, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the

Funding Lender such date may be changed to a later date as specified in such Tax Counsel No Adverse Effect Opinion.

The Governmental Lender consents to the terms of the Contingency Draw-Down Agreement and agrees to take all actions requested in writing by the Funding Lender or the Borrower that are reasonably required of the Governmental Lender, in connection with the conversion of the Funding Loan to a fully drawn loan pursuant to the provisions of the Contingency Draw-Down Agreement in the event a Draw-Down Notice is filed by the Funding Lender or the Borrower, all at the expense of the Borrower.

(c) **Origination Date; Maturity.** The Funding Loan shall be originated on the Closing Date and shall mature on the Maturity Date at which time the entire principal amount, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) **Principal.** The outstanding principal amount of the Governmental Lender Note and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances under the Borrower Loan Agreement and the Construction Funding Agreement as proceeds of the Borrower Loan, less any payments of principal of the Governmental Lender Note previously received upon payment of corresponding principal amounts under the Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of the Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Funding Lender shall keep a record of all advances and principal repayments made under the Governmental Lender Note and shall upon written request provide the Governmental Lender with a statement of the outstanding principal balance of the Governmental Lender Note and the Funding Loan.

(e) **Interest.** Interest shall be paid on the outstanding principal amount of the Governmental Lender Note at the rate or rates set forth in the Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(f) **Corresponding Payments.** The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan and the Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the Borrower Note. Any payment or prepayment made by the Borrower of principal, interest, and Prepayment Premium, if any, due on a Borrower Note shall be deemed to be like payments or prepayments of principal, interest and Prepayment Premium, if any, due on the related Governmental Lender Note.

(g) **Usury.** The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of

competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

Section 2.2. Form of Governmental Lender Note. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement.

In connection with Conversion, the Funding Lender shall have the right to exchange the then existing Governmental Lender Note on or after the Conversion Date for a new Governmental Lender Note with a dated date of the Conversion Date and in a stated principal amount equal to the then outstanding principal amount of the Governmental Lender Note, which amount will equal the Permanent Period Amount (as defined in the Borrower Loan Agreement) of the Borrower Loan, but shall not otherwise change any material terms of the Governmental Lender Note.

Section 2.3. Execution and Delivery of Governmental Lender Note. The Governmental Lender Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of an Authorized Governmental Lender Representative. The manual or facsimile signature of the individual who was the proper officer of the Governmental Lender at the time of execution shall bind the Governmental Lender, notwithstanding that such individual shall have ceased to hold such office prior to the execution and delivery of the Governmental Lender Note or shall not have held such office at the date of the Governmental Lender Note.

Section 2.4. Required Transferee Representations; Participations; Sale and Assignment.

(a) The Funding Lender shall deliver to the Governmental Lender the Required Transferee Representations in substantially the form attached hereto as Exhibit B on the Closing Date.

(b) The Funding Lender shall have the right to sell (i) the Governmental Lender Note and the Funding Loan or (ii) any portion of or a participation interest in the Governmental Lender Note and the Funding Loan, to the extent permitted by clause (c) below, provided that such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender, the Required Transferee Representations.

(c) Notwithstanding the other provisions of this Section 2.4: (i) no portion of the Governmental Lender Note and the Funding loan shall be sold in an amount that is less than \$100,000, and (ii) no beneficial ownership interest in the Governmental Lender Note and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount. Notwithstanding the foregoing, an owner of beneficial interest in the Governmental Lender Note shall not be a Noteowner, and the Noteowners shall only be those Persons which are shown as the Noteowners on the registration books maintained by the Funding Lender pursuant to Section 2.4(e).

(d) No service charge shall be made for any sale or assignment of any portion of the Governmental Lender Note, but the Governmental Lender may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such sale or assignment. Such sums shall be paid in every instance by the purchaser or assignee of the Funding Loan or portion thereof.

(e) The Governmental Lender Note, or any interest therein, shall be in fully registered form transferable to subsequent owners only on the registration books which shall be maintained by the Funding Lender for such purpose and which shall be open to inspection by the Governmental Lender. The Governmental Lender Note shall not be transferred through the services of the Depository Trust Company or any other third party registrar.

The Funding Lender is the initial registered owner of the Governmental Lender Note and shall remain the sole registered owner of the Governmental Lender Note except as provided herein. The Funding Lender shall provide written notice to the Governmental Lender of any transfer by the Funding Lender of the Governmental Lender Note or any portion of or any interest of the Funding Lender in the Governmental Lender Note.

(f) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Lender Note.

ARTICLE III

PREPAYMENT

Section 3.1. Prepayment of the Governmental Lender Note from Prepayment under the Borrower Note. The Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds received from the Borrower under the Borrower Loan Agreement to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Note, thereby causing the Governmental Lender Note to be prepaid, except as specifically permitted in the Borrower Note, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the direction of the Funding Lender in accordance with the terms of the Borrower Note at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

Section 3.2. Notice of Prepayment. Notice of prepayment of the Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the Borrower Note is timely and properly given to the Funding Lender (with a copy to the Governmental Lender) in accordance with the terms of the Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

ARTICLE IV

SECURITY

Section 4.1. Security for the Funding Loan. To secure the payment of the Funding Loan and the Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and the Governmental Lender Note are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien

on and security interest in the following described property (excepting, however, in each case, the Unassigned Rights) (said property, rights and privileges being herein collectively called, the "Security"):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the Borrower Note, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under this Funding Loan Agreement and any amounts held at any time in the Remaining Funding Loan Proceeds Account and the Remaining Funding Loan Proceeds Account Earnings Subaccount, any Negative Arbitrage Deposit and any other amounts held under the Contingency Draw-Down Agreement, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on the Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Governmental Lender or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall

be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

Section 4.2. Delivery of Security. To provide security for the payment of the Funding Loan and the Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and the Governmental Lender Note its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, there shall be delivered to the Funding Lender, by or at the direction of the Borrower, the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- (a) The Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;
- (b) The originally executed Borrower Loan Agreement and Regulatory Agreement;
- (c) The originally executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Note and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;
- (d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and
- (e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

There shall be delivered and deposited with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security including, at the request of the Funding Lender, any amounts held under the Contingency Draw-Down Agreement, in each case at the expense of the Borrower.

ARTICLE V

LIMITED LIABILITY

Section 5.1. Source of Payment of Funding Loan and Other Obligations. The Funding Loan is a limited obligation of the Governmental Lender, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. None of

the Governmental Lender (except as provided in the first sentence of this Section 5.1), the City of Oakley, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein), shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan, or the Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan, the Governmental Lender Note, or hereunder or under any of the other Funding Loan Documents, shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever.

Section 5.2. Exempt from Individual Liability. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future member of the Board of Supervisors, officer, director, employee or agent of the Governmental Lender in his individual capacity, and none of the members of the Board of Supervisors, the officers, directors, employees or agents of the Governmental Lender executing the Governmental Lender Note or this Funding Loan Agreement shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note or the execution of this Funding Loan Agreement or any of the Funding Loan Documents.

ARTICLE VI

CLOSING CONDITIONS; APPLICATION OF FUNDS

Section 6.1. Conditions Precedent to Closing. Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Funding Lender in its sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original Governmental Lender Note;
- (b) Receipt by the Funding Lender of the original executed Borrower Note, endorsed without recourse to the Funding Lender by the Governmental Lender;
- (c) Receipt by the Funding Lender of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Funding Agreement, the Regulatory Agreement, the Tax Certificate and the Security Instrument;
- (d) Receipt by the Funding Lender of a certified copy of the Resolution;
- (e) Executed Required Transferee Representations from the Funding Lender;
- (f) Delivery into escrow of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate

transfers or transactions, including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;

(g) Receipt by the Funding Lender of a Tax Counsel Approving Opinion;

(h) Receipt by the Funding Lender of an Opinion of Counsel from Tax Counsel to the effect that the Governmental Lender Note is exempt from registration under the Securities Act of 1933, as amended, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(i) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender to the effect that the Borrower Loan Documents and the Regulatory Agreement are valid and binding obligations of the Borrower that are enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender; and

(j) Receipt by the Funding Lender of any other documents or opinions that the Funding Lender or Tax Counsel may require.

ARTICLE VII

FUNDS AND ACCOUNTS

Section 7.1. Authorization to Create Funds and Accounts. No funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender and the Servicer, if any, and any designee of the Funding Lender or the Servicer, are authorized to establish and create from time to time such funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

Section 7.2. Investment of Funds. Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested by the Funding Lender, the Servicer or the designee of the Funding Lender or Servicer, as applicable, in Permitted Investments at the written direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Certificate.

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.1. General Representations. The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a political subdivision and body corporate and politic, organized and existing under the laws of the State, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby, (ii) incur the limited obligation represented by the Governmental Lender Note and the Funding Loan, and apply the proceeds of such obligation or loan to finance the Project, and (iii) carry out its other obligations under this Funding Loan Agreement and the Governmental Lender Note, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its performance under, the Funding Loan Documents to which it is a party.

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and instruments to which the Governmental Lender is a party, a default under or violation of which would prevent it from entering into the Funding Loan Agreement, executing and delivering the Governmental Lender Note, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions on its part contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Governmental Lender Note or the Borrower Note pursuant to any securities laws or complying with any other requirements of securities laws).

(c) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending with respect to which the Governmental Lender has been served with process or, to the knowledge of the Governmental Lender, is threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Note and this Funding Loan Agreement have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than the Funding Loan Agreement as evidenced by the Governmental Lender Note.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECT AND DOES NOT REPRESENT OR WARRANT AS TO ANY

STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR THE BORROWER LOAN, OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

Section 8.2. No Encumbrance on Security. The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

Section 8.3. Repayment of Funding Loan. Subject to the provisions of Articles III and V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Funding Loan, as evidenced by the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement.

Section 8.4. Servicer. The Funding Lender may appoint a Servicer to service and administer the Governmental Loan and/or the Borrower Loan on behalf of the Funding Lender, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

Section 8.5. Borrower Loan Agreement Performance.

(a) The Funding Lender and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required or obligated to) perform and observe any agreement or covenant of the Governmental Lender under the Borrower Loan Agreement subject to the terms and provisions contained therein, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify the Borrower, the Servicer and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice of such event.

Section 8.6. Maintenance of Records; Inspection of Records.

(a) The Funding Lender shall keep and maintain adequate records pertaining to any funds and accounts established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Funding Loan and interests therein. The Funding Lender shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and premium paid on the Funding Loan, subject to the inspection of the Governmental Lender and its representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender will at any and all times, upon the reasonable request of the Servicer, the Borrower or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the

Governmental Lender relating to the Project and the Funding Loan, if any, and (at their own expense) to make copies thereof.

Section 8.7. Tax Covenants. The Governmental Lender covenants to and for the benefit of the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will:

(a) Require the Borrower to execute the Regulatory Agreement as a condition of funding the Borrower Loan;

(b) Not knowingly take or cause to be taken any action or actions, or knowingly fail to take any action or actions, which would cause the interest payable on the Governmental Lender Note to be includable in gross income for federal income tax purposes;

(c) Whenever and so often as requested in writing by Funding Lender, the Governmental Lender (at the sole cost and expense of the Borrower), shall do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Governmental Lender on the Governmental Lender Note will be excluded from the gross income of the owner of the Governmental Lender Note, for federal income tax purposes, pursuant to Section 103 of the Code, except in the event where any owner of the Governmental Lender Note or a portion thereof is a “substantial user” of the facilities financed with the Funding Loan or a “related person” within the meaning of Section 147(a) of the Code;

(d) Not knowingly take any action nor, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, knowingly permit or suffer any action to be taken if the result of the same would be to cause the Governmental Lender Notes to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations;

(e) Require the Borrower to agree, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Funding Loan, or any other moneys which may be deemed to be proceeds of the Funding Loan pursuant to the Code, which would cause the Governmental Lender Notes to be “arbitrage bonds” within the meaning of Sections 103(b) and 148 the Code, and to comply with the requirements of the Code throughout the term of the Funding Loan; and

(f) Require the Borrower, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement, to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full. In the event of any conflict

between this Funding Loan Agreement and the Tax Certificate, the requirements of the Tax Certificate shall control.

For purposes of this Section 8.7 the Governmental Lender's compliance shall be based solely on matters within the Governmental Lender's knowledge and control and no acts, omissions or directions of the Borrower, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

Section 8.8. Performance by the Borrower. Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may (but is under no obligation to) perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under (and as such term is defined in) the Borrower Loan Agreement exists.

ARTICLE IX

DEFAULT; REMEDIES

Section 9.1. Events of Default. Any one or more of the following shall constitute an event of default (an "Event of Default") under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) A default in the payment of any interest upon the Governmental Lender Note when such interest becomes due and payable;

(b) A default in the payment of principal of, or premium on, the Governmental Lender Note when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise;

(c) Subject to Section 8.8 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 12.1 hereof, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" under this Funding Loan Agreement; provided that, so long as the Governmental Lender has commenced to cure such failure to observe or perform within the thirty (30) day cure period, the subject matter of the

default is not capable of cure within said thirty (30) day period and the Governmental Lender is diligently pursuing such cure to the Funding Lender's satisfaction, with the Funding Lender's Written Direction or Written Consent, then the Governmental Lender shall have an additional period of time as reasonably necessary (not to exceed 30 days unless extended in writing by the Funding Lender) within which to cure such default;

(d) A default in the payment of any Additional Borrower Payments; or

(e) Any other "Default" or "Event of Default" under any of the other Funding Loan Documents (taking into account any applicable grace periods therein).

Section 9.2. Acceleration of Maturity; Rescission and Annulment.

(a) Subject to the provisions of Section 9.9 hereof, upon the occurrence of an Event of Default under Section 9.1 hereof, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Governmental Lender Note and the interest accrued to be immediately due and payable, by notice to the Governmental Lender, Borrower and the Equity Investor, and upon any such declaration, all principal of and Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Note shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Governmental Lender rescind and annul such declaration and its consequences if:

(i) there has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Funding Loan, (2) the principal of and Prepayment Premium on the Funding Loan that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Funding Loan, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Funding Loan, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

(ii) all Events of Default, other than the non-payment of the principal of the Funding Loan that has become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

(c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower, any of the Borrower's partners or the Project if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

Section 9.3. Additional Remedies; Funding Lender Enforcement.

(a) Upon the occurrence of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the Uniform Commercial Code applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

(i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

(ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

(iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

(iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents, or the Borrower Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

(c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear from enforcing any term, condition,

covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Note or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax-exempt status of the interest on the Governmental Lender Note, and provided that the Governmental Lender may seek specific performance by the Borrower to enforce the Unassigned Rights; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion (as such term is defined in the Borrower Loan Agreement).

(d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after the Borrower, the Equity Investor and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(e) If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement (subject to applicable notice and cure periods) to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed pursuant to Sections 2.5, 5.14 or 5.15 of the Borrower Loan Agreement for fees, expenses or indemnification, the Funding Lender shall have the right to exercise all its rights and remedies thereunder (subject to the last paragraph of Section 9.14 hereof).

Section 9.4. Application of Money Collected. Any money collected by the Funding Lender pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

(a) First: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan, including, without limitation, any amounts due to the Governmental Lender, the Funding Lender, the Servicer and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Note, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Funding Loan) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Funding Loan; provided, however, that partial interests in any portion of the Funding Loan shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

(c) Third: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this Section 9.4 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

Section 9.5. Remedies Vested in Funding Lender. All rights of action and claims under this Funding Loan Agreement or the Governmental Lender Note may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Note or the production thereof in any proceeding relating thereto.

Section 9.6. Restoration of Positions. If Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

Section 9.7. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.8. Delay or Omission Not Waiver. No delay or omission of the Funding Lender to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

Section 9.9. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6 hereof, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan

Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 9.10. Remedies Under Borrower Loan Agreement or Borrower Note. As set forth in this Section 9.10 but subject to Section 9.9 hereof, the Funding Lender shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Note, whether or not the Governmental Lender Note has been accelerated or declared due and payable by reason of an Event of Default.

Section 9.11. Waiver of Appraisal and Other Laws.

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in clause (a) shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

Section 9.12. Suits to Protect the Security. The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

Section 9.13. Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

Section 9.14. Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement

and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents.

ARTICLE X

AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT AND OTHER DOCUMENTS

Section 10.1. Amendment of Funding Loan Agreement. Any of the terms of this Funding Loan Agreement and the Governmental Lender Note may be amended or waived only by an instrument signed by the Funding Lender and the Governmental Lender, provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender.

Section 10.2. Amendments Require Funding Lender Consent. The Governmental Lender shall not consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document without the prior Written Consent of the Funding Lender.

Section 10.3. Consents and Opinions. No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices. All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, hand delivery to the party to be notified addressed as follows:

If to the Governmental Lender: County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, California 94553
Attention: Community Development Bond Program
Manager
Telephone: (925) 674-7888
Facsimile: (925) 674-7258

If to the Borrower: Golden Oak Manor II, L.P.
c/o EAH Inc.
2169 East Francisco Boulevard, Suite B
San Rafael, CA 94901
Attention: Errol Dominguez
Phone: (415) 295-8855
Facsimile: (415) 453-4927

with a copy to: Bocarsly, Emden, Cowan, Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Nicole Deddens, Esq.
Phone: (213) 239-8029
Facsimile: (213) 559-0751

If to the Equity Investor: Merritt Community Capital Fund XVIII, L.P.
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, CA 94612
Attention: Karen Smyda
Phone: (510) 444-7870

with a copy to:

Carle Mackie Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401-6376
Attention: Henry Loh III, Esq.
Phone: (707) 526-4200
Facsimile: (707) 526-4707

If to the Funding Lender:

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Transaction Management Group
Deal ID # _____
Facsimile: (212) 723-8209

and to:

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/ Asset Manager
Deal ID # _____
Facsimile: (805) 557-0924

prior to the Conversion Date, with a copy to:

Citibank, N.A.
390 Greenwich Street
New York, New York 10013
Attention: Account Specialist
Deal ID# _____
Facsimile: (212) 723-8209

following the Conversion Date with a copy to:

Citibank, N.A., ISAOA
c/o Berkadia Commercial Servicing Department
P.O. Box 557
Ambler, Pennsylvania 19022
Attention: Client Relations Manager
Deal ID# _____
Facsimile: (215) 441-7295

and a copy of any notices of default sent to:

Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Deal ID# _____
Facsimile: (646) 291-5754

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the

date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

Section 11.2. Term of Funding Loan Agreement. This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

Section 11.3. Successors and Assigns. All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

Section 11.4. Legal Holidays. In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period from and after such date and prior to the date of payment.

Section 11.5. Governing Law. This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 11.6. Severability. If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Note or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

Section 11.7. Execution in Several Counterparts. This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 11.8. Nonrecourse Obligation of the Borrower. Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

Section 11.9. Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER, THE GOVERNMENTAL LENDER AND THE FUNDING LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS FUNDING LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

Section 11.10. Electronic Transactions. The transactions described in this Funding Loan Agreement may be conducted and related documents and may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 11.11. Reference Date. This Funding Loan Agreement is dated for reference purposes only as of the first day of December 2015.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Funding Lender and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

FUNDING LENDER:

CITIBANK, N.A.

By: _____
Authorized Signatory

GOVERNMENTAL LENDER:

COUNTY OF CONTRA COSTA,
CALIFORNIA

By: _____
John Kopchik,
Director, Department of
Conservation and Development

03007.28:J13528

[Signature Page to Funding Loan Agreement – Golden Oak Manor]

EXHIBIT A

FORM OF GOVERNMENTAL LENDER NOTE

THIS NOTE MAY BE OWNED ONLY BY A PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS GOVERNMENTAL LENDER NOTE (A) REPRESENTS THAT IT IS A PERMITTED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

COUNTY OF CONTRA COSTA, CALIFORNIA
MULTIFAMILY HOUSING REVENUE NOTE
(GOLDEN OAK MANOR),
SERIES 2015A

\$ _____

December 15, 2015

FOR VALUE RECEIVED, the undersigned COUNTY OF CONTRA COSTA, CALIFORNIA ("Obligor") promises to pay to the order of CITIBANK, N.A. ("Holder") the maximum principal sum of _____ MILLION AND 00/100 DOLLARS (\$ _____), on _____ 1, _____, or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of December 1, 2015 (the "Funding Loan Agreement"), between Obligor and Holder an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on the Funding Loan then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a construction and permanent loan (the "Borrower Loan") made by Obligor from proceeds of the Funding Loan to Golden Oak Manor II, L.P., a California limited partnership, as borrower (the "Borrower"), under that certain Borrower Loan Agreement, dated as of December

1, 2015, (as the same may be modified, amended or supplemented from time to time, the "Borrower Loan Agreement"), between the Obligor and the Borrower, evidenced by the Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under the Governmental Lender Note.

This Governmental Lender Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein and in the Funding Loan Agreement, and none of the Funding Loan or the Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan or this Governmental Lender Note shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. The Governmental Lender has no taxing power.

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity and those respecting limitations of liability in Article V of the Funding Loan Agreement.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

This Governmental Lender Note (and the Funding Loan that it represents), and any interests herein or therein, are transferable by the registered owner hereof, but only in the manner, subject to the limitations and upon payment of the charges provided in the Funding Loan Agreement. Upon such transfer a new fully registered Governmental Lender Note will be issued to the transferee in exchange herefor. The Obligor and the Funding Lender may treat the registered owner hereof as the absolute owner hereof for all purposes, and the Obligor and the Funding Lender shall not be affected by any notice to the contrary.

The Obligor hereby certifies that all of the conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Governmental Lender Note do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State (including the Act) and that the amount of this Governmental Lender Note, together with all other indebtedness of the Obligor, does not exceed any limit prescribed by the Constitution or laws of the State.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Governmental Lender Note by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

OBLIGOR:

COUNTY OF CONTRA COSTA,
CALIFORNIA

By: _____
John M. Goia,
Chair of the Board of Supervisors

[signature page to Governmental Lender Note – Golden Oak Manor]

EXHIBIT B

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

[_____, 20__]

The undersigned, as holder (the "Holder") of a loan (the "Funding Loan") in the maximum principal amount of \$_____ from CITIBANK, N.A. ("Funding Lender") to COUNTY OF CONTRA COSTA, CALIFORNIA ("Governmental Lender") pursuant to a Funding Loan Agreement dated as of December 1, 2015 (the "Funding Loan Agreement") between the Funding Lender and the Governmental Lender (the "Funding Loan"), evidenced by the County of Contra Costa, California Multifamily Housing Revenue Note (Golden Oak Manor), Series 2015A (the "Governmental Lender Note"), or an interest therein, hereby represents that:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project and the purchase and ownership of municipal and other tax-exempt obligations to be able to evaluate the risk and merits of the investment represented by the Funding Loan. We are able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the use of proceeds of the Funding Loan and the Funding Loan and the security therefor so that, as a reasonable investor, the Holder has been able to make its decision to [extend/purchase] the Funding Loan [or an interest therein]. The Holder acknowledges that it has not relied upon the Governmental Lender for any information in connection with the Holder's purchase of the Funding Loan [or an interest therein], nor has it looked to, nor expected, the Governmental Lender to undertake or require any credit investigation or due diligence reviews relating to the Borrower, its financial condition or business operations, the Project (including the financing or management thereof), or any other matter pertaining to the merits or risks of the transaction, or the adequacy of the funds pledged to secure repayment of the Governmental Lender Note.

3. The Holder is an Approved Transferee.

4. The Holder acknowledges that it is purchasing [an interest in] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Funding Loan; provided, however, that the Holder may sell or transfer the Governmental Lender Note and the Funding Loan as provided in Section 2.4 of the Funding Loan Agreement.

5. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Funding Loan will disclose information with respect to

the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and Borrower Loan and related documents, the Holder will provide the Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

6. The Holder understands that (a) the Funding Loan is a limited obligation of the Governmental Lender; payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Funding Loan are expressly limited as set forth in the Funding Loan Agreement and related documents, (b) the Governmental Lender Note is not secured by any pledge of any moneys received or to be received from taxation by the State of California or any political subdivision thereof, and (c) the Governmental Lender Note does not and will not represent or constitute a general obligation or a pledge of the faith and credit of the Governmental Lender or the State of California or any political subdivision thereof.

7. The Holder is familiar with the conditions, financial and otherwise, of the Borrower and understands that the Borrower has no significant assets other than the Project, revenues from which shall be the primary source of repayment of the Governmental Lender Note and the Funding Loan. The Holder has been provided an opportunity to ask questions of, and the Holder has received answers from, representatives of the Borrower and others regarding the terms and conditions of the Funding Loan. The Holder has obtained all information requested by it in connection with the Funding Loan as it regards necessary to evaluate all merits and risks of its investment. The Holder has reviewed the documents executed in conjunction with the Funding Loan, including the Funding Loan Agreement and the Borrower Loan Agreement.

8. The Holder is not now and has never been controlled by, or under common control with, the Borrower. The Borrower has never been and is not now controlled by the Holder. The Holder has entered into no arrangements with the Borrower or with any affiliate thereof in connection with the Funding Loan Documents, other than as disclosed in writing to the Governmental Lender.

9. The Holder has authority to purchase the Governmental Lender Note and to execute this letter and any other instruments and documents required to be executed by the Holder in connection with its purchase of the Governmental Lender Note. The undersigned is a duly appointed, qualified, and acting officer of the Holder and is authorized to cause the Holder to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Holder.

10. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

[_____] , as Holder

By _____

Name _____
Its _____

BORROWER LOAN AGREEMENT

between the

**COUNTY OF CONTRA COSTA, CALIFORNIA,
as Governmental Lender**

and

**GOLDEN OAK MANOR II, L.P.,
as Borrower**

dated as of December 1, 2015

relating to:

\$ _____

**Funding Loan originated by CITIBANK, N.A., as Funding Lender
from the proceeds of the
County of Contra Costa, California
Multifamily Housing Revenue Note
(Golden Oak Manor), Series 2015A**

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to Citibank, N.A., as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, of even date herewith, by and between County of Contra Costa, California (the "Governmental Lender"), and

the Funding Lender, under which the Funding Lender is originating a loan to the Governmental Lender to fund the Borrower Loan made under this Borrower Loan Agreement.

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BORROWER LOAN AGREEMENT

This Borrower Loan Agreement, dated as of December 1, 2015 (this “**Borrower Loan Agreement**”) is entered into by the County of Contra Costa, California, a political subdivision and body corporate and politic, organized and existing under the laws of the State of California (together with its successors and assigns, the “**Governmental Lender**”), and Golden Oak Manor II, L.P., a California limited partnership (together with its successors and assigns, the “**Borrower**”).

RECITALS:

WHEREAS, the Governmental Lender is a political subdivision and body, corporate and politic, duly organized and validly existing under the laws of the State of California; and

WHEREAS, the Governmental Lender is empowered pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (the “**Act**”) to: (a) make loans to any person to provide financing for residential rental developments located within the jurisdiction of the Governmental Lender, and intended to be occupied in part or in whole by persons of low and moderate income; (b) borrow funds for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with any such borrowing by the Governmental Lender; and (c) pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the repayment of any such borrowing by the Governmental Lender; and

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the “**Borrower Loan**”), for the acquisition and rehabilitation of a 50-unit multifamily residential rental project located at 5000 Kelsey Lane in the City of Oakley, California, known as Golden Oak Manor; and

WHEREAS, the Borrower’s repayment obligations under this Borrower Loan Agreement are evidenced by the Borrower Note, as defined herein; and

WHEREAS, the Borrower has requested that the Governmental Lender enter into that certain Funding Loan Agreement, of even date herewith (the “**Funding Loan Agreement**”), between the Governmental Lender and Citibank, N.A. (the “**Funding Lender**”), under which the Funding Lender will make a loan (the “**Funding Loan**”) to the Governmental Lender (and the Governmental Lender will issue its Governmental Lender Note (as defined herein) in connection therewith), the proceeds of which will be loaned under this Borrower Loan Agreement to the Borrower to finance the acquisition and rehabilitation of the Project (as defined herein); and

WHEREAS, the Borrower Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) (as amended, restated and/or supplemented from time to time, the “**Security Instrument**”), of even date herewith and assigned to the Funding Lender to secure the Funding

Loan, encumbering the Project, and will be advanced to the Borrower pursuant to this Borrower Loan Agreement, the Funding Loan Agreement and the Construction Funding Agreement (as defined herein).

A G R E E M E N T :

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF REHABILITATION

Section 1.1. Specific Definitions. For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Security Instrument or, if not defined in the Security Instrument, in the Funding Loan Agreement.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(d) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(e) Unless otherwise specified, (i) all references to sections and schedules are to those in this Borrower Loan Agreement, (ii) the words “hereof,” “herein” and “hereunder” and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined and (iv) the word “including” means “including but not limited to.”

Section 1.2. Definitions. The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

“**Act**” shall have the meaning given to it in the recitals to this Borrower Loan Agreement.

“**Act of Bankruptcy**” shall mean the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within ninety (90) days after the commencement thereof.

“**ADA**” shall have the meaning set forth in Section 4.1.38 hereof.

“**Additional Borrower Payments**” shall mean the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default),

Section 3.3.3 of the Construction Funding Agreement (Borrower Loan in Balance), Section 5.14 (Expenses), and Section 10 of the Borrower Note (Voluntary and Involuntary Prepayments).

“Agreement of Environmental Indemnification” shall mean the Agreement of Environmental Indemnification, of even date herewith, executed by the Borrower and Guarantor for the benefit of the Beneficiary Parties, the Servicer, any lawful holder, owner or pledgee of the Borrower Note, and their respective successors and assigns.

“Appraisal” shall mean an appraisal of the Project and Improvements, which appraisal shall be (i) performed by a qualified appraiser licensed in the State selected by Funding Lender, and (ii) satisfactory to Funding Lender (including, without limitation, as adjusted pursuant to any internal review thereof by Funding Lender) in all respects.

“Architect” shall mean any licensed architect, space planner or design professional that Borrower may engage from time to time, with the approval of Funding Lender, to design any portion of the Improvements, including the preparation of the Plans and Specifications.

“Architect’s Agreement” means any agreement that Borrower and any Architect from time to time may execute pursuant to which Borrower engages such Architect to design any portion of the Improvements, including the preparation of the Plans and Specifications, as approved by Funding Lender.

“Authorized Borrower Representative” shall mean a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Governmental Lender, the Funding Lender and the Servicer and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

“Bankruptcy Code” shall mean the United State Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

“Bankruptcy Event” shall have the meaning given to that term in the Security Instrument.

“Bankruptcy Proceeding” shall have the meaning set forth in Section 4.1.8 hereof.

“Beneficiary Parties” shall mean, collectively, the Funding Lender and the Governmental Lender.

“Borrower” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Borrower Affiliate” means, as to the Borrower, its general partner or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of Borrower, its general partner or the Guarantor, (ii) any corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, its general partner or the Guarantor, (iii) any partner of Borrower, its general partner or the Guarantor, or (iv) any other

person that is related (to the third degree of consanguinity) by blood or marriage to the Borrower, its general partner or the Guarantor (to the extent any of the Borrower, its general partner or the Guarantor is a natural person).

"Borrower Controlling Entity" shall mean the general partner of the Borrower.

"Borrower Deferred Equity" shall mean the Equity Contributions to be made by the Equity Investor to Borrower pursuant to the Partnership Agreement other than Borrower Initial Equity, in accordance with the following schedule (subject to adjustments as contained in the Borrower's Partnership Agreement):

Amount	Date
\$_____	Closing Date
_____	_____, 1, ____, or such later date as "Substantial Completion" is achieved, as such term is defined and as otherwise provided in the Partnership Agreement
_____	_____, 1, ____, or such later date as "Stabilized Operations" are achieved, as such term is defined and as otherwise provided in the Partnership Agreement
_____	_____, 1, ____, or such later date as provided in the Partnership Agreement
\$_____	Total

"Borrower Initial Equity" shall mean an initial installment of the Equity Contributions made to Borrower by the Equity Investor in an amount of at least \$_____ to be made on or prior to the Closing Date.

"Borrower Loan" shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to this Borrower Loan Agreement, in the maximum principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

"Borrower Loan Agreement" shall mean this Borrower Loan Agreement.

"Borrower Loan Amount" shall mean \$_____, the maximum principal amount of the Borrower Note.

"Borrower Loan Documents" shall mean this Borrower Loan Agreement, the Construction Funding Agreement, the Borrower Note, the Security Instrument, the Agreement of Environmental Indemnification, the Replacement Reserve Agreement, the Guaranty, the Contingency Draw Down Agreement, and all other documents or agreements evidencing or relating to the Borrower Loan.

"Borrower Loan Payment Date" shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Note, or (ii) any other date on which

the Borrower Note is prepaid or paid, whether at the scheduled maturity or upon the acceleration of the maturity thereof.

“Borrower Loan Payments” shall mean the monthly loan payments payable pursuant to the Borrower Note.

“Borrower Loan Proceeds” shall mean proceeds of the Borrower Loan, to be disbursed in accordance with Section 2.10 of this Borrower Loan Agreement and the Construction Funding Agreement.

“Borrower Note” shall mean that certain Multifamily Note dated as of the Closing Date in the maximum principal amount of the Borrower Loan Amount made by Borrower and payable to Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

“Borrower Payment Obligations” shall mean all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

“Business Day” shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Calculation Period” shall mean three (3) consecutive full Calendar Months occurring prior to the Conversion Date, as the same may be extended in accordance with Section 3.1 hereof.

“Calendar Month” shall mean each of the twelve (12) calendar months of the year.

“CC&R’s” shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Mortgaged Property.

“Closing Date” means December 15, 2015, the date that the initial Borrower Loan Proceeds are disbursed hereunder.

“Code” shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Collateral” shall mean all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which the Funding Lender is granted a security interest pursuant to any provision of this Borrower Loan Agreement), (ii) the Security Instrument, or (iii) any other Security Document, which Collateral shall include the Project, all of which collateral is pledged and assigned to Funding Lender under the Funding Loan Agreement to secure the Funding Loan.

“Completion” shall have the meaning set forth in Section 5.25.

“Completion Date” shall mean _____ 1, ____.

“Computation Date” shall have the meaning ascribed thereto in Section 1.148 3(e) of the Regulations.

“Condemnation” shall mean any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

“Conditions to Conversion” shall have the meaning ascribed thereto in the Construction Funding Agreement.

“Construction Consultant” shall mean a third-party architect or engineer selected and retained by Funding Lender, at the cost and expense of Borrower, to monitor the progress of rehabilitation of the Project and to inspect the Improvements to confirm compliance with this Borrower Loan Agreement.

“Construction Contract” shall mean any agreement that Borrower and any Contractor from time to time may execute pursuant to which Borrower engages the Contractor to rehabilitate any portion of the Improvements, as approved by Funding Lender.

“Construction Funding Agreement” means that certain Construction Funding Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during rehabilitation, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Construction Schedule” shall mean a schedule of rehabilitation progress with the anticipated commencement and completion dates of each phase of rehabilitation and the anticipated date and amounts of each Disbursement for the same, as approved by Funding Lender, as assignee of the Governmental Lender.

“Contingency Draw-Down Agreement” means the Contingency Draw-Down Agreement of even date herewith, between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Continuing Disclosure Agreement” shall mean that certain Continuing Disclosure Agreement of even date herewith, between the Borrower and the Funding Lender, pursuant to which the Borrower agrees to provide certain information with respect to the Project, the Borrower and the Funding Loan subsequent to the Closing Date, as amended, supplemented or restated from time to time.

“Contractor” shall mean any licensed general contractor or subcontractor that Borrower may directly engage from time to time, with the approval of Funding Lender, to rehabilitate any portion of the Improvements.

“Contractual Obligation” shall mean, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

“Conversion” shall mean Funding Lender’s determination that the Conditions to Conversion have been satisfied in accordance with the provisions of this Borrower Loan Agreement and the Construction Funding Agreement.

“Conversion Date” shall mean the date to be designated by Funding Lender once the Conditions to Conversion have been satisfied, the determination of the Permanent Period Amount has been made and any loan balancing payments in accordance with Section 3.3 hereof and the Construction Funding Agreement have been made. The Conversion Date must occur no later than the Outside Conversion Date.

“Cost Breakdown” shall mean the schedule of costs for the Improvements, as set forth in the Construction Funding Agreement and as the same may be amended from time to time with Funding Lender’s consent.

“Costs of Funding” shall mean the Governmental Lender’s Closing Fee and the fees, costs, expenses and other charges incurred in connection with the funding of the Borrower Loan and the Funding Loan, the negotiation and preparation of this Borrower Loan Agreement and each of the other Borrower Loan Documents and Funding Loan Documents and shall include, but shall not be limited to, the following: (i) counsel fees (including but not limited to Tax Counsel, counsel to the Governmental Lender, Borrower’s counsel, and Funding Lender’s counsel); (ii) financial advisor fees incurred in connection with the closing of the Borrower Loan and the Funding Loan; (iii) certifying and authenticating agent fees and expenses related to funding of the Funding Loan; (iv) printing costs (for any preliminary and final offering materials relating to the Funding Loan); (v) any recording fees; (vi) any additional fees charged by the Governmental Lender; and (vii) costs incurred in connection with the required public notices generally and costs of the public hearing.

“Costs of Funding Deposit” shall mean the amount required to be deposited by the Borrower with the Old Republic Title Company to pay Costs of Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Closing Date.

“Cost of Improvements” shall mean the costs for the rehabilitation of the Improvements, as set forth on the Cost Breakdown.

“Credit Enhancer” shall mean a government sponsored enterprise that at any time, directly or indirectly, purchases the Borrower Loan or provides credit enhancement with respect to the Borrower Loan.

“Date of Disbursement” shall mean the date of a Disbursement.

“Day” or **“Days”** shall mean calendar days unless expressly stated to be Business Days.

“Debt” shall mean, as to any Person, any of such Person’s liabilities, including all indebtedness (whether recourse and nonrecourse, short term and long term, direct and contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

“Default Rate” shall have the meaning given to that term in the Borrower Note.

“Determination of Taxability” shall mean (i) a determination by the Commissioner or any District Director of the Internal Revenue Service, (ii) a private ruling or Technical Advice Memorandum concerning the Governmental Lender Note issued by the National Office of the Internal Revenue Service in which Governmental Lender and Borrower were afforded the opportunity to participate, (iii) a determination by any court of competent jurisdiction, (iv) the enactment of legislation or (v) receipt by the Funding Lender, at the request of the Governmental Lender, the Borrower or the Funding Lender, of an opinion of Tax Counsel, in each case to the effect that the interest on the Governmental Lender Note is includable in gross income for federal income tax purposes of any holder or any former holder of all or a portion of the Governmental Lender Note, other than a holder who is a “substantial user” of the Project or a “related person” (as such terms are defined in Section 147(a) of the Code); provided, however, that no such Determination of Taxability under clause (i) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one year from the date of initial determination.

“Developer Fee” shall mean the fees and/or compensation payable to EAH Inc., a California nonprofit corporation, pursuant to the Development Agreement dated as of December 1, 2015 between Borrower and EAH Inc., which fees and/or compensation shall not be paid prior to the Conversion Date except as otherwise permitted pursuant to Section 6.13(b).

“Disbursement” means a disbursement of Borrower Loan Proceeds and Other Borrower Moneys pursuant to this Borrower Loan Agreement.

“Engineer” shall mean any licensed civil, structural, mechanical, electrical, soils, environmental or other engineer that Borrower may engage from time to time, with the approval of Funding Lender, to perform any engineering services with respect to any portion of the rehabilitation of the Improvements.

“Engineer’s Contract” shall mean any agreement that Borrower and any Engineer from time to time may execute pursuant to which Borrower engages such Engineer to perform any engineering services with respect to any portion of the rehabilitation of the Improvements, as approved by Funding Lender.

“Equipment” shall have the meaning given to the term **“Personalty”** in the Security Instrument.

“Equity Contributions” shall mean the equity to be contributed by the Equity Investor to Borrower, in accordance with and subject to the terms of the Partnership Agreement.

“Equity Investor” shall mean Merritt Community Capital Fund XVIII, a California limited partnership, and its affiliates, successors and assigns.

“ERISA” shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated hereunder.

“ERISA Affiliate” shall mean all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

“Event of Default” shall mean any Event of Default set forth in Section 8.1 of this Borrower Loan Agreement. An Event of Default shall **“exist”** if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

“Excess Revenues” shall have the meaning ascribed thereto in Section 2.2(e) hereof.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Expenses of the Project” shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents), a management fee (however characterized) not to exceed \$_____ per unit per month, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

“Extended Outside Conversion Date” shall have the meaning set forth in the Construction Funding Agreement.

“Fair Market Value” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term **“Fair Market Value”** means the acquisition price in a bona fide arm’s length

transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“Funding Lender” shall mean Citibank, N.A., a national banking association, in its capacity as lender under the Funding Loan.

“Funding Loan” means the Funding Loan in the maximum principal amount of \$_____ made by Funding Lender to Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

“Funding Loan Agreement” means the Funding Loan Agreement, of even date herewith, between the Governmental Lender and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“Funding Loan Documents” shall have the meaning given to that term in the Funding Loan Agreement.

“GAAP” shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

“General Partner” shall mean, collectively, (i) the Managing General Partner, and/or (ii) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted with the Funding Lender’s approval pursuant to the Borrower Loan Documents), selected to be a general partner of the Borrower.

“Governmental Authority” shall mean (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

“Governmental Lender” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Governmental Lender Note” shall mean that certain Governmental Lender Note dated the Closing Date in the original principal amount of the Funding Loan, made by the Governmental Lender and payable to Funding Lender, as it may be amended, supplemented or replaced from time to time.

“Governmental Lender’s Closing Fee” shall mean the administrative fees of the Governmental Lender payable on the Closing Date, as specified in the definition of “Governmental Lender Issuance Fee” in the Regulatory Agreement. The Governmental Lender’s Closing Fee and the first Governmental Lender Annual Fee (as defined in the Regulatory Agreement) are payable to the Governmental Lender on the Closing Date pursuant to Section 2.3(c)(iii) hereof.

“Gross Income” shall mean all receipts, revenues, income and other moneys received or collected by or on behalf of Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by Borrower in accordance with applicable law.

“Gross Proceeds” shall mean, without duplication, the aggregate of:

- (a) the net amount (after payment of all expenses of originating the Funding Loan) of Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;
- (b) all amounts received by the Governmental Lender as a result of the investment of the Funding Loan proceeds;
- (c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and
- (d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

“Guarantor” shall mean EAH Inc., a California nonprofit corporation, or any other person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Borrower Loan.

“Guaranty” shall mean, collectively, the Completion Guaranty and the Exceptions to Non-Recourse Guaranty, each of even date herewith and each by EAH Inc., a California nonprofit corporation for the benefit of the Beneficiary Parties.

“Improvements” shall mean the 50-unit multifamily residential rental project to be rehabilitated upon the Land and known as Golden Oak Manor, and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property

to be rehabilitated and/or installed at or on the Land in accordance with the Cost Breakdown and the Plans and Specifications.

“Indemnified Party” shall have the meaning set forth in Section 5.15 hereof.

“Installment Computation Date” shall mean any Computation Date other than the first Computation Date or the final Computation Date.

“Interest Rate” shall mean the rate of interest accruing on the Borrower Loan pursuant to the Borrower Note.

“Interim Phase Amount” shall mean \$_____.

“Land” means the real property described on Exhibit A to the Security Instrument.

“Late Charge” shall mean the amount due and payable as a late charge on overdue payments under the Borrower Note, as provided in Section 7 of the Borrower Note and Section 2.5 hereof.

“Legal Action” shall mean an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

“Legal Requirements” shall mean statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting all or part of the Project or any property (including the Project) or the rehabilitation, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof.

“Liabilities” shall have the meaning set forth in Section 5.15 hereof.

“Licenses” shall have the meaning set forth in Section 4.1.22 hereof.

“Lien” shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

“Management Agreement” shall mean the Management Agreement between the Borrower and the Manager, pursuant to which the Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Manager” shall mean the management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Security Instrument, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

“Managing General Partner” shall mean Golden Oak Manor EAH, LLC, a California limited liability company, as managing general partner of the Borrower.

“Material Adverse Change” means any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations of the Borrower, General Partner, Guarantor or the Mortgaged Property; (c) could reasonably be expected to impair materially the ability of the Borrower, General Partner or Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of Governmental Lender or, upon the assignment of the Borrower Loan to it, of the Funding Lender, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Mortgaged Property” shall have the meaning given to that term in the Security Instrument.

“Net Operating Income” shall mean: (i) the Gross Income, less (ii) the Expenses of the Project.

“Nonpurpose Investment” shall mean any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not acquired to carry out the governmental purpose of the Funding Loan.

“Ongoing Governmental Lender Fee” shall mean the Governmental Lender Annual Fee (as that term is defined in the Regulatory Agreement) that is payable after the Closing Date.

“Other Borrower Moneys” shall mean monies of Borrower other than Borrower Loan Proceeds and includes, but is not limited to, the Subordinate Debt, Net Operating Income, the Borrower’s Equity Contributions and any other funds contributed by or loaned to the Borrower for application to the Costs of the Improvements or other costs associated with the Project.

“Other Charges” shall mean all maintenance charges, impositions other than Taxes, and any other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

“Outside Conversion Date” shall have the meaning set forth in the Construction Funding Agreement.

“Partnership Agreement” shall mean that certain [Amended and Restated Agreement of Limited Partnership] of the Borrower dated as of December __, 2015, as the same may be amended, restated or modified from time to time in accordance with its terms.

“Patriot Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

“Patriot Act Offense” shall have the meaning set forth in Section 4.1.48 hereof.

“Permanent Period” shall mean the period of time from the Conversion Date to the Maturity Date (as defined in the Funding Loan Agreement).

“Permanent Period Amount” shall mean the principal amount of the Borrower Loan as of the first day of the Permanent Period following the applicable calculation provided for in the Construction Funding Agreement.

“Permitted Encumbrances” shall have the meaning given to that term in the Security Instrument.

“Permitted Lease” shall mean a lease and occupancy agreement pursuant to the form approved by Funding Lender, to a residential tenant in compliance with the Legal Requirements, providing for an initial term of not less than six (6) months nor more than two (2) years.

“Person” shall mean a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

“Plan” shall mean (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

“Plans and Specifications” shall mean the plans and specifications, and all approved changes thereto pursuant to the approval process set forth in the Construction Funding Agreement, for the rehabilitation of the Project approved by Funding Lender.

“Potential Default” shall mean the occurrence of an event that, under this Borrower Loan Agreement or any other Borrower Loan Document, would, but for the giving of notice or passage of time, or both, be an Event of Default.

“Prepayment Premium” shall mean any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note).

“Project” shall mean the Mortgaged Property (as defined in the Security Instrument) and Improvements thereon owned by the Borrower and encumbered by the Security Instrument, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of the Security Instrument and referred to therein as the “Mortgaged Property.”

“Project Agreements and Licenses” shall mean any and all Construction Contracts, Engineer’s Contracts and Management Agreements, and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project or the Mortgaged Property.

“Provided Information” shall have the meaning set forth in Section 9.1.1 (a) hereof.

“Qualified Project Costs” shall have the meaning given to it in the Regulatory Agreement.

“Rebate Amount” shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“Rebate Analyst” shall mean the rebate analyst selected by the Borrower and acceptable to the Governmental Lender and the Funding Lender.

“Rebate Analyst’s Fee” shall mean the annual fee of the Rebate Analyst payable by the Borrower to the Rebate Analyst.

“Rebate Fund” shall mean the Rebate Fund created pursuant to Section 5.35 hereof.

“Related Documents” shall mean, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest (including each agreement that is the subject of any Borrower Loan Document), and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement (but excluding the Partnership Agreement).

“Replacement Reserve Agreement” shall mean the Replacement Reserve Agreement, of even date herewith, between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.

“Replacement Reserve Fund Requirement” means Borrower’s funding obligations from time to time under the Replacement Reserve Agreement.

“Retainage” shall mean, for each Construction Contract, the greater of (a) ten percent (10%) of all amounts required to be paid by a Contractor under the Construction Contract and (b) the actual retainage required under such Construction Contract, which shall be released upon satisfaction of the conditions set forth in Section 3.13 of the Construction Funding Agreement.

“Secondary Market Disclosure Document” shall have the meaning set forth in Section 9.1.2 hereof.

“Secondary Market Transaction” shall have the meaning set forth in Section 9.1.1 hereof.

“Securities” shall have the meaning set forth in Section 9.1.1 hereof.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the Security Instrument, the Replacement Reserve Agreement, the Collateral Agreements and the Collateral Assignments (as such terms are defined in the Security Instrument), this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other security instruments that Funding Lender may reasonably request.

“Security Instrument” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Servicer” shall mean the Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan. The initial Servicer shall be Citibank, N.A.

“Servicing Agreement” shall mean any servicing agreement or master servicing agreement, among the Servicer and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof.

“Standard & Poor’s” or “S&P” shall mean Standard & Poor’s Ratings Services, a division of McGraw Hill Financial, Inc., or its successors.

“State” shall mean the State in which the Project is located.

“Subordinate Debt” shall mean, collectively, the subordinate loans to Borrower being made by Subordinate Lenders as of the Closing Date pursuant to the Subordinate Loan Documents. The Subordinate Debt includes the _____ Loan and the _____ Loan, as such terms are defined in the Construction Funding Agreement.

“Subordinate Lenders” shall mean, collectively, the Governmental Lender (in its capacity as lender with respect to the _____ Loan, as such term is defined in the Construction Funding Agreement), and the City of Oakley, California (in its capacity as lender with respect to the _____ Loan, as such term is defined in the Construction Funding Agreement).

“Subordinate Loan Documents” shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by Borrower and/or a Subordinate Lender in connection with the Subordinate Debt.

“Substantial Completion Date” means the date that is three (3) months prior to the Completion Date.

“Substantially Complete” or **“Substantially Completed”** means the Funding Lender has determined that rehabilitation or rehabilitation, as the case may be, of the Improvements is sufficiently complete such that the Improvements can be occupied by tenants as a multifamily residential rental project.

“Tax Counsel” shall have the meaning set forth in the Funding Loan Agreement.

“Taxes” shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against all or part of the Project.

“Term” shall mean the term of this Borrower Loan Agreement pursuant to Section 10.14.

“Title Company” means Old Republic Title Insurance Company.

“Title Insurance Policy” shall mean the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Mortgaged Property and insuring the lien of the Security Instrument.

“Transfer” shall have the meaning given to that term in the Security Instrument.

“UCC” shall mean the Uniform Commercial Code as in effect in the State.

“Unassigned Rights” shall have the meaning set forth in the Funding Loan Agreement.

“Unit” shall mean a residential apartment unit within the Improvements.

“Written Consent” and **“Written Notice”** shall mean a written consent or notice signed by an Authorized Borrower Representative or an authorized representative of the Governmental Lender or the Funding Lender, as appropriate.

ARTICLE II

GENERAL

Section 2.1. Origination of Borrower Loan. In order to provide funds for the purposes provided herein, the Governmental Lender agrees that it will, in accordance with the Act, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Borrower in accordance with the terms of the Construction Funding Agreement and this Borrower Loan Agreement.

The Governmental Lender hereby appoints the Funding Lender as its agent with full authority and power to act on its behalf to disburse the Borrower Loan for the account of the Governmental Lender, to take certain actions and exercise certain remedies with respect to the Borrower Loan, and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof. This appointment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to Funding Lender in its role as agent of the Governmental Lender. The Funding Lender may designate Servicer to fulfill the rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to this Section 2.1.

Section 2.2. Security for the Funding Loan.

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned to the Funding Lender under and pursuant to the Funding Loan Agreement (a) the Borrower Note and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Security Instrument) and (b) the amounts on deposit from time to time in any and all funds established under the Funding Loan Agreement. All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Note, which shall be delivered to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment to the Funding Lender.

(b) With respect to the Unassigned Rights, subject to the limitations set forth in this Section 2.2, the Governmental Lender may:

(i) **Tax Covenants.** Seek specific performance of, and enforce, the tax covenants in Section 8.7 of the Funding Loan Agreement, the provisions of the Regulatory Agreement, the Tax Certificate and the covenants of the Borrower in Section 5.34 of this Borrower Loan Agreement, and seek injunctive relief against acts which may be in violation of any of the foregoing covenants, and enforce the Borrower's obligation under Section 5.35 to pay amounts for credit to the Rebate Fund;

(ii) **Regulatory Agreement.** Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided, however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages only against Excess Revenues (defined below), if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the use of other funds; and

(iii) **Reserved Rights.** Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights, provided, however, that the Governmental Lender or any person under its control may only enforce any right it may have for monetary damages against Excess Revenues, if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the enforcement against other funds of the Borrower.

(c) In no event shall the Governmental Lender, except at the express written direction of the Funding Lender:

(i) prosecute its action to a lien on the Project; or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan or of causing the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by Funding Lender or Servicer of any of their rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Documents or the Funding Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(d) The Governmental Lender shall provide Written Notice to the Funding Lender and the Servicer immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Borrower Loan Documents or the Funding Loan Documents.

(e) As used in this Section 2.2, the term “Excess Revenues” means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly

or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts which the Borrower is required to set aside pursuant to agreement, but excluding depreciation and amortization of intangibles.

Section 2.3. Loan; Borrower Note; Conditions to Closing.

(a) The Borrower Loan shall be funded directly to the Borrower by the Funding Lender (with an initial funding on the Closing Date) in one or more installments not to exceed in the aggregate the Borrower Loan Agreement, in accordance with the disbursement procedures set forth in the Construction Funding Agreement. Upon funding of each installment of the Borrower Loan, the Funding Lender shall be deemed to have made an installment of the Funding Loan to the Governmental Loan in a like principal amount. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition and rehabilitation of the Project. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in the Funding Loan Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental Lender.

(b) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, simultaneously with its execution and delivery of this Borrower Loan Agreement, the Borrower hereby agrees to execute and deliver the Borrower Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note.

(c) Closing of the Borrower Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender, in their sole discretion, of each of the conditions precedent to closing set forth in the Funding Loan Agreement and this Borrower Loan Agreement, including but not limited to the following:

(i) evidence of proper recordation of the Security Instrument, an assignment of the Security Instrument from the Governmental Lender to the Funding Lender, the Regulatory Agreement, and each of the other documents specified for recording in instructions delivered to the Title Company by counsel to the Funding Lender (or that such documents have been delivered to an authorized agent of the Title Company for recordation under binding recording instructions from Funding Lender's counsel or such other counsel as may be acceptable to the Funding Lender);

(ii) delivery into escrow with the Title Company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and the Borrower Initial Equity, all as specified in written instructions delivered to the Title Company by counsel to the

Funding Lender (or such other counsel as may be acceptable to the Funding Lender) and/or as specified in a closing memorandum of the Funding Lender; and

(iii) payment of all fees payable in connection with the closing of the Borrower Loan including the Governmental Lender's Closing Fee.

In addition, closing of the Borrower Loan shall be subject to the delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender, dated the Closing Date, in form and substance acceptable to Tax Counsel, regarding the due execution by the Borrower of, and the enforceability against the Borrower of, the Borrower Loan Documents.

Section 2.4. Borrower Loan Payments.

(a) The Borrower shall make Borrower Loan Payments in accordance with the Borrower Note. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Funding Loan or the Servicer by 2:00 p.m., New York City time on the Borrower Loan Payment Date. Each such payment shall be made to the Funding Lender or the Servicer, as applicable, by deposit to such account as the Funding Lender or Servicer, as applicable, may designate by Written Notice to the Borrower. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(b) Unless there is no Servicer, payments of principal and interest on the Borrower Note shall be paid to the Servicer. If there is no Servicer, payments of principal and interest on the Borrower Note shall be paid directly to the Funding Lender.

Section 2.5. Additional Borrower Payments.

(a) The Borrower shall pay on demand the following amounts:

(i) to the Servicer or the Funding Lender, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 5.35 hereof and the Rebate Analyst's Fee and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Governmental Lender, any and all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred by the Governmental Lender at any time in connection with the Borrower Loan Documents, the Funding Loan Documents or the Project, including, without limitation, the Ongoing Governmental Lender Fee, counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses

relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit;

(iii) [Reserved];

(iv) all Costs of Funding and fees, charges and expenses, including agent and counsel fees incurred in connection with the origination of the Borrower Loan and the Funding Loan, as and when the same become due;

(v) to the Funding Lender, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit; and

(vi) all Late Charges due and payable under the terms of the Borrower Note and Section 2.6 hereof; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Funding Lender.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement or the other Borrower Loan Documents or Funding Loan Documents:

(i) all expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, or any Funding Loan Document by the Governmental Lender, the Funding Lender or the Servicer;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document; and

(iii) all expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Funding Lender, the Servicer or the Construction Consultant, in accordance with the Borrower Loan Documents or the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

Section 2.6. Overdue Payments; Payments if Default. If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the Servicer a Late Charge in the amount and to the extent set forth in the Borrower Note, if any.

Section 2.7. Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds. The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender; (b) deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or if there is no Servicer, the Funding Lender in accordance with the Security Instrument; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the Replacement Reserve Agreement. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall determine at any time that there exists a deficiency in amounts previously owed but not paid with respect to deposits to such replacement reserve fund, such deficiency shall be immediately due and payable hereunder following Written Notice to the Borrower.

Section 2.8. Grant of Security Interest; Application of Funds. To the extent not inconsistent with the Security Instrument and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Funding Lender, and grants to the Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all payments to or moneys held in the funds and accounts created and held by the Funding Lender or the Servicer for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Funding Lender and the Servicer shall apply or cause to be applied any sums held by the Funding Lender and the Servicer with respect to the Project in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

Section 2.9. Marshalling; Payments Set Aside. The Governmental Lender and the Funding Lender shall be under no obligation to marshal any assets in favor of the Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that the Borrower makes a payment or payments or transfers any assets to the Governmental Lender or the Funding Lender, or the Governmental Lender or the Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender or the Funding Lender and any and all remedies available to the Governmental Lender or the Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against the Borrower, Guarantor or General Partner and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender and the Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the consideration paid to or received by the Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Governmental Lender or the Funding Lender in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and

owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender or the Funding Lender in connection with the exercise by the Governmental Lender or the Funding Lender of its rights under this Section 2.9.

Section 2.10. Borrower Loan Disbursements. Proceeds of the Borrower Loan shall be disbursed by the Funding Lender, as agent for the Governmental Lender, pursuant to the Construction Funding Agreement.

ARTICLE III

CONVERSION

Section 3.1. Conversion Date and Extension of Outside Conversion Date. Borrower shall satisfy each of the Conditions to Conversion and cause the Conversion Date to occur on or before the Outside Conversion Date (including the Extended Outside Conversion Date, if any), as further provided in the Construction Funding Agreement. The failure to satisfy each of the Conditions to Conversion on or before the Outside Conversion Date shall constitute an Event of Default under the Borrower Loan Documents.

Section 3.2. Notice From Funding Lender; Funding Lender's Calculation Final. Following satisfaction of all of the Conditions to Conversion, Funding Lender shall deliver Written Notice to Borrower (with a copy to the Governmental Lender) of: (i) the Conversion Date, (ii) the amount of the Permanent Period Amount, (iii) any required prepayment of the Borrower Note (as described below in Section 3.3) and (iv) any amendments to the amortization schedule, as applicable.

Funding Lender's calculation of the Permanent Period Amount and any amendments to the amortization of the Borrower Loan shall be, in the absence of manifest error, conclusive and binding on all parties.

Section 3.3. Mandatory Prepayment of the Borrower Loan. As further provided in the Construction Funding Agreement, if and to the extent the Permanent Period Amount is less than the Interim Phase Amount, Funding Lender may in its sole discretion require Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the Interim Phase Amount and the Permanent Period Amount (a "Pre-Conversion Loan Equalization Payment"); provided, however, that if the Permanent Period Amount is less than the Minimum Permanent Period Amount (as defined in the Construction Funding Agreement), then Funding Lender may in its sole discretion require Borrower to prepay the Borrower Loan in full.

Any prepayment in full or in part of the Borrower Loan required pursuant to the preceding paragraph shall be subject to a prepayment premium under certain circumstances as more particularly set forth in the Borrower Note.

Section 3.4. Release of Remaining Loan Proceeds. If and to the extent that the Permanent Period Amount is greater than the principal amount of the Borrower Loan which has previously been disbursed to Borrower, Funding Lender shall deliver Written Notice thereof to Borrower (with a copy to the Governmental Lender) on or before the Conversion Date. Within ten (10) business days after delivery of such notice, but in no event later than the Outside Conversion Date, Funding Lender shall disburse Borrower Loan proceeds to the Borrower so that the aggregate principal amount of the Funding Loan and of the Borrower Loan disbursed equals the Permanent Period Amount. Any Borrower Loan proceeds previously disbursed to the Borrower in excess of the Permanent Period Amount shall be paid by the Borrower to the Funding Lender.

Section 3.5. No Amendment. Nothing contained in this Article III shall be construed to amend, modify, alter, change or supersede the terms and provisions of the Borrower Note, Security Instrument, the Construction Funding Agreement or any other Borrower Loan Document and, if there shall exist a conflict between the terms and provisions of this Article III and those of the Borrower Note, Security Instrument, the Construction Funding Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Note, Security Instrument, the Construction Funding Agreement and other Borrower Loan Documents shall control; provided, however, that in the event of a conflict between the terms and provisions of this Article III and those of the Borrower's loan application with the Funding Lender, the terms and provisions of this Article III shall control.

Section 3.6. Determinations by Funding Lender. In any instance where the consent or approval of Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Funding Lender under this Article III, including in connection with the Construction Funding Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Funding Lender (or its designated representative), at its sole and exclusive option and in its sole and absolute discretion.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1. Borrower Representations. To induce the Governmental Lender to execute this Borrower Loan Agreement and to induce the Funding Lender to make Disbursements, the Borrower represents and warrants for the benefit of the Governmental Lender, the Funding Lender and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Closing Date and will be complete and accurate, and deemed remade, as of the date of each Disbursement, as of the original Outside Conversion Date, as of the date of any extension thereof and as of the Conversion Date in accordance with the terms and conditions of the Borrower Note. Subject to Section 4.2 hereof, the representations, warranties and agreements set forth in this Section 4.1 shall survive the making of the Borrower Loan, and shall remain in effect and true and correct in all material respects until the Borrower Loan and all other Borrower Payment Obligations have been repaid in full:

Section 4.1.1 Organization; Special Purpose. The Borrower is a limited partnership in good standing under the laws of the State (and under the laws of the state in which the Borrower was formed if the Borrower was not formed under the laws of the State), has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by proper limited partnership action has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Person(s) of the Borrower executing the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Project.

Section 4.1.2 Proceedings; Enforceability. Assuming due execution and delivery by the other parties thereto, the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

Section 4.1.3 No Conflicts. The execution and delivery of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are

otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever (other than the lien of the Security Instrument) upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

Section 4.1.4 Litigation; Adverse Facts. There is no Legal Action, nor is there a basis known to Borrower for any Legal Action, before or by any court or federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Borrower Loan Documents or the Funding Loan Documents, upon the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, General Partner or Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, General Partner or Guarantor. None of Borrower, General Partner or Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; or (c) in default with respect to any agreement to which Borrower, General Partner or Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of Borrower, threatened against or affecting Borrower, General Partner or Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the other Borrower Loan Documents or the Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower

enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

Section 4.1.5 Agreements; Consents; Approvals. Except as contemplated by the Borrower Loan Documents and the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Project, or the Borrower's business, properties, operations or financial condition or business prospects, except the Permitted Encumbrances. The Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Project is bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of the Borrower Loan Documents or the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

Section 4.1.6 Title. The Borrower shall have marketable title to the Project, free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the fee interest in the Project and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty included in the Project (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the Borrower's knowledge, there are no delinquent real property taxes or assessments, including water and sewer charges, with respect to the Project, nor are there any claims for payment for work, labor or materials affecting the Project which are or may become a Lien prior to, or of equal priority with, the Liens created by the Borrower Loan Documents and the Funding Loan Documents.

Section 4.1.7 Survey. To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

Section 4.1.8 No Bankruptcy Filing. The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Closing Date, the Borrower has the ability to pay its debts as they become due.

Section 4.1.9 Full and Accurate Disclosure. No statement of fact made by the Borrower in any Borrower Loan Document or any Funding Loan Document contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein in light of the circumstances in which they were made, not misleading. There is no

material fact or circumstance presently known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Project or the business, operations or financial condition or business prospects of the Borrower or the Borrower's ability to meet its obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and Funding Loan Documents to which it is a party in a timely manner.

Section 4.1.10 No Plan Assets. The Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3 101.

Section 4.1.11 Compliance. The Borrower, the Project and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or business prospects or the business of the Borrower. There has not been committed by the Borrower or any Borrower Affiliate involved with the operation or use of the Project any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower's obligations under any Borrower Loan Document or any Funding Loan Documents.

Section 4.1.12 Contracts. All service, maintenance or repair contracts affecting the Project have been entered into at arm's length (except for such contracts between the Borrower and its affiliates or the affiliates of the Borrower Controlling Entity of the Borrower) in the ordinary course of the Borrower's business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

Section 4.1.13 Financial Information. All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, as of their respective dates, (ii) accurately represent the financial condition of the Project as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Borrower Loan Documents or the Funding Loan Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

Section 4.1.14 Condemnation. No Condemnation or other proceeding has been commenced or, to the Borrower's knowledge, is contemplated, threatened or pending with respect to all or part of the Project or for the relocation of roadways providing access to the Project.

Section 4.1.15 Federal Reserve Regulations. No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any “margin stock” within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Borrower Loan Document or Funding Loan Document.

Section 4.1.16 Utilities and Public Access. To the best of the Borrower’s knowledge, the Project is or will be served by water, sewer, sanitary sewer and storm drain facilities adequate to service it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Project are or will be located in the public right-of-way abutting the Project, and all such utilities are or will be connected so as to serve the Project without passing over other property absent a valid easement. All roads necessary for the use of the Project for its current purpose have been or will be completed and dedicated to public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Project does not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Project and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower’s responsibilities and share of expenses are specified, and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

Section 4.1.17 Not a Foreign Person. The Borrower is not a “foreign person” within the meaning of §1445(f)(3) of the Code.

Section 4.1.18 Separate Lots. Each parcel comprising the Land is a separate tax lot and is not a portion of any other tax lot that is not a part of the Land.

Section 4.1.19 Assessments. Except as disclosed in the Title Insurance Policy, there are no pending or, to the Borrower’s best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

Section 4.1.20 Enforceability. The Borrower Loan Documents and the Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

Section 4.1.21 Insurance. The Borrower has obtained the insurance required by this Borrower Loan Agreement, if applicable, and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance reflecting the insurance coverages, amounts and other requirements set forth in this Borrower Loan Agreement, if applicable, and the Security Instrument.

Section 4.1.22 Use of Property; Licenses. The Project will be used exclusively as a multifamily residential rental project and other appurtenant and related uses, which use is

consistent with the zoning classification for the Project. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use or legal, nonconforming use, as applicable, occupancy and operation of the Project (collectively, the "Licenses") required at this time for the rehabilitation and equipping of the Project have been obtained. To the Borrower's knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Licenses required for the future use and occupancy of the Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. No Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey. No proceedings are, to the best of the Borrower's knowledge, pending or threatened that would result in a change of the zoning of the Project.

Section 4.1.23 Flood Zone. Either all Improvements will be rehabilitated above the flood grade or the Borrower will obtain appropriate flood insurance as directed by the Servicer.

Section 4.1.24 Physical Condition. The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are or, after completion of the rehabilitation, rehabilitation and/or repairs, as appropriate, will be in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Project, or any part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The physical configuration of the Project is not in material violation of the ADA, if required under applicable law.

Section 4.1.25 Encroachments. All of the Improvements included in determining the appraised value of the Project will lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Servicer.

Section 4.1.26 State Law Requirements. The Borrower hereby represents, covenants and agrees to comply with the provisions of all applicable state laws relating to the Borrower Loan, the Funding Loan and the Project.

Section 4.1.27 Filing and Recording Taxes. All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Project to the Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Borrower Loan Documents and the Funding Loan Documents have been or will be paid.

Section 4.1.28 Investment Company Act. The Borrower is not (i) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended; or (ii) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended.

Section 4.1.29 Fraudulent Transfer. The Borrower has not accepted the Borrower Loan or entered into any Borrower Loan Document or Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Borrower Loan Documents and the Funding Loan Documents. Giving effect to the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the fair saleable value of the Borrower’s assets exceeds and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, exceed the Borrower’s total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower’s assets is and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, be greater than the Borrower’s probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower’s assets do not and, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

Section 4.1.30 Ownership of the Borrower. Except as set forth in the Partnership Agreement of the Borrower and the exhibits thereto, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in it.

Section 4.1.31 Environmental Matters. To the best of Borrower’s knowledge, the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or cleanup, and will comply with covenants and requirements relating to environmental hazards as set forth in the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification on the Closing Date.

Section 4.1.32 Name; Principal Place of Business. Unless prior Written Notice is given to the Funding Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 10.1 hereof, and the Borrower has no other place of business, other than the Project and such principal place of business.

Section 4.1.33 Subordinated Debt. There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances and the permitted secured indebtedness described in Section 6.7 hereof, except an unsecured deferred developer fee not to exceed the amount permitted by Funding Lender as determined on the Closing Date.

Section 4.1.34 Filing of Taxes. The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

Section 4.1.35 General Tax. All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Certificate are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

Section 4.1.36 Approval of the Borrower Loan Documents and Funding Loan Documents. By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender or the Servicer in any manner.

Section 4.1.37 Funding Loan Agreement. The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

Section 4.1.38 Americans with Disabilities Act. The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990 ("ADA"), to the extent required (as evidenced by an architect's certificate to such effect).

Section 4.1.39 Requirements of Act, Code and Regulations. The Project satisfies all requirements of the Act, the Code and the Regulations applicable to the Project.

Section 4.1.40 Regulatory Agreement. The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the

Regulatory Agreement, including all applicable requirements of the Act and the Code and the Regulations, and pursuant to leases which comply with all applicable laws.

Section 4.1.41 Intention to Hold Project. The Borrower intends to hold the Project for its own account and has no current plans, and except as set forth in the Partnership Agreement has not entered into any agreement, to sell the Project or any part of it; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

Section 4.1.42 Concerning General Partner.

(a) The managing general partner of Borrower is the General Partner, a California limited liability company, and the Managing General Partner is duly organized and validly existing under the laws of the State of California. The General Partner has all requisite power and authority, rights and franchises to enter into and perform its obligations under the Borrower Loan Documents and the Funding Loan Documents to be executed by it for its own account and on behalf of Borrower, as general partner of Borrower, under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents.

(b) The General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, condition (financial or otherwise) or prospects of General Partner.

(c) The General Partner is duly authorized to do business in the State.

(d) The execution, delivery and performance by Borrower of the Borrower Loan Documents and the Funding Loan Documents have been duly authorized by all necessary action of General Partner on behalf of Borrower, and by all necessary action on behalf of General Partner.

(e) The execution, delivery and performance by General Partner, on behalf of Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) General Partner's organizational documents; (ii) any other Legal Requirement affecting General Partner or any of its properties; or (iii) any agreement to which General Partner is bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral or any of the property or funds pledged or delivered to Funding Lender pursuant to the Security Documents.

Section 4.1.43 Government and Private Approvals. All governmental or regulatory orders, consents, permits, authorizations and approvals required for the rehabilitation, rehabilitation, use, occupancy and operation of the Improvements, that may be granted or denied

in the discretion of any Governmental Authority, have been obtained and are in full force and effect (or, in the case of any of the foregoing that Borrower is not required to have as of the Closing Date, will be obtained), and will be maintained in full force and effect at all times during the rehabilitation or rehabilitation of the Improvements. All such orders, consents, permits, authorizations and approvals that may not be denied in the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the rehabilitation or rehabilitation of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of Borrower, are required for the due execution, delivery and performance by Borrower or General Partner of any of the Borrower Loan Documents or the Funding Loan Documents or the Related Documents executed by Borrower or General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Project is not conditional upon the happening of any further event.

Section 4.1.44 Concerning Guarantor. The Borrower Loan Documents and the Funding Loan Documents to which the Guarantor is a party or a signatory executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by Guarantor and are legally valid and binding obligations of Guarantor, enforceable against Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

Section 4.1.45 No Material Defaults. Except as previously disclosed to Funding Lender and the Governmental Lender in writing, there exists no material violation of or material default by Borrower under, and, to the best knowledge of Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Project or to which Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which Borrower or the Project may be bound; or (iv) any mortgage, instrument, agreement or document by which Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Borrower Loan Document or Funding Loan Document; (2) which involves the Project and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of Borrower, General Partner or Guarantor or to perform any of its respective obligations under any of the Borrower Loan Documents or the Funding Loan Documents or any other material instrument, agreement or document to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Borrower Loan Documents or the Funding Loan Documents.

Section 4.1.46 Payment of Taxes. Except as previously disclosed to Funding Lender in writing: (i) all tax returns and reports of Borrower, General Partner and Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges

upon Borrower, General Partner and Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) Borrower knows of no proposed tax assessment against it or against General Partner or Guarantor that would be material to the condition (financial or otherwise) of Borrower, General Partner or Guarantor, and neither Borrower nor General Partner have contracted with any Government Authority in connection with such taxes.

Section 4.1.47 Rights to Project Agreements and Licenses. Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications and all existing Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. Borrower's interest in the Plans and Specifications and all Project Agreements and Licenses is not subject to any present claim (other than under the Borrower Loan Documents and the Funding Loan Documents or as otherwise approved by Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

Section 4.1.48 Patriot Act Compliance. Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" shall mean any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. "Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" shall mean (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control ("OFAC"), (2) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Funding Lender notified Borrower in writing is now included in "Government Lists", or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Government Authority or pursuant to any Executive Order of the President of the United States of America that Funding Lender notified Borrower in writing is now included in "Government Lists".

Section 4.1.49 Rent Schedule. Borrower has prepared a prospective Unit absorption and rent collection schedule with respect to the Project substantially in the form attached as an exhibit to the Construction Funding Agreement, which schedule takes into account, among other relevant factors (i) a schedule of minimum monthly rentals for the Units, and (ii) any and all concessions including free rent periods, and on the basis of such schedule, Borrower believes it

will collect rents with respect to the Project in amounts greater than or equal to debt service on the Borrower Loan.

Section 4.1.50 Other Documents. Each of the representations and warranties of Borrower or General Partner contained in any of the other Borrower Loan Documents or the Funding Loan Documents or Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Borrower Loan Documents or Funding Loan Documents or Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated herein for the benefit of Funding Lender.

Section 4.1.51 Subordinate Loan Documents. The Subordinate Loan Documents are in full force and effect and the Borrower has paid all commitment fees and other amounts due and payable to the Subordinate Lender(s) thereunder. There exists no material violation of or material default by the Borrower under, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

Section 4.1.52 [Reserved].

Section 4.2. Survival of Representations and Covenants. All of the representations and warranties in Section 4.1 hereof and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender and the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1 hereof.

ARTICLE V

AFFIRMATIVE COVENANTS

During the term of this Borrower Loan Agreement, the Borrower hereby covenants and agrees with the Governmental Lender, the Funding Lender and the Servicer that:

Section 5.1. Existence. The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain in good standing under the laws of the State.

Section 5.2. Taxes and Other Charges. The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all taxes and Other Charges of any type or character charged to the Funding Lender affecting the amount available to the Funding Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and Other Charges assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Funding Lender and taxes based upon or measured by the net income of the Funding Lender; provided, however, that the Borrower shall have the right to protest any such taxes or Other Charges and to require the Funding Lender, at the Borrower's expense, to protest and contest any such taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.3. Repairs; Maintenance and Compliance; Physical Condition. The Borrower shall cause the Project to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

Section 5.4. Litigation. The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Project.

Section 5.5. Performance of Other Agreements. The Borrower shall observe and perform in all material respects each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument affecting or pertaining to the Project.

Section 5.6. Notices. The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two (2) Business Days of such filing.

Section 5.7. Cooperate in Legal Proceedings. The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender and the Servicer at their option, to participate in, any proceedings before any Governmental Authority that may in any way affect the rights of the Governmental Lender, the Funding Lender and/or the Servicer under any Borrower Loan Document or Funding Loan Document.

Section 5.8. Further Assurances. The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 9.1 hereof), (i) furnish to the Servicer and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that Borrower's rehabilitation or renovation of the Project alters any existing building foundations or footprints), certificates, plans and specifications, appraisals, title and other insurance reports and agreements, reasonably requested by the Servicer or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents; (ii) execute and deliver to the Servicer and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Borrower Loan, as the Servicer and the Funding Lender may reasonably require from time to time; (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, as the Servicer or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater personal liability under the Borrower Loan Documents and the Funding Loan Documents; and (iv) upon the Servicer's or the Funding Lender's request therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of Default, as applicable, is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Project, each such search to be conducted

by search firms reasonably designated by the Servicer or the Funding Lender in each of the locations reasonably designated by the Servicer or the Funding Lender.

Section 5.9. Delivery of Financial Information. After notice to the Borrower of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender or the Servicer, deliver copies of all financial information required under Article IX.

Section 5.10. Environmental Matters. So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all Hazardous Materials Laws (as defined in the Security Instrument), (b) promptly notify the Funding Lender and the Servicer if the Borrower shall become aware that any Hazardous Materials (as defined in the Security Instrument) are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Project required under any Hazardous Material Laws, in each case as set forth in the Security Instrument or the Agreement of Environmental Indemnification.

Section 5.11. Governmental Lender's and Funding Lender's Fees. The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Ongoing Governmental Lender Fee) and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.12. Estoppel Statement. The Borrower shall furnish to the Funding Lender or the Servicer for the benefit of the Funding Lender or the Servicer within ten (10) days after request by the Funding Lender and the Servicer, with a statement, duly acknowledged and certified, setting forth (i) the unpaid principal of the Borrower Note, (ii) the applicable Interest Rate, (iii) the date installments of interest and/or principal were last paid, (iv) any offsets or defenses to the payment of the Borrower Payment Obligations, and (v) that the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are valid, legal and binding obligations of the Borrower and have not been modified or, if modified, giving particulars of such modification, and no Event of Default exists thereunder or specify any Event of Default that does exist thereunder. The Borrower shall use commercially reasonable efforts to furnish to the Funding Lender or the Servicer, within 30 days of a request by the Funding Lender or Servicer, tenant estoppel certificates from each commercial tenant at the Project in form and substance reasonably satisfactory to the Funding Lender and the Servicer; provided that the Funding Lender and the Servicer shall not make such requests more frequently than twice in any year.

Section 5.13. Defense of Actions. The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Borrower Loan Documents and the Funding Loan Documents, and shall pay, in the manner required by Section 2.4 hereof, all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Borrower Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Project or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any Federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Project to make repairs or take other action to protect the security of the Project, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of Funding Lender appears to be prior or superior to the Borrower Loan Documents or the Funding Loan Documents. The Funding Lender shall have no obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Borrower Loan Documents or Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or that any Borrower Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Borrower Loan Document in which proceeding the Funding Lender is made a party or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including actual attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

Section 5.14. Expenses. The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1 hereof) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Funding Lender's and the Servicer's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of the Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all reasonable expenses of the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1 hereof) in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender, the Funding Lender and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender and the Servicer to collect the Borrower Note, or to enforce the rights of the Governmental Lender, the Funding Lender and the Servicer under this Borrower Loan Agreement or any other the Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender and the Servicer under the Borrower Loan Documents and the Funding Loan Documents arising out of

an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Funding Lender and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the date the amount is incurred until the date of reimbursement to the Governmental Lender, the Funding Lender and the Servicer, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section 5.14 shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Funding Lender or the Servicer, as the case may be, of any of its rights or remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party, and any obligations of the Borrower to pay for environmental inspections or audits will be governed by Section 18(i) and 43(i) of the Security Instrument.

Section 5.15. Indemnity. In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of Governmental Lender or Funding Lender pursuant hereto, pursuant to the Regulatory Agreement and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Servicer, the Beneficiary Parties, Citigroup, Inc., Citicorp Funding, Inc., and each of their respective commissioners, officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the "Liabilities") to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except with respect to any Secondary Market Disclosure Document (other than any Borrower's obligations under Article IX);

(b) Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Funding Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, rehabilitation, installation or rehabilitation of, the Project or any part thereof;

(c) Any lien (other than a Permitted Lien) or charge upon payments by the Borrower to the Governmental Lender or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and Other Charges imposed on the Governmental Lender or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project;

(e) The enforcement of, or any action taken by the Governmental Lender or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) The defeasance, in whole or in part, of the Borrower Loan or the Funding Loan;

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of Borrower applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written or oral representation, presentation, report, appraisal or other information given or delivered by Borrower, General Partner, Guarantor or their Affiliates to Governmental Lender, the Funding Lender, Servicer or any other Person in connection with the Borrower's application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(j) any failure (or alleged failure) by Borrower, the Funding Lender or Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) the Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, rehabilitation or rehabilitation of, the Project or any part thereof; or

(l) the use of the proceeds of the Borrower Loan and the Funding Loan,

except in the case of the foregoing indemnification of the Governmental Lender or any related Indemnified Party, to the extent such damages are caused by the willful misconduct of such Indemnified Party, and except in the case of the foregoing indemnification of the Funding Lender or the Servicer or any related Indemnified Party, to the extent such damages are caused by the

gross negligence or willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 9.1.4 hereof with respect to any securitization or Secondary Market Transaction described in Article IX hereof shall be limited to the indemnity set forth in Section 9.1.4 hereof. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 5.15 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section 5.15 shall survive the termination of this Borrower Loan Agreement.

The foregoing provisions of this Section 5.15 are not intended to and shall not negate, modify, limit or change the provisions of Section 9 of the Borrower Note.

Section 5.16. No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender. Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

Section 5.17. Right of Access to the Project. The Borrower agrees that the Governmental Lender, the Funding Lender, the Servicer and the Construction Consultant, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation, at all reasonable times during business hours and upon reasonable notice, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Servicer, and their duly

authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

Section 5.18. Notice of Default. The Borrower will advise the Governmental Lender, the Funding Lender and the Servicer promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.19. Covenant with Governmental Lender and Funding Lender. The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by others of the Governmental Lender Note and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender, the Funding Lender and any lawful owner, holder or pledgee of the Borrower Note or the Governmental Lender Note from time to time.

Section 5.20. Obligation of the Borrower to Rehabilitate the Project. The Borrower shall proceed with reasonable dispatch to rehabilitate the Project. If the proceeds of the Borrower Loan, together with the Other Borrower Moneys, available to be disbursed to the Borrower are not sufficient to pay the costs of such rehabilitation, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender, the Funding Lender or the Servicer in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender and the Funding Lender do not make any representation or warranty, either express or implied, that moneys, if any, which will be made available to the Borrower will be sufficient to complete the Project, and the Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 5.21. Maintenance of Insurance. Borrower will maintain the insurance required by the Security Instrument.

Section 5.22. Information; Statements and Reports. Borrower shall furnish or cause to be furnished to Funding Lender, in each case with a copy to Governmental Lender:

(a) Notice of Default. As soon as possible, and in any event not later than five (5) Business Days after the occurrence of any Event of Default or Potential Default, a statement of an Authorized Representative of Borrower describing the details of such Event of Default or Potential Default and any curative action Borrower proposes to take;

(b) Financial Statements; Rent Rolls. In the manner and to the extent required under the Security Instrument, such financial statements, expenses statements, rent rolls, reports and other financial documents and information as required by the Security Instrument and the other Borrower Loan Documents and Funding Loan Documents, in the form and within the time periods required therein;

(c) General Partner. As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of General Partner, copies of the financial statements of General Partner as of such date, prepared in substantially the form previously delivered to the Governmental Lender and Funding Lender and in a manner consistent therewith, or in such form (which may include a form prepared in accordance with GAAP) as Funding Lender may reasonably request;

(d) Leasing Reports. Prior to the Conversion Date, on a monthly basis (and in any event within fifteen (15) days after the end of each Calendar Month), a report of all efforts made by Borrower, if any, to lease all or any portion of the Project during such Calendar Month and on a cumulative basis since Project inception, which report shall be prepared and delivered by Borrower, shall be in form and substance satisfactory to Funding Lender, and shall, if requested by Funding Lender, be supported by copies of letters of intent, leases or occupancy agreements, as applicable;

(e) Audit Reports. Promptly upon receipt thereof, copies of all reports, if any, submitted to Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(f) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to Borrower or General Partner naming Governmental Lender or Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(g) Certification of Non-Foreign Status. Promptly upon request of Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by Funding Lender;

(h) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22(b) hereof submitted by or on behalf of Borrower, a statement, in form and substance satisfactory to Funding Lender and certified by an Authorized Borrower Representative, to the effect that Borrower is in compliance with all covenants, terms and conditions applicable to Borrower, under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(i) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property, prospects and results of operations of Borrower, General Partner, Guarantor or the Project, as Funding Lender or Governmental Lender reasonably requests from time to time.

Borrower shall furnish to Governmental Lender, upon its written request, any of the items described in the foregoing subsections (b) through and including (i) above.

Section 5.23. Additional Notices. Borrower will, promptly after becoming aware thereof, give notice to Funding Lender and the Governmental Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any Legal Action which is instituted by or against Borrower, General Partner or Guarantor, or any Legal Action which is threatened against Borrower, General Partner or Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, prospects, assets, management, ownership or condition (financial or otherwise) of Borrower, General Partner, Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which Borrower, General Partner or Guarantor is a party or by or to which Borrower, General Partner or Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable;

(d) any default, alleged default or potential default on the part of Borrower under any of the CC&R's (together with a copy of each notice of default, alleged default or potential default received from any other party thereto);

(e) any notice of default, alleged default or potential default on the part of Borrower received from any tenant or occupant of the Project under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the tenants at the Project have been received by Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change or contemplated change in (i) the location of Borrower's or General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by Borrower or General Partner; or (iii) the nature of the trade or business of Borrower; and

(g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, General Partner and the Equity Investor) under the Partnership Agreement.

Section 5.24. Compliance with Other Agreements; Legal Requirements.

(a) Borrower shall timely perform and comply with, and shall cause General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or rehabilitation of the Improvements, and will furnish Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, rehabilitation, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the Units to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building, zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. Funding Lender and Governmental Lender shall at all times have the right to audit, at Borrower's expense, Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or moderate income, and Borrower shall supply all such information with respect thereto as Funding Lender or Governmental Lender, as applicable, may request and otherwise cooperate with Funding Lender or Governmental Lender, as applicable, in any such audit. Without limiting the generality of the foregoing, Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to rehabilitate, occupy, operate, market and lease the Project.

Section 5.25. Completion and Maintenance of Project. Borrower shall cause the rehabilitation of the Improvements to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with the Construction Funding Agreement, free and clear of any liens or claims for liens (but without prejudice to Borrower's rights of contest under Section 10.16 hereof) ("Completion") on or before the Completion Date. Borrower shall thereafter maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance.

Section 5.26. Fixtures. Borrower shall deliver to Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which Borrower or any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

Section 5.27. Income from Project. Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement, before using or applying such Gross Income for any other purpose. Prior to the Conversion Date, Borrower shall not make or permit any distributions

or other payments of Net Operating Income to its partners, shareholders or members, as applicable, in each case, without the prior Written Consent of Funding Lender.

Section 5.28. Leases and Occupancy Agreements.

(a) *Lease Approval.*

(i) Borrower has submitted to Funding Lender, and Funding Lender has approved, Borrower's standard form of tenant lease for use in the Project. Borrower shall not materially modify that approved lease form without Funding Lender's prior Written Consent in each instance, which consent shall not be unreasonably withheld or delayed. Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third party tenants without Funding Lender's prior Written Consent if:

(A) The lease is a Permitted Lease, and is executed in the form attached as an exhibit to the Construction Funding Agreement without material modification;

(B) Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R and is financially capable of performing all of its obligations under the lease; and

(C) The lease conforms to the Rent Schedule attached as an exhibit to the Construction Funding Agreement and reflects an arm's-length transaction, subject to the requirement that the Borrower comply with any applicable CC&R.

(ii) If any Event of Default has occurred and is continuing, Funding Lender may make written demand on Borrower to submit all future leases for Funding Lender's approval prior to execution. Borrower shall comply with any such demand by Funding Lender.

(iii) No approval of any lease by Funding Lender shall be for any purpose other than to protect Funding Lender's security for the Borrower Loan and to preserve Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by Funding Lender shall result in a waiver of any default of Borrower. In no event shall any approval by Funding Lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) ***Landlord's Obligations.*** Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) ***Leasing and Marketing Agreements.*** Except as may be contemplated in the Management Agreement with Borrower's Manager, Borrower shall not without the approval of

Funding Lender enter into any leasing or marketing agreement and Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

Section 5.29. Project Agreements and Licenses. To the extent not heretofore delivered to Funding Lender, Borrower will furnish to Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications, together with assignments thereof to Funding Lender and consents to such assignments where required by Funding Lender, all in form and substance acceptable to Funding Lender. Neither Borrower nor General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to Funding Lender.

Section 5.30. Payment of Debt Payments. In addition to its obligations under the Borrower Note, Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of other instruments or agreements evidencing or securing such Debt; (iii) promptly inform Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 5.31. ERISA. Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

Section 5.32. Patriot Act Compliance. Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. Funding Lender shall have the right to audit Borrower's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. In the event that Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then Funding Lender may, at its option, cause Borrower to comply therewith and any and all costs and expenses incurred by Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

Section 5.33. Funds from Equity Investor. Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms of the Partnership Agreement.

Section 5.34. Tax Covenants. The Borrower further represents, warrants and covenants as follows:

(a) **General.** The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Governmental Lender Note from gross income (as defined in Section 61 of the Code), for federal

income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Note, the Funding Loan or affecting the Project. Capitalized terms used in this Section 5.34 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Governmental Lender Note, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect Opinion, as such term is defined in the Funding Loan Agreement (other than with respect to interest on any portion of the Governmental Lender Note for a period during which such portion of the Governmental Lender Note is held by a “substantial user” of any facility financed with the proceeds of the Governmental Lender Note or a “related person,” as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 5.34.

(b) ***Use of Proceeds.*** The use of the net proceeds of the Funding Loan at all times will satisfy the following requirements:

(i) ***Limitation on Net Proceeds.*** At least 95% of the net proceeds of the Funding Loan (within the meaning of the Code) actually expended by Borrower shall be used to pay Qualified Project Costs that are costs of a “qualified residential rental project” (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is “functionally related and subordinate” thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) ***Limit on Costs of Funding.*** The proceeds of the Funding Loan will be expended by Borrower for the purposes set forth in this Borrower Loan Agreement and in the Funding Loan Agreement and no portion thereof in excess of two percent of the proceeds of the Funding Loan, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Funding.

(iii) ***Prohibited Facilities.*** The Borrower shall not use or permit the use of any proceeds of the Funding Loan or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) ***Limitation on Land.*** Less than 25 percent of the net proceeds of the Funding Loan actually expended by Borrower will be used, directly or indirectly, for the acquisition of land or an interest therein, nor will any portion of the net proceeds of the Funding Loan be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) ***Limitation on Existing Facilities.*** No portion of the net proceeds of the Funding Loan will be used by Borrower for the acquisition of any existing property or an interest therein unless (A) the first use of such property is pursuant to such acquisition or (B) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed 15 percent of the cost of acquiring such building financed with the proceeds of the Funding Loan (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15 percent). For purposes of the preceding sentence, the term “rehabilitation expenditures” shall have the meaning set forth in Section 147(d)(3) of the Code.

(vi) ***Accuracy of Information.*** The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower’s information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of origination of the Funding Loan.

(vii) ***Limitation of Project Expenditures.*** The acquisition and rehabilitation of the Project were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60th day preceding the adoption of the resolution of the Governmental Lender with respect to the Project on May 5, 2015, and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition or rehabilitation of the Project was paid or incurred prior to 60 days prior to such date, except for permissible “preliminary expenditures”, which include architectural, engineering surveying, soil testing, construction bond issuance and similar costs incurred prior to the commencement of the acquisition and rehabilitation of the Project.

(viii) ***Qualified Costs.*** The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used by Borrower exclusively to pay Qualified Project Costs.

(c) ***Limitation on Maturity.*** The average maturity of the Governmental Lender Note does not exceed 120 percent of the average reasonably expected economic life of the Project to be financed by the Funding Loan, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the net proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Closing Date for the Funding Loan or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) ***No Arbitrage.*** The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Note to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Note relating to the Funding

Loan, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the Funding Loan and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and Funding Lender for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts not later than forty-five days after the fifth anniversary of the Closing Date and each five years thereafter, and not later than forty-five days after the final Computation Date, and agrees that the Borrower will pay all costs associated therewith. The Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Governmental Lender and Funding Lender.

(e) ***No Federal Guarantee.*** Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) ***Representations.*** The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Governmental Lender Note for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) ***Qualified Residential Rental Project.*** The Borrower hereby covenants and agrees that the Project will be operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Governmental Lender Note remains outstanding, to the end that the interest on the Governmental Lender Note shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) **Information Reporting Requirements.** The Borrower will comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Governmental Lender Note to be filed with the Internal Revenue Service within prescribed time limits.

(i) **Funding Loan Not a Hedge Bond.** The Borrower covenants and agrees that not more than 50% of the proceeds of the Funding Loan will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least 85% of the spendable proceeds of the Funding Loan will be used to carry out the governmental purposes of the Funding Loan within the three-year period beginning on the Closing Date.

(j) **Termination of Restrictions.** Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate in accordance with Section 10.14 hereof, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

(k) **Public Approval.** The Borrower covenants and agrees that the proceeds of the Funding Loan will not be used by Borrower in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Funding Loan.

(l) **40/60 Test Election.** The Borrower and the Governmental Lender hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(m) **Modification of Tax Covenants.** Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section 5.34 hereof may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Borrower Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Governmental Lender Note to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Governmental Lender Note in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and

instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section 5.34, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section 5.34; provided, however, that the Funding Lender shall take no action under this Section 5.34 without first notifying the Borrower or the Governmental Lender, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section 5.34.

The Borrower irrevocably authorizes and directs the Funding Lender and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Funding Loan or the Governmental Lender Note in an amount related to the amount of the Borrower Loan.

Section 5.35. Payment of Rebate.

(a) ***Arbitrage Rebate.*** The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Governmental Lender Note in accordance with Section 148(f) of the Code including:

(i) ***Delivery of Documents and Money on Computation Dates.*** The Borrower will deliver to the Servicer, within 55 days after each Computation Date:

(A) with a copy to the Governmental Lender, a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Installment Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations); and

(C) with a copy to the Governmental Lender, an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) ***Correction of Underpayments.*** If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section

5.35 of an amount described in Section 5.35(a)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Servicer (for deposit to the Rebate Fund) and cause the Servicer to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Servicer an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations, the Borrower shall take such steps as are necessary to prevent the Governmental Lender Note from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) **Records.** The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section 5.35 for at least six years after the later of the final maturity of the Governmental Lender Note or the date the Funding Loan is retired in full.

(iv) **Costs.** The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst a certified public accountant and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) **No Diversion of Rebatable Arbitrage.** The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) **Modification of Requirements.** If at any time during the term of this Borrower Loan Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 5.35, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion (as defined in the Funding Loan Agreement) with respect to such action.

(b) **Rebate Fund.** The Servicer shall establish and hold a separate fund designated as the "Rebate Fund."

(i) The Servicer shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Servicer by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(ii) Within 15 days after each receipt or transfer of funds to the Rebate Fund, the Servicer shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(iii) All payments to the United States of America pursuant to this Section 5.35(b) shall be made by the Servicer for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Funding Lender by the Borrower or the Rebate Analyst as set forth in this Section 5.35(b)).

(iv) The Borrower shall preserve all statements, forms and explanations received delivered pursuant this Section 5.35(b) and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan.

(v) Moneys and securities held in the Rebate Fund shall not be deemed funds of the Funding Lender or of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Funding Lender to secure the Funding Loan or any other obligations.

(vi) Notwithstanding anything to the contrary in this Borrower Loan Agreement, no payment shall be made to the United States if the Borrower shall furnish to the Governmental Lender and the Funding Lender an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Note. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender with respect to such withdrawal.

Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 5.35(b) need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender and the Governmental Lender.

Section 5.36. Covenants under Funding Loan Agreement. The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender that by its nature cannot be delegated or assigned.

Section 5.37. Continuing Disclosure Agreement. The Borrower and the Funding Lender shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Funding Loan, the Borrower and other matters as specifically provided for in such agreement.

ARTICLE VI

NEGATIVE COVENANTS

Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. Borrower covenants and agrees that it will not, directly or indirectly:

Section 6.1. Management Agreement. Without first obtaining the Funding Lender's prior Written Consent, enter into the Management Agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Manager to terminate the Management Agreement (or such successor management agreement).

Section 6.2. Dissolution. Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

Section 6.3. Change in Business or Operation of Property. Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multi-family property or terminate such business for any reason whatsoever (other than temporary cessation in connection with rehabilitation or rehabilitation, as appropriate, of the Project).

Section 6.4. Debt Cancellation. Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

Section 6.5. Assets. Purchase or own any real property or personal property incidental thereto other than the Project.

Section 6.6. Transfers. Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Security Instrument and Section 10 of the Regulatory Agreement, nor transfer any material License required for the operation of the Project.

Section 6.7. Debt. Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt)

whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan Documents and the Funding Loan Documents, (iv) trade payables incurred in the ordinary course of business and (v) deferred developer fees.

Section 6.8. Assignment of Rights. Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

Section 6.9. Principal Place of Business. Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender and the Servicer.

Section 6.10. Partnership Agreement. Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect (except as allowed by the Security Instrument), any of its rights or remedies under the Partnership Agreement; provided, however, the consent of Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of Borrower as defined in and permitted by the Security Instrument.

Section 6.11. ERISA. Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

Section 6.12. No Hedging Arrangements. Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

Section 6.13. Loans and Investments; Distributions; Related Party Payments.

(a) Without the prior Written Consent of Funding Lender in each instance, Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in Borrower, or make any distribution, in cash or in kind, in respect of interests in Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in Borrower (except to the extent permitted by the Security Instrument and subject to the limitations set forth in Section 5.27 hereof).

(b) Disbursements for fees and expenses of any Affiliate of Borrower and developer fees (however characterized) will only be paid to the extent that such fee or expense bears a proportionate relationship to the percentage of completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, as determined by the Construction Consultant, and only after deducting the applicable Retainage. Except as otherwise permitted hereunder or by the Funding Lender, no Disbursements for the Developer Fee or any "deferred developer fees" shall be made prior to the Conversion Date.

Section 6.14. Amendment of Related Documents or CC&R's. Without the prior Written Consent of Funding Lender in each instance, except as provided herein, Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R's (including, without limitation, those contained in the Borrower Loan Agreement, any Architect's Agreement or Engineer's Contract, any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 6.10), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

Section 6.15. Personal Property. Borrower shall not install materials, personal property, equipment or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at the time of installation, without Funding Lender's prior Written Consent; provided, however, that this Section 6.15 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

Section 6.16. Fiscal Year. Without Funding Lender's Written Consent, which shall not be unreasonably withheld, neither Borrower nor General Partner shall change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP.

Section 6.17. Publicity. Neither Borrower nor General Partner shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify Funding Lender or any of its Affiliates as the source of the financing provided for herein, without the prior written approval of Funding Lender in each instance (provided that nothing herein shall prevent Borrower or General Partner from identifying Funding Lender or its Affiliates as the source of such financing to the extent that Borrower or General Partner are

required to do so by disclosure requirements applicable to publicly held companies). Borrower and General Partner agree that no sign shall be posted on the Project in connection with the rehabilitation of the Improvements unless such sign identifies Citigroup and its affiliates as the source of the financing provided for herein or Funding Lender consents to not being identified on any such sign.

Section 6.18. Subordinate Loan Documents. Without Funding Lender's prior written consent, Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

ARTICLE VII

RESERVED

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ARTICLE VIII

DEFAULTS

Section 8.1. Events of Default. Each of the following events shall constitute an “Event of Default” under the Borrower Loan Agreement:

(a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such payment is due in accordance with the terms and provisions of the Borrower Note, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Note, the Security Instrument, this Borrower Loan Agreement or any other Borrower Loan Document;

(b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section 8.1) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Note, the Security Instrument or any of the other Borrower Loan Documents or Funding Loan Documents, including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five (5) days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default, as defined in the Borrower Note, the Security Instrument or any other Borrower Loan Document, occurs (or to the extent an “Event of Default” is not defined in any other Borrower Loan Document, any default or breach by the Borrower or any Guarantor of its obligations, covenants, representations or warranties under such Borrower Loan Document occurs and any applicable notice and/or cure period has expired);

(d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Borrower Loan Document or Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Borrower Loan Document or Funding Loan Document, shall be false or misleading in any material respect as of the Closing Date;

(e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

(f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur, unless in all cases the Borrower Controlling Entity is replaced with a substitute Borrower Controlling Entity that satisfies the requirements of Section 21 of the Security Instrument; which, in the case of a nonprofit Borrower Controlling Entity, may be replaced within sixty (60)

days of such event with another nonprofit Borrower Controlling Entity acceptable to the Funding Lender, in which case no Event of Default shall be deemed to have occurred;

(g) any portion of Borrower Deferred Equity to be made by Equity Investor and required for (i) completion of the rehabilitation of the Improvements, (ii) the satisfaction of the Conditions of Conversion or (iii) the operation of the Improvements, is not received in accordance with the Partnership Agreement after the expiration of all applicable notice and cure periods and Borrower fails to secure substitute financing reasonably acceptable to Funding Lender within thirty (30) days after Written Notice thereof shall have been given to Borrower;

(h) the failure by Borrower or any ERISA Affiliate of Borrower to comply in all respects with ERISA, or the occurrence of any other event (with respect to the failure of Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of, or withdrawal of Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA) the effect of which is to impose upon Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of Fifty Thousand Dollars (\$50,000);

(i) a Bankruptcy Event shall occur with respect to Borrower, any General Partner or Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person's obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document, provided that any such Bankruptcy Event with respect to a Guarantor shall not constitute an Event of Default: (i) if such Bankruptcy Event occurs on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such Bankruptcy Event occurs prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(j) all or any part of the property of Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released: (i) prior to completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within ten (10) days of the date thereof or (ii) after completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within thirty (30) days of the date thereof;

(k) subject to Section 10.16 hereof, Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(l) any material litigation or proceeding is commenced before any Governmental Authority against or affecting Borrower, any General Partner or Guarantor, or property of Borrower, any General Partner or Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by Borrower, any General Partner or Guarantor, as applicable, provided that any such material litigation or proceeding against a Guarantor shall not constitute an Event of Default: (i) if such material litigation is commenced on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such material litigation or proceeding is commenced prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(m) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against Borrower, any General Partner or Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed (i) prior to completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty) , provided that any such judgment, decree, fine or penalty against a Guarantor shall not constitute an Event of Default: (i) if such judgment, decree, fine or penalty is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, decree, fine or penalty is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and either (A) Funding Lender determines in its reasonable discretion that such judgment, decree, fine or penalty will not have a material adverse effect on Guarantor's ability to perform its obligations pursuant to the Guaranty, or (B) Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(n) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against Borrower, any General Partner or Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the

ability of Borrower, any General Partner or Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document), that is not paid, superseded or stayed (i) prior to completion of the rehabilitation of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the rehabilitation of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against Borrower, any General Partner or Guarantor, or against any of their respective assets, and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhanded and unstayed (i) prior to completion of the rehabilitation of the Improvements, for a period of ten (10) days or (ii) after completion of the rehabilitation of the Improvements, for a period of thirty (30) days, or in any event later than five (5) Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against a Guarantor shall not constitute an Event of Default: (i) if such judgment, levy, writ, warrant, attachment or similar process is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, levy, writ, warrant, attachment or similar process is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(o) the inability of Borrower to satisfy any condition for the receipt of a Disbursement hereunder (other than an Event of Default specifically addressed in this Section 8.1) and failure to resolve the situation to the satisfaction of Funding Lender for a period in excess of thirty (30) days after Written Notice from Funding Lender unless (i) such inability shall have been caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping; (ii) Borrower shall have made adequate provision, acceptable to Funding Lender, for the protection of materials stored on-site or off-site and for the protection of the Improvements to the extent then constructed against deterioration and against other loss or damage or theft; (iii) Borrower shall furnish to Funding Lender satisfactory evidence that such cessation of rehabilitation will not adversely affect or interfere with the rights of Borrower under labor and materials contracts or subcontracts relating to the rehabilitation or operation of the Improvements; and (iv) Borrower shall furnish to Funding Lender satisfactory evidence that the completion of the rehabilitation of the Improvements can be accomplished by the Completion Date;

(p) the rehabilitation of the Improvements is abandoned or halted prior to completion for any period of thirty (30) consecutive days unless caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping;

(q) Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any Governmental Authority with jurisdiction over the Mortgaged Property or the Project orders or requires that rehabilitation of the Improvements be stopped, in whole or in part, or that any required approval, license or permit be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of thirty (30) days;

(r) failure by the Borrower to Substantially Complete the rehabilitation of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Substantial Completion Date unless caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping;

(s) failure by Borrower to complete the rehabilitation of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Completion Date unless caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping;

(t) failure by Borrower to satisfy the Conditions to Conversion on or before the Outside Conversion Date or the Extended Outside Conversion Date, if applicable;

(u) failure by any Subordinate Lender to disburse the proceeds of its Subordinate Loan in approximately such amounts and at approximately such times as set forth in the Cost Breakdown and in the Subordinate Loan Documents and such funding is not replaced with substitute funding reasonably acceptable to Funding Lender within thirty (30) days of Written Notice to Borrower;

(v) an "Event of Default" or "Default" (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, after the expiration of all applicable notice and cure periods; or

(w) Borrower fails to obtain all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Government Authorities or third parties necessary for the completion of the rehabilitation of the Improvements, and the operation of, and access to, the Project, prior to the commencement of any work for which such permit, license or authorization is required; or

(x) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 9.1), as and when required, that continues for a period of thirty (30) days after written notice of such failure by Funding Lender or the Servicer on its behalf to the Borrower (with a copy to the limited partner of the Borrower); provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same,

such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed seventy (70) days. However, no such notice or grace period shall apply to the extent such failure could, in the Funding Lender's judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower Loan Agreement, result in harm to the Funding Lender, impairment of the Borrower Note or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

Section 8.2. Remedies.

Section 8.2.1 Acceleration. Upon the occurrence of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 8.1) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Borrower Loan Documents or at law or in equity, the Funding Lender may, take such action without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Borrower Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Borrower Note to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion; and upon any Event of Default described in paragraph (e), (f) or (i) of Section 8.1, the Borrower Payment Obligations shall become immediately due and payable, without notice or demand, and the Borrower hereby expressly waives any such notice or demand, anything contained in any Borrower Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

Section 8.2.2 Remedies Cumulative. Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender against the Borrower under the Borrower Loan Documents or at law or in equity may be exercised by the Funding Lender, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Borrower Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Borrower Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender shall remain in full force and effect until they have exhausted all of its remedies, the Security Instrument has been foreclosed, the Project has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations has been

paid in full. To the extent permitted by applicable law, nothing contained in any Borrower Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Project for the satisfaction of any of the Borrower Payment Obligations in preference or priority to any other portion, and the Funding Lender may seek satisfaction out of the entire Project or any part thereof, in its absolute discretion.

Notwithstanding any provision herein to the contrary, the Governmental Lender and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 8.2.3 Delay. No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender shall impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender reserves the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Project, the Rents, the funds or any other collateral.

Section 8.2.4 Set Off; Waiver of Set Off. Upon the occurrence of an Event of Default, Funding Lender may, at any time and from time to time, without notice to Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply against and on account of any obligations and liabilities of the Borrower to the Funding Lender arising under or connected with this Borrower Loan Agreement and the other the Borrower Loan Documents and the Funding Loan Documents, irrespective of whether or not the Funding Lender shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured, and the Borrower hereby grants to the Funding Lender, as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by the Funding Lender to or for the credit or the account of the Borrower.

Section 8.2.5 Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement, and any other the Borrower Loan Documents and Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

Section 8.2.6 Accounts Receivable. Upon the occurrence of an Event of Default, Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, notes and other documents evidencing Borrower's accounts, accounts receivable

and other claims for payment of money, arising in connection with the Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of Funding Lender.

Section 8.2.7 Defaults under Other Documents. Funding Lender shall have the right to cure any default under any of the Related Documents and the Subordinate Loan Documents, but shall have no obligation to do so.

Section 8.2.8 Abatement of Disbursements. Notwithstanding any provision to the contrary herein or any of the other Borrower Loan Documents or the Funding Loan Documents, Funding Lender's obligation to make further Disbursements shall abate (i) during the continuance of any Potential Default, (ii) after any disclosure to Funding Lender of any fact or circumstance that, absent such disclosure, would cause any representation or warranty of Borrower to fail to be true and correct in all material respects, unless and until Funding Lender elects to permit further Disbursements notwithstanding such event or circumstance; and (iii) upon the occurrence of any Event of Default.

Section 8.2.9 Completion of Improvements. Upon the occurrence of any Event of Default, Funding Lender shall have the right to cause an independent contractor selected by Funding Lender to enter into possession of the Project and to perform any and all work and labor necessary for the completion of the Project substantially in accordance with the Plans and Specifications, if any, and to perform Borrower's obligations under this Borrower Loan Agreement. All sums expended by Funding Lender for such purposes shall be deemed to have been disbursed to and borrowed by Borrower and shall be secured by the Security Documents.

Section 8.2.10 Right to Directly Enforce. Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender, provided that only the Governmental Lender may enforce the Unassigned Rights. In the event that any of the provisions set forth in this Section 8.2.10 are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

Section 8.2.11 Power of Attorney. Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured or waived, Borrower hereby constitutes and appoints Funding Lender, or an independent contractor selected by Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Project and performance of Borrower's obligations under this Borrower Loan Agreement in the name of Borrower, and hereby empowers said attorney-in-fact to do any or all of the following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents):

- (a) to use any of the funds of Borrower or General Partner, including any balance of the Borrower Loan, as applicable, and any funds which may be held by Funding Lender for Borrower (including all funds in all deposit accounts in which Borrower has granted to Funding Lender a security interest), for the purpose of effecting

completion of the rehabilitation of the Improvements, in the manner called for by the Plans and Specifications;

(b) to make such additions, changes and corrections in the Plans and Specifications as shall be necessary or desirable to complete the Project in substantially the manner contemplated by the Plans and Specifications;

(c) to employ any contractors, subcontractors, agents, architects and inspectors required for said purposes;

(d) to employ attorneys to defend against attempts to interfere with the exercise of power granted hereby;

(e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project, the Improvements or the Project, or may be necessary or desirable for the completion of the rehabilitation of the Improvements, or clearance of objections to or encumbrances on title;

(f) to execute all applications and certificates in the name of Borrower, which may be required by any other Construction Contract;

(g) to prosecute and defend all actions or proceedings in connection with the Project and to take such action, require such performance and do any and every other act as is deemed necessary with respect to the completion of the rehabilitation of the Improvements, which Borrower might do on its own behalf;

(h) to let new or additional contracts to the extent not prohibited by their existing contracts;

(i) to employ watchmen and erect security fences to protect the Project from injury; and

(j) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender assignees or designees become the owner of the Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

ARTICLE IX

SPECIAL PROVISIONS

Section 9.1. Sale of Note and Secondary Market Transaction.

Section 9.1.1 Cooperation. Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, at the Funding Lender's or the Servicer's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Governmental Lender Note or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Governmental Lender Note (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that neither the Borrower nor the Governmental Lender shall incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender or the Servicer, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender or the Servicer pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

Section 9.1.2 Use of Information. The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a “Secondary Market Disclosure Document”), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 9.1.1(c) hereof, with the Funding Lender and the Servicer in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

The Borrower and the Funding Lender agree and acknowledge that the Governmental Lender undertakes no obligation hereunder or in the Funding Loan Agreement to participate in the preparation of, or to approve, any Secondary Market Disclosure Document.

Section 9.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents. In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender and the Servicer for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document.

Section 9.1.4 Borrower Indemnity Regarding Filings. In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender and the underwriter group for any securities (the “Underwriter Group”) for any Liabilities to which

Funding Lender, the Servicer or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Servicer, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Servicer or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 9.1.5 Indemnification Procedure. Promptly after receipt by an indemnified party under Sections 9.1.3 and 9.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 9.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

Section 9.1.6 Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 9.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

ARTICLE X

MISCELLANEOUS

Section 10.1. Notices. All notices, consents, approvals and requests required or permitted hereunder or under any other Borrower Loan Document or Funding Loan Document (a “notice”) shall be deemed to be given and made when delivered by hand, recognized overnight delivery service, confirmed facsimile transmission (provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day), or five (5) calendar days after deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, addressed as follows:

If to the Governmental Lender: County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, California 94553
Attention: Community Development Bond Program
Manager
Telephone: (925) 674-7888
Facsimile: (925) 674-7258

If to the Borrower: Golden Oak Manor II, L.P.
c/o EAH Inc.
2169 East Francisco Boulevard, Suite B
San Rafael, CA 94901
Attention: Errol Dominguez
Phone: (415) 295-8855
Facsimile: (415) 453-4927

with a copy to: Bocarsly, Emden, Cowan, Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Nicole Deddens, Esq.
Phone: (213) 239-8029
Facsimile: (213) 559-0751

If to the Equity Investor: Merritt Community Capital Fund XVIII, L.P.
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, CA 94612
Attention: Karen Smyda
Phone: (510) 444-7870

with a copy to:

Carle Mackie Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401-6376
Attention: Henry Loh III, Esq.
Phone: (707) 526-4200
Facsimile: (707) 526-4707

If to the Funding Lender:

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Transaction Management Group
Deal ID# _____
Facsimile: (212) 723- 8209

and to:

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/ Asset Manager
Deal ID# _____
Facsimile: (805) 557-0924

prior to the Conversion Date, with
a copy to:

Citibank, N.A.
390 Greenwich Street
New York, New York 10013
Attention: Account Specialist
Deal ID# _____
Facsimile: (212) 723-8209

following the Conversion Date
with a copy to:

Citibank, N.A., ISAOA
c/o Berkadia Commercial Servicing Department
P.O. Box 557
Ambler, Pennsylvania 19022
Attention: Client Relations Manager
Deal ID# _____
Facsimile: (215) 441-7295

and a copy of any notices of default
sent to:

Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Deal ID# 22788
Facsimile: (646) 291-5754

Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing written notice of such change of address to the other parties by written notice as provided herein.

Section 10.2. Brokers and Financial Advisors. The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 10.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

Section 10.3. Survival. This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Note and the assignment of the Borrower Note to the Funding Lender, and shall continue in full force and effect so long as all or any of the Borrower Payment Obligations is unpaid. All the Borrower's covenants and agreements in this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Funding Lender and the Servicer.

Section 10.4. Preferences. The Governmental Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a payment to the Governmental Lender or the Servicer, or the Governmental Lender or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

Section 10.5. Waiver of Notice. The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other the Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower hereby expressly waives the right to receive any notice from the Funding Lender or the Servicer, as the case may be, with respect to any matter for which no Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer to the Borrower.

Section 10.6. Offsets, Counterclaims and Defenses. The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender or the Servicer with respect to a Borrower Loan Payment. Any assignee of Funding Lender's interest in and to the Borrower Loan Documents or the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or

defenses that are unrelated to the Borrower Loan Documents or the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Borrower.

Section 10.7. Publicity. The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or its Affiliates through any media intended to reach the general public, which refers to the Borrower Loan Documents or the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

Section 10.8. Rehabilitation of Documents. The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Borrower Loan Documents and the Funding Loan Documents and that the Borrower Loan Documents and the Funding Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

Section 10.9. No Third Party Beneficiaries. The Borrower Loan Documents and the Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Servicer and the Borrower and, with respect to Sections 9.1.3 and 9.1.4 hereof, the Underwriter Group, and nothing contained in any Borrower Loan Document shall be deemed to confer upon anyone other than the Governmental Lender, the Funding Lender, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

Section 10.10. Assignment. The Borrower Loan, the Security Instrument, the Borrower Loan Documents and the Funding Loan Documents and all Funding Lender's rights, title, obligations and interests therein may be assigned by the Funding Lender at any time in its sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise, subject in any event to the provisions of Section 2.4 of the Funding Loan Agreement. Upon such assignment, all references to Funding Lender in this Borrower Loan Agreement and in any Borrower Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender. The Borrower shall accord full recognition to any such assignment, and all rights and remedies of Funding Lender in connection with the interest so assigned shall be as fully enforceable by such assignee as they were by Funding Lender before such assignment. In connection with any proposed assignment, Funding Lender may disclose to the proposed assignee any information that the Borrower has delivered, or caused to be delivered, to Funding Lender with reference to the Borrower, General Partner, Guarantor or any Affiliate, or the Project, including information that the Borrower is required to deliver to Funding Lender pursuant to this Borrower Loan Agreement, provided that such proposed assignee agrees to treat such

information as confidential. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the Borrower Loan Documents or Funding Loan Documents, or the Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted hereby.

Section 10.11. [Reserved].

Section 10.12. Governmental Lender, Funding Lender and Servicer Not in Control; No Partnership. None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Funding Lender or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Funding Lender and the Servicer being limited to the rights to exercise the remedies referred to in the Borrower Loan Documents and the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Funding Lender and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Borrower Loan Documents or the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Governmental Lender, the Funding Lender or the Servicer or to create an equity in the Project in the Governmental Lender, the Funding Lender or the Servicer. Neither the Governmental Lender, the Funding Lender nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project or the Borrower Loan, except as expressly provided in the Borrower Loan Documents or the Funding Loan Documents; and notwithstanding any other provision of the Borrower Loan Documents and the Funding Loan Documents: (1) the Governmental Lender, the Funding Lender and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Funding Lender and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender and the Servicer shall in no event be liable for any the Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender and the Servicer shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Funding Lender and the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Funding Lender, the Servicer and the Borrower, or to create an equity in the Project in the Governmental Lender, the Funding Lender or the Servicer, or any sharing of liabilities, losses, costs or expenses.

Section 10.13. Release. The Borrower hereby acknowledges that it is executing this Borrower Loan Agreement and each of the Borrower Loan Documents and the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

Section 10.14. Term of Borrower Loan Agreement. This Borrower Loan Agreement shall be in full force and effect until all payment obligations of the Borrower hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Note, this

Borrower Loan Agreement shall be terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Sections 5.11, 5.14, 5.15, 9.1.3, 9.1.4, 9.1.5, 9.1.6 and 10.15 hereof, as well as under Section 5.7 of the Construction Funding Agreement, shall survive the termination of this Borrower Loan Agreement.

Section 10.15. Reimbursement of Expenses. If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Funding Lender or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Funding Lender and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 10.15 shall be subordinate to its obligations to make payments under the Borrower Note.

Section 10.16. Permitted Contests. Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to Funding Lender's rights, but this shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless Borrower shall have given prior Written Notice to the Funding Lender of Borrower's intent to so contest or object thereto, and unless (i) Borrower has, in the Funding Lender's judgment, a reasonable basis for such contest, (ii) Borrower pays when due any portion of the claim, demand, levy or assessment to which Borrower does not object, (iii) Borrower demonstrates to Funding Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Project, (v) Borrower at all times prosecutes the contest with due diligence, and (vi) Borrower pays, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, the amount so determined to be due and owing by Borrower. In the event that Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and Funding Lender may draw or realize upon any bond or other security delivered to Funding Lender in connection with the contest by Borrower, in order to make such payment.

Section 10.17. Funding Lender Approval of Instruments and Parties. All proceedings taken in accordance with transactions provided for herein, and all surveys, appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to

approval by Funding Lender. Funding Lender's approval of any matter in connection with the Project shall be for the sole purpose of protecting the security and rights of Funding Lender. No such approval shall result in a waiver of any default of Borrower. In no event shall Funding Lender's approval be a representation of any kind with regard to the matter being approved.

Section 10.18. Funding Lender Determination of Facts. Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

Section 10.19. Calendar Months. With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31st day of any Calendar Month: if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first day of the next succeeding Calendar Month.

Section 10.20. Determinations by Lender. Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the consent or approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under this Borrower Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Governmental Lender and the Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

Section 10.21. Governing Law. This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

Section 10.22. Consent to Jurisdiction and Venue. Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to bring any suit, action or proceeding relating to matters arising under this Borrower Loan Agreement against Borrower or any of Borrower's assets in any court of any other jurisdiction.

Section 10.23. Successors and Assigns. This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to

designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities.

Section 10.24. Severability. The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

Section 10.25. Entire Agreement; Amendment and Waiver. This Borrower Loan Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver. Without limiting the generality of the foregoing, no Disbursement shall constitute a waiver of any conditions to the Governmental Lender's or the Funding Lender's obligation to make further Disbursements nor, in the event Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding the Governmental Lender or the Funding Lender from thereafter declaring such inability to constitute a Potential Default or Event of Default under this Borrower Loan Agreement.

Section 10.26. Counterparts. This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

Section 10.27. Captions. The captions of the sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 10.28. Servicer. Borrower hereby acknowledges and agrees that, pursuant to the terms of Section 39 of the Security Instrument: (a) from time to time, the Governmental Lender or the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Note, this Borrower Loan Agreement or the other Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless Borrower receives Written Notice from the Governmental Lender or the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Governmental Lender or the Funding Lender may be taken or exercised by such servicer with the same force and effect.

Section 10.29. Beneficiary Parties as Third Party Beneficiary. Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

Section 10.30. Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER AND THE BENEFICIARY PARTIES (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS BORROWER LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY

SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

Section 10.31. Time of the Essence. Time is of the essence with respect to this Borrower Loan Agreement.

Section 10.32. [Reserved].

Section 10.33. Reference Date. This Borrower Loan Agreement is dated for reference purposes only as of the first day of December, 2015, and will not be effective and binding on the parties hereto unless and until the Closing Date (as defined herein) occurs.

ARTICLE XI

LIMITATIONS ON LIABILITY

Section 11.1. Limitation on Liability. Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Borrower Loan Documents and the Funding Loan Documents shall be limited to the extent set forth in the Borrower Note.

Section 11.2. Limitation on Liability of Governmental Lender. The Governmental Lender shall not be obligated to pay the principal (or prepayment price) of or interest on the Funding Loan, except from moneys and assets received by the Funding Lender on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, nor the faith and credit of the Governmental Lender is pledged to the payment of the principal (or prepayment price) of or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender's sole source of moneys to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Borrower Loan Agreement, together with investment income on certain funds and accounts held by the Funding Lender under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment price) of and interest on the Funding Loan as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Funding Lender or the Servicer, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment price) of or interest on the Funding Loan, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Funding Lender, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Funding Lender, the Governmental Lender or any such third party, as the case may be, therefor.

Section 11.3. Waiver of Personal Liability. No member of the Board of Supervisors, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of or interest on the Funding Loan or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing herein contained shall relieve any such member of the Board of Supervisors, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

Section 11.4. Limitation on Liability of Governmental Lender's or Funding Lender's Commissioners, Officers, Employees, Etc.

(a) Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their respective Supervisors, officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Funding Lender, or willful misconduct of the Governmental Lender.

(b) None of the Governmental Lender, the Funding Lender, the other Beneficiary Parties or any of their respective Supervisors, officers, directors, employees or agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against the Borrower or others or against the Project. Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with Borrower in any manner whatsoever. Prior to default by Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's or the Funding Lender's shareholders (if any), Supervisors, directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 11.5. Delivery of Reports, Etc. The delivery of reports, information and documents to the Governmental Lender and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's and the Funding Lender's receipt

of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender and the Funding Lender.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Borrower Loan Agreement by their respective authorized representative, as of the date first set forth above.

BORROWER:

GOLDEN OAK MANOR II, L.P.,
a California limited partnership

By: Golden Oak Manor EAH, LLC,
a California limited liability company,
its sole and managing general partner

By: Golden Oak Manor, Inc.,
a California nonprofit public benefit
corporation, its sole member

By: _____

Name: _____

Title: _____

03007.28;J13529

(signatures follow on subsequent pages)

[Signature Page to Borrower Loan Agreement – Golden Oaks Manor]

GOVERNMENTAL LENDER:

COUNTY OF CONTRA COSTA, CALIFORNIA

By: _____

John Kopchik,
Director, Department of
Conservation & Development

03007.28;J13529

[Signature Page to Borrower Loan Agreement – Golden Oaks Manor]

Agreed to and Acknowledged by:

FUNDING LENDER:

CITIBANK, N.A.

By: _____
Authorized Signatory

03007.28;J13529

[Signature Page to Borrower Loan Agreement – Golden Oaks Manor]

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

QUINT & THIMMIG LLP
900 Larkspur Landing Circle, Suite 270
Larkspur, California 94939-1726
Attention: Paul J. Thimmig, Esq.

**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

by and between the

COUNTY OF CONTRA COSTA, CALIFORNIA,

and

**GOLDEN OAK MANOR II, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP**

dated as of December 1, 2015

relating to:

**\$ _____
County of Contra Costa
Multifamily Housing Revenue Note,
(Golden Oak Manor), Series 2015A**

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REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (as supplemented and amended from time to time, this "Agreement" or this "Regulatory Agreement"), dated as of December 1, 2015, is by and between the COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic of the State of California (together with any successor to its rights, duties and obligations, the "Governmental Lender"), and GOLDEN OAK MANOR II, L.P., a California limited partnership (together with any successor to its rights, duties and obligations hereunder, the "Borrower").

R E C I T A L S :

WHEREAS, the Governmental Lender proposes to issue its County of Contra Costa Multifamily Housing Revenue Note (Golden Oak Manor), Series 2015A (the "Governmental Lender Note"), in a principal amount of \$_____, pursuant to Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California (the "Act"), with the proceeds of the Governmental Lender Note to be utilized to fund a loan to the Borrower pursuant to the terms of the Borrower Loan Agreement, dated as of December 1, 2015 (as supplemented and amended from time to time, the "Borrower Loan Agreement"), between the Governmental Lender and the Borrower, in order to enable the Borrower to finance the acquisition and rehabilitation of a multifamily rental housing development known as Golden Oak Manor, consisting of 50 units of senior rental housing located on the site described in Exhibit A hereto (as further described herein, the "Project"); and

WHEREAS, in order to assure the Governmental Lender and the owner of the Governmental Lender Note that interest on the Governmental Lender Note will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and to satisfy the public purposes for which the Governmental Lender Note are authorized to be issued under the Act, and to satisfy the purposes of the Governmental Lender in determining to issue the Governmental Lender Note, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the issuance of the Governmental Lender Note by the Governmental Lender and the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Governmental Lender and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the recitals hereto, in this Section 1, in Section 1.01 of the Funding Loan Agreement, dated as of December 1,

2015, between the Governmental Lender and Citibank, N.A., as Funding Lender, or in Section 1.1 of the Borrower Loan Agreement (as defined in the Recitals to this Agreement).

“Adjusted Income” means the adjusted income of a person (together with the adjusted income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit) as calculated in the manner prescribed pursuant to Section 8 of the Housing Law, or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act.

“Administrator” means the Governmental Lender or any administrator or program monitor appointed by the Governmental Lender to administer this Regulatory Agreement, and any successor administrator appointed by the Governmental Lender.

“Affiliated Party” means (a) a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, (b) a person who together with the Borrower are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein), (c) a partnership and each of its partners (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, and (d) an S corporation and each of its shareholders (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code.

“Affordable Rents” means thirty percent (30%) of an amount equal to sixty percent (60%) of the median gross income for the Area, adjusted for household size (as described in the definition of “Lower Income Tenant” in this Section 1), less a utility allowance calculated as set forth in U.S. Treasury Regulation Section 1.42-10.

“Area” means the metropolitan statistical area in which the Project is located.

“Area Median Gross Income” means the median gross income for the Area, as determined by the Secretary of the Treasury in a manner consistent with determination of lower-income families and area median gross income under Section 8 of the Housing Law and Section 3009a of the Housing and Economic Recovery Act of 2008, including adjustments for family size or, if programs under Section 8 are terminated, area median gross income determined under the method in effect immediately before such termination.

“Borrower Loan Agreement” has the meaning given to such term in the first Recital to this Regulatory Agreement.

“CDLAC” means the California Debt Limit Allocation Committee, or successor thereto.

“CDLAC Resolution” means Resolution No. 15-103 adopted by CDLAC on September 16, 2015, with respect to the Project.

“Certificate of Continuing Program Compliance” means the Certificate to be filed by the Borrower with the Administrator, on behalf of the Governmental Lender, and the Funding Lender pursuant to Section 4(e) hereof, which shall be substantially in the form attached as Exhibit F to this Regulatory Agreement, or in such other form as may be provided by the Governmental Lender or the Administrator to the Borrower, or as otherwise approved by the Governmental Lender.

“City” means the City of Oakley, California.

“Closing Date” has the meaning given to the term “Initial Closing Date” in the Funding Loan Agreement.

“Completion Certificate” means the certificate of completion of the Project required to be delivered to the Governmental Lender by the Borrower pursuant to Section 2(i) of this Regulatory Agreement, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit C.

“Completion Date” means the date of completion of the acquisition and rehabilitation of the Project, as that date shall be certified as provided in Section 2(i) of this Regulatory Agreement.

“County” means the County of Contra Costa, California.

“FOCUS Program” means (a) the FOCUS Compliance Verification Program (user’s guide located at www.housingcompliance.org/contracosta) utilized by the Governmental Lender to verify the Borrower’s compliance with various requirements of this Regulatory Agreement; or (b) any similar program used by the Governmental Lender, in substitution for the program described in the preceding clause (a), to verify the Borrower’s compliance with various requirements of this Regulatory Agreement.

“Housing Law” means the United States Act of 1937, as amended, or its successor.

“HUD” means the United States Department of Housing and Urban Development, or any successor thereto.

“Inducement Date” means May 5, 2015, being the date of adoption by the Board of Supervisors of the Governmental Lender of Resolution No. 2015/138 expressing the

Governmental Lender's intent to issue the Governmental Lender Note to finance costs of the Project.

"Funding Loan Agreement" means the Funding Loan Agreement, dated as of December 1, 2015, between the County, as Governmental Lender and Citibank, N.A., as Funding Lender, as it may be supplemented and amended from time to time in accordance with its terms.

"Governmental Lender Annual Fee" means, for the period from the Closing Date to but not including December 1, 2016, an amount equal to one-eighth of one percent (1/8%) of the maximum principal amount of the Governmental Lender Note; and, thereafter, on each December 1 during the remainder of the Qualified Project Period, commencing December 1, 2016, an amount equal to the greater of (a) one-eighth of one percent of the then outstanding principal amount of the Governmental Lender Note, or (b) \$5,000.

"Governmental Lender Issuance Fee" means an amount equal to one-eighth of one percent (1/8%) of the maximum principal amount of the Governmental Lender Note.

"Low Income Tenant" means individuals or families whose Adjusted Income does not exceed sixty percent (60%) of Area Median Gross Income; provided, however, that if all the occupants of a Low Income Unit are students (as defined in Section 152(f)(2) of the Code) who fail to be described in Section 42(i)(3)(D) of the Code, the occupants of that Low Income Unit shall in no event be deemed to be "Low Income Tenants." The Adjusted Income of individuals and Area Median Gross Income shall be determined by the Secretary of the Treasury in a manner consistent with determinations of lower income families and Area Median Gross Income under Section 8 of the Housing Law (or, if such program is terminated, under such program in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size as prescribed under Section 8 of the Housing Law.

"Low Income Units" means the units in the Project required to be rented, or held available for occupancy by, Low Income Tenants pursuant to Sections 4(a) and 6(a) hereof.

"Manager" means the property manager of the Project.

"Project" means the 50 units of senior rental housing to constitute the development known as Golden Oak Manor, located on the real property site described in Exhibit A hereto, and consisting of those facilities, including the Borrower's fee interest in the real property described in Exhibit A hereto, structures, buildings, fixtures or equipment, as may at any time exist on such real property, the acquisition and rehabilitation of which is to be financed, in whole or in part, from the proceeds of the sale of the Governmental Lender Note or the proceeds of any payment by the Borrower pursuant to the Borrower

Loan Agreement, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of such facilities.

“Project Costs” means, to the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Borrower with respect to the acquisition and rehabilitation of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, predevelopment interest expenses, costs for site preparation, the planning of housing and related facilities and improvements, the acquisition of property, the removal or demolition of existing structures, the rehabilitation of housing and related facilities and improvements, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors’ and Borrower’s overhead and supervisors’ fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made for the Project), and interest accrued during the rehabilitation period and prior to the Completion Date.

“Qualified Project Costs” means Project Costs that meet each of the following requirements: (a) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general Federal income tax principles and in accordance with United States Treasury Regulations §1.103-8(a)(1), provided, however, that only such portion of interest accrued during acquisition and rehabilitation of the Project shall be eligible to be a Qualified Project Cost as is so capitalizable and as bears the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs; and provided further that interest accruing after the date of completion of the rehabilitation of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being rehabilitated by an Affiliated Party (whether as a general contractor or a subcontractor), Qualified Project Costs shall include only (i) the actual out-of-pocket costs incurred by such Affiliated Party in rehabilitating the Project (or any portion thereof), (ii) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (iii) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the acquisition or rehabilitation of the Project or payments received by such Affiliated Party due to early completion of the rehabilitation of the Project (or any portion thereof); (b) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (c) the costs are paid after the earlier of 60 days prior to the Inducement Date or the date of issue of the Governmental Lender Note, and (d) if the Project Costs were previously paid and are to be reimbursed with proceeds of the Governmental Lender Note, such costs were (i) costs of issuance of the Governmental Lender Note, (ii)

preliminary capital expenditures (within the meaning of United States Treasury Regulations §1.139-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Governmental Lender Note (as defined in United States Treasury Regulations §1.148-1), or (iii) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid). Notwithstanding the foregoing, "Qualified Project Costs" shall not include costs related to the acquisition or rehabilitation of any office or commercial space not functionally related to the dwelling units in the Project.

"Qualified Project Period" means the period beginning on the Closing Date, and ending on the later of (a) the date which is 15 years after the date on which at least fifty percent (50%) of the aggregate of the residential units in the Project are first occupied following the Completion Date, (b) the first day on which no Tax-Exempt private activity bond issued with respect to the Project is outstanding, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Law terminates, or (d) the date on which Governmental Lender Note is paid in full; provided that, unless otherwise amended or modified in accordance with the terms hereof, the Qualified Project Period for purposes of this Regulatory Agreement shall be 55 years from the Closing Date, as required by the Governmental Lender's policies applicable to multifamily housing revenue bonds and the CDLAC Resolution. For purposes of clause (b), the term "private activity bond" has the meaning contemplated in Section 142(d)(2)(A)(ii) of the Code.

"Regulatory Agreement" means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be supplemented and amended from time to time.

"Tax-Exempt" means with respect to interest on any obligations of a state or local government, including the Governmental Lender Note, that such interest is excluded from gross income for federal income tax purposes; provided, however, that: (a) such interest may be included in gross income of any owner of the Governmental Lender Note that is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code; and (b) such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

"Verification of Income" means a Verification of Income in the form attached as Exhibit E to this Regulatory Agreement or in such other form as (a) is acceptable to the Governmental Lender, or (b) is promulgated by the California Tax Credit Allocation Committee, so long as any such form contains the information needed to assure the Project is in compliance with the requirements of Sections 4 and 6 of this Regulatory Agreement.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of any gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. The Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting and revision of this Regulatory Agreement. Accordingly, the parties agree that any rule of rehabilitation to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

Section 2. Representations, Covenants and Warranties of the Borrower. The Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The statements made in the various certificates delivered by the Borrower to the Governmental Lender or the Funding Lender on the Closing Date are true and correct.

(b) The Borrower (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds of the Borrower Loan to be applied in a manner contrary to the requirements of the Borrower Loan Agreement or this Regulatory Agreement.

(c) The Borrower will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the exclusion from gross income for federal income tax purposes or the exemption from California personal income taxation of the interest on the Governmental Lender Note and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(d) The Borrower will take such action or actions as may be necessary, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, to comply fully with the Act, the Code and all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service to the extent necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Note.

(e) The proceeds of the loan to the Borrower under the Borrower Loan Agreement will be used to pay costs of the acquisition and rehabilitation of the Project and related costs. The commencement of the acquisition and rehabilitation by the Borrower of the Project occurred after the date which was 60 days prior to the Inducement Date. The Borrower has incurred a substantial binding obligation to expend proceeds of the Borrower Loan pursuant to which the Borrower is obligated to expend at least five percent (5%) of the maximum principal amount of the Borrower Loan.

(f) The Borrower will proceed with due diligence to complete the acquisition and rehabilitation of the Project and the full expenditure of the proceeds of the Borrower Loan. The Borrower reasonably expects to expend the full \$_____ authorized principal amount of the Borrower Loan for Project Costs by December 1, 2016.

(g) The Borrower's reasonable expectations respecting the total expenditure of the proceeds of the Borrower Loan have been accurately set forth in a certificate of the Borrower delivered to the Governmental Lender on the Closing Date. At all times, the aggregate disbursements of the proceeds of the Borrower Loan will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an amount equal to ninety-five percent (95%) or more of such disbursements, and less than twenty-five percent (25%) of such disbursements shall have been used to pay for the acquisition of land or an interest therein.

(h) The Borrower will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds from the Borrower Loan to be applied in a manner contrary to the requirements of the Borrower Loan Agreement, this Regulatory Agreement, the Act or the Code.

(i) On or as soon as practicable after the Completion Date of the Project, the Borrower will submit to the Governmental Lender (with a copy to the Funding Lender) a duly executed and completed Completion Certificate.

(j) The Borrower acknowledges that the Governmental Lender may appoint an Administrator other than the Governmental Lender to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with any reasonable request by the Governmental Lender or the Administrator to deliver to any such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator as an agent of the Governmental Lender.

(k) The Borrower agrees to expend towards the rehabilitation of the Project (such expenditures to constitute "rehabilitation expenditures" as defined in Section 147(d) of the Code), within two (2) years of the Closing Date, an amount at least equal to fifteen percent (15%) of the proceeds of the Borrower Loan used to acquire the buildings (and equipment) comprising the Project.

(l) Money on deposit in any fund or account in connection with the Borrower Loan or the Governmental Lender Note, whether or not such money was derived from other sources, shall not be used by or under the direction of the Borrower, in a manner which would cause the Governmental Lender Note to be an “arbitrage bond” within the meaning of Section 148 of the Code, and the Borrower specifically agrees that the investment of money in any such fund shall be restricted as may be necessary to prevent the Governmental Lender Note from being an “arbitrage bond” under the Code.

(m) All of the proceeds of the Funding Loan and earnings from the investment of such proceeds will be used to pay costs of the Project; and no more than two percent (2%) of the proceeds of the Funding Loan will be used to pay Costs of Funding.

(n) No portion of the proceeds of the Governmental Lender Note shall be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises. No portion of the proceeds of the Governmental Lender Note shall be used for an office unless the office is located on the premises of the facilities constituting the Project and unless not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

(o) The Borrower hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Borrower contained in the Tax Certificate.

(p) The Borrower shall comply with all applicable requirements of Section 65863.10 of the California Government Code, including the requirements for providing notices in Sections (b), (c), (d) and (e) thereof, and with all applicable requirements of Section 65863.11 of the California Government Code.

(q) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Governmental Lender Note and the Borrower Loan Documents to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Governmental Lender for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender in any manner except to issue the Governmental Lender Note in order to provide funds to assist the Borrower in acquiring and constructing the Project.

(r) Notwithstanding the provisions of Section 5.35 of the Borrower Loan Agreement, and in addition thereto, the Borrower agrees to obtain a written report from an independent firm with experience in calculating excess investment earnings for purposes of Section 148(f) of the Code, not less than once on or about each five year anniversary of the Closing Date and within thirty (30) days of the date the Governmental Lender Note have been paid in full, determining that either (i) no excess investment

earnings subject to rebate to the federal government under Section 148(f) of the Code have arisen with respect to the Governmental Lender Note in the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Note, have arisen since the last five-year report); or (ii) excess investment earnings have so arisen during the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Note, have arisen since the last five-year report), and specifying the amount thereof that needs to be rebated to the federal government and the date by which such amount needs to be so rebated. The Borrower shall provide a copy of each report prepared in accordance with the preceding sentence to the Governmental Lender, each time within one week of its receipt of the same from the independent firm that prepared the respective report.

Section 3. Qualified Residential Rental Project. The Borrower hereby acknowledges and agrees that the Project is to be owned, managed and operated as a “qualified residential rental project” (within the meaning of Section 142(d) of the Code) for a term equal to the Qualified Project Period. To that end, and for the term of this Regulatory Agreement, the Borrower hereby represents, covenants, warrants and agrees as follows:

(a) The Project will be acquired, rehabilitated and operated for the purpose of providing multifamily residential rental property for seniors. The Borrower will own, manage and operate the Project as a project to provide multifamily residential rental property for seniors comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with Section 142(d) of the Code, Section 1.103-8(b) of the Regulations and the provisions of the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in the Project are and will be similarly constructed units, and each dwelling unit in the Project contains complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a household, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis and the Borrower will not rent any of the units for a period of less than thirty (30) consecutive days, and none of the dwelling units in the Project will at any time be leased or rented for use as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

(d) No part of the Project will at any time during the Qualified Project Period be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or use, and the Borrower will not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period (except that the Borrower may obtain final map approval and the Final Subdivision Public Report from the California Department of Real Estate and may file a condominium plan with the City of Oakley).

(e) All of the dwelling units in the Project will be available for rental during the Qualified Project Period on a continuous basis to members of the general public, on a first-come first-served basis, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except (i) not more than one unit may be set aside for resident manager or other administrative use, (ii) to the extent that dwelling units are required to be leased or rented to Low Income Tenants hereunder, and (iii) to the extent units in the Project are required to be leased to seniors or otherwise pursuant to the documents evidencing and otherwise related to the Subordinate Debt.

(f) The Project site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the facilities of the Project comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) The Borrower shall not discriminate on the basis of race, creed, color, sex, source of income (e.g. AFDC, SSI), physical disability, age (except as may be required under any of the documents described in Section 3(e)(iii)), national origin or marital status in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(h) No dwelling unit in the Project shall be occupied by the Borrower. Notwithstanding the foregoing, if the Project contains five or more dwelling units, this subsection shall not be construed to prohibit occupancy of dwelling units by one or more resident managers or maintenance personnel any of whom may be the Borrower; provided that the number of such managers or maintenance personnel is not unreasonable given industry standards in the area for the number of dwelling units in the Project.

(i) The Borrower will not sell dwelling units within the Project.

(j) In accordance with Section 147(b) of the Code, the average maturity of the Governmental Lender Note does not exceed 120% of the average reasonably expected remaining economic life of the facilities being financed by the Governmental Lender Note.

(k) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the Governmental Lender from enforcing the requirements of the applicable Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the applicable Regulations, it will either prepay the Borrower Loan or, if permitted under the provisions of the Borrower Loan Agreement, apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the applicable Regulations.

The Governmental Lender hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code.

Section 4. Low Income Tenants; Reporting Requirements. Pursuant to the requirements of the Code, the Borrower hereby represents, warrants and covenants as follows:

(a) During the Qualified Project Period, not less than forty percent (40%) of the units in the Project will be occupied by, or held vacant and available for occupancy by, Low Income Tenants. For the purposes of this paragraph (a), a vacant unit which was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined.

Notwithstanding the foregoing provisions of this Section 4(a), the Borrower shall not be in default under such requirements so long as (i) the Borrower uses its best efforts to comply with such requirements as soon as practicable following the Closing Date, and (ii) any unit in the Project which becomes available for rental following the Closing Date is rented to a Low Income Tenant as necessary to satisfy the requirements of Section 4(a). In no event, however, shall the Borrower fail to comply with the foregoing provisions of this Section 4(a) of this Regulatory Agreement by December 1, 2016.

(b) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants. However, should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit for a Low Income Tenant of the same household size, the next available unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant. Until such next available unit is rented to a Low Income Tenant, the former Low Income Tenant who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant for purposes of the Low Income Unit requirements of Section 4(a) hereof (but shall not be so deemed to continue to be a Low Income Tenant upon the rental of an available unit of comparable or smaller size to a tenant who is not a Low Income Tenant).

(c) For the Qualified Project Period, the Borrower will obtain, complete, and maintain on file Verification of Income certifications for each Low Income Tenant, including (i) a Verification of Income dated immediately prior to the initial occupancy of such Low Income Tenant in the Project, and (ii) thereafter, an annual Verification of Income with respect to each Low Income Tenant within thirty days before or after the anniversary of such tenant's initial occupancy of a unit in the Project. In lieu of obtaining an annual Verification of Income, the Borrower may, with respect to any particular twelve-month period ending December 1 of each year, deliver to the Administrator no later than fifteen (15) days after such date, a certification that as of the respective December 1, no unit in the Project was occupied within the preceding twelve (12) months by a new resident whose income exceeded the limit applicable to Low Income Tenants upon admission to the Project. The Administrator may at any time and in its sole and absolute

discretion notify the Borrower in writing that it will no longer accept certifications of the Borrower made pursuant to the preceding sentence and that the Borrower will thereafter be required to obtain annual Verifications of Income for tenants.

The Borrower also will provide such additional information as may be required in the future by the State of California, by the Governmental Lender, by CDLAC and by the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to Tax-Exempt obligations. Upon request of the Administrator or the Governmental Lender, copies of Verification of Income for Low Income Tenants commencing or continuing occupation of a Low Income Unit shall be submitted to the Administrator or the Governmental Lender, as requested.

The Borrower shall make a good faith effort to verify that the income information provided by an applicant in a Verification of Income is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) obtain a credit report or conduct a similar type credit search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification reasonably acceptable to the Governmental Lender.

(d) The Borrower will maintain complete and accurate records pertaining to the Low Income Units and will permit any duly authorized representative of the Governmental Lender, the Administrator, the Funding Lender, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(e) The Borrower will prepare and submit quarterly, on or before each April 15 (for the quarterly period ending March 30), July 15 (for the quarterly period ending June 30), October 15 (for the quarterly period ending September 30) and January 15 (for the quarterly period ending December 31) during the Qualified Project Period rent rolls and other information required by the FOCUS Program. The Borrower will also prepare and submit quarterly, on or before each April 15 (for the quarterly period ending March 30), July 15 (for the quarterly period ending June 30), October 15 (for the quarterly period ending September 30) and January 15 (for the quarterly period ending December 31) during the Qualified Project Period to the Administrator (with a copy to the Funding Lender), a Certificate of Continuing Program Compliance executed by the Borrower stating (i) the percentage of the aggregate of the dwelling units of the Project which were occupied or deemed occupied, pursuant to subsection (a) hereof, by Low Income Tenants during the preceding applicable quarterly period; and (ii) that either (A) no unremedied default has occurred under this Regulatory Agreement, or (B) a default has occurred, in

which event the certificate shall describe the nature of the default in detail and set forth the measures being taken by the Borrower to remedy such default.

During the Qualified Project Period, the Borrower shall submit a completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, to the Secretary of the Treasury on or before March 31 of each year (or such other date as may be required by the Code).

(f) For the Qualified Project Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement. All leases pertaining to Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit: (i) certifies the accuracy of the statements made in the Verification of Income; (ii) agrees that the household income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Funding Lender or the Administrator on behalf of the Governmental Lender, and that the failure to provide accurate information in the Verification of Income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Borrower has relied on the Verification of Income and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the Low Income Unit and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with Section 4(c) hereof and that if upon any such certification such tenant's Adjusted Income exceeds the applicable Low Income Tenant income limit under Section 4(b), such tenant may cease to qualify as a Low Income Tenant, and such tenant's rent is subject to increase.

Section 4A. Additional Requirements of the Governmental Lender. In addition to the requirements set forth elsewhere in this Regulatory Agreement and to the extent not prohibited by the requirements set forth in Sections 4, 5 and 6 hereof, the Borrower hereby agrees to comply with each of the requirements of the Governmental Lender set forth in this Section 4A, as follows:

(a) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Governmental Lender, in a reasonable condition for proper audit and subject to examination upon reasonable notice (which need not be in excess of three Business Days, as defined in the Funding Loan Agreement) and during business hours by representatives of the Governmental Lender.

(b) The Borrower shall not discriminate on the basis of race, creed, color, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. AFDC and SSI), ancestry or handicap in the lease, use or occupancy of the Project (except as required to comply with Section 3(e)(iii)), or in connection with the employment or application for employment of persons for the rehabilitation, operation, or management of the Project.

(c) The Borrower shall not permit occupancy in any unit in the Project by more than (i) two persons per bedroom in the unit, plus (ii) one person; and the Borrower shall at all times offer for rent the largest unit then available for the applicable household size (being one bedroom units for 2-3 person households, and two bedroom units for 4-5 person households).

(d) The Borrower shall pay directly to the Governmental Lender (i) on the Closing Date the Governmental Lender Issuance Fee and the Governmental Lender Annual Fee for the period from the Closing Date to but not including December 1, 2016, and (ii) on each December 1, on and after December 1, 2016, the Governmental Lender Annual Fee; without in either case any requirement for notice or billing of the amount due. In addition, the Borrower shall pay to the Governmental Lender promptly following receipt of an invoice that reasonably identifies the relevant expenses and the amounts thereof, any out of pocket expenses incurred by the Governmental Lender in connection with the Governmental Lender Note, the Funding Loan Agreement, this Regulatory Agreement or the Borrower Loan Agreement, including but not limited to any costs related to the FOCUS Program.

(e) The rent limits set forth in Sections 6(b) and 6(f) shall apply to all Low Income Units. In addition, the rental payments paid by Low Income Tenants for the Low Income Units shall not exceed Affordable Rents.

(f) The Borrower will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective tenants, nor shall the Borrower apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of units by such prospective tenants.

(g) The Borrower shall submit to the Governmental Lender: (i) rent rolls and other information required by the FOCUS Program on a quarterly basis as specified in Section 4(e), and (ii) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by the Governmental Lender in order to comply with reporting requirements of the Internal Revenue Service or the State.

(h) The Borrower shall pay to the Governmental Lender, to the extent not paid pursuant to the Borrower Loan Agreement or the Funding Loan Agreement, all of the amounts required by Sections 2.5 and 5.14 of (and otherwise under) the Borrower Loan Agreement and shall indemnify the Governmental Lender as provided in Section 9 hereof and Section 5.15 of the Borrower Loan Agreement.

(i) The Governmental Lender may, at its option and at its expense, at any time appoint an Administrator to administer this Agreement or any provision hereof and to monitor performance by the Borrower of all or of any of the terms, provisions and requirements hereof. Following any such appointment, the Borrower shall comply with

any request by the Governmental Lender to deliver to such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by such administrator as an agent of the Governmental Lender.

(j) The Borrower shall submit its written management policies with respect to the Project, if any, to the Governmental Lender for its review, and shall amend such policies in any way necessary to insure that such policies comply with the provisions of this Regulatory Agreement and the requirements of the existing program under Section 8 of the Housing Law, or its successors. The Borrower shall not promulgate management policies which conflict with the provisions of the addendum to the form of lease for the Project prepared by the Housing Authority of Contra Costa County, and shall attach such addendum to leases for tenants which are holders of Section 8 certificates.

(k) The Borrower shall screen and select tenants for desirability and creditworthiness at its discretion; provided, however, that the Borrower shall consider a prospective tenant's rent history for at least the one year period prior to application as evidence of the tenant's ability to pay the applicable rent.

(l) At least six months prior to the expiration of the Qualified Project Period the Borrower shall provide by first-class mail, postage prepaid, a notice to all tenants in the Low Income Units containing (i) the anticipated date of the expiration of the Qualified Project Period, (ii) any anticipated rent increase upon the expiration of the Qualified Project Period, (iii) a statement that a copy of such notice will be sent to the Governmental Lender, and (iv) a statement that a public hearing may be held by the Governmental Lender on the issue and that the tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Borrower shall also file a copy of the above-described notice with the Community Development Bond Program Manager of the Department of Conservation and Development of the Governmental Lender.

(m) Notwithstanding Section 1461 of the Civil Code, the provisions of this Section shall run with land and may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with the provisions of this Section.

(n) The Borrower shall not participate in any refunding of the Governmental Lender Note or the Funding Loan by means of the issuance of bonds or other obligations by any governmental body other than the Governmental Lender.

(o) Each of the requirements of Sections 3, 4, 6 and 7 hereof is hereby incorporated as a specific requirement of the Governmental Lender, whether or not required by California or federal law.

(p) The requirements of Section 6 and this Section 4A shall be in effect for the Qualified Project Period.

Any of the foregoing requirements of the Governmental Lender contained in this Section 4A may be expressly waived by the Governmental Lender in writing, but (i) no waiver by the Governmental Lender of any requirement of this Section 4A shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Tax Counsel that any such provision is not required by the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Governmental Lender Note for federal income tax purposes; and (ii) any requirement of this Section 4A shall be void and of no force and effect if the Governmental Lender and the Borrower receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Governmental Lender Note to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Act or any other State or federal law.

Section 5. Tax-Exempt Status of the Governmental Lender Note. The Borrower and the Governmental Lender, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Borrower and the Governmental Lender will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt nature of the interest on the Governmental Lender Note and, if either of them should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Borrower and the Governmental Lender will file of record such documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Borrower, the Governmental Lender and the Funding Lender, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County.

Section 6. Additional Requirements of the Act. In addition to the requirements set forth elsewhere in this Regulatory Agreement, so long as the Governmental Lender Note is outstanding the Borrower hereby agrees to comply with each of the requirements of the Act applicable to the Project. Without limiting the foregoing, the Borrower agrees as follows:

(a) As provided in Section 52080(a)(1)(B) of the Act, forty percent (40%) or more of the aggregate of the completed residential units in the Project shall be occupied by, or held vacant and available for occupancy by, lower income tenants within the meaning of Section 52080(a)(1) of the Act (it being acknowledged that units required to be set aside for Low Income Tenants pursuant to Section 4(a) may be counted for purposes of satisfying the requirements of this Section 6(a) if the related Low Income Tenants otherwise satisfy the requirements of this Section 6(a)).

(b) The rental payments paid by the occupants of the units described in paragraph (a) of this Section (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed thirty percent of sixty percent (60%) of area median income.

(c) The Borrower shall accept as tenants, on the same basis as all other prospective tenants, Low Income Tenants who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Law. The selection criteria applied to certificate holders under Section 8 of the Housing Law shall not be more burdensome than the criteria applied to all other prospective tenants.

(d) The Borrower shall ensure that units occupied as required by paragraph (a) of this Section are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(e) As provided in Section 52080(e) of the Act, the Project may be syndicated after prior written approval of the Governmental Lender. The Governmental Lender shall grant that approval only after it determines that the terms and conditions of the syndication (1) shall not reduce or limit any of the requirements of the Act or regulations adopted or documents executed pursuant to the Act, (2) shall not cause any of the requirements in this Agreement to be subordinated to the syndication agreement, or (3) shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement. The Governmental Lender hereby acknowledges that this Section 6(e) does not apply to the syndication of federal tax credits for the Project as contemplated by the Borrower's partnership agreement.

(f) Following the expiration or termination of the Qualified Project Period, except in the event of foreclosure and redemption of the Governmental Lender Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to Section 6(a) shall remain available to any eligible household occupying a reserved unit at the date of such expiration or termination, at a rent not greater than the amount required by Section 6(b), until the earliest of any of the following occur:

(1) The household's income exceeds one hundred-forty percent (140%) of the maximum eligible income specified in Section 6(a).

(2) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health, safety, occupancy or quiet enjoyment of other persons or the structure, the fiscal integrity of the Project, or the purposes or special programs of the Project.

(3) Thirty years after the date of commencement of the Qualified Project Period.

(4) The Borrower pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(g) Except in the event of foreclosure and prepayment of the Governmental Lender Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, during the three years prior to expiration of the Qualified Project Period, the Borrower shall continue to make available to eligible households reserved units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(h) This Section shall not be construed to require the Governmental Lender to monitor the Borrower's compliance with the provisions of paragraph (f), or that the Governmental Lender shall have any liability whatsoever in the event of the failure by the Borrower to comply with any of the provisions of this Agreement.

(i) The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Borrower.

(j) This Regulatory Agreement shall be recorded in the office of the county recorder of the County, and shall be recorded in the grantor-grantee index to the names of the Borrower as grantor and to the name of the Governmental Lender as grantee.

Section 7. CDLAC Requirements. The acquisition, rehabilitation and operation of the Project and the financing thereof are and shall be in compliance with the conditions set forth in Exhibit A to the CDLAC Resolution (the "CDLAC Conditions"), as it may be amended, which conditions are incorporated herein by reference and are made a part hereof; provided, however, the Governmental Lender shall have no obligation under this Regulatory Agreement to monitor and enforce the Borrower's compliance with the CDLAC Conditions. The Borrower shall prepare and submit to CDLAC (with a copy to the Governmental Lender), at the times required by CDLAC, a Certificate of Compliance in substantially the form attached hereto as Exhibit B hereto (or in such other form as CDLAC may require), executed by an authorized representative of the Borrower.

The Borrower acknowledges that the CDLAC Conditions include the following:

(a) 49 of the units in the Project be restricted for a term of 55 years, 15 of which units must be rented or held vacant and available for rental for persons or families whose income is at 50% or below of the Area Median Gross Income, and 34 of which units must be rented or held vacant and available for rental by persons or families whose income is at 60% or below of Area Median Gross Income.

(b) A minimum of \$1,200,468 of public funds will be expended for the Project.

(c) The Project must meet certain sustainable building standards utilizing certain landscaping and rehabilitation materials, as more fully provided in paragraph 27 of Exhibit A to the CDLAC Resolution.

The Borrower will promptly provide any information reasonably requested by the Governmental Lender in order for the Governmental Lender to comply with any regulations of

CDLAC applicable to the CDLAC Resolution, the CDLAC Conditions, the Governmental Lender Note or the Project, including but not limited to Section 5144 of Article 11 of the CDLAC regulations.

The Borrower will promptly provide any information requested by the Governmental Lender in order for the Governmental Lender to complete any Annual Applicant Public Benefit and On-going Compliance Self Certification or otherwise to comply with any regulations of CDLAC applicable to the CDLAC Resolution, the CDLAC Conditions or the Project, including but not limited to Section 5144 of Article 11 of the CDLAC regulations.

The requirements of this Section 7 may be waived in writing by CDLAC in its sole and absolute discretion, without the consent of the Governmental Lender or the Funding Lender. CDLAC and the Governmental Lender each shall have the right (but not the obligation) to enforce the CDLAC Conditions and to pursue an action for specific performance or other available remedy at law or in equity, provided that any such action or remedy shall not materially adversely affect the interests and rights of the owner of the Governmental Lender Note.

Section 8. Modification of Covenants. The Borrower and the Governmental Lender hereby agree as follows:

(a) To the extent any amendments to the Act, the CDLAC Conditions, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, and if such requirements are applicable to the Project, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) To the extent that the Act, the CDLAC Conditions, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements, but only by written amendment signed by the Governmental Lender, in its sole discretion, and the Borrower, and only upon receipt by the Governmental Lender of the written opinion of Tax Counsel to the effect that such amendment will not affect the Tax-Exempt status of interest on the Governmental Lender Note or violate the requirements of the Act, and is otherwise in accordance with Section 22 hereof.

(c) The Borrower and the Governmental Lender shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary to effectuate the intent of this Section 8, and each of the Borrower and the Governmental Lender hereby appoints the Funding Lender as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by Tax Counsel, as evidenced by receipt of the opinion required by paragraph (b) above) if either

the Borrower or the Governmental Lender defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Governmental Lender or the Borrower, the Funding Lender shall take no action under this subsection (c) without first notifying the Borrower or the Governmental Lender, or both of them, as is applicable, and without first providing the Borrower or the Governmental Lender, or both, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this subsection (c) shall be construed to allow the Funding Lender to execute an amendment to this Regulatory Agreement on behalf of the Governmental Lender.

Notwithstanding any other provision of this Regulatory Agreement, whenever an opinion of Tax Counsel is required or requested to be delivered hereunder after the Closing Date, the Funding Lender, the Governmental Lender and the Borrower shall accept (unless otherwise directed in writing by the Governmental Lender) an opinion of Tax Counsel in such form and with such disclaimers as may be required so that such opinion will not be treated as a “covered opinion” for purposes of the Treasury Department regulations governing practice before the Internal Revenue Service (Circular 230), 31 CFR Part 10.

Section 9. Indemnification.

(a) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Administrator and each of their respective past, present and future officers, members of the Governmental Lender’s Board of Supervisors, directors, officials, employees and agents (collectively, the “Indemnified Parties”), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Governmental Lender Note, the Funding Loan Agreement, the Funding Loan, the Borrower Loan Agreement, the Borrower Loan, this Regulatory Agreement or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale or resale of the Governmental Lender Note or any interest therein;

(ii) any act or omission of the Borrower or any of its agents, contractors, servants, employees, tenants) or licensees in connection with the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or rehabilitation of, the Project or any part thereof;

(iii) any lien or charge upon payments by the Borrower to the Governmental Lender and the Funding Lender hereunder or under the Borrower Loan Agreement, or any taxes (including, without limitation, all ad valorem taxes and sales taxes),

assessments, impositions and other charges imposed on the Governmental Lender in respect of any portion of the Project;

(iv) any violation of Article V of the Borrower Loan Agreement;

(v) the defeasance and/or prepayment, in whole or in part, of any of the Governmental Lender Note;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for any Governmental Lender Note or any of the documents relating to the Governmental Lender Note, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for any of the Governmental Lender Note of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(vii) any declaration of taxability of interest on any of the Governmental Lender Note, or allegations that interest on a Governmental Lender Note is taxable or any regulatory audit or inquiry regarding whether interest on a Governmental Lender Note is taxable; or

(viii) the Funding Lender's administration of the Borrower Loan Documents, or the exercise or performance of any of its powers or duties thereunder or under any of the Funding Loan Documents;

except (A) in the case of the foregoing indemnification of the Funding Lender or any of its respective officers, directors, officials, employees and agents, to the extent such damages are caused by the gross negligence or willful misconduct of an Indemnified Party; or (B) in the case of the foregoing indemnification of the Governmental Lender or any of its officers, members of its Board of Supervisors, officials, employees and agents, to the extent, with respect to any such Indemnified Party, such damages are caused by the willful misconduct of the respective Indemnified Party seeking indemnification. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(b) The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses pursuant to Section 4A(a), this Section 9 and Section 20 shall survive the final payment or defeasance of the Governmental Lender Note and in the case of the Funding Lender any resignation or removal. The provisions of this Section shall survive the termination of this Regulatory Agreement.

(c) Nothing contained in this Section 9 shall cause the obligation of the Borrower to pay principal and interest on the Borrower Loan or amounts owing with respect to the Borrower Note to be a recourse obligation of the Borrower.

(d) The obligations of the Borrower under this Section are independent of any other contractual obligation of the Borrower to provide indemnity to the Governmental Lender or otherwise, and the obligation of the Borrower to provide indemnity hereunder shall not be interpreted, construed or limited in light of any other separate indemnification obligation of the Borrower. The Governmental Lender shall be entitled simultaneously to seek indemnity under this Section and any other provision under which it is entitled to indemnity.

Section 10. Consideration. The Governmental Lender has agreed to issue the Governmental Lender Note to provide funds to lend to the Borrower to finance the acquisition and rehabilitation of the Project, all for the purpose, among others, of inducing the Borrower to acquire, construct and operate the Project. In consideration of the issuance of the Governmental Lender Note by the Governmental Lender, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Governmental Lender and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Governmental Lender Note, in the exemption from State personal income taxation of interest on the Governmental Lender Note and in the Tax-Exempt status of the interest on the Governmental Lender Note. In performing their duties and obligations hereunder, the Governmental Lender, the Funding Lender and the Administrator may rely upon statements and certificates of the Low Income Tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Governmental Lender, the Funding Lender and the Administrator may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender, the Funding Lender or the Administrator hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Governmental Lender shall not be required to conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Governmental Lender or the Funding Lender by the Borrower with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

Section 12. Sale or Transfer of the Project. For the Qualified Project Period, the Borrower shall not, except as provided below and in accordance with the Borrower Loan Agreement and the Security Instrument, sell, transfer or otherwise dispose of the Project, in whole or in part,

without the prior written consent of the Governmental Lender, which consent shall be given as promptly as practicable following: (A) the receipt by the Governmental Lender of evidence acceptable to the Governmental Lender that (1) the Borrower shall not be in default hereunder or under the Borrower Loan Agreement (which may be evidenced by a certificate of the Borrower) or the purchaser or assignee undertakes to cure any defaults of the Borrower to the reasonable satisfaction of the Governmental Lender; (2) the continued operation of the Project shall comply with the provisions of this Regulatory Agreement; (3) either (a) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size, rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects contained below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local government requirements applicable to such projects, or (b) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (a) above, or (c) the transferring Borrower or its management company will continue to manage the Project for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and (4) the person or entity which is to acquire the Project does not have pending against it, and does not have a history of, building code violations or significant and material complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the purchaser or assignee of any document requested by the Governmental Lender with respect to the assumption of the Borrower's obligations under this Regulatory Agreement and the Borrower Loan Agreement, including without limitation an instrument of assumption hereof, and delivery to the Governmental Lender of an opinion of such purchaser or assignee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee; (C) receipt by the Governmental Lender of an opinion of Tax Counsel addressed to the Governmental Lender and the Funding Lender to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note; (D) receipt by the Governmental Lender and Funding Lender of all fees and/or expenses then currently due and payable to the Governmental Lender and Funding Lender; (E) satisfaction of such other conditions or matters as are set forth in the Borrower Loan Agreement and the Security Instrument; and (F) such other conditions are met as the Governmental Lender may reasonably impose. The Governmental Lender hereby consents to a transfer of the Project by the Borrower to its general partner or its affiliate, if the Governmental Lender receives the documents listed in the preceding sentence. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 12 shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Nothing in this Section shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project. Upon any sale or other transfer which complies with this Regulatory Agreement, the Borrower shall be fully and automatically released from its obligations hereunder to the extent such obligations have been assumed by the transferee of the Project. Any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 12, except that no consent of the Governmental Lender shall be required in the case of any transfer of the Project to a general partner of the Borrower or

an affiliate of a general partner of the Borrower if any applicable conditions set forth in the Borrower Loan Agreement and any conditions set forth in the Security Instrument are satisfied and, in any event, the Borrower notifies the Governmental Lender in writing of any such transfer.

Notwithstanding anything contained in this Section 12 to the contrary, neither the consent of the Governmental Lender nor the delivery of items (A) through (F) of the preceding paragraph shall be required in the case of (a) the execution, delivery and recordation by Borrower of any mortgage or deed of trust encumbering all or any part of the Project, or (b) a foreclosure or deed in lieu of foreclosure by the Funding Lender whereby the Funding Lender or a purchaser at a foreclosure sale becomes the owner of the Project, and nothing contained in this Section 12 shall otherwise affect the right of the Funding Lender or a purchaser at a foreclosure sale to foreclose on the Project or to accept a deed in lieu of foreclosure. The Governmental Lender's consent otherwise required by item (A) of the preceding paragraph shall not be required in connection with any purchase of the Project by a partner of the Borrower as allowed for in the Borrower's partnership agreement. In addition, the provisions of this Section 12 shall not apply to (i) the replacement of the managing general partner of the Borrower by an entity formed by or that is a subsidiary of the initial managing general partner of the Borrower, (ii) the withdrawal of any limited partner of the Borrower from its partnership, (iii) any transfer of limited partnership interest in the Borrower and the admission of a substitute limited partner, (iv) any transfer of direct or indirect interests in any limited partner of the Borrower, or (v) any transfer of interests pursuant to the provisions of the Borrower's partnership agreement as in effect from time to time, including but not limited to the removal of a general partner of the Borrower and replacement thereof by an affiliate of a limited partner of the Borrower pursuant to the Borrower's partnership agreement; provided, however, that the Governmental Lender shall receive notice from the Borrower of any transfer of general partner interests.

For the Qualified Project Period, the Borrower shall not: (1) except pursuant to the provisions of this Regulatory Agreement, the Borrower Loan Agreement and the Security Instrument (and upon receipt by the Borrower of an opinion of Tax Counsel that such action will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note), or except upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement, subordinate or encumber any of the Project or grant commercial leases (not including any laundry, cable, management office equipment, resident service (including but not limited to convenience vending, or satellite television) or similar or related leases) of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 13. Term. This Regulatory Agreement shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided herein and shall terminate as to any provision not otherwise provided with a specific termination date and shall terminate in its entirety at the end of the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Governmental Lender Note and discharge of the Funding Loan Agreement, the Borrower Loan Agreement and the Security Instrument.

The terms of this Regulatory Agreement notwithstanding, this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date that prevents the Governmental Lender and the Funding Lender from enforcing such provisions, or condemnation, foreclosure, transfer of title by deed in lieu of foreclosure, or a similar event, but only if, within a reasonable period, either the Governmental Lender Note is fully prepaid and no further amounts are owing in respect of the Funding Loan or amounts received as a consequence of such event are used to provide a project which meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure or the delivery of a deed in lieu of foreclosure or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

Section 14. Covenants to Run With the Land. Notwithstanding Section 1461 of the California Civil Code, the Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in interest to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 15. Burden and Benefit. The Governmental Lender and the Borrower hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Governmental Lender and the Borrower hereby further declare their understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Governmental Lender Note was issued.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

Section 17. Default; Enforcement. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given by the Governmental Lender or the Funding Lender to the Borrower (with a copy to the Equity Investor), or for a period of thirty (30) days from the date the Borrower should, with due diligence, have discovered such default, then the Governmental Lender or the Funding Lender, acting on its own behalf or on behalf of the Governmental Lender (to the extent directed in writing by the Governmental Lender, subject to the provisions of the Funding Loan Agreement), shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it cannot be corrected within thirty (30) days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said thirty (30) days and diligently pursues such action until the default is corrected, and (ii) in the opinion of Tax Counsel, the failure to cure said default within thirty (30) days will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note. The Governmental Lender and the Funding Lender shall have the right to enforce the obligations of the Borrower under this Regulatory Agreement within shorter periods of time than are otherwise provided herein if necessary in the opinion of Tax Counsel to insure compliance with the Act or the Code.

Any limited partner of the Borrower (including the Equity Investor) shall have the right but not the obligation to cure any Event of Default, and the Governmental Lender and the Funding Lender agree to accept any cure tendered by any such limited partner on behalf of the Borrower within any cure period specified above.

Following the declaration of an Event of Default hereunder the Governmental Lender, or the Funding Lender may, at their respective options, take any one or more of the following steps, in addition to all other remedies provided by law or equity:

- (i) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Governmental Lender or the Funding Lender hereunder;

- (ii) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project;

- (iii) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder;

- (iv) declare a default under the Borrower Loan Agreement and (subject to any applicable cure periods set forth in the Borrower Loan Agreement) proceed with any remedies provided therein; or

- (v) order and direct the Borrower in writing to terminate the then Manager of the Project and to select a replacement Manager reasonably satisfactory to the Governmental

Lender within 60 days of such written direction, and to notify the Governmental Lender in writing of the identity of the replacement Manager.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Governmental Lender may fully obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder.

The Funding Lender shall have the right (but no obligation), in accordance with this Section and the provisions of the Funding Loan Agreement, without the consent or approval of the Governmental Lender, to exercise any or all of the rights or remedies of the Governmental Lender hereunder; provided that prior to taking any such action the Funding Lender shall give the Governmental Lender written notice of its intended action. After the Funding Loan Agreement has been discharged, the Governmental Lender may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Funding Lender.

All fees, costs and expenses of the Funding Lender and the Governmental Lender incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

No breach or default under this Regulatory Agreement shall defeat or render invalid the Security Instrument or any like encumbrance upon the Project or any portion of either thereof given in good faith and for value.

Section 18. References to Funding Lender. After the date on which the Funding Loan has been paid in full, all references to the Funding Lender in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 19. Recording and Filing. (a) The Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto to be recorded and filed in the real property records of the County and in such other places as the Governmental Lender or the Funding Lender may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

(b) The Borrower and the Governmental Lender will file of record such other documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Governmental Lender and the Funding Lender, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Borrower hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project to another person (other than in any document granting a security interest to the Funding Lender and, provided, however, that no such assignment shall be required in connection with the transfer of the Project to the Funding Lender by foreclosure, deed in lieu of foreclosure or comparable conversion of the Borrower Loan) to the end that such transferee has notice of, and

is bound by, such restrictions, and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 20. Payment of Administration Fees. Notwithstanding any prepayment of the Borrower Loan and notwithstanding a discharge of the Borrower Loan Agreement, throughout the term of this Regulatory Agreement, the Borrower shall continue to pay to the Governmental Lender its fees described in Section 4.A.(d) and in the event of default, to the Administrator, the Governmental Lender and to the Funding Lender reasonable compensation for any services rendered by any of them hereunder and reimbursement for all expenses reasonably incurred by any of them in connection therewith.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State.

Section 22. Amendments; Waivers. (a) Except as otherwise provided in Section 8 above, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County, and only upon receipt by the Governmental Lender of an opinion from Tax Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note and is not contrary to the provisions of the Act.

(b) Anything to the contrary contained herein notwithstanding, the Governmental Lender and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Tax Counsel, in order that interest on the Governmental Lender Note remain Tax-Exempt. The party requesting such amendment shall notify the other party to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Tax Counsel and a request that such Tax Counsel render to the Governmental Lender an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Governmental Lender Note. This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

(c) Any waiver of, or consent to, any condition under this Regulatory Agreement must be expressly made in writing.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses set forth below or at such other addresses as may be specified in writing by the parties hereto.

If to the Governmental Lender or the Administrator:	County of Contra Costa Department of Conservation and Development 30 Muir Road Martinez, California 94553 Attention: Community Development Bond Program Manager
If to the Funding Lender:	Citibank, N.A. 390 Greenwich Street, 2nd Floor New York, New York 10013 Attention: Transaction Management Group
and to:	Citibank, N.A. 325 East Hillcrest Drive, Suite 160 Thousand Oaks, California 91360 Attention: Operations Manager/ Asset Manager
prior to the Conversion Date, with a copy to:	Citibank, N.A. 390 Greenwich Street New York, New York 10013 Attention: Account Specialist
following the Conversion Date with a copy to:	Citibank, N.A., ISAOA c/o Berkadia Commercial Servicing Department P.O. Box 557 Ambler, Pennsylvania 19022 Attention: Client Relations Manager
and a copy of any notices of default sent to:	Citibank, N.A. 388 Greenwich Street, 17 th Floor New York, New York 10013 Attention: General Counsel's Office
If to the Borrower:	Golden Oak Manor II, L.P. c/o EAH Inc. 2169 East Francisco Boulevard, Suite B San Rafael, CA 94901 Attention: Errol Dominguez Phone: (415) 295-8855 Facsimile: (415) 453-4927

with a copy to:

Bocarsly, Emden, Cowan, Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Nicole Deddens, Esq.
Phone: (213) 239-8029
Facsimile: (213) 559-0751

If to the Equity Investor:

Merritt Community Capital Fund XVIII, L.P.
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, CA 94612
Attention: Karen Smyda
Phone: (510) 444-7870

with a copy to:

Carle Mackie Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401-6376
Attention: Henry Loh III, Esq.
Phone: (707) 526-4200
Facsimile: (707) 526-4707

The Governmental Lender, the Administrator, the Funding Lender and the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission.

Section 24. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 25. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 26. Third Party Beneficiaries; Enforcement. The Funding Lender, the Administrator, the Equity Investor and CDLAC are intended to be and shall each be a third party beneficiary of this Regulatory Agreement. CDLAC shall have the right (but not the obligation) to enforce the CDLAC Conditions (as defined in Section 7) and to pursue an action for specific performance or other available remedy at law or in equity in accordance with Section 17 hereof, provided that any such action or remedy shall not materially adversely affect the interests and rights of the owner or owners of the Governmental Lender Note. Pursuant to Section 52080(k) of the Act, the requirements of Section 6 may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with the requirements of that Section.

Section 27. The Funding Lender. The Funding Lender shall be entitled, but shall have no duty, to act with respect to enforcement of the Borrower's performance hereunder. The Funding Lender, either on its own behalf or as the agent of and on behalf of the Governmental Lender, may, in its sole discretion, act hereunder and any act required to be performed by the Governmental Lender as herein provided shall be deemed taken if such act is performed by the Funding Lender. In connection with any such performance, all provisions of the Funding Loan Agreement and the Borrower Loan Agreement relating to the rights, privileges, powers and protections of the Funding Lender shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Funding Lender in connection with this Regulatory Agreement. Neither the Funding Lender nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith except for its or their own negligence or willful misconduct. The Funding Lender may consult with legal counsel selected by it (the reasonable fees of which counsel shall be paid by the Borrower) and any action taken or suffered by it reasonably and in good faith in accordance with the opinion of such counsel shall be full justification and protection to it. The Funding Lender may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing by or on behalf of the Governmental Lender, or unless it has actual knowledge of noncompliance.

After the date the Governmental Lender Note no longer remains outstanding as provided in the Funding Loan Agreement, the Funding Lender shall have no further rights, duties or responsibilities under this Regulatory Agreement, and all references to the Funding Lender in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 28. No Interference or Impairment of Loan. Notwithstanding anything herein to the contrary, (i) the occurrence of an event of default under this Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Borrower Loan Documents, except as may be otherwise specified in the Borrower Loan Documents, and shall not impair, defeat or render invalid the lien of the Security Instrument and (ii) neither of the Governmental Lender nor any other person shall:

- (a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Borrower Loan;

- (b) interfere with or attempt to interfere with or influence the exercise by the Funding Lender of any of its rights under the Borrower Loan Agreement, including, without limitation, the Funding Lender remedial rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Agreement; or

- (c) upon the occurrence of an event of default under the Borrower Loan Agreement, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan, it being understood and agreed that the Governmental Lender may not, without the prior written consent of the Funding Lender, on account of any default under this Regulatory Agreement, seek, in any manner, to cause the Borrower Loan to become due and payable, to enforce the Borrower Loan Agreement or to foreclose on the Security Instrument or cause the Funding Lender to foreclose or take

any other action under the Borrower Loan Documents, the Funding Loan Documents or any other documents which action would or could have the effect of achieving any one or more of the foregoing actions, events or results.

No person other than the Funding Lender shall have the right to declare the principal balance of the Borrower Loan to be immediately due and payable or to initiate foreclosure or other like action.

The forgoing prohibitions and limitations shall not in any way limit the rights of the Governmental Lender to specifically enforce this Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Code and the Act, and shall not be construed to limit the rights of the Governmental Lender to enforce its rights against the Borrower under the indemnification provisions of the Regulatory Agreement provided that the prosecution of a claim for indemnification shall not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

Notwithstanding the above, the provisions of this Section 28 shall not in any way limit or alter the Governmental Lender's authority, power or activities as a governmental regulatory agency pursuant to applicable laws and regulations relating to the Project or otherwise.

Section 29. Limitation on Borrower Liability. Notwithstanding any other provision or obligation to the contrary contained in this Regulatory Agreement, and except for the Borrower's obligations under Sections 9 and 20 of this Regulatory Agreement (which are not subject to the provisions and limitations of this Section 29) (i) the liability of the Borrower under this Regulatory Agreement to any person or entity, including, but not limited to, the Funding Lender or the Governmental Lender and their successors and assigns, is limited to the Borrower's interest in the Project, the revenues therefrom, including the amount held in the funds and accounts created under the Funding Loan Agreement and the Borrower Loan Documents, or any rights of the Borrower under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Regulatory Agreement or any other agreement securing the obligations of the Borrower under this Regulatory Agreement; and (ii) from and after the date of this Regulatory Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Regulatory Agreement, any agreement pertaining to the Project or any other agreement securing the Borrower's obligations under this Regulatory Agreement), shall be rendered against the Borrower, the assets of the Borrower (other than the Borrower's interest in the Project, this Regulatory Agreement, amounts held in the funds and accounts created under the Funding Loan Agreement and the Borrower Loan Documents, any rights of the Borrower under the Funding Loan Agreement and the Borrower Loan Documents or any other documents relating to the Governmental Lender Note or any rights of the Borrower under any guarantees relating to the Project), its partners, successors, transferees or assigns and each their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Regulatory Agreement and the Borrower Loan Agreement or any agreement securing the

obligations of the Borrower under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding.

Section 30. Limited Liability. All obligations of the Governmental Lender incurred under this Regulatory Agreement shall be limited obligations, payable solely and only from Funding Loan proceeds and other amounts derived by the Governmental Lender from the Borrower Loan or otherwise under the Borrower Loan Agreement.

Section 31. Conflict With Other Affordability Agreements. In the event of any conflict between the provisions of this Regulatory Agreement and any agreement referenced in Section 3(e)(iii) hereof, the provisions providing for the most affordable units, with the most affordability, in the Project shall prevail, so long as at all times the requirements of Section 2, 3, 4, 4A, 6 and 7 of this Regulatory Agreement are in any event satisfied. Notwithstanding the foregoing, a breach or default under any agreement referenced in Section 3(e)(iii) hereof shall not, in itself, constitute a breach or a default under this Regulatory Agreement.

IN WITNESS WHEREOF, the Governmental Lender and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

COUNTY OF CONTRA COSTA

By: _____
John Kopchik,
Director, Department of
Conservation and Development

GOLDEN OAK MANOR II, L.P.,
a California limited partnership

By: Golden Oak Manor EAH, LLC,
a California limited liability company,
its sole and managing general partner

By: Golden Oak Manor, Inc.,
a California nonprofit public benefit
corporation, its sole member

By: _____
Name: _____
Title: _____

[Signature Page to Regulatory Agreement – Golden Oak Manor]

NOTARY 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 _____

} SS.

On _____, before me, _____
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

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.

Signature _____ [Seal]
Notary Public

NOTARY 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 _____

} ss.

On _____, before me, _____
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

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.

Signature _____ [Seal]
Notary Public

EXHIBIT A

DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF OAKLEY,
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

[to come]

EXHIBIT B

FORM OF CERTIFICATE OF COMPLIANCE (CDLAC RESOLUTION)

Project Name: Golden Oak Manor Apartments

(If project has changed name since the award of allocation please note the original project name as well as the new project name)

Name of Bond Issuer: County of Contra Costa

CDLAC Application No.: 15-406

Pursuant to Section 13 of Resolution No. 15-103 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on September 16, 2015, I, _____, an Officer of the Project Sponsor, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with all of the terms and conditions set forth in the Resolution.

I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

Please check or write N/A to the items list below:

_____ The project is currently in the Construction or Rehabilitation phase.

_____ The project has incorporated the minimum specifications into the project design for all new rehabilitation and rehabilitation projects as evidenced by attached the applicable third party certification (HERS Rater, Green Point Rater or US Green Building Council). For projects under rehabilitation or rehabilitation, the information is due following receipt of the verification but in no event shall the documentation be submitted more than two years after the issuance of bonds.

_____ For projects that received points for exceeding the minimum requirements please attach the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate standards. The compliance form must be signed by a California Association of Building Consultants, Certified Energy Plans Examiner or HERS Rater as applicable.

Signature of Officer

Date

Printed Name of Officer

Title of Officer

Phone Number

EXHIBIT C

COMPLETION CERTIFICATE

The undersigned hereby certifies that the acquisition and rehabilitation of the Project was substantially completed as of _____.

The undersigned hereby further certifies that:

(1) the aggregate amount disbursed on the Borrower Loan to date is \$_____;

(2) all amounts disbursed on the Borrower Loan have been applied to pay or reimburse the undersigned for the payment of Project Costs and none of the amounts disbursed on the Borrower Loan have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs;

(3) at least ninety-five percent (95%) of the amounts disbursed on the Borrower Loan have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs, and less than 25 percent of all such disbursements have been used for the acquisition of land or an interest therein; and

(4) the Borrower is in compliance with the provisions of Section 5.34 of the Borrower Loan Agreement.

Capitalized terms used in this Completion Certificate have the meanings given such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2015, between Golden Oak Manor II, L.P., a California limited partnership and the County of Contra Costa, California.

GOLDEN OAK MANOR II, L.P., a California
limited partnership

By: _____

Its: _____

EXHIBIT D

[INTENTIONALLY OMITTED]

EXHIBIT E

FORM OF VERIFICATION OF INCOME

TENANT INCOME CERTIFICATION

☐ Initial Certification
 ☐ 1st Recertification
 ☐ Other:

Effective Date:
 Move-in Date:
 (YYYY-MM-DD)

PART I - DEVELOPMENT DATA

Property Name: Golden Oak Manor	County: Contra Costa	BIN #:
Address: 5000 Kelsey Lane, Oakley, CA	Unit Number:	# Bedrooms:

PART II. HOUSEHOLD COMPOSITION

☐ Vacant

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (YYYY/MM/DD)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL
INCOME (E):

\$

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$	\$
Enter Column (H) Total If over \$5000		\$	X	2.00%
			=	(J) Imputed Income
				\$

Enter the greater of the total of column I, or J: imputed income (K)	TOTAL INCOME FROM ASSETS	\$
(L) Total Annual Household Income from all Sources [Add (E) + (K)]		\$

Effective Date of Move-in Income Certification:

Household Size at Move-in Certification:

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature	_____ (Date)	_____ Signature	_____ (Date)
_____ Signature	_____ (Date)	_____ Signature	_____ (Date)

PART V. DETERMINATION OF INCOME ELIGIBILITYTOTAL ANNUAL HOUSEHOLD
INCOME FROM ALL SOURCES:
From item (L) on page 1

\$

Unit Meets Income
Restriction at:☐ 60% ☐ 50%☐ 40% ☐ 30%☐ %**RECERTIFICATION ONLY:**

Current Income Limit x 140%:

\$

Household Income exceeds 140%
at recertification:☐ Yes ☐ No

Current Income Limit per Family Size: \$

Household Income at Move-in: \$

Household Size at Move-in: _____

PART VI. RENTTenant Paid Rent \$
Utility Allowance \$Rent Assistance: \$
Other non-optional charges: \$GROSS RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance &
other non-optional charges)

\$

Unit Meets Rent Restriction at:

☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ %

Maximum Rent Limit for this unit: \$

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ noIf yes, Enter student explanation*
(also attach documentation)

Enter 1-5

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐

See Part V above.

b. HOME ☐

Income Status

☐ ≤ 50% AMGI
☐ ≤ 60% AMGI
☐ ≤ 80% AMGI
☐ OI**c. Tax Exempt ☐

Income Status

☐ 50% AMGI
☐ 60% AMGI
☐ 80% AMGI
☐ OI**d. AHDP ☐

Income Status

☐ 50% AMGI
☐ 80% AMGI
☐ OI**e. ☐
(Name of Program)

Income Status

☐ _____
☐ _____
☐ OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE
--

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Project Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

*Move-in Date	Enter the date the tenant has or will take occupancy of the unit. (YYYY-MM-DD)
*Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. (YYYY-MM-DD)
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
*Vacant Unit	Check if unit was vacant on December 31 of requesting year.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and last four digits of social security number or alien registration number for each occupant. If tenant does not have a Social Security Number (SSN) or alien registration number, please enter the numerical birth month and last two digits of birth year (e.g. birthday January 1, 1970, enter "0170"). If tenant has no SSN number or date of birth, please enter the last 4 digits of the BIN.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (E) and (K) and enter the total
*Effective Date of Income Certification	Enter the effective date of the income certification corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the effective date listed in Part I.

*Household Size
at
Certification

Enter the number of tenants corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the number of tenants listed in Part II.

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.
*Units Meets Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Full time is determined by the school the student attends.

Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit See Part V above.

HOME If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.

Tax Exempt If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation.

AHDP If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.

Other If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Tenant Demographic Profile Complete for each member of the household, including minors, for move-in. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.

Resident/Applicant Initials All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren).

** Please note areas with asterisks are new or have been modified. Please ensure to note the changes or formats now being requested.*

TENANT INCOME CERTIFICATION QUESTIONNAIRE

Name: _____ Telephone Number: _____ () _____

<input type="checkbox"/>	Initial Certification	BIN #
<input type="checkbox"/>	Re-certification	
<input type="checkbox"/>	Other	Unit #

INCOME INFORMATION

Yes	No		MONTHLY GROSS INCOME
<input type="checkbox"/>	<input type="checkbox"/>	I am self employed. (List nature of self employment)	(use <u>net</u> income from business) \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation: List the businesses and/or companies that pay you: <u>Name of Employer</u> 1) _____ 2) _____ 3) _____	\$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive unemployment benefits.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic social security payments.	\$
<input type="checkbox"/>	<input type="checkbox"/>	The household receives <u>unearned</u> income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.).	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive Supplemental Security Income (SSI).	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive disability or death benefits other than Social Security.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive Public Assistance Income (examples: TANF, AFDC)	\$
<input type="checkbox"/>	<input type="checkbox"/>	I am entitled to receive child support payments.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I am currently receiving child support payments. If yes, from how many persons do you receive support? _____	\$
<input type="checkbox"/>	<input type="checkbox"/>	I am currently making efforts to collect child support owed to me. List efforts being made to collect child support: _____ _____	
<input type="checkbox"/>	<input type="checkbox"/>	I receive alimony/spousal support payments	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings. If yes, list sources: 1) _____ 2) _____	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I receive income from real or personal property.	(use <u>net</u> earned income) \$

<input type="checkbox"/>	<input type="checkbox"/>	Student financial aid (public or private, not including student loans)	
		Subtract cost of tuition from Aid received	\$

Asset information

YES	NO		INTEREST RATE	CASH VALUE
<input type="checkbox"/>	<input type="checkbox"/>	I have a checking account(s). If yes, list bank(s) 1) 2)	% %	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a savings account(s) If yes, list bank(s) 1) 2)	% %	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a revocable trust(s) If yes, list bank(s) 1)	%	\$
<input type="checkbox"/>	<input type="checkbox"/>	I own real estate. If yes, provide description:		\$
<input type="checkbox"/>	<input type="checkbox"/>	I own stocks, bonds, or Treasury Bills If yes, list sources/bank names 1) 2) 3)	% % %	\$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have Certificates of Deposit (CD) or Money Market Account(s). If yes, list sources/bank names 1) 2) 3)	% % %	\$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have an IRA/Lump Sum Pension/Keogh Account/401K. If yes, list bank(s) 1) 2)	% %	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a whole life insurance policy. If yes, how many policies		\$
<input type="checkbox"/>	<input type="checkbox"/>	I have cash on hand.		\$
<input type="checkbox"/>	<input type="checkbox"/>	I have disposed of assets (i.e. gave away money/assets) for less than the fair market value in the past 2 years. If yes, list items and date disposed: 1) 2)		\$ \$

STUDENT STATUS

YES NO

<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who are <u>full-time</u> students (Examples: College/University, trade school, etc.)?
<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who have been a <u>full-time</u> student in the previous 5 months?
<input type="checkbox"/>	<input type="checkbox"/>	Does your household anticipate becoming an all full-time student household in the next 12 months?
<input type="checkbox"/>	<input type="checkbox"/>	If you answered yes to any of the previous three questions are you:
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none">• Receiving assistance under Title IV of the Social Security Act (AFDC/TANF/Cal Works - not SSA/SSI)• Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program• Married and filing (or are entitled to file) a joint tax return• Single parent with a dependant child or children and neither you nor your child(ren) are dependent of another individual• Previously enrolled in the Foster Care program (age 18-24)
<input type="checkbox"/>	<input type="checkbox"/>	

UNDER PENALTIES OF PERJURY, I CERTIFY THAT THE INFORMATION PRESENTED ON THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. THE UNDERSIGNED FURTHER UNDERSTANDS THAT PROVIDING FALSE REPRESENTATIONS HEREIN CONSTITUTES AN ACT OF FRAUD. FALSE, MISLEADING OR INCOMPLETE INFORMATION WILL RESULT IN THE DENIAL OF APPLICATION OR TERMINATION OF THE LEASE AGREEMENT.

PRINTED NAME OF APPLICANT/TENANT_____
SIGNATURE OF APPLICANT/TENANT_____
DATE_____
WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE)_____
DATE

EXHIBIT F

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

GOLDEN OAK MANOR

Witnesseth that on this ____ day of _____, 20__, the undersigned, having borrowed certain funds from the County of Contra Costa, California (the "Governmental Lender") for the purpose of financing the above-listed multifamily rental housing development (the "Project"), does hereby certify that:

A. During the preceding twelve-months (i) the Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Governmental Lender, (ii) ____% of the units in the Project were occupied by Low Income Tenants (minimum of 40%).

B. Set forth below is certain information regarding occupancy of the Project as of the date hereof.

1. Total Units: _____
2. Total Units Occupied: _____
3. Total Units Held Vacant and Available for Rent
to Low Income Tenants _____
4. Total Low Income Units Occupied: _____
5. % of Low Income Units to Total Units % _____%
(equals the Total of Lines 3 and 4, divided by the
lesser of Line 1 or Line 2)

C. The units occupied by Low Income Tenants are of similar size and quality to other units and are dispersed throughout the Project.

D. Select appropriate certification: [No unremedied default has occurred under the Regulatory Agreement, the Borrower Note, Borrower Loan Agreement or the Security Instrument.] [A default has occurred under the _____. The nature of the default and the measures being taken to remedy such default are as follows: _____.]

E. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief.

Capitalized terms used in this Certificate and not otherwise defined herein have the meanings given to such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2015, between the Governmental Lender and Golden Oak Manor II, L.P., a California limited partnership.

Date: _____

GOLDEN OAK MANOR II, L.P., a California
limited partnership

By: _____

Its: _____



Contra
Costa
County

To: Board of Supervisors
From: Robert Campbell, Auditor-Controller
Date: November 17, 2015

Subject: Property Tax Refund for Lafayette Christian Church

RECOMMENDATION(S):

AUTHORIZE and DIRECT the Auditor-Controller to refund monies to the Lafayette Christian Church paid for property taxes for the 2014-2015 tax year in the amount of \$9,652.06 inclusive of interest, rather than \$9,742.74 as previously ordered by the Board of Supervisors as item D.2 on the October 20, 2015 agenda.

FISCAL IMPACT:

The amount of interest paid to the Lafayette Christian Church on a property tax refund will be reduced by \$90.68.

BACKGROUND:

On October 20, 2015, the Board of Supervisors approved the Lafayette Christian Church's claim for refund of property taxes for the 2014-2015 tax year. The Board authorized and directed the Auditor-Controller to refund these monies and the interest on those monies accruing under Revenue and Taxation Code section 5151. The amount of interest on the refund was erroneously calculated under Revenue and Taxation Code section 5151(c)(1), which applies where an assessment application is filed or an assessor's correction to the assessment roll is made. In this case, the applicable standard is set forth in Revenue and Taxation Code section 5151(c)(3), which

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Bobby Romero,
925-646-2225

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Bob Campbell, Elizabeth Verigin, Hal Nahal, Bobby Romero, Marie Rulloda

BACKGROUND: (CONT'D)

provides that “the interest computation period shall commence on the date of filing a claim for refund or payment of the tax, whichever is later.” The interest due under Revenue and Taxation Code section 5151(c)(3) is \$95.91, rather than \$186.59, which was included in the previous board order. For this reason, the total refund of property taxes, including interest, to the Lafayette Christian Church for the 2014-2015 tax year should be \$9,652.06, rather than \$9,742.74 as previously ordered by the Board of Supervisors as item D.2 on the October 20, 2015 agenda.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to take the recommended action will delay the Lafayette Christian Church from receiving its property tax refund.



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 17, 2015

Subject: Note Sale Resolution - The Oaks Apartments, Walnut Creek

RECOMMENDATION(S):

1. ADOPT Resolution No. 2015/433 authorizing the issuance of a Multifamily Housing Revenue Note in a principal amount not to exceed \$7,100,000 to finance the acquisition and rehabilitation of The Oaks Apartments in Walnut Creek (the "Development").
2. FIND and DECLARE that the recitals contained in the proposed Resolution are true and correct.
3. AUTHORIZE the issuance of a County of Contra Costa Multifamily Housing Revenue Note (The Oaks Apartments) Series 2015B in an aggregate principal amount not to exceed \$7,100,000.
4. APPROVE the form of, and authorize the County to execute, the Funding Loan Agreement between the County of Contra Costa (the "County") and Citibank, N.A. (the "Funding Lender").
5. APPROVE the form of, and authorize the County to execute, the Borrower Loan Agreement between the County and Oaks II, L.P. (the "Borrower").
6. APPROVE the form of, and authorize the County to execute, the Regulatory Agreement and Declaration of Restrictive Covenants between the County and Borrower.
7. APPROVE the form of, and authorize the County to execute, the Assignment of Deed of Trust by the County to the Funding Lender.
8. AUTHORIZE the Designated Officers of the County to execute and deliver the Note to the Funding Lender.
9. APPOINT Quint & Thimmig, LLP as bond counsel for the transaction.
10. AUTHORIZE and DIRECT the Designated Officers of the County to do any and all things and take any all actions, and execute and deliver any and all certificates, agreements, and other documents which the officer may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Note in accordance with the Resolution.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Kristen Lackey (925)
674-7888

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

FISCAL IMPACT:

No impact to the General Fund. At the closing for the Note, the County is reimbursed for costs incurred in the issuance process. Annual expenses for monitoring of Regulatory Agreement provisions ensuring units in the Development will be rented to low income households are accommodated in the documents for the Note. The Note will be solely secured by and payable from revenues (e.g. Development rents, reserves, etc.) pledged under the Note documents. No County funds are pledged to secure the Note.

BACKGROUND:

The recommended action is the adoption of a Resolution by the Board, as the legislative body of the County, authorizing the issuance of a Multifamily Housing Revenue Note, the proceeds of which will be used to finance the acquisition and rehabilitation of The Oaks Apartments, a 36 unit residential rental housing development (the "Development") located at 3073 North Main Street in Walnut Creek. The development will include 35 units reserved for low income households.

The ownership entity for the development will be Oaks II, L.P., a California limited partnership with Oaks EAH, LLC serving as managing general partner of the Borrower. Oaks EAH, LLC is an affiliate of EAH, Inc., a local non-profit housing developer that has developed over 7,000 units of housing over the past 46 years. Merritt Community Capital Corporation will be the tax credit investor special limited partner.

On June 9, 2015, the Board of Supervisors adopted Resolution No. 2015/199 expressing the Board's intent to issue multi-family housing revenue bonds for the Development. That Resolution authorized the submittal of an application by the County for tax-exempt private activity bond authority from the California Debt Limit Allocation Committee. In addition to the adoption of that Resolution, the County, as required by Section 147(f) of the Internal Revenue Code, held a noticed public hearing to permit interested parties to comment on the proposed financing and the Development. That hearing was held on May 26, 2015 with no comments received from the public. The Board adopted Resolution No. 2015/194 on June 9, 2015 to authorize proceeding with the issuance of the Note pursuant to Section 147(f) of the Internal Revenue Code.

On September 16, 2015, the California Debt Limit Allocation Committee awarded the County authority to issue the Note in a maximum principal amount of \$7,100,000. That authority will be used to issue and sell the Note directly to Citibank, N.A., with the proceeds of the Note to be used to fund a loan by the County to Oak II, L.P. In addition to the proceeds of the Note, the Development will utilize other forms of financing detailed in Attachment A. The transaction is expected to close by December 16, 2015.

CONSEQUENCE OF NEGATIVE ACTION:

Negative action would prevent the County from issuing a Multifamily Housing Revenue Note in order to provide a loan to Oaks II, L.P. to finance the acquisition and rehabilitation of The Oaks Apartments in Walnut Creek.

CHILDREN'S IMPACT STATEMENT:

The Oaks Apartments development provides affordable rental housing appropriate for families. This supports outcome #3: Families are Economically Self Sufficient.

ATTACHMENTS

Resolution No. 2015/433

Att A The Oaks Plan of Finance

Att B The Oaks FLA

Att C The Oaks BLA

Att D The Oaks BLA

Att E The Oaks Assignment

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐

NO: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2015/433

RESOLUTION AUTHORIZING THE ISSUANCE OF A MULTIFAMILY HOUSING REVENUE NOTE IN A PRINCIPAL AMOUNT NOT TO EXCEED \$7,100,000 TO FINANCE THE ACQUISITION AND REHABILITATION OF A MULTIFAMILY RENTAL HOUSING PROJECT FOR OAKS II, L.P., AND OTHER MATTERS RELATING THERETO

WHEREAS, the County of Contra Costa (the "County") is authorized pursuant to Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act") to issue bonds and notes for the purpose of financing multifamily rental housing facilities; and

WHEREAS, Oaks II, L.P., a California limited partnership (the "Borrower") has requested that the County issue a multifamily housing revenue note (the "Note") and loan the proceeds of the Note to the Borrower to finance the acquisition and rehabilitation by the Borrower of a 37 unit residential rental housing development (the "Development") located at 3073 North Main Street in Walnut Creek, California; and

WHEREAS, on May 26, 2015, the Community Development Bond Program Manager of the County held a public hearing on the proposed issuance of the Note by the County for, and the financing, ownership and operation of, the Development, as required under the provisions of the Internal Revenue Code (the "Code") applicable to tax-exempt obligations, following published notice of such hearing, and communicated to the Board of Supervisors of the County all written and oral testimony received at the hearing; and

WHEREAS, on June 9, 2015, the Board of Supervisors of the County adopted Resolution No. 2015/194 authorizing the issuance of the Note to finance the Development in satisfaction of the public approval requirements of the Code; and WHEREAS, the California Debt Limit Allocation Committee adopted its Resolution No. 15-101 on September 16, 2015 allocating \$7,100,000 of the State of California ceiling on private activity bonds for 2015 to the County for the purpose of financing the Development; and

WHEREAS, in order to assist in the financing of the Development, the County has determined to issue the Note, as authorized by the Act, and sell the Note to Citibank, N.A. (the "Bank") pursuant to a funding loan agreement (the "Funding Loan Agreement") between the County and the Bank, and to use the proceeds of the sale of the Note to the Bank to make a loan to the Borrower pursuant to a borrower loan agreement (the "Borrower Loan Agreement") between the County and the Borrower, with amounts due from the County to the Bank under the Note and the Funding Loan Agreement to be payable solely from amounts paid by the Borrower under the Borrower Loan Agreement; and

WHEREAS, there have been prepared various documents with respect to the issuance by the County of the Note, copies of which are on file with the Clerk of the Board, and the Board of Supervisors now desires to approve the issuance of the Note and the execution and delivery of such documents by the County; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Note as contemplated by this Resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Contra Costa, as follows:

Section 1. The Board of Supervisors hereby finds and declares that the foregoing recitals are true and correct.

Section 2. Pursuant to the Act and the Funding Loan Agreement, the Note designated as "County of Contra Costa Multifamily Housing Revenue Note (The Oaks Apartments), Series 2015B" in an aggregate principal amount of not to exceed \$7,100,000, is

hereby authorized to be issued. The Note shall be executed by the manual or facsimile signature of the Chair of the Board of Supervisors (the "Chair"), in the form set forth in and otherwise in accordance with the Funding Loan Agreement.

Section 3. The Funding Loan Agreement between the County and the Bank, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Chair of the Board of Supervisors, the Vice-Chair of the Board of Supervisors, the County Administrator, the Director of Conservation and Development and the Community Development Bond Program Manager (collectively, the "Designated Officers") is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Funding Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Funding Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof, provided that no additions or changes shall authorize an aggregate principal amount of the Note in excess of the amount set forth in Section 2 above), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Funding Loan Agreement by the County. The date, maturity date, interest rate or rates, privileges, manner of execution, place of payment, terms of redemption and other terms of the Note shall be as provided in the Funding Loan Agreement as finally executed.

Section 4. The Borrower Loan Agreement between the County and the Borrower, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized to execute and deliver the Borrower Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Borrower Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such changes to be conclusively evidenced by the execution and delivery of the Borrower Loan Agreement by the County.

Section 5. The regulatory agreement and declaration of restrictive covenants relating to the Development, between the County and the Borrower (the "Regulatory Agreement"), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Regulatory Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Regulatory Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Regulatory Agreement by the County.

Section 6. The Assignment of Deed of Trust, by the County to the Bank (the "Assignment"), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Assignment in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Assignment upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Assignment by the County.

Section 7. The Note, when executed, shall be delivered to the Bank (as the purchaser of the Note), in accordance with written instructions executed on behalf of the County by any one of the Designated Officers of the County, which instructions said officers are hereby authorized, for and in the name and behalf of the County, to execute and deliver. Such instructions shall provide for the delivery of the Note to the Bank upon the funding by the Bank of the initial advance of the purchase price of the Note as described in Section 2.1(b) of the Funding Loan Agreement.

Section 8. The law firm of Quint & Thimmig LLP is hereby designated as Bond Counsel to the County for the Note. The fees and expenses of such firm for matters related to the Note shall be payable solely from the proceeds of the Note or contributions by the Borrower.

Section 9. All actions heretofore taken by the officers and agents of the County with respect to the issuance of the Note are hereby approved, confirmed and ratified, and the proper officers of the County, including the Designated Officers, are hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Note in accordance with this Resolution, including but not limited to any certificates, agreements and other documents described in the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement or the Assignment, or otherwise necessary to issue the Note and consummate the transactions contemplated by the documents approved by this Resolution.

Section 10. This Resolution shall take effect upon its adoption.

Contact: Kristen Lackey (925) 674-7888

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

Attachment A
The Oaks Apartments
Multifamily Housing Revenue Note
Plan of Finance*

	<u>Construction</u>	<u>Permanent</u>
Tax Exempt Note	\$ 7,100,000	\$ 2,974,800
4% Low Income Housing Tax Credits	\$ 900,000	\$ 4,480,210
Citibank Subordinate Loan Program	\$ -	\$ 540,000
City of Walnut Creek	\$ 612,567	\$ 612,567
Seller Take-Back, Project Reserves, Operating Income, and Sponsor Loan	\$ 2,984,460	\$ 3,060,383
Deferred Developer Fee		\$ 360,083
Total	\$ 11,597,027	\$ 12,028,043

** The amounts below will be refined during the transaction closing.*

FUNDING LOAN AGREEMENT

between

**CITIBANK, N.A.,
as Funding Lender**

and

**COUNTY OF CONTRA COSTA, CALIFORNIA,
as Governmental Lender**

dated as of December 1, 2015

relating to:

\$ _____

**County of Contra Costa, California
Multifamily Housing Revenue Note
(The Oaks Apartments), Series 2015B**

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EXHIBIT A	FORM OF GOVERNMENTAL LENDER NOTE
EXHIBIT B	FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

FUNDING LOAN AGREEMENT

This Funding Loan Agreement, dated as of December 1, 2015 (this “**Funding Loan Agreement**”), is entered into by CITIBANK, N.A., (together with any successor hereunder, the “**Funding Lender**”), and the COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic, organized and existing under the laws of the State of California (together with its successors and assigns, the “**Governmental Lender**”).

RECITALS:

WHEREAS, the Governmental Lender is a political subdivision and body, corporate and politic, duly organized and validly existing under the laws of the State of California; and

WHEREAS, the Governmental Lender is empowered pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (the “**Act**”) to: (a) make loans to provide financing for residential rental developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income; (b) incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of, prepayment premium, if any, on and interest on such indebtedness of the Governmental Lender; and

WHEREAS, Oaks II, L.P., a California limited partnership (the “**Borrower**”), has requested that the Governmental Lender to enter into this Funding Loan Agreement under which the Funding Lender will (i) advance funds (the “**Funding Loan**”) to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the “**Borrower Loan**”) to the Borrower to finance the acquisition and rehabilitation of a 37-unit multifamily rental housing development to be located at 3073 North Main Street in the City of Walnut Creek, California, known as The Oaks Apartments; and

WHEREAS, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into a Borrower Loan Agreement of even date herewith (as it may be supplemented or amended, the “**Borrower Loan Agreement**”), whereby the Borrower agrees to make loan payments to the Governmental Lender in an amount that, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Borrower Note (as defined herein) and the obligations of the Borrower under the Borrower Note will be secured by a lien on

and security interest in the Project (as defined herein) pursuant to a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) of even date herewith (the "**Security Instrument**"), made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender its Multifamily Housing Revenue Note (The Oaks Apartments), Series 2015B, dated the Closing Date (the "**Governmental Lender Note**") evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make the Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Note, subject to the terms hereof, have in all respects been duly authorized.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1. Definitions. For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

(b) The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms "agree" and "agreements" contained herein are intended to include and mean "covenant" and "covenants."

(c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(d) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to "Approved Accounting Method" refer to such principles as they exist at the date of application thereof.

(e) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(f) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(g) References to the Governmental Lender Note as "tax-exempt" or to the "tax-exempt status" of the Governmental Lender Note are to the exclusion of interest on the Governmental Lender Note (other than any portion of the Governmental Lender Note held by a "substantial user" of the Project or a "related person" within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(h) The following terms have the meanings set forth below:

"Act" means Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code.

"Additional Borrower Payments" shall have the meaning given such term in the Borrower Loan Agreement.

“Affiliate” means, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

“Approved Transferee” means (a) a “qualified institutional buyer” (“QIB”) as defined in Rule 144A promulgated under the Securities Act that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (b) an affiliate of the Funding Lender, or (c) a trust or custodial arrangement established by the Funding Lender or one of its affiliates the beneficial interests in which will be owned only by QIBs.

“Authorized Amount” means \$_____, the maximum principal amount of the Funding Loan under this Funding Loan Agreement.

“Authorized Governmental Lender Representative” shall mean the Governmental Lender’s Chair, Vice Chair, County Administrator, Director of the Department of Conservation and Development or Community Development Bond Program Manager, and/or person or persons designated to act on behalf of the Governmental Lender by a certificate filed with the Borrower, Funding Lender and Servicer, if any, containing the specimen signatures of such person or persons and signed on behalf of the Governmental Lender by an Authorized Governmental Lender Representative. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative

“Borrower” means Oaks II, LP, a California limited partnership.

“Borrower Controlling Entity” shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the manager or managing member of the Borrower.

“Borrower Loan” shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the aggregate principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

“Borrower Loan Agreement” shall mean the Borrower Loan Agreement, of even date herewith, between the Governmental Lender and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

“Borrower Loan Agreement Default” shall mean any event of default set forth in 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall “exist” if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable cure period.

“Borrower Loan Amount” shall mean \$_____, the maximum principal amount of the Borrower Loan under the Borrower Loan Agreement.

“Borrower Loan Documents” shall have the meaning given such term in the Borrower Loan Agreement.

“Borrower Note” shall mean the “Borrower Note” as defined in the Borrower Loan Agreement.

“Business Day” shall mean any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Closing Costs” has the meaning given to the term Costs of Funding in the Borrower Loan Agreement.

“Closing Date” shall mean December 15, 2015, the date that initial Funding Loan proceeds are disbursed hereunder.

“Code” means the Internal Revenue Code of 1986 as in effect on the date of execution and delivery of the Governmental Lender Note or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Conversion” has the meaning given to such term in the Borrower Loan Agreement.

“Conversion Date” shall have the meaning given such term in the Construction Funding Agreement.

“Construction Funding Agreement” means that certain Construction Funding Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during rehabilitation of the Project, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Contingency Draw-Down Agreement” means the Contingency Draw-Down Agreement of even date herewith between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Control” shall mean, with respect to any Person, either (a) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

“Default” shall mean the occurrence of an event, which, under any Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an event of default under the applicable Funding Loan Document or a Borrower Loan Agreement Default.

“Draw-Down Notice” shall mean a notice described in Section 1.01 of the Contingency Draw-Down Agreement regarding the conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Equity Investor” shall mean Merritt Community Capital Fund XVIII, L.P., a California limited partnership, and its affiliates, successors and assigns.

“Event of Default” shall have the meaning ascribed thereto in Section 9.1 hereof.

“Fair Market Value” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (c) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (d) any commingled investment fund in which the City and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment. To the extent required by the Regulations, the term “investment” will include a hedge.

“Funding Lender” shall mean Citibank N.A., a national banking association, and any successor under this Funding Loan Agreement and the Borrower Loan Documents.

“Funding Loan Agreement” shall mean this Funding Loan Agreement, by and between the Funding Lender and the Governmental Lender, as it may from time to time be supplemented, modified or amended by one or more indentures or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“Funding Loan Documents” shall mean (a) this Funding Loan Agreement, (b) the Borrower Loan Agreement, (c) the Regulatory Agreement, (d) the Tax Certificate, (e) the Borrower Loan Documents, (f) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (g) all amendments, modifications, renewals and substitutions of any of the foregoing.

“Government Obligations” shall mean noncallable, nonprepayable (a) direct, general obligations of the United States of America, or (b) any obligations unconditionally guaranteed as to the full and timely payment of all amounts due thereunder by the full faith and credit of the United States of America (including obligations held in book entry form), but specifically excluding any mutual funds or unit investment trusts invested in such obligations.

“Governmental Lender” shall mean the County of Contra Costa, California.

“Governmental Lender Note” shall mean the Governmental Lender Note described in the recitals of this Funding Loan Agreement.

“Highest Rating Category” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating category given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax-exempt municipal debt established by S&P is “A1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG1” (for fixed rate) or “VMIG1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (a) both S&P and Moody’s rate a Permitted Investment and (b) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

“Maturity Date” shall mean _____ 1, ____.

“Maximum Rate” shall mean the lesser of (a) 12% per annum, and (b) the maximum interest rate that may be paid on the Funding Loan under State law.

“Minimum Beneficial Ownership Amount” shall mean an amount no less than fifteen percent (15%) of the outstanding principal amount of the Funding Loan.

“Moody’s” shall mean Moody’s Investors Service, Inc., or its successor.

“Noteowner” or “owner of the Governmental Lender Note” means the owner, or as applicable, collectively the owners, of the Governmental Lender Note as shown on the registration books maintained by the Funding Lender pursuant to Section 2.4(e).

“Negative Arbitrage Deposit” has the meaning set forth in the Contingency Draw-Down Agreement.

“Ongoing Governmental Lender Fee” shall mean the Governmental Lender Annual Fee (as that term is defined in the Regulatory Agreement) that is payable after the Closing Date.

“Opinion of Counsel” shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

“Permitted Investments” shall mean, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement, but only to the extent that the same are acquired at Fair Market Value:

- (a) Government Obligations.
- (b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America (other than the Federal Home Loan Mortgage Corporation) or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.
- (c) Obligations, in each case rated in the Highest Rating Category, of (i) any state or territory of the United States of America, (ii) any agency, instrumentality, authority or political subdivision of a state or territory or (iii) any public benefit or municipal corporation the principal of and interest on which are guaranteed by such state or political subdivision.
- (d) Any written repurchase agreement entered into with a Qualified Financial Institution whose unsecured short-term obligations are rated in the Highest Rating Category.
- (e) Commercial paper rated in the Highest Rating Category.
- (f) Interest bearing negotiable certificates of deposit, interest bearing time deposits, interest bearing savings accounts and bankers’ acceptances, issued by a Qualified Financial Institution if either (i) the Qualified Financial Institution’s unsecured short term obligations are rated in the Highest Rating Category or (ii) such deposits, accounts or acceptances are fully collateralized by investments described in clauses (a) or (b) of this definition or fully insured by the Federal Deposit Insurance Corporation.
- (g) An agreement held by the Funding Lender for the investment of moneys at a guaranteed rate with a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or Second Highest Rating Category, or whose obligations are unconditionally guaranteed or insured by a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or Second Highest Rating Category; provided that such agreement is in a form acceptable to the Funding Lender; and provided further that such agreement includes the following restrictions:
 - (1) the invested funds will be available for withdrawal without penalty or premium, at any time that the Funding Lender is required to pay moneys from the Fund(s) established under this Funding Loan Agreement to which the agreement is applicable;
 - (2) the agreement, and if applicable the guarantee or insurance, is an unconditional and general obligation of the provider and, if applicable, the

guarantor or insurer of the agreement, and ranks *pari passu* with all other unsecured unsubordinated obligations of the provider, and if applicable, the guarantor or insurer of the agreement;

(3) the Funding Lender receives an Opinion of Counsel, which may be subject to customary qualifications, that such agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and, if applicable, an Opinion of Counsel that any guaranty or insurance policy provided by a guarantor or insurer is legal, valid, binding and enforceable upon the guarantor or insurer in accordance with its terms; and

(4) the agreement provides that if during its term the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, is withdrawn, suspended by any rating agency or falls below the Second Highest Rating Category, the provider must, within ten days, either: (A) collateralize the agreement (if the agreement is not already collateralized) with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Funding Lender or a third party custodian, such collateralization to be effected in a manner and in an amount reasonably satisfactory to the Funding Lender, or, if the agreement is already collateralized, increase the collateral with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Funding Lender or a third party custodian, in an amount reasonably satisfactory to the Funding Lender, (B) at the request of the Funding Lender, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium unless required by law or (C) transfer the agreement, guarantee or insurance, as applicable, to a replacement provider, guarantor or insurer, as applicable, then meeting the requirements of a Qualified Financial Institution and whose unsecured long term obligations are then rated in the Highest Rating Category or Second Highest Rating Category. The agreement may provide that the down graded provider may elect which of the remedies to the down grade (other than the remedy set out in (B)) to perform.

Notwithstanding anything else in this paragraph (g) to the contrary and with respect only to any agreement described in this paragraph (g) or any guarantee or insurance for any such agreement which is to be in effect for any period after the Conversion Date, any reference in this paragraph to the "Second Highest Rating Category" will be deemed deleted so that the only acceptable rating category for such an agreement, guarantee or insurance will be the Highest Rating Category.

(h) Subject to the ratings requirements set forth in this definition, shares in any money market mutual fund (including those of the Funding Lender or any of its affiliates) registered under the Investment Company Act of 1940, as amended, that have been rated "AAAm G" or "AAAm" by S&P or "Aaa" by Moody's so long as the portfolio of such money market mutual fund is limited to Government Obligations and agreements to repurchase Government Obligations. If approved in writing by the Funding Lender, a money market mutual fund portfolio may also contain obligations and agreements to repurchase obligations described in paragraphs (b) or (c). The money market mutual fund

must be rated “AAAm G” or “AAAm” by S&P, or “Aaa” by Moody’s. If at any time (i) both S&P and Moody’s rate a money market mutual fund and (ii) one of those ratings is below the level required by this paragraph, then such money market mutual fund will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency.

(i) Any other investment authorized by the laws of the State, if such investment is approved in writing by the Funding Lender.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment with a final maturity or any agreement with a term greater than one year from the date of the investment. This exception (1) shall not apply to Permitted Investments listed in paragraphs (g) and (i).

(2) Except for any obligation described in paragraph (a) or (b), any obligation with a purchase price greater or less than the par value of such obligation.

(3) Any asset backed security, including mortgage backed securities, real estate mortgage investment conduits, collateralized mortgage obligations, credit card receivable asset backed securities and auto loan asset backed securities.

(4) Any interest only or principal only stripped security.

(5) Any obligation bearing interest at an inverse floating rate.

(6) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(7) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

(8) Any investment described in paragraph (d) or (g) with, or guaranteed or insured by, a Qualified Financial Institution described in clause (iv) of the definition of Qualified Financial Institution if such institution does not agree to submit to jurisdiction, venue and service of process in the United States of America in the agreement relating to the investment.

(9) Any investment to which S&P has added an “r” or “t” highlighter.

“**Person**” shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Pledged Revenues” shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Lender Note, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon.

“Prepayment Premium” shall mean (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any Prepayment Premium as set forth in the Borrower Note) and (ii) any premium payable on the Governmental Lender Note pursuant to this Funding Loan Agreement.

“Project” shall have the meaning given to that term in the Borrower Loan Agreement.

“Qualified Financial Institution” shall mean any (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank, savings and loan association, or insurance company or association chartered or organized under the laws of any state of the United States of America, (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, (v) government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, (vi) securities dealer approved in writing by the Funding Lender the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation and (vii) other entity which is acceptable to the Funding Lender. With respect to an entity which provides an agreement held by the Funding Lender for the investment of moneys at a guaranteed rate as set out in paragraph (g) of the definition of the term “Permitted Investments” or an entity which guarantees or insures, as applicable, the agreement, a “Qualified Financial Institution” may also be a corporation or limited liability company organized under the laws of any state of the United States of America.

“Qualified Project Costs” shall have the meaning given to that term in the Regulatory Agreement.

“Regulations” shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“Regulatory Agreement” shall mean that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of the date hereof, by and between the Governmental Lender and the Borrower, as hereafter amended or modified.

“Remaining Funding Loan Proceeds Account” has the meaning set forth in the Contingency Draw-Down Agreement.

“Remaining Funding Loan Proceeds Account Earnings Subaccount” has the meaning set forth in the Contingency Draw-Down Agreement.

“Required Transferee Representations” shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

“Resolution” shall mean the resolution of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

“Second Highest Rating Category” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the second highest rating category given by that rating agency for that general category of security. By way of example, the Second Highest Rating Category for tax-exempt municipal debt established by S&P is “AA” for a term greater than one year, with corresponding ratings by Moody’s of “Aa.” If at any time (a) both S&P and Moody’s rate a Permitted Investment and (b) one of those ratings is below the Second Highest Rating Category, then such Permitted Investment will not be deemed to be rated in the Second Highest Rating Category. For example, an Investment rated “AA” by S&P and “A” by Moody’s is not rated in the Second Highest Rating Category.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security” shall have the meaning assigned to it in Section 4.1.

“Security Instrument” shall mean the Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) (as amended, restated and/or supplemented from time to time) of even date herewith, made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

“Servicer” shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

“Servicing Agreement” shall mean any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

“S&P” shall mean Standard & Poor’s Ratings Services, a division of McGraw Hill Financial, Inc., and its successors.

“State” shall mean the State of California.

“Tax Certificate” shall mean the Certificate as to Arbitrage, dated the Closing Date, executed and delivered by the Governmental Lender and the Borrower, together with the Certificate Regarding Use of Proceeds, dated the Closing Date, executed and delivered by the Borrower.

“Tax Counsel” shall mean (a) Quint & Thimmig LLP, or (b) any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

“Tax Counsel Approving Opinion” shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“Tax Counsel No Adverse Effect Opinion” shall mean an opinion of Tax Counsel to the effect that the taking of the action specified therein will not impair the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“UCC” shall mean the Uniform Commercial Code as in effect in the State.

“Unassigned Rights” shall mean the Governmental Lender’s rights to (a) reimbursement and payment of its fees, costs and expenses and the Rebate Amount under Section 2.5 of the Borrower Loan Agreement and Section 4A(d) of the Regulatory Agreement, (b) access to the Project under Section 5.17 of the Borrower Loan Agreement, (c) indemnification under Section 5.15 of the Borrower Loan Agreement and Section 9 of the Regulatory Agreement, (d) attorneys’ fees under Sections 5.11, 5.14 and 10.05 of the Borrower Loan Agreement, (e) receive notices, reports and other statements and its rights to consent to certain matters, including but not limited to its right to consent to amendments to this Funding Loan Agreement, the Borrower Loan Agreement and the Regulatory Agreement, and otherwise as provided in this Funding Loan Agreement and the Borrower Loan Agreement, (f) seek performance by the Borrower of its obligations under the Regulatory Agreement, and (g) seek performance of, and enforce, various tax covenants as described in Section 2.2(b)(i) of the Borrower Loan Agreement, including but not limited to those in Sections 5.34 and 5.35 of the Borrower Loan Agreement.

“Written Certificate,” “Written Certification,” “Written Consent,” “Written Direction,” “Written Notice,” “Written Order,” “Written Registration,” “Written Request,” and “Written Requisition” shall mean a written certificate, direction, notice, order or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer or such other Person as required under the Funding Loan Documents.

“Yield” shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

Section 1.2. Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the rehabilitation hereof.

Section 1.3. Date of Funding Loan Agreement. The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

Section 1.4. Designation of Time for Performance. Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

Section 1.5. Interpretation. The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of rehabilitation that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

ARTICLE II

TERMS; GOVERNMENTAL LENDER NOTE

Section 2.1. Terms.

(a) **Principal Amount.** The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

(b) **Draw-Down Funding.** The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender directly to the Borrower for the account of the Governmental Lender as and when needed to make each advance in accordance with the disbursement provisions of the Borrower Loan Agreement and the Construction Funding Agreement. Upon each advance of principal of the Borrower Loan under the Borrower Loan Agreement and the Construction Funding Agreement, a like amount of the Funding Loan shall be deemed concurrently and simultaneously advanced under this Funding Loan Agreement, including the initial advance of \$_____. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded hereunder after December 1, 2018; provided, however, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender such date may be changed to a later date as specified in such Tax Counsel No Adverse Effect Opinion.

The Governmental Lender consents to the terms of the Contingency Draw-Down Agreement and agrees to take all actions requested in writing by the Funding Lender or the Borrower that are reasonably required of the Governmental Lender, in connection with the conversion of the Funding Loan to a fully drawn loan pursuant to the provisions of the Contingency Draw-Down Agreement in the event a Draw-Down Notice is filed by the Funding Lender or the Borrower, all at the expense of the Borrower.

(c) **Origination Date; Maturity.** The Funding Loan shall be originated on the Closing Date and shall mature on the Maturity Date at which time the entire principal amount, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) **Principal.** The outstanding principal amount of the Governmental Lender Note and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances under the Borrower Loan Agreement and the Construction Funding Agreement as proceeds of the Borrower Loan, less any payments of principal of the Governmental Lender Note previously received upon payment of corresponding principal amounts under the Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of the Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Funding Lender shall keep a record of all advances and principal repayments made under the Governmental Lender Note and shall upon written request provide the Governmental Lender with a statement of the outstanding principal balance of the Governmental Lender Note and the Funding Loan.

(e) **Interest.** Interest shall be paid on the outstanding principal amount of the Governmental Lender Note at the rate or rates set forth in the Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(f) **Corresponding Payments.** The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan and the Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the Borrower Note. Any payment or prepayment made by the Borrower of principal, interest, and Prepayment Premium, if any, due on a Borrower Note shall be deemed to be like payments or prepayments of principal, interest and Prepayment Premium, if any, due on the related Governmental Lender Note.

(g) **Usury.** The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit

prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

Section 2.2. Form of Governmental Lender Note. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement.

In connection with Conversion, the Funding Lender shall have the right to exchange the then existing Governmental Lender Note on or after the Conversion Date for a new Governmental Lender Note with a dated date of the Conversion Date and in a stated principal amount equal to the then outstanding principal amount of the Governmental Lender Note, which amount will equal the Permanent Period Amount (as defined in the Borrower Loan Agreement) of the Borrower Loan, but shall not otherwise change any material terms of the Governmental Lender Note.

Section 2.3. Execution and Delivery of Governmental Lender Note. The Governmental Lender Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of an Authorized Governmental Lender Representative. The manual or facsimile signature of the individual who was the proper officer of the Governmental Lender at the time of execution shall bind the Governmental Lender, notwithstanding that such individual shall have ceased to hold such office prior to the execution and delivery of the Governmental Lender Note or shall not have held such office at the date of the Governmental Lender Note.

Section 2.4. Required Transferee Representations; Participations; Sale and Assignment.

(a) The Funding Lender shall deliver to the Governmental Lender the Required Transferee Representations in substantially the form attached hereto as Exhibit B on the Closing Date.

(b) The Funding Lender shall have the right to sell (i) the Governmental Lender Note and the Funding Loan or (ii) any portion of or a participation interest in the Governmental Lender Note and the Funding Loan, to the extent permitted by clause (c) below, provided that such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender, the Required Transferee Representations.

(c) Notwithstanding the other provisions of this Section 2.4: (i) no portion of the Governmental Lender Note and the Funding loan shall be sold in an amount that is less than \$100,000, and (ii) no beneficial ownership interest in the Governmental Lender Note and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount. Notwithstanding the foregoing, an owner of beneficial interest in the Governmental Lender Note shall not be a Noteowner, and the Noteowners shall only be those Persons which are shown as the Noteowners on the registration books maintained by the Funding Lender pursuant to Section 2.4(e).

(d) No service charge shall be made for any sale or assignment of any portion of the Governmental Lender Note, but the Governmental Lender may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such sale or assignment. Such sums shall be paid in every instance by the purchaser or assignee of the Funding Loan or portion thereof.

(e) The Governmental Lender Note, or any interest therein, shall be in fully registered form transferable to subsequent owners only on the registration books which shall be maintained by the Funding Lender for such purpose and which shall be open to inspection by the Governmental Lender. The Governmental Lender Note shall not be transferred through the services of the Depository Trust Company or any other third party registrar.

The Funding Lender is the initial registered owner of the Governmental Lender Note and shall remain the sole registered owner of the Governmental Lender Note except as provided herein. The Funding Lender shall provide written notice to the Governmental Lender of any transfer by the Funding Lender of the Governmental Lender Note or any portion of or any interest of the Funding Lender in the Governmental Lender Note.

(f) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Lender Note.

ARTICLE III

PREPAYMENT

Section 3.1. Prepayment of the Governmental Lender Note from Prepayment under the Borrower Note. The Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds received from the Borrower under the Borrower Loan Agreement to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Note, thereby causing the Governmental Lender Note to be prepaid, except as specifically permitted in the Borrower Note, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the direction of the Funding Lender in accordance with the terms of the Borrower Note at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

Section 3.2. Notice of Prepayment. Notice of prepayment of the Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the Borrower Note is timely and properly given to the Funding Lender (with a copy to the Governmental Lender) in accordance with the terms of the Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

ARTICLE IV

SECURITY

Section 4.1. Security for the Funding Loan. To secure the payment of the Funding Loan and the Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and the Governmental Lender Note are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien

on and security interest in the following described property (excepting, however, in each case, the Unassigned Rights) (said property, rights and privileges being herein collectively called, the "Security"):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the Borrower Note, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under this Funding Loan Agreement and any amounts held at any time in the Remaining Funding Loan Proceeds Account and the Remaining Funding Loan Proceeds Account Earnings Subaccount, any Negative Arbitrage Deposit and any other amounts held under the Contingency Draw-Down Agreement, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on the Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Governmental Lender or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall

be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

Section 4.2. Delivery of Security. To provide security for the payment of the Funding Loan and the Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and the Governmental Lender Note its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, there shall be delivered to the Funding Lender, by or at the direction of the Borrower, the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- (a) The Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;
- (b) The originally executed Borrower Loan Agreement and Regulatory Agreement;
- (c) The originally executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Note and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;
- (d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and
- (e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

There shall be delivered and deposited with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security including, at the request of the Funding Lender, any amounts held under the Contingency Draw-Down Agreement, in each case at the expense of the Borrower.

ARTICLE V

LIMITED LIABILITY

Section 5.1. Source of Payment of Funding Loan and Other Obligations. The Funding Loan is a limited obligation of the Governmental Lender, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. None of

the Governmental Lender (except as provided in the first sentence of this Section 5.1), the City of Walnut Creek, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein), shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan, or the Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan, the Governmental Lender Note, or hereunder or under any of the other Funding Loan Documents, shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever.

Section 5.2. Exempt from Individual Liability. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future member of the Board of Supervisors, officer, director, employee or agent of the Governmental Lender in his individual capacity, and none of the members of the Board of Supervisors, the officers, directors, employees or agents of the Governmental Lender executing the Governmental Lender Note or this Funding Loan Agreement shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note or the execution of this Funding Loan Agreement or any of the Funding Loan Documents.

ARTICLE VI

CLOSING CONDITIONS; APPLICATION OF FUNDS

Section 6.1. Conditions Precedent to Closing. Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Funding Lender in its sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original Governmental Lender Note;
- (b) Receipt by the Funding Lender of the original executed Borrower Note, endorsed without recourse to the Funding Lender by the Governmental Lender;
- (c) Receipt by the Funding Lender of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Funding Agreement, the Regulatory Agreement, the Tax Certificate and the Security Instrument;
- (d) Receipt by the Funding Lender of a certified copy of the Resolution;
- (e) Executed Required Transferee Representations from the Funding Lender;
- (f) Delivery into escrow of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate

transfers or transactions, including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;

(g) Receipt by the Funding Lender of a Tax Counsel Approving Opinion;

(h) Receipt by the Funding Lender of an Opinion of Counsel from Tax Counsel to the effect that the Governmental Lender Note is exempt from registration under the Securities Act of 1933, as amended, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(i) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender to the effect that the Borrower Loan Documents and the Regulatory Agreement are valid and binding obligations of the Borrower that are enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender; and

(j) Receipt by the Funding Lender of any other documents or opinions that the Funding Lender or Tax Counsel may require.

ARTICLE VII

FUNDS AND ACCOUNTS

Section 7.1. Authorization to Create Funds and Accounts. No funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender and the Servicer, if any, and any designee of the Funding Lender or the Servicer, are authorized to establish and create from time to time such funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

Section 7.2. Investment of Funds. Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested by the Funding Lender, the Servicer or the designee of the Funding Lender or Servicer, as applicable, in Permitted Investments at the written direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Certificate.

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.1. General Representations. The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a political subdivision and body corporate and politic, organized and existing under the laws of the State, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby, (ii) incur the limited obligation represented by the Governmental Lender Note and the Funding Loan, and apply the proceeds of such obligation or loan to finance the Project, and (iii) carry out its other obligations under this Funding Loan Agreement and the Governmental Lender Note, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its performance under, the Funding Loan Documents to which it is a party.

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and instruments to which the Governmental Lender is a party, a default under or violation of which would prevent it from entering into the Funding Loan Agreement, executing and delivering the Governmental Lender Note, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions on its part contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Governmental Lender Note or the Borrower Note pursuant to any securities laws or complying with any other requirements of securities laws).

(c) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending with respect to which the Governmental Lender has been served with process or, to the knowledge of the Governmental Lender, is threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Note and this Funding Loan Agreement have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than the Funding Loan Agreement as evidenced by the Governmental Lender Note.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECT AND DOES NOT REPRESENT OR WARRANT AS TO ANY

STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR THE BORROWER LOAN, OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

Section 8.2. No Encumbrance on Security. The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

Section 8.3. Repayment of Funding Loan. Subject to the provisions of Articles III and V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Funding Loan, as evidenced by the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement.

Section 8.4. Servicer. The Funding Lender may appoint a Servicer to service and administer the Governmental Loan and/or the Borrower Loan on behalf of the Funding Lender, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

Section 8.5. Borrower Loan Agreement Performance.

(a) The Funding Lender and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required or obligated to) perform and observe any agreement or covenant of the Governmental Lender under the Borrower Loan Agreement subject to the terms and provisions contained therein, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify the Borrower, the Servicer and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice of such event.

Section 8.6. Maintenance of Records; Inspection of Records.

(a) The Funding Lender shall keep and maintain adequate records pertaining to any funds and accounts established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Funding Loan and interests therein. The Funding Lender shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and premium paid on the Funding Loan, subject to the inspection of the Governmental Lender and its representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender will at any and all times, upon the reasonable request of the Servicer, the Borrower or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the

Governmental Lender relating to the Project and the Funding Loan, if any, and (at their own expense) to make copies thereof.

Section 8.7. Tax Covenants. The Governmental Lender covenants to and for the benefit of the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will:

(a) Require the Borrower to execute the Regulatory Agreement as a condition of funding the Borrower Loan;

(b) Not knowingly take or cause to be taken any action or actions, or knowingly fail to take any action or actions, which would cause the interest payable on the Governmental Lender Note to be includable in gross income for federal income tax purposes;

(c) Whenever and so often as requested in writing by Funding Lender, the Governmental Lender (at the sole cost and expense of the Borrower), shall do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Governmental Lender on the Governmental Lender Note will be excluded from the gross income of the owner of the Governmental Lender Note, for federal income tax purposes, pursuant to Section 103 of the Code, except in the event where any owner of the Governmental Lender Note or a portion thereof is a "substantial user" of the facilities financed with the Funding Loan or a "related person" within the meaning of Section 147(a) of the Code;

(d) Not knowingly take any action nor, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, knowingly permit or suffer any action to be taken if the result of the same would be to cause the Governmental Lender Notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code and the Regulations;

(e) Require the Borrower to agree, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Funding Loan, or any other moneys which may be deemed to be proceeds of the Funding Loan pursuant to the Code, which would cause the Governmental Lender Notes to be "arbitrage bonds" within the meaning of Sections 103(b) and 148 the Code, and to comply with the requirements of the Code throughout the term of the Funding Loan; and

(f) Require the Borrower, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement, to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full. In the event of any conflict

between this Funding Loan Agreement and the Tax Certificate, the requirements of the Tax Certificate shall control.

For purposes of this Section 8.7 the Governmental Lender's compliance shall be based solely on matters within the Governmental Lender's knowledge and control and no acts, omissions or directions of the Borrower, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

Section 8.8. Performance by the Borrower. Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may (but is under no obligation to) perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under (and as such term is defined in) the Borrower Loan Agreement exists.

ARTICLE IX

DEFAULT; REMEDIES

Section 9.1. Events of Default. Any one or more of the following shall constitute an event of default (an "Event of Default") under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) A default in the payment of any interest upon the Governmental Lender Note when such interest becomes due and payable;

(b) A default in the payment of principal of, or premium on, the Governmental Lender Note when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise;

(c) Subject to Section 8.8 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 12.1 hereof, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" under this Funding Loan Agreement; provided that, so long as the Governmental Lender has commenced to cure such failure to observe or perform within the thirty (30) day cure period, the subject matter of the

default is not capable of cure within said thirty (30) day period and the Governmental Lender is diligently pursuing such cure to the Funding Lender's satisfaction, with the Funding Lender's Written Direction or Written Consent, then the Governmental Lender shall have an additional period of time as reasonably necessary (not to exceed 30 days unless extended in writing by the Funding Lender) within which to cure such default;

(d) A default in the payment of any Additional Borrower Payments; or

(e) Any other "Default" or "Event of Default" under any of the other Funding Loan Documents (taking into account any applicable grace periods therein).

Section 9.2. Acceleration of Maturity; Rescission and Annulment.

(a) Subject to the provisions of Section 9.9 hereof, upon the occurrence of an Event of Default under Section 9.1 hereof, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Governmental Lender Note and the interest accrued to be immediately due and payable, by notice to the Governmental Lender, Borrower and the Equity Investor, and upon any such declaration, all principal of and Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Note shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Governmental Lender rescind and annul such declaration and its consequences if:

(i) there has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Funding Loan, (2) the principal of and Prepayment Premium on the Funding Loan that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Funding Loan, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Funding Loan, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

(ii) all Events of Default, other than the non-payment of the principal of the Funding Loan that has become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

(c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower, any of the Borrower's partners or the Project if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

Section 9.3. Additional Remedies; Funding Lender Enforcement.

(a) Upon the occurrence of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the Uniform Commercial Code applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

(i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

(ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

(iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

(iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents, or the Borrower Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

(c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear from enforcing any term, condition,

covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Note or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax-exempt status of the interest on the Governmental Lender Note, and provided that the Governmental Lender may seek specific performance by the Borrower to enforce the Unassigned Rights; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion (as such term is defined in the Borrower Loan Agreement).

(d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after the Borrower, the Equity Investor and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(e) If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement (subject to applicable notice and cure periods) to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed pursuant to Sections 2.5, 5.14 or 5.15 of the Borrower Loan Agreement for fees, expenses or indemnification, the Funding Lender shall have the right to exercise all its rights and remedies thereunder (subject to the last paragraph of Section 9.14 hereof).

Section 9.4. Application of Money Collected. Any money collected by the Funding Lender pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

(a) First: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan, including, without limitation, any amounts due to the Governmental Lender, the Funding Lender, the Servicer and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Note, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Funding Loan) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Funding Loan; provided, however, that partial interests in any portion of the Funding Loan shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

(c) Third: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this Section 9.4 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

Section 9.5. Remedies Vested in Funding Lender. All rights of action and claims under this Funding Loan Agreement or the Governmental Lender Note may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Note or the production thereof in any proceeding relating thereto.

Section 9.6. Restoration of Positions. If Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

Section 9.7. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.8. Delay or Omission Not Waiver. No delay or omission of the Funding Lender to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

Section 9.9. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6 hereof, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan

Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 9.10. Remedies Under Borrower Loan Agreement or Borrower Note. As set forth in this Section 9.10 but subject to Section 9.9 hereof, the Funding Lender shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Note, whether or not the Governmental Lender Note has been accelerated or declared due and payable by reason of an Event of Default.

Section 9.11. Waiver of Appraisal and Other Laws.

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in clause (a) shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

Section 9.12. Suits to Protect the Security. The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

Section 9.13. Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

Section 9.14. Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement

and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents.

ARTICLE X

AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT AND OTHER DOCUMENTS

Section 10.1. Amendment of Funding Loan Agreement. Any of the terms of this Funding Loan Agreement and the Governmental Lender Note may be amended or waived only by an instrument signed by the Funding Lender and the Governmental Lender, provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender.

Section 10.2. Amendments Require Funding Lender Consent. The Governmental Lender shall not consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document without the prior Written Consent of the Funding Lender.

Section 10.3. Consents and Opinions. No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices. All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, hand delivery to the party to be notified addressed as follows:

If to the Governmental Lender: County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, California 94553
Attention: Community Development Bond Program
Manager
Telephone: (925) 674-7888
Facsimile: (925) 674-7258

If to the Borrower: Oaks II, L.P.
c/o EAH Inc.
2169 East Francisco Boulevard, Suite B
San Rafael, CA 94901
Attention: Errol Dominguez
Phone: (415) 295-8855
Facsimile: (415) 453-4927

with a copy to: Bocarsly, Emden, Cowan, Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Nicole Deddens, Esq.
Phone: (213) 239-8029
Facsimile: (213) 559-0751

If to the Equity Investor: Merritt Community Capital Fund XVIII, L.P.
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, CA 94612
Attention: Karen Smyda
Phone: (510) 444-7870

with a copy to:

Carle Mackie Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401-6376
Attention: Henry Loh III, Esq.
Phone: (707) 526-4200
Facsimile: (707) 526-4707

If to the Funding Lender:

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Transaction Management Group
Deal ID # _____
Facsimile: (212) 723-8209

and to:

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/ Asset Manager
Deal ID # _____
Facsimile: (805) 557-0924

prior to the Conversion Date, with a copy to:

Citibank, N.A.
390 Greenwich Street
New York, New York 10013
Attention: Account Specialist
Deal ID# _____
Facsimile: (212) 723-8209

following the Conversion Date with a copy to:

Citibank, N.A., ISAOA
c/o Berkadia Commercial Servicing Department
P.O. Box 557
Ambler, Pennsylvania 19022
Attention: Client Relations Manager
Deal ID# _____
Facsimile: (215) 441-7295

and a copy of any notices of default sent to:

Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Deal ID# _____
Facsimile: (646) 291-5754

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the

date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

Section 11.2. Term of Funding Loan Agreement. This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

Section 11.3. Successors and Assigns. All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

Section 11.4. Legal Holidays. In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period from and after such date and prior to the date of payment.

Section 11.5. Governing Law. This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 11.6. Severability. If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Note or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

Section 11.7. Execution in Several Counterparts. This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 11.8. Nonrecourse Obligation of the Borrower. Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

Section 11.9. Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER, THE GOVERNMENTAL LENDER AND THE FUNDING LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS FUNDING LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

Section 11.10. Electronic Transactions. The transactions described in this Funding Loan Agreement may be conducted and related documents and may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 11.11. Reference Date. This Funding Loan Agreement is dated for reference purposes only as of the first day of December 2015.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Funding Lender and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

FUNDING LENDER:

CITIBANK, N.A.

By: _____
Authorized Signatory

GOVERNMENTAL LENDER:

COUNTY OF CONTRA COSTA,
CALIFORNIA

By: _____
John Kopchik,
Director, Department of
Conservation and Development

03007.29:J13594

[Signature Page to Funding Loan Agreement – The Oaks Apartments]

EXHIBIT A

FORM OF GOVERNMENTAL LENDER NOTE

THIS NOTE MAY BE OWNED ONLY BY A PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS GOVERNMENTAL LENDER NOTE (A) REPRESENTS THAT IT IS A PERMITTED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

COUNTY OF CONTRA COSTA, CALIFORNIA
MULTIFAMILY HOUSING REVENUE NOTE
(THE OAKS APARTMENTS),
SERIES 2015B

\$ _____

December 15, 2015

FOR VALUE RECEIVED, the undersigned COUNTY OF CONTRA COSTA, CALIFORNIA ("Obligor") promises to pay to the order of CITIBANK, N.A. ("Holder") the maximum principal sum of _____ MILLION AND 00/100 DOLLARS (\$ _____), on _____ 1, _____, or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of December 1, 2015 (the "Funding Loan Agreement"), between Obligor and Holder an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on the Funding Loan then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a construction and permanent loan (the "Borrower Loan") made by Obligor from proceeds of the Funding Loan to Oaks II, L.P., a California limited partnership, as borrower (the "Borrower"), under that certain Borrower Loan Agreement, dated as of December 1, 2015, (as the

same may be modified, amended or supplemented from time to time, the "Borrower Loan Agreement"), between the Obligor and the Borrower, evidenced by the Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under the Governmental Lender Note.

This Governmental Lender Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein and in the Funding Loan Agreement, and none of the Funding Loan or the Governmental Lender Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan or this Governmental Lender Note shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. The Governmental Lender has no taxing power.

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity and those respecting limitations of liability in Article V of the Funding Loan Agreement.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

This Governmental Lender Note (and the Funding Loan that it represents), and any interests herein or therein, are transferable by the registered owner hereof, but only in the manner, subject to the limitations and upon payment of the charges provided in the Funding Loan Agreement. Upon such transfer a new fully registered Governmental Lender Note will be issued to the transferee in exchange herefor. The Obligor and the Funding Lender may treat the registered owner hereof as the absolute owner hereof for all purposes, and the Obligor and the Funding Lender shall not be affected by any notice to the contrary.

The Obligor hereby certifies that all of the conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Governmental Lender Note do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State (including the Act) and that the amount of this Governmental Lender Note, together with all other indebtedness of the Obligor, does not exceed any limit prescribed by the Constitution or laws of the State.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Governmental Lender Note by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

OBLIGOR:

COUNTY OF CONTRA COSTA,
CALIFORNIA

By: _____
John M. Goia,
Chair of the Board of Supervisors

[signature page to Governmental Lender Note – The Oaks Apartments]

EXHIBIT B

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

[_____, 20__]

The undersigned, as holder (the "Holder") of a loan (the "Funding Loan") in the maximum principal amount of \$_____ from CITIBANK, N.A. ("Funding Lender") to COUNTY OF CONTRA COSTA, CALIFORNIA ("Governmental Lender") pursuant to a Funding Loan Agreement dated as of December 1, 2015 (the "Funding Loan Agreement") between the Funding Lender and the Governmental Lender (the "Funding Loan"), evidenced by the County of Contra Costa, California Multifamily Housing Revenue Note (The Oaks Apartments), Series 2015B (the "Governmental Lender Note"), or an interest therein, hereby represents that:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project and the purchase and ownership of municipal and other tax-exempt obligations to be able to evaluate the risk and merits of the investment represented by the Funding Loan. We are able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the use of proceeds of the Funding Loan and the Funding Loan and the security therefor so that, as a reasonable investor, the Holder has been able to make its decision to [extend/purchase] the Funding Loan [or an interest therein]. The Holder acknowledges that it has not relied upon the Governmental Lender for any information in connection with the Holder's purchase of the Funding Loan [or an interest therein], nor has it looked to, nor expected, the Governmental Lender to undertake or require any credit investigation or due diligence reviews relating to the Borrower, its financial condition or business operations, the Project (including the financing or management thereof), or any other matter pertaining to the merits or risks of the transaction, or the adequacy of the funds pledged to secure repayment of the Governmental Lender Note.

3. The Holder is an Approved Transferee.

4. The Holder acknowledges that it is purchasing [an interest in] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Funding Loan; provided, however, that the Holder may sell or transfer the Governmental Lender Note and the Funding Loan as provided in Section 2.4 of the Funding Loan Agreement.

5. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Funding Loan will disclose information with respect to

the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and Borrower Loan and related documents, the Holder will provide the Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

6. The Holder understands that (a) the Funding Loan is a limited obligation of the Governmental Lender; payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Funding Loan are expressly limited as set forth in the Funding Loan Agreement and related documents, (b) the Governmental Lender Note is not secured by any pledge of any moneys received or to be received from taxation by the State of California or any political subdivision thereof, and (c) the Governmental Lender Note does not and will not represent or constitute a general obligation or a pledge of the faith and credit of the Governmental Lender or the State of California or any political subdivision thereof.

7. The Holder is familiar with the conditions, financial and otherwise, of the Borrower and understands that the Borrower has no significant assets other than the Project, revenues from which shall be the primary source of repayment of the Governmental Lender Note and the Funding Loan. The Holder has been provided an opportunity to ask questions of, and the Holder has received answers from, representatives of the Borrower and others regarding the terms and conditions of the Funding Loan. The Holder has obtained all information requested by it in connection with the Funding Loan as it regards necessary to evaluate all merits and risks of its investment. The Holder has reviewed the documents executed in conjunction with the Funding Loan, including the Funding Loan Agreement and the Borrower Loan Agreement.

8. The Holder is not now and has never been controlled by, or under common control with, the Borrower. The Borrower has never been and is not now controlled by the Holder. The Holder has entered into no arrangements with the Borrower or with any affiliate thereof in connection with the Funding Loan Documents, other than as disclosed in writing to the Governmental Lender.

9. The Holder has authority to purchase the Governmental Lender Note and to execute this letter and any other instruments and documents required to be executed by the Holder in connection with its purchase of the Governmental Lender Note. The undersigned is a duly appointed, qualified, and acting officer of the Holder and is authorized to cause the Holder to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Holder.

10. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

[_____] , as Holder

By _____

Name _____
Its _____

BORROWER LOAN AGREEMENT

between the

**COUNTY OF CONTRA COSTA, CALIFORNIA,
as Governmental Lender**

and

**OAKS II, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,
as Borrower**

dated as of December 1, 2015

relating to:

\$_____

**Funding Loan originated by CITIBANK, N.A., as Funding Lender
from the proceeds of the
County of Contra Costa, California
Multifamily Housing Revenue Note
(The Oaks Apartments), Series 2015B**

The interest of the Governmental Lender in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to Citibank, N.A., as funding lender (the "Funding Lender"), under that certain Funding Loan Agreement, of even date herewith, by and between County of Contra Costa, California (the "Governmental Lender"),

and the Funding Lender, under which the Funding Lender is originating a loan to the Governmental Lender to fund the Borrower Loan made under this Borrower Loan Agreement.

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BORROWER LOAN AGREEMENT

This Borrower Loan Agreement, dated as of December 1, 2015 (this “**Borrower Loan Agreement**”) is entered into by the County of Contra Costa, California, a political subdivision and body corporate and politic, organized and existing under the laws of the State of California (together with its successors and assigns, the “**Governmental Lender**”), and Oaks II, L.P., a California limited partnership (together with its successors and assigns, the “**Borrower**”).

RECITALS:

WHEREAS, the Governmental Lender is a political subdivision and body, corporate and politic, duly organized and validly existing under the laws of the State of California; and

WHEREAS, the Governmental Lender is empowered pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (the “**Act**”) to: (a) make loans to any person to provide financing for residential rental developments located within the jurisdiction of the Governmental Lender, and intended to be occupied in part or in whole by persons of low and moderate income; (b) borrow funds for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with any such borrowing by the Governmental Lender; and (c) pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the repayment of any such borrowing by the Governmental Lender; and

WHEREAS, the Borrower has applied to the Governmental Lender for a loan (the “**Borrower Loan**”), for the acquisition and rehabilitation of a 37-unit multifamily residential rental project located at 3073 North Main Street in the City of Walnut Creek, California, known as Golden Oak Manor; and

WHEREAS, the Borrower’s repayment obligations under this Borrower Loan Agreement are evidenced by the Borrower Note, as defined herein; and

WHEREAS, the Borrower has requested that the Governmental Lender enter into that certain Funding Loan Agreement, of even date herewith (the “**Funding Loan Agreement**”), between the Governmental Lender and Citibank, N.A. (the “**Funding Lender**”), under which the Funding Lender will make a loan (the “**Funding Loan**”) to the Governmental Lender (and the Governmental Lender will issue its Governmental Lender Note (as defined herein) in connection therewith), the proceeds of which will be loaned under this Borrower Loan Agreement to the Borrower to finance the acquisition and rehabilitation of the Project (as defined herein); and

WHEREAS, the Borrower Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) (as amended, restated and/or supplemented from time to time, the “**Security Instrument**”), of even date herewith and assigned to the Funding Lender to secure the Funding

Loan, encumbering the Project, and will be advanced to the Borrower pursuant to this Borrower Loan Agreement, the Funding Loan Agreement and the Construction Funding Agreement (as defined herein).

A G R E E M E N T :

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF REHABILITATION

Section 1.1. Specific Definitions. For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Security Instrument or, if not defined in the Security Instrument, in the Funding Loan Agreement.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(d) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(e) Unless otherwise specified, (i) all references to sections and schedules are to those in this Borrower Loan Agreement, (ii) the words “hereof,” “herein” and “hereunder” and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined and (iv) the word “including” means “including but not limited to.”

Section 1.2. Definitions. The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

“**Act**” shall have the meaning given to it in the recitals to this Borrower Loan Agreement.

“**Act of Bankruptcy**” shall mean the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within ninety (90) days after the commencement thereof.

“**ADA**” shall have the meaning set forth in Section 4.1.38 hereof.

“**Additional Borrower Payments**” shall mean the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default),

Section 3.3.3 of the Construction Funding Agreement (Borrower Loan in Balance), Section 5.14 (Expenses), and Section 10 of the Borrower Note (Voluntary and Involuntary Prepayments).

“Agreement of Environmental Indemnification” shall mean the Agreement of Environmental Indemnification, of even date herewith, executed by the Borrower and Guarantor for the benefit of the Beneficiary Parties, the Servicer, any lawful holder, owner or pledgee of the Borrower Note, and their respective successors and assigns.

“Appraisal” shall mean an appraisal of the Project and Improvements, which appraisal shall be (i) performed by a qualified appraiser licensed in the State selected by Funding Lender, and (ii) satisfactory to Funding Lender (including, without limitation, as adjusted pursuant to any internal review thereof by Funding Lender) in all respects.

“Architect” shall mean any licensed architect, space planner or design professional that Borrower may engage from time to time, with the approval of Funding Lender, to design any portion of the Improvements, including the preparation of the Plans and Specifications.

“Architect’s Agreement” means any agreement that Borrower and any Architect from time to time may execute pursuant to which Borrower engages such Architect to design any portion of the Improvements, including the preparation of the Plans and Specifications, as approved by Funding Lender.

“Authorized Borrower Representative” shall mean a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Governmental Lender, the Funding Lender and the Servicer and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

“Bankruptcy Code” shall mean the United State Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

“Bankruptcy Event” shall have the meaning given to that term in the Security Instrument.

“Bankruptcy Proceeding” shall have the meaning set forth in Section 4.1.8 hereof.

“Beneficiary Parties” shall mean, collectively, the Funding Lender and the Governmental Lender.

“Borrower” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Borrower Affiliate” means, as to the Borrower, its general partner or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of Borrower, its general partner or the Guarantor, (ii) any corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, its general partner or

the Guarantor, (iii) any partner of Borrower, its general partner or the Guarantor, or (iv) any other person that is related (to the third degree of consanguinity) by blood or marriage to the Borrower, its general partner or the Guarantor (to the extent any of the Borrower, its general partner or the Guarantor is a natural person).

"Borrower Controlling Entity" shall mean the general partner of the Borrower.

"Borrower Deferred Equity" shall mean the Equity Contributions to be made by the Equity Investor to Borrower pursuant to the Partnership Agreement other than Borrower Initial Equity, in accordance with the following schedule (subject to adjustments as contained in the Borrower's Partnership Agreement):

Amount	Date
\$_____	Closing Date
_____	_____, 1, _____, or such later date as "Substantial Completion" is achieved, as such term is defined and as otherwise provided in the Partnership Agreement
_____	_____, 1, _____, or such later date as "Stabilized Operations" are achieved, as such term is defined and as otherwise provided in the Partnership Agreement
_____	_____, 1, _____, or such later date as provided in the Partnership Agreement
\$_____	Total

"Borrower Initial Equity" shall mean an initial installment of the Equity Contributions made to Borrower by the Equity Investor in an amount of at least \$_____ to be made on or prior to the Closing Date.

"Borrower Loan" shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to this Borrower Loan Agreement, in the maximum principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

"Borrower Loan Agreement" shall mean this Borrower Loan Agreement.

"Borrower Loan Amount" shall mean \$_____, the maximum principal amount of the Borrower Note.

"Borrower Loan Documents" shall mean this Borrower Loan Agreement, the Construction Funding Agreement, the Borrower Note, the Security Instrument, the Agreement of Environmental Indemnification, the Replacement Reserve Agreement, the Guaranty, the Contingency Draw Down Agreement, and all other documents or agreements evidencing or relating to the Borrower Loan.

“Borrower Loan Payment Date” shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Note, or (ii) any other date on which the Borrower Note is prepaid or paid, whether at the scheduled maturity or upon the acceleration of the maturity thereof.

“Borrower Loan Payments” shall mean the monthly loan payments payable pursuant to the Borrower Note.

“Borrower Loan Proceeds” shall mean proceeds of the Borrower Loan, to be disbursed in accordance with Section 2.10 of this Borrower Loan Agreement and the Construction Funding Agreement.

“Borrower Note” shall mean that certain Multifamily Note dated as of the Closing Date in the maximum principal amount of the Borrower Loan Amount made by Borrower and payable to Governmental Lender, as endorsed and assigned to the Funding Lender, as it may be amended, supplemented or replaced from time to time.

“Borrower Payment Obligations” shall mean all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

“Business Day” shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

“Calculation Period” shall mean three (3) consecutive full Calendar Months occurring prior to the Conversion Date, as the same may be extended in accordance with Section 3.1 hereof.

“Calendar Month” shall mean each of the twelve (12) calendar months of the year.

“CC&R’s” shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project or the Mortgaged Property.

“Closing Date” means December 15, 2015, the date that the initial Borrower Loan Proceeds are disbursed hereunder.

“Code” shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Collateral” shall mean all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which the Funding Lender is granted a security interest pursuant to any provision of this Borrower Loan Agreement), (ii) the Security Instrument, or (iii) any other Security Document, which Collateral shall include the Project, all

of which collateral is pledged and assigned to Funding Lender under the Funding Loan Agreement to secure the Funding Loan.

“Completion” shall have the meaning set forth in Section 5.25.

“Completion Date” shall mean _____ 1, ____.

“Computation Date” shall have the meaning ascribed thereto in Section 1.148 3(e) of the Regulations.

“Condemnation” shall mean any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

“Conditions to Conversion” shall have the meaning ascribed thereto in the Construction Funding Agreement.

“Construction Consultant” shall mean a third-party architect or engineer selected and retained by Funding Lender, at the cost and expense of Borrower, to monitor the progress of rehabilitation of the Project and to inspect the Improvements to confirm compliance with this Borrower Loan Agreement.

“Construction Contract” shall mean any agreement that Borrower and any Contractor from time to time may execute pursuant to which Borrower engages the Contractor to rehabilitate any portion of the Improvements, as approved by Funding Lender.

“Construction Funding Agreement” means that certain Construction Funding Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during rehabilitation, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“Construction Schedule” shall mean a schedule of rehabilitation progress with the anticipated commencement and completion dates of each phase of rehabilitation and the anticipated date and amounts of each Disbursement for the same, as approved by Funding Lender, as assignee of the Governmental Lender.

“Contingency Draw-Down Agreement” means the Contingency Draw-Down Agreement of even date herewith, between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

“Continuing Disclosure Agreement” shall mean that certain Continuing Disclosure Agreement of even date herewith, between the Borrower and the Funding Lender, pursuant to which the Borrower agrees to provide certain information with respect to the Project, the

Borrower and the Funding Loan subsequent to the Closing Date, as amended, supplemented or restated from time to time.

“Contractor” shall mean any licensed general contractor or subcontractor that Borrower may directly engage from time to time, with the approval of Funding Lender, to rehabilitate any portion of the Improvements.

“Contractual Obligation” shall mean, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

“Conversion” shall mean Funding Lender’s determination that the Conditions to Conversion have been satisfied in accordance with the provisions of this Borrower Loan Agreement and the Construction Funding Agreement.

“Conversion Date” shall mean the date to be designated by Funding Lender once the Conditions to Conversion have been satisfied, the determination of the Permanent Period Amount has been made and any loan balancing payments in accordance with Section 3.3 hereof and the Construction Funding Agreement have been made. The Conversion Date must occur no later than the Outside Conversion Date.

“Cost Breakdown” shall mean the schedule of costs for the Improvements, as set forth in the Construction Funding Agreement and as the same may be amended from time to time with Funding Lender’s consent.

“Costs of Funding” shall mean the Governmental Lender’s Closing Fee and the fees, costs, expenses and other charges incurred in connection with the funding of the Borrower Loan and the Funding Loan, the negotiation and preparation of this Borrower Loan Agreement and each of the other Borrower Loan Documents and Funding Loan Documents and shall include, but shall not be limited to, the following: (i) counsel fees (including but not limited to Tax Counsel, counsel to the Governmental Lender, Borrower’s counsel, and Funding Lender’s counsel); (ii) financial advisor fees incurred in connection with the closing of the Borrower Loan and the Funding Loan; (iii) certifying and authenticating agent fees and expenses related to funding of the Funding Loan; (iv) printing costs (for any preliminary and final offering materials relating to the Funding Loan); (v) any recording fees; (vi) any additional fees charged by the Governmental Lender; and (vii) costs incurred in connection with the required public notices generally and costs of the public hearing.

“Costs of Funding Deposit” shall mean the amount required to be deposited by the Borrower with the Old Republic Title Company to pay Costs of Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Closing Date.

“Cost of Improvements” shall mean the costs for the rehabilitation of the Improvements, as set forth on the Cost Breakdown.

“Credit Enhancer” shall mean a government sponsored enterprise that at any time, directly or indirectly, purchases the Borrower Loan or provides credit enhancement with respect to the Borrower Loan.

“Date of Disbursement” shall mean the date of a Disbursement.

“Day” or “Days” shall mean calendar days unless expressly stated to be Business Days.

“Debt” shall mean, as to any Person, any of such Person’s liabilities, including all indebtedness (whether recourse and nonrecourse, short term and long term, direct and contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

“Default Rate” shall have the meaning given to that term in the Borrower Note.

“Determination of Taxability” shall mean (i) a determination by the Commissioner or any District Director of the Internal Revenue Service, (ii) a private ruling or Technical Advice Memorandum concerning the Governmental Lender Note issued by the National Office of the Internal Revenue Service in which Governmental Lender and Borrower were afforded the opportunity to participate, (iii) a determination by any court of competent jurisdiction, (iv) the enactment of legislation or (v) receipt by the Funding Lender, at the request of the Governmental Lender, the Borrower or the Funding Lender, of an opinion of Tax Counsel, in each case to the effect that the interest on the Governmental Lender Note is includable in gross income for federal income tax purposes of any holder or any former holder of all or a portion of the Governmental Lender Note, other than a holder who is a “substantial user” of the Project or a “related person” (as such terms are defined in Section 147(a) of the Code); provided, however, that no such Determination of Taxability under clause (i) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one year from the date of initial determination.

“Developer Fee” shall mean the fees and/or compensation payable to EAH Inc., a California nonprofit corporation, pursuant to the Development Agreement dated as of December 1, 2015 between Borrower and EAH Inc., which fees and/or compensation shall not be paid prior to the Conversion Date except as otherwise permitted pursuant to Section 6.13(b).

“Disbursement” means a disbursement of Borrower Loan Proceeds and Other Borrower Moneys pursuant to this Borrower Loan Agreement.

“Engineer” shall mean any licensed civil, structural, mechanical, electrical, soils, environmental or other engineer that Borrower may engage from time to time, with the approval of Funding Lender, to perform any engineering services with respect to any portion of the rehabilitation of the Improvements.

“Engineer’s Contract” shall mean any agreement that Borrower and any Engineer from time to time may execute pursuant to which Borrower engages such Engineer to perform any engineering services with respect to any portion of the rehabilitation of the Improvements, as approved by Funding Lender.

“Equipment” shall have the meaning given to the term “Personalty” in the Security Instrument.

“Equity Contributions” shall mean the equity to be contributed by the Equity Investor to Borrower, in accordance with and subject to the terms of the Partnership Agreement.

“Equity Investor” shall mean Merritt Community Capital Fund XVIII, a California j limited partnership, and its affiliates, successors and assigns.

“ERISA” shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated hereunder.

“ERISA Affiliate” shall mean all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

“Event of Default” shall mean any Event of Default set forth in Section 8.1 of this Borrower Loan Agreement. An Event of Default shall “exist” if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

“Excess Revenues” shall have the meaning ascribed thereto in Section 2.2(e) hereof.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Expenses of the Project” shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g. repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents), a management fee (however characterized) not to exceed \$_____ per unit per month, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

“Extended Outside Conversion Date” shall have the meaning set forth in the Construction Funding Agreement.

“Fair Market Value” shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“Funding Lender” shall mean Citibank, N.A., a national banking association, in its capacity as lender under the Funding Loan.

“Funding Loan” means the Funding Loan in the maximum principal amount of \$_____ made by Funding Lender to Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

“Funding Loan Agreement” means the Funding Loan Agreement, of even date herewith, between the Governmental Lender and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“Funding Loan Documents” shall have the meaning given to that term in the Funding Loan Agreement.

“GAAP” shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

“General Partner” shall mean, collectively, (i) the Managing General Partner, and/or (ii) any other Person that the partners of the Borrower, with the prior written approval of the Funding Lender (or as otherwise permitted with the Funding Lender’s approval pursuant to the Borrower Loan Documents), selected to be a general partner of the Borrower.

“Governmental Authority” shall mean (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature

whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

“Governmental Lender” shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

“Governmental Lender Note” shall mean that certain Governmental Lender Note dated the Closing Date in the original principal amount of the Funding Loan, made by the Governmental Lender and payable to Funding Lender, as it may be amended, supplemented or replaced from time to time.

“Governmental Lender’s Closing Fee” shall mean the administrative fees of the Governmental Lender payable on the Closing Date, as specified in the definition of “Governmental Lender Issuance Fee” in the Regulatory Agreement. The Governmental Lender’s Closing Fee and the first Governmental Lender Annual Fee (as defined in the Regulatory Agreement) are payable to the Governmental Lender on the Closing Date pursuant to Section 2.3(c)(iii) hereof.

“Gross Income” shall mean all receipts, revenues, income and other moneys received or collected by or on behalf of Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by Borrower in accordance with applicable law.

“Gross Proceeds” shall mean, without duplication, the aggregate of:

- (a) the net amount (after payment of all expenses of originating the Funding Loan) of Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;
- (b) all amounts received by the Governmental Lender as a result of the investment of the Funding Loan proceeds;
- (c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and
- (d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

“Guarantor” shall mean EAH Inc., a California nonprofit corporation, or any other person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Borrower Loan.

“Guaranty” shall mean, collectively, the Completion Guaranty and the Exceptions to Non-Recourse Guaranty, each of even date herewith and each by EAH Inc., a California nonprofit corporation for the benefit of the Beneficiary Parties.

“Improvements” shall mean the 37-unit multifamily residential rental project to be rehabilitated upon the Land and known as The Oaks Apartments, and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property to be rehabilitated and/or installed at or on the Land in accordance with the Cost Breakdown and the Plans and Specifications.

“Indemnified Party” shall have the meaning set forth in Section 5.15 hereof.

“Installment Computation Date” shall mean any Computation Date other than the first Computation Date or the final Computation Date.

“Interest Rate” shall mean the rate of interest accruing on the Borrower Loan pursuant to the Borrower Note.

“Interim Phase Amount” shall mean \$_____.

“Land” means the real property described on Exhibit A to the Security Instrument.

“Late Charge” shall mean the amount due and payable as a late charge on overdue payments under the Borrower Note, as provided in Section 7 of the Borrower Note and Section 2.5 hereof.

“Legal Action” shall mean an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

“Legal Requirements” shall mean statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting all or part of the Project or any property (including the Project) or the rehabilitation, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof.

“Liabilities” shall have the meaning set forth in Section 5.15 hereof.

“Licenses” shall have the meaning set forth in Section 4.1.22 hereof.

“Lien” shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a

deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

"Management Agreement" shall mean the Management Agreement between the Borrower and the Manager, pursuant to which the Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Manager" shall mean the management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Security Instrument, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

"Managing General Partner" shall mean Oaks EAH, LLC, a California limited liability company, as managing general partner of the Borrower.

"Material Adverse Change" means any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations of the Borrower, General Partner, Guarantor or the Mortgaged Property; (c) could reasonably be expected to impair materially the ability of the Borrower, General Partner or Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of Governmental Lender or, upon the assignment of the Borrower Loan to it, of the Funding Lender, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

"Moody's" shall mean Moody's Investors Service, Inc., or its successor.

"Mortgaged Property" shall have the meaning given to that term in the Security Instrument.

"Net Operating Income" shall mean: (i) the Gross Income, less (ii) the Expenses of the Project.

"Nonpurpose Investment" shall mean any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not acquired to carry out the governmental purpose of the Funding Loan.

"Ongoing Governmental Lender Fee" shall mean the Governmental Lender Annual Fee (as that term is defined in the Regulatory Agreement) that is payable after the Closing Date.

“Other Borrower Moneys” shall mean monies of Borrower other than Borrower Loan Proceeds and includes, but is not limited to, the Subordinate Debt, Net Operating Income, the Borrower’s Equity Contributions and any other funds contributed by or loaned to the Borrower for application to the Costs of the Improvements or other costs associated with the Project.

“Other Charges” shall mean all maintenance charges, impositions other than Taxes, and any other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

“Outside Conversion Date” shall have the meaning set forth in the Construction Funding Agreement.

“Partnership Agreement” shall mean that certain [Amended and Restated Agreement of Limited Partnership] of the Borrower dated as of December __, 2015, as the same may be amended, restated or modified from time to time in accordance with its terms.

“Patriot Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

“Patriot Act Offense” shall have the meaning set forth in Section 4.1.48 hereof.

“Permanent Period” shall mean the period of time from the Conversion Date to the Maturity Date (as defined in the Funding Loan Agreement).

“Permanent Period Amount” shall mean the principal amount of the Borrower Loan as of the first day of the Permanent Period following the applicable calculation provided for in the Construction Funding Agreement.

“Permitted Encumbrances” shall have the meaning given to that term in the Security Instrument.

“Permitted Lease” shall mean a lease and occupancy agreement pursuant to the form approved by Funding Lender, to a residential tenant in compliance with the Legal Requirements, providing for an initial term of not less than six (6) months nor more than two (2) years.

“Person” shall mean a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

“Plan” shall mean (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

“Plans and Specifications” shall mean the plans and specifications, and all approved changes thereto pursuant to the approval process set forth in the Construction Funding Agreement, for the rehabilitation of the Project approved by Funding Lender.

“Potential Default” shall mean the occurrence of an event that, under this Borrower Loan Agreement or any other Borrower Loan Document, would, but for the giving of notice or passage of time, or both, be an Event of Default.

“Prepayment Premium” shall mean any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note).

“Project” shall mean the Mortgaged Property (as defined in the Security Instrument) and Improvements thereon owned by the Borrower and encumbered by the Security Instrument, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of the Security Instrument and referred to therein as the “Mortgaged Property.”

“Project Agreements and Licenses” shall mean any and all Construction Contracts, Engineer’s Contracts and Management Agreements, and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project or the Mortgaged Property.

“Provided Information” shall have the meaning set forth in Section 9.1.1 (a) hereof.

“Qualified Project Costs” shall have the meaning given to it in the Regulatory Agreement.

“Rebate Amount” shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

“Rebate Analyst” shall mean the rebate analyst selected by the Borrower and acceptable to the Governmental Lender and the Funding Lender.

“Rebate Analyst’s Fee” shall mean the annual fee of the Rebate Analyst payable by the Borrower to the Rebate Analyst.

“Rebate Fund” shall mean the Rebate Fund created pursuant to Section 5.35 hereof.

“Related Documents” shall mean, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest (including each agreement that is the subject of any Borrower Loan Document), and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement (but excluding the Partnership Agreement).

"Replacement Reserve Agreement" shall mean the Replacement Reserve Agreement, of even date herewith, between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.

"Replacement Reserve Fund Requirement" means Borrower's funding obligations from time to time under the Replacement Reserve Agreement.

"Retainage" shall mean, for each Construction Contract, the greater of (a) ten percent (10%) of all amounts required to be paid by a Contractor under the Construction Contract and (b) the actual retainage required under such Construction Contract, which shall be released upon satisfaction of the conditions set forth in Section 3.13 of the Construction Funding Agreement.

"Secondary Market Disclosure Document" shall have the meaning set forth in Section 9.1.2 hereof.

"Secondary Market Transaction" shall have the meaning set forth in Section 9.1.1 hereof.

"Securities" shall have the meaning set forth in Section 9.1.1 hereof.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Security Documents" shall mean the Security Instrument, the Replacement Reserve Agreement, the Collateral Agreements and the Collateral Assignments (as such terms are defined in the Security Instrument), this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other security instruments that Funding Lender may reasonably request.

"Security Instrument" shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

"Servicer" shall mean the Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan. The initial Servicer shall be Citibank, N.A.

"Servicing Agreement" shall mean any servicing agreement or master servicing agreement, among the Servicer and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof.

"Standard & Poor's" or **"S&P"** shall mean Standard & Poor's Ratings Services, a division of McGraw Hill Financial, Inc., or its successors.

"State" shall mean the State in which the Project is located.

"Subordinate Debt" shall mean, collectively, the subordinate loans to Borrower being made by Subordinate Lenders as of the Closing Date pursuant to the Subordinate Loan

Documents. The Subordinate Debt includes the _____ Loan and the _____ Loan, as such terms are defined in the Construction Funding Agreement.

“Subordinate Lenders” shall mean, collectively, the Governmental Lender (in its capacity as lender with respect to the _____ Loan, as such term is defined in the Construction Funding Agreement), and the City of Walnut Creek, California (in its capacity as lender with respect to the _____ Loan, as such term is defined in the Construction Funding Agreement).

“Subordinate Loan Documents” shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by Borrower and/or a Subordinate Lender in connection with the Subordinate Debt.

“Substantial Completion Date” means the date that is three (3) months prior to the Completion Date.

“Substantially Complete” or **“Substantially Completed”** means the Funding Lender has determined that rehabilitation or rehabilitation, as the case may be, of the Improvements is sufficiently complete such that the Improvements can be occupied by tenants as a multifamily residential rental project.

“Tax Counsel” shall have the meaning set forth in the Funding Loan Agreement.

“Taxes” shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against all or part of the Project.

“Term” shall mean the term of this Borrower Loan Agreement pursuant to Section 10.14.

“Title Company” means Old Republic Title Insurance Company.

“Title Insurance Policy” shall mean the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Mortgaged Property and insuring the lien of the Security Instrument.

“Transfer” shall have the meaning given to that term in the Security Instrument.

“UCC” shall mean the Uniform Commercial Code as in effect in the State.

“Unassigned Rights” shall have the meaning set forth in the Funding Loan Agreement.

“Unit” shall mean a residential apartment unit within the Improvements.

“Written Consent” and **“Written Notice”** shall mean a written consent or notice signed by an Authorized Borrower Representative or an authorized representative of the Governmental Lender or the Funding Lender, as appropriate.

ARTICLE II

GENERAL

Section 2.1. Origination of Borrower Loan. In order to provide funds for the purposes provided herein, the Governmental Lender agrees that it will, in accordance with the Act, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Borrower in accordance with the terms of the Construction Funding Agreement and this Borrower Loan Agreement.

The Governmental Lender hereby appoints the Funding Lender as its agent with full authority and power to act on its behalf to disburse the Borrower Loan for the account of the Governmental Lender, to take certain actions and exercise certain remedies with respect to the Borrower Loan, and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof. This appointment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to Funding Lender in its role as agent of the Governmental Lender. The Funding Lender may designate Servicer to fulfill the rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to this Section 2.1.

Section 2.2. Security for the Funding Loan.

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned to the Funding Lender under and pursuant to the Funding Loan Agreement (a) the Borrower Note and all of its right, title and interest in and to this Borrower Loan Agreement and the Borrower Loan Documents (except for the Unassigned Rights) and all revenues and receipts therefrom and the security therefor (including the Security Instrument) and (b) the amounts on deposit from time to time in any and all funds established under the Funding Loan Agreement. All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Note, which shall be delivered to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment to the Funding Lender.

(b) With respect to the Unassigned Rights, subject to the limitations set forth in this Section 2.2, the Governmental Lender may:

(i) **Tax Covenants.** Seek specific performance of, and enforce, the tax covenants in Section 8.7 of the Funding Loan Agreement, the provisions of the Regulatory Agreement, the Tax Certificate and the covenants of the Borrower in Section 5.34 of this Borrower Loan Agreement, and seek injunctive relief against acts which may be in violation of any of the foregoing covenants, and enforce the Borrower's obligation under Section 5.35 to pay amounts for credit to the Rebate Fund;

(ii) **Regulatory Agreement.** Seek specific performance of the obligations of the Borrower or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts which may be in violation of the Regulatory Agreement or otherwise in accordance with the provisions of the Regulatory Agreement; provided, however, that the Governmental Lender may enforce any right it may have under the Regulatory Agreement for monetary damages only against Excess Revenues (defined below), if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the use of other funds; and

(iii) **Reserved Rights.** Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights, provided, however, that the Governmental Lender or any person under its control may only enforce any right it may have for monetary damages against Excess Revenues, if any, of the Borrower, unless Funding Lender otherwise specifically consents in writing to the enforcement against other funds of the Borrower.

(c) In no event shall the Governmental Lender, except at the express written direction of the Funding Lender:

(i) prosecute its action to a lien on the Project; or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan or of causing the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by Funding Lender or Servicer of any of their rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Documents or the Funding Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(d) The Governmental Lender shall provide Written Notice to the Funding Lender and the Servicer immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Borrower Loan Documents or the Funding Loan Documents.

(e) As used in this Section 2.2, the term "Excess Revenues" means, for any period, the net cash flow of the Borrower available for distribution to shareholders, members or partners (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees,

costs and expenses on an occasional or recurring basis in connection with the Borrower Loan or the Funding Loan, the payment of all operating, overhead, ownership and other expenditures of the Borrower directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts which the Borrower is required to set aside pursuant to agreement, but excluding depreciation and amortization of intangibles.

Section 2.3. Loan; Borrower Note; Conditions to Closing.

(a) The Borrower Loan shall be funded directly to the Borrower by the Funding Lender (with an initial funding on the Closing Date) in one or more installments not to exceed in the aggregate the Borrower Loan Agreement, in accordance with the disbursement procedures set forth in the Construction Funding Agreement. Upon funding of each installment of the Borrower Loan, the Funding Lender shall be deemed to have made an installment of the Funding Loan to the Governmental Loan in a like principal amount. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition and rehabilitation of the Project. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in the Funding Loan Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental Lender.

(b) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, simultaneously with its execution and delivery of this Borrower Loan Agreement, the Borrower hereby agrees to execute and deliver the Borrower Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note.

(c) Closing of the Borrower Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender, in their sole discretion, of each of the conditions precedent to closing set forth in the Funding Loan Agreement and this Borrower Loan Agreement, including but not limited to the following:

(i) evidence of proper recordation of the Security Instrument, an assignment of the Security Instrument from the Governmental Lender to the Funding Lender, the Regulatory Agreement, and each of the other documents specified for recording in instructions delivered to the Title Company by counsel to the Funding Lender (or that such documents have been delivered to an authorized agent of the Title Company for recordation under binding recording instructions from Funding Lender's counsel or such other counsel as may be acceptable to the Funding Lender);

(ii) delivery into escrow with the Title Company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and the Borrower

Initial Equity, all as specified in written instructions delivered to the Title Company by counsel to the Funding Lender (or such other counsel as may be acceptable to the Funding Lender) and/or as specified in a closing memorandum of the Funding Lender; and

(iii) payment of all fees payable in connection with the closing of the Borrower Loan including the Governmental Lender's Closing Fee.

In addition, closing of the Borrower Loan shall be subject to the delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender, dated the Closing Date, in form and substance acceptable to Tax Counsel, regarding the due execution by the Borrower of, and the enforceability against the Borrower of, the Borrower Loan Documents.

Section 2.4. Borrower Loan Payments.

(a) The Borrower shall make Borrower Loan Payments in accordance with the Borrower Note. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Funding Loan or the Servicer by 2:00 p.m., New York City time on the Borrower Loan Payment Date. Each such payment shall be made to the Funding Lender or the Servicer, as applicable, by deposit to such account as the Funding Lender or Servicer, as applicable, may designate by Written Notice to the Borrower. Whenever any Borrower Loan Payment shall be stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(b) Unless there is no Servicer, payments of principal and interest on the Borrower Note shall be paid to the Servicer. If there is no Servicer, payments of principal and interest on the Borrower Note shall be paid directly to the Funding Lender.

Section 2.5. Additional Borrower Payments.

(a) The Borrower shall pay on demand the following amounts:

(i) to the Servicer or the Funding Lender, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 5.35 hereof and the Rebate Analyst's Fee and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Governmental Lender, any and all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred by the Governmental Lender at any time in connection with the

Borrower Loan Documents, the Funding Loan Documents or the Project, including, without limitation, the Ongoing Governmental Lender Fee, counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit;

(iii) [Reserved];

(iv) all Costs of Funding and fees, charges and expenses, including agent and counsel fees incurred in connection with the origination of the Borrower Loan and the Funding Loan, as and when the same become due;

(v) to the Funding Lender, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, reasonable counsel fees and expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit; and

(vi) all Late Charges due and payable under the terms of the Borrower Note and Section 2.6 hereof; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Funding Lender.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement or the other Borrower Loan Documents or Funding Loan Documents:

(i) all expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, or any Funding Loan Document by the Governmental Lender, the Funding Lender or the Servicer;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document; and

(iii) all expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Funding Lender, the Servicer or the Construction Consultant, in accordance with the Borrower Loan Documents or the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

Section 2.6. Overdue Payments; Payments if Default. If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the Servicer a Late Charge in the amount and to the extent set forth in the Borrower Note, if any.

Section 2.7. Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds. The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender; (b) deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or if there is no Servicer, the Funding Lender in accordance with the Security Instrument; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the Replacement Reserve Agreement. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall determine at any time that there exists a deficiency in amounts previously owed but not paid with respect to deposits to such replacement reserve fund, such deficiency shall be immediately due and payable hereunder following Written Notice to the Borrower.

Section 2.8. Grant of Security Interest; Application of Funds. To the extent not inconsistent with the Security Instrument and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Funding Lender, and grants to the Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all payments to or moneys held in the funds and accounts created and held by the Funding Lender or the Servicer for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Funding Lender and the Servicer shall apply or cause to be applied any sums held by the Funding Lender and the Servicer with respect to the Project in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

Section 2.9. Marshalling; Payments Set Aside. The Governmental Lender and the Funding Lender shall be under no obligation to marshal any assets in favor of the Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that the Borrower makes a payment or payments or transfers any assets to the Governmental Lender or the Funding Lender, or the Governmental Lender or the Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender or the Funding Lender and any and all remedies available to the Governmental Lender or the Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or equity against the Borrower, Guarantor or General Partner and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender and the Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of

the consideration paid to or received by the Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Governmental Lender or the Funding Lender in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender or the Funding Lender in connection with the exercise by the Governmental Lender or the Funding Lender of its rights under this Section 2.9.

Section 2.10. Borrower Loan Disbursements. Proceeds of the Borrower Loan shall be disbursed by the Funding Lender, as agent for the Governmental Lender, pursuant to the Construction Funding Agreement.

ARTICLE III

CONVERSION

Section 3.1. Conversion Date and Extension of Outside Conversion Date. Borrower shall satisfy each of the Conditions to Conversion and cause the Conversion Date to occur on or before the Outside Conversion Date (including the Extended Outside Conversion Date, if any), as further provided in the Construction Funding Agreement. The failure to satisfy each of the Conditions to Conversion on or before the Outside Conversion Date shall constitute an Event of Default under the Borrower Loan Documents.

Section 3.2. Notice From Funding Lender; Funding Lender's Calculation Final. Following satisfaction of all of the Conditions to Conversion, Funding Lender shall deliver Written Notice to Borrower (with a copy to the Governmental Lender) of: (i) the Conversion Date, (ii) the amount of the Permanent Period Amount, (iii) any required prepayment of the Borrower Note (as described below in Section 3.3) and (iv) any amendments to the amortization schedule, as applicable.

Funding Lender's calculation of the Permanent Period Amount and any amendments to the amortization of the Borrower Loan shall be, in the absence of manifest error, conclusive and binding on all parties.

Section 3.3. Mandatory Prepayment of the Borrower Loan. As further provided in the Construction Funding Agreement, if and to the extent the Permanent Period Amount is less than the Interim Phase Amount, Funding Lender may in its sole discretion require Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the Interim Phase Amount and the Permanent Period Amount (a "Pre-Conversion Loan Equalization Payment"); provided, however, that if the Permanent Period Amount is less than the Minimum Permanent Period Amount (as defined in the Construction Funding Agreement), then Funding Lender may in its sole discretion require Borrower to prepay the Borrower Loan in full.

Any prepayment in full or in part of the Borrower Loan required pursuant to the preceding paragraph shall be subject to a prepayment premium under certain circumstances as more particularly set forth in the Borrower Note.

Section 3.4. Release of Remaining Loan Proceeds. If and to the extent that the Permanent Period Amount is greater than the principal amount of the Borrower Loan which has previously been disbursed to Borrower, Funding Lender shall deliver Written Notice thereof to Borrower (with a copy to the Governmental Lender) on or before the Conversion Date. Within ten (10) business days after delivery of such notice, but in no event later than the Outside Conversion Date, Funding Lender shall disburse Borrower Loan proceeds to the Borrower so that the aggregate principal amount of the Funding Loan and of the Borrower Loan disbursed equals the Permanent Period Amount. Any Borrower Loan proceeds previously disbursed to the Borrower in excess of the Permanent Period Amount shall be paid by the Borrower to the Funding Lender.

Section 3.5. No Amendment. Nothing contained in this Article III shall be construed to amend, modify, alter, change or supersede the terms and provisions of the Borrower Note, Security Instrument, the Construction Funding Agreement or any other Borrower Loan Document and, if there shall exist a conflict between the terms and provisions of this Article III and those of the Borrower Note, Security Instrument, the Construction Funding Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Note, Security Instrument, the Construction Funding Agreement and other Borrower Loan Documents shall control; provided, however, that in the event of a conflict between the terms and provisions of this Article III and those of the Borrower's loan application with the Funding Lender, the terms and provisions of this Article III shall control.

Section 3.6. Determinations by Funding Lender. In any instance where the consent or approval of Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Funding Lender under this Article III, including in connection with the Construction Funding Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Funding Lender (or its designated representative), at its sole and exclusive option and in its sole and absolute discretion.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1. Borrower Representations. To induce the Governmental Lender to execute this Borrower Loan Agreement and to induce the Funding Lender to make Disbursements, the Borrower represents and warrants for the benefit of the Governmental Lender, the Funding Lender and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Closing Date and will be complete and accurate, and deemed remade, as of the date of each Disbursement, as of the original Outside Conversion Date, as of the date of any extension thereof and as of the Conversion Date in accordance with the terms and conditions of the Borrower Note. Subject to Section 4.2 hereof, the representations, warranties and agreements set forth in this Section 4.1 shall survive the making of the Borrower Loan, and shall remain in effect and true and correct in all material respects until the Borrower Loan and all other Borrower Payment Obligations have been repaid in full:

Section 4.1.1 Organization; Special Purpose. The Borrower is a limited partnership in good standing under the laws of the State (and under the laws of the state in which the Borrower was formed if the Borrower was not formed under the laws of the State), has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by proper limited partnership action has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Person(s) of the Borrower executing the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Project.

Section 4.1.2 Proceedings; Enforceability. Assuming due execution and delivery by the other parties thereto, the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

Section 4.1.3 No Conflicts. The execution and delivery of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or

by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever (other than the lien of the Security Instrument) upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

Section 4.1.4 Litigation; Adverse Facts. There is no Legal Action, nor is there a basis known to Borrower for any Legal Action, before or by any court or federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Borrower Loan Documents or the Funding Loan Documents, upon the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, General Partner or Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, General Partner or Guarantor. None of Borrower, General Partner or Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; or (c) in default with respect to any agreement to which Borrower, General Partner or Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of Borrower, threatened against or affecting Borrower, General Partner or Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the other Borrower Loan Documents or the Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if

any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

Section 4.1.5 Agreements; Consents; Approvals. Except as contemplated by the Borrower Loan Documents and the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Project, or the Borrower's business, properties, operations or financial condition or business prospects, except the Permitted Encumbrances. The Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Project is bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of the Borrower Loan Documents or the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

Section 4.1.6 Title. The Borrower shall have marketable title to the Project, free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the fee interest in the Project and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty included in the Project (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the Borrower's knowledge, there are no delinquent real property taxes or assessments, including water and sewer charges, with respect to the Project, nor are there any claims for payment for work, labor or materials affecting the Project which are or may become a Lien prior to, or of equal priority with, the Liens created by the Borrower Loan Documents and the Funding Loan Documents.

Section 4.1.7 Survey. To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

Section 4.1.8 No Bankruptcy Filing. The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Closing Date, the Borrower has the ability to pay its debts as they become due.

Section 4.1.9 Full and Accurate Disclosure. No statement of fact made by the Borrower in any Borrower Loan Document or any Funding Loan Document contains any untrue

statement of a material fact or omits to state any material fact necessary to make statements contained therein in light of the circumstances in which they were made, not misleading. There is no material fact or circumstance presently known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Project or the business, operations or financial condition or business prospects of the Borrower or the Borrower's ability to meet its obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and Funding Loan Documents to which it is a party in a timely manner.

Section 4.1.10 No Plan Assets. The Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3 101.

Section 4.1.11 Compliance. The Borrower, the Project and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or business prospects or the business of the Borrower. There has not been committed by the Borrower or any Borrower Affiliate involved with the operation or use of the Project any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower's obligations under any Borrower Loan Document or any Funding Loan Documents.

Section 4.1.12 Contracts. All service, maintenance or repair contracts affecting the Project have been entered into at arm's length (except for such contracts between the Borrower and its affiliates or the affiliates of the Borrower Controlling Entity of the Borrower) in the ordinary course of the Borrower's business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

Section 4.1.13 Financial Information. All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, as of their respective dates, (ii) accurately represent the financial condition of the Project as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Borrower Loan Documents or the Funding Loan Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

Section 4.1.14 Condemnation. No Condemnation or other proceeding has been commenced or, to the Borrower's knowledge, is contemplated, threatened or pending with

respect to all or part of the Project or for the relocation of roadways providing access to the Project.

Section 4.1.15 Federal Reserve Regulations. No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any “margin stock” within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Borrower Loan Document or Funding Loan Document.

Section 4.1.16 Utilities and Public Access. To the best of the Borrower’s knowledge, the Project is or will be served by water, sewer, sanitary sewer and storm drain facilities adequate to service it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment of the Project are or will be located in the public right-of-way abutting the Project, and all such utilities are or will be connected so as to serve the Project without passing over other property absent a valid easement. All roads necessary for the use of the Project for its current purpose have been or will be completed and dedicated to public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Project does not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Project and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower’s responsibilities and share of expenses are specified, and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

Section 4.1.17 Not a Foreign Person. The Borrower is not a “foreign person” within the meaning of §1445(f)(3) of the Code.

Section 4.1.18 Separate Lots. Each parcel comprising the Land is a separate tax lot and is not a portion of any other tax lot that is not a part of the Land.

Section 4.1.19 Assessments. Except as disclosed in the Title Insurance Policy, there are no pending or, to the Borrower’s best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

Section 4.1.20 Enforceability. The Borrower Loan Documents and the Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

Section 4.1.21 Insurance. The Borrower has obtained the insurance required by this Borrower Loan Agreement, if applicable, and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance reflecting the insurance

coverages, amounts and other requirements set forth in this Borrower Loan Agreement, if applicable, and the Security Instrument.

Section 4.1.22 Use of Property; Licenses. The Project will be used exclusively as a multifamily residential rental project and other appurtenant and related uses, which use is consistent with the zoning classification for the Project. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use or legal, nonconforming use, as applicable, occupancy and operation of the Project (collectively, the "Licenses") required at this time for the rehabilitation and equipping of the Project have been obtained. To the Borrower's knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Licenses required for the future use and occupancy of the Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. No Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey. No proceedings are, to the best of the Borrower's knowledge, pending or threatened that would result in a change of the zoning of the Project.

Section 4.1.23 Flood Zone. Either all Improvements will be rehabilitated above the flood grade or the Borrower will obtain appropriate flood insurance as directed by the Servicer.

Section 4.1.24 Physical Condition. The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are or, after completion of the rehabilitation, rehabilitation and/or repairs, as appropriate, will be in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Project, or any part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The physical configuration of the Project is not in material violation of the ADA, if required under applicable law.

Section 4.1.25 Encroachments. All of the Improvements included in determining the appraised value of the Project will lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Servicer.

Section 4.1.26 State Law Requirements. The Borrower hereby represents, covenants and agrees to comply with the provisions of all applicable state laws relating to the Borrower Loan, the Funding Loan and the Project.

Section 4.1.27 Filing and Recording Taxes. All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Project to the Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Borrower Loan Documents and the Funding Loan Documents have been or will be paid.

Section 4.1.28 Investment Company Act. The Borrower is not (i) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended; or (ii) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended.

Section 4.1.29 Fraudulent Transfer. The Borrower has not accepted the Borrower Loan or entered into any Borrower Loan Document or Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Borrower Loan Documents and the Funding Loan Documents. Giving effect to the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the fair saleable value of the Borrower’s assets exceeds and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, exceed the Borrower’s total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower’s assets is and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, be greater than the Borrower’s probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower’s assets do not and, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

Section 4.1.30 Ownership of the Borrower. Except as set forth in the Partnership Agreement of the Borrower and the exhibits thereto, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in it.

Section 4.1.31 Environmental Matters. To the best of Borrower’s knowledge, the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or cleanup, and will comply with covenants and requirements relating to environmental hazards as set forth in the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification on the Closing Date.

Section 4.1.32 Name; Principal Place of Business. Unless prior Written Notice is given to the Funding Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 10.1 hereof, and the Borrower has no other place of business, other than the Project and such principal place of business.

Section 4.1.33 Subordinated Debt. There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances and the permitted secured indebtedness described in Section 6.7 hereof, except an unsecured deferred developer fee not to exceed the amount permitted by Funding Lender as determined on the Closing Date.

Section 4.1.34 Filing of Taxes. The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

Section 4.1.35 General Tax. All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Certificate are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

Section 4.1.36 Approval of the Borrower Loan Documents and Funding Loan Documents. By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender or the Servicer in any manner.

Section 4.1.37 Funding Loan Agreement. The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

Section 4.1.38 Americans with Disabilities Act. The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990 ("ADA"), to the extent required (as evidenced by an architect's certificate to such effect).

Section 4.1.39 Requirements of Act, Code and Regulations. The Project satisfies all requirements of the Act, the Code and the Regulations applicable to the Project.

Section 4.1.40 Regulatory Agreement. The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code and the Regulations, and pursuant to leases which comply with all applicable laws.

Section 4.1.41 Intention to Hold Project. The Borrower intends to hold the Project for its own account and has no current plans, and except as set forth in the Partnership Agreement has not entered into any agreement, to sell the Project or any part of it; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

Section 4.1.42 Concerning General Partner.

(a) The managing general partner of Borrower is the General Partner, a California limited liability company, and the Managing General Partner is duly organized and validly existing under the laws of the State of California. The General Partner has all requisite power and authority, rights and franchises to enter into and perform its obligations under the Borrower Loan Documents and the Funding Loan Documents to be executed by it for its own account and on behalf of Borrower, as general partner of Borrower, under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents.

(b) The General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, condition (financial or otherwise) or prospects of General Partner.

(c) The General Partner is duly authorized to do business in the State.

(d) The execution, delivery and performance by Borrower of the Borrower Loan Documents and the Funding Loan Documents have been duly authorized by all necessary action of General Partner on behalf of Borrower, and by all necessary action on behalf of General Partner.

(e) The execution, delivery and performance by General Partner, on behalf of Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) General Partner's organizational documents; (ii) any other Legal Requirement affecting General Partner or any of its properties; or (iii) any agreement to which General Partner is

bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral or any of the property or funds pledged or delivered to Funding Lender pursuant to the Security Documents.

Section 4.1.43 Government and Private Approvals. All governmental or regulatory orders, consents, permits, authorizations and approvals required for the rehabilitation, rehabilitation, use, occupancy and operation of the Improvements, that may be granted or denied in the discretion of any Governmental Authority, have been obtained and are in full force and effect (or, in the case of any of the foregoing that Borrower is not required to have as of the Closing Date, will be obtained), and will be maintained in full force and effect at all times during the rehabilitation or rehabilitation of the Improvements. All such orders, consents, permits, authorizations and approvals that may not be denied in the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the rehabilitation or rehabilitation of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of Borrower, are required for the due execution, delivery and performance by Borrower or General Partner of any of the Borrower Loan Documents or the Funding Loan Documents or the Related Documents executed by Borrower or General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Project is not conditional upon the happening of any further event.

Section 4.1.44 Concerning Guarantor. The Borrower Loan Documents and the Funding Loan Documents to which the Guarantor is a party or a signatory executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by Guarantor and are legally valid and binding obligations of Guarantor, enforceable against Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

Section 4.1.45 No Material Defaults. Except as previously disclosed to Funding Lender and the Governmental Lender in writing, there exists no material violation of or material default by Borrower under, and, to the best knowledge of Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Project or to which Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which Borrower or the Project may be bound; or (iv) any mortgage, instrument, agreement or document by which Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Borrower Loan Document or Funding Loan Document; (2) which involves the Project and is not adequately covered by insurance; (3) that might

materially and adversely affect the ability of Borrower, General Partner or Guarantor or to perform any of its respective obligations under any of the Borrower Loan Documents or the Funding Loan Documents or any other material instrument, agreement or document to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Borrower Loan Documents or the Funding Loan Documents.

Section 4.1.46 Payment of Taxes. Except as previously disclosed to Funding Lender in writing: (i) all tax returns and reports of Borrower, General Partner and Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges upon Borrower, General Partner and Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) Borrower knows of no proposed tax assessment against it or against General Partner or Guarantor that would be material to the condition (financial or otherwise) of Borrower, General Partner or Guarantor, and neither Borrower nor General Partner have contracted with any Government Authority in connection with such taxes.

Section 4.1.47 Rights to Project Agreements and Licenses. Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications and all existing Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. Borrower's interest in the Plans and Specifications and all Project Agreements and Licenses is not subject to any present claim (other than under the Borrower Loan Documents and the Funding Loan Documents or as otherwise approved by Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

Section 4.1.48 Patriot Act Compliance. Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" shall mean any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. "Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" shall mean (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control ("OFAC"), (2) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Funding Lender notified Borrower in writing is now included in "Government Lists", or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Government Authority or pursuant to any Executive Order of the

President of the United States of America that Funding Lender notified Borrower in writing is now included in "Government Lists".

Section 4.1.49 Rent Schedule. Borrower has prepared a prospective Unit absorption and rent collection schedule with respect to the Project substantially in the form attached as an exhibit to the Construction Funding Agreement, which schedule takes into account, among other relevant factors (i) a schedule of minimum monthly rentals for the Units, and (ii) any and all concessions including free rent periods, and on the basis of such schedule, Borrower believes it will collect rents with respect to the Project in amounts greater than or equal to debt service on the Borrower Loan.

Section 4.1.50 Other Documents. Each of the representations and warranties of Borrower or General Partner contained in any of the other Borrower Loan Documents or the Funding Loan Documents or Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Borrower Loan Documents or Funding Loan Documents or Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated herein for the benefit of Funding Lender.

Section 4.1.51 Subordinate Loan Documents. The Subordinate Loan Documents are in full force and effect and the Borrower has paid all commitment fees and other amounts due and payable to the Subordinate Lender(s) thereunder. There exists no material violation of or material default by the Borrower under, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

Section 4.1.52 [Reserved].

Section 4.2. Survival of Representations and Covenants. All of the representations and warranties in Section 4.1 hereof and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender and the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1 hereof.

ARTICLE V

AFFIRMATIVE COVENANTS

During the term of this Borrower Loan Agreement, the Borrower hereby covenants and agrees with the Governmental Lender, the Funding Lender and the Servicer that:

Section 5.1. Existence. The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain in good standing under the laws of the State.

Section 5.2. Taxes and Other Charges. The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all taxes and Other Charges of any type or character charged to the Funding Lender affecting the amount available to the Funding Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and Other Charges assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Funding Lender and taxes based upon or measured by the net income of the Funding Lender; provided, however, that the Borrower shall have the right to protest any such taxes or Other Charges and to require the Funding Lender, at the Borrower's expense, to protest and contest any such taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.3. Repairs; Maintenance and Compliance; Physical Condition. The Borrower shall cause the Project to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

Section 5.4. Litigation. The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Project.

Section 5.5. Performance of Other Agreements. The Borrower shall observe and perform in all material respects each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument affecting or pertaining to the Project.

Section 5.6. Notices. The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two (2) Business Days of such filing.

Section 5.7. Cooperate in Legal Proceedings. The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender and the Servicer at their option, to participate in, any proceedings before any Governmental Authority that may in any way affect the rights of the Governmental Lender, the Funding Lender and/or the Servicer under any Borrower Loan Document or Funding Loan Document.

Section 5.8. Further Assurances. The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 9.1 hereof), (i) furnish to the Servicer and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that Borrower's rehabilitation or renovation of the Project alters any existing building foundations or footprints), certificates, plans and specifications, appraisals, title and other insurance reports and agreements, reasonably requested by the Servicer or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents; (ii) execute and deliver to the Servicer and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Borrower Loan, as the Servicer and the Funding Lender may reasonably require from time to time; (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, as the Servicer or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater personal liability under the Borrower Loan Documents and the Funding Loan Documents; and (iv) upon the Servicer's or the Funding Lender's request therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of Default, as applicable, is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Project,

each such search to be conducted by search firms reasonably designated by the Servicer or the Funding Lender in each of the locations reasonably designated by the Servicer or the Funding Lender.

Section 5.9. Delivery of Financial Information. After notice to the Borrower of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender or the Servicer, deliver copies of all financial information required under Article IX.

Section 5.10. Environmental Matters. So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all Hazardous Materials Laws (as defined in the Security Instrument), (b) promptly notify the Funding Lender and the Servicer if the Borrower shall become aware that any Hazardous Materials (as defined in the Security Instrument) are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Project required under any Hazardous Material Laws, in each case as set forth in the Security Instrument or the Agreement of Environmental Indemnification.

Section 5.11. Governmental Lender's and Funding Lender's Fees. The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Ongoing Governmental Lender Fee) and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

Section 5.12. Estoppel Statement. The Borrower shall furnish to the Funding Lender or the Servicer for the benefit of the Funding Lender or the Servicer within ten (10) days after request by the Funding Lender and the Servicer, with a statement, duly acknowledged and certified, setting forth (i) the unpaid principal of the Borrower Note, (ii) the applicable Interest Rate, (iii) the date installments of interest and/or principal were last paid, (iv) any offsets or defenses to the payment of the Borrower Payment Obligations, and (v) that the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are valid, legal and binding obligations of the Borrower and have not been modified or, if modified, giving particulars of such modification, and no Event of Default exists thereunder or specify any Event of Default that does exist thereunder. The Borrower shall use commercially reasonable efforts to furnish to the Funding Lender or the Servicer, within 30 days of a request by the Funding Lender or Servicer, tenant estoppel certificates from each commercial tenant at the Project in form and substance reasonably satisfactory to the Funding Lender and the Servicer; provided

that the Funding Lender and the Servicer shall not make such requests more frequently than twice in any year.

Section 5.13. Defense of Actions. The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Borrower Loan Documents and the Funding Loan Documents, and shall pay, in the manner required by Section 2.4 hereof, all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Borrower Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Project or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any Federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Project to make repairs or take other action to protect the security of the Project, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of Funding Lender appears to be prior or superior to the Borrower Loan Documents or the Funding Loan Documents. The Funding Lender shall have no obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Borrower Loan Documents or Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or that any Borrower Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Borrower Loan Document in which proceeding the Funding Lender is made a party or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including actual attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

Section 5.14. Expenses. The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1 hereof) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Funding Lender's and the Servicer's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of the Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all reasonable expenses of the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1 hereof) in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender, the Funding Lender and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender and the Servicer to collect the Borrower Note, or to enforce the rights of the Governmental Lender, the

Funding Lender and the Servicer under this Borrower Loan Agreement or any other the Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender and the Servicer under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Funding Lender and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the date the amount is incurred until the date of reimbursement to the Governmental Lender, the Funding Lender and the Servicer, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section 5.14 shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Funding Lender or the Servicer, as the case may be, of any of its rights or remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party, and any obligations of the Borrower to pay for environmental inspections or audits will be governed by Section 18(i) and 43(i) of the Security Instrument.

Section 5.15. Indemnity. In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of Governmental Lender or Funding Lender pursuant hereto, pursuant to the Regulatory Agreement and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Servicer, the Beneficiary Parties, Citigroup, Inc., Citicorp Funding, Inc., and each of their respective commissioners, officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the "Liabilities") to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except with respect to any Secondary Market Disclosure Document (other than any Borrower's obligations under Article IX);

(b) Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Funding Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or

about, or from the planning, design, acquisition, rehabilitation, installation or rehabilitation of, the Project or any part thereof;

(c) Any lien (other than a Permitted Lien) or charge upon payments by the Borrower to the Governmental Lender or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and Other Charges imposed on the Governmental Lender or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project;

(e) The enforcement of, or any action taken by the Governmental Lender or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) The defeasance, in whole or in part, of the Borrower Loan or the Funding Loan;

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of Borrower applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written or oral representation, presentation, report, appraisal or other information given or delivered by Borrower, General Partner, Guarantor or their Affiliates to Governmental Lender, the Funding Lender, Servicer or any other Person in connection with the Borrower's application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(j) any failure (or alleged failure) by Borrower, the Funding Lender or Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) the Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, rehabilitation or rehabilitation of, the Project or any part thereof; or

(l) the use of the proceeds of the Borrower Loan and the Funding Loan,

except in the case of the foregoing indemnification of the Governmental Lender or any related Indemnified Party, to the extent such damages are caused by the willful misconduct of such Indemnified Party, and except in the case of the foregoing indemnification of the Funding Lender or the Servicer or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party. Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 9.1.4 hereof with respect to any securitization or Secondary Market Transaction described in Article IX hereof shall be limited to the indemnity set forth in Section 9.1.4 hereof. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 5.15 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section 5.15 shall survive the termination of this Borrower Loan Agreement.

The foregoing provisions of this Section 5.15 are not intended to and shall not negate, modify, limit or change the provisions of Section 9 of the Borrower Note.

Section 5.16. No Warranty of Condition or Suitability by the Governmental Lender or Funding Lender. Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

Section 5.17. Right of Access to the Project. The Borrower agrees that the Governmental Lender, the Funding Lender, the Servicer and the Construction Consultant, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives

shall have the right, but no obligation, at all reasonable times during business hours and upon reasonable notice, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Servicer, and their duly authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

Section 5.18. Notice of Default. The Borrower will advise the Governmental Lender, the Funding Lender and the Servicer promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.19. Covenant with Governmental Lender and Funding Lender. The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by others of the Governmental Lender Note and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender, the Funding Lender and any lawful owner, holder or pledgee of the Borrower Note or the Governmental Lender Note from time to time.

Section 5.20. Obligation of the Borrower to Rehabilitate the Project. The Borrower shall proceed with reasonable dispatch to rehabilitate the Project. If the proceeds of the Borrower Loan, together with the Other Borrower Moneys, available to be disbursed to the Borrower are not sufficient to pay the costs of such rehabilitation, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender, the Funding Lender or the Servicer in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender and the Funding Lender do not make any representation or warranty, either express or implied, that moneys, if any, which will be made available to the Borrower will be sufficient to complete the Project, and the Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed.

Section 5.21. Maintenance of Insurance. Borrower will maintain the insurance required by the Security Instrument.

Section 5.22. Information; Statements and Reports. Borrower shall furnish or cause to be furnished to Funding Lender, in each case with a copy to Governmental Lender:

- (a) Notice of Default. As soon as possible, and in any event not later than five (5) Business Days after the occurrence of any Event of Default or Potential Default, a statement of an Authorized Representative of Borrower describing the details of such Event of Default or Potential Default and any curative action Borrower proposes to take;

(b) Financial Statements; Rent Rolls. In the manner and to the extent required under the Security Instrument, such financial statements, expenses statements, rent rolls, reports and other financial documents and information as required by the Security Instrument and the other Borrower Loan Documents and Funding Loan Documents, in the form and within the time periods required therein;

(c) General Partner. As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of General Partner, copies of the financial statements of General Partner as of such date, prepared in substantially the form previously delivered to the Governmental Lender and Funding Lender and in a manner consistent therewith, or in such form (which may include a form prepared in accordance with GAAP) as Funding Lender may reasonably request;

(d) Leasing Reports. Prior to the Conversion Date, on a monthly basis (and in any event within fifteen (15) days after the end of each Calendar Month), a report of all efforts made by Borrower, if any, to lease all or any portion of the Project during such Calendar Month and on a cumulative basis since Project inception, which report shall be prepared and delivered by Borrower, shall be in form and substance satisfactory to Funding Lender, and shall, if requested by Funding Lender, be supported by copies of letters of intent, leases or occupancy agreements, as applicable;

(e) Audit Reports. Promptly upon receipt thereof, copies of all reports, if any, submitted to Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(f) Notices; Certificates or Communications. Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to Borrower or General Partner naming Governmental Lender or Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(g) Certification of Non-Foreign Status. Promptly upon request of Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by Funding Lender;

(h) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22(b) hereof submitted by or on behalf of Borrower, a statement, in form and substance satisfactory to Funding Lender and certified by an Authorized Borrower Representative, to the effect that Borrower is in compliance with all covenants, terms and conditions applicable to Borrower, under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of Borrower's

actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(i) Other Items and Information. Such other information concerning the assets, business, financial condition, operations, property, prospects and results of operations of Borrower, General Partner, Guarantor or the Project, as Funding Lender or Governmental Lender reasonably requests from time to time.

Borrower shall furnish to Governmental Lender, upon its written request, any of the items described in the foregoing subsections (b) through and including (i) above.

Section 5.23. Additional Notices. Borrower will, promptly after becoming aware thereof, give notice to Funding Lender and the Governmental Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any Legal Action which is instituted by or against Borrower, General Partner or Guarantor, or any Legal Action which is threatened against Borrower, General Partner or Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, prospects, assets, management, ownership or condition (financial or otherwise) of Borrower, General Partner, Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which Borrower, General Partner or Guarantor is a party or by or to which Borrower, General Partner or Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable;

(d) any default, alleged default or potential default on the part of Borrower under any of the CC&R's (together with a copy of each notice of default, alleged default or potential default received from any other party thereto);

(e) any notice of default, alleged default or potential default on the part of Borrower received from any tenant or occupant of the Project under or relating to its lease or occupancy agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the tenants at the Project have been received by Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change or contemplated change in (i) the location of Borrower's or General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by Borrower or General Partner; or (iii) the nature of the trade or business of Borrower; and

(g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, General Partner and the Equity Investor) under the Partnership Agreement.

Section 5.24. Compliance with Other Agreements; Legal Requirements.

(a) Borrower shall timely perform and comply with, and shall cause General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or rehabilitation of the Improvements, and will furnish Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, rehabilitation, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the Units to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building, zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. Funding Lender and Governmental Lender shall at all times have the right to audit, at Borrower's expense, Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or moderate income, and Borrower shall supply all such information with respect thereto as Funding Lender or Governmental Lender, as applicable, may request and otherwise cooperate with Funding Lender or Governmental Lender, as applicable, in any such audit. Without limiting the generality of the foregoing, Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to rehabilitate, occupy, operate, market and lease the Project.

Section 5.25. Completion and Maintenance of Project. Borrower shall cause the rehabilitation of the Improvements to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with the Construction Funding Agreement, free and clear of any liens or claims for liens (but without prejudice to Borrower's rights of contest under Section 10.16 hereof) ("Completion") on or before the Completion Date. Borrower shall thereafter maintain the Project as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance.

Section 5.26. Fixtures. Borrower shall deliver to Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which Borrower or

any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

Section 5.27. Income from Project. Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement, before using or applying such Gross Income for any other purpose. Prior to the Conversion Date, Borrower shall not make or permit any distributions or other payments of Net Operating Income to its partners, shareholders or members, as applicable, in each case, without the prior Written Consent of Funding Lender.

Section 5.28. Leases and Occupancy Agreements.

(a) *Lease Approval.*

(i) Borrower has submitted to Funding Lender, and Funding Lender has approved, Borrower's standard form of tenant lease for use in the Project. Borrower shall not materially modify that approved lease form without Funding Lender's prior Written Consent in each instance, which consent shall not be unreasonably withheld or delayed. Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third party tenants without Funding Lender's prior Written Consent if:

(A) The lease is a Permitted Lease, and is executed in the form attached as an exhibit to the Construction Funding Agreement without material modification;

(B) Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R and is financially capable of performing all of its obligations under the lease; and

(C) The lease conforms to the Rent Schedule attached as an exhibit to the Construction Funding Agreement and reflects an arm's-length transaction, subject to the requirement that the Borrower comply with any applicable CC&R.

(ii) If any Event of Default has occurred and is continuing, Funding Lender may make written demand on Borrower to submit all future leases for Funding Lender's approval prior to execution. Borrower shall comply with any such demand by Funding Lender.

(iii) No approval of any lease by Funding Lender shall be for any purpose other than to protect Funding Lender's security for the Borrower Loan and to preserve Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by Funding Lender shall result in a waiver of any default of Borrower. In no event shall any approval by Funding Lender of a lease be a

representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) ***Landlord's Obligations.*** Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) ***Leasing and Marketing Agreements.*** Except as may be contemplated in the Management Agreement with Borrower's Manager, Borrower shall not without the approval of Funding Lender enter into any leasing or marketing agreement and Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

Section 5.29. Project Agreements and Licenses. To the extent not heretofore delivered to Funding Lender, Borrower will furnish to Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications, together with assignments thereof to Funding Lender and consents to such assignments where required by Funding Lender, all in form and substance acceptable to Funding Lender. Neither Borrower nor General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to Funding Lender.

Section 5.30. Payment of Debt Payments. In addition to its obligations under the Borrower Note, Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of other instruments or agreements evidencing or securing such Debt; (iii) promptly inform Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

Section 5.31. ERISA. Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

Section 5.32. Patriot Act Compliance. Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. Funding Lender shall have the right to audit Borrower's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. In the event that Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then Funding Lender may, at its option, cause Borrower to comply therewith and any and all costs and expenses incurred by Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

Section 5.33. Funds from Equity Investor. Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms of the Partnership Agreement.

Section 5.34. Tax Covenants. The Borrower further represents, warrants and covenants as follows:

(a) **General.** The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Governmental Lender Note from gross income (as defined in Section 61 of the Code), for federal income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Note, the Funding Loan or affecting the Project. Capitalized terms used in this Section 5.34 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Governmental Lender Note, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect Opinion, as such term is defined in the Funding Loan Agreement (other than with respect to interest on any portion of the Governmental Lender Note for a period during which such portion of the Governmental Lender Note is held by a “substantial user” of any facility financed with the proceeds of the Governmental Lender Note or a “related person,” as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 5.34.

(b) **Use of Proceeds.** The use of the net proceeds of the Funding Loan at all times will satisfy the following requirements:

(i) **Limitation on Net Proceeds.** At least 95% of the net proceeds of the Funding Loan (within the meaning of the Code) actually expended by Borrower shall be used to pay Qualified Project Costs that are costs of a “qualified residential rental project” (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is “functionally related and subordinate” thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) **Limit on Costs of Funding.** The proceeds of the Funding Loan will be expended by Borrower for the purposes set forth in this Borrower Loan Agreement and in the Funding Loan Agreement and no portion thereof in excess of two percent of the proceeds of the Funding Loan, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Funding.

(iii) **Prohibited Facilities.** The Borrower shall not use or permit the use of any proceeds of the Funding Loan or any income from the investment thereof to provide any

airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) ***Limitation on Land.*** Less than 25 percent of the net proceeds of the Funding Loan actually expended by Borrower will be used, directly or indirectly, for the acquisition of land or an interest therein, nor will any portion of the net proceeds of the Funding Loan be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) ***Limitation on Existing Facilities.*** No portion of the net proceeds of the Funding Loan will be used by Borrower for the acquisition of any existing property or an interest therein unless (A) the first use of such property is pursuant to such acquisition or (B) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed 15 percent of the cost of acquiring such building financed with the proceeds of the Funding Loan (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15 percent). For purposes of the preceding sentence, the term “rehabilitation expenditures” shall have the meaning set forth in Section 147(d)(3) of the Code.

(vi) ***Accuracy of Information.*** The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower’s information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of origination of the Funding Loan.

(vii) ***Limitation of Project Expenditures.*** The acquisition and rehabilitation of the Project were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60th day preceding the adoption of the resolution of the Governmental Lender with respect to the Project on May 5, 2015, and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition or rehabilitation of the Project was paid or incurred prior to 60 days prior to such date, except for permissible “preliminary expenditures”, which include architectural, engineering surveying, soil testing, construction bond issuance and similar costs incurred prior to the commencement of the acquisition and rehabilitation of the Project.

(viii) ***Qualified Costs.*** The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used by Borrower exclusively to pay Qualified Project Costs.

(c) ***Limitation on Maturity.*** The average maturity of the Governmental Lender Note does not exceed 120 percent of the average reasonably expected economic life of the Project to be financed by the Funding Loan, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the net proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the

Closing Date for the Funding Loan or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) **No Arbitrage.** The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Funding Loan or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Note to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Borrower Loan Agreement or the Borrower Note relating to the Funding Loan, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Funding Loan, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Funding Loan, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Funding Loan to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the Funding Loan and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and Funding Lender for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts not later than forty-five days after the fifth anniversary of the Closing Date and each five years thereafter, and not later than forty-five days after the final Computation Date, and agrees that the Borrower will pay all costs associated therewith. The Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Governmental Lender and Funding Lender.

(e) **No Federal Guarantee.** Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) **Representations.** The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Governmental Lender Note for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein,

in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) ***Qualified Residential Rental Project.*** The Borrower hereby covenants and agrees that the Project will be operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Governmental Lender Note remains outstanding, to the end that the interest on the Governmental Lender Note shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) ***Information Reporting Requirements.*** The Borrower will comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Governmental Lender Note to be filed with the Internal Revenue Service within prescribed time limits.

(i) ***Funding Loan Not a Hedge Bond.*** The Borrower covenants and agrees that not more than 50% of the proceeds of the Funding Loan will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least 85% of the spendable proceeds of the Funding Loan will be used to carry out the governmental purposes of the Funding Loan within the three-year period beginning on the Closing Date.

(j) ***Termination of Restrictions.*** Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate in accordance with Section 10.14 hereof, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

(k) ***Public Approval.*** The Borrower covenants and agrees that the proceeds of the Funding Loan will not be used by Borrower in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Funding Loan.

(l) ***40/60 Test Election.*** The Borrower and the Governmental Lender hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(m) ***Modification of Tax Covenants.*** Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section 5.34 hereof may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Borrower Loan Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding

Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Governmental Lender Note to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Governmental Lender Note in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section 5.34, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section 5.34; provided, however, that the Funding Lender shall take no action under this Section 5.34 without first notifying the Borrower or the Governmental Lender, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section 5.34.

The Borrower irrevocably authorizes and directs the Funding Lender and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Funding Loan or the Governmental Lender Note in an amount related to the amount of the Borrower Loan.

Section 5.35. Payment of Rebate.

(a) *Arbitrage Rebate.* The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Governmental Lender Note in accordance with Section 148(f) of the Code including:

(i) *Delivery of Documents and Money on Computation Dates.* The Borrower will deliver to the Servicer, within 55 days after each Computation Date:

(A) with a copy to the Governmental Lender, a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Installment Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final Computation Date, less any “previous rebate payments” made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations); and

(C) with a copy to the Governmental Lender, an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) ***Correction of Underpayments.*** If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section 5.35 of an amount described in Section 5.35(a)(i)(A) or (B) above shall have failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Servicer (for deposit to the Rebate Fund) and cause the Servicer to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Servicer an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations, the Borrower shall take such steps as are necessary to prevent the Governmental Lender Note from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) ***Records.*** The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section 5.35 for at least six years after the later of the final maturity of the Governmental Lender Note or the date the Funding Loan is retired in full.

(iv) ***Costs.*** The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst a certified public accountant and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) ***No Diversion of Rebatable Arbitrage.*** The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which

is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) **Modification of Requirements.** If at any time during the term of this Borrower Loan Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 5.35, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion (as defined in the Funding Loan Agreement) with respect to such action.

(b) **Rebate Fund.** The Servicer shall establish and hold a separate fund designated as the "Rebate Fund."

(i) The Servicer shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Servicer by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(ii) Within 15 days after each receipt or transfer of funds to the Rebate Fund, the Servicer shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(iii) All payments to the United States of America pursuant to this Section 5.35(b) shall be made by the Servicer for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Funding Lender by the Borrower or the Rebate Analyst as set forth in this Section 5.35(b)).

(iv) The Borrower shall preserve all statements, forms and explanations received delivered pursuant this Section 5.35(b) and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan.

(v) Moneys and securities held in the Rebate Fund shall not be deemed funds of the Funding Lender or of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Funding Lender to secure the Funding Loan or any other obligations.

(vi) Notwithstanding anything to the contrary in this Borrower Loan Agreement, no payment shall be made to the United States if the Borrower shall furnish to the Governmental Lender and the Funding Lender an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Note. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender with respect to such withdrawal.

Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 5.35(b) need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender and the Governmental Lender.

Section 5.36. Covenants under Funding Loan Agreement. The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender that by its nature cannot be delegated or assigned.

Section 5.37. Continuing Disclosure Agreement. The Borrower and the Funding Lender shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Funding Loan, the Borrower and other matters as specifically provided for in such agreement.

ARTICLE VI

NEGATIVE COVENANTS

Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. Borrower covenants and agrees that it will not, directly or indirectly:

Section 6.1. Management Agreement. Without first obtaining the Funding Lender's prior Written Consent, enter into the Management Agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Manager to terminate the Management Agreement (or such successor management agreement).

Section 6.2. Dissolution. Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

Section 6.3. Change in Business or Operation of Property. Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multi-family property or terminate such business for any reason whatsoever (other than temporary cessation in connection with rehabilitation or rehabilitation, as appropriate, of the Project).

Section 6.4. Debt Cancellation. Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

Section 6.5. Assets. Purchase or own any real property or personal property incidental thereto other than the Project.

Section 6.6. Transfers. Make, suffer or permit the occurrence of any Transfer other than a transfer permitted under the Security Instrument and Section 10 of the Regulatory Agreement, nor transfer any material License required for the operation of the Project.

Section 6.7. Debt. Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt)

whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan Documents and the Funding Loan Documents, (iv) trade payables incurred in the ordinary course of business and (v) deferred developer fees.

Section 6.8. Assignment of Rights. Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

Section 6.9. Principal Place of Business. Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender and the Servicer.

Section 6.10. Partnership Agreement. Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect (except as allowed by the Security Instrument), any of its rights or remedies under the Partnership Agreement; provided, however, the consent of Funding Lender is not required for an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of Borrower as defined in and permitted by the Security Instrument.

Section 6.11. ERISA. Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

Section 6.12. No Hedging Arrangements. Without the prior Written Consent of the Funding Lender or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

Section 6.13. Loans and Investments; Distributions; Related Party Payments.

(a) Without the prior Written Consent of Funding Lender in each instance, Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in Borrower, or make any distribution, in cash or in kind, in respect of interests in Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in Borrower (except to the extent permitted by the Security Instrument and subject to the limitations set forth in Section 5.27 hereof).

(b) Disbursements for fees and expenses of any Affiliate of Borrower and developer fees (however characterized) will only be paid to the extent that such fee or expense bears a proportionate relationship to the percentage of completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, as determined by the Construction Consultant, and only after deducting the applicable Retainage. Except as otherwise permitted hereunder or by the Funding Lender, no Disbursements for the Developer Fee or any "deferred developer fees" shall be made prior to the Conversion Date.

Section 6.14. Amendment of Related Documents or CC&R's. Without the prior Written Consent of Funding Lender in each instance, except as provided herein, Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R's (including, without limitation, those contained in the Borrower Loan Agreement, any Architect's Agreement or Engineer's Contract, any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 6.10), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

Section 6.15. Personal Property. Borrower shall not install materials, personal property, equipment or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at the time of installation, without Funding Lender's prior Written Consent; provided, however, that this Section 6.15 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

Section 6.16. Fiscal Year. Without Funding Lender's Written Consent, which shall not be unreasonably withheld, neither Borrower nor General Partner shall change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP.

Section 6.17. Publicity. Neither Borrower nor General Partner shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify Funding Lender or any of its Affiliates as the source of the financing provided for herein, without the prior written approval of Funding Lender in each instance (provided that nothing herein shall prevent Borrower or General Partner from identifying Funding Lender or its Affiliates as the source of such financing to the extent that Borrower or

General Partner are required to do so by disclosure requirements applicable to publicly held companies). Borrower and General Partner agree that no sign shall be posted on the Project in connection with the rehabilitation of the Improvements unless such sign identifies Citigroup and its affiliates as the source of the financing provided for herein or Funding Lender consents to not being identified on any such sign.

Section 6.18. Subordinate Loan Documents. Without Funding Lender's prior written consent, Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

ARTICLE VII

RESERVED

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ARTICLE VIII

DEFAULTS

Section 8.1. Events of Default. Each of the following events shall constitute an “Event of Default” under the Borrower Loan Agreement:

(a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such payment is due in accordance with the terms and provisions of the Borrower Note, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Note, the Security Instrument, this Borrower Loan Agreement or any other Borrower Loan Document;

(b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section 8.1) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Note, the Security Instrument or any of the other Borrower Loan Documents or Funding Loan Documents, including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five (5) days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default, as defined in the Borrower Note, the Security Instrument or any other Borrower Loan Document, occurs (or to the extent an “Event of Default” is not defined in any other Borrower Loan Document, any default or breach by the Borrower or any Guarantor of its obligations, covenants, representations or warranties under such Borrower Loan Document occurs and any applicable notice and/or cure period has expired);

(d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Borrower Loan Document or Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Borrower Loan Document or Funding Loan Document, shall be false or misleading in any material respect as of the Closing Date;

(e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

(f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur, unless in all cases the Borrower Controlling Entity is replaced with a substitute Borrower Controlling Entity that satisfies the requirements of Section 21 of the Security Instrument; which, in the case of a nonprofit Borrower Controlling Entity, may be replaced within sixty (60)

days of such event with another nonprofit Borrower Controlling Entity acceptable to the Funding Lender, in which case no Event of Default shall be deemed to have occurred;

(g) any portion of Borrower Deferred Equity to be made by Equity Investor and required for (i) completion of the rehabilitation of the Improvements, (ii) the satisfaction of the Conditions of Conversion or (iii) the operation of the Improvements, is not received in accordance with the Partnership Agreement after the expiration of all applicable notice and cure periods and Borrower fails to secure substitute financing reasonably acceptable to Funding Lender within thirty (30) days after Written Notice thereof shall have been given to Borrower;

(h) the failure by Borrower or any ERISA Affiliate of Borrower to comply in all respects with ERISA, or the occurrence of any other event (with respect to the failure of Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of, or withdrawal of Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA) the effect of which is to impose upon Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of Fifty Thousand Dollars (\$50,000);

(i) a Bankruptcy Event shall occur with respect to Borrower, any General Partner or Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person's obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document, provided that any such Bankruptcy Event with respect to a Guarantor shall not constitute an Event of Default: (i) if such Bankruptcy Event occurs on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such Bankruptcy Event occurs prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(j) all or any part of the property of Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released: (i) prior to completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within ten (10) days of the date thereof or (ii) after completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within thirty (30) days of the date thereof;

(k) subject to Section 10.16 hereof, Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(l) any material litigation or proceeding is commenced before any Governmental Authority against or affecting Borrower, any General Partner or Guarantor, or property of Borrower, any General Partner or Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by Borrower, any General Partner or Guarantor, as applicable, provided that any such material litigation or proceeding against a Guarantor shall not constitute an Event of Default: (i) if such material litigation is commenced on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such material litigation or proceeding is commenced prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(m) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against Borrower, any General Partner or Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed (i) prior to completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the rehabilitation or rehabilitation, as the case may be, of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty) , provided that any such judgment, decree, fine or penalty against a Guarantor shall not constitute an Event of Default: (i) if such judgment, decree, fine or penalty is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, decree, fine or penalty is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and either (A) Funding Lender determines in its reasonable discretion that such judgment, decree, fine or penalty will not have a material adverse effect on Guarantor's ability to perform its obligations pursuant to the Guaranty, or (B) Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(n) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against Borrower, any General Partner or Guarantor,

or against any of their respective assets (that is likely to have a material adverse effect upon the ability of Borrower, any General Partner or Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document), that is not paid, superseded or stayed (i) prior to completion of the rehabilitation of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the rehabilitation of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against Borrower, any General Partner or Guarantor, or against any of their respective assets, and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhanded and unstayed (i) prior to completion of the rehabilitation of the Improvements, for a period of ten (10) days or (ii) after completion of the rehabilitation of the Improvements, for a period of thirty (30) days, or in any event later than five (5) Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against a Guarantor shall not constitute an Event of Default: (i) if such judgment, levy, writ, warrant, attachment or similar process is entered on or after the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor), or (ii) if such judgment, levy, writ, warrant, attachment or similar process is entered prior to the date upon which the Guaranty terminates in accordance with its terms (or the date upon which all of the Guaranties have terminated in accordance with their terms, if more than one Guaranty was executed by such Guarantor) and the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender;

(o) the inability of Borrower to satisfy any condition for the receipt of a Disbursement hereunder (other than an Event of Default specifically addressed in this Section 8.1) and failure to resolve the situation to the satisfaction of Funding Lender for a period in excess of thirty (30) days after Written Notice from Funding Lender unless (i) such inability shall have been caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping; (ii) Borrower shall have made adequate provision, acceptable to Funding Lender, for the protection of materials stored on-site or off-site and for the protection of the Improvements to the extent then constructed against deterioration and against other loss or damage or theft; (iii) Borrower shall furnish to Funding Lender satisfactory evidence that such cessation of rehabilitation will not adversely affect or interfere with the rights of Borrower under labor and materials contracts or subcontracts relating to the rehabilitation or operation of the Improvements; and (iv) Borrower shall furnish to Funding Lender satisfactory evidence that the completion of the rehabilitation of the Improvements can be accomplished by the Completion Date;

(p) the rehabilitation of the Improvements is abandoned or halted prior to completion for any period of thirty (30) consecutive days unless caused by conditions

beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping;

(q) Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any Governmental Authority with jurisdiction over the Mortgaged Property or the Project orders or requires that rehabilitation of the Improvements be stopped, in whole or in part, or that any required approval, license or permit be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of thirty (30) days;

(r) failure by the Borrower to Substantially Complete the rehabilitation of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Substantial Completion Date unless caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping;

(s) failure by Borrower to complete the rehabilitation of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Completion Date unless caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping;

(t) failure by Borrower to satisfy the Conditions to Conversion on or before the Outside Conversion Date or the Extended Outside Conversion Date, if applicable;

(u) failure by any Subordinate Lender to disburse the proceeds of its Subordinate Loan in approximately such amounts and at approximately such times as set forth in the Cost Breakdown and in the Subordinate Loan Documents and such funding is not replaced with substitute funding reasonably acceptable to Funding Lender within thirty (30) days of Written Notice to Borrower;

(v) an "Event of Default" or "Default" (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, after the expiration of all applicable notice and cure periods; or

(w) Borrower fails to obtain all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Government Authorities or third parties necessary for the completion of the rehabilitation of the Improvements, and the operation of, and access to, the Project, prior to the commencement of any work for which such permit, license or authorization is required; or

(x) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 9.1), as and when required, that continues for a period of thirty (30) days after written notice of such failure by Funding Lender or the Servicer on its behalf to the Borrower (with a copy to the limited partner of the Borrower); provided, however, if

such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed seventy (70) days. However, no such notice or grace period shall apply to the extent such failure could, in the Funding Lender's judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower Loan Agreement, result in harm to the Funding Lender, impairment of the Borrower Note or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

Section 8.2. Remedies.

Section 8.2.1 Acceleration. Upon the occurrence of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 8.1) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Borrower Loan Documents or at law or in equity, the Funding Lender may, take such action without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Borrower Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Borrower Note to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion; and upon any Event of Default described in paragraph (e), (f) or (i) of Section 8.1, the Borrower Payment Obligations shall become immediately due and payable, without notice or demand, and the Borrower hereby expressly waives any such notice or demand, anything contained in any Borrower Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

Section 8.2.2 Remedies Cumulative. Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender against the Borrower under the Borrower Loan Documents or at law or in equity may be exercised by the Funding Lender, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Borrower Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Borrower Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender

shall remain in full force and effect until they have exhausted all of its remedies, the Security Instrument has been foreclosed, the Project has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations has been paid in full. To the extent permitted by applicable law, nothing contained in any Borrower Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Project for the satisfaction of any of the Borrower Payment Obligations in preference or priority to any other portion, and the Funding Lender may seek satisfaction out of the entire Project or any part thereof, in its absolute discretion.

Notwithstanding any provision herein to the contrary, the Governmental Lender and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 8.2.3 Delay. No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender shall impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender reserves the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Project, the Rents, the funds or any other collateral.

Section 8.2.4 Set Off; Waiver of Set Off. Upon the occurrence of an Event of Default, Funding Lender may, at any time and from time to time, without notice to Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply against and on account of any obligations and liabilities of the Borrower to the Funding Lender arising under or connected with this Borrower Loan Agreement and the other the Borrower Loan Documents and the Funding Loan Documents, irrespective of whether or not the Funding Lender shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured, and the Borrower hereby grants to the Funding Lender, as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by the Funding Lender to or for the credit or the account of the Borrower.

Section 8.2.5 Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement, and any other the Borrower Loan Documents and Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

Section 8.2.6 Accounts Receivable. Upon the occurrence of an Event of Default, Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, notes and other documents evidencing Borrower's accounts, accounts receivable and other claims for payment of money, arising in connection with the Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of Funding Lender.

Section 8.2.7 Defaults under Other Documents. Funding Lender shall have the right to cure any default under any of the Related Documents and the Subordinate Loan Documents, but shall have no obligation to do so.

Section 8.2.8 Abatement of Disbursements. Notwithstanding any provision to the contrary herein or any of the other Borrower Loan Documents or the Funding Loan Documents, Funding Lender's obligation to make further Disbursements shall abate (i) during the continuance of any Potential Default, (ii) after any disclosure to Funding Lender of any fact or circumstance that, absent such disclosure, would cause any representation or warranty of Borrower to fail to be true and correct in all material respects, unless and until Funding Lender elects to permit further Disbursements notwithstanding such event or circumstance; and (iii) upon the occurrence of any Event of Default.

Section 8.2.9 Completion of Improvements. Upon the occurrence of any Event of Default, Funding Lender shall have the right to cause an independent contractor selected by Funding Lender to enter into possession of the Project and to perform any and all work and labor necessary for the completion of the Project substantially in accordance with the Plans and Specifications, if any, and to perform Borrower's obligations under this Borrower Loan Agreement. All sums expended by Funding Lender for such purposes shall be deemed to have been disbursed to and borrowed by Borrower and shall be secured by the Security Documents.

Section 8.2.10 Right to Directly Enforce. Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender, provided that only the Governmental Lender may enforce the Unassigned Rights. In the event that any of the provisions set forth in this Section 8.2.10 are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

Section 8.2.11 Power of Attorney. Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured or waived, Borrower hereby constitutes and appoints Funding Lender, or an independent contractor selected by Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Project and performance of Borrower's obligations under this Borrower Loan Agreement in the name of Borrower, and hereby empowers said attorney-in-fact to do any or all of the following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations

under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents):

(a) to use any of the funds of Borrower or General Partner, including any balance of the Borrower Loan, as applicable, and any funds which may be held by Funding Lender for Borrower (including all funds in all deposit accounts in which Borrower has granted to Funding Lender a security interest), for the purpose of effecting completion of the rehabilitation of the Improvements, in the manner called for by the Plans and Specifications;

(b) to make such additions, changes and corrections in the Plans and Specifications as shall be necessary or desirable to complete the Project in substantially the manner contemplated by the Plans and Specifications;

(c) to employ any contractors, subcontractors, agents, architects and inspectors required for said purposes;

(d) to employ attorneys to defend against attempts to interfere with the exercise of power granted hereby;

(e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project, the Improvements or the Project, or may be necessary or desirable for the completion of the rehabilitation of the Improvements, or clearance of objections to or encumbrances on title;

(f) to execute all applications and certificates in the name of Borrower, which may be required by any other Construction Contract;

(g) to prosecute and defend all actions or proceedings in connection with the Project and to take such action, require such performance and do any and every other act as is deemed necessary with respect to the completion of the rehabilitation of the Improvements, which Borrower might do on its own behalf;

(h) to let new or additional contracts to the extent not prohibited by their existing contracts;

(i) to employ watchmen and erect security fences to protect the Project from injury; and

(j) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that,

among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender assignees or designees become the owner of the Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

ARTICLE IX

SPECIAL PROVISIONS

Section 9.1. Sale of Note and Secondary Market Transaction.

Section 9.1.1 Cooperation. Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, at the Funding Lender's or the Servicer's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Governmental Lender Note or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Governmental Lender Note (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that neither the Borrower nor the Governmental Lender shall incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Manager, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender or the Servicer, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender or the Servicer pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

Section 9.1.2 Use of Information. The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a “Secondary Market Disclosure Document”), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 9.1.1(c) hereof, with the Funding Lender and the Servicer in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

The Borrower and the Funding Lender agree and acknowledge that the Governmental Lender undertakes no obligation hereunder or in the Funding Loan Agreement to participate in the preparation of, or to approve, any Secondary Market Disclosure Document.

Section 9.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents. In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Manager, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Manager, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Manager) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender and the Servicer for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document.

Section 9.1.4 Borrower Indemnity Regarding Filings. In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender and the underwriter group for any securities (the “Underwriter Group”) for any Liabilities to which

Funding Lender, the Servicer or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Servicer, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Servicer or the Underwriter Group in connection with defending or investigating the Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

Section 9.1.5 Indemnification Procedure. Promptly after receipt by an indemnified party under Sections 9.1.3 and 9.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 9.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

Section 9.1.6 Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 9.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

ARTICLE X

MISCELLANEOUS

Section 10.1. Notices. All notices, consents, approvals and requests required or permitted hereunder or under any other Borrower Loan Document or Funding Loan Document (a “notice”) shall be deemed to be given and made when delivered by hand, recognized overnight delivery service, confirmed facsimile transmission (provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day), or five (5) calendar days after deposited in the United States mail, registered or certified, postage prepaid, with return receipt requested, addressed as follows:

If to the Governmental Lender: County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, California 94553
Attention: Community Development Bond Program
Manager
Telephone: (925) 674-7888
Facsimile: (925) 674-7258

If to the Borrower: Oaks II, L.P.
c/o EAH Inc.
2169 East Francisco Boulevard, Suite B
San Rafael, CA 94901
Attention: Errol Dominguez
Phone: (415) 295-8855
Facsimile: (415) 453-4927

with a copy to: Bocarsly, Emden, Cowan, Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Nicole Deddens, Esq.
Phone: (213) 239-8029
Facsimile: (213) 559-0751

If to the Equity Investor: Merritt Community Capital Fund XVIII, L.P.
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, CA 94612
Attention: Karen Smyda
Phone: (510) 444-7870

with a copy to:

Carle Mackie Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401-6376
Attention: Henry Loh III, Esq.
Phone: (707) 526-4200
Facsimile: (707) 526-4707

If to the Funding Lender:

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Transaction Management Group
Deal ID# _____
Facsimile: (212) 723- 8209

and to:

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/ Asset Manager
Deal ID# _____
Facsimile: (805) 557-0924

prior to the Conversion Date, with
a copy to:

Citibank, N.A.
390 Greenwich Street
New York, New York 10013
Attention: Account Specialist
Deal ID# _____
Facsimile: (212) 723-8209

following the Conversion Date
with a copy to:

Citibank, N.A., ISAOA
c/o Berkadia Commercial Servicing Department
P.O. Box 557
Ambler, Pennsylvania 19022
Attention: Client Relations Manager
Deal ID# _____
Facsimile: (215) 441-7295

and a copy of any notices of default
sent to:

Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Deal ID# 22788
Facsimile: (646) 291-5754

Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing written notice of such change of address to the other parties by written notice as provided herein.

Section 10.2. Brokers and Financial Advisors. The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 10.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

Section 10.3. Survival. This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Note and the assignment of the Borrower Note to the Funding Lender, and shall continue in full force and effect so long as all or any of the Borrower Payment Obligations is unpaid. All the Borrower's covenants and agreements in this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Funding Lender and the Servicer.

Section 10.4. Preferences. The Governmental Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a payment to the Governmental Lender or the Servicer, or the Governmental Lender or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

Section 10.5. Waiver of Notice. The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other the Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower hereby expressly waives the right to receive any notice from the Funding Lender or the Servicer, as the case may be, with respect to any matter for which no Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer to the Borrower.

Section 10.6. Offsets, Counterclaims and Defenses. The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender or the Servicer with respect to a Borrower Loan Payment. Any assignee of Funding Lender's interest in and to the Borrower Loan

Documents or the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the Borrower Loan Documents or the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Borrower.

Section 10.7. Publicity. The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or its Affiliates through any media intended to reach the general public, which refers to the Borrower Loan Documents or the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

Section 10.8. Rehabilitation of Documents. The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Borrower Loan Documents and the Funding Loan Documents and that the Borrower Loan Documents and the Funding Loan Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

Section 10.9. No Third Party Beneficiaries. The Borrower Loan Documents and the Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Servicer and the Borrower and, with respect to Sections 9.1.3 and 9.1.4 hereof, the Underwriter Group, and nothing contained in any Borrower Loan Document shall be deemed to confer upon anyone other than the Governmental Lender, the Funding Lender, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

Section 10.10. Assignment. The Borrower Loan, the Security Instrument, the Borrower Loan Documents and the Funding Loan Documents and all Funding Lender's rights, title, obligations and interests therein may be assigned by the Funding Lender at any time in its sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise, subject in any event to the provisions of Section 2.4 of the Funding Loan Agreement. Upon such assignment, all references to Funding Lender in this Borrower Loan Agreement and in any Borrower Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender. The Borrower shall accord full recognition to any such assignment, and all rights and remedies of Funding Lender in connection with the interest so assigned shall be as fully enforceable by such assignee as they were by Funding Lender before such assignment. In connection with any proposed assignment, Funding Lender may disclose to the proposed assignee any information that the Borrower has delivered, or caused to be delivered, to Funding Lender with reference to the Borrower, General Partner, Guarantor or any Affiliate, or the

Project, including information that the Borrower is required to deliver to Funding Lender pursuant to this Borrower Loan Agreement, provided that such proposed assignee agrees to treat such information as confidential. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the Borrower Loan Documents or Funding Loan Documents, or the Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted hereby.

Section 10.11. [Reserved].

Section 10.12. Governmental Lender, Funding Lender and Servicer Not in Control; No Partnership. None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Funding Lender or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Funding Lender and the Servicer being limited to the rights to exercise the remedies referred to in the Borrower Loan Documents and the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Funding Lender and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Borrower Loan Documents or the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Governmental Lender, the Funding Lender or the Servicer or to create an equity in the Project in the Governmental Lender, the Funding Lender or the Servicer. Neither the Governmental Lender, the Funding Lender nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project or the Borrower Loan, except as expressly provided in the Borrower Loan Documents or the Funding Loan Documents; and notwithstanding any other provision of the Borrower Loan Documents and the Funding Loan Documents: (1) the Governmental Lender, the Funding Lender and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Funding Lender and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender and the Servicer shall in no event be liable for any the Borrower Payment Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender and the Servicer shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Funding Lender and the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Funding Lender, the Servicer and the Borrower, or to create an equity in the Project in the Governmental Lender, the Funding Lender or the Servicer, or any sharing of liabilities, losses, costs or expenses.

Section 10.13. Release. The Borrower hereby acknowledges that it is executing this Borrower Loan Agreement and each of the Borrower Loan Documents and the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

Section 10.14. Term of Borrower Loan Agreement. This Borrower Loan Agreement shall be in full force and effect until all payment obligations of the Borrower hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after payment in full of the Borrower Note, this Borrower Loan Agreement shall be terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Sections 5.11, 5.14, 5.15, 9.1.3, 9.1.4, 9.1.5, 9.1.6 and 10.15 hereof, as well as under Section 5.7 of the Construction Funding Agreement, shall survive the termination of this Borrower Loan Agreement.

Section 10.15. Reimbursement of Expenses. If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Funding Lender or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Funding Lender and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 10.15 shall be subordinate to its obligations to make payments under the Borrower Note.

Section 10.16. Permitted Contests. Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to Funding Lender's rights, but this shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless Borrower shall have given prior Written Notice to the Funding Lender of Borrower's intent to so contest or object thereto, and unless (i) Borrower has, in the Funding Lender's judgment, a reasonable basis for such contest, (ii) Borrower pays when due any portion of the claim, demand, levy or assessment to which Borrower does not object, (iii) Borrower demonstrates to Funding Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Project, (v) Borrower at all times prosecutes the contest with due diligence, and (vi) Borrower pays, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, the amount so determined to be due and owing by Borrower. In the event that Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and Funding Lender may draw or realize upon any bond or other security delivered to Funding Lender in connection with the contest by Borrower, in order to make such payment.

Section 10.17. Funding Lender Approval of Instruments and Parties. All proceedings taken in accordance with transactions provided for herein, and all surveys, appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to approval by Funding Lender. Funding Lender's approval of any matter in connection with the Project shall be for the sole purpose of protecting the security and rights of Funding Lender. No such approval shall result in a waiver of any default of Borrower. In no event shall Funding Lender's approval be a representation of any kind with regard to the matter being approved.

Section 10.18. Funding Lender Determination of Facts. Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

Section 10.19. Calendar Months. With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31st day of any Calendar Month: if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first day of the next succeeding Calendar Month.

Section 10.20. Determinations by Lender. Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the consent or approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under this Borrower Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Governmental Lender and the Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

Section 10.21. Governing Law. This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

Section 10.22. Consent to Jurisdiction and Venue. Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to bring any suit, action or

proceeding relating to matters arising under this Borrower Loan Agreement against Borrower or any of Borrower's assets in any court of any other jurisdiction.

Section 10.23. Successors and Assigns. This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities.

Section 10.24. Severability. The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

Section 10.25. Entire Agreement; Amendment and Waiver. This Borrower Loan Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver. Without limiting the generality of the foregoing, no Disbursement shall constitute a waiver of any conditions to the Governmental Lender's or the Funding Lender's obligation to make further Disbursements nor, in the event Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding the Governmental Lender or the Funding Lender from thereafter declaring such inability to constitute a Potential Default or Event of Default under this Borrower Loan Agreement.

Section 10.26. Counterparts. This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

Section 10.27. Captions. The captions of the sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

Section 10.28. Servicer. Borrower hereby acknowledges and agrees that, pursuant to the terms of Section 39 of the Security Instrument: (a) from time to time, the Governmental Lender or the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Note, this Borrower Loan Agreement or the other Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless Borrower receives Written Notice from the Governmental Lender or the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Governmental Lender or the Funding Lender may be taken or exercised by such servicer with the same force and effect.

Section 10.29. Beneficiary Parties as Third Party Beneficiary. Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

Section 10.30. Waiver of Trial by Jury. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER AND THE BENEFICIARY PARTIES (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS BORROWER LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IF FOR ANY REASON THIS WAIVER IS DETERMINED TO BE UNENFORCEABLE, ALL DISPUTES WILL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROCEDURES SET FORTH IN THE SECURITY INSTRUMENT.

Section 10.31. Time of the Essence. Time is of the essence with respect to this Borrower Loan Agreement.

Section 10.32. [Reserved].

Section 10.33. Reference Date. This Borrower Loan Agreement is dated for reference purposes only as of the first day of December, 2015, and will not be effective and binding on the parties hereto unless and until the Closing Date (as defined herein) occurs.

ARTICLE XI

LIMITATIONS ON LIABILITY

Section 11.1. Limitation on Liability. Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Borrower Loan Documents and the Funding Loan Documents shall be limited to the extent set forth in the Borrower Note.

Section 11.2. Limitation on Liability of Governmental Lender. The Governmental Lender shall not be obligated to pay the principal (or prepayment price) of or interest on the Funding Loan, except from moneys and assets received by the Funding Lender on behalf of the Governmental Lender pursuant to this Borrower Loan Agreement. Neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, nor the faith and credit of the Governmental Lender is pledged to the payment of the principal (or prepayment price) of or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Borrower Loan Agreement or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Borrower Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender's sole source of moneys to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Borrower Loan Agreement, together with investment income on certain funds and accounts held by the Funding Lender under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment price) of and interest on the Funding Loan as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Funding Lender or the Servicer, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment price) of or interest on the Funding Loan, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Funding Lender, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Funding Lender, the Governmental Lender or any such third party, as the case may be, therefor.

Section 11.3. Waiver of Personal Liability. No member of the Board of Supervisors, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of or interest on the Funding Loan or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing herein contained shall relieve any such member of the Board of Supervisors, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

Section 11.4. Limitation on Liability of Governmental Lender's or Funding Lender's Commissioners, Officers, Employees, Etc.

(a) Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender, provided, however, this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their respective Supervisors, officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Funding Lender, or willful misconduct of the Governmental Lender.

(b) None of the Governmental Lender, the Funding Lender, the other Beneficiary Parties or any of their respective Supervisors, officers, directors, employees or agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against the Borrower or others or against the Project. Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with Borrower in any manner whatsoever. Prior to default by Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's or the Funding Lender's shareholders (if any), Supervisors, directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 11.5. Delivery of Reports, Etc. The delivery of reports, information and documents to the Governmental Lender and the Funding Lender as provided herein is for

informational purposes only and the Governmental Lender's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained therein. The Governmental Lender and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender and the Funding Lender.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Borrower Loan Agreement by their respective authorized representative, as of the date first set forth above.

BORROWER:

OAKS II, L.P.,
a California limited partnership

By: Oaks EAH, LLC,
a California limited liability company,
its sole and managing general partner

By: Three Oaks Family Homes, Inc.,
a California nonprofit public benefit
corporation, its sole member

By: _____

Name: _____

Title: _____

03007.29;J13595

(signatures follow on subsequent pages)

[Signature Page to Borrower Loan Agreement – The Oaks Apartments]

GOVERNMENTAL LENDER:

COUNTY OF CONTRA COSTA, CALIFORNIA

By: _____

John Kopchik,
Director, Department of
Conservation & Development

03007.29;J13595

[Signature Page to Borrower Loan Agreement – The Oaks Apartments]

Agreed to and Acknowledged by:

FUNDING LENDER:

CITIBANK, N.A.

By: _____
Authorized Signatory

03007.29;J13595

[Signature Page to Borrower Loan Agreement – The Oaks Apartments]

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

QUINT & THIMMIG LLP
900 Larkspur Landing Circle, Suite 270
Larkspur, California 94939-1726
Attention: Paul J. Thimmig, Esq.

**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

by and between the

COUNTY OF CONTRA COSTA, CALIFORNIA,

and

**OAKS II, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP**

dated as of December 1, 2015

relating to:

**\$ _____
County of Contra Costa
Multifamily Housing Revenue Note
(The Oaks Apartments), Series 2015B**

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REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (as supplemented and amended from time to time, this "Agreement" or this "Regulatory Agreement"), dated as of December 1, 2015, is by and between the COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic of the State of California (together with any successor to its rights, duties and obligations, the "Governmental Lender"), and OAKS II, L.P., a California limited partnership (together with any successor to its rights, duties and obligations hereunder, the "Borrower").

R E C I T A L S :

WHEREAS, the Governmental Lender proposes to issue its County of Contra Costa Multifamily Housing Revenue Note (The Oaks Apartments), Series 2015B (the "Governmental Lender Note"), in a principal amount of \$_____, pursuant to Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California (the "Act"), with the proceeds of the Governmental Lender Note to be utilized to fund a loan to the Borrower pursuant to the terms of the Borrower Loan Agreement, dated as of December 1, 2015 (as supplemented and amended from time to time, the "Borrower Loan Agreement"), between the Governmental Lender and the Borrower, in order to enable the Borrower to finance the acquisition and rehabilitation of a multifamily rental housing development known as Golden Oak Manor, consisting of 37 units of senior rental housing located on the site described in Exhibit A hereto (as further described herein, the "Project"); and

WHEREAS, in order to assure the Governmental Lender and the owner of the Governmental Lender Note that interest on the Governmental Lender Note will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and to satisfy the public purposes for which the Governmental Lender Note are authorized to be issued under the Act, and to satisfy the purposes of the Governmental Lender in determining to issue the Governmental Lender Note, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the issuance of the Governmental Lender Note by the Governmental Lender and the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Governmental Lender and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the recitals hereto, in this Section 1, in Section 1.01 of the Funding Loan Agreement, dated as of December 1,

2015, between the Governmental Lender and Citibank, N.A., as Funding Lender, or in Section 1.1 of the Borrower Loan Agreement (as defined in the Recitals to this Agreement).

“Adjusted Income” means the adjusted income of a person (together with the adjusted income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit) as calculated in the manner prescribed pursuant to Section 8 of the Housing Law, or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act.

“Administrator” means the Governmental Lender or any administrator or program monitor appointed by the Governmental Lender to administer this Regulatory Agreement, and any successor administrator appointed by the Governmental Lender.

“Affiliated Party” means (a) a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, (b) a person who together with the Borrower are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein), (c) a partnership and each of its partners (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, and (d) an S corporation and each of its shareholders (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code.

“Affordable Rents” means thirty percent (30%) of an amount equal to sixty percent (60%) of the median gross income for the Area, adjusted for household size (as described in the definition of “Lower Income Tenant” in this Section 1), less a utility allowance calculated as set forth in U.S. Treasury Regulation Section 1.42-10.

“Area” means the metropolitan statistical area in which the Project is located.

“Area Median Gross Income” means the median gross income for the Area, as determined by the Secretary of the Treasury in a manner consistent with determination of lower-income families and area median gross income under Section 8 of the Housing Law and Section 3009a of the Housing and Economic Recovery Act of 2008, including adjustments for family size or, if programs under Section 8 are terminated, area median gross income determined under the method in effect immediately before such termination.

“Borrower Loan Agreement” has the meaning given to such term in the first Recital to this Regulatory Agreement.

“CDLAC” means the California Debt Limit Allocation Committee, or successor thereto.

“CDLAC Resolution” means Resolution No. 15-101 adopted by CDLAC on September 16, 2015, with respect to the Project.

“Certificate of Continuing Program Compliance” means the Certificate to be filed by the Borrower with the Administrator, on behalf of the Governmental Lender, and the Funding Lender pursuant to Section 4(e) hereof, which shall be substantially in the form attached as Exhibit F to this Regulatory Agreement, or in such other form as may be provided by the Governmental Lender or the Administrator to the Borrower, or as otherwise approved by the Governmental Lender.

“City” means the City of Walnut Creek, California.

“Closing Date” has the meaning given to the term “Initial Closing Date” in the Funding Loan Agreement.

“Completion Certificate” means the certificate of completion of the Project required to be delivered to the Governmental Lender by the Borrower pursuant to Section 2(i) of this Regulatory Agreement, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit C.

“Completion Date” means the date of completion of the acquisition and rehabilitation of the Project, as that date shall be certified as provided in Section 2(i) of this Regulatory Agreement.

“County” means the County of Contra Costa, California.

“FOCUS Program” means (a) the FOCUS Compliance Verification Program (user’s guide located at www.housingcompliance.org/contracosta) utilized by the Governmental Lender to verify the Borrower’s compliance with various requirements of this Regulatory Agreement; or (b) any similar program used by the Governmental Lender, in substitution for the program described in the preceding clause (a), to verify the Borrower’s compliance with various requirements of this Regulatory Agreement.

“Housing Law” means the United States Act of 1937, as amended, or its successor.

“HUD” means the United States Department of Housing and Urban Development, or any successor thereto.

“Inducement Date” means June 9, 2015, being the date of adoption by the Board of Supervisors of the Governmental Lender of Resolution No. 2015/199 expressing the

Governmental Lender's intent to issue the Governmental Lender Note to finance costs of the Project.

"Funding Loan Agreement" means the Funding Loan Agreement, dated as of December 1, 2015, between the County, as Governmental Lender and Citibank, N.A., as Funding Lender, as it may be supplemented and amended from time to time in accordance with its terms.

"Governmental Lender Annual Fee" means, for the period from the Closing Date to but not including December 1, 2016, an amount equal to one-eighth of one percent (1/8%) of the maximum principal amount of the Governmental Lender Note; and, thereafter, on each December 1 during the remainder of the Qualified Project Period, commencing December 1, 2016, an amount equal to the greater of (a) one-eighth of one percent of the then outstanding principal amount of the Governmental Lender Note, or (b) \$5,000.

"Governmental Lender Issuance Fee" means an amount equal to one-eighth of one percent (1/8%) of the maximum principal amount of the Governmental Lender Note.

"Low Income Tenant" means individuals or families whose Adjusted Income does not exceed sixty percent (60%) of Area Median Gross Income; provided, however, that if all the occupants of a Low Income Unit are students (as defined in Section 152(f)(2) of the Code) who fail to be described in Section 42(i)(3)(D) of the Code, the occupants of that Low Income Unit shall in no event be deemed to be "Low Income Tenants." The Adjusted Income of individuals and Area Median Gross Income shall be determined by the Secretary of the Treasury in a manner consistent with determinations of lower income families and Area Median Gross Income under Section 8 of the Housing Law (or, if such program is terminated, under such program in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size as prescribed under Section 8 of the Housing Law.

"Low Income Units" means the units in the Project required to be rented, or held available for occupancy by, Low Income Tenants pursuant to Sections 4(a) and 6(a) hereof.

"Manager" means the property manager of the Project.

"Project" means the 37 units of rental housing constituting the development known as The Oaks Apartments, located on the real property site described in Exhibit A hereto, and consisting of those facilities, including the Borrower's fee interest in the real property described in Exhibit A hereto, structures, buildings, fixtures or equipment, as may at any time exist on such real property, the acquisition and rehabilitation of which is to be financed, in whole or in part, from the proceeds of the sale of the Governmental Lender Note or the proceeds of any payment by the Borrower pursuant to the Borrower

Loan Agreement, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of such facilities.

“Project Costs” means, to the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Borrower with respect to the acquisition and rehabilitation of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, predevelopment interest expenses, costs for site preparation, the planning of housing and related facilities and improvements, the acquisition of property, the removal or demolition of existing structures, the rehabilitation of housing and related facilities and improvements, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors’ and Borrower’s overhead and supervisors’ fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made for the Project), and interest accrued during the rehabilitation period and prior to the Completion Date.

“Qualified Project Costs” means Project Costs that meet each of the following requirements: (a) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general Federal income tax principles and in accordance with United States Treasury Regulations §1.103-8(a)(1), provided, however, that only such portion of interest accrued during acquisition and rehabilitation of the Project shall be eligible to be a Qualified Project Cost as is so capitalizable and as bears the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs; and provided further that interest accruing after the date of completion of the rehabilitation of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being rehabilitated by an Affiliated Party (whether as a general contractor or a subcontractor), Qualified Project Costs shall include only (i) the actual out-of-pocket costs incurred by such Affiliated Party in rehabilitating the Project (or any portion thereof), (ii) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (iii) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the acquisition or rehabilitation of the Project or payments received by such Affiliated Party due to early completion of the rehabilitation of the Project (or any portion thereof); (b) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (c) the costs are paid after the earlier of 60 days prior to the Inducement Date or the date of issue of the Governmental Lender Note, and (d) if the Project Costs were previously paid and are to be reimbursed with proceeds of the Governmental Lender Note, such costs were (i) costs of issuance of the Governmental Lender Note, (ii)

preliminary capital expenditures (within the meaning of United States Treasury Regulations §1.139-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Governmental Lender Note (as defined in United States Treasury Regulations §1.148-1), or (iii) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid). Notwithstanding the foregoing, "Qualified Project Costs" shall not include costs related to the acquisition or rehabilitation of any office or commercial space not functionally related to the dwelling units in the Project.

"Qualified Project Period" means the period beginning on the Closing Date, and ending on the later of (a) the date which is 15 years after the date on which at least fifty percent (50%) of the aggregate of the residential units in the Project are first occupied following the Completion Date, (b) the first day on which no Tax-Exempt private activity bond issued with respect to the Project is outstanding, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Law terminates, or (d) the date on which Governmental Lender Note is paid in full; provided that, unless otherwise amended or modified in accordance with the terms hereof, the Qualified Project Period for purposes of this Regulatory Agreement shall be 55 years from the Closing Date, as required by the Governmental Lender's policies applicable to multifamily housing revenue bonds and the CDLAC Resolution. For purposes of clause (b), the term "private activity bond" has the meaning contemplated in Section 142(d)(2)(A)(ii) of the Code.

"Regulatory Agreement" means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be supplemented and amended from time to time.

"Tax-Exempt" means with respect to interest on any obligations of a state or local government, including the Governmental Lender Note, that such interest is excluded from gross income for federal income tax purposes; provided, however, that: (a) such interest may be included in gross income of any owner of the Governmental Lender Note that is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code; and (b) such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

"Verification of Income" means a Verification of Income in the form attached as Exhibit E to this Regulatory Agreement or in such other form as (a) is acceptable to the Governmental Lender, or (b) is promulgated by the California Tax Credit Allocation Committee, so long as any such form contains the information needed to assure the Project is in compliance with the requirements of Sections 4 and 6 of this Regulatory Agreement.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of any gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. The Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting and revision of this Regulatory Agreement. Accordingly, the parties agree that any rule of rehabilitation to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

Section 2. Representations, Covenants and Warranties of the Borrower. The Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The statements made in the various certificates delivered by the Borrower to the Governmental Lender or the Funding Lender on the Closing Date are true and correct.

(b) The Borrower (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds of the Borrower Loan to be applied in a manner contrary to the requirements of the Borrower Loan Agreement or this Regulatory Agreement.

(c) The Borrower will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the exclusion from gross income for federal income tax purposes or the exemption from California personal income taxation of the interest on the Governmental Lender Note and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(d) The Borrower will take such action or actions as may be necessary, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, to comply fully with the Act, the Code and all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service to the extent necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Note.

(e) The proceeds of the loan to the Borrower under the Borrower Loan Agreement will be used to pay costs of the acquisition and rehabilitation of the Project and related costs. The commencement of the acquisition and rehabilitation by the Borrower of the Project occurred after the date which was 60 days prior to the Inducement Date. The Borrower has incurred a substantial binding obligation to expend proceeds of the Borrower Loan pursuant to which the Borrower is obligated to expend at least five percent (5%) of the maximum principal amount of the Borrower Loan.

(f) The Borrower will proceed with due diligence to complete the acquisition and rehabilitation of the Project and the full expenditure of the proceeds of the Borrower Loan. The Borrower reasonably expects to expend the full \$_____ authorized principal amount of the Borrower Loan for Project Costs by December 1, 2016.

(g) The Borrower's reasonable expectations respecting the total expenditure of the proceeds of the Borrower Loan have been accurately set forth in a certificate of the Borrower delivered to the Governmental Lender on the Closing Date. At all times, the aggregate disbursements of the proceeds of the Borrower Loan will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an amount equal to ninety-five percent (95%) or more of such disbursements, and less than twenty-five percent (25%) of such disbursements shall have been used to pay for the acquisition of land or an interest therein.

(h) The Borrower will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds from the Borrower Loan to be applied in a manner contrary to the requirements of the Borrower Loan Agreement, this Regulatory Agreement, the Act or the Code.

(i) On or as soon as practicable after the Completion Date of the Project, the Borrower will submit to the Governmental Lender (with a copy to the Funding Lender) a duly executed and completed Completion Certificate.

(j) The Borrower acknowledges that the Governmental Lender may appoint an Administrator other than the Governmental Lender to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with any reasonable request by the Governmental Lender or the Administrator to deliver to any such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator as an agent of the Governmental Lender.

(k) The Borrower agrees to expend towards the rehabilitation of the Project (such expenditures to constitute "rehabilitation expenditures" as defined in Section 147(d) of the Code), within two (2) years of the Closing Date, an amount at least equal to fifteen percent (15%) of the proceeds of the Borrower Loan used to acquire the buildings (and equipment) comprising the Project.

(l) Money on deposit in any fund or account in connection with the Borrower Loan or the Governmental Lender Note, whether or not such money was derived from other sources, shall not be used by or under the direction of the Borrower, in a manner which would cause the Governmental Lender Note to be an “arbitrage bond” within the meaning of Section 148 of the Code, and the Borrower specifically agrees that the investment of money in any such fund shall be restricted as may be necessary to prevent the Governmental Lender Note from being an “arbitrage bond” under the Code.

(m) All of the proceeds of the Funding Loan and earnings from the investment of such proceeds will be used to pay costs of the Project; and no more than two percent (2%) of the proceeds of the Funding Loan will be used to pay Costs of Funding.

(n) No portion of the proceeds of the Governmental Lender Note shall be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises. No portion of the proceeds of the Governmental Lender Note shall be used for an office unless the office is located on the premises of the facilities constituting the Project and unless not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

(o) The Borrower hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Borrower contained in the Tax Certificate.

(p) The Borrower shall comply with all applicable requirements of Section 65863.10 of the California Government Code, including the requirements for providing notices in Sections (b), (c), (d) and (e) thereof, and with all applicable requirements of Section 65863.11 of the California Government Code.

(q) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Governmental Lender Note and the Borrower Loan Documents to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Governmental Lender for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender in any manner except to issue the Governmental Lender Note in order to provide funds to assist the Borrower in acquiring and constructing the Project.

(r) Notwithstanding the provisions of Section 5.35 of the Borrower Loan Agreement, and in addition thereto, the Borrower agrees to obtain a written report from an independent firm with experience in calculating excess investment earnings for purposes of Section 148(f) of the Code, not less than once on or about each five year anniversary of the Closing Date and within thirty (30) days of the date the Governmental Lender Note have been paid in full, determining that either (i) no excess investment

earnings subject to rebate to the federal government under Section 148(f) of the Code have arisen with respect to the Governmental Lender Note in the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Note, have arisen since the last five-year report); or (ii) excess investment earnings have so arisen during the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Note, have arisen since the last five-year report), and specifying the amount thereof that needs to be rebated to the federal government and the date by which such amount needs to be so rebated. The Borrower shall provide a copy of each report prepared in accordance with the preceding sentence to the Governmental Lender, each time within one week of its receipt of the same from the independent firm that prepared the respective report.

Section 3. Qualified Residential Rental Project. The Borrower hereby acknowledges and agrees that the Project is to be owned, managed and operated as a “qualified residential rental project” (within the meaning of Section 142(d) of the Code) for a term equal to the Qualified Project Period. To that end, and for the term of this Regulatory Agreement, the Borrower hereby represents, covenants, warrants and agrees as follows:

(a) The Project will be acquired, rehabilitated and operated for the purpose of providing multifamily residential rental property for seniors. The Borrower will own, manage and operate the Project as a project to provide multifamily residential rental property for seniors comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with Section 142(d) of the Code, Section 1.103-8(b) of the Regulations and the provisions of the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in the Project are and will be similarly constructed units, and each dwelling unit in the Project contains complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a household, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis and the Borrower will not rent any of the units for a period of less than thirty (30) consecutive days, and none of the dwelling units in the Project will at any time be leased or rented for use as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

(d) No part of the Project will at any time during the Qualified Project Period be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or use, and the Borrower will not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period (except that the Borrower may obtain final map approval and the Final Subdivision Public Report from the California Department of Real Estate and may file a condominium plan with the City of Walnut Creek).

(e) All of the dwelling units in the Project will be available for rental during the Qualified Project Period on a continuous basis to members of the general public, on a first-come first-served basis, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except (i) not more than one unit may be set aside for resident manager or other administrative use, (ii) to the extent that dwelling units are required to be leased or rented to Low Income Tenants hereunder, and (iii) to the extent units in the Project are required to be leased to seniors or otherwise pursuant to the documents evidencing and otherwise related to the Subordinate Debt.

(f) The Project site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the facilities of the Project comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) The Borrower shall not discriminate on the basis of race, creed, color, sex, source of income (e.g. AFDC, SSI), physical disability, age (except as may be required under any of the documents described in Section 3(e)(iii)), national origin or marital status in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(h) No dwelling unit in the Project shall be occupied by the Borrower. Notwithstanding the foregoing, if the Project contains five or more dwelling units, this subsection shall not be construed to prohibit occupancy of dwelling units by one or more resident managers or maintenance personnel any of whom may be the Borrower; provided that the number of such managers or maintenance personnel is not unreasonable given industry standards in the area for the number of dwelling units in the Project.

(i) The Borrower will not sell dwelling units within the Project.

(j) In accordance with Section 147(b) of the Code, the average maturity of the Governmental Lender Note does not exceed 120% of the average reasonably expected remaining economic life of the facilities being financed by the Governmental Lender Note.

(k) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the Governmental Lender from enforcing the requirements of the applicable Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the applicable Regulations, it will either prepay the Borrower Loan or, if permitted under the provisions of the Borrower Loan Agreement, apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the applicable Regulations.

The Governmental Lender hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code.

Section 4. Low Income Tenants; Reporting Requirements. Pursuant to the requirements of the Code, the Borrower hereby represents, warrants and covenants as follows:

(a) During the Qualified Project Period, not less than forty percent (40%) of the units in the Project will be occupied by, or held vacant and available for occupancy by, Low Income Tenants. For the purposes of this paragraph (a), a vacant unit which was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined.

Notwithstanding the foregoing provisions of this Section 4(a), the Borrower shall not be in default under such requirements so long as (i) the Borrower uses its best efforts to comply with such requirements as soon as practicable following the Closing Date, and (ii) any unit in the Project which becomes available for rental following the Closing Date is rented to a Low Income Tenant as necessary to satisfy the requirements of Section 4(a). In no event, however, shall the Borrower fail to comply with the foregoing provisions of this Section 4(a) of this Regulatory Agreement by December 1, 2016.

(b) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants. However, should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit for a Low Income Tenant of the same household size, the next available unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant. Until such next available unit is rented to a Low Income Tenant, the former Low Income Tenant who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant for purposes of the Low Income Unit requirements of Section 4(a) hereof (but shall not be so deemed to continue to be a Low Income Tenant upon the rental of an available unit of comparable or smaller size to a tenant who is not a Low Income Tenant).

(c) For the Qualified Project Period, the Borrower will obtain, complete, and maintain on file Verification of Income certifications for each Low Income Tenant, including (i) a Verification of Income dated immediately prior to the initial occupancy of such Low Income Tenant in the Project, and (ii) thereafter, an annual Verification of Income with respect to each Low Income Tenant within thirty days before or after the anniversary of such tenant's initial occupancy of a unit in the Project. In lieu of obtaining an annual Verification of Income, the Borrower may, with respect to any particular twelve-month period ending December 1 of each year, deliver to the Administrator no later than fifteen (15) days after such date, a certification that as of the respective December 1, no unit in the Project was occupied within the preceding twelve (12) months by a new resident whose income exceeded the limit applicable to Low Income Tenants upon admission to the Project. The Administrator may at any time and in its sole and absolute

discretion notify the Borrower in writing that it will no longer accept certifications of the Borrower made pursuant to the preceding sentence and that the Borrower will thereafter be required to obtain annual Verifications of Income for tenants.

The Borrower also will provide such additional information as may be required in the future by the State of California, by the Governmental Lender, by CDLAC and by the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to Tax-Exempt obligations. Upon request of the Administrator or the Governmental Lender, copies of Verification of Income for Low Income Tenants commencing or continuing occupation of a Low Income Unit shall be submitted to the Administrator or the Governmental Lender, as requested.

The Borrower shall make a good faith effort to verify that the income information provided by an applicant in a Verification of Income is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) obtain a credit report or conduct a similar type credit search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification reasonably acceptable to the Governmental Lender.

(d) The Borrower will maintain complete and accurate records pertaining to the Low Income Units and will permit any duly authorized representative of the Governmental Lender, the Administrator, the Funding Lender, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(e) The Borrower will prepare and submit quarterly, on or before each April 15 (for the quarterly period ending March 30), July 15 (for the quarterly period ending June 30), October 15 (for the quarterly period ending September 30) and January 15 (for the quarterly period ending December 31) during the Qualified Project Period rent rolls and other information required by the FOCUS Program. The Borrower will also prepare and submit quarterly, on or before each April 15 (for the quarterly period ending March 30), July 15 (for the quarterly period ending June 30), October 15 (for the quarterly period ending September 30) and January 15 (for the quarterly period ending December 31) during the Qualified Project Period to the Administrator (with a copy to the Funding Lender), a Certificate of Continuing Program Compliance executed by the Borrower stating (i) the percentage of the aggregate of the dwelling units of the Project which were occupied or deemed occupied, pursuant to subsection (a) hereof, by Low Income Tenants during the preceding applicable quarterly period; and (ii) that either (A) no unremedied default has occurred under this Regulatory Agreement, or (B) a default has occurred, in

which event the certificate shall describe the nature of the default in detail and set forth the measures being taken by the Borrower to remedy such default.

During the Qualified Project Period, the Borrower shall submit a completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, to the Secretary of the Treasury on or before March 31 of each year (or such other date as may be required by the Code).

(f) For the Qualified Project Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement. All leases pertaining to Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit: (i) certifies the accuracy of the statements made in the Verification of Income; (ii) agrees that the household income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Funding Lender or the Administrator on behalf of the Governmental Lender, and that the failure to provide accurate information in the Verification of Income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Borrower has relied on the Verification of Income and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the Low Income Unit and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with Section 4(c) hereof and that if upon any such certification such tenant's Adjusted Income exceeds the applicable Low Income Tenant income limit under Section 4(b), such tenant may cease to qualify as a Low Income Tenant, and such tenant's rent is subject to increase.

Section 4A. Additional Requirements of the Governmental Lender. In addition to the requirements set forth elsewhere in this Regulatory Agreement and to the extent not prohibited by the requirements set forth in Sections 4, 5 and 6 hereof, the Borrower hereby agrees to comply with each of the requirements of the Governmental Lender set forth in this Section 4A, as follows:

(a) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Governmental Lender, in a reasonable condition for proper audit and subject to examination upon reasonable notice (which need not be in excess of three Business Days, as defined in the Funding Loan Agreement) and during business hours by representatives of the Governmental Lender.

(b) The Borrower shall not discriminate on the basis of race, creed, color, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. AFDC and SSI), ancestry or handicap in the lease, use or occupancy of the Project (except as required to comply with Section 3(e)(iii)), or in connection with the employment or application for employment of persons for the rehabilitation, operation, or management of the Project.

(c) The Borrower shall not permit occupancy in any unit in the Project by more than (i) two persons per bedroom in the unit, plus (ii) one person; and the Borrower shall at all times offer for rent the largest unit then available for the applicable household size (being one bedroom units for 2-3 person households, and two bedroom units for 4-5 person households).

(d) The Borrower shall pay directly to the Governmental Lender (i) on the Closing Date the Governmental Lender Issuance Fee and the Governmental Lender Annual Fee for the period from the Closing Date to but not including December 1, 2016, and (ii) on each December 1, on and after December 1, 2016, the Governmental Lender Annual Fee; without in either case any requirement for notice or billing of the amount due. In addition, the Borrower shall pay to the Governmental Lender promptly following receipt of an invoice that reasonably identifies the relevant expenses and the amounts thereof, any out of pocket expenses incurred by the Governmental Lender in connection with the Governmental Lender Note, the Funding Loan Agreement, this Regulatory Agreement or the Borrower Loan Agreement, including but not limited to any costs related to the FOCUS Program.

(e) The rent limits set forth in Sections 6(b) and 6(f) shall apply to all Low Income Units. In addition, the rental payments paid by Low Income Tenants for the Low Income Units shall not exceed Affordable Rents.

(f) The Borrower will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective tenants, nor shall the Borrower apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of units by such prospective tenants.

(g) The Borrower shall submit to the Governmental Lender: (i) rent rolls and other information required by the FOCUS Program on a quarterly basis as specified in Section 4(e), and (ii) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by the Governmental Lender in order to comply with reporting requirements of the Internal Revenue Service or the State.

(h) The Borrower shall pay to the Governmental Lender, to the extent not paid pursuant to the Borrower Loan Agreement or the Funding Loan Agreement, all of the amounts required by Sections 2.5 and 5.14 of (and otherwise under) the Borrower Loan Agreement and shall indemnify the Governmental Lender as provided in Section 9 hereof and Section 5.15 of the Borrower Loan Agreement.

(i) The Governmental Lender may, at its option and at its expense, at any time appoint an Administrator to administer this Agreement or any provision hereof and to monitor performance by the Borrower of all or of any of the terms, provisions and requirements hereof. Following any such appointment, the Borrower shall comply with

any request by the Governmental Lender to deliver to such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by such administrator as an agent of the Governmental Lender.

(j) The Borrower shall submit its written management policies with respect to the Project, if any, to the Governmental Lender for its review, and shall amend such policies in any way necessary to insure that such policies comply with the provisions of this Regulatory Agreement and the requirements of the existing program under Section 8 of the Housing Law, or its successors. The Borrower shall not promulgate management policies which conflict with the provisions of the addendum to the form of lease for the Project prepared by the Housing Authority of Contra Costa County, and shall attach such addendum to leases for tenants which are holders of Section 8 certificates.

(k) The Borrower shall screen and select tenants for desirability and creditworthiness at its discretion; provided, however, that the Borrower shall consider a prospective tenant's rent history for at least the one year period prior to application as evidence of the tenant's ability to pay the applicable rent.

(l) At least six months prior to the expiration of the Qualified Project Period the Borrower shall provide by first-class mail, postage prepaid, a notice to all tenants in the Low Income Units containing (i) the anticipated date of the expiration of the Qualified Project Period, (ii) any anticipated rent increase upon the expiration of the Qualified Project Period, (iii) a statement that a copy of such notice will be sent to the Governmental Lender, and (iv) a statement that a public hearing may be held by the Governmental Lender on the issue and that the tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Borrower shall also file a copy of the above-described notice with the Community Development Bond Program Manager of the Department of Conservation and Development of the Governmental Lender.

(m) Notwithstanding Section 1461 of the Civil Code, the provisions of this Section shall run with land and may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with the provisions of this Section.

(n) The Borrower shall not participate in any refunding of the Governmental Lender Note or the Funding Loan by means of the issuance of bonds or other obligations by any governmental body other than the Governmental Lender.

(o) Each of the requirements of Sections 3, 4, 6 and 7 hereof is hereby incorporated as a specific requirement of the Governmental Lender, whether or not required by California or federal law.

(p) The requirements of Section 6 and this Section 4A shall be in effect for the Qualified Project Period.

Any of the foregoing requirements of the Governmental Lender contained in this Section 4A may be expressly waived by the Governmental Lender in writing, but (i) no waiver by the Governmental Lender of any requirement of this Section 4A shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Tax Counsel that any such provision is not required by the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Governmental Lender Note for federal income tax purposes; and (ii) any requirement of this Section 4A shall be void and of no force and effect if the Governmental Lender and the Borrower receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Governmental Lender Note to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Act or any other State or federal law.

Section 5. Tax-Exempt Status of the Governmental Lender Note. The Borrower and the Governmental Lender, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Borrower and the Governmental Lender will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt nature of the interest on the Governmental Lender Note and, if either of them should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Borrower and the Governmental Lender will file of record such documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Borrower, the Governmental Lender and the Funding Lender, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County.

Section 6. Additional Requirements of the Act. In addition to the requirements set forth elsewhere in this Regulatory Agreement, so long as the Governmental Lender Note is outstanding the Borrower hereby agrees to comply with each of the requirements of the Act applicable to the Project. Without limiting the foregoing, the Borrower agrees as follows:

(a) As provided in Section 52080(a)(1)(B) of the Act, forty percent (40%) or more of the aggregate of the completed residential units in the Project shall be occupied by, or held vacant and available for occupancy by, lower income tenants within the meaning of Section 52080(a)(1) of the Act (it being acknowledged that units required to be set aside for Low Income Tenants pursuant to Section 4(a) may be counted for purposes of satisfying the requirements of this Section 6(a) if the related Low Income Tenants otherwise satisfy the requirements of this Section 6(a)).

(b) The rental payments paid by the occupants of the units described in paragraph (a) of this Section (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed thirty percent of sixty percent (60%) of area median income.

(c) The Borrower shall accept as tenants, on the same basis as all other prospective tenants, Low Income Tenants who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Law. The selection criteria applied to certificate holders under Section 8 of the Housing Law shall not be more burdensome than the criteria applied to all other prospective tenants.

(d) The Borrower shall ensure that units occupied as required by paragraph (a) of this Section are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(e) As provided in Section 52080(e) of the Act, the Project may be syndicated after prior written approval of the Governmental Lender. The Governmental Lender shall grant that approval only after it determines that the terms and conditions of the syndication (1) shall not reduce or limit any of the requirements of the Act or regulations adopted or documents executed pursuant to the Act, (2) shall not cause any of the requirements in this Agreement to be subordinated to the syndication agreement, or (3) shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement. The Governmental Lender hereby acknowledges that this Section 6(e) does not apply to the syndication of federal tax credits for the Project as contemplated by the Borrower's partnership agreement.

(f) Following the expiration or termination of the Qualified Project Period, except in the event of foreclosure and redemption of the Governmental Lender Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to Section 6(a) shall remain available to any eligible household occupying a reserved unit at the date of such expiration or termination, at a rent not greater than the amount required by Section 6(b), until the earliest of any of the following occur:

(1) The household's income exceeds one hundred-forty percent (140%) of the maximum eligible income specified in Section 6(a).

(2) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health, safety, occupancy or quiet enjoyment of other persons or the structure, the fiscal integrity of the Project, or the purposes or special programs of the Project.

(3) Thirty years after the date of commencement of the Qualified Project Period.

(4) The Borrower pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(g) Except in the event of foreclosure and prepayment of the Governmental Lender Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, during the three years prior to expiration of the Qualified Project Period, the Borrower shall continue to make available to eligible households reserved units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(h) This Section shall not be construed to require the Governmental Lender to monitor the Borrower's compliance with the provisions of paragraph (f), or that the Governmental Lender shall have any liability whatsoever in the event of the failure by the Borrower to comply with any of the provisions of this Agreement.

(i) The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Borrower.

(j) This Regulatory Agreement shall be recorded in the office of the county recorder of the County, and shall be recorded in the grantor-grantee index to the names of the Borrower as grantor and to the name of the Governmental Lender as grantee.

Section 7. CDLAC Requirements. The acquisition, rehabilitation and operation of the Project and the financing thereof are and shall be in compliance with the conditions set forth in Exhibit A to the CDLAC Resolution (the "CDLAC Conditions"), as it may be amended, which conditions are incorporated herein by reference and are made a part hereof; provided, however, the Governmental Lender shall have no obligation under this Regulatory Agreement to monitor and enforce the Borrower's compliance with the CDLAC Conditions. The Borrower shall prepare and submit to CDLAC (with a copy to the Governmental Lender), at the times required by CDLAC, a Certificate of Compliance in substantially the form attached hereto as Exhibit B hereto (or in such other form as CDLAC may require), executed by an authorized representative of the Borrower.

The Borrower acknowledges that the CDLAC Conditions include the following:

(a) 35 of the units in the Project be restricted for a term of 55 years, 8 of which units must be rented or held vacant and available for rental for persons or families whose income is at 50% or below of the Area Median Gross Income, and 27 of which units must be rented or held vacant and available for rental by persons or families whose income is at 60% or below of Area Median Gross Income.

(b) A minimum of \$512,567 of public funds will be expended for the Project.

(c) The Project and/or the financing must comply with the requirements in paragraphs 13, 15, 17, 18 and 32a. of Exhibit A to the CDLAC Resolution.

(d) The Project must meet certain sustainable building standards utilizing certain landscaping and rehabilitation materials, as more fully provided in paragraph 27 of Exhibit A to the CDLAC Resolution.

The Borrower will promptly provide any information reasonably requested by the Governmental Lender in order for the Governmental Lender to comply with any regulations of CDLAC applicable to the CDLAC Resolution, the CDLAC Conditions, the Governmental Lender Note or the Project, including but not limited to Section 5144 of Article 11 of the CDLAC regulations.

The Borrower will promptly provide any information requested by the Governmental Lender in order for the Governmental Lender to complete any Annual Applicant Public Benefit and On-going Compliance Self Certification or otherwise to comply with any regulations of CDLAC applicable to the CDLAC Resolution, the CDLAC Conditions or the Project, including but not limited to Section 5144 of Article 11 of the CDLAC regulations.

The requirements of this Section 7 may be waived in writing by CDLAC in its sole and absolute discretion, without the consent of the Governmental Lender or the Funding Lender. CDLAC and the Governmental Lender each shall have the right (but not the obligation) to enforce the CDLAC Conditions and to pursue an action for specific performance or other available remedy at law or in equity, provided that any such action or remedy shall not materially adversely affect the interests and rights of the owner of the Governmental Lender Note.

Section 8. Modification of Covenants. The Borrower and the Governmental Lender hereby agree as follows:

(a) To the extent any amendments to the Act, the CDLAC Conditions, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, and if such requirements are applicable to the Project, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) To the extent that the Act, the CDLAC Conditions, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Tax Counsel filed with the Governmental Lender, the Funding Lender and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements, but only by written amendment signed by the Governmental Lender, in its sole discretion, and the Borrower, and only upon receipt by the Governmental Lender of the written opinion of Tax Counsel to the effect that such amendment will not affect the Tax-Exempt status of interest on the Governmental Lender Note or violate the requirements of the Act, and is otherwise in accordance with Section 22 hereof.

(c) The Borrower and the Governmental Lender shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary to effectuate the intent of this Section 8, and each of the Borrower and the Governmental Lender hereby appoints the Funding Lender as its true and lawful attorney-in-fact to execute, deliver

and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by Tax Counsel, as evidenced by receipt of the opinion required by paragraph (b) above) if either the Borrower or the Governmental Lender defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Governmental Lender or the Borrower, the Funding Lender shall take no action under this subsection (c) without first notifying the Borrower or the Governmental Lender, or both of them, as is applicable, and without first providing the Borrower or the Governmental Lender, or both, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this subsection (c) shall be construed to allow the Funding Lender to execute an amendment to this Regulatory Agreement on behalf of the Governmental Lender.

Notwithstanding any other provision of this Regulatory Agreement, whenever an opinion of Tax Counsel is required or requested to be delivered hereunder after the Closing Date, the Funding Lender, the Governmental Lender and the Borrower shall accept (unless otherwise directed in writing by the Governmental Lender) an opinion of Tax Counsel in such form and with such disclaimers as may be required so that such opinion will not be treated as a “covered opinion” for purposes of the Treasury Department regulations governing practice before the Internal Revenue Service (Circular 230), 31 CFR Part 10.

Section 9. Indemnification.

(a) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Administrator and each of their respective past, present and future officers, members of the Governmental Lender’s Board of Supervisors, directors, officials, employees and agents (collectively, the “Indemnified Parties”), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Governmental Lender Note, the Funding Loan Agreement, the Funding Loan, the Borrower Loan Agreement, the Borrower Loan, this Regulatory Agreement or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale or resale of the Governmental Lender Note or any interest therein;

(ii) any act or omission of the Borrower or any of its agents, contractors, servants, employees, tenants) or licensees in connection with the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or rehabilitation of, the Project or any part thereof;

(iii) any lien or charge upon payments by the Borrower to the Governmental Lender and the Funding Lender hereunder or under the Borrower Loan Agreement, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender in respect of any portion of the Project;

(iv) any violation of Article V of the Borrower Loan Agreement;

(v) the defeasance and/or prepayment, in whole or in part, of any of the Governmental Lender Note;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for any Governmental Lender Note or any of the documents relating to the Governmental Lender Note, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for any of the Governmental Lender Note of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(vii) any declaration of taxability of interest on any of the Governmental Lender Note, or allegations that interest on a Governmental Lender Note is taxable or any regulatory audit or inquiry regarding whether interest on a Governmental Lender Note is taxable; or

(viii) the Funding Lender's administration of the Borrower Loan Documents, or the exercise or performance of any of its powers or duties thereunder or under any of the Funding Loan Documents;

except (A) in the case of the foregoing indemnification of the Funding Lender or any of its respective officers, directors, officials, employees and agents, to the extent such damages are caused by the gross negligence or willful misconduct of an Indemnified Party; or (B) in the case of the foregoing indemnification of the Governmental Lender or any of its officers, members of its Board of Supervisors, officials, employees and agents, to the extent, with respect to any such Indemnified Party, such damages are caused by the willful misconduct of the respective Indemnified Party seeking indemnification. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if in the judgment of such

Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(b) The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses pursuant to Section 4A(a), this Section 9 and Section 20 shall survive the final payment or defeasance of the Governmental Lender Note and in the case of the Funding Lender any resignation or removal. The provisions of this Section shall survive the termination of this Regulatory Agreement.

(c) Nothing contained in this Section 9 shall cause the obligation of the Borrower to pay principal and interest on the Borrower Loan or amounts owing with respect to the Borrower Note to be a recourse obligation of the Borrower.

(d) The obligations of the Borrower under this Section are independent of any other contractual obligation of the Borrower to provide indemnity to the Governmental Lender or otherwise, and the obligation of the Borrower to provide indemnity hereunder shall not be interpreted, construed or limited in light of any other separate indemnification obligation of the Borrower. The Governmental Lender shall be entitled simultaneously to seek indemnity under this Section and any other provision under which it is entitled to indemnity.

Section 10. Consideration. The Governmental Lender has agreed to issue the Governmental Lender Note to provide funds to lend to the Borrower to finance the acquisition and rehabilitation of the Project, all for the purpose, among others, of inducing the Borrower to acquire, construct and operate the Project. In consideration of the issuance of the Governmental Lender Note by the Governmental Lender, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Governmental Lender and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Governmental Lender Note, in the exemption from State personal income taxation of interest on the Governmental Lender Note and in the Tax-Exempt status of the interest on the Governmental Lender Note. In performing their duties and obligations hereunder, the Governmental Lender, the Funding Lender and the Administrator may rely upon statements and certificates of the Low Income Tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Governmental Lender, the Funding Lender and the Administrator may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender, the Funding Lender or the Administrator hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Governmental Lender shall not be required to conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Governmental Lender or the Funding Lender by the Borrower with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

Section 12. Sale or Transfer of the Project. For the Qualified Project Period, the Borrower shall not, except as provided below and in accordance with the Borrower Loan Agreement and the Security Instrument, sell, transfer or otherwise dispose of the Project, in whole or in part, without the prior written consent of the Governmental Lender, which consent shall be given as promptly as practicable following: (A) the receipt by the Governmental Lender of evidence acceptable to the Governmental Lender that (1) the Borrower shall not be in default hereunder or under the Borrower Loan Agreement (which may be evidenced by a certificate of the Borrower) or the purchaser or assignee undertakes to cure any defaults of the Borrower to the reasonable satisfaction of the Governmental Lender; (2) the continued operation of the Project shall comply with the provisions of this Regulatory Agreement; (3) either (a) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size, rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects contained below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local government requirements applicable to such projects, or (b) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (a) above, or (c) the transferring Borrower or its management company will continue to manage the Project for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and (4) the person or entity which is to acquire the Project does not have pending against it, and does not have a history of, building code violations or significant and material complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the purchaser or assignee of any document requested by the Governmental Lender with respect to the assumption of the Borrower's obligations under this Regulatory Agreement and the Borrower Loan Agreement, including without limitation an instrument of assumption hereof, and delivery to the Governmental Lender of an opinion of such purchaser or assignee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee; (C) receipt by the Governmental Lender of an opinion of Tax Counsel addressed to the Governmental Lender and the Funding Lender to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note; (D) receipt by the Governmental Lender and Funding Lender of all fees and/or expenses then currently due and payable to the Governmental Lender and Funding Lender; (E) satisfaction of such other conditions or matters as are set forth in the Borrower Loan Agreement and the Security Instrument; and (F) such other conditions are met as the Governmental Lender may reasonably impose. The Governmental Lender hereby consents to a transfer of the Project by the Borrower to its general partner or its affiliate, if the Governmental Lender receives the documents listed in the preceding sentence. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 12 shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Nothing in this Section shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project. Upon any sale or other transfer which complies with this Regulatory Agreement, the Borrower shall be fully and automatically released from its obligations hereunder to the extent such obligations have been assumed by the transferee of the

Project. Any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 12, except that no consent of the Governmental Lender shall be required in the case of any transfer of the Project to a general partner of the Borrower or an affiliate of a general partner of the Borrower if any applicable conditions set forth in the Borrower Loan Agreement and any conditions set forth in the Security Instrument are satisfied and, in any event, the Borrower notifies the Governmental Lender in writing of any such transfer.

Notwithstanding anything contained in this Section 12 to the contrary, neither the consent of the Governmental Lender nor the delivery of items (A) through (F) of the preceding paragraph shall be required in the case of (a) the execution, delivery and recordation by Borrower of any mortgage or deed of trust encumbering all or any part of the Project, or (b) a foreclosure or deed in lieu of foreclosure by the Funding Lender whereby the Funding Lender or a purchaser at a foreclosure sale becomes the owner of the Project, and nothing contained in this Section 12 shall otherwise affect the right of the Funding Lender or a purchaser at a foreclosure sale to foreclose on the Project or to accept a deed in lieu of foreclosure. The Governmental Lender's consent otherwise required by item (A) of the preceding paragraph shall not be required in connection with any purchase of the Project by a partner of the Borrower as allowed for in the Borrower's partnership agreement. In addition, the provisions of this Section 12 shall not apply to (i) the replacement of the managing general partner of the Borrower by an entity formed by or that is a subsidiary of the initial managing general partner of the Borrower, (ii) the withdrawal of any limited partner of the Borrower from its partnership, (iii) any transfer of limited partnership interest in the Borrower and the admission of a substitute limited partner, (iv) any transfer of direct or indirect interests in any limited partner of the Borrower, or (v) any transfer of interests pursuant to the provisions of the Borrower's partnership agreement as in effect from time to time, including but not limited to the removal of a general partner of the Borrower and replacement thereof by an affiliate of a limited partner of the Borrower pursuant to the Borrower's partnership agreement; provided, however, that the Governmental Lender shall receive notice from the Borrower of any transfer of general partner interests.

For the Qualified Project Period, the Borrower shall not: (1) except pursuant to the provisions of this Regulatory Agreement, the Borrower Loan Agreement and the Security Instrument (and upon receipt by the Borrower of an opinion of Tax Counsel that such action will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note), or except upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement, subordinate or encumber any of the Project or grant commercial leases (not including any laundry, cable, management office equipment, resident service (including but not limited to convenience vending, or satellite television) or similar or related leases) of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 13. Term. This Regulatory Agreement shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided herein and shall terminate as to any provision not otherwise provided with a specific termination date and shall terminate in its entirety at the end of the Qualified Project Period, it being expressly agreed and

understood that the provisions hereof are intended to survive the retirement of the Governmental Lender Note and discharge of the Funding Loan Agreement, the Borrower Loan Agreement and the Security Instrument.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date that prevents the Governmental Lender and the Funding Lender from enforcing such provisions, or condemnation, foreclosure, transfer of title by deed in lieu of foreclosure, or a similar event, but only if, within a reasonable period, either the Governmental Lender Note is fully prepaid and no further amounts are owing in respect of the Funding Loan or amounts received as a consequence of such event are used to provide a project which meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure or the delivery of a deed in lieu of foreclosure or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

Section 14. Covenants to Run With the Land. Notwithstanding Section 1461 of the California Civil Code, the Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in interest to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 15. Burden and Benefit. The Governmental Lender and the Borrower hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Governmental Lender and the Borrower hereby further declare their understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Governmental Lender Note was issued.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

Section 17. Default; Enforcement. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given by the Governmental Lender or the Funding Lender to the Borrower (with a copy to the Equity Investor), or for a period of thirty (30) days from the date the Borrower should, with due diligence, have discovered such default, then the Governmental Lender or the Funding Lender, acting on its own behalf or on behalf of the Governmental Lender (to the extent directed in writing by the Governmental Lender, subject to the provisions of the Funding Loan Agreement), shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it cannot be corrected within thirty (30) days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said thirty (30) days and diligently pursues such action until the default is corrected, and (ii) in the opinion of Tax Counsel, the failure to cure said default within thirty (30) days will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note. The Governmental Lender and the Funding Lender shall have the right to enforce the obligations of the Borrower under this Regulatory Agreement within shorter periods of time than are otherwise provided herein if necessary in the opinion of Tax Counsel to insure compliance with the Act or the Code.

Any limited partner of the Borrower (including the Equity Investor) shall have the right but not the obligation to cure any Event of Default, and the Governmental Lender and the Funding Lender agree to accept any cure tendered by any such limited partner on behalf of the Borrower within any cure period specified above.

Following the declaration of an Event of Default hereunder the Governmental Lender, or the Funding Lender may, at their respective options, take any one or more of the following steps, in addition to all other remedies provided by law or equity:

- (i) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Governmental Lender or the Funding Lender hereunder;

- (ii) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project;

- (iii) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder;

- (iv) declare a default under the Borrower Loan Agreement and (subject to any applicable cure periods set forth in the Borrower Loan Agreement) proceed with any remedies provided therein; or

(v) order and direct the Borrower in writing to terminate the then Manager of the Project and to select a replacement Manager reasonably satisfactory to the Governmental Lender within 60 days of such written direction, and to notify the Governmental Lender in writing of the identity of the replacement Manager.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Governmental Lender may fully obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder.

The Funding Lender shall have the right (but no obligation), in accordance with this Section and the provisions of the Funding Loan Agreement, without the consent or approval of the Governmental Lender, to exercise any or all of the rights or remedies of the Governmental Lender hereunder; provided that prior to taking any such action the Funding Lender shall give the Governmental Lender written notice of its intended action. After the Funding Loan Agreement has been discharged, the Governmental Lender may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Funding Lender.

All fees, costs and expenses of the Funding Lender and the Governmental Lender incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

No breach or default under this Regulatory Agreement shall defeat or render invalid the Security Instrument or any like encumbrance upon the Project or any portion of either thereof given in good faith and for value.

Section 18. References to Funding Lender. After the date on which the Funding Loan has been paid in full, all references to the Funding Lender in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 19. Recording and Filing. (a) The Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto to be recorded and filed in the real property records of the County and in such other places as the Governmental Lender or the Funding Lender may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

(b) The Borrower and the Governmental Lender will file of record such other documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Governmental Lender and the Funding Lender, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Borrower hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project to another person (other than in any document granting a security interest to the Funding Lender and, provided, however, that no such assignment shall be required in connection with the transfer of the Project to the Funding Lender by foreclosure, deed in lieu of foreclosure

or comparable conversion of the Borrower Loan) to the end that such transferee has notice of, and is bound by, such restrictions, and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 20. Payment of Administration Fees. Notwithstanding any prepayment of the Borrower Loan and notwithstanding a discharge of the Borrower Loan Agreement, throughout the term of this Regulatory Agreement, the Borrower shall continue to pay to the Governmental Lender its fees described in Section 4.A.(d) and in the event of default, to the Administrator, the Governmental Lender and to the Funding Lender reasonable compensation for any services rendered by any of them hereunder and reimbursement for all expenses reasonably incurred by any of them in connection therewith.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State.

Section 22. Amendments; Waivers. (a) Except as otherwise provided in Section 8 above, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County, and only upon receipt by the Governmental Lender of an opinion from Tax Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Note and is not contrary to the provisions of the Act.

(b) Anything to the contrary contained herein notwithstanding, the Governmental Lender and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Tax Counsel, in order that interest on the Governmental Lender Note remain Tax-Exempt. The party requesting such amendment shall notify the other party to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Tax Counsel and a request that such Tax Counsel render to the Governmental Lender an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Governmental Lender Note. This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

(c) Any waiver of, or consent to, any condition under this Regulatory Agreement must be expressly made in writing.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses set forth below or at such other addresses as may be specified in writing by the parties hereto.

If to the Governmental Lender or the Administrator:	County of Contra Costa Department of Conservation and Development 30 Muir Road Martinez, California 94553 Attention: Community Development Bond Program Manager
If to the Funding Lender:	Citibank, N.A. 390 Greenwich Street, 2nd Floor New York, New York 10013 Attention: Transaction Management Group
and to:	Citibank, N.A. 325 East Hillcrest Drive, Suite 160 Thousand Oaks, California 91360 Attention: Operations Manager/ Asset Manager
prior to the Conversion Date, with a copy to:	Citibank, N.A. 390 Greenwich Street New York, New York 10013 Attention: Account Specialist
following the Conversion Date with a copy to:	Citibank, N.A., ISAOA c/o Berkadia Commercial Servicing Department P.O. Box 557 Ambler, Pennsylvania 19022 Attention: Client Relations Manager
and a copy of any notices of default sent to:	Citibank, N.A. 388 Greenwich Street, 17 th Floor New York, New York 10013 Attention: General Counsel's Office
If to the Borrower:	Oaks II, L.P. c/o EAH Inc. 2169 East Francisco Boulevard, Suite B San Rafael, CA 94901 Attention: Errol Dominguez Phone: (415) 295-8855 Facsimile: (415) 453-4927

with a copy to:

Bocarsly, Emden, Cowan, Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Nicole Deddens, Esq.
Phone: (213) 239-8029
Facsimile: (213) 559-0751

If to the Equity Investor:

Merritt Community Capital Fund XVIII, L.P.
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, CA 94612
Attention: Karen Smyda
Phone: (510) 444-7870

with a copy to:

Carle Mackie Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401-6376
Attention: Henry Loh III, Esq.
Phone: (707) 526-4200
Facsimile: (707) 526-4707

The Governmental Lender, the Administrator, the Funding Lender and the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission.

Section 24. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 25. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 26. Third Party Beneficiaries; Enforcement. The Funding Lender, the Administrator, the Equity Investor and CDLAC are intended to be and shall each be a third party beneficiary of this Regulatory Agreement. CDLAC shall have the right (but not the obligation) to enforce the CDLAC Conditions (as defined in Section 7) and to pursue an action for specific performance or other available remedy at law or in equity in accordance with Section 17 hereof, provided that any such action or remedy shall not materially adversely affect the interests and rights of the owner or owners of the Governmental Lender Note. Pursuant to Section 52080(k) of the Act, the requirements of Section 6 may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with the requirements of that Section.

Section 27. The Funding Lender. The Funding Lender shall be entitled, but shall have no duty, to act with respect to enforcement of the Borrower's performance hereunder. The Funding Lender, either on its own behalf or as the agent of and on behalf of the Governmental Lender, may, in its sole discretion, act hereunder and any act required to be performed by the Governmental Lender as herein provided shall be deemed taken if such act is performed by the Funding Lender. In connection with any such performance, all provisions of the Funding Loan Agreement and the Borrower Loan Agreement relating to the rights, privileges, powers and protections of the Funding Lender shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Funding Lender in connection with this Regulatory Agreement. Neither the Funding Lender nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith except for its or their own negligence or willful misconduct. The Funding Lender may consult with legal counsel selected by it (the reasonable fees of which counsel shall be paid by the Borrower) and any action taken or suffered by it reasonably and in good faith in accordance with the opinion of such counsel shall be full justification and protection to it. The Funding Lender may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing by or on behalf of the Governmental Lender, or unless it has actual knowledge of noncompliance.

After the date the Governmental Lender Note no longer remains outstanding as provided in the Funding Loan Agreement, the Funding Lender shall have no further rights, duties or responsibilities under this Regulatory Agreement, and all references to the Funding Lender in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 28. No Interference or Impairment of Loan. Notwithstanding anything herein to the contrary, (i) the occurrence of an event of default under this Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Borrower Loan Documents, except as may be otherwise specified in the Borrower Loan Documents, and shall not impair, defeat or render invalid the lien of the Security Instrument and (ii) neither of the Governmental Lender nor any other person shall:

- (a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Borrower Loan;

- (b) interfere with or attempt to interfere with or influence the exercise by the Funding Lender of any of its rights under the Borrower Loan Agreement, including, without limitation, the Funding Lender remedial rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Agreement; or

- (c) upon the occurrence of an event of default under the Borrower Loan Agreement, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan, it being understood and agreed that the Governmental Lender may not, without the prior written consent of the Funding Lender, on account of any default under this Regulatory Agreement, seek, in any manner, to cause the Borrower Loan to become due and payable, to enforce the Borrower Loan Agreement or to foreclose on the Security Instrument or cause the Funding Lender to foreclose or take

any other action under the Borrower Loan Documents, the Funding Loan Documents or any other documents which action would or could have the effect of achieving any one or more of the foregoing actions, events or results.

No person other than the Funding Lender shall have the right to declare the principal balance of the Borrower Loan to be immediately due and payable or to initiate foreclosure or other like action.

The forgoing prohibitions and limitations shall not in any way limit the rights of the Governmental Lender to specifically enforce this Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Code and the Act, and shall not be construed to limit the rights of the Governmental Lender to enforce its rights against the Borrower under the indemnification provisions of the Regulatory Agreement provided that the prosecution of a claim for indemnification shall not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

Notwithstanding the above, the provisions of this Section 28 shall not in any way limit or alter the Governmental Lender's authority, power or activities as a governmental regulatory agency pursuant to applicable laws and regulations relating to the Project or otherwise.

Section 29. Limitation on Borrower Liability. Notwithstanding any other provision or obligation to the contrary contained in this Regulatory Agreement, and except for the Borrower's obligations under Sections 9 and 20 of this Regulatory Agreement (which are not subject to the provisions and limitations of this Section 29) (i) the liability of the Borrower under this Regulatory Agreement to any person or entity, including, but not limited to, the Funding Lender or the Governmental Lender and their successors and assigns, is limited to the Borrower's interest in the Project, the revenues therefrom, including the amount held in the funds and accounts created under the Funding Loan Agreement and the Borrower Loan Documents, or any rights of the Borrower under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Regulatory Agreement or any other agreement securing the obligations of the Borrower under this Regulatory Agreement; and (ii) from and after the date of this Regulatory Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Regulatory Agreement, any agreement pertaining to the Project or any other agreement securing the Borrower's obligations under this Regulatory Agreement), shall be rendered against the Borrower, the assets of the Borrower (other than the Borrower's interest in the Project, this Regulatory Agreement, amounts held in the funds and accounts created under the Funding Loan Agreement and the Borrower Loan Documents, any rights of the Borrower under the Funding Loan Agreement and the Borrower Loan Documents or any other documents relating to the Governmental Lender Note or any rights of the Borrower under any guarantees relating to the Project), its partners, successors, transferees or assigns and each their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Regulatory Agreement and the Borrower Loan Agreement or any agreement securing the

obligations of the Borrower under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding.

Section 30. Limited Liability. All obligations of the Governmental Lender incurred under this Regulatory Agreement shall be limited obligations, payable solely and only from Funding Loan proceeds and other amounts derived by the Governmental Lender from the Borrower Loan or otherwise under the Borrower Loan Agreement.

Section 31. Conflict With Other Affordability Agreements. In the event of any conflict between the provisions of this Regulatory Agreement and any agreement referenced in Section 3(e)(iii) hereof, the provisions providing for the most affordable units, with the most affordability, in the Project shall prevail, so long as at all times the requirements of Section 2, 3, 4, 4A, 6 and 7 of this Regulatory Agreement are in any event satisfied. Notwithstanding the foregoing, a breach or default under any agreement referenced in Section 3(e)(iii) hereof shall not, in itself, constitute a breach or a default under this Regulatory Agreement.

IN WITNESS WHEREOF, the Governmental Lender and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

COUNTY OF CONTRA COSTA

By: _____
John Kopchik,
Director, Department of
Conservation and Development

OAKS II, L.P.,
a California limited partnership

By: Oaks EAH, LLC,
a California limited liability company,
its sole and managing general partner

By: Three Oaks Family Homes, Inc.,
a California nonprofit public benefit
corporation, its sole member

By: _____
Name: _____
Title: _____

[Signature Page to Regulatory Agreement – The Oaks Apartments]

NOTARY 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 _____

} ss.

On _____, before me, _____
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

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.

Signature _____ [Seal]
Notary Public

NOTARY 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 _____

} ss.

On _____, before me, _____
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

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.

Signature _____ [Seal]
Notary Public

EXHIBIT A

DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF WALNUT CREEK, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

[to come]

EXHIBIT B

FORM OF CERTIFICATE OF COMPLIANCE (CDLAC RESOLUTION)

Project Name: The Oaks Apartments

(If project has changed name since the award of allocation please note the original project name as well as the new project name)

Name of Bond Issuer: County of Contra Costa

CDLAC Application No.: 15-404

Pursuant to Section 13 of Resolution No. 15-101 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on September 16, 2015, I, _____, an Officer of the Project Sponsor, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with all of the terms and conditions set forth in the Resolution.

I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

Please check or write N/A to the items list below:

_____ The project is currently in the Construction or Rehabilitation phase.

_____ The project has incorporated the minimum specifications into the project design for all new rehabilitation and rehabilitation projects as evidenced by attached the applicable third party certification (HERS Rater, Green Point Rater or US Green Building Council). For projects under rehabilitation or rehabilitation, the information is due following receipt of the verification but in no event shall the documentation be submitted more than two years after the issuance of bonds.

_____ For projects that received points for exceeding the minimum requirements please attach the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate standards. The compliance form must be signed by a California Association of Building Consultants, Certified Energy Plans Examiner or HERS Rater as applicable.

Signature of Officer

Date

Printed Name of Officer

Title of Officer

Phone Number

EXHIBIT C

COMPLETION CERTIFICATE

The undersigned hereby certifies that the acquisition and rehabilitation of the Project was substantially completed as of _____.

The undersigned hereby further certifies that:

(1) the aggregate amount disbursed on the Borrower Loan to date is \$_____;

(2) all amounts disbursed on the Borrower Loan have been applied to pay or reimburse the undersigned for the payment of Project Costs and none of the amounts disbursed on the Borrower Loan have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs;

(3) at least ninety-five percent (95%) of the amounts disbursed on the Borrower Loan have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs, and less than 25 percent of all such disbursements have been used for the acquisition of land or an interest therein; and

(4) the Borrower is in compliance with the provisions of Section 5.34 of the Borrower Loan Agreement.

Capitalized terms used in this Completion Certificate have the meanings given such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2015, between Oaks II, L.P., a California limited partnership and the County of Contra Costa, California.

OAKS II, L.P., a California limited partnership

By: _____

Its: _____

EXHIBIT D

[INTENTIONALLY OMITTED]

EXHIBIT E

FORM OF VERIFICATION OF INCOME

TENANT INCOME CERTIFICATION

☐ Initial Certification
 ☐ 1st Recertification
 ☐ Other:

Effective Date:
 Move-in Date:
 (YYYY-MM-DD)

PART I - DEVELOPMENT DATA

Property Name: The Oaks Apartments County: Contra Costa BIN #:
 Address: 3073 North Main Street, Walnut Creek, CA Unit Number: # Bedrooms:

PART II. HOUSEHOLD COMPOSITION

☐ Vacant

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (YYYY/MM/DD)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL
INCOME (E):

\$

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$	\$
Enter Column (H) Total If over \$5000			\$	
Passbook Rate				
X 2.00%			= (J) Imputed Income	\$

Enter the greater of the total of column I, or J: imputed income (K)	TOTAL INCOME FROM ASSETS	\$
(L) Total Annual Household Income from all Sources [Add (E) + (K)]		\$

Effective Date of Move-in Income Certification:

Household Size at Move-in Certification:

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature	_____ (Date)	_____ Signature	_____ (Date)
_____ Signature	_____ (Date)	_____ Signature	_____ (Date)

PART V. DETERMINATION OF INCOME ELIGIBILITYTOTAL ANNUAL HOUSEHOLD
INCOME FROM ALL SOURCES:
From item (L) on page 1

\$

Unit Meets Income
Restriction at:☐ 60% ☐ 50%☐ 40% ☐ 30%☐ %**RECERTIFICATION ONLY:**

Current Income Limit x 140%:

\$

Household Income exceeds 140%
at recertification:☐ Yes ☐ No

Current Income Limit per Family Size: \$

Household Income at Move-in: \$

Household Size at Move-in: _____

PART VI. RENTTenant Paid Rent \$
Utility Allowance \$Rent Assistance: \$
Other non-optional charges: \$GROSS RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance &
other non-optional charges)

\$

Unit Meets Rent Restriction at:

☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ %

Maximum Rent Limit for this unit: \$

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ noIf yes, Enter student explanation*
(also attach documentation)

Enter 1-5

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐

See Part V above.

b. HOME ☐

Income Status

☐ ≤ 50% AMGI
☐ ≤ 60% AMGI
☐ ≤ 80% AMGI
☐ OI**c. Tax Exempt ☐

Income Status

☐ 50% AMGI
☐ 60% AMGI
☐ 80% AMGI
☐ OI**d. AHDP ☐

Income Status

☐ 50% AMGI
☐ 80% AMGI
☐ OI**e. ☐
(Name of Program)

Income Status

☐ _____
☐ _____
☐ OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE
--

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Project Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

*Move-in Date	Enter the date the tenant has or will take occupancy of the unit. (YYYY-MM-DD)
*Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. (YYYY-MM-DD)
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
*Vacant Unit	Check if unit was vacant on December 31 of requesting year.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and last four digits of social security number or alien registration number for each occupant. If tenant does not have a Social Security Number (SSN) or alien registration number, please enter the numerical birth month and last two digits of birth year (e.g. birthday January 1, 1970, enter "0170"). If tenant has no SSN number or date of birth, please enter the last 4 digits of the BIN.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (E) and (K) and enter the total
*Effective Date of Income Certification	Enter the effective date of the income certification corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the effective date listed in Part I.

*Household Size
at
Certification

Enter the number of tenants corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the number of tenants listed in Part II.

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.
*Units Meets Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check “yes”. If at least one household member is not a full time student, check “no”.

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Full time is determined by the school the student attends.

Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Tenant Demographic Profile	Complete for each member of the household, including minors, for move-in. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.
Resident/Applicant Initials	All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren).

** Please note areas with asterisks are new or have been modified. Please ensure to note the changes or formats now being requested.*

TENANT INCOME CERTIFICATION QUESTIONNAIRE

Name: _____ Telephone Number: _____ () _____

<input type="checkbox"/> Initial Certification <input type="checkbox"/> Re-certification <input type="checkbox"/> Other	BIN # _____ Unit # _____
---	---------------------------------

INCOME INFORMATION

Yes	No		MONTHLY GROSS INCOME
<input type="checkbox"/>	<input type="checkbox"/>	I am self employed. (List nature of self employment)	(use <u>net</u> income from business) \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation: List the businesses and/or companies that pay you: <div style="text-align: center;"> <u>Name of Employer</u> 1) _____ 2) _____ 3) _____ </div>	\$ _____ \$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive unemployment benefits.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic social security payments.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	The household receives <u>unearned</u> income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.).	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive Supplemental Security Income (SSI).	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive disability or death benefits other than Social Security.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive Public Assistance Income (examples: TANF, AFDC)	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I am entitled to receive child support payments.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I am currently receiving child support payments.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	If yes, from how many persons do you receive support? _____ I am currently making efforts to collect child support owed to me. List efforts being made to collect child support: _____ _____	
<input type="checkbox"/>	<input type="checkbox"/>	I receive alimony/spousal support payments	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings. If yes, list sources: 1) _____ 2) _____	\$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive income from real or personal property.	(use <u>net</u> earned income) \$ _____

<input type="checkbox"/>	<input type="checkbox"/>	Student financial aid (public or private, not including student loans)	
		Subtract cost of tuition from Aid received	\$

Asset information

YES	NO		INTEREST RATE	CASH VALUE
<input type="checkbox"/>	<input type="checkbox"/>	I have a checking account(s). If yes, list bank(s) 1) 2)	% %	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a savings account(s) If yes, list bank(s) 1) 2)	% %	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a revocable trust(s) If yes, list bank(s) 1)	%	\$
<input type="checkbox"/>	<input type="checkbox"/>	I own real estate. If yes, provide description:		\$
<input type="checkbox"/>	<input type="checkbox"/>	I own stocks, bonds, or Treasury Bills If yes, list sources/bank names 1) 2) 3)	% % %	\$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have Certificates of Deposit (CD) or Money Market Account(s). If yes, list sources/bank names 1) 2) 3)	% % %	\$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have an IRA/Lump Sum Pension/Keogh Account/401K. If yes, list bank(s) 1) 2)	% %	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a whole life insurance policy. If yes, how many policies		\$
<input type="checkbox"/>	<input type="checkbox"/>	I have cash on hand.		\$
<input type="checkbox"/>	<input type="checkbox"/>	I have disposed of assets (i.e. gave away money/assets) for less than the fair market value in the past 2 years. If yes, list items and date disposed: 1) 2)		\$ \$

STUDENT STATUS

YES NO

<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who are <u>full-time</u> students (Examples: College/University, trade school, etc.)?
<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who have been a <u>full-time</u> student in the previous 5 months?
<input type="checkbox"/>	<input type="checkbox"/>	Does your household anticipate becoming an all full-time student household in the next 12 months?
<input type="checkbox"/>	<input type="checkbox"/>	If you answered yes to any of the previous three questions are you:
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none">• Receiving assistance under Title IV of the Social Security Act (AFDC/TANF/Cal Works - not SSA/SSI)• Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program• Married and filing (or are entitled to file) a joint tax return• Single parent with a dependant child or children and neither you nor your child(ren) are dependent of another individual• Previously enrolled in the Foster Care program (age 18-24)
<input type="checkbox"/>	<input type="checkbox"/>	

UNDER PENALTIES OF PERJURY, I CERTIFY THAT THE INFORMATION PRESENTED ON THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. THE UNDERSIGNED FURTHER UNDERSTANDS THAT PROVIDING FALSE REPRESENTATIONS HEREIN CONSTITUTES AN ACT OF FRAUD. FALSE, MISLEADING OR INCOMPLETE INFORMATION WILL RESULT IN THE DENIAL OF APPLICATION OR TERMINATION OF THE LEASE AGREEMENT.

PRINTED NAME OF APPLICANT/TENANT_____
SIGNATURE OF APPLICANT/TENANT_____
DATE_____
WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE)_____
DATE

EXHIBIT F

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

GOLDEN OAK MANOR

Witnesseth that on this ____ day of _____, 20__, the undersigned, having borrowed certain funds from the County of Contra Costa, California (the "Governmental Lender") for the purpose of financing the above-listed multifamily rental housing development (the "Project"), does hereby certify that:

A. During the preceding twelve-months (i) the Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Governmental Lender, (ii) ____% of the units in the Project were occupied by Low Income Tenants (minimum of 40%).

B. Set forth below is certain information regarding occupancy of the Project as of the date hereof.

1. Total Units: _____
2. Total Units Occupied: _____
3. Total Units Held Vacant and Available for Rent
to Low Income Tenants _____
4. Total Low Income Units Occupied: _____
5. % of Low Income Units to Total Units % _____%
*(equals the Total of Lines 3 and 4, divided by the
lesser of Line 1 or Line 2)*

C. The units occupied by Low Income Tenants are of similar size and quality to other units and are dispersed throughout the Project.

D. Select appropriate certification: [No unremedied default has occurred under the Regulatory Agreement, the Borrower Note, Borrower Loan Agreement or the Security Instrument.] [A default has occurred under the _____. The nature of the default and the measures being taken to remedy such default are as follows: _____.]

E. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief.

Capitalized terms used in this Certificate and not otherwise defined herein have the meanings given to such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2015, between the Governmental Lender and Oaks II, L.P., a California limited partnership.

Date: _____

OAKS II, L.P., a California limited partnership

By: _____

Its: _____

AFTER RECORDING RETURN TO:

Citibank, N.A.
Transaction Management Group/Post Closing
390 Greenwich Street, 2nd Floor
New York, NY 10013
Attn: Tanya Jimenez

Citi Deal Id #[_____]

ASSIGNMENT OF DEED OF TRUST

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF CONTRA COSTA, CALIFORNIA, a political subdivision and body corporate and politic, organized and existing under the laws of the State of California ("**Assignor**"), pursuant to that certain Funding Loan Agreement of even date herewith ("**Funding Loan Agreement**") between Assignor and **CITIBANK, N.A.** ("**Assignee**"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents assign, without recourse, to Assignee all of Assignor's right, title and interest in and to, subject to the Unassigned Rights (as defined in the Funding Loan Agreement), and its obligations under (except for such obligations as cannot be assigned as a matter of law) the instruments ("**Assigned Instruments**") described on Schedule 1 attached hereto. This Assignment is dated for reference purposes only as of the 1st day of December, 2015, and will not be effective and binding on the parties hereto unless and until the Closing Date occurs.

TOGETHER with the Note described in the Assigned Instruments, and the money due and to become due thereon, with the interest thereon, TO HAVE AND TO HOLD the same unto the said Assignee forever, subject only to all the provisions contained therein, AND the said Assignor hereby constitutes and appoints the Assignee as the Assignor's true and lawful attorney, irrevocable in law or in equity, in the Assignor's name, place and stead, but at Assignee's cost and expense, to have, use and take all lawful ways and means for the recovery of all of the said money and interest; and in case of payment, to discharge the same as fully as the Assignor might or could if these presents were not made.

Overriding Limitations. In no event shall Assignor:

(i) prosecute its action to a lien on the Project (as defined in that certain Borrower Loan Agreement) by and between Oaks II, L.P., a California limited partnership ("**Borrower**"), and Assignor (the "**Loan Agreement**"); or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of Borrower to timely pay the principal of, interest on, or other amounts due under, the Loan or of causing Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by Assignee or Servicer of any of their rights under the Loan Documents upon the occurrence of an event of default by Borrower under the Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Loan.

Definitions. All capitalized terms that are used and are not defined herein shall have the respective meanings ascribed to them in the Loan Agreement. In all references herein to any parties, persons, entities or corporations the use of any particular gender on the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Assignment of Deed of Trust or caused this Assignment of Deed of Trust to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

ASSIGNOR:

COUNTY OF CONTRA COSTA, CALIFORNIA

By: _____
John Kopchik
Director, Department of Conservation and
Development

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 _____)
)
COUNTY OF _____)

On _____, 20__ 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 _____
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Seal)

**SCHEDULE 1
TO
ASSIGNMENT OF DEED OF TRUST**

ASSIGNEE:

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attn: Desk Head, Transaction Management Group

ASSIGNED INSTRUMENTS:

1. Multifamily Note by Borrower to Assignor dated as of December [___], 2015, in the original principal amount of up to \$[7,100,000].
2. Borrower Loan Agreement by and between Assignor and Borrower dated as of December 1, 2015.
3. Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof executed by Borrower for the benefit of Assignor, which is being recorded immediately prior hereto in the Recorder's Office of Contra Costa County, California and encumbers the real property (and improvements thereon) that is more particularly described on **Exhibit A**.

EXHIBIT A

LEGAL DESCRIPTION

That certain real property situated in the City of Walnut Creek, County of Contra Costa, State of California, more particularly described as follows:

[_____]



Contra
Costa
County

To: Board of Supervisors
From: Jessica Hudson, County Librarian
Date: November 17, 2015

Subject: ACCEPT the Librarian's Status Report on the Wilruss Children's Library Trust

RECOMMENDATION(S):

ACCEPT the Fiscal Year 2014-15 Wilruss Children's Library Trust Fund Status Report..

FISCAL IMPACT:

No fiscal impact. This is an informational report.

Balance in fund at the end of the previous year (6/30/14)	\$1,753,640
Amount in the fund at the end of the current year (6/30/15)	\$1,798,720
Amount received during the current year	\$45,246
Amount expended during the current year	\$144
Amount available for expenditure as of 6/30/15	\$91,142

Interest was earned in FY 2014-15 at a weighted average yield of 1.405%.

Interest yields continue to decline, from a weighted average of 1.918% in FY 2012-13 and 1.589% in FY 2013-14.

During FY 2014-15, the principal was invested by the County Treasurer using a laddered approach with yields ranging from 0.780% to 2.667%, and maturity dates ranging from 2014 to 2020 (see Attachment A).

The trust principal amount earned interest at a rate of 6.6% in Fiscal Years 1998-99 through 1999-2001. A portion of those earnings were spent in Fiscal Years 2001-02 through 2008-09, when interest rates were lower, in order to continue the program at the same level of service. Beginning in 2009-10 expenditures from the trust have been

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/17/2015 ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Alison McKee,
925-927-3290

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

FISCAL IMPACT: (CONT'D)

>budgeted to match expected investment returns, with an increasing reliance on budgeted County Library funding to maintain the service level of the Early Literacy Program. The current projection is that interest rates will continue to decline. In response to declining interest rates and rising County Library funding requirements, staffing for the Early Literacy Program has been reconfigured to reduce costs while maintaining service levels. The County Library funding level was reduced to zero in FY 2012-13 due to staff turnover and reassignments.

BACKGROUND:

In 1989, Mr. & Mrs. Russell Storms contacted the County Librarian about a proposed estate donation to help needy youths develop a love of reading and enhance library services for those living within socially and economically disadvantaged areas of Contra Costa County library. Over the next few years, the library and the Board of Supervisors helped the Storms develop a plan on how to use the proceeds from their estate.

In 1996, Contra Costa County Library was advised that it had been named to receive the proceeds from the Storms' Living Trust valued at \$1,707,600, which had been established by Mrs. Wilma Storms. Conditions of the trust require that all proceeds from the trust be placed in a new trust fund, the Wilma & Russell Children's Library Trust or now known as the *Wilruss Children's Library Trust*.

The Board of Supervisors adopted and accepted the proceeds of the Storms living trust to establish the Wilruss Children's Library Trust, on September 24, 1996, to be used as defined in the following *Resolution No. 96/355*:

Section A

For the establishment of an area about 400 square feet, in an existing library building in a socially and economically disadvantaged area, for children ages one through seven years. For furnishings for said area, including tables, chairs and book shelves.

Section B

For the design and maintenance of programs that promote literacy and a lifelong love of books and reading in target area. For the building, remodeling, decorating, furnishing and enrichment of the children's areas of public library buildings in target areas.

Section C

The income of the *Wilruss Children's Library Trust* not expanded in any year may be held over and expanded in a subsequent year. The principal shall not be invaded for any purpose. The trust is administered by the County Librarian, who files annual report to BOS, which includes the following:

- The amount in the fund at the end of previous year
- The amount in the fund at the end of current year
- The amount earned during the current year
- The amount expended during the current year and the general subjects of expenditure
- The amount then available for expenditure

Terms of the trust authorize the County Librarian to expend earnings from the trust each year and to carry over any unspent earnings from the prior years. In no case is the principal amount to be invaded, other than to pay approved claims against the Storms Living Trust. There is also a provision for an annual reporting to the Board of Supervisors on the Wilruss Children's Library Trust.

In 1997, library staff members conducted focus group sessions in the community and met with a consultant to design three programs: targeted outreach in socially economic disadvantage communities, a volunteer-driven "Stories To Go" program, and a program of parent education program such as Reach out and Read.

Summary of the activities funded in FY 2014-15:

Reach Out and Read

In FY 2014-15 the County Library's *Reach out and Read* (ROR) program maintained its affiliation with the national organization and the Contra Costa Health Clinics. Through this affiliation, we are supporting pediatricians serving families with infants and toddlers who are routinely [advising parents](#) about the importance of reading to very young children. Dr. Robert Needlman M.D, co-founder of Reach out and Read, reported in a recent article that high income families read to their children twice as much as low-income families, which gives further evidence that economic disadvantage is associated with fewer stimulating early childhood experiences and increased risk of developmental delays.

Statistics for all Communities Served below:

10,640 total well baby visits

3,077 total books distributed

\$16,923.50 estimated total cost to Wilross

1. Antioch - [Antioch Health Center](#) (local Library Antioch Library)
2. Bay Point - [Bay Point Family Health Center](#) (local Library Bay Point Library)
3. Brentwood - [Brentwood Health Center](#) (local Library Brentwood Library)
4. Concord - [Concord Health Center & Concord Public Health Clinic](#) (local Library Concord Library)
5. Martinez - [George & Cynthia Miller Wellness Center & Martinez Health Center](#) (local Library MTZ Library)
6. Pittsburg - [Pittsburg Health Center](#) (local Library Pittsburg Library)
7. Richmond - [North Richmond Center for Health](#) (local Library San Pablo Library)
8. San Pablo - [West County Health Center](#) (local Library San Pablo Library)

Goals and Objectives:

- Increase current inventory of multicultural gift books for babies from birth to 3 years old
- Provide library card applications at 36 month well baby visits
- Introduce a new program called "Prescription for Success", which provides families with a reading contract to encourage reading to their child for 20 minutes everyday
- Provide a list of story times for babies at local libraries to above health centers.

Stories to Go

In FY 2014-15, the Stories to Go (STG) project was revised. The kits were re-branded with a new logo and new 100%, all-natural canvas carrying bags made by a local vendor and manufacture. The logo was changed from a snail to a baby elephant to better signify the program's values of strength, intelligence and family.

The kits will continue to be theme-based, with 5 books and a related activity, with the goal of increasing school readiness by encouraging parents, caregivers and educators to practice early literacy skills. The STG project is expanding its reach beyond volunteer community outreach to directly support families and educators within socially economic disadvantage areas throughout Contra Costa County.

Communities Served:

1. Antioch
2. Bay Point
3. Brentwood
4. Concord
5. Martinez
6. Pittsburg
7. Hercules
8. San Pablo

Books to Grow on

The Books to Grow on brand has been retired. The current collection will be merged with the Stories to go brand.

Housing Authority of Contra Costa County & Reading Advantage –Children’s center library

The Wilruss Office of Early Literacy has a new partnership with the Housing Authority of Contra Costa County and Reading Advantage. Our goal is to create mini children’s libraries on the grounds of the public housing community centers within Contra Costa County. Wilruss began its commitment with a \$500 book donation from the Wilruss Children’s Library Trust, to stock the public housing center with free gift books for children ages 6 months to kindergarten. In addition, we will offer storytime training to volunteers through the Stories to Go program. Volunteers will be trained to complete a 30 minute storytime using the Stories to Go kits.

Communities Serve:

El Pueblo public housing in Pittsburg: total units 171

DeAnza Gardens public housing in Bay Point: total units 180

CA State Library Early Learning with Families Grants

Through previous matching support, Wilruss secured over \$16,000 worth of play equipment and furnishings for children’s learning spaces in libraries serving disadvantaged communities. These carpets, chairs, kinetic toys, puppets, and other material for creative play have renewed family library spaces in Antioch, Concord, El Sobrante, Hercules, Oakley, Pinole, Pittsburg, and San Pablo. By investing in the comfort and interactivity of these early literacy environments, libraries have reported longer and more frequent visits from an increasing number of families.

CONSEQUENCE OF NEGATIVE ACTION:

If this report is not accepted, the Library will not be in compliance with the terms of the Wilruss Children’s Trust.

CHILDREN'S IMPACT STATEMENT:

Wilruss Programs fulfill impact statements 1, 2 and 4.

1. Children Ready for Succeeding in School: The goal of all Wilruss programs is to increase school readiness by encouraging parents and caregivers to understand and practice early literacy skills.
2. Children and Health, preparing for a productive adulthood: The Wilruss Reach out and Read programs foster education and reading during well baby visits. This promotes important activities that lead to healthy adulthood.
4. Families that are safe, stable and nurturing: Wilruss programs promote nurturing in the course of teaching parents and providers to interact, converse, and read to children as a healthy and essential part of childhood. This action prompts feelings of safety and stability among children.

ATTACHMENTS

Wilruss history-projection

Willruss Financial Impact

WILRUSS TRUST HISTORY AND PROJECTION

		Actual 11-12	Actual 12-13	Actual 13-14	Actual 14-15	Estimated 15-16
8451/740	Beginning Balance	\$ 1,732,134	\$ 1,748,624	\$ 1,753,640	\$ 1,798,720	\$ 1,784,079
8451/800	Amount Received	\$ 63,113	\$ 51,229	\$ 45,246	\$ 29,239	\$ 25,282
3748/9967	Budgeted Expenditures	\$ 46,300	\$ 46,000	\$ 41,700	\$ 40,700	\$ 25,282
8451/830/540	Actual Amount Expended	\$ (46,623)	\$ (46,213)	\$ (144)	\$ (43,880)	\$ (25,282)
8451/750	Ending Balance	\$ 1,748,624	\$ 1,753,640	\$ 1,798,742	\$ 1,784,079	\$ 1,784,079
	Principal	\$ 1,707,600	\$ 1,707,600	\$ 1,707,600	\$ 1,707,600	\$ 1,707,600
	Amount Available	\$ 41,024	\$ 46,040	\$ 91,142	\$ 76,479	\$ 76,479

Additional Sources of Funding for Early Literacy Program

Grants and Donations	\$ 1,375	\$ 3,000	\$ 2,700	\$ -	\$ -
County Funding	\$ 19,213	\$ -	\$ -	\$ 3,263	\$ -

ATTACHMENT A

CONTRA COSTA COUNTY
TREASURER'S OFFICE

(EIS / ERNEIS)

E A R N E D I N C O M E S U M M A R Y

07/01/14 THROUGH 06/30/15

SORT KEYS ARE INV#

FUND: 8451

WILRUSS CHILDREN'S LIBRARY TR

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INV NO.	PURCHASE DATE	COUPON RATE	DESCRIPTION	TICKER / MATURITY DATE	SHARES / SCHEDULED PAR VALUE	SCHEDULED BOOK VALUE	YIELD/ 360	DATE SOLD/MAT	INCOME RECEIVED THIS PER	TOTAL/NET EARNINGS
77988	10/28/09	3.2500	WT GOV FHLB NOTES	09/12/14	165,000.00	165,000.00	2.567	MATURED	-1,615.35	881.39
78467	04/19/10	2.7500	WT GOV FHLB NOTES	03/13/15	170,000.00	170,000.00	2.667	MATURED	4,295.90	3,218.46
78867	09/14/10	1.7500	WT GOV FHLMC NOTES	09/10/15	170,000.00	170,647.70	1.644		2,975.00	2,845.25
79343	02/25/11	4.7500	WT GOV FHLMC NOTES	01/19/16	155,000.00	172,267.00	2.198		7,362.50	3,839.60
80020	11/09/11	1.2500	WT GOV FNMA NOTES	09/28/16	173,000.00	173,736.98	1.142		2,162.50	2,011.80
80411	03/12/12	1.0000	WT GOV FHLMC NOT	03/08/17	170,000.00	169,012.30	1.108		1,700.00	1,897.87
80907	10/10/12	.7500	WT GOV FHLB NOTES	09/08/17	170,000.00	169,671.90	.780		1,275.00	1,341.75
81230	02/21/13	.8750	WT GOV FNMA NOTES	02/08/18	165,000.00	164,242.02	.959		1,443.76	1,596.36
81538	07/17/13	.8750	WT GOV FNMA NOTES	05/21/18	164,000.00	159,529.36	1.458		1,435.00	2,357.44
81870	03/12/14	.8750	WT GOV FEDERAL HOME LN M	03/07/18	157,000.00	154,538.24	1.271		1,354.68	1,990.89
82119	09/12/14	1.7500	WT GOV FNMA NOTES	09/12/19	166,000.00	164,897.76	1.875		1,452.50	2,508.33
82436	03/16/15	1.6250	WT GOV FNMA NOTES	01/21/20	170,000.00	170,399.95	1.594			807.06
GRAND TOTAL			100.00%(C)	827 DAYS	1,660,000.00	1,668,943.21	1.495		23,841.49	25,296.20



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Payments for Services Provided by Bay Area Tumor Institute

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Auditor-Controller, or his designee, to pay \$64,402.47 to Bay Area Tumor Institute for Patient Assistance Program Drug Recovery Services during the period of August 1, 2014 through July 31, 2015.

FISCAL IMPACT:

100% funding included in Hospital Enterprise Fund I.

BACKGROUND:

In July 2014, the County Administrator approved and the Purchasing Agent executed Contract #26654 for pharmaceutical drug recovery reimbursement services for the period from August 1, 2014 through July 31, 2015. Services were requested and provided beyond the payment limit of the contract. At the end of the contract period, charges of \$1,464,402.47 had been incurred, of which \$1,396,905.81 had been paid pursuant to the contract limits. The additional services were provided between July 1, 2015 and July 31, 2015 and amounted to \$64,402.47.

Because the contract payment limit has been reached, the Department cannot pay the provider under the contract for the additional services. The provider

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Anna Roth, (925)
370-5101

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios

BACKGROUND: (CONT'D)

is nonetheless entitled to payment for the reasonable value of its services under the equitable relief theory of quantum meruit. That theory provides that where a person has been asked to provide services without a valid contract, and the provider does so to the benefit of the recipient, the provider is entitled to recover the reasonable value of those services. Because the Health Services Department requested additional services from Bay Area Tumor Institute, and the contractor provided the services in good faith, with the full expectation and understanding that it would receive payment for those services, the contractor has the right to claim the reasonable value of the services provided above the contract limit. As such, the Department recommends that the Board authorize the Auditor-Controller to issue a one-time payment to Bay Area Tumor Institute in the amount of \$64,402.47.

CONSEQUENCE OF NEGATIVE ACTION:

The service provider will not be paid for services rendered to the Health Services Department.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 17, 2015

Subject: Approve New and Recredentialing Providers and Recredentialing Organizational Providers in Contra Costa Health Plan's Community Provider Network

RECOMMENDATION(S):

Approve the list of providers recommended by Contra Costa Health Plan's Medical Director on October 28, 2015, and by the Health Services Director, as required by the State Departments of Health Care Services and Managed Health Care, and the Centers for Medicare and Medicaid Services.

FISCAL IMPACT:

None.

BACKGROUND:

The National Committee on Quality Assurance (NCQA) has requested evidence of Board Approval for each CCHP provider be contained within the provider's credentials file.

The recommendations were made by CCHP's Peer Review and Credentialing Committee.

CONSEQUENCE OF NEGATIVE ACTION:

If this action is not approved, Contra Costa Health Plan's Providers would not be appropriately credentialed and not be in compliance with the NCQA.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Patricia Tanquary,
313-6004

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: T Scott, N Rios, Heather Wong

ATTACHMENTS

Attachment

Contra Costa Health Plan
Providers Approved by Medical Director
October 28, 2015

CREDENTIALING PROVIDERS OCTOBER 2015	
Name	Specialty
Cheng, Jason, M.D.	Surgery - Neurological
Ennen, Melissa, M.D.	Anesthesiology
Evanson, Marisa, BCBA	Behavior Analysis
Frausto, Luz, PA	Primary Care Family Medicine
Guerrero, Susan, PsyD	Mental Health Services
Howard, Sage, BCBA	Behavior Analysis
Khan, Farhat, M.D.	Primary Care Family Medicine
Kim, Michael, NP	Primary Care Family Medicine
Kuhfahl, Rebecca, BCBA	Behavior Analysis
Lopez, Paulina, NP	Primary Care Family Medicine
Reddy, Karthik, M.D.	Cardiology
Reinking, Jason, M.D.	Primary Care Family Medicine
Reyes, Reibert, BCBA	Behavior Analysis
Romero, Amanda, NP	Primary Care Pediatrics
Shirgul, Lais, PsyD	Mental Health Services
Taneja, Anjali, M.D.	Primary Care Family Medicine
Varon, David, M.D.	Gastroenterology
Venkatachalam, Sukanya, M.D.	Mental Health Services
Wicket, Corinne, BCBA	Behavior Analysis

RECREREDENTIALING PROVIDERS OCTOBER 2015	
Name	Specialty
Bean, Gary, M.D.	Primary Care Pediatrician
Choi, Jiyon, M.D.	Hematology/Oncology
Couch, Randy, P.T.	Physical Therapy
Del Rio, Gerald, M.D.	Primary Care Internal Medicine/ Pulmonary Disease
Elyasi, Siamak, M.D.	Primary Care Family Medicine
Friedman, Yaron, M.D.	OB/GYN
Hart, Norman, P.T.	Physical Therapy
Jacka, Ciaran, DPM	Podiatry

RECREDENTIALING PROVIDERS OCTOBER 2015	
Name	Specialty
Kavanaugh, Patrick, M.D.	Cardiovascular Disease
Kenney, Colleen, DPM	Surgery – Foot & Ankle
Khan, Tanveer, M.D.	Surgery – Thoracic Cardiovascular
Manjunath, Veena, M.D.	Nephrology
Min, Howard, M.D.	Cardiovascular Disease
Mohebati, Arash, M.D.	Oncology, Otolaryngology (ENT), Surgery - General
Niaz, Qasier, M.D.	Hematology/Oncology
Nuti, Elizabeth, M.D.	Pediatric Urgent Care
Otero, Fernando, M.D.	Bariatric/Vascular Surgery
Rausa, Katherine, M.D.	Nephrology
Sahud, Mervyn, M.D.	Hematology
Schneider, Martin, P.T.	Physical Therapy
Strieff, Larry, M.D.	Medical Oncology
Towery, Owen, M.D.	Psychiatry
Wilbur, Mark, DC	Chiropractic Medicine
Wu, Monte, M.D.	Nephrology
Zhang, Wengang, M.D.	Primary Care Internal Medicine

CREDENTIALING ORGANIZATIONAL PROVIDERS OCTOBER 2015		
Provider Name	Provide the Following Services	Location
DaVita – Total Renal Care, Inc. dba: East Bay Peritoneal Dialysis Center	Dialysis	San Leandro
RAI Care Centers of Northern California II, LLC dba: RAI-East 14th St.-San Leandro	Dialysis	San Leandro
RAI Care Centers of Northern California II, LLC dba: RAI-Telegraph-Peralta	Dialysis	Oakland
RAI Care Centers of Oakland I, LLC dba: RAI-Oakland Home I	Dialysis	Oakland

CREDENTIALING ORGANIZATIONAL PROVIDERS OCTOBER 2015		
Provider Name	Provide the Following Services	Location
St. Helena Hospital dba: St. Helena Hospital Center for Behavioral Health	Mental Health Services	Vallejo

bopl-October 28, 2015



Contra
Costa
County

To: Board of Supervisors

From: INTERNAL OPERATIONS COMMITTEE

Date: November 17, 2015

Subject: 2014 Annual Report on the Fleet Internal Service Fund and Recommended Changes to Vehicle Acquisition Policy

RECOMMENDATION(S):

1. ACCEPT follow-up report from the Fleet Services Manager on efforts to "green" the County Fleet.
2. APPROVE recommendations on modifying the County's Vehicle and Equipment Acquisition and Replacement Policy, and Clean Air Vehicle Policy and Goals.
3. REQUEST the County Administrator to update County Administrative Bulletin 508 and communicate the changes to County departments.
4. DIRECT the Public Works Director to report back to the Internal Operations Committee in six months on the status of "greening" the fleet.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

Each year, the Public Works Department Fleet Services Manager has analyzed the fleet and annual vehicle usage and made recommendations to the IOC on the budget year vehicle replacements and on the intra-County reassignment of underutilized vehicles, in accordance with County policy. In FY 2008/09, the Board approved the establishment of an

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Julie DiMaggio Enea
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Public Works Director, , Fleet Manager, IOC Staff

BACKGROUND: (CONT'D)

>

Internal Services Fund (ISF) for the County Fleet, to be administered by Public Works (formerly by the General Services Department). The Board requested the IOC to review annually the Public Works department report on the fleet and on low-mileage vehicles.

On September 9, 2013, the IOC accepted a preliminary annual report from the Public Works department and requested the Fleet Manager to return in March 2014 with final recommendations on the disposition of low mileage vehicles. The Fleet Manager, in March 2014, identified 44 low mileage vehicles out of 893 vehicles in the Internal Services Fund Fleet. In February, 2015, the IOC approved the Fleet Manager's recommendation to install GPS telemetrics devices on 12 of the 44 low mileage vehicles (see attached report), and also asked the Auditor's Office to examine the extent to which the County's Clean Air Vehicles Policy was being observed.

The Chief Auditor, in July 2015, reported that as of February 28, 2015, 18% of the fleet were clean air vehicles, 36.2% were not clean air vehicles but were exempted by the policy or by the Fleet Manager, and 45.8% were not exempt and not in compliance with the clean air vehicle policy (see attached report). The Fleet Manager emphasized his commitment to downsizing the fleet and right-sizing County vehicles. The Committee asked the Fleet Manager to update the 2008 County Clean Air Vehicle Policy to also to reflect current technology such as electric and hydrogen fuel cell vehicles, and current funding incentives, and to segregate large construction vehicles from regular trucks and sedans in future reports to make the statistical reporting more meaningful.

In follow-up to the Committee's direction in July, the Public Works Department reported back to the IOC in October with recommendations for modifying the County's Vehicle and Equipment Acquisition and Replacement Policy, and Clean Air Vehicle Policy and Goals. Public Works reported that there are over 1,500 vehicles in the fleet, 859 of which are in the Internal Services Fund (ISF), and that of the 89 vehicles purchased in FY 2013/14, 9 were hybrids (a combination of gas and electric). 22% of the ISF fleet are clean/cleaner air vehicles. The department continues to install asset management and locating devices in ISF vehicles to promote good decision making and optimization of the ISF fleet.

Attached are recommended changes to the County's Vehicle and Equipment Acquisition Policy and Clean Air Vehicle Policy and Goals. The primary impact of the proposed changes is to commit to a goal of procuring the most fuel efficient and lowest emission vehicles that meet the essential vehicle requirements and specifications of departments. The policy vests authority with the Fleet Manager to determine when exemptions from the policy may be warranted.

ATTACHMENTS

2013/14 Fleet Internal Service Fund Report

Auditor's July 2015 Report on PW Compliance with County's Clean Air Vehicle Policy

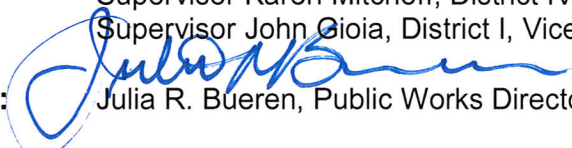
Public Works October 2015 Update on "Greening" the Fleet

Mark-up Version_ County's Vehicle and Equipment Acquisition and Replacement Policy



February 2, 2015

TO: Internal Operations Committee
Supervisor Karen Mitchoff, District IV, Chair
Supervisor John Gioia, District I, Vice-Chair

FROM:  Julia R. Bueren, Public Works Director

SUBJECT: FLEET INTERNAL SERVICE FUND FY 2013/14 REPORT

Recommendation

Accept the Internal Service Fund (ISF) Fleet Services report for FY 2013-14.

Background

The Fleet Services Division has operated as an Internal Service Fund since 2008 to ensure stable and long-term vehicle replacement funding.

Fleet Services provides various services to County departments including the acquisition, preventative maintenance, repair, and disposal of fleet vehicles and equipment. The division services the County's fleet of over 1500 vehicles/equipment/trailers, of which, 859 vehicles are included in the ISF program.

ISF Rate Structure

There are three components to recover operational costs for vehicles in the ISF Fleet Services program which are charged to the departments. They are:

1. A fixed monthly cost to cover insurance, Fleet Services overhead, and vehicle depreciation / replacement
2. A variable cost based on miles driven to cover maintenance and repair costs
3. Direct costs for fuel

This rate structure enables the ISF to collect monthly payments from customer departments over the life-cycle of the units to fund operations and enable the systematic replacement of units at the end of a vehicle's useful life or when it becomes a cost-effective decision to do so.

The estimated fixed and variable rates are adjusted each year to develop ISF rates as close to actual costs as possible for each class of vehicle. Accordingly, the FY 2013-14 expenses were

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TEL: (925) 313-2000 • FAX: (925) 313-2333
www.cccpublicworks.org

reviewed to develop new rates for FY 2014-15, which went into effect September 1, 2014. Please refer to Attachment B accompanying this report for the ISF Fleet Rates Schedule.

Fleet Services ISF Goals and Objectives

- Continue to provide cost-effective services that meet or exceed our customers' needs and expectations by evaluating additional services and new technologies to increase efficiencies.
- Continue to evaluate and recommend for replacement all vehicles and fleet equipment that are due for replacement based on a predetermined schedule and/or a time when it is most cost-effective to do so and in accordance with Administrative Bulletin 508.4. This increases vehicle availability through reduced down time associated with an older fleet.
- Continue to maintain a newer fleet focusing on preventative maintenance thus reducing repair costs typically associated with an older fleet.
- Continue to purchase clean air vehicles whenever feasible and to grow the number of electric vehicles in the fleet as existing equipment requires replacement. Fleet Services is currently working on the feasibility of an expanded electric vehicle charging station infrastructure to support County and personal vehicles.
- Continue to ensure that all County vehicles are maintained and repaired in a timely, safe, and cost effective manner in order to provide departments with safe, reliable vehicles and equipment.
- Continue to work with departments to identify vehicles and equipment that are underutilized in an effort to maximize fleet utilization, identify departmental actual needs, and reduce fleet costs.

Highlights

- In FY 2013-14, 89 new vehicles were purchased, 5% more than were purchased in FY 2012-13 and 31% more than in FY 2011-12.
- Sheriff's Office received 42 vehicles, 4 of which are additions to the fleet to be held as spares to facilitate a shorter wait time for vehicle replacement. Patrol cars account for 21 of the new vehicles. The overall number of replacements is up by one unit from last year. The number of Sheriff's Office vehicle replacements is projected to be about the same in fiscal year 2014-2015 as it was in fiscal year 2013-2014.
- Vehicle usage is continually reviewed in an effort to reduce underutilized vehicles according to Administrative Bulletin 508.4. During the most recent review in December 2014, nine were identified that required further analysis. Four of those have since met

the minimum utilization requirements, thus reducing the number of vehicles currently under analysis to five.

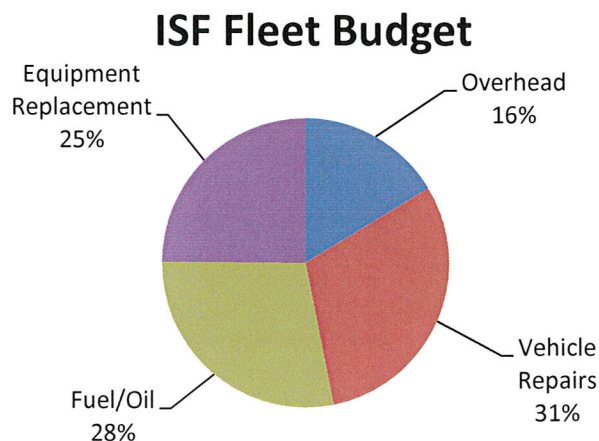
- Fleet Services continues to promote building a “Green Fleet.” In FY 2013-14 9 replacement vehicles, or 10% of purchases were hybrid vehicles.
- Fleet Services purchased and installed 64 asset management and locating devices in ISF vehicles bringing the total of ISF vehicles with these devices installed to 227. These devices help improve fleet utilization, identify vehicle locations in the event of an emergency, reduce costs by identifying and immediately reporting operational issues with the vehicle, and improve accuracy of mileage meter readings. Fleet Services intends to continue installing these devices to all ISF vehicles as appropriate.

Summary

The Fleet Services Division operates as an Internal Service Fund (ISF), providing services to a variety of County Departments. As an ISF, Fleet is responsible to fully recover the cost of providing services and the cost of capital purchases. Key responsibilities of the Division are vehicle preventative maintenance and repair, fueling, replacement analysis, specification review, acquisition, new vehicle preparation, and disposal.

In FY 2013-14, Fleet Services had a staff of 17 Administration and Operations employees. The Administration section consists of one Fleet Manager and one Fleet Equipment Specialist. The Operations section consists of one Lead Fleet Technician, four Equipment Services Workers, nine Equipment Mechanics, two Equipment Service Writers and one Student Worker.

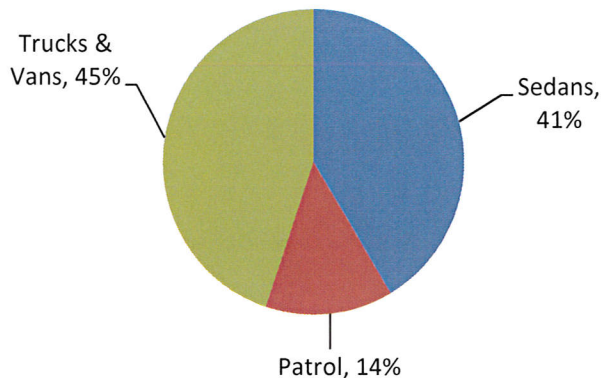
The FY 2013-14 budget of \$13,342,984 included \$1,859,730 for salaries; \$3,461,806 for vehicle repairs; \$3,209,237 for fuel/oil; and \$2,823,526 for the replacement of fleet vehicles and equipment. The ending net asset value of the Fleet ISF for FY 2013-14 is \$11,233,275 (Attachment D).



The ISF fleet has 859 vehicles, comprised of 356 sedans, 117 patrol vehicles, and 386

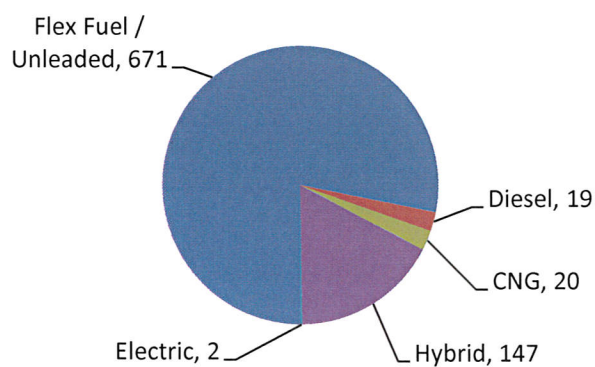
trucks/vans. There are 20 more vehicles in the ISF fleet than when the ISF was initiated in 2008 and 37 more than in FY 2012-13.

ISF Fleet by Vehicle Class



Fleet Services continues to purchase clean air vehicles whenever feasible and plans to grow the number of electric vehicles in the fleet as existing equipment requires replacement. All diesel vehicles use biodiesel fuel and all sedans must have a PZEV (Partial Zero Emissions Vehicle) rating or greater by the California Air Resources Board.

ISF Fleet by Fuel Type



Fleet Services continues to work to achieve the primary goals and objectives of providing County departments with vehicles and equipment that are safe, efficient, reliable and consistent with departmental needs and requirements at the lowest possible cost. The Division will continue to monitor vehicle use to optimize new vehicle acquisition and better utilize existing vehicle assets.

Attachments

- A ISF Vehicle Expenses by Department
- B ISF Rates Schedule
- C ISF Fund Balance
- D ISF Net Assets
- E Administrative Bulletin 508.4

**Internal Service Fund - Fleet Services
Expenses By Department
FY 2013/14**

Agency	2011/12 Actual				2012/13 Actual				2013/14 Actual			
	# of Vehicles Replaced	Purchase Cost	# of Units	Operating Expenses w/o Fuel	# of Vehicles Replaced	Purchase Cost	# of Units	Operating Expenses w/o Fuel	# of Vehicles Replaced	Purchase Cost	# of Units	Operating Expenses w/o Fuel
Agriculture	2	\$ 45,318	55	\$ 241,014	4	\$ 103,219	55	\$ 239,098	3	\$ 81,266	56	\$ 235,585
Animal Services	-	-	28	237,539	3	135,678	31	215,261	2	76,436	31	186,388
Assessor	-	-	3	14,391	-	-	3	13,650	1	23,634	3	14,229
CAO (Doit)	-	-	20	92,315	-	-	20	94,212	3	68,674	20	88,314
Co-op Extension	-	-	2	8,921	-	-	2	8,910	-	-	3	8,566
District Attorney	2	26,805	23	144,901	2	56,077	28	150,367	6	170,287	32	174,584
Elections	-	-	1	3,098	-	-	1	2,963	-	-	1	2,851
Employment & Human Services	3	83,907	52	216,800	7	186,314	55	214,929	4	91,698	56	217,621
Fleet Pool	4	146,820	26	108,558	3	70,219	25	100,663	5	120,750	27	106,559
General Services Department	6	123,852	97	457,063	-	-	102	-	-	-	105	474,902
Health Services	2	74,991	91	397,141	5	132,623	93	410,652	3	72,462	108	433,442
Housing Rehabilitation	-	-	1	4,218	-	-	1	4,270	-	-	2	3,875
Insurance & Risk Management	-	-	3	13,092	1	23,495	3	13,376	-	-	4	14,077
Probation	5	128,939	56	192,118	3	69,565	58	211,198	-	-	59	219,652
Public Defender	3	81,644	13	71,424	1	28,130	13	69,324	4	71,750	15	65,926
Public Works	2	40,959	37	151,564	15	353,165	36	635,429	16	499,828	37	157,767
Sheriff/OES	38	963,761	285	2,099,454	41	1,180,730	295	2,088,449	42	1,180,460	299	2,056,998
Treasurer-Tax Collector	1	21,719	1	1,547	-	-	1	3,301	-	-	1	3,262
Total ISF Operating Expenses By Department	68	\$ 1,738,715	794	\$ 4,455,157	85	\$ 2,339,215	822	\$ 4,476,052	89	\$ 2,457,244	859	\$ 4,464,596

Internal Service Fund - Fleet Services
ISF Fleet Rates Schedule
FY 2014/15

Category	FY 2011/12		FY 2012/13		FY 2013/14		FY 2014/15		Diff 2013/14 to 2014/15	
	Monthly Rate	Mileage Charge	Monthly Rate	Mileage Charge	Monthly Rate	Mileage Charge	Monthly Rate	Mileage Charge	Monthly Rate	Mileage Charge
ISF-Sedan	\$ 237.80	\$ 0.173	\$ 233.75	\$ 0.185	\$ 257.92	\$ 0.145	\$ 284.83	\$ 0.167	10.4%	15.2%
ISF-Cargo Van	199.80	0.242	194.75	0.366	205.92	0.249	239.75	0.290	16.4%	16.5%
ISF-Passenger Van	227.60	0.213	201.58	0.211	201.92	0.191	220.75	0.306	9.3%	60.2%
ISF-Patrol	710.80	0.252	637.08	0.318	454.83	0.393	427.33	0.462	-6.0%	17.6%
ISF-Sports Utility Vehicle	314.70	0.136	421.83	0.247	311.33	0.294	307.42	0.272	-1.3%	-7.5%
ISF-Truck, Compact	222.80	0.158	213.00	0.215	194.67	0.190	194.33	0.221	-0.2%	16.3%
ISF-Truck, Fullsize	259.30	0.198	246.92	0.200	238.25	0.249	233.50	0.388	-2.0%	55.8%
ISF-Truck, Utility	448.80	0.251	421.83	0.247	305.25	0.256	381.50	0.329	25.0%	28.5%

**Internal Service Fund - Fleet Services
Fund Balance
For the Year Ended June 30, 2014**

	<u>FY 2012/13</u>	<u>FY 2013/14</u>
Beginning Fund Balance	<u>\$ 10,362,583</u>	<u>\$ 11,164,010</u>
Expenses		
Salaries & Benefits	\$ 1,475,905	1,859,583
Services and Supplies, Other Charges	7,121,013	6,815,118
Depreciation	1,502,134	1,648,815
Total Expenses	<u>\$ 10,099,051</u>	<u>\$ 10,323,516</u>
Revenues		
Charges for services	\$ 10,421,317	\$ 10,080,382
Transfers In/(Out)*	187,662	-
Sale of Surplus Vehicles	206,855	250,932
Indemnifying Proceeds (Accidents)	84,644	61,468
Total Revenue	<u>\$ 10,900,478</u>	<u>\$ 10,392,781</u>
Change in Fund Balance	<u>\$ 801,427</u>	<u>\$ 69,265</u>
FY Ending Fund Balance	<u><u>\$ 11,164,010</u></u>	<u><u>\$ 11,233,275</u></u>

Internal Service Fund - Fleet Services
Net Assets (Fund 150100)
As of June 30, 2014

		<u>FY 2012/13</u>	<u>FY 2013/14</u>
Assets			
	Current Assets:		
0010	Cash	\$ 4,451,545	\$ 3,615,370
0100	Accounts Receivable	(8,600)	12,301
0170	Inventories	284,191	345,902
0180	Due From Other Funds	1,141,312	1,315,002
0250	Prepaid Expense	43,608	31,420
	Total Current Assets	<u>\$ 5,912,056</u>	<u>\$ 5,319,995</u>
	Noncurrent Assets:		
0340	Equipment	18,877,670	18,984,902
0360	Construction In Progress	723,308	1,386,351
0370	Reserve For Depreciation	(13,018,513)	(13,174,410)
	Total Noncurrent Assets	<u>\$ 6,582,466</u>	<u>\$ 7,196,843</u>
	Total Assets	<u>\$ 12,494,522</u>	<u>\$ 12,516,838</u>
Liabilities			
0500	Accounts Payable	\$ 502,043	\$ 379,201
0540	Due To Other Funds	767,424	832,682
0640	Employee Fringe Benefit Pay	61,045	71,680
	Total Liabilities	<u>\$ 1,330,512</u>	<u>\$ 1,283,563</u>
Net Assets			
	Capital Assets, Net of Debt	\$ 6,582,466	\$ 7,196,843
	Other	4,581,544	4,036,432
	Total Net Assets	<u>\$ 11,164,010</u>	<u>\$ 11,233,275</u>

Office of the Auditor-Controller
Contra Costa County

Robert R. Campbell
Auditor-Controller

625 Court Street
Martinez, California 94553-1282
Phone (925) 646-2181
Fax (925) 646-2649




Elizabeth A. Verigin
Assistant Auditor-Controller

Harjit S. Nahal
Assistant Auditor-Controller

July 21, 2015

TO: Contra Costa County Internal Operations Committee

FROM: Robert R. Campbell, Auditor-Controller
By: Joanne M. Bohren, Chief Auditor 

SUBJECT: Report on Analysis of Public Works Department-Fleet Service Division's Compliance with the County's Clean Air Vehicle Policy as of February 28, 2015

EXECUTIVE SUMMARY

The Contra Costa County Internal Operations Committee requested the Office of the Auditor-Controller perform an analysis of the Public Works Department-Fleet Services (fleet) compliance with Administrative Bulletin #508.4, "County Vehicle and Equipment Acquisition and Replacement Policy, and Clean Air Vehicle Policy and Goals."

In order for a vehicle to be in compliance with Administrative Bulletin #508.4, the vehicle must comply with the clean air and vehicle emission regulations. Examples of such vehicles include alternative fuel, hybrid or electric, and vehicles rated as partial zero emission vehicles (PZEV) or greater by the California Air Resources Board. Administrative Bulletin #508.4 also grants exemptions to vehicles that are Code 3. Examples of Code 3 vehicles include police patrol, fire, paramedic, prisoner transport, and other specially equipped vehicles.

The objective of the analysis was to determine the status of the County's compliance with Administrative Bulletin #508.4, "County Vehicle and Equipment Acquisition and Replacement Policy, and Clean Air Vehicle Policy and Goals."

The analysis included obtaining the vehicle information listing from Fleet management's database provided by Public Works-Fleet Management. Vehicle information data was extracted to identify compressed natural gas (CNG) vehicles, hybrid vehicles, and electric vehicles. Additionally, vehicles that were not clean air vehicles were identified as either "Exempt" from the County's clean air vehicle policy or "Not Exempt" from the County's clean air vehicle policy. Vehicles classified as "Not Exempt" were deemed not compliant

Report on Analysis of Public Works Department-Fleet Service Division's Compliance
with the County's Clean Air Vehicle Policy as of February 28, 2015

with Administrative Bulletin #508.4. Thirty-seven (37) vehicles were selected for sampling and traced to requisitions and purchase orders to review purchasing information in order to confirm appropriate classification of the vehicle. To confirm vehicle existence, ten (10) of the thirty-seven (37) vehicles were selected for physical observation.

As of February 28, 2015, 18.0% of the 1,163 vehicles included in the County's fleet are designated as "clean air" vehicles as defined in Administrative Bulletin #508.4, "County Vehicle and Equipment Acquisition and Replacement Policy, and Clean Air Vehicle Policy and Goals." All clean air vehicles, such as compressed natural gas vehicles, hybrid vehicles, and electric vehicles, are automatically in compliance with the clean air vehicle policy per the Administrative Bulletin. Another 36.2% of the vehicles were non-clean air vehicles; however, those vehicles were still in compliance with Administrative Bulletin #508.4, as those vehicles were either exempt by policy or exempt by the Fleet Manager. The remaining 45.8% of the County's vehicles were designated as not exempt and not compliant with Administrative Bulletin #508.4. Those vehicles were neither clean air vehicles nor were they granted an exemption per policy or by the Fleet Manager.

The results of this analysis do not include the additional twenty-five (25) replacement vehicles purchased July 1, 2014, through February 28, 2015, and not yet placed into service, which could change the above percentages.

The following section includes two tables, Table 1 – County Vehicles by Category and Table 2 – County Vehicles by Department, and one pie chart, Chart 1 – County Vehicles by Department, that display the results of the analysis.

The Office of the Auditor-Controller appreciates the cooperation and assistance of the Public Works Department staff during the course of the analysis.

If you have any questions please contact Michael Manno, Auditor I, or Henriette Browne, Auditor III, at (925) 646-2161.

Report on Analysis of Public Works Department-Fleet Service Division's Compliance
with the County's Clean Air Vehicle Policy as of February 28, 2015

CLEAN AIR VEHICLE POLICY TABLES AND CHART

Table 1 shows the County's clean air vehicles as defined in Administrative Bulletin #508.4 and non-clean air vehicles as of February 28, 2015.

Table 1
County Vehicles by Category
At February 28, 2015

Total Vehicles	1,163	
Clean Air Vehicles		
Compressed Natural Gas (CNG)	31	2.7%
Hybrid	176	15.1%
Electric	2	0.2%
	<u>209</u>	<u>18.0%</u>
Non-Clean Air Vehicles		
Exempt by Policy		
Police Patrol	108	9.3%
Prisoners / Detention Center	42	3.6%
Investigation Units	39	3.4%
Exempt by Fleet Manager	<u>232</u>	<u>19.9%</u>
Total Exempt Non-Clean Air Vehicles	421	36.2%
Not Exempt (not compliant with policy)	<u>533</u>	<u>45.8%</u>
Total Non-Clean Air Vehicles	954	82.0%
Total Vehicles	<u>1,163</u>	<u>100%</u>
Total Leased Vehicles	0	0.0%
Total Purchased Vehicles	1,163	100.0%

Report on Analysis of Public Works Department-Fleet Service Division's Compliance
with the County's Clean Air Vehicle Policy as of February 28, 2015

Table 2 shows, by County department, how many clean air vehicles and non-clean air vehicles were in service at February 28, 2015.

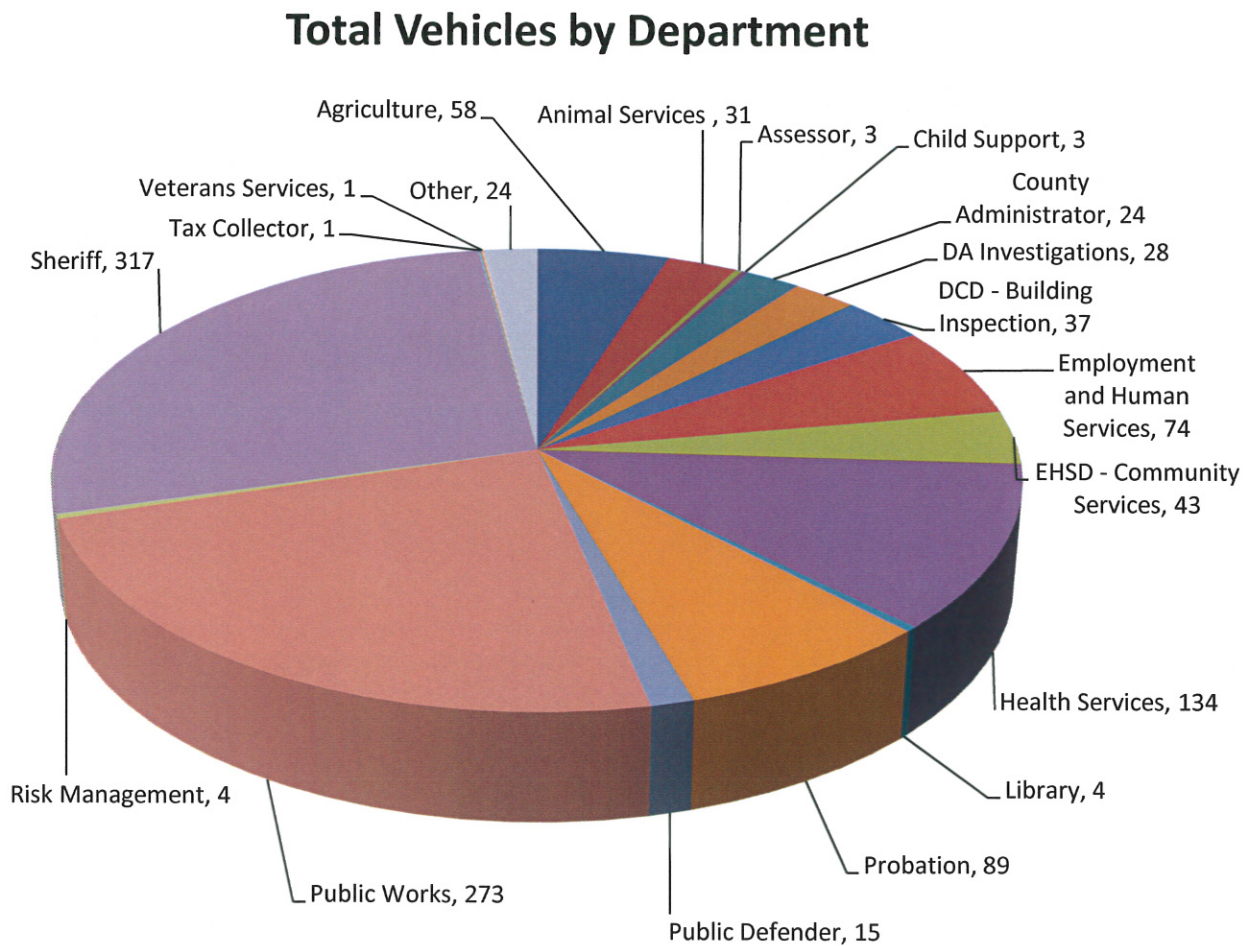
Table 2
County Vehicles by Department
At February 28, 2015

Breakdown by County Department	Clean Air Vehicles		Non-Clean Air Vehicles		Total Vehicles
	Exempt	Not Exempt	Exempt	Not Exempt	
Agriculture	-	4	2	52	58
Animal Services	1	-	29	1	31
Assessor	-	2	-	1	3
Child Support	-	-	-	3	3
County Administrator	1	3	2	18	24
DA Investigations	14	-	13	1	28
DCD – Building Inspection	-	16	-	21	37
Employment and Human Services	-	19	1	54	74
EHSD – Community Services	-	1	8	34	43
Health Services	-	37	18	79	134
Library	-	-	-	4	4
Probation	-	16	24	49	89
Public Defender	-	11	-	4	15
Public Works	8	30	65	170	273
Risk Management	-	2	-	2	4
Sheriff	22	16	257	22	317
Treasurer-Tax Collector	-	-	-	1	1
Veterans Services	-	1	-	-	1
Other	-	5	2	17	24
	46	163	421	533	1,163

Report on Analysis of Public Works Department-Fleet Service Division's Compliance with the County's Clean Air Vehicle Policy as of February 28, 2015

Chart 1 shows the number of vehicles per County department.

Chart 1
County Vehicles by Department
At February 28, 2015





Contra Costa County Public Works Department

Julia R. Bueren, Director

Deputy Directors
R. Mitch Avalon
Brian M. Balbas
Stephen Kowalewski
Joe Yee

DATE: October 5, 2015

TO: Internal Operations Committee

FROM: Carlos Velasquez, Fleet Manager, Fleet Services

SUBJECT: Internal Operations Committee's request for recommended revisions to Administrative Bulletin 508.4 County Vehicle and Equipment Acquisition and Replacement Policy, and Clean Air Vehicle Policy and Goals and to break out large construction vehicles from Clean Air Vehicle report.

The attached document contains revisions to Administrative Bulletin 508.4 which includes administrative changes to update the Bulletin to reflect the merger of the General Services Department into the Public Works Department and suggestions to expand the definition of Clean Air Vehicles to include electric and fuel cell technology.

In order to better illustrate the County's progress toward a cleaner and greener fleet, we have reformatted the information below to only include light, on-highway vehicles in the statistical information since these are the vehicle types that have the greatest opportunity for alternative fuel power plants.

Fiscal Year	Total # of Vehicles in County Fleet (Light On-Highway)	# of Vehicles Exempt from Clean Air Vehicle Policy (Patrol, Fire, Paramedic, etc.)	# of Clean Air Vehicles (electric, CNG, hybrid)
2012-13	726	290	165
2013-14	865	380	183
2014-15	919	398	191

Public Works Fleet Services has been proactively working under the County's Clean Air Vehicle Policy guidelines with the intent of achieving a greener fleet. Fleet Services continues to educate our customer departments regarding the advantages and benefits of downsizing and right-sizing the Fleet. This includes the practice of replacing unleaded fueled vehicles with Hybrid, Electric or Compressed Natural Gas units where applicable. Hydrogen fuel cell technology will also be considered in the future as the hydrogen fueling infrastructure grows and units become more affordable. A blended, standardized Fleet is the ideal combination we are striving to achieve.

"Accredited by the American Public Works Association"

255 Glacier Drive Martinez, CA 94553-4825
TEL: (925) 313-2000 • FAX: (925) 313-2333
www.cccpublicworks.org

Fleet Services is committed to supplying our customer departments with alternative fueled vehicles and equipment whenever possible, while also maintaining operational needs and cost effectiveness. This commitment to lower our carbon footprint on our planet includes providing or sourcing alternative fuels for use in County vehicles in place of fossil fuels whenever possible. For example, Fleet Services is no longer purchasing bio-diesel and has switched over to 10% renewable diesel at 5 cents less per gallon.

Fleet Services currently supplies gasoline, 10% renewable diesel, and compressed natural gas fuels for all County units at the County Fueling Station located at 2471 Waterbird Way. Fuel products are available to our customers 24 hours per day, 7 days per week. Electric vehicle charging stations are available at the 651 Pine Street rear parking lot and at the Fleet Service Center at 2467 Waterbird Way for the County's electric vehicles. We are looking at expanding the number of charging stations to service County electric vehicles at department sites as well as providing some available to the public and employees for their private vehicles.

Alternative fuel products dispensed to county vehicles (FY 14/15)

Compressed Natural Gas	Bio-Diesel (5%)
Transactions: 1,493	Transactions: 5,365
Avg unit Price: \$3.10	Avg unit Price: \$3.29
Quantity of Product: 8,237 GGE	Quantity of Product: 111,713 gal

During the previous fiscal year (FY 2014-15) Fleet Service purchased more hybrid, CNG, and 100% electric vehicles than any prior years.

3 Year Purchase cycle (ISF) Hybrid, CNG, Electric

Units Purchased	Vehicle Fuel Type	Model YR
15	HYBRID	2013
5	HYBRID	2014
11	COMPRESSED NATURAL GAS	2015
9	ELECTRIC	2015
31	HYBRID	2015
1	HYBRID	2016
72		

CV:ck

C:\Users\jyee\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\ZZ3G551G\FINAL
Green Vehicle Report Memo - IOC 10.5.15.doc

Attachment

c: J. Bueren, Public Works Director

J. Yee, Deputy Public Director

CONTRA COSTA COUNTY
Office of the County Administrator
ADMINISTRATIVE BULLETIN

Number: 508.4
Date: October 24, ~~2008~~2015
Section: Property and Equipment

SUBJECT: County Vehicle and Equipment Acquisition and Replacement Policy, and
Clean Air Vehicle Policy and Goals

This bulletin sets forth County policy and guidelines for department requests for acquisition and replacement of County vehicles and equipment.

- I. APPLICABILITY.** This bulletin is applicable to addition and replacement vehicles and equipment to be acquired by County departments either through purchase, lease purchase or donation.
- II. AUTHORITY.** By Board Order, Item C.162, July 18, 2000, proposed County Vehicle/Equipment Acquisition and Replacement Policy

III. POLICY GUIDELINES

Additional and replacement vehicles and equipment to be acquired by County departments either through purchase, lease purchase or donation must be appropriate for the intended use, within the approved budget, safe to operate, and cost efficient both to operate and maintain. The expected annual use of any vehicle should be in excess of 3,000 miles. Dedicated Compressed Natural Gas (CNG) and battery electric vehicles with frequent and demonstrated short trip usage patterns may be exempted from the County minimum mileage requirement. Replacement priority will be given to vehicles and/or equipment that are determined by the Public Works Department Fleet Manager (Fleet Manager) to be unsafe, in the poorest condition, uneconomical to operate or maintain, or have the highest program need.

- A. ACQUISITION OF REPLACEMENT VEHICLES/EQUIPMENT** The acquisition of "replacement" vehicles or equipment may be approved by the Fleet Manager and County Administrator, provided that the vehicle being replaced meets or exceeds the minimum mileage criterion and/or the vehicle/equipment is damaged beyond economical repair as determined by the Fleet Manager.

Vehicles and equipment will be considered for replacement or, in the case of low utilization, reassignment to another function or department, when one or more of the following conditions exist as determined by the Fleet Manager.

1. Replacement parts are no longer available to make repairs
2. Continued use is unsafe
3. Damage has made continued use infeasible
4. Cost of repair exceeds the remaining value

5. Low utilization (usage does not exceed 3,000 miles per year) cannot justify ongoing maintenance and insurance costs

B. MILEAGE EVALUATION INTERVALS At the mileage intervals specified below, vehicles will be evaluated to determine their condition and expected life. The ~~General Services Fleet Management Division~~Fleet Manager is to make such evaluations in accordance with the following schedule. Evaluations may be conducted sooner under certain conditions, such as when a vehicle needs repairs more often than other vehicles of the same class and age, or when a vehicle has been damaged. After initial evaluations, a vehicle will be re-evaluated every 12,000 miles or until it reaches the end of its life, at which time it will be declared surplus.

VEHICLE TYPE	EVALUATION INTERVAL
Sedans	90,000 miles
Sheriff Patrol Sedans	90,000 miles
Passenger Vans	90,000 miles
Cargo Vans	90,000 miles
Sports Utility Truck	100,000 miles
Pickups and 4x4	100,000 miles
Medium/Heavy Duty Trucks	120,000 miles
Buses	180,000 miles
School Buses	8 years/(inspect every 45 days by law)
Miscellaneous Equipment	Depends on Condition

C. EQUIPMENT ABUSE, NEGLIGENCE, AND MISUSE Departments utilizing County equipment shall be responsible for all costs associated with driver abuse, negligence, or misuse of County equipment. Determination of abuse, negligence, or misuse will be at the discretion of the ~~GSD~~Fleet Manager. The ~~GSD~~Fleet Manager shall notify the department using the equipment of any charges covered under this section.

D. VEHICLE CITATIONS, PARKING TICKETS, AND TOLL EVASION NOTICES The department utilizing the equipment shall be responsible for ensuring payment of all citations, parking tickets, and toll evasion notices attributed to any equipment. Citations or tickets attributed to equipment due to administrative reasons (license, titling, registration, ~~etc.~~etc.) will be the responsibility of ~~GSD~~the Fleet Manager to resolve, with the exception of expired registration tabs on undercover vehicles. The department utilizing the equipment is responsible for ensuring undercover plated vehicles display a current registration tab.

E. ACQUISITION OF ADDITIONAL VEHICLES/EQUIPMENT Departments requesting acquisition of an additional vehicle or piece of equipment must demonstrate the need and identify the source of funding for the acquisition and its ongoing maintenance. Funds for the acquisition of additional or replacement vehicles/equipment must be appropriated in the County budget before such acquisition can occur. This appropriation may be included in the annual County Budget adopted by the Board of Supervisors or may occur via a budget appropriation adjustment approved by the Board during the fiscal year. The attached form shall be used for each vehicle/equipment acquisition request Vehicle and Equipment Request Form and forwarded to the County Administrator's Office, Budget Division, upon whose approval the request will be sent to the General Services Fleet Management Manager Division for technical recommendations.

Any vehicle and/or equipment that is offered as a donation to the County must be inspected by the GSD Fleet Management Division Fleet Manager and determined to be in good operating condition, safe, and efficient to operate and maintain prior to acceptance. If the vehicle does not meet these criteria, the donation is not to be accepted. Donated vehicles and equipment require a signed Board Order before the donated equipment may be accepted.

IV. CLEAN AIR VEHICLE POLICY AND GOALS

It is the intent of the County to procure the most fuel efficient and lowest emission vehicles and reduce petroleum fuel consumption. Vehicle and equipment purchases shall be operable on available County alternate fuel sources to the greatest extent practicable and must comply with all applicable clean air and vehicle emission regulations.

~~A. EXEMPTION FROM CLEAN AIR VEHICLES POLICY — Marked emergency response vehicles (e.g. police patrol, fire, paramedic, and other Code 3 equipped units), are exempt from the Clean Air Vehicle Policy. The GSD Fleet Manager may also grant exemptions for vehicles used primarily for prisoner transport or when no alternate fuel or low emission vehicle is available that meets the essential vehicle requirements or specifications. The intended use of the vehicle shall be the determining criteria for granting a Clean Air Vehicle Policy exemption.~~

A. BSEDAN—VEHICLE PURCHASES Alternate fuel (electric, Compressed Natural Gas (CNG), fuel cell, etc.) and hybrid electric sedans vehicles shall be procured to the greatest extent practicable. If an alternate fuel CNG sedan vehicle is not operationally feasible, a hybrid electric sedan vehicle shall be the next vehicle—type considered for procurement. Sedan—Vehicle purchases other than alternate fuel CNG—or hybrid electric require specific justification and approval by the GSD Fleet Manager and shall be rated no lower than Partial Zero Emission Vehicle (PZEV) by the California Air Resources Board when possible. All County sedan purchases shall be alternate fuel, hybrid electric, or rated as PZEV or greater by the California Air

Resources Board.

~~B. C. VAN/LIGHT TRUCK PURCHASES Vans and light truck shall be alternate fuel or~~

~~C. hybrid electric to the greatest extent practicable.~~

~~D.~~

~~E. D. SPORT UTILITY VEHICLE (SUV) PURCHASES Sport Utility Vehicles (SUVs) will not be purchased unless justified based on specific and verified work assignment and approved by the GSD Fleet Manager. When such vehicles are a necessity every effort should be made to purchase hybrid or alternative fuel vehicles. Any SUV purchases which are not for marked law enforcement or Code 3 emergency response shall be hybrid electric.~~

~~F.B.~~ **EXEMPTION FROM CLEAN AIR VEHICLES POLICY** Marked emergency response vehicles (e.g. police patrol, fire, paramedic, and other Code 3 equipped units), ~~are~~ may be exempt from the Clean Air Vehicle Policy. The Fleet Manager may also grant exemptions for vehicles used primarily for prisoner transport or when no alternate fuel or low emission vehicle is available that meets the essential vehicle requirements or specifications. The intended use of the vehicle shall be the determining criteria for granting a Clean Air Vehicle Policy exemption.

V. DEPARTMENT RESPONSIBILITY

A. Department Head or Designee assigned vehicles

1. Designate a department staff person to serve as the departments point of contact for all fleet related issues
2. Ensure safe operation of all vehicles and bringing in vehicles to the Fleet Services Center for scheduled preventative maintenance and safety inspection when requested by the Fleet Manager
3. Budget appropriately for all expenses
4. Prepare and submit Vehicle and Equipment Request Form to the County Administrator's Office, Budget Division for approval of replacement and/or addition of vehicles
5. Enter correct mileage when purchasing fuel
6. Ensure vehicle meets minimum use guidelines
7. Notify ~~GSD-Fleet~~ Manager of any vehicle assignment changes

B. County Administrator's Office

1. Review requests for purchase of vehicles for operational need, compliance with County policy, and budgetary impact.

C. ~~General Services~~Public Works Department – Fleet Services Division

1. Administer and oversee the County Fleet including providing regular preventative maintenance and repairs.
2. Budget for the acquisition and replacement of vehicles and/or equipment
3. Prepare annual report and summary of the distribution of light vehicles and heavy equipment by department for the current fiscal year, the two prior fiscal years, and the recommended distribution for the new fiscal year.
4. Develop light duty vehicle and equipment specifications to increase alternate fuel (CNG, electric, fuel cell, etc.) hybrid electric, and partial zero or less emission vehicle purchases.
5. Identify and procure suitable alternate fuels for use in County vehicles
6. Monitor and identify non-County alternate fuel locations for use by County vehicles

Originating Department(s):

County Administrator's Office
~~General~~ServicesPublic
Works Department

Information Contacts:

County Administrator's Office –Management Analyst Liaison
County Fleet Manager at 925.313.7072

Update Contact:

County Administrator Senior Deputy, Municipal Services

/s/

David Twa
County Administrator



Contra
Costa
County

To: Board of Supervisors
From: INTERNAL OPERATIONS COMMITTEE
Date: November 17, 2015

Subject: REFERRAL ON ANNEXATION STUDY COST SHARING POLICY

RECOMMENDATION(S):

ACCEPT report and recommendation that the Board consider requests to share costs for annexation feasibility studies on a case-by-case basis in lieu of developing a County policy on such requests.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

On October 20, 2015, the Board of Supervisors referred to the Internal Operations Committee the development of a policy for Board consideration to guide the sharing of costs between the County and local jurisdictions of annexation feasibility studies.

Municipal government exists to provide services to urban populations and to regulate them in an orderly fashion. But an anomalous city development is that cities are ringed with urban populations that receive different or fewer services. Disparities in cost and quality of urban services between incorporated and unincorporated areas lead inexorably to incorporation or, in a few cases, to county government on a municipal scale. It is with these urban but unincorporated communities that annexation may be a solution. Careful study is required to determine whether or not an annexation is justified and feasible. Annexation feasibility studies typically involve a determination of the study area and its characteristics, an inventory of current and needed services, the cost of furnishing needed services, and potential revenue to fund those services. Planning staffs of the involved agencies are usually called to study annexation proposals, but sometimes commercial planning contractors are hired to conduct these studies.

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Julie DiMaggio Enea
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: IOC Staff

BACKGROUND: (CONT'D)

Most annexations are initiated by cities or districts in response to a current or future need and upon a determination that a fiscal advantage (or at least no fiscal detriment) would accrue from annexation. Consequently, costs for annexation studies in Contra Costa County have traditionally been borne by the requesting agency. However, that is not always the case. In the absence of a fiscal advantage to a requesting agency and when the County finds that annexation would best serve the welfare of a population, it may be appropriate for the County to share in the costs of the feasibility study.

As a first step, our Committee reviewed remaining unincorporated County areas to determine the likelihood that there will be future annexations that might meet criteria that would be addressed in a cost-sharing policy. It was evident from reviewing the unincorporated areas that the circumstances informing annexation decisions were unique and varied greatly among the different areas. Consequently, at our November 9 meeting, we decided that a general policy would be impractical and that decisions to share in the costs of annexation feasibility studies should be considered based on the circumstances of each particular request and proposal. We ask, therefore, that the Board accept this recommendation and terminate this referral.



**Contra
Costa
County**

To: Board of Supervisors
From: INTERNAL OPERATIONS COMMITTEE
Date: November 17, 2015

Subject: ANNUAL REPORT ON LOCAL BID PREFERENCE PROGRAM

RECOMMENDATION(S):

ACCEPT 2014/15 report prepared by the Public Works Department on the County's Local Bid Preference Program.

FISCAL IMPACT:

No fiscal impact, as this is only an informational report. The program itself results in no financial loss to the County because purchase orders are still awarded to the lowest bidder. The program merely gives a second opportunity for local bidders who are within 5% of the lowest bid to meet or beat the lowest bid. The objective of the program is to stimulate the local economy and job creation.

BACKGROUND:

On August 10, 2004, the Board of Supervisors referred to the Internal Operations Committee (IOC) the creation of a policy to grant a five percent preference to Contra Costa County vendors on all sealed bids or proposals, except with respect to those contracts which state law requires to be granted to the lowest bidder, and review of an ordinance to be drafted by County Counsel to enact this policy. The 2005 IOC proposed a new ordinance to the Board of Supervisors, and the Board adopted the local bid preference ordinance to support small local business and stimulate the local economy at no additional cost to the County. The ordinance provides that if the low bid in a commodities purchase is not a local vendor, any responsive local vendor who submitted a bid over \$25,000 that was within 5% percent of the lowest bid has the option to submit a new bid. The local vendor will be awarded if the new bid is in an amount less than or equal to the lowest responsive bid, allowing the County to favor the local vendor but not at the expense of obtaining the lowest offered price.

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: David Gould
925.313-2151

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Public Works Director, Purchasing Services Manager, IOC Staff

BACKGROUND: (CONT'D)

The ordinance defines a local vendor as any business that has its headquarters, distribution point, or locally-owned franchise located within the county for at least six months immediately prior to the issuance of the request for bids, and holds a valid business license by a jurisdiction in Contra Costa County.

Since adoption, the IOC has continued to monitor the effects of the program through annual reports prepared and presented by the Purchasing Agent or designee. The IOC, on October 12th, received the attached report from the Public Works Director indicating that 67% of the purchase orders done via formal solicitation and meeting the program criteria were awarded to local vendors, at a total value of more than \$275,442. Generally, of the more than \$115 million in purchase orders issued in 2014/15, 20% were issued to Contra Costa County businesses and another 18% were issued to other Bay Area businesses. This compares favorably to the prior year, in which 15.5% of these purchase orders were issued to Contra Costa County businesses and another 13% were issued to other Bay Area businesses.

The Committee accepted the attached staff report and asked the Purchasing Services Manager to provide more information in future reports about how the Local Bid Preference Program meshes with the Small Business Enterprise and Outreach Programs. The Committee recommends no changes to the program.

CONSEQUENCE OF NEGATIVE ACTION:

None. This is an informational report only.

ATTACHMENTS

2014/15 Local Bid Preference Report



Memo

September 25, 2015

TO: Internal Operations Committee
FROM: David J. Gould, Procurement Services Manager
SUBJECT: ANNUAL REPORT ON THE LOCAL BID PREFERENCE PROGRAM

Recommendation

Accept the report on purchasing solicitations awarded to local businesses during Fiscal Year '14-'15, and the Value of purchase orders awarded to local business during the same period.

Background

In 2005 the Board of Supervisors adopted the Local Bid Preference Program, County Ordinance 1108-2.47 in 2006. Under the program, if the low bid in a commodities purchase is not a local vendor, any local vendor who submitted a bid within 5% of the lowest bid has the option to submit a new bid. If the new bid is for an amount less than or equal to the lowest bid, the award may be made to the local vendor. This program applies to bids over \$25,000.

Local Bid Preference Program Results

Purchasing Services processed 83 solicitations using Bidsync. Of the 83 bids, 24 were for products or equipment and 59 were for services or construction. There were six bids that met the criteria for the Local Bid Preference Program. Awards were made to four local vendors under the program. Purchase Orders or contracts were issued valuing \$275,442.

	2011-12	2012-13	2013-14	2014-15
Formal Bids Meeting Criteria	29	17	6	6
Bids Awarded to Local Vendors	13 (45%)	14 (82%)	6 (100%)	4 (67%)
Award Value	\$948,000	\$1,620,000	\$382,294	\$275,442

An evaluation was done to determine the total value of purchase orders issued to local vendors. Purchase orders were grouped into three categories; 1) Local Contra Costa County businesses, 2) Businesses within the other eight bay area counties, 3) Businesses outside the bay area.

The total value of new purchase orders issued during the previous fiscal year was \$ 116,392,775. The percentage of purchase orders awarded to local and bay area businesses is 38%, up from 28% for the previous period. The value of purchase orders awarded to Bay Area businesses was \$ 44,395,562.

Fiscal Year 2014-2015

New Purchase Orders	Contra Costa County	Other Bay Area Counties	Outside Bay Area
\$ 116,392,725	\$ 23,046,509	\$ 21,349,053	\$ 71,997,163
100%	20%	18%	62%

Fiscal Year 2013-2014

New Purchase Orders	Contra Costa County	Other Bay Area Counties	Outside Bay Area
\$ 117,341,377	\$ 18,166,897	\$ 15,392,375	\$ 83,782,105
100%	15.5%	13.1%	71.4%

Fiscal Year 2012-2013

New Purchase Orders	Contra Costa County	Other Bay Area Counties	Outside Bay Area
\$ 102,241,209	\$ 19,856,096	\$ 32,467,756	\$ 49,917,357
100%	19%	32%	49%

CC: J. Bueren



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: EMPLOYEE RETIREMENT PLAN CONTRIBUTION RATES FOR FISCAL YEAR 2016/2017

RECOMMENDATION(S):

ADOPT Resolution No. 2015/435 as approved by the Retirement Board, which establishes retirement plan contribution rates effective July 1, 2016 through June 30, 2017.

FISCAL IMPACT:

See 'Background' below.

BACKGROUND:

At its July 8, 2015 meeting, the Retirement Board reviewed and accepted the actuary's valuation report for the year ending December 31, 2014 and adopted the recommended employer and employee contribution rates, which will become effective on July 1, 2016. A copy of the December 31, 2014 Actuarial Valuation can be found on CCCERA's website at www.cccera.org under the Actuarial Valuations link.

Attached are the rates to be used effective July 1, 2016 through June 30, 2017 submitted for adoption by the County Board of Supervisors by the Contra Costa County Employees' Retirement Association. Please note the following:

- The rates are effective July 1, 2016 through June 30, 2017.
- The rates are before employer subvention, if any, of the employee contribution. The rates quoted here are the employer required rates without taking into consideration any employer subvention of employee contributions. A convenient methodology for adding subvention is included on page 17 of the attached document.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lisa Driscoll, County Finance
Director 335-1023

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Harjit S. Nahal, Assistant County Auditor, Ann Elliott, Employee Benefits Manager, Laura Strobel, Budget System Administrator/Sr. Deputy County Administrator

BACKGROUND: (CONT'D)

>

- The rates are before any increase in employee rate to pay a portion of the employer contribution. If an employee's rate needs to be increased to pay a portion of the employer contribution, both employee and employer rates would need to be adjusted accordingly. A convenient methodology for adding subvention is included on page 17 of the attached document.
- The rates reflect the Retirement Board action to include the leave cashout assumptions for each cost group in developing Basic member contribution rates. This results in an increase in the number of member contribution rate tables which are now by cost group. Please refer to the bottom of Exhibits A and B for a summary of employers and cost groups.

CONSEQUENCE OF NEGATIVE ACTION:

Rates will not reflect those adopted by the Contra Costa County Employees Retirement Board.

ATTACHMENTS

Resolution No. 2015/435

Contribution Rate Packet FY 2016-17

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 11/17/2015 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2015/435

Subject: Approving Contribution Rates to be charged by the Contra Costa County Employees' Retirement Association

Pursuant to Government Code Section 31454 and on recommendation of the Board of the Contra Costa County Employees' Retirement Association, **BE IT RESOLVED** that the following contribution rates are approved to be effective for the period July 1, 2016 through June 30, 2017.

I. Employer Contribution Rates for Basic and Cost-of-Living Components and Non-refundability Discount Factors

- A. For General Members (Sec. 31676.11, Sec. 31676.16 and Sec. 7522.20(a)) See attached Exhibit A
- B. For Safety Members (Sec. 31664, Sec. 31664.1 and Sec. 7522.25(d)) See attached Exhibit B

II. Employee Contribution Rates for Basic and Cost-of-Living Components

See attached Exhibits C through O

The Pension Obligation Bonds (POB) issued by the County in March 1994 and April 2003, affected contribution rates for certain County employers. The following non-County employers who participate in the Retirement Association are referred to as "Districts".

- Bethel Island Municipal Improvement District Contra Costa County Fire Protection District
- Byron, Brentwood Knightsen Union Cemetery District East Contra Costa Fire Protection District
- Central Contra Costa Sanitary District Moraga-Orinda Fire Protection District
- Contra Costa County Employees' Retirement Association Rodeo-Hercules Fire Protection District
- Contra Costa Housing Authority San Ramon Valley Fire Protection District
- Contra Costa Mosquito and Vector Control District
- Local Agency Formation Commission (LAFCO)
- Rodeo Sanitary District
- In-Home Supportive Services Authority
- First 5 - Children & Families Commission
- Contra Costa County Fire Protection District
- East Contra Costa Fire Protection District
- Moraga-Orinda Fire Protection District
- San Ramon Valley Fire Protection District

All other departments/employers are referred to as "County" including the Superior Court of California, Contra Costa County.

Contra Costa County Fire Protection District and Moraga-Orinda Fire Protection District issued Pension Obligation Bonds in 2005 which affected contribution rates for these two employers. Subsequently, Contra Costa County Fire Protection District has made additional payments to CCCERA for its UAAL in 2006 and 2007. First 5 - Children & Families Commission made a UAAL prepayment in 2013 which affected contribution rates for that employer. Central Contra Costa Sanitary District made a UAAL prepayment in 2013 and 2014 which affected contribution rates for that employer.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

Contact: Lisa Driscoll, County Finance Director
335-1023

ATTESTED: November 17, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Harjit S. Nahal, Assistant County Auditor, Ann Elliott, Employee Benefits Manager, Laura Strobel, Budget System Administrator/Sr. Deputy County Administrator

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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16	General and Safety PEPRA Member Rates (Exhibit O)
17	Examples for Subvention and Employee Cost Sharing
18	Prepayment Discount Factor for 2016-17

Exhibit A

**CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
GENERAL TIERS 1, 3, 4 and 5
EMPLOYER CONTRIBUTION RATES EFFECTIVE FOR JULY 1, 2016 THROUGH JUNE 30, 2017**

	Cost Group #1 Moraga-Orinda Fire District				Cost Group #2 Districts without POB		Cost Group #3 Central Contra Costa Sanitary District	Cost Group #4 Contra Costa Housing Authority	Cost Group #5 Contra Costa County Fire Protection District	Cost Group #6 Districts without POB
	County	First 5	Districts without POB		County	Districts without POB				
<u>BASIC Contribution Rates</u>										
Legacy Members* (Tier 1 and Tier 3)	23.50%	19.00%	21.94%	29.09%	23.36%	29.07%	39.08%	28.76%	21.37%	22.10%
PEPRA Members with 3% Maximum COLA** (Tier 4 and Tier 5)	19.46%	15.30%	17.92%	25.08%	19.11%	24.73%	34.97%	22.44%	19.86%	18.32%
PEPRA Members with 2% Maximum COLA** (Tier 4 and Tier 5)	19.65%	N/A	N/A	N/A	18.60%	24.22%	N/A	N/A	16.59%	N/A
<u>COLA Contribution Rates</u>										
Legacy Members* (Tier 1 and Tier 3)	7.40%	6.13%	6.49%	11.93%	7.20%	11.78%	16.89%	14.70%	10.35%	5.16%
PEPRA Members with 3% Maximum COLA** (Tier 4 and Tier 5)	6.55%	5.38%	5.65%	11.06%	6.35%	10.86%	16.07%	13.16%	10.49%	4.47%
PEPRA Members with 2% Maximum COLA** (Tier 4 and Tier 5)	5.43%	N/A	N/A	N/A	5.20%	9.71%	N/A	N/A	8.20%	N/A
<u>Refundability Factors</u>										
Legacy Members (Tier 1 and Tier 3)	0.9601	0.9601	0.9601	0.9601	0.9575	0.9575	0.9581	0.9564	0.9592	0.9560
PEPRA Members with 3% Maximum COLA (Tier 4 and Tier 5)	0.9634	0.9634	0.9634	0.9634	0.9650	0.9650	0.9624	0.9753	0.9664	0.9717
PEPRA Members with 2% Maximum COLA (Tier 4 and Tier 5)	0.9605	N/A	N/A	N/A	0.9640	0.9640	N/A	N/A	0.9727	N/A

* For members in Social Security, the rate should only be applied to monthly compensation in excess of \$116.67.

* The rate should only be applied to compensation up to the annual IRC 401(a)(17) compensation limit.

** The rate should be applied to all compensation (whether or not in Social Security) up to the applicable annual GC 7522.10(d) compensation limit.

<u>Cost Group</u>	<u>Legacy Tier</u>	<u>PEPRA Tier</u>	<u>Employer Name</u>	<u>Cost Group</u>	<u>Legacy Tier</u>	<u>PEPRA Tier</u>	<u>Employer Name</u>
Cost Group #1	Tier 1 Enhanced (2% @ 55)	Tier 4 (2.5% @ 67)	County General LAFCO CC Mosquito & Vector Control District Bethel Island Municipal Improvement District First 5 - Children and Families Commission CCCERA Superior Court East Contra Costa Fire Protection District Moraga-Orinda Fire Protection District Rodeo-Hercules Fire Protection District San Ramon Valley Fire Protection District	Cost Group #3	Tier 1 Enhanced (2% @ 55)	Tier 4 (2.5% @ 67)	Central Contra Costa Sanitary District
				Cost Group #4	Tier 1 Enhanced (2% @ 55)	Tier 4 (2.5% @ 67)	Contra Costa Housing Authority
				Cost Group #5	Tier 1 Enhanced (2% @ 55)	Tier 4 (2.5% @ 67)	Contra Costa County Fire Protection District
				Cost Group #6	Tier 1 Non-enhanced (1.67% @ 55)	Tier 4 (2.5% @ 67)	Rodeo Sanitary District Byron Brentwood Cemetery District
Cost Group #2	Tier 3 Enhanced (2% @ 55)	Tier 5 (2.5% @ 67)	County General In-Home Supportive Services CC Mosquito & Vector Control District Superior Court				

Exhibit B

**CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
SAFETY TIERS A, C, D and E
EMPLOYER CONTRIBUTION RATES EFFECTIVE FOR JULY 1, 2016 THROUGH JUNE 30, 2017**

	Cost Group #7	Cost Group #8		Cost Group #9	Cost Group #10	Cost Group #11	Cost Group #12
	County	Contra Costa County Fire Protection District	East Contra Costa Fire Protection District	County	Moraga-Orinda Fire Protection District	San Ramon Valley Fire Protection District	Rodeo-Hercules Fire Protection District
<u>BASIC Contribution Rates</u>							
Legacy Members* (Tier A and Tier C)	48.50%	39.78%	69.43%	46.23%	38.70%	54.38%	16.88%
PEPRA Members with 3% Maximum COLA** (Tier D)	42.92%	32.45%	62.10%	N/A	30.95%	46.46%	11.43%
PEPRA Members with 2% Maximum COLA** (Tier E)	N/A	31.44%	N/A	39.86%	N/A	N/A	N/A
Monthly Contribution Towards UAAL	N/A	N/A	N/A	N/A	N/A	N/A	\$79,828
<u>COLA Contribution Rates</u>							
Legacy Members* (Tier A and Tier C)	29.44%	34.77%	57.39%	26.00%	31.90%	29.66%	5.91%
PEPRA Members with 3% Maximum COLA** (Tier D)	28.71%	33.46%	56.08%	N/A	30.22%	28.04%	5.10%
PEPRA Members with 2% Maximum COLA** (Tier E)	N/A	30.77%	N/A	25.41%	N/A	N/A	N/A
Monthly Contribution Towards UAAL	N/A	N/A	N/A	N/A	N/A	N/A	\$52,011
<u>Refundability Factors</u>							
Legacy Members (Tier A and Tier C)	0.9741	0.9749	0.9749	0.9755	0.9764	0.9763	0.9757
PEPRA Members with 3% Maximum COLA** (Tier D)	0.9772	0.9821	0.9821	N/A	0.9837	0.9837	0.9852
PEPRA Members with 2% Maximum COLA** (Tier E)	N/A	0.9809	N/A	0.9802	N/A	N/A	N/A

* The rate should be applied to all compensation up to the IRC 401(a)(17) compensation limit.

** The rate should be applied to all compensation up to the applicable annual GC 7522.10(d) compensation limit.

Cost Group	Legacy Tier	PEPRA Tier	Employer Name
Cost Group # 7	Tier A Enhanced (3% @ 50)	Tier D (2.7% @ 57)	County Safety (3% Maximum COLA)
Cost Group # 8	Tier A Enhanced (3% @ 50)	Tier D (2.7% @ 57)	Contra Costa County Fire Protection District (3% Maximum COLA)
			East Contra Costa Fire Protection District (3% Maximum COLA)
		Tier E (2.7% @ 57)	Contra Costa County Fire Protection District (2% Maximum COLA)
Cost Group # 9	Tier C Enhanced (3% @ 50)	Tier E (2.7% @ 57)	County Safety (2% Maximum COLA)
Cost Group # 10	Tier A Enhanced (3% @ 50)	Tier D (2.7% @ 57)	Moraga-Orinda Fire Protection District (3% Maximum COLA)
Cost Group # 11	Tier A Enhanced (3% @ 50)	Tier D (2.7% @ 57)	San Ramon Valley Fire Protection District (3% Maximum COLA)
Cost Group # 12	Tier A Non-enhanced (2% @ 50)	Tier D (2.7% @ 57)	Rodeo Hercules Fire Protection District (3% Maximum COLA)

Exhibit C

GENERAL Cost Group #1 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	5.39%	2.96%	8.35%
16	5.47%	3.01%	8.48%
17	5.55%	3.05%	8.60%
18	5.62%	3.09%	8.71%
19	5.70%	3.14%	8.84%
20	5.78%	3.18%	8.96%
21	5.86%	3.22%	9.08%
22	5.95%	3.27%	9.22%
23	6.03%	3.32%	9.35%
24	6.11%	3.36%	9.47%
25	6.20%	3.41%	9.61%
26	6.28%	3.45%	9.73%
27	6.37%	3.50%	9.87%
28	6.46%	3.55%	10.01%
29	6.55%	3.60%	10.15%
30	6.64%	3.65%	10.29%
31	6.73%	3.70%	10.43%
32	6.82%	3.75%	10.57%
33	6.92%	3.81%	10.73%
34	7.01%	3.86%	10.87%
35	7.11%	3.91%	11.02%
36	7.21%	3.97%	11.18%
37	7.31%	4.02%	11.33%
38	7.41%	4.08%	11.49%
39	7.51%	4.13%	11.64%
40	7.62%	4.19%	11.81%
41	7.72%	4.25%	11.97%
42	7.83%	4.31%	12.14%
43	7.94%	4.37%	12.31%
44	8.06%	4.43%	12.49%
45	8.18%	4.50%	12.68%
46	8.30%	4.57%	12.87%
47	8.43%	4.64%	13.07%
48	8.56%	4.71%	13.27%
49	8.70%	4.79%	13.49%
50	8.85%	4.87%	13.72%
51	9.00%	4.95%	13.95%
52	9.17%	5.04%	14.21%
53	9.31%	5.12%	14.43%
54	9.47%	5.21%	14.68%
55	9.59%	5.27%	14.86%
56	9.65%	5.31%	14.96%
57	9.61%	5.29%	14.90%
58	9.51%	5.23%	14.74%
59	9.27%	5.10%	14.37%
60 and over	9.27%	5.10%	14.37%
COLA Loading Factor:		55.00%	

***NOTE:** For members in Social Security, the rate should only be applied to monthly compensation in excess of \$116.67.
The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit D

GENERAL Cost Group #2 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	5.35%	2.67%	8.02%
16	5.43%	2.71%	8.14%
17	5.51%	2.75%	8.26%
18	5.58%	2.79%	8.37%
19	5.66%	2.83%	8.49%
20	5.74%	2.87%	8.61%
21	5.82%	2.91%	8.73%
22	5.90%	2.95%	8.85%
23	5.99%	2.99%	8.98%
24	6.07%	3.03%	9.10%
25	6.15%	3.07%	9.22%
26	6.24%	3.12%	9.36%
27	6.32%	3.16%	9.48%
28	6.41%	3.20%	9.61%
29	6.50%	3.25%	9.75%
30	6.59%	3.29%	9.88%
31	6.68%	3.34%	10.02%
32	6.77%	3.38%	10.15%
33	6.87%	3.43%	10.30%
34	6.96%	3.48%	10.44%
35	7.06%	3.53%	10.59%
36	7.16%	3.58%	10.74%
37	7.26%	3.63%	10.89%
38	7.36%	3.68%	11.04%
39	7.46%	3.73%	11.19%
40	7.56%	3.78%	11.34%
41	7.67%	3.83%	11.50%
42	7.78%	3.89%	11.67%
43	7.89%	3.94%	11.83%
44	8.00%	4.00%	12.00%
45	8.13%	4.06%	12.19%
46	8.24%	4.12%	12.36%
47	8.37%	4.18%	12.55%
48	8.50%	4.25%	12.75%
49	8.65%	4.32%	12.97%
50	8.80%	4.40%	13.20%
51	8.94%	4.47%	13.41%
52	9.11%	4.55%	13.66%
53	9.25%	4.62%	13.87%
54	9.42%	4.71%	14.13%
55	9.52%	4.76%	14.28%
56	9.61%	4.80%	14.41%
57	9.55%	4.77%	14.32%
58	9.42%	4.71%	14.13%
59	9.04%	4.52%	13.56%
60 and over	9.04%	4.52%	13.56%
COLA Loading Factor:		49.97%	

***NOTE:** For members in Social Security, the rate should only be applied to monthly compensation in excess of \$116.67.

The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit E

GENERAL Cost Group #3 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	5.66%	3.16%	8.82%
16	5.74%	3.20%	8.94%
17	5.82%	3.24%	9.06%
18	5.90%	3.29%	9.19%
19	5.98%	3.33%	9.31%
20	6.06%	3.38%	9.44%
21	6.15%	3.43%	9.58%
22	6.23%	3.47%	9.70%
23	6.32%	3.52%	9.84%
24	6.41%	3.57%	9.98%
25	6.50%	3.62%	10.12%
26	6.59%	3.67%	10.26%
27	6.68%	3.72%	10.40%
28	6.77%	3.77%	10.54%
29	6.86%	3.82%	10.68%
30	6.96%	3.88%	10.84%
31	7.05%	3.93%	10.98%
32	7.15%	3.99%	11.14%
33	7.25%	4.04%	11.29%
34	7.35%	4.10%	11.45%
35	7.45%	4.15%	11.60%
36	7.55%	4.21%	11.76%
37	7.65%	4.26%	11.91%
38	7.76%	4.33%	12.09%
39	7.87%	4.39%	12.26%
40	7.98%	4.45%	12.43%
41	8.09%	4.51%	12.60%
42	8.20%	4.57%	12.77%
43	8.32%	4.64%	12.96%
44	8.43%	4.70%	13.13%
45	8.56%	4.77%	13.33%
46	8.69%	4.84%	13.53%
47	8.81%	4.91%	13.72%
48	8.95%	4.99%	13.94%
49	9.09%	5.07%	14.16%
50	9.25%	5.16%	14.41%
51	9.41%	5.25%	14.66%
52	9.55%	5.32%	14.87%
53	9.70%	5.41%	15.11%
54	9.84%	5.49%	15.33%
55	9.94%	5.54%	15.48%
56	10.02%	5.59%	15.61%
57	9.92%	5.53%	15.45%
58	9.79%	5.46%	15.25%
59	9.11%	5.08%	14.19%
60 and over	9.11%	5.08%	14.19%

COLA Loading Factor: 55.75%

***NOTE:** For members in Social Security, the rate should only be applied to monthly compensation in excess of \$116.67.
The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit F

GENERAL Cost Group #4 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	5.33%	2.94%	8.27%
16	5.40%	2.98%	8.38%
17	5.48%	3.02%	8.50%
18	5.56%	3.07%	8.63%
19	5.63%	3.11%	8.74%
20	5.71%	3.15%	8.86%
21	5.79%	3.19%	8.98%
22	5.87%	3.24%	9.11%
23	5.96%	3.29%	9.25%
24	6.04%	3.33%	9.37%
25	6.12%	3.38%	9.50%
26	6.21%	3.43%	9.64%
27	6.29%	3.47%	9.76%
28	6.38%	3.52%	9.90%
29	6.47%	3.57%	10.04%
30	6.56%	3.62%	10.18%
31	6.65%	3.67%	10.32%
32	6.74%	3.72%	10.46%
33	6.83%	3.77%	10.60%
34	6.93%	3.82%	10.75%
35	7.02%	3.87%	10.89%
36	7.12%	3.93%	11.05%
37	7.22%	3.98%	11.20%
38	7.32%	4.04%	11.36%
39	7.42%	4.09%	11.51%
40	7.53%	4.15%	11.68%
41	7.64%	4.21%	11.85%
42	7.74%	4.27%	12.01%
43	7.85%	4.33%	12.18%
44	7.97%	4.40%	12.37%
45	8.09%	4.46%	12.55%
46	8.20%	4.52%	12.72%
47	8.34%	4.60%	12.94%
48	8.46%	4.67%	13.13%
49	8.60%	4.74%	13.34%
50	8.76%	4.83%	13.59%
51	8.91%	4.91%	13.82%
52	9.07%	5.00%	14.07%
53	9.23%	5.09%	14.32%
54	9.37%	5.17%	14.54%
55	9.49%	5.23%	14.72%
56	9.57%	5.28%	14.85%
57	9.57%	5.28%	14.85%
58	9.44%	5.21%	14.65%
59	9.09%	5.01%	14.10%
60 and over	9.09%	5.01%	14.10%
COLA Loading Factor:		55.16%	

***NOTE:** For members in Social Security, the rate should only be applied to monthly compensation in excess of \$116.67.
The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit G

GENERAL Cost Group #5 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	5.39%	2.92%	8.31%
16	5.47%	2.97%	8.44%
17	5.55%	3.01%	8.56%
18	5.62%	3.05%	8.67%
19	5.70%	3.09%	8.79%
20	5.78%	3.14%	8.92%
21	5.86%	3.18%	9.04%
22	5.95%	3.23%	9.18%
23	6.03%	3.27%	9.30%
24	6.11%	3.31%	9.42%
25	6.20%	3.36%	9.56%
26	6.28%	3.41%	9.69%
27	6.37%	3.46%	9.83%
28	6.46%	3.50%	9.96%
29	6.55%	3.55%	10.10%
30	6.64%	3.60%	10.24%
31	6.73%	3.65%	10.38%
32	6.82%	3.70%	10.52%
33	6.92%	3.75%	10.67%
34	7.01%	3.80%	10.81%
35	7.11%	3.86%	10.97%
36	7.21%	3.91%	11.12%
37	7.31%	3.97%	11.28%
38	7.41%	4.02%	11.43%
39	7.51%	4.07%	11.58%
40	7.62%	4.13%	11.75%
41	7.72%	4.19%	11.91%
42	7.83%	4.25%	12.08%
43	7.94%	4.31%	12.25%
44	8.06%	4.37%	12.43%
45	8.18%	4.44%	12.62%
46	8.30%	4.50%	12.80%
47	8.43%	4.57%	13.00%
48	8.56%	4.64%	13.20%
49	8.70%	4.72%	13.42%
50	8.85%	4.80%	13.65%
51	9.00%	4.88%	13.88%
52	9.17%	4.97%	14.14%
53	9.31%	5.05%	14.36%
54	9.47%	5.14%	14.61%
55	9.59%	5.20%	14.79%
56	9.65%	5.24%	14.89%
57	9.61%	5.21%	14.82%
58	9.51%	5.16%	14.67%
59	9.27%	5.03%	14.30%
60 and over	9.27%	5.03%	14.30%
COLA Loading Factor:		54.25%	

***NOTE:** For members in Social Security, the rate should only be applied to monthly compensation in excess of \$116.67.
The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit H

GENERAL Cost Group #6 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	6.14%	2.83%	8.97%
16	6.23%	2.88%	9.11%
17	6.32%	2.92%	9.24%
18	6.40%	2.95%	9.35%
19	6.49%	3.00%	9.49%
20	6.58%	3.04%	9.62%
21	6.67%	3.08%	9.75%
22	6.77%	3.13%	9.90%
23	6.86%	3.17%	10.03%
24	6.96%	3.21%	10.17%
25	7.05%	3.25%	10.30%
26	7.15%	3.30%	10.45%
27	7.25%	3.35%	10.60%
28	7.35%	3.39%	10.74%
29	7.45%	3.44%	10.89%
30	7.55%	3.49%	11.04%
31	7.66%	3.54%	11.20%
32	7.76%	3.58%	11.34%
33	7.87%	3.63%	11.50%
34	7.98%	3.68%	11.66%
35	8.09%	3.73%	11.82%
36	8.21%	3.79%	12.00%
37	8.32%	3.84%	12.16%
38	8.44%	3.90%	12.34%
39	8.56%	3.95%	12.51%
40	8.69%	4.01%	12.70%
41	8.82%	4.07%	12.89%
42	8.95%	4.13%	13.08%
43	9.10%	4.20%	13.30%
44	9.24%	4.27%	13.51%
45	9.41%	4.34%	13.75%
46	9.57%	4.42%	13.99%
47	9.74%	4.50%	14.24%
48	9.89%	4.57%	14.46%
49	10.06%	4.64%	14.70%
50	10.17%	4.69%	14.86%
51	10.28%	4.75%	15.03%
52	10.24%	4.73%	14.97%
53	10.14%	4.68%	14.82%
54	9.89%	4.57%	14.46%
55	9.89%	4.57%	14.46%
56	9.89%	4.57%	14.46%
57	9.89%	4.57%	14.46%
58	9.89%	4.57%	14.46%
59	9.89%	4.57%	14.46%
60 and over	9.89%	4.57%	14.46%
COLA Loading Factor:		46.16%	

***NOTE:** For members in Social Security, the rate should only be applied to monthly compensation in excess of \$116.67.
The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit I

SAFETY Cost Group #7 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	8.97%	6.62%	15.59%
16	8.97%	6.62%	15.59%
17	8.97%	6.62%	15.59%
18	8.97%	6.62%	15.59%
19	8.97%	6.62%	15.59%
20	8.97%	6.62%	15.59%
21	8.97%	6.62%	15.59%
22	9.09%	6.71%	15.80%
23	9.21%	6.79%	16.00%
24	9.34%	6.89%	16.23%
25	9.47%	6.99%	16.46%
26	9.60%	7.08%	16.68%
27	9.73%	7.18%	16.91%
28	9.87%	7.28%	17.15%
29	10.00%	7.38%	17.38%
30	10.15%	7.49%	17.64%
31	10.29%	7.59%	17.88%
32	10.43%	7.69%	18.12%
33	10.58%	7.80%	18.38%
34	10.73%	7.92%	18.65%
35	10.89%	8.03%	18.92%
36	11.05%	8.15%	19.20%
37	11.22%	8.28%	19.50%
38	11.39%	8.40%	19.79%
39	11.58%	8.54%	20.12%
40	11.77%	8.68%	20.45%
41	11.99%	8.85%	20.84%
42	12.21%	9.01%	21.22%
43	12.48%	9.21%	21.69%
44	12.74%	9.40%	22.14%
45	12.93%	9.54%	22.47%
46	12.96%	9.56%	22.52%
47	12.93%	9.54%	22.47%
48	12.75%	9.41%	22.16%
49	12.42%	9.16%	21.58%
50	12.42%	9.16%	21.58%
51	12.42%	9.16%	21.58%
52	12.42%	9.16%	21.58%
53	12.42%	9.16%	21.58%
54	12.42%	9.16%	21.58%
55	12.42%	9.16%	21.58%
56	12.42%	9.16%	21.58%
57	12.42%	9.16%	21.58%
58	12.42%	9.16%	21.58%
59	12.42%	9.16%	21.58%
60 and over	12.42%	9.16%	21.58%
COLA Loading Factor:		73.77%	

***NOTE:** The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit J

SAFETY Cost Group #8 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	8.97%	6.66%	15.63%
16	8.97%	6.66%	15.63%
17	8.97%	6.66%	15.63%
18	8.97%	6.66%	15.63%
19	8.97%	6.66%	15.63%
20	8.97%	6.66%	15.63%
21	8.97%	6.66%	15.63%
22	9.09%	6.75%	15.84%
23	9.21%	6.84%	16.05%
24	9.34%	6.94%	16.28%
25	9.47%	7.03%	16.50%
26	9.60%	7.13%	16.73%
27	9.73%	7.23%	16.96%
28	9.87%	7.33%	17.20%
29	10.00%	7.43%	17.43%
30	10.15%	7.54%	17.69%
31	10.29%	7.64%	17.93%
32	10.43%	7.75%	18.18%
33	10.58%	7.86%	18.44%
34	10.73%	7.97%	18.70%
35	10.89%	8.09%	18.98%
36	11.05%	8.21%	19.26%
37	11.22%	8.33%	19.55%
38	11.39%	8.46%	19.85%
39	11.58%	8.60%	20.18%
40	11.77%	8.74%	20.51%
41	11.99%	8.90%	20.89%
42	12.21%	9.07%	21.28%
43	12.48%	9.27%	21.75%
44	12.74%	9.46%	22.20%
45	12.93%	9.60%	22.53%
46	12.96%	9.62%	22.58%
47	12.93%	9.60%	22.53%
48	12.75%	9.47%	22.22%
49	12.42%	9.22%	21.64%
50	12.42%	9.22%	21.64%
51	12.42%	9.22%	21.64%
52	12.42%	9.22%	21.64%
53	12.42%	9.22%	21.64%
54	12.42%	9.22%	21.64%
55	12.42%	9.22%	21.64%
56	12.42%	9.22%	21.64%
57	12.42%	9.22%	21.64%
58	12.42%	9.22%	21.64%
59	12.42%	9.22%	21.64%
60 and over	12.42%	9.22%	21.64%
COLA Loading Factor:		74.26%	

***NOTE:** The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit K

SAFETY Cost Group #9 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	8.50%	3.55%	12.05%
16	8.50%	3.55%	12.05%
17	8.50%	3.55%	12.05%
18	8.50%	3.55%	12.05%
19	8.50%	3.55%	12.05%
20	8.50%	3.55%	12.05%
21	8.50%	3.55%	12.05%
22	8.62%	3.60%	12.22%
23	8.74%	3.65%	12.39%
24	8.86%	3.70%	12.56%
25	8.98%	3.75%	12.73%
26	9.11%	3.80%	12.91%
27	9.23%	3.85%	13.08%
28	9.36%	3.91%	13.27%
29	9.49%	3.96%	13.45%
30	9.62%	4.01%	13.63%
31	9.76%	4.07%	13.83%
32	9.90%	4.13%	14.03%
33	10.04%	4.19%	14.23%
34	10.18%	4.25%	14.43%
35	10.33%	4.31%	14.64%
36	10.49%	4.38%	14.87%
37	10.64%	4.44%	15.08%
38	10.81%	4.51%	15.32%
39	10.99%	4.59%	15.58%
40	11.17%	4.66%	15.83%
41	11.38%	4.75%	16.13%
42	11.57%	4.83%	16.40%
43	11.76%	4.91%	16.67%
44	11.87%	4.95%	16.82%
45	11.89%	4.96%	16.85%
46	11.80%	4.92%	16.72%
47	11.51%	4.80%	16.31%
48	11.90%	4.97%	16.87%
49	12.51%	5.22%	17.73%
50	12.51%	5.22%	17.73%
51	12.51%	5.22%	17.73%
52	12.51%	5.22%	17.73%
53	12.51%	5.22%	17.73%
54	12.51%	5.22%	17.73%
55	12.51%	5.22%	17.73%
56	12.51%	5.22%	17.73%
57	12.51%	5.22%	17.73%
58	12.51%	5.22%	17.73%
59	12.51%	5.22%	17.73%
60 and over	12.51%	5.22%	17.73%
COLA Loading Factor:		41.73%	

***NOTE:** The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit L

SAFETY Cost Group #10 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	9.03%	6.57%	15.60%
16	9.03%	6.57%	15.60%
17	9.03%	6.57%	15.60%
18	9.03%	6.57%	15.60%
19	9.03%	6.57%	15.60%
20	9.03%	6.57%	15.60%
21	9.03%	6.57%	15.60%
22	9.16%	6.67%	15.83%
23	9.28%	6.75%	16.03%
24	9.41%	6.85%	16.26%
25	9.54%	6.94%	16.48%
26	9.67%	7.04%	16.71%
27	9.80%	7.13%	16.93%
28	9.94%	7.24%	17.18%
29	10.08%	7.34%	17.42%
30	10.22%	7.44%	17.66%
31	10.36%	7.54%	17.90%
32	10.51%	7.65%	18.16%
33	10.66%	7.76%	18.42%
34	10.81%	7.87%	18.68%
35	10.96%	7.98%	18.94%
36	11.13%	8.10%	19.23%
37	11.30%	8.23%	19.53%
38	11.47%	8.35%	19.82%
39	11.66%	8.49%	20.15%
40	11.84%	8.62%	20.46%
41	12.06%	8.78%	20.84%
42	12.29%	8.95%	21.24%
43	12.55%	9.14%	21.69%
44	12.83%	9.34%	22.17%
45	13.01%	9.47%	22.48%
46	13.06%	9.51%	22.57%
47	12.98%	9.45%	22.43%
48	12.85%	9.35%	22.20%
49	12.33%	8.98%	21.31%
50	12.33%	8.98%	21.31%
51	12.33%	8.98%	21.31%
52	12.33%	8.98%	21.31%
53	12.33%	8.98%	21.31%
54	12.33%	8.98%	21.31%
55	12.33%	8.98%	21.31%
56	12.33%	8.98%	21.31%
57	12.33%	8.98%	21.31%
58	12.33%	8.98%	21.31%
59	12.33%	8.98%	21.31%
60 and over	12.33%	8.98%	21.31%
COLA Loading Factor:		72.79%	

***NOTE:** The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit M

SAFETY Cost Group #11 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	9.16%	6.73%	15.89%
16	9.16%	6.73%	15.89%
17	9.16%	6.73%	15.89%
18	9.16%	6.73%	15.89%
19	9.16%	6.73%	15.89%
20	9.16%	6.73%	15.89%
21	9.16%	6.73%	15.89%
22	9.29%	6.82%	16.11%
23	9.42%	6.92%	16.34%
24	9.55%	7.01%	16.56%
25	9.68%	7.11%	16.79%
26	9.81%	7.20%	17.01%
27	9.94%	7.30%	17.24%
28	10.08%	7.40%	17.48%
29	10.22%	7.51%	17.73%
30	10.36%	7.61%	17.97%
31	10.51%	7.72%	18.23%
32	10.66%	7.83%	18.49%
33	10.81%	7.94%	18.75%
34	10.96%	8.05%	19.01%
35	11.12%	8.17%	19.29%
36	11.28%	8.28%	19.56%
37	11.45%	8.41%	19.86%
38	11.62%	8.53%	20.15%
39	11.81%	8.67%	20.48%
40	12.01%	8.82%	20.83%
41	12.21%	8.97%	21.18%
42	12.46%	9.15%	21.61%
43	12.70%	9.33%	22.03%
44	12.98%	9.53%	22.51%
45	13.15%	9.66%	22.81%
46	13.20%	9.69%	22.89%
47	13.09%	9.61%	22.70%
48	12.89%	9.47%	22.36%
49	12.47%	9.16%	21.63%
50	12.47%	9.16%	21.63%
51	12.47%	9.16%	21.63%
52	12.47%	9.16%	21.63%
53	12.47%	9.16%	21.63%
54	12.47%	9.16%	21.63%
55	12.47%	9.16%	21.63%
56	12.47%	9.16%	21.63%
57	12.47%	9.16%	21.63%
58	12.47%	9.16%	21.63%
59	12.47%	9.16%	21.63%
60 and over	12.47%	9.16%	21.63%

COLA Loading Factor: 73.44%

***NOTE:** The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit N

SAFETY Cost Group #12 Non-PEPRA Member Contribution Rates

Membership Date before January 1, 2013

Effective 7/1/16 - 6/30/17

Expressed as a Percentage of Monthly Payroll*

<u>Entry Age</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
15	9.21%	5.32%	14.53%
16	9.21%	5.32%	14.53%
17	9.21%	5.32%	14.53%
18	9.21%	5.32%	14.53%
19	9.21%	5.32%	14.53%
20	9.21%	5.32%	14.53%
21	9.21%	5.32%	14.53%
22	9.33%	5.39%	14.72%
23	9.46%	5.47%	14.93%
24	9.59%	5.54%	15.13%
25	9.72%	5.62%	15.34%
26	9.86%	5.70%	15.56%
27	9.99%	5.78%	15.77%
28	10.13%	5.86%	15.99%
29	10.27%	5.94%	16.21%
30	10.41%	6.02%	16.43%
31	10.56%	6.10%	16.66%
32	10.70%	6.19%	16.89%
33	10.85%	6.27%	17.12%
34	11.01%	6.36%	17.37%
35	11.17%	6.46%	17.63%
36	11.33%	6.55%	17.88%
37	11.50%	6.65%	18.15%
38	11.68%	6.75%	18.43%
39	11.86%	6.86%	18.72%
40	12.07%	6.98%	19.05%
41	12.28%	7.10%	19.38%
42	12.49%	7.22%	19.71%
43	12.77%	7.38%	20.15%
44	13.04%	7.54%	20.58%
45	13.18%	7.62%	20.80%
46	13.24%	7.65%	20.89%
47	13.16%	7.61%	20.77%
48	12.86%	7.43%	20.29%
49	12.41%	7.17%	19.58%
50	12.41%	7.17%	19.58%
51	12.41%	7.17%	19.58%
52	12.41%	7.17%	19.58%
53	12.41%	7.17%	19.58%
54	12.41%	7.17%	19.58%
55	12.41%	7.17%	19.58%
56	12.41%	7.17%	19.58%
57	12.41%	7.17%	19.58%
58	12.41%	7.17%	19.58%
59	12.41%	7.17%	19.58%
60 and over	12.41%	7.17%	19.58%
COLA Loading Factor:		57.81%	

***NOTE:** The rate should be applied to all compensation up to the annual IRC 401(a)(17) compensation limit.

Exhibit O
PEPRA Tiers Member Contribution Rates
Membership Date on or after January 1, 2013
Effective 7/1/16 - 6/30/17
Expressed as a Percentage of Monthly Payroll*

<u>General Tiers</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
Cost Group #1 – PEPRA Tier 4 (2% COLA)	8.17%	1.84%	10.01%
Cost Group #1 – PEPRA Tier 4 (3% COLA)	7.98%	2.96%	10.94%
Cost Group #2 - PEPRA Tier 5 (2% COLA)	7.12%	1.61%	8.73%
Cost Group #2 - PEPRA Tier 5 (3%/4% COLA)	7.63%	2.76%	10.39%
Cost Group #3 - PEPRA Tier 4 (3% COLA)	8.80%	3.26%	12.06%
Cost Group #4 - PEPRA Tier 4 (3% COLA)	6.96%	2.64%	9.60%
Cost Group #5 - PEPRA Tier 4 (2% COLA)	6.99%	1.59%	8.58%
Cost Group #5 - PEPRA Tier 4 (3% COLA)	10.26%	3.88%	14.14%
Cost Group #6 - PEPRA Tier 4 (3% COLA)	8.41%	3.24%	11.65%

<u>Safety Tiers</u>	<u>Basic</u>	<u>COLA</u>	<u>Total</u>
Cost Group #7 - PEPRA Tier D	15.99%	6.69%	22.68%
Cost Group #8 - PEPRA Tier D	13.64%	6.01%	19.65%
Cost Group #8 - PEPRA Tier E	12.63%	3.32%	15.95%
Cost Group #9 - PEPRA Tier E	12.93%	3.39%	16.32%
Cost Group #10 - PEPRA Tier D	12.55%	5.55%	18.10%
Cost Group #11 - PEPRA Tier D	12.91%	5.74%	18.65%
Cost Group #12 - PEPRA Tier D	11.43%	5.10%	16.53%

<p>*NOTE: The rate should be applied to all compensation (whether or not in Social Security) up to the applicable annual Gov. Code 7522.10(d) compensation limit.</p>
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CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

SUBVENTION

All rates are shown as a percent of payroll.

Employee contribution rates vary depending upon their tier and age at entry. To compute the exact subvention percent for each employee, do the following:

Employee rate – Decrease the employee's rate by the subvention percent (i.e. 25%, 50%, etc.).

Employer rate – Increase the employer's rate by a **percent** of the employee's decrease using the applicable refundability factor (found on Exhibits A and B):

EXAMPLE FOR COST GROUP #3 LEGACY MEMBERS:

If the subvention percent is 25%, and
the employee's rate is 6.00%,

Employee rates should be decreased by 1.50% ($25\% \times 6.00\%$)
The employer rate should be increased by 1.4372% ($1.50\% \times 0.9581$)

Please note that for PEPRA members, subvention is generally not permitted. The standard under Gov. Code §7522.30(a) is that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution, but there are some exceptions. Gov. Code §7522.30(f) allows the terms (regarding the employee's required contribution) of a contract, including a memorandum of understanding, that is in effect on January 1, 2013, to continue through the length of a contract. This means that it is possible that an employer will subvent a portion of a PEPRA member's required contribution until the expiration date of the current contract, so long as it has been determined that the contract has been impaired.

CAUTION – these rates are for employer **subvention** of up to one-half the member contribution under Gov. Code §31581.1, NOT employer **pick-up** of employee contribution rates. When an employer subvents, the contribution subvented is not placed in the member's account and is therefore not available to the member as a refund. For this reason, the employer pays the contribution at a discount (i.e. "Refundability Factor").

Employer **pick-ups** of employee contributions are those made under Gov. Code §31581.2 and Internal Revenue Code §414 (h)(2) for the sole purpose of deferring income tax. These contributions are added to the member's account, are available to the member as a refund and are considered by CCCERA as part of the member's compensation for retirement purposes.

EMPLOYEE PAYMENT OF EMPLOYER COST

There are several reasons why the attached contribution rates may need to be adjusted to increase the employee portion including the following:

Gov. Code §31631 allows for members to pay all or part of the employer contributions.

Gov. Code §31639.95 allows for Safety members to pay a portion of the employer cost for the "3% at 50" enhanced benefit.

Gov. Code §7522.30(c) requires that an employee's contribution rate be at least equal to that of similarly situated employees.

Gov. Code §7522.30(e) allows the employee contributions to be more than one-half of the normal cost rate if the increase has been agreed to through the collective bargaining process.

If you need to increase the employee contribution rate for any reason, you will need to adjust both employee and employer rates as follows:

Employee rate – Increase the employee's rate by the desired percent of payroll.

Employer rate – Decrease the employer's rate by a **percent** of the cost-sharing percent of payroll using the applicable refundability factor:

EXAMPLE FOR COST GROUP #11 LEGACY MEMBERS:

If the required increase in the employee rate is 8.0%,

Employee rates should be increased by 8.0%.

The employer rate should be decreased by 7.810% ($8.0\% \times 0.9763$)

PREPAYMENT DISCOUNT FACTOR FOR 2016-17

Employer Contribution Prepayment Program & Discount Factor for 2016-17 is **0.9686**

If you are currently participating in the prepayment program and wish to continue, you do not need to do anything other than prepay the July 1, 2016 through June 30, 2017 contributions on or before July 31, 2016. If you wish to start participating, please contact the Accounting Division at the Retirement Office by March 31, 2016.

The discount factor is calculated assuming the prepayment will be received on July 31 in accordance with Gov. Code §31582(b) in lieu of 12 equal payments due at the end of each month in accordance with Gov. Code §31582(a). The discount factor for the fiscal year July 1, 2016 through June 30, 2017 will be **0.9686** based on the interest assumption of 7.25% per annum.



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 17, 2015

Subject: CONTINUE Extension of Emergency Declaration Regarding Homelessness

RECOMMENDATION(S):

CONTINUE the emergency action originally taken by the Board of Supervisors on November 16, 1999 regarding the issue of homelessness in Contra Costa County.

FISCAL IMPACT:

None.

BACKGROUND:

Government Code Section 8630 required that, for a body that meets weekly, the need to continue the emergency declaration be reviewed at least every 14 days until the local emergency is terminated. In no event is the review to take place more than 21 days after the previous review.

On November 16, 1999, the Board of Supervisors declared a local emergency, pursuant to the provisions of Government Code Section 8630 on homelessness in Contra Costa County.

With the continuing high number of homeless individuals and insufficient funding available to assist in sheltering all homeless individuals and families, it is appropriate for the Board to continue the declaration of a local emergency regarding homelessness.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/17/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: November 17, 2015

Contact: Lavonna Martin,
925-313-6736

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

The Board of Supervisors would not be in compliance with Government Code Section 8630.

CHILDREN'S IMPACT STATEMENT:

None.