

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**

CANDACE ANDERSEN, *CHAIR*, 2ND DISTRICT
MARY N. PIEPHO, *VICE CHAIR*, 3RD DISTRICT
JOHN GIOIA, 1ST 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 TWO (2) 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.

PURSUANT TO THE BOARD OF SUPERVISORS RULES OF PROCEDURES (RULE 14), IF ANY MEETING IS WILLFULLY INTERRUPTED BY A GROUP OR GROUPS OF PERSONS SO THAT THE ORDERLY CONDUCT OF THE MEETING BECOMES INFEASIBLE AND ORDER CANNOT BE RESTORED BY THE REMOVAL OF INDIVIDUALS WHO ARE WILLFULLY INTERRUPTING THE MEETING, THE CHAIR MAY ORDER THE MEETING ROOM CLEARED, AS AUTHORIZED BY LAW (GOV. CODE, § 54957.9), RECESS THE MEETING, OR ADJOURN THE MEETING.

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 15, 2016

9:00 A.M. Convene and announce adjournment to closed session in Room 101.

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 Employees International Union Local 2015; 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; Teamsters Local 856.

2. Agency Negotiators: David Twa.

Unrepresented Employees: All unrepresented employees.

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

1. *Contra Costa County v. Peter J. Dailey, et al.*,
Contra Costa County Superior Court Case No. C14-01154
2. *Contra Costa County v. Frederick R. Schiff, et al.*,
Contra Costa County Superior Court Case No. C14-01155
3. *Contra Costa County v. Harry H. Williamson, Sr., et al.*,
Contra Costa County Superior Court Case No. C14-01156
4. *In re: West Contra Costa Healthcare District, Debtor*, United States Bankruptcy Court,
Northern District of California, Case No. 16-42917
5. *Randy David Ray Robertson v. Contra Costa County, et al.*, United States District Court,
Northern District of California, Case No. 15-cv-02549
6. *Lawrence Nunes v. Contra Costa County Fire Protection District*,
Contra Costa County Superior Court Case No. C13-01475

9:30 A.M. Call to order and opening ceremonies.

Inspirational Thought- "The greatest part of our happiness depends on our dispositions, not our circumstances." ~ Martha Washington

CONSIDER CONSENT ITEMS (Items listed as C.1 through C.73 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 launching the 2016 "Contra Costa County Cares" Holiday Food Fight. (Larry Sly, Executive Director, Food Bank, Kate Sibley, Executive Assistant, LAFCO)
- PR.2** PRESENTATION recognizing Helen Benjamin upon her retirement as Chancellor of the Contra Costa Community College District. (Supervisor Andersen)
- PR.3** PRESENTATION recognizing Carla Young Garrett, President of the Center for Economic and Civic Education. (Supervisor Andersen)
- PR.4** PRESENTATION recognizing November 17, 2016 as World Pancreatic Cancer Day in Contra Costa County. (Supervisor Andersen)

DISCUSSION ITEMS

D. 1 CONSIDER Consent Items previously removed.

- D. 2** HEARING to consider adopting Ordinance No. 2016-22, adopting the 2016 California Building, Residential, California Green Building Standards, Electrical, Plumbing, Mechanical, and Existing Building Codes, with changes, additions, and deletions. (Jason Crapo, Conservation and Development Department)
- D. 3** CONSIDER adopting a position on two identical bills, Senate Bill X 1-1 (Beall) and Assembly Bill X 1-26 (Frazier), which will increase revenues for transportation infrastructure purposes through tax and fee increases, streamline project delivery through environmental review revisions, and other transportation revenue protective actions, as recommended by the Transportation, Water, & Infrastructure Committee. (John Cunningham, Conservation and Development Department)
- D. 4** HEARING on appeals of the County Planning Commission decision to approve a land use permit for the Diablo MX Ranch Motocross Park project on Camino Diablo Road near Brentwood, and to consider related actions under the California Environmental Quality Act. (Law Offices of David W. Trotter, Appellant; John and Lori Ramirez, Applicants; James and Dorothy Schmidt, Owners) (Lashun Cross and Gary Kupp, Department of Conservation and Development)
- D. 5** CONSIDER accepting report from Health Service Department and providing direction on the LAFCO Special Study of Governance Options for the West Contra Costa Healthcare District. (William Walker, M.D., Health Services Director)
- D. 6** CONSIDER making appointments to the West Contra Costa Healthcare District Board of Directors, pursuant to Elections Code section 10515. (David Twa, County Administrator)
- D. 7** CONSIDER creating a Sustainability Commission to advise the Board on issues related to the County's Climate Action Plan and opportunities to realize equity and fairness across the diverse communities of Contra Costa County in sustainability programs that support the Climate Action Plan, and provide suggestions to staff and the Board on how to better engage Contra Costa County residents on sustainability issues and implementation of the Climate Action Plan, as recommended by the Ad Hoc Sustainability Committee. (John Kopchik, Director of Conservation and Development)

- D. 8** CONSIDER adopting Resolution No. 2016/643 approving the Side Letter between Contra Costa County and the Physicians' and Dentists' Organization of Contra Costa (PDOCC) modifying the Preamble and Section 35.4 Duration of Agreement of the memorandum of understanding to extend the contract from October 31, 2016 through February 28, 2017. (David Twa, County Administrator)

D. 9 PUBLIC COMMENT (2 Minutes/Speaker)

D. 10 CONSIDER reports of Board members.

Closed Session

ADJOURN

CONSENT ITEMS

Road and Transportation

- C. 1** APPROVE and AUTHORIZE the Chair, Board of Supervisors, to execute, on behalf of Contra Costa County (County), agreements with Contra Costa Transportation Authority authorizing the County to provide right of way and eminent domain services for the I-680 North Express Lanes Project, effective April 1, 2016, and take related actions under the California Environmental Quality Act, as recommended by the Public Works Director, I-680 Corridor area. (100% CCTA funds)

Engineering Services

- C. 2** ADOPT Resolution No. 2016/599 accepting completion of improvements for road acceptance RA12-01250, for a project developed by Shapell Homes, a Division of Shapell Industries, Inc., a Delaware Corporation, as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (100% Developers Fees)
- C. 3** ADOPT Resolution No. 2016/620 approving the fourth extension of the Subdivision Agreement for subdivision SD06-08993, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (No fiscal impact)
- C. 4** ADOPT Resolution No. 2016/622 approving the fifth extension of the Subdivision Agreement for subdivision SD05-08992, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (No fiscal impact)

- C. 5 ADOPT Resolution No. 2016/624 accepting completion of private improvements for subdivision SD05-08992, for a project developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (100% Developer Fees)
- C. 6 ADOPT Resolution No. 2016/625 approving the sixth extension of the Subdivision Agreement for subdivision SD06-09067, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (No fiscal impact)
- C. 7 ADOPT Resolution No. 2016/626 accepting completion of private improvements for subdivision SD06-09067, for a project developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (100% Developer Fees)
- C. 8 ADOPT Resolution No. 2016/634 ratifying the prior decision of the Public Works Director, or designee, to fully close a portion of Pomona Street between Alexander Avenue and Rolph Park Avenue, on November 11, 2016 from 9:00 a.m. through 12:00 p.m., for the purpose of John Swett Band Boosters Veterans Day parade, Crockett area. (No fiscal impact)

Special Districts & County Airports

- C. 9 APPROVE and AUTHORIZE the Director of Airports, or designee, to execute a month-to-month hangar rental agreement with Charles Luther for a T-hangar at Buchanan Field Airport effective November 8, 2016 in the monthly amount of \$394.10. (100% Airport Enterprise Fund)

Geologic Hazard Abatement Districts

- C. 10 ADOPT Resolution No. 2016/03 declaring the GHAD's intent to order the assessment set forth in the attached Engineers Report and set a public hearing for January 17, 2017, to consider the proposed assessment and any objections thereto.

Claims, Collections & Litigation

- C. 11 DENY claims filed by Alano Anderson, Jessy DeLima, Christina Fasse, Dominique McInnis, Bryan Smith, The Estate of Norma Supapo (Deceased). DENY late claim filed by Michael Geary Wilson.
- C. 12 RECEIVE public report of litigation settlement agreements that became final during the period of October 1, 2016, through October 31, 2016.

Statutory Actions

- C. 13** ACCEPT Board members' meeting reports for October 2016.

Honors & Proclamations

- C. 14** ADOPT Resolution No. 2016/644 recognizing Helen Benjamin upon her retirement as Chancellor of the Contra Costa Community College District, as recommended by Supervisor Andersen.
- C. 15** ADOPT Resolution No 2016/552 recognizing Michael McDonald of the Alamo Municipal Advisory Council for his dedication, hard work and loyalty to Alamo and its residents, as recommended by Supervisor Andersen.
- C. 16** ADOPT Resolution No. 2016/553 recognizing Ed Best of the Alamo Municipal Advisory Council for his dedication, hard work, and loyalty to Alamo and its residents, as recommended by Supervisor Andersen.
- C. 17** ADOPT Resolution No. 2016/608 recognizing November 17, 2016 as "World Pancreatic Cancer Day" in Contra Costa County, as recommended by Supervisor Andersen.
- C. 18** ADOPT Resolution No. 2016/609 recognizing Fred Weil of the Moraga Orinda Fire District Board for his continued support to the community of Moraga and Contra Costa County, as recommended by Supervisor Andersen.
- C. 19** ADOPT Resolution No. 2016/611 recognizing Alex Evans of the Moraga Orinda Fire District's Division Five for his dedication to his community and it's residents, as recommended by Supervisor Andersen.
- C. 20** ADOPT Resolution No. 2016/629 recognizing the contributions of Linda Weder on her 25 years of service to Contra Costa County, as recommended by the Public Works Director. (No fiscal impact)
- C. 21** ADOPT Resolution No. 2016/637 recognizing the contributions of Roland Hindsman, on the occasion of his retirement from Contra Costa County, as recommended by the Public Works Director. (No fiscal impact)
- C. 22** ADOPT Resolution No. 2016/646 launching the 2016 "Contra Costa County Cares" Holiday Food Fight, as recommended by the County Administrator.

- C. 23 ADOPT Resolution No. 2016/650 recognizing Carla Young Garrett, President of the Center for Economic and Civic Education, as recommended by Supervisor Andersen.

Appointments & Resignations

- C. 24 APPOINT five individuals and REAPPOINT thirteen individuals to seats on the Emergency Medical Care Committee for terms expiring September 30, 2018, as recommended by the Health Services Director.

Appropriation Adjustments

- C. 25 Employment and Human Services (0501)/ Fleet ISF (0064): APPROVE Appropriation and Revenue Adjustment No. 5023 authorizing the transfer of appropriations in the amount of \$31,187 from Employment and Human Services Department to the Fleet Internal Service Fund for the purchase of one replacement vehicle. (100% County)
- C. 26 Health Services (0467)/Fleet ISF (0064): APPROVE Appropriation and Revenue Adjustment No. 5025 authorizing the transfer of appropriations in the amount of \$27,387 from Health Services Behavioral Health Division to the Fleet Internal Service Fund for the purchase of one vehicle for the implementation of the Partners in Aging project. (100% MHSA)
- C. 27 2011 Local Revenue Fund (115300): APPROVE Appropriations and Revenue Adjustment No. 5026 increasing expenditure appropriations and estimated revenue by \$2,215,167 from the State of California related to continued implementation of AB109 Public Safety Realignment for fiscal year 2016/17. (100% State AB 109 Public Safety Realignment revenue)
- C. 28 Employment and Human Services (0504/0503): APPROVE Appropriation and Revenue Adjustment No. 5024 authorizing an adjustment to the Federal, State and County expenditure and revenue budgets based on revised caseload projections for CalWORKS (0504) and General Assistance (0503).
- C. 29 CSA P-6 Zone Funding (7629)/Sheriff's Office (0255): APPROVE Appropriations and Revenue Adjustment No. 5020 authorizing new revenue in the amount of \$126,941 from CSA P-6 Zone funding and appropriating it in the Sheriff's Office (0255) to add one Sheriff's Community Service Officer position to the Field Operations Bureau - Discovery Bay community. (100% CSA P-6 Zone funds) (Consider with C.34)

Intergovernmental Relations

- C. 30** AUTHORIZE the Conservation and Development Director, or designee, to apply for membership and pay associated annual membership dues totaling \$2,900 to the Local Government Sustainable Energy Coalition and the Urban Sustainability Directors Network, as recommended by the Ad Hoc Sustainability Committee. (100% County General Fund)

Personnel Actions

- C. 31** ADOPT Position Adjustment Resolution No. 21913 to establish the classification of Animal Center Operations Manager (represented) and add one (1) position, and cancel one (1) vacant Animal Center Technician (represented) position in the Animal Services Department. (32% User fees, 31% City revenues, 37% County)
- C. 32** ADOPT Position Adjustment Resolution No. 21976 to reclassify one Clerk-Senior Level (represented) position and its incumbent to Secretary-Advanced Level (represented) position and cancel one Clerk-Beginning Level (represented) position in the Sheriff's Office - Custody Services Bureau. (Cost savings)
- C. 33** ADOPT Position Adjustment Resolution No. 21949 to reclassify Accountant III (represented) position and its incumbent to Supervising Accountant (represented) position in the Office of the Sheriff- Fiscal Unit. (100% General Fund)
- C. 34** ADOPT Position Adjustment Resolution No. 21993 to add one Sheriff's Community Service Officer (represented) position in the Sheriff's Office - Patrol Division for the Discovery Bay community. (100% CSA P-6 Zone funds) (Consider with C.29)
- C. 35** ADOPT Position Adjustment Resolution No. 21994 to add twenty-three (23) represented positions in the Health Services Department. (100% Third party revenues)
- C. 36** ADOPT Position Adjustment Resolution No. 21995 to add ninety-eight (98) represented positions in the Health Services Department. (100% Whole Person Care Pilot Program funds)
- C. 37** ADOPT Position Adjustment Resolution No. 21981 to establish the classification of Quality Assurance Monitor (represented) and add one position, and cancel one vacant Clerk-Experienced Level (represented) position in the Employment and Human Services Department. (76% Federal, 14% State, 10% County)

Grants & Contracts

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

- C. 38** ADOPT Resolution No. 2016/632 to approve and authorize the Employment and Human Services Director, or designee, to execute a contract amendment with California Department of Aging to increase the payment limit by \$34,789 to a new payment limit of \$60,945 for Medicare Improvements for Patients and Providers Act services with no change in the term September 30, 2015 through September 29, 2017. (No County match)
- C. 39** APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$5,000 from The San Pablo Koshland Civic Unity Fellows to provide materials and services to the San Pablo Library for the period January 1 through December 31, 2017. (No Library Fund match)
- C. 40** APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute a contract with the Energy Council, a joint powers agency, to accept funding in an amount not to exceed \$45,000 to assist Pacific Gas and Electric Company with its East Bay Energy Watch Local Government Partnership Program for the period May 10 through December 31, 2016. (100% Energy Watch funds)
- C. 41** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a grant award with the California Department of Public Health, to pay County an amount not to exceed \$106,843, for the Core Sexually Transmitted Disease Management Project, for the period July 1, 2016 through June 30, 2019. (No County match)
- C. 42** APPROVE and AUTHORIZE the Director of Child Support Services, or designee, to execute a contract with Merced County, to pay this County an amount not to exceed \$120,000 for early intervention services to prevent child support payment delinquency for the period October 1, 2016 through September 30, 2017. (No County match)
- C. 43** ADOPT Resolution No. 2016/649 authorizing the Sheriff-Coroner, or designee to apply for and accept State Homeland Security Grant Program (SHSGP) funds in an initial amount of \$1,200,036 from the California Governor's Office of Emergency Services, make required grant assurances and authorize specified Sheriff's Office officials to act on behalf of the County to obtain funding for the period of September 1, 2016 through the end of grant fund availability. (100% Federal)
- C. 44** Acting as the Governing Board of the Contra Costa County Fire Protection District, APPROVE and AUTHORIZE the Fire Chief, or designee, to apply for and accept grant funding from the U.S. Department of Homeland Security, Federal Emergency Management Agency, Assistance to Firefighters Grant Program in an amount not to exceed \$350,000 for the purchase and installation of a Phase 5 live fire training unit. (90% Federal, 10% District match)

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

- C. 45** APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract amendment with Francisco & Associates, Inc., to extend the term from December 31, 2016 to December 31, 2017 and increase the payment limit by \$25,000, to a new payment limit of \$125,000, to continue providing pipeline franchise administration services, Countywide. (100% Pipeline Franchise Fees)
- C. 46** APPROVE and AUTHORIZE the County Probation Officer, or designee, to execute a contract amendment with the National Council on Crime and Delinquency (NCCD) to extend the term from September 30, 2016 to March 31, 2017 with no change in the payment limit to provide evaluation and assessment of the County's Smart Probation program. (100% Federal Funds)
- C. 47** APPROVE and AUTHORIZE the Purchasing Agent or designee to execute, on behalf of the Chief Information Officer, a blanket purchase order with Graybar Electric Company in an amount not to exceed \$2,500,000 for the procurement of radio, telecommunications equipment and parts, as needed, for the period November 15, 2016 through December 31, 2017. (100% User fees)
- C. 48** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract amendment with Planet Technologies, Inc., effective December 1, 2016, to increase the payment limit by \$50,000 to a new payment limit of \$140,795 for additional professional information technology (IT) services to upgrade and enhance the department's Intranet and Shared Text Automated Retrieval System (STARS), and extend the term end date from June 30, 2017 to December 31, 2017. (45% Federal, 45% State, 10% County)
- C. 49** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Martha D. Newman, in an amount not to exceed \$300,000, to provide consultation and technical assistance to Contra Costa Regional Medical and Health Centers Public Hospital Redesign and Incentives in Medi-Cal program, for the period December 1, 2016 through November 30, 2017. (100% Hospital Enterprise Fund I)
- C. 50** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract amendment with Contra Costa Economic Partnership Inc., effective October 31, 2016, to increase the payment limit by \$140,000 to a new payment limit of \$225,000, to expand the scope of work and continue promoting the East Bay Slingshot Initiative, and extend the term to April 1, 2016 through to June 30, 2017. (100% Federal)

- C. 51** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Alexander Gorodetsky, M.D., in an amount not to exceed \$116,480, to provide outpatient psychiatric services at the West County Adult Mental Health Clinic, for the period January 1, 2017 through December 31, 2017. (100% Mental Health Realignment)
- C. 52** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Applied Remedial Services, Inc., in an amount not to exceed \$350,000, for removal and disposal of hazardous waste materials at Contra Costa Regional Medical Center and Health Centers, for the period January 1, 2017 through December 31, 2017. (100% Hospital Enterprise Fund I)
- C. 53** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Bay Area Executive Search, Inc., in an amount not to exceed \$170,000, to provide recruitment services for pharmacist candidates and specialized registered nurses for the Safety and Performance Improvement Department, for the period November 1, 2016 through October 31, 2017. (100% Hospital Enterprise Fund I)
- C. 54** APPROVE and AUTHORIZE the Purchasing Agent, on behalf of the Health Services Department, to execute a purchase order amendment with Food Service Partners, Inc. to add \$500,000 for a new total amount not to exceed \$1,574,003 for meals for patients and staff at the Contra Costa Regional Medical Center while the cafeteria and kitchen are being renovated, with no change in the term from April 1, 2016 through December 31, 2016. (100% Hospital Enterprise Fund I)
- C. 55** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Mental Health Management I, Inc. (dba Canyon Manor), in an amount not to exceed \$222,753, to provide mental health subacute care and treatment services, for the period July 1, 2016 through June 30, 2017. (100% Mental Health Realignment)
- C. 56** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Sonja Robinson, R.N. (dba Healthcare Solutions USA), in an amount not to exceed \$384,000, to provide consultation on utilization review, authorization and referral processes for Contra Costa Health Plan for the period December 1, 2016 through November 30, 2017. (100% Contra Costa Health Plan Enterprise Fund II)
- C. 57** ACKNOWLEDGE receipt of notice from Walnut Creek Surgical Associates, Inc., requesting termination of their contract for general surgery services and APPROVE and AUTHORIZE the Health Services Director, or designee, to terminate this contract effective close of business on October 31, 2016, as agreed upon by both parties. (100% Contra Costa Health Plan Enterprise Fund II)

- C. 58** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with Diablo Valley Oncology and Hematology Medical Group, effective January 1, 2017, to increase the payment limit by \$350,000 to a new payment limit of \$2,350,000 to provide general surgery services in addition to hematology/oncology and urology services, with no change in the original term of August 1, 2016 through July 31, 2018. (100% Contra Costa Health Plan Enterprise Fund II)
- C. 59** AUTHORIZE the Purchasing Agent, on behalf of the Health Services Department, to 1) execute purchase orders for food to be provided at Program Governance Meetings and 2) procure up to 200 \$5 Safeway gift cards, with all expenses not to exceed \$4,190 to use as incentives for focus group program participants of the Health Care for the Homeless Program, for the period November 1, 2016 through October 31, 2017. (100% Human Resources and Services Administration Grant)
- C. 60** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract amendment with Julia Dyckman Andrus Memorial, Inc., effective October 30, 2016, to increase the payment limit by \$37,290 for a new payment limit of \$170,460, and extend the term from October 31, 2016 to December 31, 2016 for additional trauma awareness training services. (58% State, 42% Federal)
- C. 61** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with Contra Costa ARC, effective November 1, 2016, to increase the payment limit by \$17,700 to a new payment limit of \$197,700 to provide additional units of mental health services to recipients of the CalWORKs program and their children, with no change in the original term of January 1, 2016 through December 31, 2016. (100% CalWORKs)
- C. 62** APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Sheriff-Coroner, a purchase order amendment with Good Source Solutions, Inc., to increase the payment limit by \$150,000 to a new payment limit of \$330,000 in order to provide packed food meals for Martinez Detention Facility in addition to supplying food products for the preparation of inmate meals at all three County adult detention facilities for the period April 1, 2016 through March 31, 2017. (100% General Fund)

Other Actions

- C. 63** ACCEPT the Fiscal Year 2015/16 Park Impact and Park Dedication Fee Annual Report, as recommended by the Conservation and Development Director.
- C. 64** APPROVE amended Conflict of Interest Code for the Moraga Elementary School District, as recommended by the County Counsel.

- C. 65 APPROVE amended Conflict of Interest Code for the Lafayette School District, as recommended by the County Counsel.
- C. 66 APPROVE amended Conflict of Interest Code for the Liberty Union High School District, as recommended by the County Counsel.
- C. 67 APPROVE amended Conflict of Interest Code for the Contra Costa Transportation Authority, as recommended by the County Counsel.
- C. 68 APPROVE amended Conflict of Interest Code for the Contra Costa County Employees' Retirement Association, as recommended by the County Counsel.
- C. 69 APPROVE the HVAC Upgrades Project at 40 Douglas Drive, Martinez, and related actions under the California Environmental Quality Act, as recommended by the Public Works Director. (100% General Fund)
- C. 70 APPROVE clarification of Board action of December 15, 2016 (Item C.61), which approved and authorized the Health Services Director to execute a contract with San Ramon Valley Fire Protection District for providing fire services based education, training, patient safety and quality improvement services, to change the term from December 15, 2015 through December 14, 2016, with no change in the original amount not to exceed \$125,000. (100% Measure H funds)
- C. 71 APPROVE clarification of Board action of December 15, 2015 (Item C.60), which approved and authorized the Health Services Director to execute a contract with San Ramon Valley Fire Protection District for providing electronic patient care records hosting and support services, to change the term from December 15, 2015 to December 14, 2016, with no change in the original amount not to exceed \$100,900. (100% Measure H funds)
- C. 72 ABOLISH the Public and Environmental Health Advisory Board, as recommended by the Internal Operations Committee.
- C. 73 CONTINUE the emergency action originally taken by the Board of Supervisors on November 16, 1999, and most recently approved by the Board on November 8, 2016, 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 **Ad Hoc on Sustainability Committee** (Supervisors Federal D. Glover and John Gioia) TBD

The **Airport Committee** (Supervisors Mary N. Piepho and Karen Mitchoff) meets monthly on the fourth Wednesday of the month at 1:30 p.m. at Director of Airports Office, 550 Sally Ride Drive, Concord.

The **Family and Human Services Committee** (Supervisors Candace Andersen 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 **Finance Committee** (Supervisors Federal D. Glover and Mary N. Piepho) meets on the

second Thursday of the month at 10:30 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Hiring Outreach Oversight Committee** (Supervisors Karen Mitchoff and John Gioia) meets on the second Monday of every other month at 9:00 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Internal Operations Committee** (Supervisors John Gioia and Candace Andersen) meets on the fourth Monday of the month at 11:00 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

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

The **Public Protection Committee** (Supervisors Candace Andersen and John Gioia) meets on the fourth Monday of the month at 9:00 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

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

Ad Hoc on Sustainability Committee	TBD	TBD	See above
Airports Committee	December 28, 2016	1:30 p.m.	See above
Family & Human Services Committee	December 12, 2016	1:00 p.m.	See above
Finance Committee	Special Meeting November 15, 2016	1:00 p.m.	See above
Hiring Outreach Oversight Committee	December 12, 2016	9:00 a.m.	See above
Internal Operations Committee	November 28, 2016 canceled Special Meeting December 12, 2016 RM. 107	11:00 a.m.	See above
Legislation Committee	December 12, 2016 canceled Special Meeting December 8, 2016	1:30 p.m.	See above
Public Protection Committee	November 28, 2016 Canceled Special Meeting December 12, 2016	10:00 a.m.	See above
Transportation, Water & Infrastructure Committee	December 8, 2016	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 Deficiency 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
CCCPCFD (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 (CCCPCFD) 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 Virus
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: Jason Crapo, County Building Official
Date: November 15, 2016

Subject: Hearing to Consider Adopting Ordinance No. 2016-22, Adopting the 2016 California Building Standards Code, as Modified

RECOMMENDATION(S):

1. OPEN the public hearing on Ordinance No. 2016-22, RECEIVE testimony, and CLOSE the public hearing.
2. ADOPT Ordinance No. 2016-22, adopting the 2016 California Building Standard Codes, the 2016 California Residential Code, the 2016 California Green Building Standards Code, the 2016 California Electrical Code, the 2016 California Plumbing Code, the 2016 California Mechanical Code and the 2016 Existing Building Codes, with changes, additions and deletions.
3. ADOPT the attached findings in support of the County's changes, additions and deletions to the statewide codes.
4. DIRECT the publication of ordinance summary prepared by County Counsel and DIRECT the Clerk of the Board of Supervisors to publish a certified copy of the full text of the adopted ordinance in the office of the Clerk of the Board, in accordance with Government Code section 25124 (b).
5. DIRECT the Department of Conservation and Development, pursuant to Health and Safety Code section 17958.7, to send a certified copy of Ordinance No. 2016-22, the attached findings, and the Board Order to the California Department of Housing and Community Development and to the California Building

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- | | |
|--|--|
| <input checked="" type="checkbox"/> APPROVE | <input type="checkbox"/> OTHER |
| <input checked="" type="checkbox"/> RECOMMENDATION OF CNTY ADMINISTRATOR | <input type="checkbox"/> RECOMMENDATION OF BOARD COMMITTEE |
-

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Jason Crapo,
925-674-7722

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

RECOMMENDATION(S): (CONT'D)

Standards Commission.

6. FIND that adoption of ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061 (b)(3).

7. DIRECT staff to file a Notice of Exemption with the County Clerk.

FISCAL IMPACT:

None.

BACKGROUND:

The California Building Standards Commission has adopted the 2016 California Building Standards Code (CBSC), replacing the 2013 CBSC. The CBSC includes the California Building, Residential, Electrical, Plumbing, Mechanical, Green Building Standards, and Existing Building Codes. These statewide codes are effective January 1, 2017. The Department of Conservation and Development is responsible for enforcing the CBSC within the unincorporated area of Contra Costa County.

The 2016 CBSC represents the new minimum required standards for new building construction in California. Health and Safety Code sections 17958.5 and 18941.5 authorizes a local jurisdiction to modify or change these codes and establish more restrictive building standards if the local jurisdiction finds that the changes and modifications are reasonably necessary because of local climatic, geological or topographical conditions. The attached proposed ordinance would adopt the statewide codes and amend them to address local conditions.

Staff has reviewed the statewide codes and recommends their adoption with a minimum of technical changes in all codes, except for several significant changes in the Green Building Standards Code related to electrical vehicle charging stations and construction and demolition debris recovery, which are further described below. The State did not adopt the new International Housing Codes, and therefore the 1997 Uniform Housing Code (UHC), with local amendments, continues as the adopted housing code for the County.

The proposed Ordinance No. 2016-22 amends the statewide codes due to local climatic, geographical, and topographic conditions. These conditions are described in the attached Findings. The following are the substantive changes to the 2016 California Building Standards Code:

- Modifications to the 2016 California Building Code:
 - More restrictive standards for some building foundations to better withstand seismic forces found in this region of California. This amendment is the same as the local amendment made to previous statewide code.
 - Requires the installation of hard-wired smoke detectors in existing flat roof buildings when a pitched roof is added on top of the existing flat roof and the solid sheathing of the flat roof is not removed. This amendment is the same as the local amendment made to previous statewide code.
- Modifications to the 2016 California Residential Code:
 - Prohibits in single family dwellings and accessory structures braced wall panels that use gypsum wallboard and limits in single family dwellings and accessory structures the use of braced wall panels that use Portland Cement Plaster to dwellings and accessory structures of only one story, as these materials have performed poorly during recent California seismic events. This is the only new amendment, not made to the previous state-wide code.
- Modifications to the 2016 California Green Building Standards Code:
 - Electric vehicle charging stations requirements. These amendments are the same as the local amendments made to the previous statewide code. The substantive amendments are as follows:
 - For new multi-family buildings:
 - Increase the required number of Electric Vehicle Charging Spaces ("EV spaces") to five percent of the total number of parking spaces provided, where three percent is the minimum required in the statewide code.

- Require a minimum of one EV space for every new multi-family building (three or more units) as opposed to statewide code which requires no EV spaces for multi-family buildings with fewer than 17 units.
- Require that Electric Vehicle Supply Equipment ("EVSE") be installed for each EV space in addition to the electrical infrastructure required by the statewide code.
- For new non-residential buildings:
 - Required number of EV spaces in new construction shall provide fully operational EVSE as opposed to statewide code which requires electrical infrastructure only.
 - Increase the required number of EV spaces for projects with more than nine parking spaces and less than 201 parking spaces.
- More restrictive construction waste reduction, disposal and recycling standards consistent with those presently enforced in the County. The County currently enforces Chapter 418-14 (Construction and Demolition Debris Recovery) of Division 418 (Refuse) of the County ordinance. Chapter 418-14 was written and adopted when the state-wide codes did not have any requirements regarding debris recovery. The ordinance amends the 2016 California Green Building Standards Code (CGBSC) to incorporate the more restrictive requirements from Chapter 418-14. Chapter 418-14 will be deleted in its entirety. The substantive amendments to the 2016 California Green Building Standards are as follows:
 - Imposes the mandatory restrictions from Chapter 4 of the 2016 CGBSC on certain additional projects for existing residential buildings including:
 - Projects that increase the total combined conditioned and unconditioned building area by 5,000 square feet or more.
 - Projects that impact 5,000 square feet or more of the total combined conditioned and unconditioned building area.
 - Demolition projects when a demolition permit is required, except demolition projects that are necessary to abate a public nuisance.
 - Deletes the exception from construction waste management requirements for projects solely based on their isolated location from diversion facilities.
 - Requires that weight and not volume is used to measure the amount of the construction and demolition debris disposed and diverted.
 - Requires that more comprehensive documentation for construction waste management be provided to the enforcing agency and making submittal of the same a prerequisite for scheduling final inspections.
- Modifications to the 2016 California Existing Building Code:
 - The amendments to the 2016 California Existing Building Code are not substantive in nature and are limited to administrative provisions for the use and enforcement of this Code and to be consistent with the administrative provisions of the other statewide codes as amended.

CONSEQUENCE OF NEGATIVE ACTION:

If the proposed ordinance is not approved, the County will not be able to adopt the 2016 California Building Standards Code as amended.

ATTACHMENTS

Ordinance No. 2016-22

Findings

ORDINANCE NO. 2016-22

ADOPTION OF CALIFORNIA BUILDING STANDARDS CODES

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 adopts the 2016 California Building Code, the 2016 California Residential Code, the 2016 California Green Building Standards Code, the 2016 California Electrical Code, the 2016 California Plumbing Code, the 2016 California Mechanical Code, and the 2016 California Existing Building Code, with changes, additions, and deletions that are necessary because of local climatic, geological, or topographical conditions. 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 74-2.002 (Adoption) of Division 74 (Building Code) of the County Ordinance Code is amended to read:

74-2.002 Adoption.

- (a) The building code of this county is the 2016 California Building Code (California Code of Regulations, Title 24, Part 2, Volumes 1 and 2), the 2016 California Residential Code (California Code of Regulations, Title 24, Part 2.5), the 2016 California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), and the 2016 California Existing Building Code (California Code of Regulations, Title 24, Part 10), as amended by the changes, additions, and deletions set forth in this division and Division 72.
- (b) The 2016 California Building Code, with the changes, additions, and deletions set forth in Chapter 74-4 and Division 72, is adopted by this reference as though fully set forth in this division.
- (c) The 2016 California Residential Code, with the changes, additions, and deletions set forth in Chapter 74-4 and Division 72, is adopted by this reference as though fully set forth in this division.
- (d) The 2016 California Green Building Standards Code, with the changes, additions, and deletions set forth in Chapter 74-4 and Division 72, is adopted by this reference as though fully set forth in this division.
- (e) The 2016 California Existing Building Code, with the changes, additions, and deletions

set forth in Chapter 74-4 and Division 72, is adopted by this reference as though fully set forth in this division.

- (f) At least one copy of this building code is now on file with the building inspection division, and the other requirements of Government Code section 50022.6 have been and shall be complied with.
- (g) As of the effective date of the ordinance from which this division is derived, the provisions of the building code are controlling and enforceable within the county. (Ords. 2016-22 § 2, 2013-24 § 2, 2011-03 § 2, 2007-54 § 3, 2002-31 § 3, 99-17 § 5, 99-1, 90-100 § 5, 87-55 § 4, 80-14 § 5, 74-30.)

SECTION III. Chapter 74-4 (Modifications) of Division 74 (Building Code) of the County Ordinance Code is amended to read:

**Chapter 74-4
MODIFICATIONS**

74-4.002 Amendments to CBC. The 2016 California Building Code ("CBC") is amended by the changes, additions, and deletions set forth in this chapter and Division 72. Section numbers used below are those of the 2016 California Building Code.

- (a) CBC Chapter 1 (Scope and Administration) is amended by the provisions of Division 72 of this code and as follows:
 - (1) Sections 103, 109, 112, 113, 114, and 116 of CBC Chapter 1 are deleted.
 - (2) In Section 105.2 (Work exempt from permit) of CBC Chapter 1, subsection 4 is amended to read:
 - 4. Retaining walls that are not more than 3 feet in height measured from the top of the footing to the top of the wall and that have a downward ground slope at the bottom of the retaining wall not exceeding 1(vertical):10(horizontal), unless supporting a surcharge or ground slope exceeding 1(vertical):2(horizontal) or impounding Class I, II, or III-a liquids.
 - (3) Section 107.1 (Submittal Documents - General) of CBC Chapter 1 is amended by deleting the exception.
 - (4) Section 107.2.1 (Information on construction documents) of CBC Chapter 1 is amended to read:

107.2.1 Information on Construction Documents. Construction documents shall include dimensions and shall be drawn to scale on suitable material. Electronic media documents may be submitted when approved in advance by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and to show in detail that it will conform to this code and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall include contact information for the owner and the person or persons who prepared the plans. Plans shall include a plot plan showing all existing property lines labeled and fully dimensioned, the elevations of the top and toe of cuts and fills, and the location of the proposed building with distances to all property lines and to every existing building on the property. Instead of detailed specifications, the county building official may approve references on the plans to a specific section or part of this code or other ordinances or laws.

- (5) Section 110.1 (Inspections - General) of CBC Chapter 1 is amended by adding the following to the end of that section:

At the time of first inspection by the county building official, a California licensed Land Surveyor or Civil Engineer shall certify in writing that the structure is placed according to the approved set of plans. The written certification must include the site address and permit number. This requirement does not apply to alterations or repairs to existing structures that do not affect the exterior limits of the existing structures.

- (b) Section 907.2.11.9 (Existing Group R Occupancies) of CBC Chapter 9 (Fire Protection Systems) is amended to read:

907.2.11.9 Existing Group R Occupancies. In existing flat roof buildings, the installation of a smoke detector that complies with California Residential Code Section R314.6 shall be required when a pitched roof is added on top of the existing flat roof and the solid sheathing of the flat roof is not removed.

- (c) Section 1406.5 is added to Section 1406 (Combustible Materials on the Exterior Side of Exterior Walls) of CBC Chapter 14 (Exterior Walls), to read:

1406.5 Wood shakes or shingles. Wood shakes or shingles used for exterior wall covering shall be fire treated unless there is a minimum of 10 feet from the exterior wall (including shakes or shingles) to the property line of all sides, except for any sides of exterior walls facing the street.

- (d) In Section 1705.3 (Concrete construction) of CBC Chapter 17 (Special Inspections and Tests), Exception 1 is amended to read:
 - 1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength of no greater than 2,500 pound per square inch (psi) (17.2 Mpa).
- (e) Section 1809.8 (Plain concrete footings) of CBC Chapter 18 (Soils and Foundations) is deleted.
- (f) Section 1810.3.9.3 (Placement of reinforcement) of CBC Chapter 18 (Soils and Foundations) is amended by deleting Exception 3.
- (g) Section 1906 (Structural Plain Concrete) of CBC Chapter 19 (Concrete) is deleted.
- (h) Section 1907.1 (Minimum Slab Provisions - General) of CBC Chapter 19 (Concrete) is amended by adding the following sentence to that section:

Slabs shall have 6-inch by 6-inch by 10-gauge wire mesh or equal at mid-height.
- (i) Appendix C and Appendix I of the CBC are incorporated into the County building code. Appendix A, Appendix B, Appendix D, Appendix E, Appendix F, Appendix G, Appendix H, Appendix J, Appendix K, Appendix L, and Appendix M of the CBC are excluded from the County building code. (Ords. 2016-22 § 3, 2013- 24 § 3, 2011-03 § 3, 2007-54 § 4, 2002-31 § 3, 99- 17 § 6, 99-1, 90-100 § 6, 87-55 § 5, 80-14 § 6, 74-30 § 1.)

74-4.004 Amendments to CRC. The 2016 California Residential Code ("CRC") is amended by the changes, additions, and deletions set forth in this chapter and Division 72. Section numbers used below are those of the 2016 California Residential Code.

- (a) Sections R103, R108, R111, R112, R113, and R114 of CRC Chapter 1 (Scope and Application) are deleted.
- (b) In Section R105.2 (Work exempt from permit) of CRC Chapter 1 (Scope and Application), subsection 3 is amended to read:
 - 3. Retaining walls that are not more than 3 feet in height measured from the top of the footing to the top of the wall and that have a downward ground slope at the bottom of the retaining wall not exceeding 1(vertical):10(horizontal), unless supporting a surcharge or ground slope exceeding 1(vertical):2(horizontal) or impounding Class I, II, or III-a

liquids.

- (c) Table R602.10.3(3) (Bracing Requirements Based on Seismic Design Category) of CRC Chapter 6 (Wall Construction) is amended as follows:

- (1) The title of Table R602.10.3(3) is amended to read:

TABLE R602.10.3(3)^f

- (2) Footnote "f" is added to Table R602.10.3(3), to read:

f. In Seismic Design Categories D0, D1, and D2, Method GB is not permitted and the use of Method PCP is limited to one-story single family dwellings and accessory structures.

- (d) Section R602.10.4.4 is added to Section R602.10.4 (Construction methods for braced wall panels) of CRC Chapter 6 (Wall Construction), to read:

R602.10.4.4 Limits on methods GB and PCP. In Seismic Design Categories D0, D1, and D2, Method GB is not permitted for use as intermittent braced wall panels, but gypsum board is permitted to be installed when required by this section to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D0, D1, and D2, the use of Method PCP is limited to one-story single family dwellings and accessory structures.

- (e) Appendix H of the CRC is incorporated into the County building code. Appendix A, Appendix B, Appendix C, Appendix D, Appendix E, Appendix F, Appendix G, Appendix I, Appendix J, Appendix K, Appendix L, Appendix M, Appendix N, Appendix O, Appendix P, Appendix Q, Appendix R, Appendix S, Appendix T, Appendix U, Appendix V, and Appendix W of the CRC are excluded from the County building code. (Ords. 2016-22 § 3, 2013- 24 § 3, 2011-03 § 3.)

74-4.006 Amendments to CGBSC. The 2016 California Green Building Standards Code ("CGBSC") is amended by the changes, additions, and deletions set forth in this chapter and Division 72. Section numbers used below are those of the 2016 California Green Building Standards Code.

- (a) Section 301.1.1 (Additions and alterations) of CGBSC Chapter 3 (Green Building) is amended to read:

Section 301.1.1 Additions and alterations. The mandatory provisions of

Chapter 4 shall apply to additions or alterations of existing residential buildings where the addition or alteration increases the building's conditioned area, volume, or size. The requirements shall apply only to and/or within the specific area of the addition or alteration.

The mandatory provisions of Section 4.408 shall apply to the following types of construction or demolition projects for existing residential buildings:

1. Projects that increase the total combined conditioned and unconditioned building area by 5,000 square feet or more.
2. Alterations to existing structures impacting 5,000 square feet or more of total combined conditioned and unconditioned building area.
3. Demolition projects when a demolition permit is required.

Exception: Demolition projects undertaken because the enforcing agency has determined that the demolition is necessary to abate a public nuisance or otherwise protect public health and safety.

For the purposes of determining whether a project meets the 5,000 square-foot threshold, the enforcing agency may deem all phases of a project and all related projects taking place on a single or adjoining parcel(s) as a single project.

Note: On and after January 1, 2014, residential buildings undergoing permitted alterations, additions or improvements shall replace noncompliant plumbing fixtures with water-conserving plumbing fixtures. Plumbing fixture replacement is required prior to issuance of final completion, certificate of occupancy or final permit approval by the local building department. See Civil Code Section 1101.1, et seq., for the definition of a noncompliant plumbing fixture, types of residential buildings affected and other important enactment dates.

- (b) Section 301.3.2 (Waste diversion) of CGBSC Chapter 3 (Green Building) is amended to read:

Section 301.3.2 Waste diversion. The requirements of Section 5.408 shall apply to additions, alterations, and demolition whenever a permit is required for work.

Exception: Demolition projects undertaken because the enforcing agency has determined that the demolition is necessary to abate a public nuisance or otherwise protect public health and safety.

- (c) Section 4.106.4.2 (New multifamily dwellings) of CGBSC Chapter 4 (Residential Mandatory Measures) is amended to read:

Section 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 spaces (EV spaces). Each EV space shall be equipped with fully operational electric vehicle supply equipment (EVSE). The location of each EV space shall be identified on construction documents. Calculations to determine the number of EV spaces shall be rounded up to the nearest whole number.

- (d) Section 4.408.1 (Construction waste management) of CGBSC Chapter 4 (Residential Mandatory Measures) is amended to read:

Section 4.408.1 Construction waste management. Recycle and/or salvage for reuse a minimum of 65 percent of the nonhazardous construction and demolition waste in accordance with Section 4.408.2.

Exceptions:

1. Excavated soil and land-clearing debris.
2. The enforcing agency may identify alternate waste reduction requirements if the agency determines that an owner or contractor has adequately demonstrated that diversion or recycling facilities necessary for the owner to comply with this section do not exist or are not located within a reasonable distance from the jobsite.

- (e) Section 4.408.2 (Construction waste management plan) of CGBSC Chapter 4 (Residential Mandatory Measures) is amended to read:

Section 4.408.2 Construction waste management plan. Submit a construction waste management plan for the project, signed by the owner, in conformance with Items 1 through 5 prior to issuance of building permit. The construction waste management plan shall be updated as necessary upon approval by the enforcing agency and shall be available during construction for examination by the enforcing agency. The plan must do all of the following:

1. Identify the construction and demolition waste materials to be diverted from disposal by recycling, reuse on the project, or salvage for future use or sale.

2. Specify if construction and demolition waste materials will be sorted on-site (source-separated) or bulk mixed (single stream).
3. Identify diversion and disposal facilities where the construction and demolition waste material will be taken and identify the waste management companies, if any, that will be utilized to haul the construction and demolition waste material. A waste management company utilized to haul construction and demolition waste material must have all applicable County approvals.
4. Identify construction methods employed to reduce the amount of construction and demolition waste generated.
5. Specify that the amount of construction and demolition debris shall be calculated consistent with the enforcing agency's requirements for the weighing of debris. The owner shall make reasonable efforts to ensure that all construction and demolition debris diverted or disposed are measured and recorded using the most accurate method of measurement available. To the extent practicable, all construction and demolition debris shall be weighed using scales. Scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. The owner shall convert volumetric measurements to weight using the standardized conversion factors approved by the enforcing agency for this purpose.

(f) Section 4.408.3 (Waste management company) of CGBSC Chapter 4 (Residential Mandatory Measures) is deleted.

(g) Section 4.408.4 (Waste stream reduction alternative [LR]) of CGBSC Chapter 4 (Residential Mandatory Measures) is amended to read:

Section 4.408.4 Waste stream reduction alternative [LR]. Projects that generate a total combined weight of construction and demolition waste disposed of in landfills which does not exceed 3.4 pounds per square foot of the building areas shall meet the minimum 65 percent construction waste reduction requirement in Section 4.408.1. The exceptions in Section 4.408.1 shall not apply to this alternative.

- (h) Section 4.408.4.1 (Waste stream reduction alternative) of CGBSC Chapter 4 (Residential Mandatory Measures) is amended to read:

Section 4.408.4.1 Waste stream reduction alternative. Projects that generate a total combined weight of construction and demolition waste disposed of in landfills which does not exceed 2 pounds per square foot of the building areas shall meet the minimum 65 percent construction waste reduction requirement in Section 4.408.1. The exceptions in Section 4.408.1 shall not apply to this alternative.

- (i) Section 4.408.5 (Documentation) of CGBSC Chapter 4 (Residential Mandatory Measures) is amended to read:

Section 4.408.5 Documentation. A construction waste management final report containing information and supporting documentation that demonstrates compliance with Section 4.408.1, Section 4.408.2, Items 1 through 5, and, when applicable, Section 4.408.4 or Section 4.408.4.1, shall be provided to the enforcing agency before the final inspection. The required documentation shall include, but is not necessarily limited to, the following:

1. Documentation of the quantity by weight of each material type diverted or disposed, consistent with the requirements of Section 4.408.2, Item 5, and receipts or written certification from all facilities and waste management companies utilized to divert or dispose waste generated by the project that substantiate the amounts specified on the construction waste management final report; or
2. For projects that satisfy the waste stream reduction alternative specified in Section 4.408.4 or Section 4.408.4.1, documentation of the quantity by weight of each material type disposed and the total combined weight of construction and demolition waste disposed in landfills as a result of the project, the corresponding pounds disposed per square foot of the building area, and receipts or written certification from all facilities and waste management companies utilized to dispose waste generated by the project that substantiate the amounts specified on the construction waste management final report.

- (j) Section 5.106.5.3 (Electric vehicle (EV) charging) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is amended to read:

Section 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 EV charging spaces (EV spaces). Each EV space 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.

- (k) Section 5.106.5.3.1 (Single charging space requirements) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is amended to read:

Section 5.106.5.3.1 Single charging space requirements. [N] If Table 5.106.5.3.3 requires only one EV space for new nonresidential construction, one fully operational EV space 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 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, and at least one, 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.

- (l) Section 5.106.5.3.2 (Multiple charging space requirements) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is amended to read:

Section 5.106.5.3.2 Multiple charging space requirements. [N] If Table 5.106.5.3.3 requires more than one EV space for new nonresidential construction, the number of fully operational EV spaces 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 EVSE must be identified on the plans and specifications.
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 required EV spaces 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 EVSE that will be installed.

(m) Section 5.106.5.3.3 (EV charging space calculation) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is amended to read:

Section 5.106.5.3.3 EV charging space calculations. [N] The required number of charging spaces with EVSE for new nonresidential construction must be calculated in accordance with Table 5.106.5.3.3.

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 of 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—9	0
10—25	2
26—50	3
51—75	5
76—100	6
101—200	12
201 and over	6%*
*Calculation for spaces shall be rounded up to the nearest whole number	

- (n) Section 5.106.5.3.4 (Identification) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is amended to read:

Section 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."

- (o) Section 5.106.5.3.5 of Chapter 5 of CGBSC Chapter 5 (Nonresidential Mandatory Measures) 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.

- (p) Section 5.408.1 (Construction waste management) of CGBSC Chapter 5 Nonresidential Mandatory Measures) is amended to read:

Section 5.408.1 Construction waste management. Recycle and/or salvage for reuse a minimum of 65 percent of the nonhazardous construction and demolition waste in accordance with Section 5.408.1.1.

Exceptions:

1. Excavated soil and land-clearing debris.

2. The enforcing agency may identify alternate waste reduction requirements if the agency determines that an owner or contractor has adequately demonstrated that diversion or recycling facilities necessary for the owner to comply with this section do not exist or are not located within a reasonable distance from the jobsite.

(q) Section 5.408.1.1 (Construction waste management plan) of CGBSC Chapter 5 Nonresidential Mandatory Measures) is amended to read:

Section 5.408.1.1 Construction waste management plan. Submit a construction waste management plan for the project, signed by the owner, in conformance with Items 1 through 5 prior to issuance of building permit. The construction waste management plan shall be updated as necessary upon approval by the enforcing agency and shall be available during construction for examination by the enforcing agency. The plan must do all of the following:

1. Identify the construction and demolition waste materials to be diverted from disposal by recycling, reuse on the project, or salvage for future use or sale.
2. Specify if construction and demolition waste materials will be sorted on-site (source-separated) or bulk mixed (single stream).
3. Identify diversion and disposal facilities where the construction and demolition waste material will be taken and identify the waste management companies, if any, that will be utilized to haul the construction and demolition waste material. A waste management company utilized to haul construction and demolition waste material must have all applicable County approvals.
4. Identify construction methods employed to reduce the amount of construction and demolition waste generated.
5. Specify that the amount of construction and demolition debris shall be calculated consistent with the enforcing agency's requirements for the weighing of debris. The owner shall make reasonable efforts to ensure that all construction and demolition debris diverted or disposed are measured and recorded using the most accurate method of measurement available. To the extent practicable, all construction and demolition debris shall be weighed using scales. Scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and

demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. The owner shall convert volumetric measurements to weight using the standardized conversion factors approved by the enforcing agency for this purpose.

- (r) Section 5.408.1.2 (Waste management company) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is deleted.
- (s) Section 5.408.1.3 (Waste stream reduction alternative) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is amended to read:

Section 5.408.1.3 Waste stream reduction alternative. Projects that generate a total combined weight of new construction disposal that does not exceed two pounds per square foot of building area may be deemed to meet the 65 percent minimum requirement if approved by the enforcing agency. The exceptions in Section 5.408.1 shall not apply to this alternative.

- (t) Section 5.408.1.4 (Documentation) of CGBSC Chapter 5 (Nonresidential Mandatory Measures) is amended to read:

Section 5.408.1.4 Documentation. A construction waste management final report containing information and supporting documentation that demonstrates compliance with Section 5.408.1, Section 5.408.1.1, Items 1 through 5, and, when applicable, Section 5.408.1.3, shall be provided to the enforcing agency before the final inspection. The required documentation shall include, but is not necessarily limited to, the following:

1. Documentation of the quantity by weight of each material type diverted or disposed, consistent with the requirements of Section 5.408.1.1, Item 5, and receipts or written certification from all facilities and waste management companies utilized to divert or dispose waste generated by the project that substantiate the amounts specified on the construction waste management final report; or
2. For projects that satisfy the waste stream reduction alternative specified in Section 5.408.1.3, documentation of the quantity by weight of each new construction material type disposed and the total combined weight of new construction waste disposed as a result of the project, the corresponding pounds of new construction disposal per square foot of the building area, and receipts or

written certification from all facilities and waste management companies utilized to dispose waste generated by the project that substantiate the amounts specified on the construction waste management final report.

(Ords. 2016-22 § 3, 2015-22 § 2.)

74-4.008 Amendments to CEBC. The 2016 California Existing Building Code ("CEBC") is amended by the changes, additions, and deletions set forth in this chapter and Division 72. Section numbers used below are those of the 2016 California Existing Building Code

(a) CEBC Chapter 1 (Scope and Administration) is amended by the provisions of Division 72 of this code and as follows:

- (1) Sections 103, 108, 111, 112, 113, and 115 of CEBC Chapter 1 are deleted.
- (2) Section 106.1 (Construction Documents - General) of CEBC Chapter 1 is amended by deleting the exception.
- (3) Section 106.2.1 (Construction documents) of CEBC Chapter 1 is amended to read:

106.2.1 Construction documents. Construction documents shall include dimensions and shall be drawn to scale on suitable material. Electronic media documents may be submitted when approved in advance by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and to show in detail that it will conform to this code and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall include contact information for the owner and the person or persons who prepared the plans. Plans shall include a plot plan showing all existing property lines labeled and fully dimensioned, the elevations of the top and toe of cuts and fills, and the location of the proposed building with distances to all property lines and to every existing building on the property. Instead of detailed specifications, the county building official may approve references on the plans to a specific section or part of this code or other ordinances or laws.

- (4) Section 109.1 (Inspections - General) is amended by adding the following to the end of that section:

At the time of first inspection by the county building official, a California

licensed Land Surveyor or Civil Engineer shall certify in writing that the structure is placed according to the approved set of plans. The written certification must include the site address and permit number. This requirement does not apply to alterations or repairs to existing structures that do not affect the exterior limits of the existing structures.

(Ord. 2016-22 § 3.)

SECTION IV. Section 76-2.002 (Adoption) of Division 76 (Electrical Code) of the County Ordinance Code is amended to read:

76-2.002 Adoption.

- (a) The electrical code of this county is the 2016 California Electrical Code (California Code of Regulations, Title 24, Part 3) (“CEC”), as amended by the changes, additions, and deletions set forth in this division and Division 72.
- (b) The 2016 California Electrical Code, with the changes, additions, and deletions set forth in Chapter 76-4 and Division 72, is adopted by this reference as though fully set forth in this division.
- (c) At least one copy of this electrical code is now on file with the building inspection division, and the other requirements of Government Code section 50022.6 have been and shall be complied with.
- (d) As of the effective date of the ordinance from which this division is derived, the provisions of the electrical code are controlling and enforceable within the county. (Ords. 2016-22 § 4, 2013-24 § 4, 2011-03 § 4, 2007-54 § 5, 2002-31 § 4, 99-17 § 11, 89-60 § 2, 82-23 § 2, 79-67, 76-24.)

SECTION V. Article 76-4.2 (Amendments) of Division 76 (Electrical Code) is deleted in its entirety and reserved for future use.

SECTION VI. Section 78-2.002 (Adoption) of Division 78 (Plumbing Code) of the County Ordinance Code is amended to read:

78-2.002 Adoption.

- (a) The plumbing code of this county is the 2016 California Plumbing Code (California Code of Regulations, Title 24, Part 5), as amended by the changes, additions, and deletions set forth in Division 72.

- (b) The 2016 California Plumbing Code, with the changes, additions, and deletions set forth in Division 72, is adopted by this reference as though fully set forth in this division.
- (c) At least one copy of this plumbing code is now on file with the building inspection division, and the other requirements of Government Code section 50022.6 have been and shall be complied with.
- (d) As of the effective date of the ordinance from which this division is derived, the provisions of the plumbing code are controlling and enforceable within the county. (Ords. 2016-22 § 6, 2013-24 § 5, 2011-03 § 5, 2007-54 § 6, 2002-31 § 5, 99-17 § 12, 74-29.)

SECTION VII. Section 710-2.002 (Adoption) of Division 710 (Mechanical Code) of the County Ordinance Code is amended to read:

710-2.002 Adoption.

- (a) The mechanical code of this county is the 2016 California Mechanical Code (California Code of Regulations, Title 24, Part 4), as amended by the changes, additions, and deletions set forth in Division 72.
- (b) The 2016 California Mechanical Code, with the changes, additions, and deletions set forth in Division 72, is adopted by this reference as though fully set forth in this division.
- (c) At least one copy of this mechanical code is now on file with the building inspection division, and the other requirements of Government Code section 50022.6 have been and shall be complied with.
- (d) As of the effective date of the ordinance from which this division is derived, the provisions of the mechanical code are controlling and enforceable within the county. (Ords. 2016-22 § 7, 2013-24 § 6, 2011-03 § 6, 2007-54 § 7, 2002-31 § 6, 99-17 § 13, 88-91 § 5, 74-31.)

SECTION VIII. Chapter 418-14 (Construction and Demolition Debris Recovery) of Division 418 (Refuse) of the County Ordinance Code is deleted in its entirety.

SECTION IX. VALIDITY. The Contra Costa County Board of Supervisors declares that if any section, paragraph, sentence, or word of this ordinance or of the 2016 California Building Code, Residential Code, Green Building Code, Plumbing Code, Electrical Code, Mechanical code, or Existing Building Code as adopted and amended herein is declared for any reason to be invalid, it is the intent of the Contra Costa County Board of Supervisors that it would have passed all other portions or provisions of this ordinance independent of the elimination herefrom

any portion or provision as may be declared invalid.

SECTION X. EFFECTIVE DATE. This ordinance becomes effective on January 1, 2017 or 30 days after passage, whichever is later. Within 15 days of passage, this ordinance 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 J. TWA,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

KCK:
H:\DCD\2016\Building Code Ordinance\Building Code Adoption Ord - final.wpd

CONTRA COSTA COUNTY
**FINDINGS IN SUPPORT OF CHANGES, ADDITIONS, AND DELETIONS TO
STATEWIDE BUILDING STANDARDS CODE**

The California Building Standards Commission has adopted and published the 2016 Building Standards Code, which is comprised of the 2016 California Building, Residential, Green Building Standards, Electrical, Plumbing, Mechanical and Existing Building Codes. These codes are enforced in Contra Costa County by the Building Inspection Division of the Department of Conservation and Development.

Although these codes apply statewide, Health and Safety Code sections 17958.5 and 18941.5 authorize a local jurisdiction to modify or change these codes and establish more restrictive building standards if the jurisdiction finds that the modifications and changes are reasonably necessary because of local climatic, geological or topographical conditions. For the California Green Building Standards Code, local climatic, geological, or topographical conditions include local environmental conditions.

Ordinance No. 2016-22 adopts the statewide codes and amends them to address local conditions. Pursuant to Health and Safety Code section 17958.7, the Contra Costa County Board of Supervisors finds that the more restrictive standards contained in Ordinance No. 2016-22 are reasonably necessary because of the local climatic, geological, and topographic conditions that are described below.

I. Local Conditions

A. Geological and Topographic

1. Seismicity

(a) Conditions

Contra Costa County is located in Seismic Design Categories D and E, which designates the highest risk for earthquakes in the United States. Buildings and other structures in these zones can experience major seismic damage. Contra Costa County is in close proximity to numerous earthquake faults including the San Andreas Fault and contains all or portions of the Hayward, Calaveras, Concord, Antioch, Mt. Diablo, and other lesser faults. A 4.1 earthquake with its epicenter in Concord occurred in 1958, and a 5.4 earthquake with its epicenter also in Concord occurred in 1955. The Concord and Antioch faults have a potential for a Richter 6 earthquake and the Hayward and Calaveras faults have the potential for a Richter 7 earthquake. Minor tremblers from seismic activity are not uncommon in the area. A study released in 2015 by the Working Group of California Earthquake Probabilities predicts that for the San Francisco region,

the 30 year likelihood of one or more earthquake of 6.7 or larger magnitude is 72%. The purpose of this Working Group is to develop statewide, time-dependent Earthquake Rupture Forecasts for California that use best available science, and are endorsed by the United States Geological Survey, the Southern California Earthquake Center, and the California Geological Survey. Scientists, therefore, believe that an earthquake of a magnitude 6.7 or larger is now slightly more than twice as likely to occur as to not occur in, approximately, the next 30 years.

Interstates 680, 80, 580 and State Route 4 run the length throughout Contra Costa County. These interstates and state routes divide the County into a west, south, north and east. An overpass or undercrossing collapse would significantly alter the response route and time for responding emergency equipment. This is due to limited crossings of the interstate and that in some areas there is only one surface street, which runs parallel to the interstate, which would be congested during a significant emergency.

Earthquakes of the magnitude experienced locally can cause major damage to electrical transmission facilities and to gas and electrical lines in buildings, which in turn start fires throughout the County. The occurrence of multiple fires will quickly deplete existing fire department resources; thereby reducing and/or delaying their response to any given fire.

(b) Impact

A major earthquake could severely restrict the response of all Contra Costa County Fire Districts and their capability to control fires involving buildings of wood frame construction, with ordinary roofing materials and flammable exteriors, or with large interior areas not provided with automatic smoke and fire control systems. Also, when buildings not equipped with earthquake structural support move off their foundations, gas pipes may rupture. Fires develop from line ruptures and spread from house to house, causing an extreme demand for fire protection resources. The proximity of large areas within the County to fault traces, necessitates adopting stricter structural construction standards.

More restrictive electric vehicle charging standards and construction and demolition waste recovery requirements would not negatively impact the County's infrastructure or public safety resources in the event of a major earthquake.

2. Soils

(a) Conditions

The area is replete with various soils, which are unstable, clay loam and alluvial fans

being predominant. These soil conditions are moderately to severely prone to swelling and shrinking, are plastic, and tend to liquefy.

Throughout Contra Costa County, the topography and development growth has created a network of older, narrow roads. These roads vary from gravel to asphalt surface and vary in percent of slope, many exceeding twenty (20) percent. Several of these roads extend up through the winding passageways in the hills providing access to remote, affluent housing subdivisions. The majority of these roads are private with no established maintenance program. During inclement weather, these roads are subject to rock and mudslides, as well as downed trees, obstructing all vehicle traffic. It is anticipated that during an earthquake, several of these roads would be unpassable so as to prevent fire protection resources from reaching fires caused by gas line ruptures or other sources.

3. Topographic

(a) Conditions

i) Vegetation

Highly combustible dry grass, weeds, and brush are common in the hilly and open space areas adjacent to built-up locations six (6) to eight (8) months of each year. Many of these areas frequently experience wildland fires, which threaten nearby buildings, particularly those with wood roofs, or sidings. This condition can be found throughout Contra Costa County, especially in those developed and developing areas of the County. Earthquake gas fires due to gas line ruptures can ignite grasslands and stress fire district resources.

ii) Surface Features

The arrangement and location of natural and manmade surface features, including hills, creeks, canals, freeways, housing tracts, commercial development, fire stations, streets, and roads, combine to limit feasible response routes for Fire District resources in and to District areas.

iii) Buildings, Landscaping, and Terrain

Many of the newer large buildings and building complexes have building access and landscaping features and designs, which preclude or greatly limit any approach or operational access to them by Fire District vehicles. In addition, the presence of security gates and roads of inadequate width and grades that are too steep for Fire District vehicles adversely affect fire suppression efforts.

When Fire District vehicles cannot gain access to buildings involved with fire, the potential for complete loss is realized. Difficulty reaching a fire site often requires that fire personnel both in numbers and in stamina. Access problems often result in severely delaying, misdirecting or making impossible fire and smoke control efforts. In existing structures where pitched roofs have been built over an existing roof, smoke detectors should be required to warn residents of smoke and fire before the arrival of fire personnel.

(b) Impact

The above local geological and topographical conditions increase the magnitude, exposure, accessibility problems, and fire hazards presented to the County fire resources. Fire following an earthquake has the potential of causing greater loss of life and damage than the earthquake itself. Most earthquake fires are created by natural gas developed from gas line ruptures. Hazardous materials, particularly toxic gases, could pose the greatest threat to the largest number, should a significant seismic event occur. Public safety resources would have to be prioritized to mitigate the greatest threat, and may likely be unavailable for smaller single dwellings that were caused by broken gas lines.

Other variables may tend to intensify the situation:

1. The extent of damage to the water system
2. The extent of isolation due to bridge and/or freeway overpass collapse.
3. The extent of roadway damage and/or amount of debris blocking the roadways.
4. Climatic condition (hot, dry weather with high winds).
5. Time of day will influence the amount of traffic on roadways and could intensify the risk to life during normal business hours.
6. The availability of timely mutual aid or military assistance.
7. The large portion of dwellings with wood shake or shingle coverings (both on the roof diaphragm and sides of the dwellings) could result in conflagrations.
8. The large number of dwellings that slip off their foundations and rupture gas lines and electrical systems resulting in further conflagrations.

More restrictive electric vehicle charging standards and construction and demolition waste recovery requirements would not impact the availability of the County's fire or public safety resources.

B. Climatic

1. Precipitation and Relative Humidity

(a) Conditions

Precipitation ranges from 15 to 24 inches per year with an average of approximately 20 inches per year. Ninety-six (96) percent falls during the months of October through April and four (4) percent from May through September. This is a dry period of at least five (5) months each year. Additionally, the area is subject to occasional drought. Relative humidity remains in the middle range most of the time. It ranges from forty-five (45) to sixty-five (65) percent during spring, summer, fall, and from sixty (60) to ninety (90) percent in the winter. It occasionally falls as low as fifteen (15) percent.

(b) Impact

Locally experienced dry periods cause extreme dryness of untreated wood shakes and shingles on buildings and non-irrigated grass, brush and weeds, which are often near buildings with wood roofs and sidings. Such dryness causes these materials to ignite very readily and burn rapidly and intensely. Gas fires due to gas line ruptures can also spark and engulf a single family residence during these dry periods.

Because of dryness, a rapidly burning gas fire or exterior building fire can quickly transfer to other buildings by means of radiation or flying brands, sparks or embers. A small fire can rapidly grow to a magnitude beyond the control capabilities of the Fire District resulting in an excessive fire loss.

2. Greenhouse Gas Emissions

(a) Conditions

The California Air Resources Board has collected information on emissions from air pollution sources since 1969. This information is periodically compiled by State and local air pollution control agencies to create regional and statewide greenhouse gas emissions inventories. The California greenhouse gas emissions inventory maintains information on various air pollution sources and identifies “mobile sources” (all on-road vehicles such as automobiles and trucks; off-road vehicles such as trains, ships, aircraft; and farm equipment) as a primary pollution source. According to the 2016 statewide inventory, the transportation sector remains the largest source of greenhouse gas emissions, accounting for 36% of the total greenhouse gas emissions. Emissions from recycling and waste, comprising of 2% of the total greenhouse gas emissions, have grown by 19% since 2000, and 94% of that amount are landfill emissions. California adopted land use and transportation policies and mandatory recycling laws to help reduce greenhouse gas emissions by promoting the use of renewable energy sources and reducing landfill disposal.

Contra Costa County also completed a local greenhouse gas emissions inventory as well

as a community-wide Climate Action Plan. The County's Climate Action Plan contains measures reducing greenhouse gas emissions pertaining to renewable fuel vehicles and reducing disposal for the purpose of reducing greenhouse gas emissions.

(b) Impact

More restrictive electric vehicle charging standards and construction and demolition waste recovery requirements would be consistent with the intent of State legislation and County requirements to aggressively implement energy and waste policies designed to ensure success in meeting their greenhouse gas emission reduction and reusable energy and recycling goals.

3. Temperature

(a) Conditions

Temperatures have been recorded as high as 114° F. Average summer highs are in the 75° to 90° range, with average maximums of 105° F in some areas of unincorporated Contra Costa County.

(b) Impact

High temperatures cause rapid fatigue and heat exhaustion of firefighters, thereby reducing their effectiveness and ability to control large building, wildland fires, and fires caused by gas line ruptures.

Another impact from high temperatures is that combustible building material and non-irrigated weeds, grass and brush are preheated, thus causing these materials to ignite more readily and burn more rapidly and intensely. Additionally, the resultant higher temperature of the atmosphere surrounding the materials reduces the effectiveness of the water being applied to the burning materials. This requires that more water be applied, which in turn requires more fire resources in order to control a fire on a hot day. High temperatures directly contribute to the rapid growth of fires to an intensity and magnitude beyond the control capabilities of the Fire Districts in Contra Costa County. The change of temperatures throughout the County between very low and extreme highs contributes to a voltage drop in conductors used for power pole lines. This necessitates that voltage drops be considered.

More restrictive electric vehicle charging standards and construction and demolition waste recovery requirements would not have a negative impact on the temperature conditions within the County.

4. Winds

(a) Conditions

Prevailing winds in many parts of Contra Costa County are from the north or northwest in the afternoons. However, winds are experienced from virtually every direction at one time or another. Velocities can reach fourteen (14) mph to twenty-three (23) mph ranges, gusting to twenty-five (25) to thirty-five (35) mph. Forty (40) mph winds are experienced occasionally and winds up to fifty-five (55) mph have been registered locally. During the winter half of the year, strong, dry, gusty winds from the north move through the area for several days creating extremely dry conditions.

(b) Impact

Winds such as those experienced locally can and do exacerbate fires, both interior and exterior, to burn, and spread rapidly. Fires involving non-irrigated weeds, grass, brush, and fires caused by gas line ruptures can grow to a magnitude and be fanned to an intensity beyond the control capabilities of the fire services very quickly even by relatively moderate winds. When such fires are not controlled; they can extend to nearby buildings, particularly those with untreated wood shakes or shingles.

Winds of the type experienced locally also reduce the effectiveness of exterior water streams used by all Contra Costa County Fire Districts on fires involving large interior areas of buildings, fires which have vented through windows and roofs due to inadequate built-in fire protection and fires involving wood shake and shingle building exteriors. Local winds will continue to be a definite factor toward causing major fire losses to buildings not provided with fire resistive roof and siding materials and buildings with inadequately separated interior areas, or lacking automatic fire protection systems, or lacking proper gas shut-off devices to shut off gas when pipes are ruptured, or lacking proper electrical systems. National statistics frequently cite wind conditions, such as those experienced locally, as a major factor where conflagrations have occurred.

More restrictive electric vehicle charging standards and construction and demolition waste recovery requirements would not have a negative impact on the wind conditions within the County.

II. Necessity of More Restrictive Standards

Because of the conditions described above, the Contra Costa County Board of Supervisors finds that there are building and fire hazards unique to Contra Costa County that require the increased fire protection and structural and design load requirements set forth in Ordinance No. 2016-22.

- The ordinance amends the 2016 California Building Code by:
 - Requiring the installation of a smoke detector in existing flat roof buildings when a pitched roof is added on top of the existing flat roof and the solid sheathing of the flat roof is not removed. (§ 74-4.002(b).)
 - Requiring most wood shakes or shingles used for exterior wall covering to be fire treated. (§ 74-4.002(c).)
 - Requiring special inspections for concrete at certain foundations to be consistent with code requirements for concrete at other locations. (§ 74-4.002(d).)
 - Addressing the poor performance of plain concrete structural elements during seismic events. (§ 74-4.002(e), § 74-4.002(g), and § 74-4.002(h).)
 - Prohibiting placement of reinforcement while the concrete is in a semifluid condition thus increasing quality control during construction. Enhanced quality control is necessary because of seismic considerations. (§ 74-4.002(f).)

- The ordinance amends the 2016 California Residential Code by:
 - Prohibiting in single family dwellings and accessory structures braced wall panels that use gypsum wallboard and by limiting in single family dwellings and accessory structures the use of braced wall panels that use Portland Cement Plaster to dwellings of only one story buildings, as these materials have performed poorly during recent California seismic events. (§74-4.004(c), and §74-4.004(d).)

- The ordinance amends the 2016 California Green Building Standards Code by:
 - Imposing more restrictive electric vehicle charging standards consistent with those presently enforced in the County, as follows:
 - For new multi-family buildings:
 - Increase the required number of Electric Vehicle Charging Spaces (“EV spaces”) to five percent of the total number of parking spaces provided, where three percent is the minimum required in the statewide code. (§ 74-4.006(c).)
 - Require a minimum of one EV space for every new multi-family building (three or more units) as opposed to statewide code which requires no EV spaces for multi-family buildings with fewer than 17 units. (§ 74-4.006(c).)
 - Require that Electric Vehicle Supply Equipment (“EVSE”) be installed for each EV space in addition to the electrical infrastructure required by the statewide code. (§ 74-4.006(c).)
 - For new non-residential buildings:
 - Required number of EV spaces in new construction shall provide fully operational EVSE as opposed to statewide code which requires electrical infrastructure only. ((§ 74-4.006(j), §74-4.006(k), and § 74-4.006(l).)

- Increase the required number of EV spaces for projects with more than nine parking spaces, and less than 201 parking spaces. (§ 74-4.006(m).)
 - Imposing more restrictive construction waste reduction, disposal and recycling standards consistent with those presently enforced in the County as follows:
 - Imposing the mandatory restrictions from Chapter 4 of the 2016 CGBSC on certain projects for existing residential buildings, including:
 - Projects that increase the total combined conditioned and unconditioned building area by 5000 square feet or more. ((§ 74-4.006(a).)
 - Projects that impact 5000 square feet or more of the total combined conditioned and unconditioned building area. ((§ 74-4.006(a).)
 - Demolition projects when a demolition permit is required, except demolition projects that are necessary to abate a public nuisance. (§ 74-4.006(a), and § 74-4.006(b).)
 - Eliminating the exception from construction waste management requirements for projects solely based on their isolated location from diversion facilities. ((§ 74-4.006(d).)
 - Requiring that weight and not volume is used to measure the amount of the construction and demolition debris disposed and diverted. (§ 74-4.006(e), and § 74-4.006(q).)
 - Requiring that more comprehensive documentation for construction waste management be provided to the enforcing agency and making submittal of the same a prerequisite for scheduling final inspections. (§ 74-4.006(i), and § 74-4.006(t).)
- The amendments to the 2016 California Existing Building Code are not substantive in nature and are limited to administrative provisions for the use and enforcement of this Code, and to be consistent with the administrative provisions of the statewide codes as amended.



Contra
Costa
County

To: Board of Supervisors
From: TRANSPORTATION, WATER & INFRASTRUCTURE COMMITTEE
Date: November 15, 2016

Subject: CONSIDER adopting a position on two identical bills, SB X 1-1 and AB X 1-26 (Transportation Infrastructure and Economic Investment Act)

RECOMMENDATION(S):

CONSIDER adopting a position on two identical bills, Senate Bill X 1-1 (Beall/Senate District 15) and Assembly Bill X 1-26 (Frazier/11th Assembly District), both the *Transportation Infrastructure and Economic Investment Act*, which will increase revenues for transportation infrastructure purposes through tax and fee increases, streamline project delivery through environmental review process revisions, and other protective actions relative to transportation revenue.

FISCAL IMPACT:

There is no fiscal impact related to adopting a position on the bill. The state legislative analysis finds the following impact if the bill(s), as they were structured as of August 26, 2016, were to be enacted:

"For an average driver, using a typical vehicle value, average fuel efficiency, and driving 12,000 miles per year, the extra fees and taxes will result in direct cost increases of about \$130/yr. Individuals who use more gas or diesel will pay more. By way of comparison, the slump in gasoline prices from their high of \$4.25 in the middle of 2014 to about \$3.25 per gallon today will reduce gas costs for the average driver by over \$500/yr. if prices stay at current levels."

BACKGROUND:

(Staff comment: This report was largely written prior to: 1] Measure X's outcome from the November 8th election being known {it was not approved}, and 2] knowing whether or not the state legislature will reconvene as has been speculated. Some or all assertions or information below may need to be adjusted depending on these variables.)

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: John Cunningham
(925)674-7833

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

By: , Deputy

cc: Steve Kowalewski, Lara Delaney, Mark Watts, Abigail Fateman

BACKGROUND: (CONT'D)

>

In the past two years there has been a substantial amount of dialog regarding the need for additional road maintenance funding at the Transportation, Water, and Infrastructure Committee (TWIC), the Board of Supervisors (BOS), and the Contra Costa Transportation Authority (CCTA). The dialog has been primarily generated by: **1)** preparations to bring Measure X to the November 2016 ballot, **2)** efforts at the state to generate additional revenue for transportation, and more directly **3)** the well-documented need for additional transportation infrastructure maintenance funding.

Prior Analysis/Reports Establishing the Need for Additional Maintenance Funding

2015/16 - Measure X Preparations: In September 2015, staff submitted a detailed report to the BOS on the status of road maintenance needs in the unincorporated area relative to potential new local revenues (as the BOS was commenting on what would become Measure X), and potential new state revenues (now reflected in the subject legislation). The analysis and data in the September 2015 report is still relevant in the current dialog. A substantial amount of background and information from the State, the Metropolitan Transportation Commission (MTC), and the Contra Costa County Public Works Department is included in that report and can be found at the link below under the heading, "[SJ Maintenance and the Local Streets Maintenance and Improvements Program](#)":

*http://64.166.146.245/docs/2015/BOS/20150915_640/650_09-15-15_826_AGENDApacket.pdf#page=136

In summary, that report indicated that the MTC 24-year analysis which reviewed how much funding is necessary to bring roads up to a state of good repair, indicated a revenue shortfall in unincorporated Contra Costa County of approximately \$179 million in pavement needs. If related, non-pavement needs are included (\$263 million), that shortfall increases to \$442 million. In addition to the MTC projections, Contra Costa County Public Works Department closely tracks pavement conditions in the unincorporated area. Their data indicates an even larger shortfall than the MTC data.

April 2016 - Report to TWIC Regarding State Gas Tax Reductions: In 2010, in response to AB x8 6 and SB 70 (collectively known as the fuel tax "swap"), the California State Board of Equalization (BOE) was charged with setting the excise tax on gasoline. The BOE uses forecasts to try and ensure that the "swap" remains revenue neutral over a three year period. At the end of the three year period there is a "true up" exercise whereby there is an adjustment to compensate for inaccuracies in the forecasting. In 2016/17, the BOE voted to lower the excise tax rate to compensate for forecasting inaccuracies. This adjustment resulted in a \$750 million reduction in the Statewide Transportation Improvement Program and a corresponding decrease in funding to local jurisdictions. As a result of this decrease Public Works is forced to delay project delivery. The details of the reductions and project delays can be seen in the April 2016 TWIC report [here](#): (http://64.166.146.245/docs/2016/TWIC/20160414_776/786_4-14-2016%20TWIC%20Agenda%20Packet.pdf#page=50)

It is important to note that the subject legislation proposes to end the fuel tax swap true up process reducing revenue volatility.

* A video explaining the fuel tax swap is available from the Board of Equalization here:

https://www.boe.ca.gov/taxprograms/excise_gas_tax.htm

Update

At the time of the submission of this report, it is staff's understanding that the Legislature will reconvene sometime after the November 8th election, with potential bills introduced the third week of the month, and final action the last week. Staff will bring updated information forward as necessary at the November 15th Board of Supervisors meeting.

Attached is a report (November TWIC Report) from the County's consulting legislative advocate, Mark Watts, to the Transportation, Water, and Infrastructure Committee primarily discussing the procedural and schedule issues with the anticipated special session of the Legislature.

Also attached is the Executive Summary from the *2016 California Statewide Local Streets & Roads Needs Assessment* distributed by the California State Association of Counties (CSAC): (2016 Local Streets & Roads - Exec Summary.pdf). The report is put out by a coalition of organizations including CSAC, the League of Cities, County Engineers Association of California, California Regional Transportation Planning Agencies, the California Rural Counties Task Force, the Metropolitan Transportation Commission, and the County of Los Angeles, Department of Public Works.

Also attached is a fact sheet summarizing much of the information addressed in this report: CCCStreetRoadFunding.pdf.

Below is a summary of the subject/attached bills developed by Mr. Watts:

Frazier – Beall Transportation Funding Package

- A \$7.4 billion annual funding package to repair and maintain our state and local roads, improve our trade corridors, and support public transit and active transportation.
- A \$706 million repayment of outstanding transportation loans for state and local roads.
- Eliminates the BOE "true up" that causes funding uncertainty and is responsible for drastic cuts to regional transportation projects.
- Indexes transportation taxes and fees to the California CPI in order to keep pace with inflation.
- Reforms and accountability for state and local governments to protect taxpayers.
- Streamlines transportation project delivery to help complete projects quicker and cheaper.
- Protects transportation revenue from being diverted for non-transportation purposes. *
- Helps local governments raise revenue at home to meet the needs of their communities.*

New Annual Funding

- State -- \$2.9 billion annually for maintenance and rehabilitation of the state highway system.
- Locals -- \$2.5 billion annually for maintenance and rehabilitation of local streets and roads.
- Regions -- \$534 million annually to help restore the cuts to the State Transportation Improvement Program (STIP).
- Transit -- \$516 million annually for transit capital projects and operations.
- Freight -- \$900 million annually for goods movement.
- Active Transportation -- \$80 million annually, with up to \$150 million possible through Caltrans efficiencies, for bicycle and pedestrian projects.
- Constitutional Amendment to help locals raise funding at home by lowering the voter threshold for transportation tax measures to 55 percent.*

Reforms and Accountability

- Restores the independence of the California Transportation Commission (CTC).
- Creates the Office of Transportation Inspector General to oversee all state spending on transportation.
- Increases CTC oversight and approval of the State Highway Operations and Protection (SHOPP) program.
- Requires local governments to report streets and roads projects to the CTC and continue their own funding commitments to the local system.

Streamlining Project Delivery

- Permanently extends existing CEQA exemption for improvements in the existing roadway.
- Permanently extends existing federal NEPA delegation for Caltrans.
- Creates an Advance Mitigation program for transportation projects to help plan ahead for needed environmental mitigation.

New Annual Funding Sources

- Gasoline Excise Tax -- \$2.5 billion (17 cents per gallon increase)
- End the BOE "true up" -- \$1.1 billion
- Diesel Excise Tax -- \$900 million (30 cents per gallon increase)
- Vehicle Registration Fee -- \$1.3 billion (\$38 per year increase)
- Zero Emission Vehicle Registration Fee -- \$16 million (\$165 per year starting in 2nd year)
- Truck Weight Fees -- \$1 billion (Return to transportation over five years)
- Diesel Sales Tax -- \$216 million (3.5% increase)
- Cap and Trade -- \$300 million (from unallocated C&T funds)
- Miscellaneous transportation revenues -- \$149 million

Keeping Promises and Protecting Revenues

- One-time repayment of outstanding loans from transportation programs over two years. (\$706 million)
- Return of truck weight fees to transportation projects over five years. (\$1 billion)
- Constitutional amendment to ensure new funding cannot be diverted for non-transportation uses.

*These provisions will be in companion bills.

Transportation, Water, and Infrastructure Committee (TWIC) Input

TWIC had a discussion on the subject legislation at their October 13, 2016 meeting. While the bill language was not final at the time, the Committee expressed concerns about the scale of the fee and tax increases shown in the current version of the bill. As noted in the attached report from Mr. Watts, Senator Beall has been considering a reduced version of the Senate Bill. Staff is anticipating bringing additional detail on both Bills to the November 15, 2016, Board of Supervisors Meeting (BOS). Recognizing that the bills were likely to evolve, the Committee directed staff to bring the bills to the full BOS for consideration.

As discussed at TWIC, staff from the East Contra Costa Habitat Conservancy and the County's consulting legislative advocate are addressing advance mitigation issues as needed.

Registered Opposition

AAA of Northern California
 Auto Club of Southern California
 CalTax
 Howard Jarvis Taxpayers Association

Registered Support

Alameda Corridor-East Construction Authority
 Alta Vista Solutions
 American Council of Engineering Companies of California
 Arup
 Blackburn Consulting
 Blair, Church & Flynn Consulting Engineers
 Brelje & Race
 California Asphalt Pavement Association
 California Association of Council of Governments
 California State Association of Counties
 California State Council of Laborers
 California Transit Association

CDM Smith, Inc.
CEI Engineering Associates, Inc.
City/County Association of Governments of San Mateo County
Covello Group
The CSW/Stuber-Stroeh Engineering Group, Inc.
Diaz Yourman & Associates
Guida Surveying Inc.
Hatch Mott MacDonald
HMH Engineers
Huitt-Zollars
Humboldt; County of
ILS Associates Civil Engineering and Land Survey
Infrastructure Engineering Corporation
Inland Foundation Engineering
JLB Traffic Engineering
Kimley-Horn
Kleinfelder
KPF
Lane Engineers
Lawrence Nye Carlson Associates
League of California Cities
Leighton Consulting, Inc.
Leptien, Cronin, Cooper, Morris & Poore, Inc.
Long Beach; City of
Los Angeles; City of
Michael Baker International
MNS Engineers
Morton & Pitalo, Inc.
MTC
Nasland Engineering
Ninyo & Moore
Oakland; City of
Professional Engineers in California Government
Quad Knopf
Rau and Associates
Rick Engineering Company
Rural County Representatives of California
SA Associates
SACOG
SCAG
Sacramento; City of
Santa Ana; City of
Santa Clara County Board of Supervisors
Santa Cruz; County of
San Francisco; City of
San Jose; City of
Silicon Valley Leadership Group
Southern California Association of Governments
Sukow Engineering
Tri City Engineering
Towill, Inc.
Transportation Agency for Monterey County
Ventura County Transportation Commission
Wagner Engineering & Survey
Yeh and Associates, Inc.

CONSEQUENCE OF NEGATIVE ACTION:

Contra Costa County would not have a position on the bills.

ATTACHMENTS

November TWIC Report (NOVEMBER 4, 2016)

2016LocalStreetsRoads-ExecSummary

CCCStreetRoadFunding.pdf

Assembly Bill X 1-26 (AUGUST 30, 2016)

Senate Bill X 1-1 Text (AUGUST 29, 2016)

Smith, Watts & Hartmann, LLC.

Consulting and Governmental Relations

MEMORANDUM

TO: Contra Costa County
Transportation, Water, and Infrastructure Committee

FROM: Mark Watts

DATE: November 4, 2016

SUBJECT: **November TWIC Report**

Legislative Special Session on Transportation

A coalition of transportation stakeholders continues to mount pressure for a post-election session on transportation funding and reforms in the present Special Session between November 8th and November 30th. The initial target date up to this point had been November 10th, two days after the election, when traditional party caucus meetings will be taking place in Sacramento, although the emphasis has shifted to a bit later in November. The date for the session is absolutely critical given the parliamentary requirements for moving legislation and the obvious intent of limiting the amount of time that legislators need to be present in the Capital City to complete work on a package.

It appears that leadership is more inclined to use the committee structure to get the legislation to the respective floors and to an ultimate vote of both houses, which results in some additional scheduling issues as well. What appears to be emerging is confirmation that there are essentially three timeframes under consideration. First is the week of November 14th -18th, then November 21st - 23rd, the days before Thanksgiving and when members will have completed their travel plans, and finally, the last three days of the month. So process and schedule are very important to getting approval of a transportation bill, and these are matters that will be decided at the leadership level.

Senator Beall has recently been discussing a reduced version of his funding package (SBX1 1) with members of the Senate. It is not yet known how this will be received or shaped. Additionally, The Senator's Office has refined language for a constitutional amendment to provide enhanced and thorough coverage and protections for the new revenues; this measure would go to the voters following legislative approval of the funding package. Other pressing issues include incorporation of Republican reform proposals into the legislative, as well, and the stakeholder coalition has worked to develop a final package of those reforms to get them on the table and these are being drafted into bill language in preparation for their consideration.

In the Assembly, Transportation Committee Chair Frazier continues to engage in discussion with the membership of the Assembly Democratic Caucus to marshal support for the package, ABX1 26.



Executive Summary

California’s local street and road system continues to be in crisis.

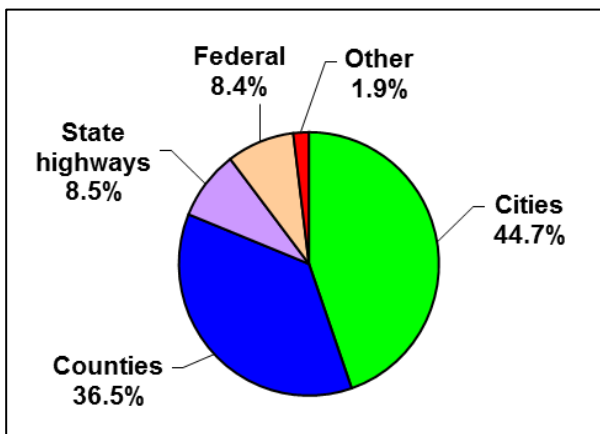
Nearly every trip begins on a city street or county road. Whether traveling by bicycle, bus, rail, truck or family automobile, Californians need a reliable and well-maintained local street and road system. Unfortunately, these continue to be challenging times due to increased demand and unreliable funding. There is a significant focus on climate change and building sustainable communities, yet sustainable



communities cannot function without a well-maintained local street and road system. The need for multi-modal opportunities on the local system has never been more essential. Every component of California’s transportation system is critical to providing a seamless, interconnected system that supports the traveling public and economic vitality throughout the state.

The first comprehensive statewide study of California’s local street and road system in 2008 provided critical analysis and information on the local transportation network’s condition and funding needs. Conducted biennially, the needs assessment provides another look at this vital component of the state’s transportation system and once again finds a significant funding shortfall.

The 2016 study sought answers to important questions: What are the current pavement conditions of local streets and roads? What will it cost to repair all streets and roads? What are the needs for the essential components to a functioning system? How large is the funding shortfall? What are the solutions?



Breakdown of Road Centerline Miles by Agency

Responsible for over 81 percent of California’s roads, cities and counties find this study of critical importance for several reasons. While federal and state governments regularly assess their system needs, no such data existed for the local component of California’s transportation network prior to 2008. Historically, statewide transportation funding



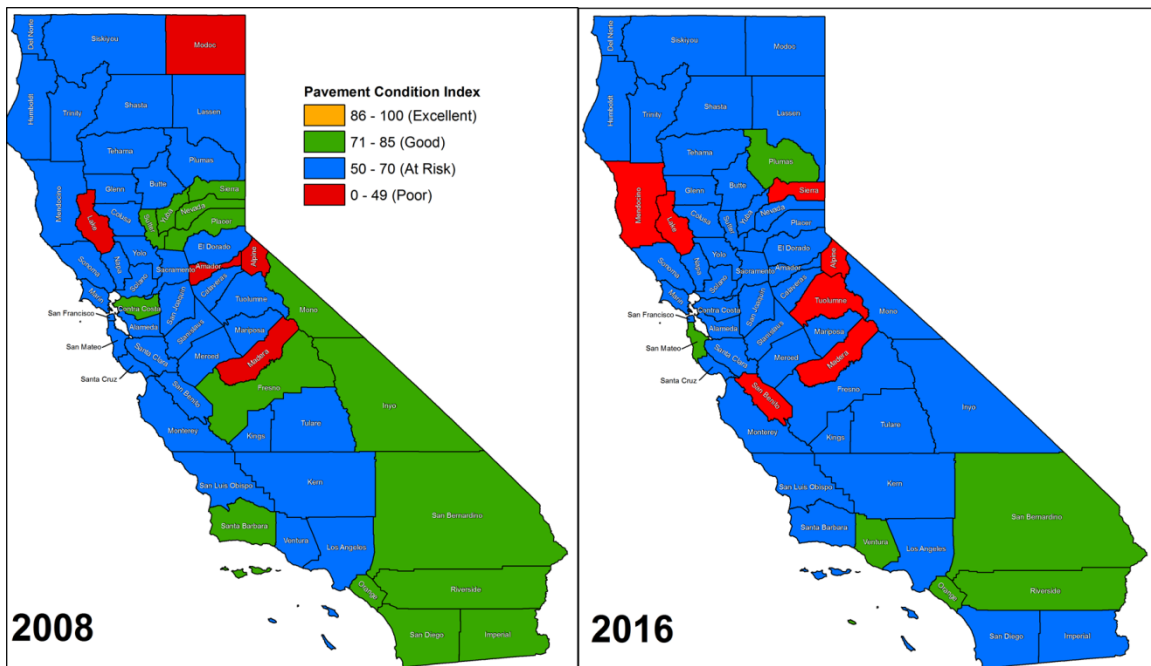
investment decisions have been made without local pavement condition data. This biennial assessment provides a critical piece in providing policy makers with a more complete picture of California’s transportation system funding needs.

The goal is to use the results to educate policymakers at all levels of government and the public about the infrastructure investments needed to provide California with a seamless, multi-modal transportation system. The findings provide a credible and defensible analysis to support a dedicated, stable funding source for maintaining the local system at an optimum level. The study also provides the rationale for the most effective and efficient investment of public funds, potentially saving taxpayers from paying significantly more to fix local streets and roads into the future.

This update surveyed all of California’s 58 counties and 482 cities in 2016. The information captured data from more than 99 percent of the state’s local streets and roads – a level of participation that makes clear the local interest in addressing the growing problems of crumbling streets and roads.

Pavements

The conditions of California’s local streets and roads are rolling off the edge of a cliff. On a scale of zero (failed) to 100 (excellent), the statewide average Pavement Condition Index (PCI) has deteriorated to 65 (“at risk” category) in 2016. Even more alarming, 52 of 58 counties are either at risk or have poor pavements (the maps illustrate the changes in condition since 2008). If the current funding remains the same, the unfunded backlog will swell from \$39 billion to \$59 billion by 2026.





California Statewide Local Streets & Roads Needs Assessment 2016
www.SaveCaliforniaStreets.org

In order to use taxpayer money wisely, it makes more sense to preserve and maintain our roads in good condition, than to let them crumble further and cost more to fix. The costs developed in this study are based on achieving a roadway pavement condition called Best Management Practices (BMP). At this condition level, preventive maintenance treatments (i.e., slurry seals, chip seals, thin overlays) are most cost-effective. Preventive maintenance interferes less with commerce and the public’s mobility and is more environmentally friendly than rehabilitation and reconstruction.

The importance of this approach is significant. As roadway pavement conditions deteriorate, the cost to repair them increases exponentially. For example, it costs as much as fourteen times more to reconstruct a pavement than to preserve it when it is in good condition. Even a modest resurfacing is four times more expensive than maintenance in the BMP condition. Or to put it another way, employing maintenance practices consistent with BMP results in treating as much as fourteen times more road area for the same cost.

By bringing the local roadway system to BMP conditions, cities and counties will be able to maintain streets and roads at the most cost-effective level. It is a goal that is not only optimal, but also necessary. This study examines three funding scenarios in order to determine their impacts on the condition of the roads over the next decade. Note that these are in constant 2016 dollars.

1. **Existing funding levels of \$1.98 billion/year** – this is the current funding level available to cities and counties from federal, state and local sources.
2. **Funding to maintain existing conditions (\$3.5 billion/year)** – this is the funding level required to maintain the pavement conditions at its current PCI of 65.
3. **Funding required to reach Best Management Practices (\$7.0 billion/year)** – the optimal scenario is to bring all pavements into a state of good repair so that best management practices can prevail. To reach BMP levels, \$70 billion is needed over the next ten years. This is an estimated funding shortfall of \$50.2 billion. *After that, it will only require \$2.5 billion a year to maintain the pavements at that level.*

Scenarios	Annual Budget (\$B)	PCI in 2026	Condition Category	% Pavements	
				in Failed Condition	in Good Condition
Current Conditions (2016)	-	65	At Risk	6.9%	54.8%
1. Existing Funding	\$ 1.98	56	At Risk	22.2%	47%
2. Maintain PCI = 65	\$ 3.5	65	At Risk	21.8%	74%
3. Best Mgmt. Practices	\$7.5	87	Excellent	0.0%	100%



Essential Components

The transportation network also includes essential safety and traffic components such as curb ramps, sidewalks, storm drains, streetlights and signals. These components will require \$32.1 billion to maintain over the next 10 years, and there is an estimated funding shortfall of \$21.1 billion.

Bridges

Local bridges are also an integral part of the local streets and roads infrastructure. There are 12,501 local bridges (approximately 48 percent of the total) in California. There is an estimated shortfall of \$1.7 billion to maintain the safety and integrity of the bridge infrastructure.

Total Funding Shortfall

The table below shows the total funding shortfall of \$73 billion (*constant 2016 dollars*) over the next 10 years. For comparison, the results from the previous updates are also included.

Transportation Asset	Needs (\$B)				2016		
	2008	2010	2012	2014	Needs	Funding	Shortfall
Pavement	\$ 67.6	\$ 70.5	\$ 72.4	\$ 72.7	\$ 70.0	\$ 19.8	\$ (50.2)
Essential Components	\$ 32.1	\$ 29.0	\$ 30.5	\$ 31.0	\$ 32.1	\$ 11.0	\$ (21.1)
Bridges	-	\$ 3.3	\$ 4.3	\$ 4.3	\$ 4.6	\$ 2.9	\$ (1.7)
Totals	\$ 99.7	\$ 102.8	\$ 107.2	\$ 108.0	\$ 106.7	\$ 33.7	\$ (73.0)

What are the Solutions?

The conclusions from this study are inescapable. Given existing funding levels available to cities and counties, California’s local streets and roads will continue to deteriorate over the next 10 years. It is alarming that local streets and roads have decayed to the point that funding will need to almost double just to maintain current conditions.

Investing in California’s local streets and roads sooner will reduce the need for exponentially more spending in the future. To reach that level – at which taxpayer money can be spent most cost-effectively – will require an additional \$50.2 billion for pavements alone, or \$73 billion total for a functioning transportation system, over the next decade. **Only \$2.5 billion per year will be needed to maintain the pavements after they reach a level at which they can be maintained with best management practices.**

To bring the local system back into a cost-effective condition, thereby preserving the public’s \$168 billion pavement investment and stopping further costly deterioration, \$7.3 billion annually in new funds are needed – that’s equivalent to a 49-cent-per-gallon gas tax increase.



California Statewide Local Streets & Roads Needs Assessment 2016
www.SaveCaliforniaStreets.org

Failure to invest would be disastrous – not only for local streets and roads but for California’s entire interrelated transportation system. Failure to invest will impact our ability to increase alternative modes, active bicycle and pedestrian options, transit needs, meet air quality impacts, greenhouse gas reduction policies, and other environmental policies.

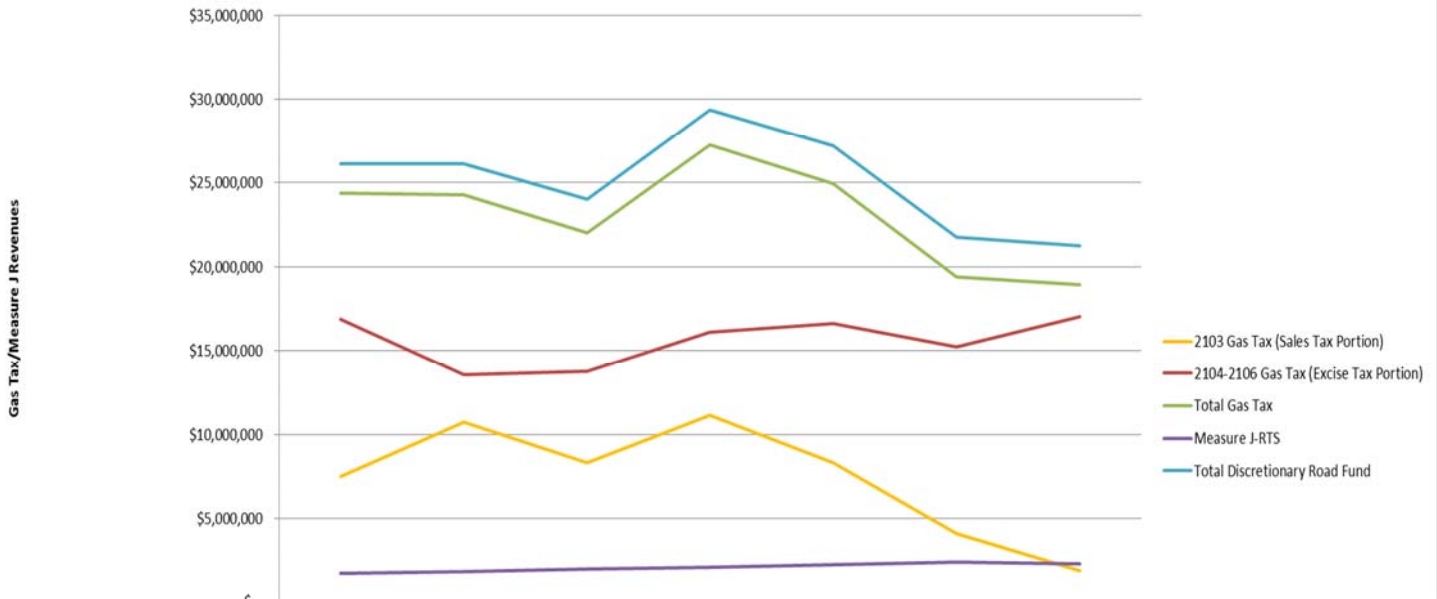
It is imperative that cities and counties receive a stable and dedicated revenue stream for cost-effective maintenance of the local system in order to reverse this crisis.

FACTS ABOUT STREETS AND ROADS FUNDING IN CONTRA COSTA

- **Contra Costa County Public Works is responsible for maintaining 666 miles of roads**, 111 vehicle and pedestrian bridges and hundreds of miles of road drainage facilities in the unincorporated areas.
- **Decreased revenue for streets and roads is not keeping pace with increased demand on the system** including increased vehicle miles traveled, increased collisions and traffic congestion, and deterioration in pavement condition.
- **There are only three revenues sources that pay for streets and roads maintenance** in unincorporated Contra Costa – (1) Gas Excise Tax, (2) Price-Base Gas Excise Tax, and (3) a portion (about 18%) of the dedicated one-half cent Contra Costa transportation sales tax.
- **Gas Excise Tax of 18 cents per gallon has not been raised since 1994 and revenues have remained relatively flat** -- \$16.9 million in 2010/11 and \$16.5 million in 2015/16. Substantially improved fuel efficiency and the increasing number of electric cars have offset the increased number of total cars on the road and the increase in vehicle miles traveled. Less gas is needed to drive the same amount of miles. The tax is based on the amount of gas purchased, not on the price of gas. Purchasing power now reduced to 9 cents due to inflation.
- **Revenues from Price-Base Excise Tax on Gas have significantly decreased (down 65% since 2011)**. These revenues have been volatile and are based both on the price of gas and amount of gas purchased. Average weekly California gas prices have ranged between \$2.30 and \$4.65 per gallon since 2010. Revenue has dropped from \$7.5 million in 2010/11 and \$10.7 million in 2011/12 to \$3.7 million in 2015/16.
- **Revenues Contra Costa's dedicated one-half cent transportation sales tax have slightly increased** from \$1.8 million in 2010/11 to \$2.4 million in 2015/16. This tax is based on all retail sales in the County and fluctuates based on economic activity.
- **Total funding to the County for streets and roads has decreased** from \$26.1 million in 2010/11 to \$22.6 million in 2015/16 despite the fact that during this same period there has been a 9% increase in the number of vehicles on the road in California and an increase of 18 million more vehicle miles travelled per day.

This graph shows how Contra Costa County's discretionary road fund has been impacted by the decline of the gas tax.

Decline of Contra Costa's Gas Tax 2010/11 - 2016/17
 (2015/16 and 2016/17 are projected)



	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
2103 Gas Tax (Sales Tax Portion)	\$7,501,500	\$10,743,435	\$8,292,261	\$11,131,261	\$8,329,355	\$4,122,479	\$1,885,048
2104-2106 Gas Tax (Excise Tax Portion)	\$16,878,683	\$13,530,068	\$13,740,134	\$16,131,222	\$16,632,275	\$15,258,336	\$17,041,840
Total Gas Tax	\$24,380,183	\$24,273,503	\$22,032,395	\$27,262,483	\$24,961,630	\$19,380,815	\$18,926,888
Measure J-RTS	\$1,759,963	\$1,854,682	\$1,975,401	\$2,095,036	\$2,246,537	\$2,384,478	\$2,300,000
Total Discretionary Road Fund	\$26,140,146	\$26,128,185	\$24,007,796	\$29,357,519	\$27,208,167	\$21,765,293	\$21,226,888

Fiscal Year

AMENDED IN ASSEMBLY AUGUST 30, 2016

CALIFORNIA LEGISLATURE—2015–16 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 26

Introduced by Assembly Member Frazier
(Principal coauthor: Senator Beall)

August 24, 2016

An act to amend Sections 13975, 14500, 14526.5, and 16965 of, to add Sections 14033, 14526.7, and 16321 to, to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of, and to repeal Section 14534.1 of, the Government Code, to amend Section 39719 of the Health and Safety Code, to amend Section 21080.37 of, and to add Division 13.6 (commencing with Section 21200) to, the Public Resources Code, to amend Section 99312.1 of the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of the Revenue and Taxation Code, to amend Sections 183.1, 820.1, 2192, 2192.1, and 2192.2 of, to add Sections 2103.1 and 2192.4 to, and to add Chapter 2 (commencing with Section 2030) to Division 3 of, the Streets and Highways Code, and to add Sections 9250.3, 9250.6, and 9400.5 to the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, as amended, Frazier. Transportation funding.

(1) Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain

registration fees on vehicles, with revenues from these fees deposited in the Motor Vehicle Account and used to fund the Department of Motor Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.17 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, an increase of \$38 in the annual vehicle registration fee with an inflation adjustment, as provided, a new \$165 annual vehicle registration fee with an inflation adjustment, as provided, applicable to zero-emission motor vehicles, as defined, and certain miscellaneous revenues described in (7) below that are not restricted as to expenditure by Article XIX of the California Constitution.

This bill would annually set aside \$200,000,000 of the funds available for the program to fund road maintenance and rehabilitation purposes in counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees, as defined, which taxes or fees are dedicated solely to transportation improvements. These funds would be continuously appropriated for allocation pursuant to guidelines to be developed by the California Transportation Commission in consultation with local agencies. The bill would require \$80,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the Active Transportation Program. The bill would require \$30,000,000 of the funds available for the program in each of 4 fiscal years beginning in 2017–18 to be transferred to the Advance Mitigation Fund created by the bill pursuant to (12) below. The bill would continuously appropriate \$2,000,000 annually of the funds available for the program to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development. The bill would require the remaining funds available for

the program to be allocated 50% for maintenance of the state highway system or to the state highway operation and protection program and 50% to cities and counties pursuant to a specified formula. The bill would impose various requirements on the department and agencies receiving these funds. The bill would authorize a city or county to spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to the program if the city's or county's average Pavement Condition Index meets or exceeds 80.

The bill would also require the department to annually identify savings achieved through efficiencies implemented at the department and to propose, from the identified savings, an appropriation to be included in the annual Budget Act of up to \$70,000,000 from the State Highway Account for expenditure on the Active Transportation Program.

(2) Existing law establishes in state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.

This bill would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes.

(3) Existing law creates various state agencies, including the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, and the State Air Resources Board, with specified powers and duties. Existing law provides for the allocation of state transportation funds to various transportation purposes.

This bill would create the Office of the Transportation Inspector General in state government, as an independent office that would not be a subdivision of any other government entity, to ensure that all of the above-referenced state agencies and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be removed from office during the term except for good cause. The bill

would specify the duties and responsibilities of the Transportation Inspector General and would require an annual report to the Legislature and Governor.

This bill would require the department to update the Highway Design Manual to incorporate the “complete streets” design concept by January 1, 2017.

(4) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill would require the Department of Finance, on or before September 1, 2016, to compute the amount of outstanding loans made from specified transportation funds. The bill would require the Department of Transportation to prepare a loan repayment schedule and would require the outstanding loans to be repaid pursuant to that schedule, as prescribed. The bill would appropriate funds for that purpose from the Budget Stabilization Account. The bill would require the repaid funds to be transferred, pursuant to a specified formula, to cities and counties and to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

(5) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement and for specified categories of projects eligible to receive these funds. Existing law continues the Trade Corridors Improvement Fund in existence in order to receive revenues from sources other than the bond act for these purposes.

This bill would deposit the revenues attributable to a \$0.30 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridors Improvement Fund. The bill would require revenues apportioned to the state from the national highway freight program established by the federal Fixing America’s Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions.

Existing law requires the commission, in determining projects eligible for funding, to consult various state freight and regional infrastructure and goods movement plans and the statewide port master plan.

This bill would delete consideration of the State Air Resources Board’s Sustainable Freight Strategy and the statewide port master plan and would instead include consideration of the applicable port master plan when determining eligible projects for funding. The bill would also expand eligible projects to include rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements.

(6) Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. Existing law continuously appropriates 10% of the annual proceeds of the fund to the Transit and Intercity Rail Capital Program and 5% of the annual proceeds of the fund to the Low Carbon Transit Operations Program.

This bill would, beginning in the 2016–17 fiscal year, instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation.

(7) Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. Existing law requires certain miscellaneous revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and requires the Controller to transfer from the fund to the General Fund an amount of those revenues necessary to offset the current year debt service made from the General Fund on general obligation transportation bonds issued pursuant to Proposition 116 of 1990.

This bill would delete the transfer of these miscellaneous revenues to the Transportation Debt Service Fund, thereby eliminating the offsetting transfer to the General Fund for debt service on general obligation transportation bonds issued pursuant to Proposition 116 of 1990. The bill, subject to a specified exception, would instead require the miscellaneous revenues to be retained in the State Highway Account and to be deposited in the Road Maintenance and Rehabilitation Account.

(8) Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes, except that a specified portion of these gasoline excise tax revenues is deposited in the General Fund. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, commencing July 1, 2016, would instead transfer to the Highway Users Tax Account for allocation to state and local transportation purposes under a specified formula the portion of gasoline excise tax revenues currently being deposited in the General Fund that are attributable to boats, agricultural vehicles, and off-highway vehicles. Because that account is continuously appropriated, the bill would make an appropriation.

(9) Existing law, as of July 1, 2011, increases the sales and use tax on diesel and decreases the excise tax, as provided. Existing law requires the State Board of Equalization to annually modify both the gasoline and diesel excise tax rates on a going-forward basis so that the various changes in the taxes imposed on gasoline and diesel are revenue neutral.

This bill would eliminate the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose the higher gasoline excise tax rate that was in effect on July 1, 2010, in addition to the increase in the rate described in paragraph (1).

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller for allocation by formula to transportation agencies for public transit purposes.

This bill would increase the additional sales and use tax on diesel fuel by an additional 3.5%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. The bill would restrict expenditures of revenues from

this increase in the sales and use tax on diesel fuel to transit capital purposes and certain transit services and would require a recipient transit agency to comply with certain requirements, including submitting a list of proposed projects to the Department of Transportation, as a condition of receiving a portion of these funds. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements.

This bill would, beginning July 1, 2019, and every 3rd year thereafter, require the State Board of Equalization to recompute the gasoline and diesel excise tax rates and the additional sales and use tax rate on diesel fuel based upon the percentage change in the California Consumer Price Index transmitted to the board by the Department of Finance, as prescribed.

(10) Existing law requires the Department of Transportation to prepare a state highway operation and protection program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. The program is required to be based on an asset management plan, as specified. Existing law requires the department to specify, for each project in the program the capital and support budget and projected delivery date for various components of the project. Existing law provides for the California Transportation Commission to review and adopt the program, and authorizes the commission to decline and adopt the program if it determines that the program is not sufficiently consistent with the asset management plan.

This bill would add to the program capital projects relative to the operation of those state highways and bridges. The bill would require the commission, as part of its review of the program, to hold at least one hearing in northern California and one hearing in southern California regarding the proposed program. The bill would require the department to submit any change to a programmed project as an amendment to the commission for its approval.

This bill, on and after February 1, 2017, would also require the commission to make an allocation of all capital and support costs for each project in the program, and would require the department to submit a supplemental project allocation request to the commission for each project that experiences cost increases above the amounts in its allocation. The bill would require the commission to establish guidelines

to provide exceptions to the requirement for a supplemental project allocation requirement that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

(11) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill, notwithstanding these provisions or any other law, would only authorize specified percentages of weight fee revenues to be transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds in accordance with a prescribed schedule and would prohibit the transfer of weight fee revenues from the State Highway Account after the 2020–21 fiscal year. The bill would also prohibit loans of weight fee revenues to the General Fund.

(12) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA, until January 1, 2020, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements.

This bill would extend the above-referenced exemption indefinitely and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons. The bill would also expand the exemption to include state roadways.

This bill would also establish the Advance Mitigation Program in the Department of Transportation. The bill would authorize the department to undertake mitigation measures in advance of construction of a planned transportation project. The bill would require the department to establish a steering committee to advise the department on advance mitigation measures and related matters. The bill would create the Advance Mitigation Fund as a continuously appropriated revolving fund, to be funded initially from the Road Maintenance and Rehabilitation Program pursuant to (1) above. The bill would provide for reimbursement of the revolving fund at the time a planned transportation project benefiting from advance mitigation is constructed.

(13) Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, provides that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities the Department of Transportation assumed as a participant in this program.

This bill would delete the January 1, 2017, repeal date, thereby extending these provisions indefinitely.

(14) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

- 1 (a) Over the next 10 years, the state faces a \$59 billion shortfall
 2 to adequately maintain the existing state highway system in order
 3 to keep it in a basic state of good repair.
- 4 (b) Similarly, cities and counties face a \$78 billion shortfall
 5 over the next decade to adequately maintain the existing network
 6 of local streets and roads.
- 7 (c) Statewide taxes and fees dedicated to the maintenance of
 8 the system have not been increased in more than 20 years, with
 9 those revenues losing more than 55 percent of their purchasing
 10 power, while costs to maintain the system have steadily increased
 11 and much of the underlying infrastructure has aged past its expected
 12 useful life.
- 13 (d) California motorists are spending \$17 billion annually in
 14 extra maintenance and car repair bills, which is more than \$700
 15 per driver, due to the state’s poorly maintained roads.
- 16 (e) Failing to act now to address this growing problem means
 17 that more drastic measures will be required to maintain our system
 18 in the future, essentially passing the burden on to future generations
 19 instead of doing our job today.
- 20 (f) A funding program will help address a portion of the
 21 maintenance backlog on the state’s road system and will stop the
 22 growth of the problem.
- 23 (g) Modestly increasing various fees can spread the cost of road
 24 repairs broadly to all users and beneficiaries of the road network
 25 without overburdening any one group.
- 26 (h) Improving the condition of the state’s road system will have
 27 a positive impact on the economy as it lowers the transportation
 28 costs of doing business, reduces congestion impacts for employees,
 29 and protects property values in the state.
- 30 (i) The federal government estimates that increased spending
 31 on infrastructure creates more than 13,000 jobs per \$1 billion spent.
- 32 (j) Well-maintained roads benefit all users, not just drivers, as
 33 roads are used for all modes of transport, whether motor vehicles,
 34 transit, bicycles, or pedestrians.
- 35 (k) Well-maintained roads additionally provide significant health
 36 benefits and prevent injuries and death due to crashes caused by
 37 poorly maintained infrastructure.
- 38 (l) A comprehensive, reasonable transportation funding package
 39 will do all of the following:
- 40 (1) Ensure these transportation needs are addressed.

1 (2) Fairly distribute the economic impact of increased funding.

2 (3) Restore the gas tax rate previously reduced by the State
3 Board of Equalization pursuant to the gas tax swap.

4 (4) Direct increased revenue to the state’s highest transportation
5 needs.

6 SEC. 2. Section 13975 of the Government Code is amended
7 to read:

8 13975. There is in the state government the Transportation
9 Agency. The agency consists of the Department of the California
10 Highway Patrol, the Department of Motor Vehicles, the Department
11 of Transportation, the High-Speed Rail Authority, and the Board
12 of Pilot Commissioners for the Bays of San Francisco, San Pablo,
13 and Suisun.

14 SEC. 3. Section 14033 is added to the Government Code, to
15 read:

16 14033. On or before January 1, 2017, the department shall
17 update the Highway Design Manual to incorporate the “complete
18 streets” design concept.

19 SEC. 4. Part 5.1 (commencing with Section 14460) is added
20 to Division 3 of Title 2 of the Government Code, to read:

21

22 PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR
23 GENERAL
24

25 14460. (a) There is hereby created in state government the
26 independent Office of the Transportation Inspector General, which
27 shall not be a subdivision of any other governmental entity, to
28 ensure that the Department of Transportation, the High-Speed Rail
29 Authority, the Department of the California Highway Patrol, the
30 Department of Motor Vehicles, the State Air Resources Board,
31 and all other state agencies expending state transportation funds
32 are operating efficiently, effectively, and in compliance with
33 applicable federal and state laws.

34 (b) The Governor shall appoint, subject to confirmation by the
35 Senate, the Transportation Inspector General to a six-year term.
36 The Transportation Inspector General may not be removed from
37 office during that term, except for good cause. A finding of good
38 cause may include substantial neglect of duty, gross misconduct,
39 or conviction of a crime. The reasons for removal of the
40 Transportation Inspector General shall be stated in writing and

1 shall include the basis for removal. The writing shall be sent to
2 the Secretary of the Senate and the Chief Clerk of the Assembly
3 at the time of the removal and shall be deemed to be a public
4 document.

5 14461. The Transportation Inspector General shall review
6 policies, practices, and procedures and conduct audits and
7 investigations of activities involving state transportation funds in
8 consultation with all affected state agencies. Specifically, the
9 Transportation Inspector General's duties and responsibilities shall
10 include, but not be limited to, all of the following:

11 (a) To examine the operating practices of all state agencies
12 expending state transportation funds to identify fraud and waste,
13 opportunities for efficiencies, and opportunities to improve the
14 data used to determine appropriate project resource allocations.

15 (b) To identify best practices in the delivery of transportation
16 projects and develop policies or recommend proposed legislation
17 enabling state agencies to adopt these practices when practicable.

18 (c) To provide objective analysis of and, when possible, offer
19 solutions to concerns raised by the public or generated within
20 agencies involving the state's transportation infrastructure and
21 project delivery methods.

22 (d) To conduct, supervise, and coordinate audits and
23 investigations relating to the programs and operations of all state
24 transportation agencies with state-funded transportation projects.

25 (e) To recommend policies promoting economy and efficiency
26 in the administration of programs and operations of all state
27 agencies with state-funded transportation projects.

28 (f) To ensure that the Secretary of Transportation and the
29 Legislature are fully and currently informed concerning fraud or
30 other serious abuses or deficiencies relating to the expenditure of
31 funds or administration of programs and operations.

32 14462. The Transportation Inspector General shall report at
33 least annually to the Governor and Legislature with a summary of
34 his or her findings, investigations, and audits. The summary shall
35 be posted on the Transportation Inspector General's Internet Web
36 site and shall otherwise be made available to the public upon its
37 release to the Governor and Legislature. The summary shall
38 include, but need not be limited to, significant problems discovered
39 by the Transportation Inspector General and whether
40 recommendations of the Transportation Inspector General relative

1 to investigations and audits have been implemented by the affected
2 agencies. The report shall be submitted to the Legislature in
3 compliance with Section 9795.

4 SEC. 5. Section 14500 of the Government Code is amended
5 to read:

6 14500. There is in state government a California Transportation
7 Commission. The commission shall act in an independent oversight
8 role.

9 SEC. 6. Section 14526.5 of the Government Code is amended
10 to read:

11 14526.5. (a) Based on the asset management plan prepared
12 and approved pursuant to Section 14526.4, the department shall
13 prepare a state highway operation and protection program for the
14 expenditure of transportation funds for major capital improvements
15 that are necessary to preserve and protect the state highway system.
16 Projects included in the program shall be limited to improvements
17 relative to maintenance, safety, rehabilitation, and operation of
18 state highways and bridges that do not add a new traffic lane to
19 the system.

20 (b) The program shall include projects that are expected to be
21 advertised prior to July 1 of the year following submission of the
22 program, but which have not yet been funded. The program shall
23 include those projects for which construction is to begin within
24 four fiscal years, starting July 1 of the year following the year the
25 program is submitted.

26 (c) (1) The department, at a minimum, shall specify, for each
27 project in the state highway operation and protection program, the
28 capital and support budget for each of the following project
29 components:

- 30 (A) Project approval and environmental documents.
- 31 (B) Plans, specifications, and estimates.
- 32 (C) Rights-of-way.
- 33 (D) Construction.

34 (2) The department shall specify, for each project in the state
35 highway operation and protection program, a projected delivery
36 date for each of the following components:

- 37 (A) Environmental document completion.
- 38 (B) Plans, specifications, and estimate completion.
- 39 (C) Right-of-way certification.
- 40 (D) Start of construction.

1 (d) The department shall submit its proposed program to the
2 commission not later than January 31 of each even-numbered year.
3 Prior to submitting its proposed program, the department shall
4 make a draft of its proposed program available to transportation
5 planning agencies for review and comment and shall include the
6 comments in its submittal to the commission. The department shall
7 provide the commission with detailed information for all
8 programmed projects, including, but not limited to, cost, scope,
9 schedule, and performance metrics as determined by the
10 commission.

11 (e) The commission shall review the proposed program relative
12 to its overall adequacy, consistency with the asset management
13 plan prepared and approved pursuant to Section 14526.4 and
14 funding priorities established in Section 167 of the Streets and
15 Highways Code, the level of annual funding needed to implement
16 the program, and the impact of those expenditures on the state
17 transportation improvement program. The commission shall adopt
18 the program and submit it to the Legislature and the Governor not
19 later than April 1 of each even-numbered year. The commission
20 may decline to adopt the program if the commission determines
21 that the program is not sufficiently consistent with the asset
22 management plan prepared and approved pursuant to Section
23 14526.4.

24 (f) As part of the commission's review of the program required
25 pursuant to subdivision (a), the commission shall hold at least one
26 hearing in northern California and one hearing in southern
27 California regarding the proposed program.

28 (g) Expenditures for these projects shall not be subject to
29 Sections 188 and 188.8 of the Streets and Highways Code.

30 (h) Following adoption of the state highway operation and
31 protection program by the commission, any change to a
32 programmed project shall be submitted as an amendment by the
33 department to the commission for its approval before the change
34 may be implemented.

35 SEC. 7. Section 14526.7 is added to the Government Code, to
36 read:

37 14526.7. (a) On and after February 1, 2017, an allocation by
38 the commission of all capital and support costs for each project in
39 the state highway operation and protection program shall be
40 required.

1 (b) For a project that experiences increases in capital or support
2 costs above the amounts in the commission’s allocation pursuant
3 to subdivision (a), a supplemental project allocation request shall
4 be submitted by the department to the commission for approval.

5 (c) The commission shall establish guidelines to provide
6 exceptions to the requirement of subdivision (b) that the
7 commission determines are necessary to ensure that projects are
8 not unnecessarily delayed.

9 SEC. 8. Section 14534.1 of the Government Code is repealed.

10 SEC. 9. Section 16321 is added to the Government Code, to
11 read:

12 16321. (a) Notwithstanding any other law, on or before
13 September 1, 2016, the Department of Finance shall compute the
14 amount of outstanding loans made from the State Highway
15 Account, the Motor Vehicle Fuel Account, the Highway Users
16 Tax Account, and the Motor Vehicle Account to the General Fund.
17 The department shall prepare a loan repayment schedule, pursuant
18 to which the outstanding loans shall be repaid, as follows:

19 (1) On or before June 30, 2017, 50 percent of the outstanding
20 loan amounts.

21 (2) On or before June 30, 2018, the remainder of the outstanding
22 loan amounts.

23 (b) Notwithstanding any other law, as the loans are repaid
24 pursuant to this section, the repaid funds shall be transferred in the
25 following manner:

26 (1) Fifty percent to cities and counties pursuant to clauses (i)
27 and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of
28 Section 2103 of the Streets and Highways Code.

29 (2) Fifty percent to the department for maintenance of the state
30 highway system and for purposes of the state highway operation
31 and protection program.

32 (c) Funds for loan repayments pursuant to this section are hereby
33 appropriated from the Budget Stabilization Account pursuant to
34 subclause (II) of clause (ii) of subparagraph (B) of paragraph (1)
35 of subdivision (c) of Section 20 of Article XVI of the California
36 Constitution.

37 SEC. 10. Section 16965 of the Government Code is amended
38 to read:

1 16965. (a) (1) The Transportation Debt Service Fund is hereby
2 created in the State Treasury. Moneys in the fund shall be dedicated
3 to all of the following purposes:

4 (A) Payment of debt service with respect to designated bonds,
5 as defined in subdivision (c) of Section 16773, and as further
6 provided in paragraph (3) and subdivision (b).

7 (B) To reimburse the General Fund for debt service with respect
8 to bonds.

9 (C) To redeem or retire bonds, pursuant to Section 16774,
10 maturing in a subsequent fiscal year.

11 (2) The bonds eligible under subparagraph (B) or (C) of
12 paragraph (1) include bonds issued pursuant to the Passenger Rail
13 and Clean Air Bond Act of 1990 (Chapter 17 (commencing with
14 Section 2701) of Division 3 of the Streets and Highways Code),
15 the Seismic Retrofit Bond Act of 1996 (Chapter 12.48
16 (commencing with Section 8879) of Division 1 of Title 2), and the
17 Safe, Reliable High-Speed Passenger Train Bond Act for the 21st
18 Century (Chapter 20 (commencing with Section 2704) of Division
19 3 of the Streets and Highways Code), and nondesignated bonds
20 under Proposition 1B, as defined in subdivision (c) of Section
21 16773.

22 (3) (A) The Transportation Bond Direct Payment Account is
23 hereby created in the State Treasury, as a subaccount within the
24 Transportation Debt Service Fund, for the purpose of directly
25 paying the debt service, as defined in paragraph (4), of designated
26 bonds of Proposition 1B, as defined in subdivision (c) of Section
27 16773. Notwithstanding Section 13340, moneys in the
28 Transportation Bond Direct Payment Account are continuously
29 appropriated for payment of debt service with respect to designated
30 bonds as provided in subdivision (c) of Section 16773. So long as
31 any designated bonds remain outstanding, the moneys in the
32 Transportation Bond Direct Payment Account may not be used
33 for any other purpose, and may not be borrowed by or available
34 for transfer to the General Fund pursuant to Section 16310 or any
35 similar law, or to the General Cash Revolving Fund pursuant to
36 Section 16381 or any similar law.

37 (B) Once the Treasurer makes a certification that payment of
38 debt service with respect to all designated bonds has been paid or
39 provided for, any remaining moneys in the Transportation Bond

1 Direct Payment Account shall be transferred back to the
2 Transportation Debt Service Fund.

3 (C) The moneys in the Transportation Bond Direct Payment
4 Account shall be invested in the Surplus Money Investment Fund,
5 and all investment earnings shall accrue to the account.

6 (D) The Controller may establish subaccounts within the
7 Transportation Bond Direct Payment Account as may be required
8 by the resolution, indenture, or other documents governing any
9 designated bonds.

10 (4) For purposes of this subdivision and subdivision (b), and
11 subdivision (c) of Section 16773, “debt service” means payment
12 of all of the following costs and expenses with respect to any
13 designated bond:

14 (A) The principal of and interest on the bonds.

15 (B) Amounts payable as the result of tender on any bonds, as
16 described in clause (iv) of subparagraph (B) of paragraph (1) of
17 subdivision (d) of Section 16731.

18 (C) Amounts payable under any contractual obligation of the
19 state to repay advances and pay interest thereon under a credit
20 enhancement or liquidity agreement as described in clause (iv) of
21 subparagraph (B) of paragraph (1) of subdivision (d) of Section
22 16731.

23 (D) Any amount owed by the state to a counterparty after any
24 offset for payments owed to the state on any hedging contract as
25 described in subparagraph (A) of paragraph (2) of subdivision (d)
26 of Section 16731.

27 (b) From the moneys transferred to the fund pursuant to
28 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
29 Vehicle Code, there shall first be deposited into the Transportation
30 Bond Direct Payment Account in each month sufficient funds to
31 equal the amount designated in a certificate submitted by the
32 Treasurer to the Controller and the Director of Finance at the start
33 of each fiscal year, and as may be modified by the Treasurer
34 thereafter upon issuance of any new issue of designated bonds or
35 upon change in circumstances that requires such a modification.
36 This certificate shall be calculated by the Treasurer to identify, for
37 each month, the amount necessary to fund all of the debt service
38 with respect to all designated bonds. This calculation shall be done
39 in a manner provided in the resolution, indenture, or other
40 documents governing the designated bonds. In the event that

1 transfers to the Transportation Bond Direct Payment Account in
2 any month are less than the amounts required in the Treasurer's
3 certificate, the shortfall shall carry over to be part of the required
4 payment in the succeeding month or months.

5 (c) The state hereby covenants with the holders from time to
6 time of any designated bonds that it will not alter, amend, or restrict
7 the provisions of subdivision (c) of Section 16773 of the
8 Government Code, or Sections 9400, 9400.1, 9400.4, and 42205
9 of the Vehicle Code, which provide directly or indirectly for the
10 transfer of weight fees to the Transportation Debt Service Fund
11 or the Transportation Bond Direct Payment Account, or
12 subdivisions (a) and (b) of this section, or reduce the rate of
13 imposition of vehicle weight fees under Sections 9400 and 9400.1
14 of the Vehicle Code as they existed on the date of the first issuance
15 of any designated bonds, if that alteration, amendment, restriction,
16 or reduction would result in projected weight fees for the next
17 fiscal year determined by the Director of Finance being less than
18 two times the maximum annual debt service with respect to all
19 outstanding designated bonds, as such calculation is determined
20 pursuant to the resolution, indenture, or other documents governing
21 the designated bonds. The state may include this covenant in the
22 resolution, indenture, or other documents governing the designated
23 bonds.

24 (d) Once the required monthly deposit, including makeup of
25 any shortfalls from any prior month, has been made pursuant to
26 subdivision (b), from moneys transferred to the fund pursuant to
27 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
28 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
29 Controller shall transfer as an expenditure reduction to the General
30 Fund any amount necessary to offset the cost of current year debt
31 service payments made from the General Fund with respect to any
32 bonds issued pursuant to Proposition 192 (1996) and three-quarters
33 of the amount of current year debt service payments made from
34 the General Fund with respect to any nondesignated bonds, as
35 defined in subdivision (c) of Section 16773, issued pursuant to
36 Proposition 1B (2006). In the alternative, these funds may also be
37 used to redeem or retire the applicable bonds, pursuant to Section
38 16774, maturing in a subsequent fiscal year as directed by the
39 Director of Finance.

1 (e) Once the required monthly deposit, including makeup of
2 any shortfalls from any prior month, has been made pursuant to
3 subdivision (b), from moneys transferred to the fund pursuant to
4 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
5 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
6 Controller shall transfer as an expenditure reduction to the General
7 Fund any amount necessary to offset the eligible cost of current
8 year debt service payments made from the General Fund with
9 respect to any bonds issued pursuant to Proposition 108 (1990)
10 and Proposition 1A (2008), and one-quarter of the amount of
11 current year debt service payments made from the General Fund
12 with respect to any nondesignated bonds, as defined in subdivision
13 (c) of Section 16773, issued pursuant to Proposition 1B (2006).
14 The Department of Finance shall notify the Controller by July 30
15 of every year of the percentage of debt service that is expected to
16 be paid in that fiscal year with respect to bond-funded projects that
17 qualify as eligible guideway projects consistent with the
18 requirements applicable to the expenditure of revenues under
19 Article XIX of the California Constitution, and the Controller shall
20 make payments only for those eligible projects. In the alternative,
21 these funds may also be used to redeem or retire the applicable
22 bonds, pursuant to Section 16774, maturing in a subsequent fiscal
23 year as directed by the Director of Finance.

24 (f) On or before the second business day following the date on
25 which transfers are made to the Transportation Debt Service Fund,
26 and after the required monthly deposits for that month, including
27 makeup of any shortfalls from any prior month, have been made
28 to the Transportation Bond Direct Payment Account, the Controller
29 shall transfer the funds designated for reimbursement of bond debt
30 service with respect to nondesignated bonds, as defined in
31 subdivision (c) of Section 16773, and other bonds identified in
32 subdivisions (d) and (e) in that month from the fund to the General
33 Fund pursuant to this section.

34 SEC. 11. Section 39719 of the Health and Safety Code is
35 amended to read:

36 39719. (a) The Legislature shall appropriate the annual
37 proceeds of the fund for the purpose of reducing greenhouse gas
38 emissions in this state in accordance with the requirements of
39 Section 39712.

1 (b) To carry out a portion of the requirements of subdivision
2 (a), annual proceeds are continuously appropriated for the
3 following:

4 (1) Beginning in the 2016–17 fiscal year, and notwithstanding
5 Section 13340 of the Government Code, 50 percent of annual
6 proceeds are continuously appropriated, without regard to fiscal
7 years, for transit, affordable housing, and sustainable communities
8 programs as following:

9 (A) Twenty percent of the annual proceeds of the fund is hereby
10 continuously appropriated to the Transportation Agency for the
11 Transit and Intercity Rail Capital Program created by Part 2
12 (commencing with Section 75220) of Division 44 of the Public
13 Resources Code.

14 (B) Ten percent of the annual proceeds of the fund is hereby
15 continuously appropriated to the Low Carbon Transit Operations
16 Program created by Part 3 (commencing with Section 75230) of
17 Division 44 of the Public Resources Code. Moneys shall be
18 allocated by the Controller, according to requirements of the
19 program, and pursuant to the distribution formula in subdivision
20 (b) or (c) of Section 99312 of, and Sections 99313 and 99314 of,
21 the Public Utilities Code.

22 (C) Twenty percent of the annual proceeds of the fund is hereby
23 continuously appropriated to the Strategic Growth Council for the
24 Affordable Housing and Sustainable Communities Program created
25 by Part 1 (commencing with Section 75200) of Division 44 of the
26 Public Resources Code. Of the amount appropriated in this
27 subparagraph, no less than 10 percent of the annual proceeds shall
28 be expended for affordable housing, consistent with the provisions
29 of that program.

30 (2) Beginning in the 2015–16 fiscal year, notwithstanding
31 Section 13340 of the Government Code, 25 percent of the annual
32 proceeds of the fund is hereby continuously appropriated to the
33 High-Speed Rail Authority for the following components of the
34 initial operating segment and Phase I Blended System as described
35 in the 2012 business plan adopted pursuant to Section 185033 of
36 the Public Utilities Code:

37 (A) Acquisition and construction costs of the project.

38 (B) Environmental review and design costs of the project.

39 (C) Other capital costs of the project.

1 (D) Repayment of any loans made to the authority to fund the
2 project.

3 (c) In determining the amount of annual proceeds of the fund
4 for purposes of the calculation in subdivision (b), the funds subject
5 to Section 39719.1 shall not be included.

6 SEC. 12. Section 21080.37 of the Public Resources Code is
7 amended to read:

8 21080.37. (a) This division does not apply to a project or an
9 activity to repair, maintain, or make minor alterations to an existing
10 roadway if all of the following conditions are met:

11 (1) (A) The project does not cross a waterway.

12 (B) For purposes of this paragraph, “waterway” means a bay,
13 estuary, lake, pond, river, slough, or a perennial, intermittent, or
14 ephemeral stream, lake, or estuarine-marine shoreline.

15 (2) The project involves negligible or no expansion of an
16 existing use beyond that existing at the time of the lead agency’s
17 determination.

18 (3) (A) The site of the project does not contain wetlands or
19 riparian areas and does not have significant value as a wildlife
20 habitat, and the project does not harm any species protected by the
21 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
22 seq.), the Native Plant Protection Act (Chapter 10 (commencing
23 with Section 1900) of Division 2 of the Fish and Game Code), or
24 the California Endangered Species Act (Chapter 1.5 (commencing
25 with Section 2050) of Division 3 of the Fish and Game Code), and
26 the project does not cause the destruction or removal of any species
27 protected by a local ordinance.

28 (B) For the purposes of this paragraph:

29 (i) “Riparian areas” mean those areas transitional between
30 terrestrial and aquatic ecosystems and that are distinguished by
31 gradients in biophysical conditions, ecological processes, and biota.
32 A riparian area is an area through which surface and subsurface
33 hydrology connect waterbodies with their adjacent uplands. A
34 riparian area includes those portions of terrestrial ecosystems that
35 significantly influence exchanges of energy and matter with aquatic
36 ecosystems. A riparian area is adjacent to perennial, intermittent,
37 and ephemeral streams, lakes, and estuarine-marine shorelines.

38 (ii) “Significant value as a wildlife habitat” includes wildlife
39 habitat of national, statewide, regional, or local importance; habitat
40 for species protected by the federal Endangered Species Act of

1 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered
2 Species Act (Chapter 1.5 (commencing with Section 2050) of
3 Division 3 of the Fish and Game Code), or the Native Plant
4 Protection Act (Chapter 10 (commencing with Section 1900) of
5 Division 2 of the Fish and Game Code); habitat identified as
6 candidate, fully protected, sensitive, or species of special status
7 by local, state, or federal agencies; or habitat essential to the
8 movement of resident or migratory wildlife.

9 (iii) “Wetlands” has the same meaning as in the United States
10 Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

11 (iv) “Wildlife habitat” means the ecological communities upon
12 which wild animals, birds, plants, fish, amphibians, and
13 invertebrates depend for their conservation and protection.

14 (4) The project does not impact cultural resources.

15 (5) The roadway does not affect scenic resources, as provided
16 pursuant to subdivision (c) of Section 21084.

17 (b) Prior to determining that a project is exempt pursuant to this
18 section, the lead agency shall do both of the following:

19 (1) Include measures in the project to mitigate potential
20 vehicular traffic and safety impacts and bicycle and pedestrian
21 safety impacts.

22 (2) Hold a noticed public hearing on the project to hear and
23 respond to public comments. The hearing on the project may be
24 conducted with another noticed lead agency public hearing.
25 Publication of the notice shall be no fewer times than required by
26 Section 6061 of the Government Code, by the public agency in a
27 newspaper of general circulation in the area.

28 (c) For purposes of this section, “roadway” means a roadway
29 as defined pursuant to Section 530 of the Vehicle Code and the
30 previously graded and maintained shoulder that is within a roadway
31 right-of-way of no more than five feet from the edge of the
32 roadway.

33 (d) (1) If a state agency determines that a project is not subject
34 to this division pursuant to this section and it approves or
35 determines to carry out that project, it shall file a notice with the
36 Office of Planning and Research in the manner specified in
37 subdivisions (b) and (c) of Section 21108.

38 (2) If a local agency determines that a project is not subject to
39 this division pursuant to this section and it approves or determines
40 to carry out that project, it shall file a notice with the Office of

1 Planning and Research, and with the county clerk in the county in
2 which the project will be located in the manner specified in
3 subdivisions (b) and (c) of Section 21152.

4 SEC. 13. Division 13.6 (commencing with Section 21200) is
5 added to the Public Resources Code, to read:

6

7 DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

8

9

CHAPTER 1. GENERAL

10

11 21200. This division shall be known, and may be cited, as the
12 Advance Mitigation Program Act.

13 21201. (a) The purpose of this division is to improve the
14 success and effectiveness of actions implemented to mitigate the
15 natural resource impacts of future transportation projects by
16 establishing the means to implement those actions well before the
17 transportation projects are constructed. The advance identification
18 and implementation of mitigation actions also will streamline the
19 delivery of transportation projects by anticipating mitigation
20 requirements for planned transportation projects and avoiding or
21 reducing delays associated with environmental permitting. By
22 identifying regional or statewide conservation priorities and by
23 anticipating the impacts of planned transportation projects on a
24 regional or statewide basis, mitigation actions can be designed to
25 protect and restore California's most valuable natural resources
26 and also facilitate environmental compliance for planned
27 transportation projects on a regional scale.

28 (b) This division is not intended to create a new environmental
29 permitting or regulatory program or to modify existing
30 environmental laws or regulations, nor is it expected that all
31 mitigation requirements will be addressed for planned
32 transportation projects. Instead, it is intended to provide a
33 methodology with which to anticipate and fulfill the requirements
34 of existing state and federal environmental laws that protect fish,
35 wildlife, plant species, and other natural resources more efficiently
36 and effectively.

37 21202. The Legislature finds and declares all of the following:

38 (a) The minimization and mitigation of environmental impacts
39 is ordinarily handled on a project-by-project basis, usually near

1 the end of a project’s timeline and often without guidance regarding
2 regional or statewide conservation priorities.

3 (b) The cost of critical transportation projects often escalates
4 because of permitting delays that occur when appropriate
5 conservation and mitigation measures cannot easily be identified
6 and because the cost of these measures often increases between
7 the time a project is planned and funded and the time mitigation
8 is implemented.

9 (c) Addressing conservation and mitigation needs early in a
10 project’s timeline, during the project design and development
11 phase, can reduce costs, allow natural resources conservation to
12 be integrated with project siting and design, and result in the
13 establishment of more valuable and productive habitat mitigation.

14 (d) When the Department of Transportation is able to anticipate
15 the mitigation needs for planned transportation projects, it can
16 meet those needs in a more timely and cost-effective way by using
17 advance mitigation planning.

18 (e) Working with state and federal resource protection agencies,
19 the department can identify, conserve, and, where appropriate,
20 restore lands for mitigation of numerous projects early in the
21 projects’ timelines, thereby allowing public funds to stretch further
22 by acquiring habitat at a lower cost and avoiding environmental
23 permitting delays.

24 (f) Advance mitigation can provide an effective means of
25 facilitating delivery of transportation projects while ensuring more
26 effective natural resource conservation.

27 (g) Advance mitigation is needed to direct mitigation funding
28 for transportation projects to agreed-upon conservation priorities
29 and to the creation of habitat reserves and recreation areas that
30 enhance the sustainability of human and natural systems by
31 protecting or restoring connectivity of natural communities and
32 the delivery of ecosystem services.

33 (h) Advance mitigation can facilitate the implementation of
34 climate change adaptation strategies both for ecosystems and
35 California’s economy.

36 (i) Advance mitigation can enable the state to protect, restore,
37 and recover its natural resources as it strengthens and improves
38 its transportation systems.

39 21203. The Legislature intends to do all of the following by
40 enacting this division:

1 (a) Facilitate delivery of transportation projects while ensuring
2 more effective natural resource conservation.

3 (b) Develop effective strategies to improve the state’s ability to
4 meet mounting demands for transportation improvements and to
5 maximize conservation and other public benefits.

6 (c) Achieve conservation objectives of statewide and regional
7 importance by coordinating local, state, and federally funded
8 natural resource conservation efforts with mitigation actions
9 required for impacts from transportation projects.

10 (d) Create administrative, governance, and financial incentives
11 and mechanisms necessary to ensure that measures required to
12 minimize or mitigate impacts from transportation projects will
13 serve to achieve regional or statewide natural resource conservation
14 objectives.

15
16 CHAPTER 2. DEFINITIONS

17
18 21204. For purposes of this division, the following terms have
19 the following meanings:

20 (a) “Acquire” and “acquisition” mean, with respect to land or
21 a waterway, acquisition of fee title or purchase of a conservation
22 easement, that protects conservation and mitigation values on the
23 land or waterway in perpetuity.

24 (b) “Advance mitigation” means mitigation implemented before,
25 and in anticipation of, environmental effects of planned
26 transportation projects.

27 (c) “Commission” means the California Transportation
28 Commission.

29 (d) “Department” means the Department of Transportation.

30 (e) “Transportation agency” means the department, the
31 High-Speed Rail Authority, a metropolitan planning organization,
32 a regional transportation planning agency, or another public agency
33 that implements transportation projects.

34 (f) “Transportation project” means a transportation capital
35 improvement project.

36 (g) “Planned transportation project” means a transportation
37 project that a transportation agency has concluded is reasonably
38 likely to be constructed within 20 years and that has been identified
39 to the agency for purposes of this division. A planned transportation

1 project may include, but is not limited to, a transportation project
2 that has been proposed for approval or that has been approved.

3 (h) “Program” means the Advance Mitigation Program
4 implemented pursuant to this division.

5 (i) “Regulatory agency” means a state or federal natural resource
6 protection agency with regulatory authority over planned
7 transportation projects. A regulatory agency includes, but is not
8 limited to, the Natural Resources Agency, the Department of Fish
9 and Wildlife, California regional water quality control boards, the
10 United States Fish and Wildlife Service, the National Marine
11 Fisheries Service, the United States Environmental Protection
12 Agency, and the United States Army Corps of Engineers.

13
14 CHAPTER 3. ADVANCE MITIGATION PROGRAM
15

16 21205. (a) The Advance Mitigation Program is hereby created
17 in the department to accelerate project delivery and improve
18 environmental outcomes of environmental mitigation for planned
19 transportation projects.

20 (b) The program may utilize mitigation instruments, including,
21 but not limited to, mitigation banks, in lieu of fee programs, and
22 conservation easements as defined in Section 815.1 of the Civil
23 Code.

24 (c) The department shall track all implemented advance
25 mitigation projects to use as credits for environmental mitigation
26 for state-sponsored transportation projects.

27 (d) The department may use advance mitigation credits to fulfill
28 mitigation requirements of any environmental law for a
29 transportation project eligible for the State Transportation
30 Improvement Program or the State Highway Operation and
31 Protection Program.

32 21206. No later than February 1, 2017, the department shall
33 establish an interagency transportation advance mitigation steering
34 committee consisting of the department and appropriate state and
35 federal regulatory agencies to support the program so that advance
36 mitigation can be used as required mitigation for planned
37 transportation projects and can provide improved environmental
38 outcomes. The committee shall advise the department of
39 opportunities to carry out advance mitigation projects, provide the
40 best available science, and actively participate in mitigation

1 instrument reviews and approvals. The committee shall seek to
2 develop streamlining opportunities, including those related to
3 landscape scale mitigation planning and alignment of federal and
4 state regulations and procedures related to mitigation requirements
5 and implementation. The committee shall also provide input on
6 crediting, using, and tracking of advance mitigation investments.

7 21207. The Advance Mitigation Fund is hereby created in the
8 State Transportation Fund as a revolving fund. Notwithstanding
9 Section 13340 of the Government Code, the fund shall be
10 continuously appropriated without regard to fiscal years. The
11 moneys in the fund shall be programmed by the commission for
12 the planning and implementation of advance mitigation projects
13 consistent with the purposes of this chapter. After the transfer of
14 moneys to the fund for four fiscal years pursuant to subdivision
15 (c) of Section 2032 of the Streets and Highways Code, commencing
16 in the 2017–18 fiscal year, the program is intended to be
17 self-sustaining. Advance expenditures from the fund shall later be
18 reimbursed from project funding available at the time a planned
19 transportation project is constructed. A maximum of 5 percent of
20 available funds may be used for administrative purposes.

21 21208. *The program is intended to improve the efficiency and*
22 *efficacy of mitigation only and is not intended to supplant the*
23 *requirements of the California Environmental Quality Act (Division*
24 *13 (commencing with Section 21000) or any other environmental*
25 *law. The identification of planned transportation projects and of*
26 *mitigation projects or measures for planned transportation projects*
27 *under this division does not imply or require approval of those*
28 *projects for purposes of the California Environmental Quality Act*
29 *(Division 13 (commencing with Section 21000) or any other*
30 *environmental law.*

31 SEC. 14. Section 99312.1 of the Public Utilities Code is
32 amended to read:

33 99312.1. (a) Revenues transferred to the Public Transportation
34 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue
35 and Taxation Code are hereby continuously appropriated to the
36 Controller for allocation as follows:

37 (1) Fifty percent for allocation to transportation planning
38 agencies, county transportation commissions, and the San Diego
39 Metropolitan Transit Development Board pursuant to Section
40 99314.

1 (2) Fifty percent for allocation to transportation agencies, county
2 transportation commissions, and the San Diego Metropolitan
3 Transit Development Board for purposes of Section 99313.

4 (b) For purposes of this chapter, the revenues allocated pursuant
5 to this section shall be subject to the same requirements as revenues
6 allocated pursuant to subdivisions (b) and (c), as applicable, of
7 Section 99312.

8 (c) The revenues transferred to the Public Transportation
9 Account that are attributable to the increase in the sales and use
10 tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of
11 the Revenue and Taxation Code, as adjusted pursuant to
12 subdivision (c) of that section, and subdivision (b) of Section
13 6201.8 of the Revenue and Taxation Code, as adjusted pursuant
14 to subdivision (c) of that section, upon allocation pursuant to
15 Sections 99313 and 99314, shall only be expended on the
16 following:

17 (1) Transit capital projects or services to maintain or repair a
18 transit operator's existing transit vehicle fleet or existing transit
19 facilities, including rehabilitation or modernization of existing
20 vehicles or facilities.

21 (2) The design, acquisition, and construction of new vehicles
22 or facilities that improve existing transit services.

23 (3) Transit services that complement local efforts for repair and
24 improvement of local transportation infrastructure.

25 (d) (1) Prior to receiving an apportionment of funds pursuant
26 to subdivision (c) from the Controller in a fiscal year, a recipient
27 transit agency shall submit to the Department of Transportation a
28 list of projects proposed to be funded with these funds. The list of
29 projects proposed to be funded with these funds shall include a
30 description and location of each proposed project, a proposed
31 schedule for the project's completion, and the estimated useful life
32 of the improvement. The project list shall not limit the flexibility
33 of a recipient transit agency to fund projects in accordance with
34 local needs and priorities so long as the projects are consistent
35 with subdivision (c).

36 (2) The department shall report to the Controller the recipient
37 transit agencies that have submitted a list of projects as described
38 in this subdivision and that are therefore eligible to receive an
39 apportionment of funds for the applicable fiscal year. The

1 Controller, upon receipt of the report, shall apportion funds
2 pursuant to Sections 99313 and 99314.

3 (e) For each fiscal year, each recipient transit agency receiving
4 an apportionment of funds pursuant to subdivision (c) shall, upon
5 expending those funds, submit documentation to the department
6 that includes a description and location of each completed project,
7 the amount of funds expended on the project, the completion date,
8 and the estimated useful life of the improvement.

9 (f) The audit of transit operator finances required pursuant to
10 Section 99245 shall verify that the revenues identified in
11 subdivision (c) have been expended in conformance with these
12 specific requirements and all other generally applicable
13 requirements.

14 SEC. 15. Section 6051.8 of the Revenue and Taxation Code
15 is amended to read:

16 6051.8. (a) Except as provided by Section 6357.3, in addition
17 to the taxes imposed by this part, for the privilege of selling
18 tangible personal property at retail a tax is hereby imposed upon
19 all retailers at the rate of 1.75 percent of the gross receipts of any
20 retailer from the sale of all diesel fuel.

21 (b) Except as provided by Section 6357.3, in addition to the
22 taxes imposed by this part and by subdivision (a), for the privilege
23 of selling tangible personal property at retail a tax is hereby
24 imposed upon all retailers at the rate of 3.5 percent of the gross
25 receipts of any retailer from the sale of all diesel fuel, as defined
26 in Section 60022, sold at retail in this state. The tax imposed under
27 this subdivision shall be imposed on and after the first day of the
28 first calendar quarter that occurs 90 days after the effective date
29 of the act adding this subdivision.

30 (c) Beginning July 1, 2019, and every third year thereafter, the
31 State Board of Equalization shall recompute the rates of the taxes
32 imposed by this section. That computation shall be made as
33 follows:

34 (1) The Department of Finance shall transmit to the State Board
35 of Equalization the percentage change in the California Consumer
36 Price Index for all items from November of three calendar years
37 prior to November of the prior calendar year, no later than January
38 31, 2019, and January 31 of every third year thereafter.

39 (2) The State Board of Equalization shall do all of the following:

1 (A) Compute an inflation adjustment factor by adding 100
 2 percent to the percentage change figure that is furnished pursuant
 3 to paragraph (1) and dividing the result by 100.

4 (B) Multiply the preceding tax rate per gallon by the inflation
 5 adjustment factor determined in subparagraph (A) and round off
 6 the resulting product to the nearest tenth of a cent.

7 (C) Make its determination of the new rate no later than March
 8 1 of the same year as the effective date of the new rate.

9 (d) Notwithstanding subdivision (b) of Section 7102, all of the
 10 revenues, less refunds, collected pursuant to this section shall be
 11 estimated by the State Board of Equalization, with the concurrence
 12 of the Department of Finance, and transferred quarterly to the
 13 Public Transportation Account in the State Transportation Fund
 14 for allocation pursuant to Section 99312.1 of the Public Utilities
 15 Code.

16 SEC. 16. Section 6201.8 of the Revenue and Taxation Code
 17 is amended to read:

18 6201.8. (a) Except as provided by Section 6357.3, in addition
 19 to the taxes imposed by this part, an excise tax is hereby imposed
 20 on the storage, use, or other consumption in this state of diesel
 21 fuel, as defined in Section 60022, at the rate of 1.75 percent of the
 22 sales price of the diesel fuel.

23 (b) Except as provided by Section 6357.3, in addition to the
 24 taxes imposed by this part and by subdivision (a), an excise tax is
 25 hereby imposed on the storage, use, or other consumption in this
 26 state of diesel fuel, as defined in Section 60022, at the rate of 3.5
 27 percent of the sales price of the diesel fuel. The tax imposed under
 28 this subdivision shall be imposed on and after the first day of the
 29 first calendar quarter that occurs 90 days after the effective date
 30 of the act adding this subdivision.

31 (c) Beginning July 1, 2019, and every third year thereafter, the
 32 State Board of Equalization shall recompute the rates of the taxes
 33 imposed by this section. That computation shall be made as
 34 follows:

35 (1) The Department of Finance shall transmit to the State Board
 36 of Equalization the percentage change in the California Consumer
 37 Price Index for all items from November of three calendar years
 38 prior to November of the prior calendar year, no later than January
 39 31, 2019, and January 31 of every third year thereafter.

40 (2) The State Board of Equalization shall do all of the following:

1 (A) Compute an inflation adjustment factor by adding 100
2 percent to the percentage change figure that is furnished pursuant
3 to paragraph (1) and dividing the result by 100.

4 (B) Multiply the preceding tax rate per gallon by the inflation
5 adjustment factor determined in subparagraph (A) and round off
6 the resulting product to the nearest tenth of a cent.

7 (C) Make its determination of the new rate no later than March
8 1 of the same year as the effective date of the new rate.

9 (d) Notwithstanding subdivision (b) of Section 7102, all of the
10 revenues, less refunds, collected pursuant to this section shall be
11 estimated by the State Board of Equalization, with the concurrence
12 of the Department of Finance, and transferred quarterly to the
13 Public Transportation Account in the State Transportation Fund
14 for allocation pursuant to Section 99312.1 of the Public Utilities
15 Code.

16 SEC. 17. Section 7360 of the Revenue and Taxation Code is
17 amended to read:

18 7360. (a) (1) (A) A tax of eighteen cents (\$0.18) is hereby
19 imposed upon each gallon of fuel subject to the tax in Sections
20 7362, 7363, and 7364.

21 (B) In addition to the tax imposed pursuant to subparagraph
22 (A), on and after the first day of the first calendar quarter that
23 occurs 90 days after the effective date of the act adding this
24 subparagraph, a tax of seventeen cents (\$0.17) is hereby imposed
25 upon each gallon of fuel, other than aviation gasoline, subject to
26 the tax in Sections 7362, 7363, and 7364.

27 (2) If the federal fuel tax is reduced below the rate of nine cents
28 (\$0.09) per gallon and federal financial allocations to this state for
29 highway and exclusive public mass transit guideway purposes are
30 reduced or eliminated correspondingly, the tax rate imposed by
31 subparagraph (A) of paragraph (1), on and after the date of the
32 reduction, shall be recalculated by an amount so that the combined
33 state rate under subparagraph (A) of paragraph (1) and the federal
34 tax rate per gallon equal twenty-seven cents (\$0.27).

35 (3) If any person or entity is exempt or partially exempt from
36 the federal fuel tax at the time of a reduction, the person or entity
37 shall continue to be so exempt under this section.

38 (b) On and after July 1, 2010, in addition to the tax imposed by
39 subdivision (a), a tax is hereby imposed upon each gallon of motor
40 vehicle fuel, other than aviation gasoline, subject to the tax in

1 Sections 7362, 7363, and 7364 in an amount equal to seventeen
2 and three-tenths cents (\$0.173) per gallon.

3 (c) Beginning July 1, 2019, and every third year thereafter, the
4 State Board of Equalization shall recompute the rates of the taxes
5 imposed by this section. That computation shall be made as
6 follows:

7 (1) The Department of Finance shall transmit to the State Board
8 of Equalization the percentage change in the California Consumer
9 Price Index for all items from November of three calendar years
10 prior to November of the prior calendar year, no later than January
11 31, 2019, and January 31 of every third year thereafter.

12 (2) The State Board of Equalization shall do all of the following:

13 (A) Compute an inflation adjustment factor by adding 100
14 percent to the percentage change figure that is furnished pursuant
15 to paragraph (1) and dividing the result by 100.

16 (B) Multiply the preceding tax rate per gallon by the inflation
17 adjustment factor determined in subparagraph (A) and round off
18 the resulting product to the nearest tenth of a cent.

19 (C) Make its determination of the new rate no later than March
20 1 of the same year as the effective date of the new rate.

21 SEC. 18. Section 8352.4 of the Revenue and Taxation Code
22 is amended to read:

23 8352.4. (a) Subject to Sections 8352 and 8352.1, and except
24 as otherwise provided in subdivision (b), there shall be transferred
25 from the money deposited to the credit of the Motor Vehicle Fuel
26 Account to the Harbors and Watercraft Revolving Fund, for
27 expenditure in accordance with Division 1 (commencing with
28 Section 30) of the Harbors and Navigation Code, the sum of six
29 million six hundred thousand dollars (\$6,600,000) per annum,
30 representing the amount of money in the Motor Vehicle Fuel
31 Account attributable to taxes imposed on distributions of motor
32 vehicle fuel used or usable in propelling vessels. The actual amount
33 shall be calculated using the annual reports of registered boats
34 prepared by the Department of Motor Vehicles for the United
35 States Coast Guard and the formula and method of the December
36 1972 report prepared for this purpose and submitted to the
37 Legislature on December 26, 1972, by the Director of
38 Transportation. If the amount transferred during each fiscal year
39 is in excess of the calculated amount, the excess shall be
40 retransferred from the Harbors and Watercraft Revolving Fund to

1 the Motor Vehicle Fuel Account. If the amount transferred is less
2 than the amount calculated, the difference shall be transferred from
3 the Motor Vehicle Fuel Account to the Harbors and Watercraft
4 Revolving Fund. No adjustment shall be made if the computed
5 difference is less than fifty thousand dollars (\$50,000), and the
6 amount shall be adjusted to reflect any temporary or permanent
7 increase or decrease that may be made in the rate under the Motor
8 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
9 made prior to payments pursuant to Section 8352.2.

10 (b) Commencing July 1, 2016, the revenues attributable to the
11 taxes imposed pursuant to subdivision (b) of Section 7360 and
12 Section 7361.1 and otherwise to be deposited in the Harbors and
13 Watercraft Revolving Fund pursuant to subdivision (a) shall instead
14 be transferred to the Highway Users Tax Account for distribution
15 pursuant to Section 2103.1 of the Streets and Highways Code.

16 SEC. 19. Section 8352.5 of the Revenue and Taxation Code
17 is amended to read:

18 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and
19 except as otherwise provided in subdivision (b), there shall be
20 transferred from the money deposited to the credit of the Motor
21 Vehicle Fuel Account to the Department of Food and Agriculture
22 Fund, during the second quarter of each fiscal year, an amount
23 equal to the estimate contained in the most recent report prepared
24 pursuant to this section.

25 (2) The amounts are not subject to Section 6357 with respect
26 to the collection of sales and use taxes thereon, and represent the
27 portion of receipts in the Motor Vehicle Fuel Account during a
28 calendar year that were attributable to agricultural off-highway
29 use of motor vehicle fuel which is subject to refund pursuant to
30 Section 8101, less gross refunds allowed by the Controller during
31 the fiscal year ending June 30 following the calendar year to
32 persons entitled to refunds for agricultural off-highway use
33 pursuant to Section 8101. Payments pursuant to this section shall
34 be made prior to payments pursuant to Section 8352.2.

35 (b) Commencing July 1, 2016, the revenues attributable to the
36 taxes imposed pursuant to subdivision (b) of Section 7360 and
37 Section 7361.1 and otherwise to be deposited in the Department
38 of Food and Agriculture Fund pursuant to subdivision (a) shall
39 instead be transferred to the Highway Users Tax Account for

1 distribution pursuant to Section 2103.1 of the Streets and Highways
2 Code.

3 (c) On or before September 30, 2012, and on or before
4 September 30 of each even-numbered year thereafter, the Director
5 of Transportation and the Director of Food and Agriculture shall
6 jointly prepare, or cause to be prepared, a report setting forth the
7 current estimate of the amount of money in the Motor Vehicle
8 Fuel Account attributable to agricultural off-highway use of motor
9 vehicle fuel, which is subject to refund pursuant to Section 8101
10 less gross refunds allowed by the Controller to persons entitled to
11 refunds for agricultural off-highway use pursuant to Section 8101;
12 and they shall submit a copy of the report to the Legislature.

13 SEC. 20. Section 8352.6 of the Revenue and Taxation Code
14 is amended to read:

15 8352.6. (a) (1) Subject to Section 8352.1, and except as
16 otherwise provided in paragraphs (2) and (3), on the first day of
17 every month, there shall be transferred from moneys deposited to
18 the credit of the Motor Vehicle Fuel Account to the Off-Highway
19 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
20 an amount attributable to taxes imposed upon distributions of motor
21 vehicle fuel used in the operation of motor vehicles off highway
22 and for which a refund has not been claimed. Transfers made
23 pursuant to this section shall be made prior to transfers pursuant
24 to Section 8352.2.

25 (2) Commencing July 1, 2016, the revenues attributable to the
26 taxes imposed pursuant to subdivision (b) of Section 7360 and
27 Section 7361.1 and otherwise to be deposited in the Off-Highway
28 Vehicle Trust Fund pursuant to paragraph (1) shall instead be
29 transferred to the Highway Users Tax Account for distribution
30 pursuant to Section 2103.1 of the Streets and Highways Code.

31 (3) The Controller shall withhold eight hundred thirty-three
32 thousand dollars (\$833,000) from the monthly transfer to the
33 Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and
34 transfer that amount to the General Fund.

35 (b) The amount transferred to the Off-Highway Vehicle Trust
36 Fund pursuant to paragraph (1) of subdivision (a), as a percentage
37 of the Motor Vehicle Fuel Account, shall be equal to the percentage
38 transferred in the 2006–07 fiscal year. Every five years, starting
39 in the 2013–14 fiscal year, the percentage transferred may be
40 adjusted by the Department of Transportation in cooperation with

1 the Department of Parks and Recreation and the Department of
2 Motor Vehicles. Adjustments shall be based on, but not limited
3 to, the changes in the following factors since the 2006–07 fiscal
4 year or the last adjustment, whichever is more recent:

5 (1) The number of vehicles registered as off-highway motor
6 vehicles as required by Division 16.5 (commencing with Section
7 38000) of the Vehicle Code.

8 (2) The number of registered street-legal vehicles that are
9 anticipated to be used off highway, including four-wheel drive
10 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

11 (3) Attendance at the state vehicular recreation areas.

12 (4) Off-highway recreation use on federal lands as indicated by
13 the United States Forest Service’s National Visitor Use Monitoring
14 and the United States Bureau of Land Management’s Recreation
15 Management Information System.

16 (c) It is the intent of the Legislature that transfers from the Motor
17 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
18 should reflect the full range of motorized vehicle use off highway
19 for both motorized recreation and motorized off-road access to
20 other recreation opportunities. Therefore, the Legislature finds that
21 the fuel tax baseline established in subdivision (b), attributable to
22 off-highway estimates of use as of the 2006–07 fiscal year,
23 accounts for the three categories of vehicles that have been found
24 over the years to be users of fuel for off-highway motorized
25 recreation or motorized access to nonmotorized recreational
26 pursuits. These three categories are registered off-highway
27 motorized vehicles, registered street-legal motorized vehicles used
28 off highway, and unregistered off-highway motorized vehicles.

29 (d) It is the intent of the Legislature that the off-highway motor
30 vehicle recreational use to be determined by the Department of
31 Transportation pursuant to paragraph (2) of subdivision (b) be that
32 usage by vehicles subject to registration under Division 3
33 (commencing with Section 4000) of the Vehicle Code, for
34 recreation or the pursuit of recreation on surfaces where the use
35 of vehicles registered under Division 16.5 (commencing with
36 Section 38000) of the Vehicle Code may occur.

37 (e) In the 2014–15 fiscal year, the Department of Transportation,
38 in consultation with the Department of Parks and Recreation and
39 the Department of Motor Vehicles, shall undertake a study to
40 determine the appropriate adjustment to the amount transferred

1 pursuant to subdivision (b) and to update the estimate of the amount
2 attributable to taxes imposed upon distributions of motor vehicle
3 fuel used in the operation of motor vehicles off highway and for
4 which a refund has not been claimed. The department shall provide
5 a copy of this study to the Legislature no later than January 1,
6 2016.

7 SEC. 21. Section 60050 of the Revenue and Taxation Code is
8 amended to read:

9 60050. (a) (1) A tax of thirteen cents (\$0.13) is hereby
10 imposed upon each gallon of diesel fuel subject to the tax in
11 Sections 60051, 60052, and 60058.

12 (2) If the federal fuel tax is reduced below the rate of fifteen
13 cents (\$0.15) per gallon and federal financial allocations to this
14 state for highway and exclusive public mass transit guideway
15 purposes are reduced or eliminated correspondingly, the tax rate
16 imposed by paragraph (1) shall be increased by an amount so that
17 the combined state rate under paragraph (1) and the federal tax
18 rate per gallon equal what it would have been in the absence of
19 the federal reduction.

20 (3) If any person or entity is exempt or partially exempt from
21 the federal fuel tax at the time of a reduction, the person or entity
22 shall continue to be exempt under this section.

23 (b) In addition to the tax imposed pursuant to subdivision (a),
24 on and after the first day of the first calendar quarter that occurs
25 90 days after the effective date of the act amending this subdivision
26 in the 2015 First Extraordinary Session, an additional tax of thirty
27 cents (\$0.30) is hereby imposed upon each gallon of diesel fuel
28 subject to the tax in Sections 60051, 60052, and 60058.

29 (c) Beginning July 1, 2019, and every third year thereafter, the
30 State Board of Equalization shall recompute the rates of the taxes
31 imposed by this section. That computation shall be made as
32 follows:

33 (1) The Department of Finance shall transmit to the State Board
34 of Equalization the percentage change in the California Consumer
35 Price Index for all items from November of three calendar years
36 prior to November of the prior calendar year, no later than January
37 31, 2019, and January 31 of every third year thereafter.

38 (2) The State Board of Equalization shall do all of the following:

1 (A) Compute an inflation adjustment factor by adding 100
2 percent to the percentage change figure that is furnished pursuant
3 to paragraph (1) and dividing the result by 100.

4 (B) Multiply the preceding tax rate per gallon by the inflation
5 adjustment factor determined in subparagraph (A) and round off
6 the resulting product to the nearest tenth of a cent.

7 (C) Make its determination of the new rate no later than March
8 1 of the same year as the effective date of the new rate.

9 SEC. 22. Section 183.1 of the Streets and Highways Code is
10 amended to read:

11 183.1. Except as otherwise provided in Section 54237.7 of the
12 Government Code, money deposited into the account that is not
13 subject to Article XIX of the California Constitution, including,
14 but not limited to, money that is derived from the sale of
15 documents, charges for miscellaneous services to the public,
16 condemnation deposits fund investments, rental of state property,
17 or any other miscellaneous uses of property or money, shall be
18 deposited in the Road Maintenance and Rehabilitation Account
19 created pursuant to Section 2031.

20 SEC. 23. Section 820.1 of the Streets and Highways Code is
21 amended to read:

22 820.1. (a) The State of California consents to the jurisdiction
23 of the federal courts with regard to the compliance, discharge, or
24 enforcement of the responsibilities assumed by the department
25 pursuant to Section 326 of, and subsection (a) of Section 327 of,
26 Title 23 of the United States Code.

27 (b) In any action brought pursuant to the federal laws described
28 in subdivision (a), no immunity from suit may be asserted by the
29 department pursuant to the Eleventh Amendment to the United
30 States Constitution, and any immunity is hereby waived.

31 (c) The department shall not delegate any of its responsibilities
32 assumed pursuant to the federal laws described in subdivision (a)
33 to any political subdivision of the state or its instrumentalities.

34 (d) Nothing in this section affects the obligation of the
35 department to comply with state and federal law.

36 SEC. 24. Chapter 2 (commencing with Section 2030) is added
37 to Division 3 of the Streets and Highways Code, to read:

CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION PROGRAM

2030. (a) The Road Maintenance and Rehabilitation Program is hereby created to address deferred maintenance on the state highway system and the local street and road system. Funds made available by the program shall be prioritized for expenditure on basic road maintenance and road rehabilitation projects, and on critical safety projects. For funds appropriated pursuant to paragraph (1) of subdivision (d) of Section 2032, the California Transportation Commission shall adopt performance criteria, consistent with the asset management plan required pursuant to 14526.4 of the Government Code, to ensure efficient use of the funds available for these purposes in the program.

(b) (1) Funds made available by the program shall be used for projects that include, but are not limited to, the following:

- (A) Road maintenance and rehabilitation.
(B) Safety projects.
(C) Railroad grade separations.
(D) Complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project.
(E) Traffic control devices.

(2) Funds made available by the program may also be used to satisfy a match requirement in order to obtain state or federal funds for projects authorized by this subdivision.

2031. The following revenues shall be deposited in the Road Maintenance and Rehabilitation Account, which is hereby created in the State Transportation Fund:

(a) Notwithstanding subdivision (b) of Section 2103, the portion of the revenues in the Highway Users Tax Account attributable to the increase in the motor vehicle fuel excise tax by seventeen cents (\$0.17) per gallon pursuant to subdivision (a) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section.

(b) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.3 of the Vehicle Code.

(c) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.6 of the Vehicle Code.

1 (d) The revenues deposited in the account pursuant to Section
2 183.1 of the Streets and Highways Code.

3 (e) Any other revenues designated for the program.

4 2031.5. Each fiscal year the annual Budget Act shall contain
5 an appropriation from the Road Maintenance and Rehabilitation
6 Account to the Controller for the costs of carrying out his or her
7 duties pursuant to this chapter and to the California Transportation
8 Commission for the costs of carrying out its duties pursuant to this
9 chapter and Section 14526.7 of the Government Code.

10 2032. (a) (1) After deducting the amounts appropriated in the
11 annual Budget Act, as provided in Section 2031.5, two hundred
12 million dollars (\$200,000,000) of the remaining revenues deposited
13 in the Road Maintenance and Rehabilitation Account shall be set
14 aside annually for counties that have sought and received voter
15 approval of taxes or that have imposed fees, including uniform
16 developer fees as defined by subdivision (b) of Section 8879.67
17 of the Government Code, which taxes or fees are dedicated solely
18 to transportation improvements. The Controller shall each month
19 set aside one-twelfth of this amount, to accumulate a total of two
20 hundred million dollars (\$200,000,000) in each fiscal year.

21 (2) Notwithstanding Section 13340 of the Government Code,
22 the funds available under this subdivision in each fiscal year are
23 hereby continuously appropriated for allocation to each eligible
24 county and each city in the county for road maintenance and
25 rehabilitation purposes pursuant to Section 2033.

26 (b) (1) After deducting the amounts appropriated in the annual
27 Budget Act pursuant to Section 2031.5 and the amount allocated
28 in subdivision (a), beginning in the 2017–18 fiscal year, eighty
29 million dollars (\$80,000,000) of the remaining revenues shall be
30 transferred annually to the State Highway Account for expenditure,
31 upon appropriation by the Legislature, on the Active Transportation
32 Program created pursuant to Chapter 8 (commencing with Section
33 2380) of Division 3 to be allocated by the California Transportation
34 Commission pursuant to Section 2381.

35 (2) In addition to the funds transferred in paragraph (1), the
36 department shall annually identify savings achieved through
37 efficiencies implemented at the department. The department,
38 through the annual budget process, shall propose, from the
39 identified savings, an appropriation to be included in the annual
40 Budget Act of up to seventy million dollars (\$70,000,000), but not

1 to exceed the total annual identified savings, from the State
2 Highway Account for expenditure on the Active Transportation
3 Program.

4 (c) After deducting the amounts appropriated in the annual
5 Budget Act pursuant to Section 2031.5, the amount allocated in
6 subdivision (a) and the amount transferred in paragraph (1) of
7 subdivision (b), in the 2017–18, 2018–19, 2019–20, and 2020–21
8 fiscal years, the sum of thirty million dollars (\$30,000,000) in each
9 fiscal year from the remaining revenues shall be transferred to the
10 Advance Mitigation Fund in the State Transportation Fund created
11 pursuant to Section 21207 of the Public Resources Code.

12 (d) After deducting the amounts appropriated in the annual
13 Budget Act pursuant to Section 2031.5, the amount allocated in
14 subdivision (a), and the amounts transferred in paragraph (1) of
15 subdivision (b) and in subdivision (c), beginning in the 2017–18
16 fiscal year and each fiscal year thereafter, and notwithstanding
17 Section 13340 of the Government Code, there is hereby
18 continuously appropriated to the California State University the
19 sum of two million dollars (\$2,000,000) from the remaining
20 revenues for the purpose of conducting transportation research and
21 transportation-related workforce education, training, and
22 development. Prior to the start of each fiscal year, the chairs of the
23 Assembly Committee on Transportation and the Senate Committee
24 on Transportation and Housing shall confer and set out a
25 recommended priority list of research components to be addressed
26 in the upcoming fiscal year.

27 (e) Notwithstanding Section 13340 of the Government Code,
28 the balance of the revenues deposited in the Road Maintenance
29 and Rehabilitation Account are hereby continuously appropriated
30 as follows:

31 (1) Fifty percent for allocation to the department for maintenance
32 of the state highway system or for purposes of the state highway
33 operation and protection program.

34 (2) Fifty percent for apportionment to cities and counties by the
35 Controller pursuant to the formula in clauses (i) and (ii) of
36 subparagraph (C) of paragraph (3) of subdivision (a) of Section
37 2103 for the purposes authorized by this chapter.

38 2033. (a) On or before January 1, 2017, the commission, in
39 cooperation with the department, transportation planning agencies,
40 county transportation commissions, and other local agencies, shall

1 develop guidelines for the allocation of funds pursuant to
2 subdivision (a) of Section 2032.

3 (b) The guidelines shall be the complete and full statement of
4 the policy, standards, and criteria that the commission intends to
5 use to determine how these funds will be allocated.

6 (c) The commission may amend the adopted guidelines after
7 conducting at least one public hearing.

8 2034. (a) (1) Prior to receiving an apportionment of funds
9 under the program pursuant to paragraph (2) of subdivision (d) of
10 Section 2032 from the Controller in a fiscal year, an eligible city
11 or county shall submit to the commission a list of projects proposed
12 to be funded with these funds pursuant to an adopted city or county
13 budget. All projects proposed to receive funding shall be included
14 in a city or county budget that is adopted by the applicable city
15 council or county board of supervisors at a regular public meeting.
16 The list of projects proposed to be funded with these funds shall
17 include a description and the location of each proposed project, a
18 proposed schedule for the project's completion, and the estimated
19 useful life of the improvement. The project list shall not limit the
20 flexibility of an eligible city or county to fund projects in
21 accordance with local needs and priorities so long as the projects
22 are consistent with subdivision (b) of Section 2030.

23 (2) The commission shall report to the Controller the cities and
24 counties that have submitted a list of projects as described in this
25 subdivision and that are therefore eligible to receive an
26 apportionment of funds under the program for the applicable fiscal
27 year. The Controller, upon receipt of the report, shall apportion
28 funds to eligible cities and counties.

29 (b) For each fiscal year, each city or county receiving an
30 apportionment of funds shall, upon expending program funds,
31 submit documentation to the commission that includes a description
32 and location of each completed project, the amount of funds
33 expended on the project, the completion date, and the estimated
34 useful life of the improvement.

35 2036. (a) Cities and counties shall maintain their existing
36 commitment of local funds for street, road, and highway purposes
37 in order to remain eligible for an allocation or apportionment of
38 funds pursuant to Section 2032.

39 (b) In order to receive an allocation or apportionment pursuant
40 to Section 2032, the city or county shall annually expend from its

1 general fund for street, road, and highway purposes an amount not
2 less than the annual average of its expenditures from its general
3 fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as
4 reported to the Controller pursuant to Section 2151. For purposes
5 of this subdivision, in calculating a city’s or county’s annual
6 general fund expenditures and its average general fund expenditures
7 for the 2009–10, 2010–11, and 2011–12 fiscal years, any
8 unrestricted funds that the city or county may expend at its
9 discretion, including vehicle in-lieu tax revenues and revenues
10 from fines and forfeitures, expended for street, road, and highway
11 purposes shall be considered expenditures from the general fund.
12 One-time allocations that have been expended for street and
13 highway purposes, but which may not be available on an ongoing
14 basis, including revenue provided under the Teeter Plan Bond Law
15 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
16 of Division 2 of Title 5 of the Government Code), may not be
17 considered when calculating a city’s or county’s annual general
18 fund expenditures.

19 (c) For any city incorporated after July 1, 2009, the Controller
20 shall calculate an annual average expenditure for the period
21 between July 1, 2009, and December 31, 2015, inclusive, that the
22 city was incorporated.

23 (d) For purposes of subdivision (b), the Controller may request
24 fiscal data from cities and counties in addition to data provided
25 pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12
26 fiscal years. Each city and county shall furnish the data to the
27 Controller not later than 120 days after receiving the request. The
28 Controller may withhold payment to cities and counties that do
29 not comply with the request for information or that provide
30 incomplete data.

31 (e) The Controller may perform audits to ensure compliance
32 with subdivision (b) when deemed necessary. Any city or county
33 that has not complied with subdivision (b) shall reimburse the state
34 for the funds it received during that fiscal year. Any funds withheld
35 or returned as a result of a failure to comply with subdivision (b)
36 shall be reapportioned to the other counties and cities whose
37 expenditures are in compliance.

38 (f) If a city or county fails to comply with the requirements of
39 subdivision (b) in a particular fiscal year, the city or county may
40 expend during that fiscal year and the following fiscal year a total

1 amount that is not less than the total amount required to be
2 expended for those fiscal years for purposes of complying with
3 subdivision (b).

4 2037. A city or county may spend its apportionment of funds
5 under the program on transportation priorities other than those
6 allowable pursuant to this chapter if the city's or county's average
7 Pavement Condition Index meets or exceeds 80.

8 2038. (a) The department and local agencies, as a condition
9 of receiving funds from the program, shall adopt and implement
10 a program designed to promote and advance construction
11 employment and training opportunities through preapprenticeship
12 opportunities, either by the public agency itself or through
13 contractors engaged by the public agencies to do work funded in
14 whole or in part by funds made available by the program.

15 (b) The department and local agencies, as a condition of
16 receiving funds from the program, shall ensure the involvement
17 of the California Conservation Corps and certified community
18 conservation corps in the delivery of projects and services funded
19 in whole or in part by funds made available by the program.

20 SEC. 25. Section 2103.1 is added to the Streets and Highways
21 Code, to read:

22 2103.1. (a) Notwithstanding Section 2103, the revenues
23 transferred to the Highway Users Tax Account pursuant to Sections
24 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code
25 shall be distributed pursuant to the formula in paragraph (3) of
26 subdivision (a) of Section 2103.

27 (b) Notwithstanding subdivision (b) of Section 2103, the portion
28 of revenues in the Highway Users Tax Account attributable to the
29 increase in the motor vehicle fuel excise tax by seventeen cents
30 (\$0.17) per gallon pursuant to subdivision (a) of Section 7360 of
31 the Revenue and Taxation Code, as adjusted pursuant to
32 subdivision (c) of that section, shall be transferred to the Road
33 Maintenance and Rehabilitation Account pursuant to Section 2031.

34 (c) Notwithstanding subdivision (b) of Section 2103, the portion
35 of revenues in the Highway Users Tax Account attributable to the
36 increase in the diesel fuel excise tax by thirty cents (\$0.30) per
37 gallon pursuant to subdivision (b) of Section 60050 of the Revenue
38 and Taxation Code, as adjusted pursuant to subdivision (c) of that
39 section, shall be transferred to the Trade Corridors Improvement
40 Fund pursuant to Section 2192.4.

1 SEC. 26. Section 2192 of the Streets and Highways Code is
2 amended to read:

3 2192. (a) (1) The Trade Corridors Improvement Fund, created
4 pursuant to subdivision (c) of Section 8879.23 of the Government
5 Code, is hereby continued in existence to receive revenues from
6 state sources other than the Highway Safety, Traffic Reduction,
7 Air Quality, and Port Security Bond Act of 2006.

8 (2) Revenues apportioned to the state under Section 167 of Title
9 23 of the United States Code from the national highway freight
10 program, pursuant to the federal Fixing America's Surface
11 Transportation Act ("FAST Act," Public Law 114-94) shall be
12 allocated for projects approved pursuant to this chapter.

13 (b) This chapter shall govern the expenditure of those state and
14 federal revenues described in subdivision (a).

15 (c) The funding described in subdivision (a) shall be available
16 upon appropriation for allocation by the California Transportation
17 Commission for infrastructure improvements in this state on
18 federally designated Trade Corridors of National and Regional
19 Significance, on the Primary Freight Network, and along other
20 corridors that have a high volume of freight movement, as
21 determined by the commission. In determining the projects eligible
22 for funding, the commission shall consult the Transportation
23 Agency's state freight plan as described in Section 13978.8 of the
24 Government Code and the trade infrastructure and goods movement
25 plan submitted to the commission by the Secretary of
26 Transportation and the Secretary for Environmental Protection.
27 The commission shall also consult trade infrastructure and goods
28 movement plans adopted by regional transportation planning
29 agencies, adopted regional transportation plans required by state
30 and federal law, and the applicable port master plan when
31 determining eligible projects for funding. Eligible projects for
32 these funds include, but are not limited to, all of the following:

33 (1) Highway capacity improvements, rail landside access
34 improvements, landside freight access improvements to airports,
35 and operational improvements to more efficiently accommodate
36 the movement of freight, particularly for ingress and egress to and
37 from the state's land ports of entry, rail terminals, and seaports,
38 including navigable inland waterways used to transport freight
39 between seaports, land ports of entry, and airports, and to relieve
40 traffic congestion along major trade or goods movement corridors.

1 (2) Freight rail system improvements to enhance the ability to
2 move goods from seaports, land ports of entry, and airports to
3 warehousing and distribution centers throughout California,
4 including projects that separate rail lines from highway or local
5 road traffic, improve freight rail mobility through mountainous
6 regions, relocate rail switching yards, and other projects that
7 improve the efficiency and capacity of the rail freight system.

8 (3) Projects to enhance the capacity and efficiency of ports.

9 (4) Truck corridor and capital and operational improvements,
10 including dedicated truck facilities or truck toll facilities.

11 (5) Border capital and operational improvements that enhance
12 goods movement between California and Mexico and that
13 maximize the state's ability to access funds made available to the
14 state by federal law.

15 (6) Surface transportation and connector road improvements to
16 effectively facilitate the movement of goods, particularly for
17 ingress and egress to and from the state's land ports of entry,
18 airports, and seaports, to relieve traffic congestion along major
19 trade or goods movement corridors.

20 (d) (1) Except as provided in paragraph (2), the commission
21 shall allocate the funding described in subdivision (a) for trade
22 infrastructure improvements consistent with Section 8879.52 of
23 the Government Code and the Trade Corridors Improvement Fund
24 (TCIF) Guidelines adopted by the commission on November 27,
25 2007, or as amended by the commission, and in a manner that (A)
26 addresses the state's most urgent needs, (B) balances the demands
27 of various land ports of entry, seaports, and airports, (C) provides
28 reasonable geographic balance between the state's regions, (D)
29 places emphasis on projects that improve trade corridor mobility
30 and safety while reducing emissions of diesel particulate and other
31 pollutant emissions and reducing other negative community
32 impacts, and (E) makes a significant contribution to the state's
33 economy.

34 (2) The commission shall allocate the federal freight funding,
35 specifically, pursuant to the original TCIF Guidelines, as adopted
36 by the commission on November 27, 2007, and in the manner
37 described in (A) to (E), inclusive, of paragraph (1).

38 (3) In addition, the commission shall also consider the following
39 factors when allocating these funds:

1 (A) “Velocity,” which means the speed by which large cargo
2 would travel from the land port of entry or seaport through the
3 distribution system.

4 (B) “Throughput,” which means the volume of cargo that would
5 move from the land port of entry or seaport through the distribution
6 system.

7 (C) “Reliability,” which means a reasonably consistent and
8 predictable amount of time for cargo to travel from one point to
9 another on any given day or at any given time in California.

10 (D) “Congestion reduction,” which means the reduction in
11 recurrent daily hours of delay to be achieved.

12 SEC. 27. Section 2192.1 of the Streets and Highways Code is
13 amended to read:

14 2192.1. (a) To the extent moneys from the Greenhouse Gas
15 Reduction Fund, attributable to the auction or sale of allowances
16 as part of a market-based compliance mechanism relative to
17 reduction of greenhouse gas emissions, are transferred to the Trade
18 Corridors Improvement Fund, projects funded with those moneys
19 shall be subject to all of the requirements of existing law applicable
20 to the expenditure of moneys appropriated from the Greenhouse
21 Gas Reduction Fund, including, but not limited to, all of the
22 following:

23 (1) Projects shall further the regulatory purposes of the
24 California Global Warming Solutions Act of 2006 (Division 25.5
25 (commencing with Section 38500) of the Health and Safety Code),
26 including reducing emissions from greenhouse gases in the state,
27 directing public and private investment toward disadvantaged
28 communities, increasing the diversity of energy sources, or creating
29 opportunities for businesses, public agencies, nonprofits, and other
30 community institutions to participate in and benefit from statewide
31 efforts to reduce emissions of greenhouse gases.

32 (2) Projects shall be consistent with the guidance developed by
33 the State Air Resources Board pursuant to Section 39715 of the
34 Health and Safety Code.

35 (3) Projects shall be consistent with the required benefits to
36 disadvantaged communities pursuant to Section 39713 of the
37 Health and Safety Code.

38 (b) All allocations of funds made by the commission pursuant
39 to this section shall be made in a manner consistent with the criteria
40 expressed in Section 39712 of the Health and Safety Code and

1 with the investment plan developed by the Department of Finance
2 pursuant to Section 39716 of the Health and Safety Code.

3 (c) For purposes of this section, “disadvantaged community”
4 means a community with any of the following characteristics:

5 (1) An area with a median household income less than 80
6 percent of the statewide median household income based on the
7 most current census tract-level data from the American Community
8 Survey.

9 (2) An area identified by the California Environmental
10 Protection Agency pursuant to Section 39711 of the Health and
11 Safety Code.

12 (3) An area where at least 75 percent of public school students
13 are eligible to receive free or reduced-price meals under the
14 National School Lunch Program.

15 SEC. 28. Section 2192.2 of the Streets and Highways Code is
16 amended to read:

17 2192.2. The commission shall allocate funds made available
18 by this chapter to projects that have identified and committed
19 supplemental funding from appropriate local, federal, or private
20 sources. The commission shall determine the appropriate amount
21 of supplemental funding each project should have to be eligible
22 for moneys based on a project-by-project review and an assessment
23 of the project’s benefit to the state and the program. Funded
24 improvements shall have supplemental funding that is at least equal
25 to the amount of the contribution under this chapter. The
26 commission may give priority for funding to projects with higher
27 levels of committed supplemental funding.

28 SEC. 29. Section 2192.4 is added to the Streets and Highways
29 Code, to read:

30 2192.4. Notwithstanding subdivision (b) of Section 2103, the
31 portion of the revenues in the Highway Users Tax Account
32 attributable to the increase in the diesel fuel excise tax by thirty
33 cents (\$0.30) per gallon pursuant to subdivision (b) of Section
34 60050 of the Revenue and Taxation Code, as adjusted pursuant to
35 subdivision (c) of that section, shall be deposited in the Trade
36 Corridors Improvement Fund.

37 SEC. 30. Section 9250.3 is added to the Vehicle Code, to read:

38 9250.3. (a) In addition to any other fees specified in this code
39 or the Revenue and Taxation Code, commencing 120 days after
40 the effective date of the act adding this section, a registration fee

1 of thirty-eight dollars (\$38) shall be paid to the department for
2 registration or renewal of registration of every vehicle subject to
3 registration under this code, except those vehicles that are expressly
4 exempted under this code from payment of registration fees.

5 (b) Beginning July 1, 2019, and every third year thereafter, the
6 Department of Motor Vehicles shall adjust the fee imposed under
7 this section for inflation in an amount equal to the change in the
8 California Consumer Price Index for the prior three-year period,
9 as calculated by the Department of Finance, with amounts equal
10 to or greater than fifty cents (\$0.50) rounded to the next highest
11 whole dollar.

12 (c) Revenues from the fee, after the deduction of the
13 department's administrative costs related to this section, shall be
14 deposited in the Road Maintenance and Rehabilitation Account
15 created pursuant to Section 2031 of the Streets and Highways
16 Code.

17 SEC. 31. Section 9250.6 is added to the Vehicle Code, to read:

18 9250.6. (a) In addition to any other fees specified in this code,
19 or the Revenue and Taxation Code, commencing 120 days after
20 the effective date of the act adding this section, a registration fee
21 of one hundred and sixty-five dollars (\$165) shall be paid to the
22 department for registration or renewal of registration of every
23 zero-emission motor vehicle subject to registration under this code,
24 except those motor vehicles that are expressly exempted under
25 this code from payment of registration fees.

26 (b) Beginning July 1, 2019, and every third year thereafter, the
27 Department of Motor Vehicles shall adjust the fee imposed under
28 this section for inflation in an amount equal to the change in the
29 California Consumer Price Index for the prior three-year period,
30 as calculated by the Department of Finance, with amounts equal
31 to or greater than fifty cents (\$0.50) rounded to the next highest
32 whole dollar.

33 (c) Revenues from the fee, after deduction of the department's
34 administrative costs related to this section, shall be deposited in
35 the Road Maintenance and Rehabilitation Account created pursuant
36 to Section 2031 of the Streets and Highways Code.

37 (d) This section does not apply to a commercial motor vehicle
38 subject to Section 9400.1.

1 (e) The registration fee required pursuant to this section does
2 not apply to the initial registration after the purchase of a new
3 zero-emission motor vehicle.

4 (f) For purposes of this section, “zero-emission motor vehicle”
5 means a motor vehicle as described in subdivisions (c) and (d) of
6 Section 44258 of the Health and Safety Code, or any other motor
7 vehicle that is able to operate on any fuel other than gasoline or
8 diesel fuel.

9 SEC. 32. Section 9400.5 is added to the Vehicle Code, to read:

10 9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and
11 42205 of this code, Sections 16773 and 16965 of the Government
12 Code, Section 2103 of the Streets and Highways Code, or any
13 other law, weight fee revenues shall only be transferred consistent
14 with the schedule provided in subdivision (b) from the State
15 Highway Account to the Transportation Debt Service Fund, the
16 Transportation Bond Direct Payment Account, or any other fund
17 or account for the purpose of payment of the debt service on
18 transportation general obligation bonds and shall not be loaned to
19 the General Fund.

20 (b) (1) The transfer of weight fee revenues, after deduction of
21 collection costs, from the State Highway Account pursuant to
22 subdivision (a) shall not exceed:

23 (A) 80 percent of the total weight fees in the 2017–18 fiscal
24 year.

25 (B) 60 percent of the total weight fees in the 2018–19 fiscal
26 year.

27 (C) 40 percent of the total weight fees in the 2019–20 fiscal
28 year.

29 (D) 20 percent of the total weight fees in the 2020–2021 fiscal
30 year.

31 (2) No weight fees, after deduction of collection costs, shall be
32 transferred from the State Highway Account after the 2020–21
33 fiscal year.

34 SEC. 33. This act is an urgency statute necessary for the
35 immediate preservation of the public peace, health, or safety within
36 the meaning of Article IV of the Constitution and shall go into
37 immediate effect. The facts constituting the necessity are:

- 1 In order to provide additional funding for road maintenance and
- 2 rehabilitation purposes as quickly as possible, it is necessary for
- 3 this act to take effect immediately.

O

AMENDED IN SENATE AUGUST 29, 2016
AMENDED IN SENATE AUGUST 24, 2016
AMENDED IN SENATE APRIL 21, 2016
AMENDED IN SENATE SEPTEMBER 1, 2015
AMENDED IN SENATE AUGUST 25, 2015
AMENDED IN SENATE JULY 14, 2015

CALIFORNIA LEGISLATURE—2015–16 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 1

Introduced by Senator Beall

(Principal coauthor: Assembly Member Frazier)

**(Coauthors: Senators Allen, Hall, Hertzberg, McGuire, and
Mendoza)**

June 22, 2015

An act to amend Sections 13975, 14500, 14526.5, and 16965 of, to add Sections 14033, 14526.7, and 16321 to, to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of, and to repeal Section 14534.1 of, the Government Code, to amend Section 39719 of the Health and Safety Code, to amend Section 21080.37 of, and to add Division 13.6 (commencing with Section 21200) to, the Public Resources Code, to amend Section 99312.1 of the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of the Revenue and Taxation Code, to amend Sections 183.1, 820.1, 2192, 2192.1, and 2192.2 of, to add Sections 2103.1 and 2192.4 to, and to add Chapter 2 (commencing with Section 2030) to Division 3 of, the Streets and Highways Code, and to add Sections 9250.3, 9250.6, and 9400.5 to the Vehicle Code, relating to transportation, making an

appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as amended, Beall. Transportation funding.

(1) Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited in the Motor Vehicle Account and used to fund the Department of Motor Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.17 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, an increase of \$38 in the annual vehicle registration fee with an inflation adjustment, as provided, a new \$165 annual vehicle registration fee with an inflation adjustment, as provided, applicable to zero-emission motor vehicles, as defined, and certain miscellaneous revenues described in (7) below that are not restricted as to expenditure by Article XIX of the California Constitution.

This bill would annually set aside \$200,000,000 of the funds available for the program to fund road maintenance and rehabilitation purposes in counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees, as defined, which taxes or fees are dedicated solely to transportation improvements. These funds would be continuously appropriated for allocation pursuant to guidelines to be developed by the California Transportation

Commission in consultation with local agencies. The bill would require \$80,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the Active Transportation Program. The bill would require \$30,000,000 of the funds available for the program in each of 4 fiscal years beginning in 2017–18 to be transferred to the Advance Mitigation Fund created by the bill pursuant to (12) below. The bill would continuously appropriate \$2,000,000 annually of the funds available for the program to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development. The bill would require the remaining funds available for the program to be allocated 50% for maintenance of the state highway system or to the state highway operation and protection program and 50% to cities and counties pursuant to a specified formula. The bill would impose various requirements on the department and agencies receiving these funds. The bill would authorize a city or county to spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to the program if the city’s or county’s average Pavement Condition Index meets or exceeds 80.

The bill would also require the department to annually identify savings achieved through efficiencies implemented at the department and to propose, from the identified savings, an appropriation to be included in the annual Budget Act of up to \$70,000,000 from the State Highway Account for expenditure on the Active Transportation Program.

(2) Existing law establishes in state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.

This bill would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes.

(3) Existing law creates various state agencies, including the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, and the State Air Resources Board, with specified powers

and duties. Existing law provides for the allocation of state transportation funds to various transportation purposes.

This bill would create the Office of the Transportation Inspector General in state government, as an independent office that would not be a subdivision of any other government entity, to ensure that all of the above-referenced state agencies and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be removed from office during the term except for good cause. The bill would specify the duties and responsibilities of the Transportation Inspector General and would require an annual report to the Legislature and Governor.

This bill would require the department to update the Highway Design Manual to incorporate the “complete streets” design concept by January 1, 2017.

(4) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill would require the Department of Finance, on or before September 1, 2016, to compute the amount of outstanding loans made from specified transportation funds. The bill would require the Department of Transportation to prepare a loan repayment schedule and would require the outstanding loans to be repaid pursuant to that schedule, as prescribed. The bill would appropriate funds for that purpose from the Budget Stabilization Account. The bill would require the repaid funds to be transferred, pursuant to a specified formula, to cities and counties and to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

(5) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement and for specified categories of projects eligible to receive these funds. Existing law continues the Trade Corridors

Improvement Fund in existence in order to receive revenues from sources other than the bond act for these purposes.

This bill would deposit the revenues attributable to a \$0.30 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridors Improvement Fund. The bill would require revenues apportioned to the state from the national highway freight program established by the federal Fixing America's Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions.

Existing law requires the commission, in determining projects eligible for funding, to consult various state freight and regional infrastructure and goods movement plans and the statewide port master plan.

This bill would delete consideration of the State Air Resources Board's Sustainable Freight Strategy and the statewide port master plan and would instead include consideration of the applicable port master plan when determining eligible projects for funding. The bill would also expand eligible projects to include rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements.

(6) Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. Existing law continuously appropriates 10% of the annual proceeds of the fund to the Transit and Intercity Rail Capital Program and 5% of the annual proceeds of the fund to the Low Carbon Transit Operations Program.

This bill would, beginning in the 2016–17 fiscal year, instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation.

(7) Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. Existing law requires certain miscellaneous revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and requires the Controller

to transfer from the fund to the General Fund an amount of those revenues necessary to offset the current year debt service made from the General Fund on general obligation transportation bonds issued pursuant to Proposition 116 of 1990.

This bill would delete the transfer of these miscellaneous revenues to the Transportation Debt Service Fund, thereby eliminating the offsetting transfer to the General Fund for debt service on general obligation transportation bonds issued pursuant to Proposition 116 of 1990. The bill, subject to a specified exception, would instead require the miscellaneous revenues to be retained in the State Highway Account and to be deposited in the Road Maintenance and Rehabilitation Account.

(8) Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes, except that a specified portion of these gasoline excise tax revenues is deposited in the General Fund. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, commencing July 1, 2016, would instead transfer to the Highway Users Tax Account for allocation to state and local transportation purposes under a specified formula the portion of gasoline excise tax revenues currently being deposited in the General Fund that are attributable to boats, agricultural vehicles, and off-highway vehicles. Because that account is continuously appropriated, the bill would make an appropriation.

(9) Existing law, as of July 1, 2011, increases the sales and use tax on diesel and decreases the excise tax, as provided. Existing law requires the State Board of Equalization to annually modify both the gasoline and diesel excise tax rates on a going-forward basis so that the various changes in the taxes imposed on gasoline and diesel are revenue neutral.

This bill would eliminate the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose the higher gasoline excise tax rate that was in effect on July

1, 2010, in addition to the increase in the rate described in paragraph (1).

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller for allocation by formula to transportation agencies for public transit purposes.

This bill would increase the additional sales and use tax on diesel fuel by an additional 3.5%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. The bill would restrict expenditures of revenues from this increase in the sales and use tax on diesel fuel to transit capital purposes and certain transit services and would require a recipient transit agency to comply with certain requirements, including submitting a list of proposed projects to the Department of Transportation, as a condition of receiving a portion of these funds. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements.

This bill would, beginning July 1, 2019, and every 3rd year thereafter, require the State Board of Equalization to recompute the gasoline and diesel excise tax rates and the additional sales and use tax rate on diesel fuel based upon the percentage change in the California Consumer Price Index transmitted to the board by the Department of Finance, as prescribed.

(10) Existing law requires the Department of Transportation to prepare a state highway operation and protection program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. The program is required to be based on an asset management plan, as specified. Existing law requires the department to specify, for each project in the program the capital and support budget and projected delivery date for various components of the project. Existing law provides for the California Transportation Commission to review and adopt the program, and authorizes the commission to decline and adopt the program if it determines that the program is not sufficiently consistent with the asset management plan.

This bill would add to the program capital projects relative to the operation of those state highways and bridges. The bill would require the commission, as part of its review of the program, to hold at least one hearing in northern California and one hearing in southern California regarding the proposed program. The bill would require the department to submit any change to a programmed project as an amendment to the commission for its approval.

This bill, on and after February 1, 2017, would also require the commission to make an allocation of all capital and support costs for each project in the program, and would require the department to submit a supplemental project allocation request to the commission for each project that experiences cost increases above the amounts in its allocation. The bill would require the commission to establish guidelines to provide exceptions to the requirement for a supplemental project allocation requirement that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

(11) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill, notwithstanding these provisions or any other law, would only authorize specified percentages of weight fee revenues to be transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds in accordance with a prescribed schedule and would prohibit the transfer of weight fee revenues from the State Highway Account after the 2020–21 fiscal year.

The bill would also prohibit loans of weight fee revenues to the General Fund.

(12) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA, until January 1, 2020, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements.

This bill would extend the above-referenced exemption indefinitely and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons. The bill would also expand the exemption to include state roadways.

This bill would also establish the Advance Mitigation Program in the Department of Transportation. The bill would authorize the department to undertake mitigation measures in advance of construction of a planned transportation project. The bill would require the department to establish a steering committee to advise the department on advance mitigation measures and related matters. The bill would create the Advance Mitigation Fund as a continuously appropriated revolving fund, to be funded initially from the Road Maintenance and Rehabilitation Program pursuant to (1) above. The bill would provide for reimbursement of the revolving fund at the time a planned transportation project benefiting from advance mitigation is constructed.

(13) Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, provides that the State of California consents to the jurisdiction of the federal courts with regard

to the compliance, discharge, or enforcement of the responsibilities the Department of Transportation assumed as a participant in this program.

This bill would delete the January 1, 2017, repeal date, thereby extending these provisions indefinitely.

(14) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Over the next 10 years, the state faces a \$59 billion shortfall
4 to adequately maintain the existing state highway system in order
5 to keep it in a basic state of good repair.

6 (b) Similarly, cities and counties face a \$78 billion shortfall
7 over the next decade to adequately maintain the existing network
8 of local streets and roads.

9 (c) Statewide taxes and fees dedicated to the maintenance of
10 the system have not been increased in more than 20 years, with
11 those revenues losing more than 55 percent of their purchasing
12 power, while costs to maintain the system have steadily increased
13 and much of the underlying infrastructure has aged past its expected
14 useful life.

15 (d) California motorists are spending \$17 billion annually in
16 extra maintenance and car repair bills, which is more than \$700
17 per driver, due to the state’s poorly maintained roads.

18 (e) Failing to act now to address this growing problem means
19 that more drastic measures will be required to maintain our system
20 in the future, essentially passing the burden on to future generations
21 instead of doing our job today.

22 (f) A funding program will help address a portion of the
23 maintenance backlog on the state’s road system and will stop the
24 growth of the problem.

25 (g) Modestly increasing various fees can spread the cost of road
26 repairs broadly to all users and beneficiaries of the road network
27 without overburdening any one group.

28 (h) Improving the condition of the state’s road system will have
29 a positive impact on the economy as it lowers the transportation

1 costs of doing business, reduces congestion impacts for employees,
2 and protects property values in the state.

3 (i) The federal government estimates that increased spending
4 on infrastructure creates more than 13,000 jobs per \$1 billion spent.

5 (j) Well-maintained roads benefit all users, not just drivers, as
6 roads are used for all modes of transport, whether motor vehicles,
7 transit, bicycles, or pedestrians.

8 (k) Well-maintained roads additionally provide significant health
9 benefits and prevent injuries and death due to crashes caused by
10 poorly maintained infrastructure.

11 (l) A comprehensive, reasonable transportation funding package
12 will do all of the following:

13 (1) Ensure these transportation needs are addressed.

14 (2) Fairly distribute the economic impact of increased funding.

15 (3) Restore the gas tax rate previously reduced by the State
16 Board of Equalization pursuant to the gas tax swap.

17 (4) Direct increased revenue to the state’s highest transportation
18 needs.

19 SEC. 2. Section 13975 of the Government Code is amended
20 to read:

21 13975. There is in the state government the Transportation
22 Agency. The agency consists of the Department of the California
23 Highway Patrol, the Department of Motor Vehicles, the Department
24 of Transportation, the High-Speed Rail Authority, and the Board
25 of Pilot Commissioners for the Bays of San Francisco, San Pablo,
26 and Suisun.

27 SEC. 3. Section 14033 is added to the Government Code, to
28 read:

29 14033. On or before January 1, 2017, the department shall
30 update the Highway Design Manual to incorporate the “complete
31 streets” design concept.

32 SEC. 4. Part 5.1 (commencing with Section 14460) is added
33 to Division 3 of Title 2 of the Government Code, to read:

34

35 PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR
36 GENERAL
37

37

38 14460. (a) There is hereby created in state government the
39 independent Office of the Transportation Inspector General, which
40 shall not be a subdivision of any other governmental entity, to

1 ensure that the Department of Transportation, the High-Speed Rail
2 Authority, the Department of the California Highway Patrol, the
3 Department of Motor Vehicles, the State Air Resources Board,
4 and all other state agencies expending state transportation funds
5 are operating efficiently, effectively, and in compliance with
6 applicable federal and state laws.

7 (b) The Governor shall appoint, subject to confirmation by the
8 Senate, the Transportation Inspector General to a six-year term.
9 The Transportation Inspector General may not be removed from
10 office during that term, except for good cause. A finding of good
11 cause may include substantial neglect of duty, gross misconduct,
12 or conviction of a crime. The reasons for removal of the
13 Transportation Inspector General shall be stated in writing and
14 shall include the basis for removal. The writing shall be sent to
15 the Secretary of the Senate and the Chief Clerk of the Assembly
16 at the time of the removal and shall be deemed to be a public
17 document.

18 14461. The Transportation Inspector General shall review
19 policies, practices, and procedures and conduct audits and
20 investigations of activities involving state transportation funds in
21 consultation with all affected state agencies. Specifically, the
22 Transportation Inspector General's duties and responsibilities shall
23 include, but not be limited to, all of the following:

24 (a) To examine the operating practices of all state agencies
25 expending state transportation funds to identify fraud and waste,
26 opportunities for efficiencies, and opportunities to improve the
27 data used to determine appropriate project resource allocations.

28 (b) To identify best practices in the delivery of transportation
29 projects and develop policies or recommend proposed legislation
30 enabling state agencies to adopt these practices when practicable.

31 (c) To provide objective analysis of and, when possible, offer
32 solutions to concerns raised by the public or generated within
33 agencies involving the state's transportation infrastructure and
34 project delivery methods.

35 (d) To conduct, supervise, and coordinate audits and
36 investigations relating to the programs and operations of all state
37 transportation agencies with state-funded transportation projects.

38 (e) To recommend policies promoting economy and efficiency
39 in the administration of programs and operations of all state
40 agencies with state-funded transportation projects.

1 (f) To ensure that the Secretary of Transportation and the
2 Legislature are fully and currently informed concerning fraud or
3 other serious abuses or deficiencies relating to the expenditure of
4 funds or administration of programs and operations.

5 14462. The Transportation Inspector General shall report at
6 least annually to the Governor and Legislature with a summary of
7 his or her findings, investigations, and audits. The summary shall
8 be posted on the Transportation Inspector General’s Internet Web
9 site and shall otherwise be made available to the public upon its
10 release to the Governor and Legislature. The summary shall
11 include, but need not be limited to, significant problems discovered
12 by the Transportation Inspector General and whether
13 recommendations of the Transportation Inspector General relative
14 to investigations and audits have been implemented by the affected
15 agencies. The report shall be submitted to the Legislature in
16 compliance with Section 9795.

17 SEC. 5. Section 14500 of the Government Code is amended
18 to read:

19 14500. There is in state government a California Transportation
20 Commission. The commission shall act in an independent oversight
21 role.

22 SEC. 6. Section 14526.5 of the Government Code is amended
23 to read:

24 14526.5. (a) Based on the asset management plan prepared
25 and approved pursuant to Section 14526.4, the department shall
26 prepare a state highway operation and protection program for the
27 expenditure of transportation funds for major capital improvements
28 that are necessary to preserve and protect the state highway system.
29 Projects included in the program shall be limited to improvements
30 relative to maintenance, safety, rehabilitation, and operation of
31 state highways and bridges that do not add a new traffic lane to
32 the system.

33 (b) The program shall include projects that are expected to be
34 advertised prior to July 1 of the year following submission of the
35 program, but which have not yet been funded. The program shall
36 include those projects for which construction is to begin within
37 four fiscal years, starting July 1 of the year following the year the
38 program is submitted.

39 (c) (1) The department, at a minimum, shall specify, for each
40 project in the state highway operation and protection program, the

1 capital and support budget for each of the following project
2 components:

- 3 (A) Project approval and environmental documents.
- 4 (B) Plans, specifications, and estimates.
- 5 (C) Rights-of-way.
- 6 (D) Construction.

7 (2) The department shall specify, for each project in the state
8 highway operation and protection program, a projected delivery
9 date for each of the following components:

- 10 (A) Environmental document completion.
- 11 (B) Plans, specifications, and estimate completion.
- 12 (C) Right-of-way certification.
- 13 (D) Start of construction.

14 (d) The department shall submit its proposed program to the
15 commission not later than January 31 of each even-numbered year.
16 Prior to submitting its proposed program, the department shall
17 make a draft of its proposed program available to transportation
18 planning agencies for review and comment and shall include the
19 comments in its submittal to the commission. The department shall
20 provide the commission with detailed information for all
21 programmed projects, including, but not limited to, cost, scope,
22 schedule, and performance metrics as determined by the
23 commission.

24 (e) The commission shall review the proposed program relative
25 to its overall adequacy, consistency with the asset management
26 plan prepared and approved pursuant to Section 14526.4 and
27 funding priorities established in Section 167 of the Streets and
28 Highways Code, the level of annual funding needed to implement
29 the program, and the impact of those expenditures on the state
30 transportation improvement program. The commission shall adopt
31 the program and submit it to the Legislature and the Governor not
32 later than April 1 of each even-numbered year. The commission
33 may decline to adopt the program if the commission determines
34 that the program is not sufficiently consistent with the asset
35 management plan prepared and approved pursuant to Section
36 14526.4.

37 (f) As part of the commission’s review of the program required
38 pursuant to subdivision (a), the commission shall hold at least one
39 hearing in northern California and one hearing in southern
40 California regarding the proposed program.

1 (g) Expenditures for these projects shall not be subject to
2 Sections 188 and 188.8 of the Streets and Highways Code.

3 (h) Following adoption of the state highway operation and
4 protection program by the commission, any change to a
5 programmed project shall be submitted as an amendment by the
6 department to the commission for its approval before the change
7 may be implemented.

8 SEC. 7. Section 14526.7 is added to the Government Code, to
9 read:

10 14526.7. (a) On and after February 1, 2017, an allocation by
11 the commission of all capital and support costs for each project in
12 the state highway operation and protection program shall be
13 required.

14 (b) For a project that experiences increases in capital or support
15 costs above the amounts in the commission's allocation pursuant
16 to subdivision (a), a supplemental project allocation request shall
17 be submitted by the department to the commission for approval.

18 (c) The commission shall establish guidelines to provide
19 exceptions to the requirement of subdivision (b) that the
20 commission determines are necessary to ensure that projects are
21 not unnecessarily delayed.

22 SEC. 8. Section 14534.1 of the Government Code is repealed.

23 SEC. 9. Section 16321 is added to the Government Code, to
24 read:

25 16321. (a) Notwithstanding any other law, on or before
26 September 1, 2016, the Department of Finance shall compute the
27 amount of outstanding loans made from the State Highway
28 Account, the Motor Vehicle Fuel Account, the Highway Users
29 Tax Account, and the Motor Vehicle Account to the General Fund.
30 The department shall prepare a loan repayment schedule, pursuant
31 to which the outstanding loans shall be repaid, as follows:

32 (1) On or before June 30, 2017, 50 percent of the outstanding
33 loan amounts.

34 (2) On or before June 30, 2018, the remainder of the outstanding
35 loan amounts.

36 (b) Notwithstanding any other law, as the loans are repaid
37 pursuant to this section, the repaid funds shall be transferred in the
38 following manner:

1 (1) Fifty percent to cities and counties pursuant to clauses (i)
2 and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of
3 Section 2103 of the Streets and Highways Code.

4 (2) Fifty percent to the department for maintenance of the state
5 highway system and for purposes of the state highway operation
6 and protection program.

7 (c) Funds for loan repayments pursuant to this section are hereby
8 appropriated from the Budget Stabilization Account pursuant to
9 subclause (II) of clause (ii) of subparagraph (B) of paragraph (1)
10 of subdivision (c) of Section 20 of Article XVI of the California
11 Constitution.

12 SEC. 10. Section 16965 of the Government Code is amended
13 to read:

14 16965. (a) (1) The Transportation Debt Service Fund is hereby
15 created in the State Treasury. Moneys in the fund shall be dedicated
16 to all of the following purposes:

17 (A) Payment of debt service with respect to designated bonds,
18 as defined in subdivision (c) of Section 16773, and as further
19 provided in paragraph (3) and subdivision (b).

20 (B) To reimburse the General Fund for debt service with respect
21 to bonds.

22 (C) To redeem or retire bonds, pursuant to Section 16774,
23 maturing in a subsequent fiscal year.

24 (2) The bonds eligible under subparagraph (B) or (C) of
25 paragraph (1) include bonds issued pursuant to the Passenger Rail
26 and Clean Air Bond Act of 1990 (Chapter 17 (commencing with
27 Section 2701) of Division 3 of the Streets and Highways Code),
28 the Seismic Retrofit Bond Act of 1996 (Chapter 12.48
29 (commencing with Section 8879) of Division 1 of Title 2), and the
30 Safe, Reliable High-Speed Passenger Train Bond Act for the 21st
31 Century (Chapter 20 (commencing with Section 2704) of Division
32 3 of the Streets and Highways Code), and nondesignated bonds
33 under Proposition 1B, as defined in subdivision (c) of Section
34 16773.

35 (3) (A) The Transportation Bond Direct Payment Account is
36 hereby created in the State Treasury, as a subaccount within the
37 Transportation Debt Service Fund, for the purpose of directly
38 paying the debt service, as defined in paragraph (4), of designated
39 bonds of Proposition 1B, as defined in subdivision (c) of Section
40 16773. Notwithstanding Section 13340, moneys in the

1 Transportation Bond Direct Payment Account are continuously
2 appropriated for payment of debt service with respect to designated
3 bonds as provided in subdivision (c) of Section 16773. So long as
4 any designated bonds remain outstanding, the moneys in the
5 Transportation Bond Direct Payment Account may not be used
6 for any other purpose, and may not be borrowed by or available
7 for transfer to the General Fund pursuant to Section 16310 or any
8 similar law, or to the General Cash Revolving Fund pursuant to
9 Section 16381 or any similar law.

10 (B) Once the Treasurer makes a certification that payment of
11 debt service with respect to all designated bonds has been paid or
12 provided for, any remaining moneys in the Transportation Bond
13 Direct Payment Account shall be transferred back to the
14 Transportation Debt Service Fund.

15 (C) The moneys in the Transportation Bond Direct Payment
16 Account shall be invested in the Surplus Money Investment Fund,
17 and all investment earnings shall accrue to the account.

18 (D) The Controller may establish subaccounts within the
19 Transportation Bond Direct Payment Account as may be required
20 by the resolution, indenture, or other documents governing any
21 designated bonds.

22 (4) For purposes of this subdivision and subdivision (b), and
23 subdivision (c) of Section 16773, “debt service” means payment
24 of all of the following costs and expenses with respect to any
25 designated bond:

26 (A) The principal of and interest on the bonds.

27 (B) Amounts payable as the result of tender on any bonds, as
28 described in clause (iv) of subparagraph (B) of paragraph (1) of
29 subdivision (d) of Section 16731.

30 (C) Amounts payable under any contractual obligation of the
31 state to repay advances and pay interest thereon under a credit
32 enhancement or liquidity agreement as described in clause (iv) of
33 subparagraph (B) of paragraph (1) of subdivision (d) of Section
34 16731.

35 (D) Any amount owed by the state to a counterparty after any
36 offset for payments owed to the state on any hedging contract as
37 described in subparagraph (A) of paragraph (2) of subdivision (d)
38 of Section 16731.

39 (b) From the moneys transferred to the fund pursuant to
40 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the

1 Vehicle Code, there shall first be deposited into the Transportation
2 Bond Direct Payment Account in each month sufficient funds to
3 equal the amount designated in a certificate submitted by the
4 Treasurer to the Controller and the Director of Finance at the start
5 of each fiscal year, and as may be modified by the Treasurer
6 thereafter upon issuance of any new issue of designated bonds or
7 upon change in circumstances that requires such a modification.
8 This certificate shall be calculated by the Treasurer to identify, for
9 each month, the amount necessary to fund all of the debt service
10 with respect to all designated bonds. This calculation shall be done
11 in a manner provided in the resolution, indenture, or other
12 documents governing the designated bonds. In the event that
13 transfers to the Transportation Bond Direct Payment Account in
14 any month are less than the amounts required in the Treasurer's
15 certificate, the shortfall shall carry over to be part of the required
16 payment in the succeeding month or months.

17 (c) The state hereby covenants with the holders from time to
18 time of any designated bonds that it will not alter, amend, or restrict
19 the provisions of subdivision (c) of Section 16773 of the
20 Government Code, or Sections 9400, 9400.1, 9400.4, and 42205
21 of the Vehicle Code, which provide directly or indirectly for the
22 transfer of weight fees to the Transportation Debt Service Fund
23 or the Transportation Bond Direct Payment Account, or
24 subdivisions (a) and (b) of this section, or reduce the rate of
25 imposition of vehicle weight fees under Sections 9400 and 9400.1
26 of the Vehicle Code as they existed on the date of the first issuance
27 of any designated bonds, if that alteration, amendment, restriction,
28 or reduction would result in projected weight fees for the next
29 fiscal year determined by the Director of Finance being less than
30 two times the maximum annual debt service with respect to all
31 outstanding designated bonds, as such calculation is determined
32 pursuant to the resolution, indenture, or other documents governing
33 the designated bonds. The state may include this covenant in the
34 resolution, indenture, or other documents governing the designated
35 bonds.

36 (d) Once the required monthly deposit, including makeup of
37 any shortfalls from any prior month, has been made pursuant to
38 subdivision (b), from moneys transferred to the fund pursuant to
39 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
40 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the

1 Controller shall transfer as an expenditure reduction to the General
2 Fund any amount necessary to offset the cost of current year debt
3 service payments made from the General Fund with respect to any
4 bonds issued pursuant to Proposition 192 (1996) and three-quarters
5 of the amount of current year debt service payments made from
6 the General Fund with respect to any nondesignated bonds, as
7 defined in subdivision (c) of Section 16773, issued pursuant to
8 Proposition 1B (2006). In the alternative, these funds may also be
9 used to redeem or retire the applicable bonds, pursuant to Section
10 16774, maturing in a subsequent fiscal year as directed by the
11 Director of Finance.

12 (e) Once the required monthly deposit, including makeup of
13 any shortfalls from any prior month, has been made pursuant to
14 subdivision (b), from moneys transferred to the fund pursuant to
15 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
16 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
17 Controller shall transfer as an expenditure reduction to the General
18 Fund any amount necessary to offset the eligible cost of current
19 year debt service payments made from the General Fund with
20 respect to any bonds issued pursuant to Proposition 108 (1990)
21 and Proposition 1A (2008), and one-quarter of the amount of
22 current year debt service payments made from the General Fund
23 with respect to any nondesignated bonds, as defined in subdivision
24 (c) of Section 16773, issued pursuant to Proposition 1B (2006).
25 The Department of Finance shall notify the Controller by July 30
26 of every year of the percentage of debt service that is expected to
27 be paid in that fiscal year with respect to bond-funded projects that
28 qualify as eligible guideway projects consistent with the
29 requirements applicable to the expenditure of revenues under
30 Article XIX of the California Constitution, and the Controller shall
31 make payments only for those eligible projects. In the alternative,
32 these funds may also be used to redeem or retire the applicable
33 bonds, pursuant to Section 16774, maturing in a subsequent fiscal
34 year as directed by the Director of Finance.

35 (f) On or before the second business day following the date on
36 which transfers are made to the Transportation Debt Service Fund,
37 and after the required monthly deposits for that month, including
38 makeup of any shortfalls from any prior month, have been made
39 to the Transportation Bond Direct Payment Account, the Controller
40 shall transfer the funds designated for reimbursement of bond debt

1 service with respect to nondesignated bonds, as defined in
2 subdivision (c) of Section 16773, and other bonds identified in
3 subdivisions (d) and (e) in that month from the fund to the General
4 Fund pursuant to this section.

5 SEC. 11. Section 39719 of the Health and Safety Code is
6 amended to read:

7 39719. (a) The Legislature shall appropriate the annual
8 proceeds of the fund for the purpose of reducing greenhouse gas
9 emissions in this state in accordance with the requirements of
10 Section 39712.

11 (b) To carry out a portion of the requirements of subdivision
12 (a), annual proceeds are continuously appropriated for the
13 following:

14 (1) Beginning in the 2016–17 fiscal year, and notwithstanding
15 Section 13340 of the Government Code, 50 percent of annual
16 proceeds are continuously appropriated, without regard to fiscal
17 years, for transit, affordable housing, and sustainable communities
18 programs as following:

19 (A) Twenty percent of the annual proceeds of the fund is hereby
20 continuously appropriated to the Transportation Agency for the
21 Transit and Intercity Rail Capital Program created by Part 2
22 (commencing with Section 75220) of Division 44 of the Public
23 Resources Code.

24 (B) Ten percent of the annual proceeds of the fund is hereby
25 continuously appropriated to the Low Carbon Transit Operations
26 Program created by Part 3 (commencing with Section 75230) of
27 Division 44 of the Public Resources Code. Moneys shall be
28 allocated by the Controller, according to requirements of the
29 program, and pursuant to the distribution formula in subdivision
30 (b) or (c) of Section 99312 of, and Sections 99313 and 99314 of,
31 the Public Utilities Code.

32 (C) Twenty percent of the annual proceeds of the fund is hereby
33 continuously appropriated to the Strategic Growth Council for the
34 Affordable Housing and Sustainable Communities Program created
35 by Part 1 (commencing with Section 75200) of Division 44 of the
36 Public Resources Code. Of the amount appropriated in this
37 subparagraph, no less than 10 percent of the annual proceeds shall
38 be expended for affordable housing, consistent with the provisions
39 of that program.

1 (2) Beginning in the 2015–16 fiscal year, notwithstanding
2 Section 13340 of the Government Code, 25 percent of the annual
3 proceeds of the fund is hereby continuously appropriated to the
4 High-Speed Rail Authority for the following components of the
5 initial operating segment and Phase I Blended System as described
6 in the 2012 business plan adopted pursuant to Section 185033 of
7 the Public Utilities Code:

8 (A) Acquisition and construction costs of the project.

9 (B) Environmental review and design costs of the project.

10 (C) Other capital costs of the project.

11 (D) Repayment of any loans made to the authority to fund the
12 project.

13 (c) In determining the amount of annual proceeds of the fund
14 for purposes of the calculation in subdivision (b), the funds subject
15 to Section 39719.1 shall not be included.

16 SEC. 12. Section 21080.37 of the Public Resources Code is
17 amended to read:

18 21080.37. (a) This division does not apply to a project or an
19 activity to repair, maintain, or make minor alterations to an existing
20 roadway if all of the following conditions are met:

21 (1) (A) The project does not cross a waterway.

22 (B) For purposes of this paragraph, “waterway” means a bay,
23 estuary, lake, pond, river, slough, or a perennial, intermittent, or
24 ephemeral stream, lake, or estuarine-marine shoreline.

25 (2) The project involves negligible or no expansion of an
26 existing use beyond that existing at the time of the lead agency’s
27 determination.

28 (3) (A) The site of the project does not contain wetlands or
29 riparian areas and does not have significant value as a wildlife
30 habitat, and the project does not harm any species protected by the
31 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
32 seq.), the Native Plant Protection Act (Chapter 10 (commencing
33 with Section 1900) of Division 2 of the Fish and Game Code), or
34 the California Endangered Species Act (Chapter 1.5 (commencing
35 with Section 2050) of Division 3 of the Fish and Game Code), and
36 the project does not cause the destruction or removal of any species
37 protected by a local ordinance.

38 (B) For the purposes of this paragraph:

39 (i) “Riparian areas” mean those areas transitional between
40 terrestrial and aquatic ecosystems and that are distinguished by

1 gradients in biophysical conditions, ecological processes, and biota.
2 A riparian area is an area through which surface and subsurface
3 hydrology connect waterbodies with their adjacent uplands. A
4 riparian area includes those portions of terrestrial ecosystems that
5 significantly influence exchanges of energy and matter with aquatic
6 ecosystems. A riparian area is adjacent to perennial, intermittent,
7 and ephemeral streams, lakes, and estuarine-marine shorelines.

8 (ii) “Significant value as a wildlife habitat” includes wildlife
9 habitat of national, statewide, regional, or local importance; habitat
10 for species protected by the federal Endangered Species Act of
11 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered
12 Species Act (Chapter 1.5 (commencing with Section 2050) of
13 Division 3 of the Fish and Game Code), or the Native Plant
14 Protection Act (Chapter 10 (commencing with Section 1900) of
15 Division 2 of the Fish and Game Code); habitat identified as
16 candidate, fully protected, sensitive, or species of special status
17 by local, state, or federal agencies; or habitat essential to the
18 movement of resident or migratory wildlife.

19 (iii) “Wetlands” has the same meaning as in the United States
20 Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

21 (iv) “Wildlife habitat” means the ecological communities upon
22 which wild animals, birds, plants, fish, amphibians, and
23 invertebrates depend for their conservation and protection.

24 (4) The project does not impact cultural resources.

25 (5) The roadway does not affect scenic resources, as provided
26 pursuant to subdivision (c) of Section 21084.

27 (b) Prior to determining that a project is exempt pursuant to this
28 section, the lead agency shall do both of the following:

29 (1) Include measures in the project to mitigate potential
30 vehicular traffic and safety impacts and bicycle and pedestrian
31 safety impacts.

32 (2) Hold a noticed public hearing on the project to hear and
33 respond to public comments. The hearing on the project may be
34 conducted with another noticed lead agency public hearing.
35 Publication of the notice shall be no fewer times than required by
36 Section 6061 of the Government Code, by the public agency in a
37 newspaper of general circulation in the area.

38 (c) For purposes of this section, “roadway” means a roadway
39 as defined pursuant to Section 530 of the Vehicle Code and the
40 previously graded and maintained shoulder that is within a roadway

1 right-of-way of no more than five feet from the edge of the
2 roadway.

3 (d) (1) If a state agency determines that a project is not subject
4 to this division pursuant to this section and it approves or
5 determines to carry out that project, it shall file a notice with the
6 Office of Planning and Research in the manner specified in
7 subdivisions (b) and (c) of Section 21108.

8 (2) If a local agency determines that a project is not subject to
9 this division pursuant to this section and it approves or determines
10 to carry out that project, it shall file a notice with the Office of
11 Planning and Research, and with the county clerk in the county in
12 which the project will be located in the manner specified in
13 subdivisions (b) and (c) of Section 21152.

14 SEC. 13. Division 13.6 (commencing with Section 21200) is
15 added to the Public Resources Code, to read:

16
17 DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

18
19 CHAPTER 1. GENERAL

20
21 21200. This division shall be known, and may be cited, as the
22 Advance Mitigation Program Act.

23 21201. (a) The purpose of this division is to improve the
24 success and effectiveness of actions implemented to mitigate the
25 natural resource impacts of future transportation projects by
26 establishing the means to implement those actions well before the
27 transportation projects are constructed. The advance identification
28 and implementation of mitigation actions also will streamline the
29 delivery of transportation projects by anticipating mitigation
30 requirements for planned transportation projects and avoiding or
31 reducing delays associated with environmental permitting. By
32 identifying regional or statewide conservation priorities and by
33 anticipating the impacts of planned transportation projects on a
34 regional or statewide basis, mitigation actions can be designed to
35 protect and restore California’s most valuable natural resources
36 and also facilitate environmental compliance for planned
37 transportation projects on a regional scale.

38 (b) This division is not intended to create a new environmental
39 permitting or regulatory program or to modify existing
40 environmental laws or regulations, nor is it expected that all

1 mitigation requirements will be addressed for planned
2 transportation projects. Instead, it is intended to provide a
3 methodology with which to anticipate and fulfill the requirements
4 of existing state and federal environmental laws that protect fish,
5 wildlife, plant species, and other natural resources more efficiently
6 and effectively.

7 21202. The Legislature finds and declares all of the following:

8 (a) The minimization and mitigation of environmental impacts
9 is ordinarily handled on a project-by-project basis, usually near
10 the end of a project's timeline and often without guidance regarding
11 regional or statewide conservation priorities.

12 (b) The cost of critical transportation projects often escalates
13 because of permitting delays that occur when appropriate
14 conservation and mitigation measures cannot easily be identified
15 and because the cost of these measures often increases between
16 the time a project is planned and funded and the time mitigation
17 is implemented.

18 (c) Addressing conservation and mitigation needs early in a
19 project's timeline, during the project design and development
20 phase, can reduce costs, allow natural resources conservation to
21 be integrated with project siting and design, and result in the
22 establishment of more valuable and productive habitat mitigation.

23 (d) When the Department of Transportation is able to anticipate
24 the mitigation needs for planned transportation projects, it can
25 meet those needs in a more timely and cost-effective way by using
26 advance mitigation planning.

27 (e) Working with state and federal resource protection agencies,
28 the department can identify, conserve, and, where appropriate,
29 restore lands for mitigation of numerous projects early in the
30 projects' timelines, thereby allowing public funds to stretch further
31 by acquiring habitat at a lower cost and avoiding environmental
32 permitting delays.

33 (f) Advance mitigation can provide an effective means of
34 facilitating delivery of transportation projects while ensuring more
35 effective natural resource conservation.

36 (g) Advance mitigation is needed to direct mitigation funding
37 for transportation projects to agreed-upon conservation priorities
38 and to the creation of habitat reserves and recreation areas that
39 enhance the sustainability of human and natural systems by

1 protecting or restoring connectivity of natural communities and
2 the delivery of ecosystem services.

3 (h) Advance mitigation can facilitate the implementation of
4 climate change adaptation strategies both for ecosystems and
5 California’s economy.

6 (i) Advance mitigation can enable the state to protect, restore,
7 and recover its natural resources as it strengthens and improves
8 its transportation systems.

9 21203. The Legislature intends to do all of the following by
10 enacting this division:

11 (a) Facilitate delivery of transportation projects while ensuring
12 more effective natural resource conservation.

13 (b) Develop effective strategies to improve the state’s ability to
14 meet mounting demands for transportation improvements and to
15 maximize conservation and other public benefits.

16 (c) Achieve conservation objectives of statewide and regional
17 importance by coordinating local, state, and federally funded
18 natural resource conservation efforts with mitigation actions
19 required for impacts from transportation projects.

20 (d) Create administrative, governance, and financial incentives
21 and mechanisms necessary to ensure that measures required to
22 minimize or mitigate impacts from transportation projects will
23 serve to achieve regional or statewide natural resource conservation
24 objectives.

25

26 CHAPTER 2. DEFINITIONS

27

28 21204. For purposes of this division, the following terms have
29 the following meanings:

30 (a) “Acquire” and “acquisition” mean, with respect to land or
31 a waterway, acquisition of fee title or purchase of a conservation
32 easement, that protects conservation and mitigation values on the
33 land or waterway in perpetuity.

34 (b) “Advance mitigation” means mitigation implemented before,
35 and in anticipation of, environmental effects of planned
36 transportation projects.

37 (c) “Commission” means the California Transportation
38 Commission.

39 (d) “Department” means the Department of Transportation.

1 (e) “Transportation agency” means the department, the
2 High-Speed Rail Authority, a metropolitan planning organization,
3 a regional transportation planning agency, or another public agency
4 that implements transportation projects.

5 (f) “Transportation project” means a transportation capital
6 improvement project.

7 (g) “Planned transportation project” means a transportation
8 project that a transportation agency has concluded is reasonably
9 likely to be constructed within 20 years and that has been identified
10 to the agency for purposes of this division. A planned transportation
11 project may include, but is not limited to, a transportation project
12 that has been proposed for approval or that has been approved.

13 (h) “Program” means the Advance Mitigation Program
14 implemented pursuant to this division.

15 (i) “Regulatory agency” means a state or federal natural resource
16 protection agency with regulatory authority over planned
17 transportation projects. A regulatory agency includes, but is not
18 limited to, the Natural Resources Agency, the Department of Fish
19 and Wildlife, California regional water quality control boards, the
20 United States Fish and Wildlife Service, the National Marine
21 Fisheries Service, the United States Environmental Protection
22 Agency, and the United States Army Corps of Engineers.

23

24 CHAPTER 3. ADVANCE MITIGATION PROGRAM

25

26 21205. (a) The Advance Mitigation Program is hereby created
27 in the department to accelerate project delivery and improve
28 environmental outcomes of environmental mitigation for planned
29 transportation projects.

30 (b) The program may utilize mitigation instruments, including,
31 but not limited to, mitigation banks, in lieu of fee programs, and
32 conservation easements as defined in Section 815.1 of the Civil
33 Code.

34 (c) The department shall track all implemented advance
35 mitigation projects to use as credits for environmental mitigation
36 for state-sponsored transportation projects.

37 (d) The department may use advance mitigation credits to fulfill
38 mitigation requirements of any environmental law for a
39 transportation project eligible for the State Transportation

1 Improvement Program or the State Highway Operation and
2 Protection Program.

3 21206. No later than February 1, 2017, the department shall
4 establish an interagency transportation advance mitigation steering
5 committee consisting of the department and appropriate state and
6 federal regulatory agencies to support the program so that advance
7 mitigation can be used as required mitigation for planned
8 transportation projects and can provide improved environmental
9 outcomes. The committee shall advise the department of
10 opportunities to carry out advance mitigation projects, provide the
11 best available science, and actively participate in mitigation
12 instrument reviews and approvals. The committee shall seek to
13 develop streamlining opportunities, including those related to
14 landscape scale mitigation planning and alignment of federal and
15 state regulations and procedures related to mitigation requirements
16 and implementation. The committee shall also provide input on
17 crediting, using, and tracking of advance mitigation investments.

18 21207. The Advance Mitigation Fund is hereby created in the
19 State Transportation Fund as a revolving fund. Notwithstanding
20 Section 13340 of the Government Code, the fund shall be
21 continuously appropriated without regard to fiscal years. The
22 moneys in the fund shall be programmed by the commission for
23 the planning and implementation of advance mitigation projects
24 consistent with the purposes of this chapter. After the transfer of
25 moneys to the fund for four fiscal years pursuant to subdivision
26 (c) of Section 2032 of the Streets and Highways Code, commencing
27 in the 2017–18 fiscal year, the program is intended to be
28 self-sustaining. Advance expenditures from the fund shall later be
29 reimbursed from project funding available at the time a planned
30 transportation project is constructed. A maximum of 5 percent of
31 available funds may be used for administrative purposes.

32 21208. *The program is intended to improve the efficiency and*
33 *efficacy of mitigation only and is not intended to supplant the*
34 *requirements of the California Environmental Quality Act (Division*
35 *13 (commencing with Section 21000)) or any other environmental*
36 *law. The identification of planned transportation projects and of*
37 *mitigation projects or measures for planned transportation projects*
38 *under this division does not imply or require approval of those*
39 *projects for purposes of the California Environmental Quality Act*

1 *(Division 13 (commencing with Section 21000)) or any other*
2 *environmental law.*

3 SEC. 14. Section 99312.1 of the Public Utilities Code is
4 amended to read:

5 99312.1. (a) Revenues transferred to the Public Transportation
6 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue
7 and Taxation Code are hereby continuously appropriated to the
8 Controller for allocation as follows:

9 (1) Fifty percent for allocation to transportation planning
10 agencies, county transportation commissions, and the San Diego
11 Metropolitan Transit Development Board pursuant to Section
12 99314.

13 (2) Fifty percent for allocation to transportation agencies, county
14 transportation commissions, and the San Diego Metropolitan
15 Transit Development Board for purposes of Section 99313.

16 (b) For purposes of this chapter, the revenues allocated pursuant
17 to this section shall be subject to the same requirements as revenues
18 allocated pursuant to subdivisions (b) and (c), as applicable, of
19 Section 99312.

20 (c) The revenues transferred to the Public Transportation
21 Account that are attributable to the increase in the sales and use
22 tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of
23 the Revenue and Taxation Code, as adjusted pursuant to
24 subdivision (c) of that section, and subdivision (b) of Section
25 6201.8 of the Revenue and Taxation Code, as adjusted pursuant
26 to subdivision (c) of that section, upon allocation pursuant to
27 Sections 99313 and 99314, shall only be expended on the
28 following:

29 (1) Transit capital projects or services to maintain or repair a
30 transit operator’s existing transit vehicle fleet or existing transit
31 facilities, including rehabilitation or modernization of existing
32 vehicles or facilities.

33 (2) The design, acquisition, and construction of new vehicles
34 or facilities that improve existing transit services.

35 (3) Transit services that complement local efforts for repair and
36 improvement of local transportation infrastructure.

37 (d) (1) Prior to receiving an apportionment of funds pursuant
38 to subdivision (c) from the Controller in a fiscal year, a recipient
39 transit agency shall submit to the Department of Transportation a
40 list of projects proposed to be funded with these funds. The list of

1 projects proposed to be funded with these funds shall include a
2 description and location of each proposed project, a proposed
3 schedule for the project’s completion, and the estimated useful life
4 of the improvement. The project list shall not limit the flexibility
5 of a recipient transit agency to fund projects in accordance with
6 local needs and priorities so long as the projects are consistent
7 with subdivision (c).

8 (2) The department shall report to the Controller the recipient
9 transit agencies that have submitted a list of projects as described
10 in this subdivision and that are therefore eligible to receive an
11 apportionment of funds for the applicable fiscal year. The
12 Controller, upon receipt of the report, shall apportion funds
13 pursuant to Sections 99313 and 99314.

14 (e) For each fiscal year, each recipient transit agency receiving
15 an apportionment of funds pursuant to subdivision (c) shall, upon
16 expending those funds, submit documentation to the department
17 that includes a description and location of each completed project,
18 the amount of funds expended on the project, the completion date,
19 and the estimated useful life of the improvement.

20 (f) The audit of transit operator finances required pursuant to
21 Section 99245 shall verify that the revenues identified in
22 subdivision (c) have been expended in conformance with these
23 specific requirements and all other generally applicable
24 requirements.

25 SEC. 15. Section 6051.8 of the Revenue and Taxation Code
26 is amended to read:

27 6051.8. (a) Except as provided by Section 6357.3, in addition
28 to the taxes imposed by this part, for the privilege of selling
29 tangible personal property at retail a tax is hereby imposed upon
30 all retailers at the rate of 1.75 percent of the gross receipts of any
31 retailer from the sale of all diesel fuel.

32 (b) Except as provided by Section 6357.3, in addition to the
33 taxes imposed by this part and by subdivision (a), for the privilege
34 of selling tangible personal property at retail a tax is hereby
35 imposed upon all retailers at the rate of 3.5 percent of the gross
36 receipts of any retailer from the sale of all diesel fuel, as defined
37 in Section 60022, sold at retail in this state. The tax imposed under
38 this subdivision shall be imposed on and after the first day of the
39 first calendar quarter that occurs 90 days after the effective date
40 of the act adding this subdivision.

1 (c) Beginning July 1, 2019, and every third year thereafter, the
2 State Board of Equalization shall recompute the rates of the taxes
3 imposed by this section. That computation shall be made as
4 follows:

5 (1) The Department of Finance shall transmit to the State Board
6 of Equalization the percentage change in the California Consumer
7 Price Index for all items from November of three calendar years
8 prior to November of the prior calendar year, no later than January
9 31, 2019, and January 31 of every third year thereafter.

10 (2) The State Board of Equalization shall do all of the following:

11 (A) Compute an inflation adjustment factor by adding 100
12 percent to the percentage change figure that is furnished pursuant
13 to paragraph (1) and dividing the result by 100.

14 (B) Multiply the preceding tax rate per gallon by the inflation
15 adjustment factor determined in subparagraph (A) and round off
16 the resulting product to the nearest tenth of a cent.

17 (C) Make its determination of the new rate no later than March
18 1 of the same year as the effective date of the new rate.

19 (d) Notwithstanding subdivision (b) of Section 7102, all of the
20 revenues, less refunds, collected pursuant to this section shall be
21 estimated by the State Board of Equalization, with the concurrence
22 of the Department of Finance, and transferred quarterly to the
23 Public Transportation Account in the State Transportation Fund
24 for allocation pursuant to Section 99312.1 of the Public Utilities
25 Code.

26 SEC. 16. Section 6201.8 of the Revenue and Taxation Code
27 is amended to read:

28 6201.8. (a) Except as provided by Section 6357.3, in addition
29 to the taxes imposed by this part, an excise tax is hereby imposed
30 on the storage, use, or other consumption in this state of diesel
31 fuel, as defined in Section 60022, at the rate of 1.75 percent of the
32 sales price of the diesel fuel.

33 (b) Except as provided by Section 6357.3, in addition to the
34 taxes imposed by this part and by subdivision (a), an excise tax is
35 hereby imposed on the storage, use, or other consumption in this
36 state of diesel fuel, as defined in Section 60022, at the rate of 3.5
37 percent of the sales price of the diesel fuel. The tax imposed under
38 this subdivision shall be imposed on and after the first day of the
39 first calendar quarter that occurs 90 days after the effective date
40 of the act adding this subdivision.

1 (c) Beginning July 1, 2019, and every third year thereafter, the
2 State Board of Equalization shall recompute the rates of the taxes
3 imposed by this section. That computation shall be made as
4 follows:

5 (1) The Department of Finance shall transmit to the State Board
6 of Equalization the percentage change in the California Consumer
7 Price Index for all items from November of three calendar years
8 prior to November of the prior calendar year, no later than January
9 31, 2019, and January 31 of every third year thereafter.

10 (2) The State Board of Equalization shall do all of the following:

11 (A) Compute an inflation adjustment factor by adding 100
12 percent to the percentage change figure that is furnished pursuant
13 to paragraph (1) and dividing the result by 100.

14 (B) Multiply the preceding tax rate per gallon by the inflation
15 adjustment factor determined in subparagraph (A) and round off
16 the resulting product to the nearest tenth of a cent.

17 (C) Make its determination of the new rate no later than March
18 1 of the same year as the effective date of the new rate.

19 (d) Notwithstanding subdivision (b) of Section 7102, all of the
20 revenues, less refunds, collected pursuant to this section shall be
21 estimated by the State Board of Equalization, with the concurrence
22 of the Department of Finance, and transferred quarterly to the
23 Public Transportation Account in the State Transportation Fund
24 for allocation pursuant to Section 99312.1 of the Public Utilities
25 Code.

26 SEC. 17. Section 7360 of the Revenue and Taxation Code is
27 amended to read:

28 7360. (a) (1) (A) A tax of eighteen cents (\$0.18) is hereby
29 imposed upon each gallon of fuel subject to the tax in Sections
30 7362, 7363, and 7364.

31 (B) In addition to the tax imposed pursuant to subparagraph
32 (A), on and after the first day of the first calendar quarter that
33 occurs 90 days after the effective date of the act adding this
34 subparagraph, a tax of seventeen cents (\$0.17) is hereby imposed
35 upon each gallon of fuel, other than aviation gasoline, subject to
36 the tax in Sections 7362, 7363, and 7364.

37 (2) If the federal fuel tax is reduced below the rate of nine cents
38 (\$0.09) per gallon and federal financial allocations to this state for
39 highway and exclusive public mass transit guideway purposes are
40 reduced or eliminated correspondingly, the tax rate imposed by

1 subparagraph (A) of paragraph (1), on and after the date of the
2 reduction, shall be recalculated by an amount so that the combined
3 state rate under subparagraph (A) of paragraph (1) and the federal
4 tax rate per gallon equal twenty-seven cents (\$0.27).

5 (3) If any person or entity is exempt or partially exempt from
6 the federal fuel tax at the time of a reduction, the person or entity
7 shall continue to be so exempt under this section.

8 (b) On and after July 1, 2010, in addition to the tax imposed by
9 subdivision (a), a tax is hereby imposed upon each gallon of motor
10 vehicle fuel, other than aviation gasoline, subject to the tax in
11 Sections 7362, 7363, and 7364 in an amount equal to seventeen
12 and three-tenths cents (\$0.173) per gallon.

13 (c) Beginning July 1, 2019, and every third year thereafter, the
14 State Board of Equalization shall recompute the rates of the taxes
15 imposed by this section. That computation shall be made as
16 follows:

17 (1) The Department of Finance shall transmit to the State Board
18 of Equalization the percentage change in the California Consumer
19 Price Index for all items from November of three calendar years
20 prior to November of the prior calendar year, no later than January
21 31, 2019, and January 31 of every third year thereafter.

22 (2) The State Board of Equalization shall do all of the following:

23 (A) Compute an inflation adjustment factor by adding 100
24 percent to the percentage change figure that is furnished pursuant
25 to paragraph (1) and dividing the result by 100.

26 (B) Multiply the preceding tax rate per gallon by the inflation
27 adjustment factor determined in subparagraph (A) and round off
28 the resulting product to the nearest tenth of a cent.

29 (C) Make its determination of the new rate no later than March
30 1 of the same year as the effective date of the new rate.

31 SEC. 18. Section 8352.4 of the Revenue and Taxation Code
32 is amended to read:

33 8352.4. (a) Subject to Sections 8352 and 8352.1, and except
34 as otherwise provided in subdivision (b), there shall be transferred
35 from the money deposited to the credit of the Motor Vehicle Fuel
36 Account to the Harbors and Watercraft Revolving Fund, for
37 expenditure in accordance with Division 1 (commencing with
38 Section 30) of the Harbors and Navigation Code, the sum of six
39 million six hundred thousand dollars (\$6,600,000) per annum,
40 representing the amount of money in the Motor Vehicle Fuel

1 Account attributable to taxes imposed on distributions of motor
2 vehicle fuel used or usable in propelling vessels. The actual amount
3 shall be calculated using the annual reports of registered boats
4 prepared by the Department of Motor Vehicles for the United
5 States Coast Guard and the formula and method of the December
6 1972 report prepared for this purpose and submitted to the
7 Legislature on December 26, 1972, by the Director of
8 Transportation. If the amount transferred during each fiscal year
9 is in excess of the calculated amount, the excess shall be
10 retransferred from the Harbors and Watercraft Revolving Fund to
11 the Motor Vehicle Fuel Account. If the amount transferred is less
12 than the amount calculated, the difference shall be transferred from
13 the Motor Vehicle Fuel Account to the Harbors and Watercraft
14 Revolving Fund. No adjustment shall be made if the computed
15 difference is less than fifty thousand dollars (\$50,000), and the
16 amount shall be adjusted to reflect any temporary or permanent
17 increase or decrease that may be made in the rate under the Motor
18 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
19 made prior to payments pursuant to Section 8352.2.

20 (b) Commencing July 1, 2016, the revenues attributable to the
21 taxes imposed pursuant to subdivision (b) of Section 7360 and
22 Section 7361.1 and otherwise to be deposited in the Harbors and
23 Watercraft Revolving Fund pursuant to subdivision (a) shall instead
24 be transferred to the Highway Users Tax Account for distribution
25 pursuant to Section 2103.1 of the Streets and Highways Code.

26 SEC. 19. Section 8352.5 of the Revenue and Taxation Code
27 is amended to read:

28 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and
29 except as otherwise provided in subdivision (b), there shall be
30 transferred from the money deposited to the credit of the Motor
31 Vehicle Fuel Account to the Department of Food and Agriculture
32 Fund, during the second quarter of each fiscal year, an amount
33 equal to the estimate contained in the most recent report prepared
34 pursuant to this section.

35 (2) The amounts are not subject to Section 6357 with respect
36 to the collection of sales and use taxes thereon, and represent the
37 portion of receipts in the Motor Vehicle Fuel Account during a
38 calendar year that were attributable to agricultural off-highway
39 use of motor vehicle fuel which is subject to refund pursuant to
40 Section 8101, less gross refunds allowed by the Controller during

1 the fiscal year ending June 30 following the calendar year to
2 persons entitled to refunds for agricultural off-highway use
3 pursuant to Section 8101. Payments pursuant to this section shall
4 be made prior to payments pursuant to Section 8352.2.

5 (b) Commencing July 1, 2016, the revenues attributable to the
6 taxes imposed pursuant to subdivision (b) of Section 7360 and
7 Section 7361.1 and otherwise to be deposited in the Department
8 of Food and Agriculture Fund pursuant to subdivision (a) shall
9 instead be transferred to the Highway Users Tax Account for
10 distribution pursuant to Section 2103.1 of the Streets and Highways
11 Code.

12 (c) On or before September 30, 2012, and on or before
13 September 30 of each even-numbered year thereafter, the Director
14 of Transportation and the Director of Food and Agriculture shall
15 jointly prepare, or cause to be prepared, a report setting forth the
16 current estimate of the amount of money in the Motor Vehicle
17 Fuel Account attributable to agricultural off-highway use of motor
18 vehicle fuel, which is subject to refund pursuant to Section 8101
19 less gross refunds allowed by the Controller to persons entitled to
20 refunds for agricultural off-highway use pursuant to Section 8101;
21 and they shall submit a copy of the report to the Legislature.

22 SEC. 20. Section 8352.6 of the Revenue and Taxation Code
23 is amended to read:

24 8352.6. (a) (1) Subject to Section 8352.1, and except as
25 otherwise provided in paragraphs (2) and (3), on the first day of
26 every month, there shall be transferred from moneys deposited to
27 the credit of the Motor Vehicle Fuel Account to the Off-Highway
28 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
29 an amount attributable to taxes imposed upon distributions of motor
30 vehicle fuel used in the operation of motor vehicles off highway
31 and for which a refund has not been claimed. Transfers made
32 pursuant to this section shall be made prior to transfers pursuant
33 to Section 8352.2.

34 (2) Commencing July 1, 2016, the revenues attributable to the
35 taxes imposed pursuant to subdivision (b) of Section 7360 and
36 Section 7361.1 and otherwise to be deposited in the Off-Highway
37 Vehicle Trust Fund pursuant to paragraph (1) shall instead be
38 transferred to the Highway Users Tax Account for distribution
39 pursuant to Section 2103.1 of the Streets and Highways Code.

1 (3) The Controller shall withhold eight hundred thirty-three
2 thousand dollars (\$833,000) from the monthly transfer to the
3 Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and
4 transfer that amount to the General Fund.

5 (b) The amount transferred to the Off-Highway Vehicle Trust
6 Fund pursuant to paragraph (1) of subdivision (a), as a percentage
7 of the Motor Vehicle Fuel Account, shall be equal to the percentage
8 transferred in the 2006–07 fiscal year. Every five years, starting
9 in the 2013–14 fiscal year, the percentage transferred may be
10 adjusted by the Department of Transportation in cooperation with
11 the Department of Parks and Recreation and the Department of
12 Motor Vehicles. Adjustments shall be based on, but not limited
13 to, the changes in the following factors since the 2006–07 fiscal
14 year or the last adjustment, whichever is more recent:

15 (1) The number of vehicles registered as off-highway motor
16 vehicles as required by Division 16.5 (commencing with Section
17 38000) of the Vehicle Code.

18 (2) The number of registered street-legal vehicles that are
19 anticipated to be used off highway, including four-wheel drive
20 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

21 (3) Attendance at the state vehicular recreation areas.

22 (4) Off-highway recreation use on federal lands as indicated by
23 the United States Forest Service’s National Visitor Use Monitoring
24 and the United States Bureau of Land Management’s Recreation
25 Management Information System.

26 (c) It is the intent of the Legislature that transfers from the Motor
27 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
28 should reflect the full range of motorized vehicle use off highway
29 for both motorized recreation and motorized off-road access to
30 other recreation opportunities. Therefore, the Legislature finds that
31 the fuel tax baseline established in subdivision (b), attributable to
32 off-highway estimates of use as of the 2006–07 fiscal year,
33 accounts for the three categories of vehicles that have been found
34 over the years to be users of fuel for off-highway motorized
35 recreation or motorized access to nonmotorized recreational
36 pursuits. These three categories are registered off-highway
37 motorized vehicles, registered street-legal motorized vehicles used
38 off highway, and unregistered off-highway motorized vehicles.

39 (d) It is the intent of the Legislature that the off-highway motor
40 vehicle recreational use to be determined by the Department of

1 Transportation pursuant to paragraph (2) of subdivision (b) be that
2 usage by vehicles subject to registration under Division 3
3 (commencing with Section 4000) of the Vehicle Code, for
4 recreation or the pursuit of recreation on surfaces where the use
5 of vehicles registered under Division 16.5 (commencing with
6 Section 38000) of the Vehicle Code may occur.

7 (e) In the 2014–15 fiscal year, the Department of Transportation,
8 in consultation with the Department of Parks and Recreation and
9 the Department of Motor Vehicles, shall undertake a study to
10 determine the appropriate adjustment to the amount transferred
11 pursuant to subdivision (b) and to update the estimate of the amount
12 attributable to taxes imposed upon distributions of motor vehicle
13 fuel used in the operation of motor vehicles off highway and for
14 which a refund has not been claimed. The department shall provide
15 a copy of this study to the Legislature no later than January 1,
16 2016.

17 SEC. 21. Section 60050 of the Revenue and Taxation Code is
18 amended to read:

19 60050. (a) (1) A tax of thirteen cents (\$0.13) is hereby
20 imposed upon each gallon of diesel fuel subject to the tax in
21 Sections 60051, 60052, and 60058.

22 (2) If the federal fuel tax is reduced below the rate of fifteen
23 cents (\$0.15) per gallon and federal financial allocations to this
24 state for highway and exclusive public mass transit guideway
25 purposes are reduced or eliminated correspondingly, the tax rate
26 imposed by paragraph (1) shall be increased by an amount so that
27 the combined state rate under paragraph (1) and the federal tax
28 rate per gallon equal what it would have been in the absence of
29 the federal reduction.

30 (3) If any person or entity is exempt or partially exempt from
31 the federal fuel tax at the time of a reduction, the person or entity
32 shall continue to be exempt under this section.

33 (b) In addition to the tax imposed pursuant to subdivision (a),
34 on and after the first day of the first calendar quarter that occurs
35 90 days after the effective date of the act amending this subdivision
36 in the 2015 First Extraordinary Session, an additional tax of thirty
37 cents (\$0.30) is hereby imposed upon each gallon of diesel fuel
38 subject to the tax in Sections 60051, 60052, and 60058.

39 (c) Beginning July 1, 2019, and every third year thereafter, the
40 State Board of Equalization shall recompute the rates of the taxes

1 imposed by this section. That computation shall be made as
2 follows:

3 (1) The Department of Finance shall transmit to the State Board
4 of Equalization the percentage change in the California Consumer
5 Price Index for all items from November of three calendar years
6 prior to November of the prior calendar year, no later than January
7 31, 2019, and January 31 of every third year thereafter.

8 (2) The State Board of Equalization shall do all of the following:

9 (A) Compute an inflation adjustment factor by adding 100
10 percent to the percentage change figure that is furnished pursuant
11 to paragraph (1) and dividing the result by 100.

12 (B) Multiply the preceding tax rate per gallon by the inflation
13 adjustment factor determined in subparagraph (A) and round off
14 the resulting product to the nearest tenth of a cent.

15 (C) Make its determination of the new rate no later than March
16 1 of the same year as the effective date of the new rate.

17 SEC. 22. Section 183.1 of the Streets and Highways Code is
18 amended to read:

19 183.1. Except as otherwise provided in Section 54237.7 of the
20 Government Code, money deposited into the account that is not
21 subject to Article XIX of the California Constitution, including,
22 but not limited to, money that is derived from the sale of
23 documents, charges for miscellaneous services to the public,
24 condemnation deposits fund investments, rental of state property,
25 or any other miscellaneous uses of property or money, shall be
26 deposited in the Road Maintenance and Rehabilitation Account
27 created pursuant to Section 2031.

28 SEC. 23. Section 820.1 of the Streets and Highways Code is
29 amended to read:

30 820.1. (a) The State of California consents to the jurisdiction
31 of the federal courts with regard to the compliance, discharge, or
32 enforcement of the responsibilities assumed by the department
33 pursuant to Section 326 of, and subsection (a) of Section 327 of,
34 Title 23 of the United States Code.

35 (b) In any action brought pursuant to the federal laws described
36 in subdivision (a), no immunity from suit may be asserted by the
37 department pursuant to the Eleventh Amendment to the United
38 States Constitution, and any immunity is hereby waived.

1 (c) The department shall not delegate any of its responsibilities
2 assumed pursuant to the federal laws described in subdivision (a)
3 to any political subdivision of the state or its instrumentalities.

4 (d) Nothing in this section affects the obligation of the
5 department to comply with state and federal law.

6 SEC. 24. Chapter 2 (commencing with Section 2030) is added
7 to Division 3 of the Streets and Highways Code, to read:

8

9 CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION
10 PROGRAM

11

12 2030. (a) The Road Maintenance and Rehabilitation Program
13 is hereby created to address deferred maintenance on the state
14 highway system and the local street and road system. Funds made
15 available by the program shall be prioritized for expenditure on
16 basic road maintenance and road rehabilitation projects, and on
17 critical safety projects. For funds appropriated pursuant to
18 paragraph (1) of subdivision (d) of Section 2032, the California
19 Transportation Commission shall adopt performance criteria,
20 consistent with the asset management plan required pursuant to
21 14526.4 of the Government Code, to ensure efficient use of the
22 funds available for these purposes in the program.

23 (b) (1) Funds made available by the program shall be used for
24 projects that include, but are not limited to, the following:

25 (A) Road maintenance and rehabilitation.

26 (B) Safety projects.

27 (C) Railroad grade separations.

28 (D) Complete street components, including active transportation
29 purposes, pedestrian and bicycle safety projects, transit facilities,
30 and drainage and stormwater capture projects in conjunction with
31 any other allowable project.

32 (E) Traffic control devices.

33 (2) Funds made available by the program may also be used to
34 satisfy a match requirement in order to obtain state or federal funds
35 for projects authorized by this subdivision.

36 2031. The following revenues shall be deposited in the Road
37 Maintenance and Rehabilitation Account, which is hereby created
38 in the State Transportation Fund:

39 (a) Notwithstanding subdivision (b) of Section 2103, the portion
40 of the revenues in the Highway Users Tax Account attributable to

1 the increase in the motor vehicle fuel excise tax by seventeen cents
2 (\$0.17) per gallon pursuant to subdivision (a) of Section 7360 of
3 the Revenue and Taxation Code, as adjusted pursuant to
4 subdivision (c) of that section.

5 (b) The revenues from the increase in the vehicle registration
6 fee pursuant to Section 9250.3 of the Vehicle Code.

7 (c) The revenues from the increase in the vehicle registration
8 fee pursuant to Section 9250.6 of the Vehicle Code.

9 (d) The revenues deposited in the account pursuant to Section
10 183.1 of the Streets and Highways Code.

11 (e) Any other revenues designated for the program.

12 2031.5. Each fiscal year the annual Budget Act shall contain
13 an appropriation from the Road Maintenance and Rehabilitation
14 Account to the Controller for the costs of carrying out his or her
15 duties pursuant to this chapter and to the California Transportation
16 Commission for the costs of carrying out its duties pursuant to this
17 chapter and Section 14526.7 of the Government Code.

18 2032. (a) (1) After deducting the amounts appropriated in the
19 annual Budget Act, as provided in Section 2031.5, two hundred
20 million dollars (\$200,000,000) of the remaining revenues deposited
21 in the Road Maintenance and Rehabilitation Account shall be set
22 aside annually for counties that have sought and received voter
23 approval of taxes or that have imposed fees, including uniform
24 developer fees as defined by subdivision (b) of Section 8879.67
25 of the Government Code, which taxes or fees are dedicated solely
26 to transportation improvements. The Controller shall each month
27 set aside one-twelfth of this amount, to accumulate a total of two
28 hundred million dollars (\$200,000,000) in each fiscal year.

29 (2) Notwithstanding Section 13340 of the Government Code,
30 the funds available under this subdivision in each fiscal year are
31 hereby continuously appropriated for allocation to each eligible
32 county and each city in the county for road maintenance and
33 rehabilitation purposes pursuant to Section 2033.

34 (b) (1) After deducting the amounts appropriated in the annual
35 Budget Act pursuant to Section 2031.5 and the amount allocated
36 in subdivision (a), beginning in the 2017–18 fiscal year, eighty
37 million dollars (\$80,000,000) of the remaining revenues shall be
38 transferred annually to the State Highway Account for expenditure,
39 upon appropriation by the Legislature, on the Active Transportation
40 Program created pursuant to Chapter 8 (commencing with Section

1 2380) of Division 3 to be allocated by the California Transportation
2 Commission pursuant to Section 2381.

3 (2) In addition to the funds transferred in paragraph (1), the
4 department shall annually identify savings achieved through
5 efficiencies implemented at the department. The department,
6 through the annual budget process, shall propose, from the
7 identified savings, an appropriation to be included in the annual
8 Budget Act of up to seventy million dollars (\$70,000,000), but not
9 to exceed the total annual identified savings, from the State
10 Highway Account for expenditure on the Active Transportation
11 Program.

12 (c) After deducting the amounts appropriated in the annual
13 Budget Act pursuant to Section 2031.5, the amount allocated in
14 subdivision (a) and the amount transferred in paragraph (1) of
15 subdivision (b), in the 2017–18, 2018–19, 2019–20, and 2020–21
16 fiscal years, the sum of thirty million dollars (\$30,000,000) in each
17 fiscal year from the remaining revenues shall be transferred to the
18 Advance Mitigation Fund in the State Transportation Fund created
19 pursuant to Section 21207 of the Public Resources Code.

20 (d) After deducting the amounts appropriated in the annual
21 Budget Act pursuant to Section 2031.5, the amount allocated in
22 subdivision (a), and the amounts transferred in paragraph (1) of
23 subdivision (b) and in subdivision (c), beginning in the 2017–18
24 fiscal year and each fiscal year thereafter, and notwithstanding
25 Section 13340 of the Government Code, there is hereby
26 continuously appropriated to the California State University the
27 sum of two million dollars (\$2,000,000) from the remaining
28 revenues for the purpose of conducting transportation research and
29 transportation-related workforce education, training, and
30 development. Prior to the start of each fiscal year, the chairs of the
31 Assembly Committee on Transportation and the Senate Committee
32 on Transportation and Housing shall confer and set out a
33 recommended priority list of research components to be addressed
34 in the upcoming fiscal year.

35 (e) Notwithstanding Section 13340 of the Government Code,
36 the balance of the revenues deposited in the Road Maintenance
37 and Rehabilitation Account are hereby continuously appropriated
38 as follows:

1 (1) Fifty percent for allocation to the department for maintenance
2 of the state highway system or for purposes of the state highway
3 operation and protection program.

4 (2) Fifty percent for apportionment to cities and counties by the
5 Controller pursuant to the formula in clauses (i) and (ii) of
6 subparagraph (C) of paragraph (3) of subdivision (a) of Section
7 2103 for the purposes authorized by this chapter.

8 2033. (a) On or before January 1, 2017, the commission, in
9 cooperation with the department, transportation planning agencies,
10 county transportation commissions, and other local agencies, shall
11 develop guidelines for the allocation of funds pursuant to
12 subdivision (a) of Section 2032.

13 (b) The guidelines shall be the complete and full statement of
14 the policy, standards, and criteria that the commission intends to
15 use to determine how these funds will be allocated.

16 (c) The commission may amend the adopted guidelines after
17 conducting at least one public hearing.

18 2034. (a) (1) Prior to receiving an apportionment of funds
19 under the program pursuant to paragraph (2) of subdivision (d) of
20 Section 2032 from the Controller in a fiscal year, an eligible city
21 or county shall submit to the commission a list of projects proposed
22 to be funded with these funds pursuant to an adopted city or county
23 budget. All projects proposed to receive funding shall be included
24 in a city or county budget that is adopted by the applicable city
25 council or county board of supervisors at a regular public meeting.
26 The list of projects proposed to be funded with these funds shall
27 include a description and the location of each proposed project, a
28 proposed schedule for the project's completion, and the estimated
29 useful life of the improvement. The project list shall not limit the
30 flexibility of an eligible city or county to fund projects in
31 accordance with local needs and priorities so long as the projects
32 are consistent with subdivision (b) of Section 2030.

33 (2) The commission shall report to the Controller the cities and
34 counties that have submitted a list of projects as described in this
35 subdivision and that are therefore eligible to receive an
36 apportionment of funds under the program for the applicable fiscal
37 year. The Controller, upon receipt of the report, shall apportion
38 funds to eligible cities and counties.

39 (b) For each fiscal year, each city or county receiving an
40 apportionment of funds shall, upon expending program funds,

1 submit documentation to the commission that includes a description
2 and location of each completed project, the amount of funds
3 expended on the project, the completion date, and the estimated
4 useful life of the improvement.

5 2036. (a) Cities and counties shall maintain their existing
6 commitment of local funds for street, road, and highway purposes
7 in order to remain eligible for an allocation or apportionment of
8 funds pursuant to Section 2032.

9 (b) In order to receive an allocation or apportionment pursuant
10 to Section 2032, the city or county shall annually expend from its
11 general fund for street, road, and highway purposes an amount not
12 less than the annual average of its expenditures from its general
13 fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as
14 reported to the Controller pursuant to Section 2151. For purposes
15 of this subdivision, in calculating a city’s or county’s annual
16 general fund expenditures and its average general fund expenditures
17 for the 2009–10, 2010–11, and 2011–12 fiscal years, any
18 unrestricted funds that the city or county may expend at its
19 discretion, including vehicle in-lieu tax revenues and revenues
20 from fines and forfeitures, expended for street, road, and highway
21 purposes shall be considered expenditures from the general fund.
22 One-time allocations that have been expended for street and
23 highway purposes, but which may not be available on an ongoing
24 basis, including revenue provided under the Teeter Plan Bond Law
25 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
26 of Division 2 of Title 5 of the Government Code), may not be
27 considered when calculating a city’s or county’s annual general
28 fund expenditures.

29 (c) For any city incorporated after July 1, 2009, the Controller
30 shall calculate an annual average expenditure for the period
31 between July 1, 2009, and December 31, 2015, inclusive, that the
32 city was incorporated.

33 (d) For purposes of subdivision (b), the Controller may request
34 fiscal data from cities and counties in addition to data provided
35 pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12
36 fiscal years. Each city and county shall furnish the data to the
37 Controller not later than 120 days after receiving the request. The
38 Controller may withhold payment to cities and counties that do
39 not comply with the request for information or that provide
40 incomplete data.

1 (e) The Controller may perform audits to ensure compliance
2 with subdivision (b) when deemed necessary. Any city or county
3 that has not complied with subdivision (b) shall reimburse the state
4 for the funds it received during that fiscal year. Any funds withheld
5 or returned as a result of a failure to comply with subdivision (b)
6 shall be reapportioned to the other counties and cities whose
7 expenditures are in compliance.

8 (f) If a city or county fails to comply with the requirements of
9 subdivision (b) in a particular fiscal year, the city or county may
10 expend during that fiscal year and the following fiscal year a total
11 amount that is not less than the total amount required to be
12 expended for those fiscal years for purposes of complying with
13 subdivision (b).

14 2037. A city or county may spend its apportionment of funds
15 under the program on transportation priorities other than those
16 allowable pursuant to this chapter if the city's or county's average
17 Pavement Condition Index meets or exceeds 80.

18 2038. (a) The department and local agencies, as a condition
19 of receiving funds from the program, shall adopt and implement
20 a program designed to promote and advance construction
21 employment and training opportunities through preapprenticeship
22 opportunities, either by the public agency itself or through
23 contractors engaged by the public agencies to do work funded in
24 whole or in part by funds made available by the program.

25 (b) The department and local agencies, as a condition of
26 receiving funds from the program, shall ensure the involvement
27 of the California Conservation Corps and certified community
28 conservation corps in the delivery of projects and services funded
29 in whole or in part by funds made available by the program.

30 SEC. 25. Section 2103.1 is added to the Streets and Highways
31 Code, to read:

32 2103.1. (a) Notwithstanding Section 2103, the revenues
33 transferred to the Highway Users Tax Account pursuant to Sections
34 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code
35 shall be distributed pursuant to the formula in paragraph (3) of
36 subdivision (a) of Section 2103.

37 (b) Notwithstanding subdivision (b) of Section 2103, the portion
38 of revenues in the Highway Users Tax Account attributable to the
39 increase in the motor vehicle fuel excise tax by seventeen cents
40 (\$0.17) per gallon pursuant to subdivision (a) of Section 7360 of

1 the Revenue and Taxation Code, as adjusted pursuant to
2 subdivision (c) of that section, shall be transferred to the Road
3 Maintenance and Rehabilitation Account pursuant to Section 2031.

4 (c) Notwithstanding subdivision (b) of Section 2103, the portion
5 of revenues in the Highway Users Tax Account attributable to the
6 increase in the diesel fuel excise tax by thirty cents (\$0.30) per
7 gallon pursuant to subdivision (b) of Section 60050 of the Revenue
8 and Taxation Code, as adjusted pursuant to subdivision (c) of that
9 section, shall be transferred to the Trade Corridors Improvement
10 Fund pursuant to Section 2192.4.

11 SEC. 26. Section 2192 of the Streets and Highways Code is
12 amended to read:

13 2192. (a) (1) The Trade Corridors Improvement Fund, created
14 pursuant to subdivision (c) of Section 8879.23 of the Government
15 Code, is hereby continued in existence to receive revenues from
16 state sources other than the Highway Safety, Traffic Reduction,
17 Air Quality, and Port Security Bond Act of 2006.

18 (2) Revenues apportioned to the state under Section 167 of Title
19 23 of the United States Code from the national highway freight
20 program, pursuant to the federal Fixing America's Surface
21 Transportation Act ("FAST Act," Public Law 114-94) shall be
22 allocated for projects approved pursuant to this chapter.

23 (b) This chapter shall govern the expenditure of those state and
24 federal revenues described in subdivision (a).

25 (c) The funding described in subdivision (a) shall be available
26 upon appropriation for allocation by the California Transportation
27 Commission for infrastructure improvements in this state on
28 federally designated Trade Corridors of National and Regional
29 Significance, on the Primary Freight Network, and along other
30 corridors that have a high volume of freight movement, as
31 determined by the commission. In determining the projects eligible
32 for funding, the commission shall consult the Transportation
33 Agency's state freight plan as described in Section 13978.8 of the
34 Government Code and the trade infrastructure and goods movement
35 plan submitted to the commission by the Secretary of
36 Transportation and the Secretary for Environmental Protection.
37 The commission shall also consult trade infrastructure and goods
38 movement plans adopted by regional transportation planning
39 agencies, adopted regional transportation plans required by state
40 and federal law, and the applicable port master plan when

1 determining eligible projects for funding. Eligible projects for
2 these funds include, but are not limited to, all of the following:

3 (1) Highway capacity improvements, rail landside access
4 improvements, landside freight access improvements to airports,
5 and operational improvements to more efficiently accommodate
6 the movement of freight, particularly for ingress and egress to and
7 from the state’s land ports of entry, rail terminals, and seaports,
8 including navigable inland waterways used to transport freight
9 between seaports, land ports of entry, and airports, and to relieve
10 traffic congestion along major trade or goods movement corridors.

11 (2) Freight rail system improvements to enhance the ability to
12 move goods from seaports, land ports of entry, and airports to
13 warehousing and distribution centers throughout California,
14 including projects that separate rail lines from highway or local
15 road traffic, improve freight rail mobility through mountainous
16 regions, relocate rail switching yards, and other projects that
17 improve the efficiency and capacity of the rail freight system.

18 (3) Projects to enhance the capacity and efficiency of ports.

19 (4) Truck corridor and capital and operational improvements,
20 including dedicated truck facilities or truck toll facilities.

21 (5) Border capital and operational improvements that enhance
22 goods movement between California and Mexico and that
23 maximize the state’s ability to access funds made available to the
24 state by federal law.

25 (6) Surface transportation and connector road improvements to
26 effectively facilitate the movement of goods, particularly for
27 ingress and egress to and from the state’s land ports of entry,
28 airports, and seaports, to relieve traffic congestion along major
29 trade or goods movement corridors.

30 (d) (1) Except as provided in paragraph (2), the commission
31 shall allocate the funding described in subdivision (a) for trade
32 infrastructure improvements consistent with Section 8879.52 of
33 the Government Code and the Trade Corridors Improvement Fund
34 (TCIF) Guidelines adopted by the commission on November 27,
35 2007, or as amended by the commission, and in a manner that (A)
36 addresses the state’s most urgent needs, (B) balances the demands
37 of various land ports of entry, seaports, and airports, (C) provides
38 reasonable geographic balance between the state’s regions, (D)
39 places emphasis on projects that improve trade corridor mobility
40 and safety while reducing emissions of diesel particulate and other

1 pollutant emissions and reducing other negative community
2 impacts, and (E) makes a significant contribution to the state's
3 economy.

4 (2) The commission shall allocate the federal freight funding,
5 specifically, pursuant to the original TCIF Guidelines, as adopted
6 by the commission on November 27, 2007, and in the manner
7 described in (A) to (E), inclusive, of paragraph (1).

8 (3) In addition, the commission shall also consider the following
9 factors when allocating these funds:

10 (A) "Velocity," which means the speed by which large cargo
11 would travel from the land port of entry or seaport through the
12 distribution system.

13 (B) "Throughput," which means the volume of cargo that would
14 move from the land port of entry or seaport through the distribution
15 system.

16 (C) "Reliability," which means a reasonably consistent and
17 predictable amount of time for cargo to travel from one point to
18 another on any given day or at any given time in California.

19 (D) "Congestion reduction," which means the reduction in
20 recurrent daily hours of delay to be achieved.

21 SEC. 27. Section 2192.1 of the Streets and Highways Code is
22 amended to read:

23 2192.1. (a) To the extent moneys from the Greenhouse Gas
24 Reduction Fund, attributable to the auction or sale of allowances
25 as part of a market-based compliance mechanism relative to
26 reduction of greenhouse gas emissions, are transferred to the Trade
27 Corridors Improvement Fund, projects funded with those moneys
28 shall be subject to all of the requirements of existing law applicable
29 to the expenditure of moneys appropriated from the Greenhouse
30 Gas Reduction Fund, including, but not limited to, all of the
31 following:

32 (1) Projects shall further the regulatory purposes of the
33 California Global Warming Solutions Act of 2006 (Division 25.5
34 (commencing with Section 38500) of the Health and Safety Code),
35 including reducing emissions from greenhouse gases in the state,
36 directing public and private investment toward disadvantaged
37 communities, increasing the diversity of energy sources, or creating
38 opportunities for businesses, public agencies, nonprofits, and other
39 community institutions to participate in and benefit from statewide
40 efforts to reduce emissions of greenhouse gases.

1 (2) Projects shall be consistent with the guidance developed by
2 the State Air Resources Board pursuant to Section 39715 of the
3 Health and Safety Code.

4 (3) Projects shall be consistent with the required benefits to
5 disadvantaged communities pursuant to Section 39713 of the
6 Health and Safety Code.

7 (b) All allocations of funds made by the commission pursuant
8 to this section shall be made in a manner consistent with the criteria
9 expressed in Section 39712 of the Health and Safety Code and
10 with the investment plan developed by the Department of Finance
11 pursuant to Section 39716 of the Health and Safety Code.

12 (c) For purposes of this section, “disadvantaged community”
13 means a community with any of the following characteristics:

14 (1) An area with a median household income less than 80
15 percent of the statewide median household income based on the
16 most current census tract-level data from the American Community
17 Survey.

18 (2) An area identified by the California Environmental
19 Protection Agency pursuant to Section 39711 of the Health and
20 Safety Code.

21 (3) An area where at least 75 percent of public school students
22 are eligible to receive free or reduced-price meals under the
23 National School Lunch Program.

24 SEC. 28. Section 2192.2 of the Streets and Highways Code is
25 amended to read:

26 2192.2. The commission shall allocate funds made available
27 by this chapter to projects that have identified and committed
28 supplemental funding from appropriate local, federal, or private
29 sources. The commission shall determine the appropriate amount
30 of supplemental funding each project should have to be eligible
31 for moneys based on a project-by-project review and an assessment
32 of the project’s benefit to the state and the program. Funded
33 improvements shall have supplemental funding that is at least equal
34 to the amount of the contribution under this chapter. The
35 commission may give priority for funding to projects with higher
36 levels of committed supplemental funding.

37 SEC. 29. Section 2192.4 is added to the Streets and Highways
38 Code, to read:

39 2192.4. Notwithstanding subdivision (b) of Section 2103, the
40 portion of the revenues in the Highway Users Tax Account

1 attributable to the increase in the diesel fuel excise tax by thirty
2 cents (\$0.30) per gallon pursuant to subdivision (b) of Section
3 60050 of the Revenue and Taxation Code, as adjusted pursuant to
4 subdivision (c) of that section, shall be deposited in the Trade
5 Corridors Improvement Fund.

6 SEC. 30. Section 9250.3 is added to the Vehicle Code, to read:

7 9250.3. (a) In addition to any other fees specified in this code
8 or the Revenue and Taxation Code, commencing 120 days after
9 the effective date of the act adding this section, a registration fee
10 of thirty-eight dollars (\$38) shall be paid to the department for
11 registration or renewal of registration of every vehicle subject to
12 registration under this code, except those vehicles that are expressly
13 exempted under this code from payment of registration fees.

14 (b) Beginning July 1, 2019, and every third year thereafter, the
15 Department of Motor Vehicles shall adjust the fee imposed under
16 this section for inflation in an amount equal to the change in the
17 California Consumer Price Index for the prior three-year period,
18 as calculated by the Department of Finance, with amounts equal
19 to or greater than fifty cents (\$0.50) rounded to the next highest
20 whole dollar.

21 (c) Revenues from the fee, after the deduction of the
22 department's administrative costs related to this section, shall be
23 deposited in the Road Maintenance and Rehabilitation Account
24 created pursuant to Section 2031 of the Streets and Highways
25 Code.

26 SEC. 31. Section 9250.6 is added to the Vehicle Code, to read:

27 9250.6. (a) In addition to any other fees specified in this code,
28 or the Revenue and Taxation Code, commencing 120 days after
29 the effective date of the act adding this section, a registration fee
30 of one hundred and sixty-five dollars (\$165) shall be paid to the
31 department for registration or renewal of registration of every
32 zero-emission motor vehicle subject to registration under this code,
33 except those motor vehicles that are expressly exempted under
34 this code from payment of registration fees.

35 (b) Beginning July 1, 2019, and every third year thereafter, the
36 Department of Motor Vehicles shall adjust the fee imposed under
37 this section for inflation in an amount equal to the change in the
38 California Consumer Price Index for the prior three-year period,
39 as calculated by the Department of Finance, with amounts equal

1 to or greater than fifty cents (\$0.50) rounded to the next highest
2 whole dollar.

3 (c) Revenues from the fee, after deduction of the department’s
4 administrative costs related to this section, shall be deposited in
5 the Road Maintenance and Rehabilitation Account created pursuant
6 to Section 2031 of the Streets and Highways Code.

7 (d) This section does not apply to a commercial motor vehicle
8 subject to Section 9400.1.

9 (e) The registration fee required pursuant to this section does
10 not apply to the initial registration after the purchase of a new
11 zero-emission motor vehicle.

12 (f) For purposes of this section, “zero-emission motor vehicle”
13 means a motor vehicle as described in subdivisions (c) and (d) of
14 Section 44258 of the Health and Safety Code, or any other motor
15 vehicle that is able to operate on any fuel other than gasoline or
16 diesel fuel.

17 SEC. 32. Section 9400.5 is added to the Vehicle Code, to read:

18 9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and
19 42205 of this code, Sections 16773 and 16965 of the Government
20 Code, Section 2103 of the Streets and Highways Code, or any
21 other law, weight fee revenues shall only be transferred consistent
22 with the schedule provided in subdivision (b) from the State
23 Highway Account to the Transportation Debt Service Fund, the
24 Transportation Bond Direct Payment Account, or any other fund
25 or account for the purpose of payment of the debt service on
26 transportation general obligation bonds and shall not be loaned to
27 the General Fund.

28 (b) (1) The transfer of weight fee revenues, after deduction of
29 collection costs, from the State Highway Account pursuant to
30 subdivision (a) shall not exceed:

31 (A) 80 percent of the total weight fees in the 2017–18 fiscal
32 year.

33 (B) 60 percent of the total weight fees in the 2018–19 fiscal
34 year.

35 (C) 40 percent of the total weight fees in the 2019–20 fiscal
36 year.

37 (D) 20 percent of the total weight fees in the 2020–2021 fiscal
38 year.

1 (2) No weight fees, after deduction of collection costs, shall be
2 transferred from the State Highway Account after the 2020–21
3 fiscal year.

4 SEC. 33. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to provide additional funding for road maintenance and
9 rehabilitation purposes as quickly as possible, it is necessary for
10 this act to take effect immediately.

O



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 15, 2016

Subject: Appeal of County Planning Commission Approvals of County Files LP13-2095 & LP15-2040 (Diablo MX Ranch Motocross Park)

RECOMMENDATION(S):

1. OPEN the public hearing and receive testimony on the appeals of the County Planning Commission’s approval of the Diablo MX Ranch Motocross Park project.
2. CLOSE the public hearing.
3. DETERMINE that the Diablo MX Ranch Motocross Park project is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15301 (existing facilities) and 15304 (minor alterations to land) and DIRECT the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk.
4. DENY the appeal by the Law Offices of David W. Trotter, representing project opponents, of the County Planning Commission’s July 26, 2016 decision to approve a land use permit modification for the Diablo MX Ranch Motocross Park.
5. APPROVE a land use permit modification for the Diablo MX Ranch Motocross Park (County File #LP15-2040), including the permit’s growth management performance standards, findings, and conditions of approval (Exhibit #17).
6. APPROVE the revised Diablo MX Ranch Motocross Park site plan received on October 8, 2015 (Exhibit #2).

<input checked="" type="checkbox"/> APPROVE	<input type="checkbox"/> OTHER
<input checked="" type="checkbox"/> RECOMMENDATION OF CNTY ADMINISTRATOR	<input type="checkbox"/> RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Gary Kupp, (925) 674-7799

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

By: , Deputy

cc:

RECOMMENDATION(S): (CONT'D)

7. DETERMINE that the Board's approval of the Diablo MX Ranch Motocross Park land use permit satisfies the compliance review requirements of Motocross Park Use Permit #LP95-2020, and DENY the appeal by the Law Offices of David W. Trotter, representing project opponents, of the County Planning Commission's May 12, 2015 compliance review decision on Motocross Park Use Permit #LP95-2020. (County File #LP13-2095.)

FISCAL IMPACT:

None. The applicants/owners are required to pay any additional costs above the initial application deposit associated with processing the applications.

BACKGROUND:

PROJECT INFORMATION

County Files: #LP15-2040 and #LP13-2095

Applicant/Owner: John & Lori Ramirez / James & Dorothy Schmidt

Appellant: Law Office of David W. Trotter (representing project opponents)

General Plan/Zoning: Agricultural Lands (AL) / Heavy Agricultural District (A-3)

Site Address/Location: 50 Camino Diablo Road, Brentwood, CA

Assessor Parcel Number: APN 003-020-048

California Environmental Quality Act (CEQA) Status: Categorically Exempt

Project is exempt under Class 1 and Class 4 categorical exemptions pursuant to CEQA Sections 15301 and 15304.

PROJECT OVERVIEW/HISTORY

2013 Compliance Review (County File #LP13-2095)

The Land Use Permit for the operation of the motorcycle park was approved by the County on November 2, 1998. The park operated prior to 1998 under a permit approved by the County on June 13, 1974. The property was purchased on March 28, 2014 by the current owners, James and Dorothy Schmidt and John and Lori Ramirez. The property owners intend to operate the park as a family business open to customers, as allowed by the current land use entitlement.

Condition #1 of the approved Land Use Permit #LP95-2020 (Exhibit #1) states that "...the applicant [is] to initiate and fund 5-year reviews for compliance by the Zoning Administrator in a public hearing..." The required compliance review was applied for on August 7, 2013 as Compliance Review #LP13-2095, and was determined by the Zoning Administrator on December 15, 2014 to meet the conditions as approved in 1995.

On December 24, 2014, an appeal of the Zoning Administrator's decision to approve Compliance Review #LP13-2095 to the County Planning Commission was filed by the Law Office of David W. Trotter. Accordingly, on May 12, 2015, the Planning Commission held an appeal hearing, during which they voted to uphold the Zoning Administrator's approval of Compliance Review #LP13-2095, and deny the appeal. On May 22, 2015, an appeal to the Board of Supervisors was filed by the Law Office of David W. Trotter on the grounds of non-compliance with the conditions of approval.

Prior to proceeding with the appeal hearing for Compliance Review #LP13-2095 before the Board of Supervisors, the applicants submitted application #LP15-2040 to modify the conditions of approval for Land Use Permit

#LP95-2020 for the purpose of addressing the concerns of the appellants by reducing the park’s hours of operation and to present a more accurate site plan (Exhibit #2) that is consistent with the approved site plan that is on file (Exhibit #3). On July 26, 2016, the Planning Commission held a hearing to consider the permit modifications proposed under application #LP15-2040 and approved the modifications unanimously, which decision was subsequently appealed by the Law Office of David W. Trotter on August 1, 2016. All of the opponents’ previous and current appeal points are being addressed herein.

2015 Land Use Permit Modification (County File #LP15-2040)

The applicants propose to modify County File #LP95-2020 for the continued operation of an off-road recreational motorcycle facility and seek approval of (1) a revised site plan to show the relocation of the central oval racetrack to an area on the property consistent with the location approved by LP95-2020, (2) to modify the conditions of approval for LP95-2020, and (3) a grading permit for 15,000 cubic yards of dirt for the relocation of the oval track and for abatement of non-permitted motorcycle tracks constructed by the original property owners.

The table below summarizes the proposed changes to the land use permit.

	Existing Conditions LP95-2020	Proposed New Conditions LP15-2040
Noise Emissions	Submit a noise impact study performed by a qualified acoustical engineer. The study should be based on noise levels generated by the first scheduled racing event on the oval. The study shall measure noise levels along the east boundary of the Davis property (Parcel 003-020-033). If noise levels exceed the land use compatibility standards prescribed in the Noise Element, mitigation measures shall be provided to reduce the sound levels to within appropriate levels at the Davis property line.	Average noise levels generated motorcycle/go cart riding and racing activities shall not exceed the community noise exposure level of 75 decibels specified by the General Plan for agricultural areas, and shall not exceed those specified in the analysis of the March 8, 2016 project noise study. For formalized racing events, no more than 25 riders will be allowed on the main track at a time, and no more than 13 riders will be allowed on the oval track. The park operator shall maintain a log of riders for all formalized racing events. Race heats shall be conducted on one track at a time to avoid simultaneous heats on both tracks in order to reduce noise levels.
Permit and Compliance Review	This use is approved for 25 years with the applicant to initiate and fund five (5) year reviews for the compliance by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of site and individuals expressing interest in the project. Before the end of each 5-year review period, the applicant shall submit a report detailing the steps taken to comply with the approval dictates. The first such submittal shall be made prior to November 1, 2003. The permit shall expire November 16, 2028. The applicant is responsible for costs associated with the 5-year review.	The park operator and/or property owners shall submit an application for a compliance review annually for three (3) years, then every five (5) years thereafter. A report detailing the steps taken to comply with the conditions of approval shall accompany the application. The applicant is responsible for costs associated with the compliance reviews. A deposit/fee in the amount of \$1000.00 (subject to time and materials) will be filed with the compliance review application to allow for review of the conditions of approval. Compliance shall be determined by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of the site and to any individuals or parties expressing interest in the project.

Hours of Operation	<ol style="list-style-type: none"> 1. Motorcycle activity is permitted 7 days a week but limited to the hours of 8 a.m. - 7 p.m. or sundown, whichever comes first. 2. The lighted race track may be used on Friday or Saturday from 7 p.m. to 11 p.m. (Potential 4-5 times per month) 3. Motorcycle racing shall be limited to Saturdays, Sundays and holidays except that no racing or motorcycle activity shall be allowed on Thanksgiving or Christmas. 4. Racing events are permitted every weekend (potential of 8-10 times per month). 	<ol style="list-style-type: none"> 1. Recreational and practice riding activities on the main track and the lighted oval track is permitted 5 days a week (Thursday-Monday) and shall be limited to the hours of 8 a.m. - 7 p.m. or sundown, whichever comes first. 2. The lighted oval track may be used for late night recreational riding until 10 p.m., but no more than two (2) days per calendar month on a Friday or Saturday if no racing events are scheduled in the same month, and the park shall be emptied by 11 p.m. 3. Tuesdays and Wednesdays shall be "quiet days with no riding activities allowed by customers, or for the property owners' private use or otherwise. 4. All motorcycle racing events on the main track and the lighted oval track shall be allowed on one night per weekend (Saturday and Sunday) and on holidays, but not to exceed two (2) racing events per calendar month. No motorcycle activity or racing shall be allowed on Thanksgiving or Christmas. Racing hours shall be limited from 8 a.m. - 7 p.m. or sundown, whichever comes first
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APPEAL DISCUSSION

On August 1, 2016, an appeal of the County Planning Commission’s approval of County File #LP15-2040 was filed by the Law Office of David W. Trotter, representing project opponents, for the reasons set forth in their letter of appeal (Exhibit #4). The main points of the appeal letter are as follows and are expanded in depth within the Staff Responses.

- (1) Land Use Permit #LP95-2020 has expired due to non-operation of the park.
- (2) Project noise impacts are inconsistent with the General Plan and were not properly evaluated.
- (3) The project is not exempt from CEQA.
- (4) The subject property is smaller than it was when LP95-2020 was originally approved.
- (5) Excessive nighttime use of the lighted oval track is being allowed.

STAFF RESPONSES

(1) VALIDITY OF THE LAND USE PERMIT

The appellants assert that Land Use Permit #LP95-2020 is void and has been terminated by operation of law because the motocross park has been closed to the public for more than six months. The appellants cite Ordinance Code Section 26-2.2016, which states:

“If a use is established according to the terms and conditions of a permit and the use is discontinued for any reason for a period of six months, the permit shall become void and the use will not be resumed. Upon application during the six months period by the owner and upon a showing of good cause the director of planning may grant an extension not to exceed a total of six months.”

The Land Use Entitlement Is Still In Effect And Not Expired

Once a property owner obtains a land use permit and begins operating under the permit, the property owner has a vested right to continue the use on the property. Subsequent property owners also have a vested right to continue the use on the property because a land use permit runs with the land. Courts have held that even if an ordinance provides for the automatic termination of a land use permit, the rights granted under a land use permit cannot be terminated unless the agency holds a hearing to revoke the permit. *Community Development Commission v. City of Fort Bragg*, (1988) 204 Cal. App. 3d.1124). To revoke a land use permit for non-use, an agency must find that the property owner did not intend to continue the use and did not take any steps during the period of non-use to resume the use. Inactivity is not the sole consideration. For instance, it is very common for gas stations to close for indefinite periods of time for environmental remediation, or due to the sale of the property, and reopen at a later date. In these cases, staff typically does not hold a public hearing to seek to terminate the land use permit or require a new one in order to reopen if the intent to continue to use the property as a gas station is still apparent. If the gas station's infrastructure, such as buildings, canopies, pumps, etc., is still available, then the use is still valid.

Here, the evidence shows that even though the motocross park was not open to the public for a period of time, property owners did not intend to discontinue the use and took steps to re-open the park to the public. There was intent to continue to use the property as a motocross park since the tracks and other aspects of the motocross park remained in place, and small motocross classes were held at the park when the park was not open to the public. In addition, the applicants have been actively pursuing compliance with the conditions of approval for Land Use Permit #LP95-2020. After the property was sold at auction in May of 2012, the interim property owners requested an extension of the land use permit based on Section 26-2.2016. Although an extension under Section 26-2.2016 was not required since the intent to continue use of the park for motocross recreation was evident, a permit extension was granted.

The following timeline of events is provided as additional evidence to show that the land use permit has not expired.

- August 6, 2012—Sandhill Ranch Motocross announces that they are officially closed to the public (Exhibit #5).
- December 3, 2012—(4 months after closure) The interim property owners apply for a 6-month extension pursuant to County Code Section 26-2.2016.
- March 5, 2013—The County grants a 6-month extension for a time period extending from February 6, 2013 until August 6, 2013.
- May of 2013—(3 months into extension period) Motorcycle training classes for paying customers commence on the subject property, thus establishing that the use was resumed in a timely manner pursuant to Section 26-2.2016 (Exhibit #6, see Page 9).
- August 7, 2013—The interim property owners submit an application for the 5-year Compliance Review #LP13-2095 and pay the required fees and submit documentation confirming that the use was resumed in May of 2013 and briefly in December of 2012 (Exhibit #6, see Page 8). This action served to further validate that the use was not void, and the change in business owners/operators did not invalidate Land Use Permit #LP95-2020.
- March 28, 2014—The subject property is purchased by the current owners, James and Dorothy Schmidt and John and Lori Ramirez with the intent to operate the motorcycle park as a family business and open it to paying customers under the business name of Diablo MX Ranch (Exhibit #7).
- March 28, 2014 through December 1, 2014—The applicants take over the responsibility of completing the required 5-year Compliance Review #LP13-2095 and actively pursue compliance with the conditions of the permit by paying all required County fees and hiring various consultants, engineers, and contractors to help them bring the property into compliance with the permit. Even though the park has not been open to the public since being purchased by the applicants, Land Use Permit #LP95-2020 is considered valid by diligent

and continued efforts to comply with the conditions of approval.

- December 5, 2014—A letter from appellant Linda Thuman (Exhibit #8, see Page 1) confirms that the use was reinitiated in the form of motorcycle training classes. A quote from page 1 of the Thuman letter states that, “...*it is our opinion that Sand Hill has been closed for over two years. During that time there was occasional, very quiet motorcycle classes that took place.*” The December 5, 2014 Thuman letter corroborates that the property was being used for motorcycle activities during the time in question, thus further confirming the continued intent and exercise of the land use permit.
- December 15, 2014—The Zoning Administrator finds the motorcycle facility to be in compliance with the conditions of approval with Land Use Permit #LP95-2020 and approved this 5-year compliance review.
- May 12, 2015—The Planning Commission held an appeal hearing, during which they voted to uphold the Zoning Administrator’s December 15, 2014 decision and found the motorcycle facility to be in compliance with the conditions of approval for Land Use Permit #LP95-2020.

(2) NOISE EVALUATION

A 75 decibel noise threshold for determining whether the project would have any significant noise impacts was applied to the project, because the project is located on land with a General Plan designation of "Agricultural Lands" (AL). The appellants claim that reliance on the General Plan’s 75 decibel noise exposure standard for agricultural properties is incorrect. The appellants claim that the surrounding properties are residential areas, and the project should therefore be subject to a 60 decibel noise exposure standard.

The Project And Associated Noise Emmissions Are Consistent With The General Plan And Zoning

The 75 decibel noise threshold is consistent with the General Plan’s Noise Element and is the appropriate noise standard for projects in agricultural areas. The subject parcel has the General Plan land use designation of Agricultural Lands (AL), and is located within the Heavy Agricultural (A-3) zoning district. The subject property and surrounding properties are agricultural properties, and the Noise Element of the General Plan establishes an acceptable community noise exposure level of 75 decibels for agricultural properties (Exhibit #9). The General Plan further states that “extensive recreational facilities”, such as the Diablo MX Ranch motorcycle recreation park, may be allowed in agricultural areas that are designated Agricultural Lands by issuance of a land use permit. The proposed modifications are also consistent with Section 84-38.404(20) of the of the Zoning Ordinance, which allows outdoor commercial recreational facilities in the A-3 zoning district with approval of a land use permit. In the case of this modification application, the continued operation of the existing outdoor motorcycle recreational facility is consistent with the intent and standards of both the Heavy Agricultural A-3 zoning district and the General Plan’s agricultural designation of the subject property.

Noise Was Properly Considered And Evaluated Pursuant To The Noise Element Of The General Plan

Staff required the property owners to provide a noise study to determine if the proposed modifications would be consistent with the Noise Element of the General Plan and to determine if any noise mitigations were warranted. The applicant’s noise study was peer-reviewed by an independent third party acoustical consultant retained by the County (Exhibit #10). The peer-review concluded that the appropriate methodology was used for project noise study and the calculated noise levels presented in the report are reasonable. The noise study concluded that the motorcycle park’s noise levels will not exceed the 75 decibel noise standard of the General Plan’s Noise Element, and noise mitigation(s) are not required for the project as proposed.

The project noise study, dated March 8, 2016 (Exhibit #11), was prepared by Wilson Irhig, an acoustical and noise consulting firm. The purpose of the study was to determine the typical noise levels to be expected from dirt bike activity at the facility and evaluate them against the 75 decibel noise exposure level cited in the General Plan for agricultural areas. The study addressed four different scenarios for motorcycle activity: weekend race days, weekend non-race practice/recreational riding, weekday practice/recreational riding, and an occasional riding event called “Friday (or Saturday) Night Under the Lights”. These four activities were determined to have the potential to produce the most intensive noise levels. The following discussion presents an overview of the noise

study and its conclusions.

Noise Study Overview

Simulated race day and practice/recreational riding were conducted with the participation of approximately 50 volunteer riders over a four-hour period on January 28, 2016, and the sound levels of these activities were measured by Wilson Irhig personnel. The project opponents were solicited for permission to place noise measuring devices on their properties, but permission was not granted. Therefore, the noise levels were measured at the property lines of the subject property, which in actuality provides a more conservative measurement of the noise, since it can be reasonably assumed that any noise measurements taken farther out from the subject property boundaries would have been lower. Five measurement locations were setup around the property lines, with measurement Location 4 generally receiving the highest sound levels (see Exhibit #12 for measurement locations).

Noise Study Results

Weekend Race Day Noise Levels: The noise study indicated that a weekend race day event would generate the loudest noise with a maximum level of 73 decibels, measured at Location 4. The other measurement locations measured noise levels between 60 to 69 decibels for a weekend race day event.

Weekend Recreational/Practice Noise Levels: The results of the analysis for a typical non-race weekend indicates that the maximum noise level at Location 4 would be 68 decibels, and the results at the other four measurement locations indicate that noise levels would range from 58 to 64 decibels.

Weekday Recreational/Practice Noise Levels: The results of the analysis for a typical weekday recreational/practice riding day indicated lower noise levels due to shorter hours of activity, with a noise level at Location 4 of 64 decibels. The noise levels at the other four measurement locations ranged from 54 to 60 decibels.

Friday Night Under the Lights Noise Levels: The results of the analysis for a “Friday (or Saturday) Night Under the Lights” event indicated a noise level of 60 decibels at Locations 1 and 5. The results at the other three measurement locations indicate expected noise levels to range from 52 to 57 decibels.

Estimated Noise Levels at Nearby Residences (see Exhibit #13 for residence locations): The neighboring residences are located farther out from the measurement locations, so the noise levels would therefore be lower at the residence locations. The noise levels were estimated to range from 58 to 61 decibels at Residence 2 for a typical weekend race day event; the noise level estimated for the other residences would range from 55 to 60 decibels. For weekend and weekday recreational/practice riding, the levels would be lower. For the “Friday (or Saturday) Night Under the Lights” event, the highest noise level is estimated to be 60 decibels at Residences 1 and 4 and even lower at the other residences. General Plan Figure 11-6 (see again Exhibit #9) establishes community noise levels ranging from 60 to 65 decibels as “normally acceptable” for residential land use categories. The results of the noise study demonstrate that the project noise impacts to the neighboring residences can be expected to range from 55 to 61 decibels for the most noise-intensive racing events, and even lower for non-race activity. Based on this data, the project conforms to noise standards of the General Plan for both agricultural and residential land uses, though as stated previously, the applicable standard in this case is for agricultural land use.

Noise Study Conclusion

The results of the noise study show that the maximum noise levels would occur during a weekend race day scenario, due to a higher number of riders and a longer duration of riding activities than that of a typical non-race recreational/practice riding day. The predicted noise levels at all the modeled property line locations for the neighboring residences is below the Noise Element guideline of 75 decibels, which is considered “normally acceptable” for areas with a General Plan designation of Agricultural Lands; therefore, no mitigation measures for noise were recommended by the acoustical engineer.

It should also be noted that the appellants submitted a sound report dated October 20, 2015, prepared by Charles

M. Salter Associates (Exhibit #14). The opponents' sound report was also peer-reviewed (see again Exhibit #10) by Illingworth & Rodkin, Inc., the County-retained acoustical consultant who concluded that the report only presented ambient noise measurements and that the report assumes that the project is subject to a 60 decibel noise exposure level for residential land uses. As part of this appeal, the project opponents submitted a new document with comments on the project noise study (Exhibit #15); these comments have not been peer reviewed.

No Noise Mitigation Measures Are Required

The appellants have assumed that the project is subject to the General Plan Noise Element's 60 decibel noise exposure level for residential land uses. The project is not a residential project, nor is the project site located in a residential zoning district, but rather the project site is located, and the neighboring properties, are an agricultural zoning district and have an agricultural General Plan designation, and therefore, the 75 decibel General Plan noise exposure level for agricultural areas is the appropriate standard for the project. The proposal also includes a reduction of the hours of operation of the park. By proposing to reduce the hours of operation and reducing the days open from 7 days to 5 days per week, the intensity of the land use is lessened. Thus, the results of the sound study along with the reduced hours of operation of the park will ensure the noise levels generated by the facility, are consistent with the General Plan and thus no mitigation measures are warranted.

The Project Is Not Subject To The 60 Decibel Noise Control Program

The appellants claim that the project is subject to the 60 Decibel Noise Control special program. The "60 Decibel Noise Control" box on the Agency Comment Request form was checked by the intake planner at the time the application was submitted because the county GIS indicated the presence of a 60 decibel noise contour in the vicinity of the project area. This was to alert other agencies and departments to the presence of the 60 decibel noise contour should they have any comments or concerns regarding noise. It does not limit the project to 60 decibels. The northern frontage of the subject property is situated within the Camino Diablo Road 60 decibel noise contour, which informs the Department of Conservation and Development staff that Camino Diablo Road generates high noise levels. Pursuant to the General Plan, the 60 decibel noise contour is taken into account when considering projects proposing **new residential development**. The 60 decibel noise contour was established to identify **residential projects** that could potentially be impacted by noise. As discussed previously, **the proposed project is not a residential project, nor is the project site located in a residential zoning district**, and the noise-generating activities of the motorcycle park will take place entirely outside the boundary of the Camino Diablo noise contour.

The Project Is Not Required To Conform To The Noise Thresholds Of The Brentwood Rod & Gun Club And Keller Canyon Landfill Projects

The appellants cite two different projects that used lower noise thresholds—the Brentwood Rod & Gun Club and the Keller Canyon Landfill projects. A lower standard of 63 decibels was proposed to be applied to the Brentwood Road & Gun Club project that was proposed next-door to the subject parcel on a property that is also zoned A-3 and Agricultural Land under the General Plan. The County applied a 63 decibel standard to that proposal because the noise from the gun club would be "impulsive gun noise." Impulsive gun noise is a different type of noise compared to the noise generated by a motocross track. Impulsive noise is considered more annoying and startling than vehicle noise. In the case of the gun club project, a lower limit of 63 decibels was proposed based on research and studies that indicated that human ears are more sensitive to gun shot noise. But 63 decibels was not intended to supersede the noise standards of the General Plan, nor was it meant to apply to all projects in agricultural areas. In fact, the Brentwood Rod & Gun Club draft Environmental Impact Report (EIR) acknowledges that 75 decibels is the applicable noise standard for agricultural properties.

In the case of the Keller Canyon Landfill, it was determined that the maximum projected operational noise levels would be approximately 52 decibels, so it appears that the project was conditioned with a noise cap of 60 decibels (ref. LP2020-89, COA #21.2), based on the low expected noise impacts. In addition, the Keller Canyon landfill is not located in an area designated by the General Plan as "Agricultural Land."

Conversely, this project does not propose any new noise sources or changes that would intensify noise, but rather

proposes to reduce noise impacts. This project is also different in that the subject motorcycle park is a long-established existing land use that was established in 1973 when there were no residences in proximity; the Rod & Gun Club, in contrast, was a new project proposed in the vicinity of existing residences that would have presented a different type of noise impact. The project proposes to only modify the conditions of approval of the existing land use permit for the park, and furthermore, the proposed modifications will reduce the daily hours of operation of the park, and will reduce the days open from 7 days to 5 days per week, which will effectively reduce the noise impacts produced by the park and establish a more restrictive permit.

Consideration of applicable noise standards is governed by the General Plan, and every project is reviewed individually. If a lower noise standard was found to be more appropriate in the case of one or two other projects, it does not imply that all subsequent projects are bound to that standard as well. In the case of this modification application, the continued operation of the existing outdoor motorcycle recreational facility is consistent with the intent and standards of both the Heavy Agricultural A-3 zoning district and the General Plan's agricultural designation of the subject property, the application of the 75 decibel noise exposure standard for agricultural properties is appropriate.

(3) CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) STATUS AND ENVIRONMENTAL REVIEW

The appellants claim that the Class 1 exemption relied upon for the Planning Commission's approval of the project was contrary to CEQA because the project has a "reasonable possibility of resulting in a significant effect" on the environment due to extreme noise impacts.

The Proposed Grading Activities Are CEQA Class 4 Categorically Exempt

The project applicants are also seeking a grading permit for 15,000 cubic yards of dirt for the relocation of the central oval track and for the abatement of non-permitted motorcycle tracks constructed by the original property owners. This grading constitutes a minor alteration to the land that is categorically exempt under a Class 4 CEQA exemption. The grading would be conducted entirely within previously disturbed areas that have already been approved for and used for motorcycle riding.

CEQA Class 1 Categorical Exemption Applies

The CEQA Section 15301 Class 1 categorical exemption can be applied to a project involving an existing facility where "negligible or no expansion of an existing use" is proposed. The project proposes modifications to the conditions of approval of an existing land use permit. The applicants propose to operate the facility in a manner consistent with the approved entitlement. No expansion of, or intensification of the use is proposed. The motorcycle activities and proposed grading will be conducted entirely within existing disturbed areas that have already been approved for and used for motorcycle riding since approximately 1973. The environmental impacts of the motocross park were analyzed in accordance with CEQA during the review and approval process for the existing Land Use Permit #LP95-2020, during which an Initial Study was conducted that analyzed the motocross activities in terms of their effect on various environmental categories, including biological resources, wildlife, air quality, soil/geology, water quality, noise, cultural resources, and traffic. As a result, a Negative Declaration was issued indicating that the land use would not have a significant effect on the environment (Exhibit #16).

This modification application does not propose any expansion to the existing facility, nor does it propose to intensify the land use beyond what was previously approved. In fact, the proposal includes a reduction of the hours of operation of the park. By proposing to reduce the hours of operation, and to reduce the days open from 7 days to 5 days per week, thus providing two "quiet days" per week (Exhibit #17, see proposed COAs 6 & 7), the intensity of the land use is considered to be greatly lessened, primarily in terms of noise impacts. The proposed modification application is categorically exempt, since it does not expand the current approved land use, and thereby would not increase any environmental impacts. Therefore no further CEQA review is required.

(4) REDUCED LOT SIZE

Reduced Lot Size Was Approved At Hearing In 2004

It is also noted here that the project opponents have argued that because the subject parcel is smaller than it was when the entitlement was approved in 1998, the project should again be subject to CEQA. In fact, the property is roughly half the size it was when it was originally approved for motorcycle activities in the early 1970s. The property size was first reduced by a lot line adjustment that created the abutting Harrison parcel APN #003-020-042 that was recorded on September 22, 1999 (Exhibit #18). Subsequently, the subject parcel was further reduced by County File #LP03-2067, which approved Lot Line Adjustment #LL03-0049 that established the current configuration of the property (Exhibit #19). County File #LP03-2067 was approved at a public hearing on January 5, 2004 and found to be exempt from CEQA. Lot Line Adjustment #LL03-0049 was recorded on March 16, 2004; thus, legally creating the subject parcel in its current configuration after appropriate consideration under CEQA.

(5) NIGHTTIME USE OF THE LIGHTED OVAL TRACK HAS BEEN SIGNIFICANTLY REDUCED

The appellants have claimed that nighttime use of the lighted oval track on Friday and Saturday nights is excessive. Late-night use of the lighted oval track is proposed to be reduced from 11:00 PM to 10:00 PM, and only for two calendar days per month. Under the current permit, use of the lighted oval track can be until 11:00 PM every Friday and Saturday. Also, under the current permit, racing events can be held every weekend, and the modified permit would reduce racing events to only two calendar days per month. These are very significant reductions to the hours of operation of the park that will greatly reduce the nighttime use of the facility (see again Exhibit #17). Additionally, the overall days of operation will be reduced from 7 days to 5 days per week with two quiet days where no motorcycle activity is allowed whatsoever, and the park will now open at 9:00 AM instead of 8:00 AM. The new reduced park hours of operation are also more consistent with other motocross facilities in the region (Exhibits #20 & #25)

CONSEQUENCE OF NEGATIVE ACTION:

The applicants/owners will not be able to obtain a land use permit modification.

CHILDREN'S IMPACT STATEMENT:

None. This Board Order is for an appeal of an application to modify the conditions of approval of an existing land use permit and will not affect children's programs in the County.

ATTACHMENTS

EXHIBIT #1 LP95-2020 Approved Permit and COAs

EXHIBIT #2 Proposed New Site Plan, Dated 10-8-2015

EXHIBIT #3 Current Approved Site Plan For LP95-2020

EXHIBIT #4 Trotter Letter of Appeal, Dated 8-1-2016

EXHIBIT #5 Screenshot of Sandhill Ranch Facebook Page

EXHIBIT #6 Property Owner's Statement of Use, Dated 8-2-2013

EXHIBIT #7 Schmidt Grant Deed Recorded 3-28-2014

EXHIBIT #8 Thuman Letter, Dated 12-5-2014

EXHIBIT #9 General Plan Figure 11-6 Land Use Noise Compatibility

EXHIBIT #10 Peer Review of Project Noise Study, Dated 4-12-2016

EXHIBIT #11 Project Noise Study, Dated 3-8-2016

EXHIBIT #12 Noise Measurement Locations

EXHIBIT #13 Locations of Nearby Residences Identified in Project Noise Study

EXHIBIT #14 Appellants' Ambient Noise Measurements, Dated 10-20-2015

EXHIBIT #15 Appellants' Comments on Project Noise Study, Dated 7-25-2016

EXHIBIT #16 CEQA Notice of Determination and Initial Study for LP95-2020

EXHIBIT #17 Proposed New Conditions of Approval For LP15-2040

EXHIBIT #18 1999 Lot Line Adjustment Reducing Subject Parcel Size

EXHIBIT #19 LL03-0049 Lot Line Adjustment

EXHIBIT #20 Regional Survey of Motocross Park Hours of Operation

EXHIBIT #21 CPC Resoution No. 13-2016

EXHIBIT #22 CPC Staff Report, Dated 7-26-2016

EXHIBIT #23 Pertinent Maps

EXHIBIT #24 Trotter Appeal Letter, Dated 5-22-2015

EXHIBIT #25 Hours of Operation (Existing vs. Proposed)

Staff Presentation

EXHIBIT 1

LP95-2020 Approved Permit and COAs

CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT
APPROVED PERMIT

APPLICANT: Tom Anderson
50 Camino Diablo Road
Brentwood, CA 94513

APPLICATION NO. LP952020

ASSESSOR'S PARCEL NO. 003-020-039

OWNER: Same

ZONING DISTRICT: A-3

APPROVED DATE: 11/2/98

EFFECTIVE DATE: 11/12/98

This matter not having been appealed within the time prescribed by law, a LAND USE PERMIT TO CONTINUE OPERATION OF A MOTORCYCLE RACETRACK is hereby GRANTED, subject to the attached conditions.

DENNIS M. BARRY, AICP
Community Development Director

By: 
CATHERINE KUTSURIS
Deputy Zoning Administrator

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE YEAR from the effective date if the use allowed by this permit is not established within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

DM/sc

CONDITIONS OF APPROVAL FOR LAND USE PERMIT 2020-95 AS APPROVED BY THE BOARD OF SUPERVISORS ON FEBRUARY 4, 1997, AS MODIFIED BY THE EAST COUNTY REGIONAL PLANNING COMMISSION ON NOVEMBER 2, 1998

1. This permit is issued for mechanical (motorcycle) recreation and related activities (motorcycle and go cart racing and practice) subject to the revised site plan submitted dated received October 21, 1996. The only vehicles allowed on this site for commercial recreation use are motorcycles and go-carts. Mini-sprint vehicles are allowed if they are motor cycle powered, chain driven only as long as the noise level standards are not exceeded. This permit will not be exercised until the following conditions of approval are met within the time specified. Furthermore, failure to comply with all of the conditions of approval in a timely manner may lead to the revocation of this permit. Any expansion or change in hours of operation, additional types of racing or other uses will require the approval of a new Land Use Permit.

The use is approved for 25 years with the applicant to initiate and fund five (5) year reviews for compliance by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of site and individuals expressing interest in the project. Before the end of each 5-year review period the applicant shall submit a report detailing the steps taken to comply with the approval dictates. The first such submittal shall be made prior to November 1, 2003. This permit shall expire November 16, 2028. The applicant is responsible for costs associated with the 5-year reviews.

2. Upon reconstruction of the oval to the east-central portion of the property, notify the Community Development Department a minimum of 30 days in advance of the opening of the oval for any racing event.
3. At least 30 days prior to the initial racing event on the oval, provide documentation to the Zoning Administrator that all Health Services Department requirements have been satisfied for that use. Health Services Department requirements that pertain to the moto-cross trails use shall be satisfied by December 31, 1998 or the moto-cross trails use shall cease after that date until the requirements have been met.

Please note that failure to comply with their requirements within the time period specified may result in the revocation of this permit.

4. Within 30 days of the effective date of this (1998) modified permit, the applicant shall provide evidence to the Zoning Administrator that building permits have been obtained for all structures related to motorcycle activities (i.e., the racetrack, restroom facility, concession stand, announcement booths).
5. All activities approved by this permit shall be restricted to the existing track and motocross area as indicated on the plan submitted with the application except for minor

changes subject to Zoning Administrator review and approval.

Motorcycle activity is permitted 7 days a week but limited to the hours of 8:00 A.M. to 7:00 P.M. or sundown whichever comes first, except that the lighted racetrack may be used on Friday or Saturday nights from 7:00 P.M. to 11:00 P.M. Motorcycle racing shall be limited to Saturday and Sunday and holidays except that no racing or motorcycle activity shall be allowed on Thanksgiving or Christmas. Motorcycle activity shall be confined to the tracks.

6. Within 45 days of the effective date of this (1998) modified permit, the applicant shall submit a revised site plan drawn to scale for the review and approval of the Zoning Administrator that reflects the following:

A. Removal of the "proposed future motorcycle use/sand quarry" label from the site plan.

B. A clear delineation of an 8 acre parking area set up to provide space for vehicles towing trailers drawn to scale shall be submitted for the review and approval of the Zoning Administrator. Clear location of racetrack, buildings-landscaped areas, planned trees, fences, signs, entrance road and parking areas, and a clear statement of how many vehicles are to be parked on site for any event. The site plan shall delineate the location of quarry locations and reclaimed quarry areas.

No motorcycle activity shall be permitted in either the quarry or reclaimed areas which shall be so stipulated on the revised site plan.

C. Modified hours of operation to reflect the tenure of this permit.

D. A topographic map that delineates the location of the use restriction easement held by the Contra Costa Water District.

7. Within 30 days of the effective date of this permit, complete the following:

A. Submit a Final Landscape/Irrigation Plan addressing the following concerns or meeting the following criteria. Landscaping shall be installed within 180 days of the effective date of this permit.

1) Submit a landscape/irrigation plan prepared by a licensed landscape architect, to the Community Development Department for the review and approval of the Zoning Administrator.

2) Landscaping shall conform to the County Water Conservation Ordinance 82-26 and the licensed landscape architect shall certify that the plans

comply with the ordinance improvement standards and reporting requirements.

- 3) The plan shall provide a minimum 10 foot strip of grass and vegetation (bushes/trees) either around the outer rim of the entire racetrack or the northern half of the track; and a minimum 15 foot strip of grass or vegetation along the entire southern and eastern boundary of Kellogg Creek on the subject property. Refer to staff's delineation of these vegetation areas on the attached Staff Study Map dated January 16, 1996. A row of trees shall be planted and maintained adjacent to the east boundary of the Davis property to screen views of the LP952020 site as viewed from the existing residence on the Davis property. The screen should emphasize use of evergreen trees and oleander. The spacing of trees and size of trees shall be subject to review and approval of the Zoning Administrator. The SWIPP shall specify the type of vegetation that is planned, and make provision for monitoring the success of growth. The plants shall be hardy, drought tolerant, and effective for the purposes of trapping sediment, heavy metals and other contaminants (e.g. petroleum products).

B. Provide Security in the Event of Landscape Failure

- 1) The landscaping/irrigation plan shall be accompanied by a cost estimate from the landscape architect to include the materials and labor for the proposed landscape improvements. These landscape improvements shall be designed to minimize landscape maintenance costs; and
- 2) The applicant shall (a) enter into a landscape improvement agreement and (b) either post a cash performance bond or cash deposit with the County. This agreement and security shall ensure the replacement of landscaping/irrigation in the event that the approved landscaping/irrigation fails within 24 months following installation.

C. Prior to the exercising of an approved land use permit for a motorcycle racetrack, including issuance of any ministerial permits, the landscape architect shall make an on-site inspection of the landscape/irrigation improvements and submit a written report to the Zoning Administrator that cover the following:

- 1) Acceptance of Landscape Improvements:
 - a. Certifies the completion of the landscape/irrigation plan including consideration of plant species, size and location; and

b. Requests the Zoning Administrator to accept the landscape/irrigation improvements.

D. The property owner shall maintain the approved landscaping in good condition at all times.

8. Ambulance service, first aid, and fire fighting equipment shall be provided at all races.
9. Exterior lights for the racetrack shall be deflected so that lights shine onto the applicant's property and not toward adjacent properties.
10. All signs shall be subject to the review and approval of the County Zoning Administrator prior to installation. The existing sign at the site's entrance is acceptable except that the hours of operation shall be clearly shown on the sign.
11. The off-street parking area shall be periodically sprayed with water to prevent the creation of dust. This shall be done on a weekly basis.

On those days when there are 25 or more people present at on time on the site to either run or observe recreational vehicles, the applicant will apply water as necessary to avoid fugitive dust impacts on nearby properties. The application of water will include motorcycle and go-cart track area, parking lot and driveways.

12. The application is subject to an initial application fee of \$2,700.00 which was paid with the application submittal, plus time and material costs if the application review expenses exceed 120% of the initial fee. Any additional fee due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first; or other arrangement for payment of fees agreed to by County staff. The fees include costs through permit issuance plus 5 working days for file preparation. You may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.
13. The regulations submitted with the application #341-73 for the operation of the recreation facilities shall be enforced by the applicant and made part of this permit as follows:
 - A. All riders to wear helmets and boots.
 - B. Posted speed limits to be obeyed.
 - C. Smoking allowed only in designated areas or parking lots.

- D. All vehicles to display current day's admission sticker.
 - E. All persons under the age of 18 to have a signed release from a parent or guardian.
 - F. All vehicles to leave ground by closing time.
 - G. All trash to be put in receptacles, including all trash and debris around the perimeter of the park resulting from the use.
 - H. All children under the age of 12 to be accompanied by an adult at all times.
 - I. No open fires.
 - J. No wheel stands, spinning donuts, or racing in parking lots.
 - K. No riding on graded or filled banks around parking lots or main roads.
 - L. Anyone behaving in a manner dangerous to other persons or property will be asked to leave and not come back.
 - M. No riding in or near Kellogg Creek.
 - N. All Motorcycles shall have spark arrestors and silencers.
14. The applicant shall allow the Contra Costa Water District access to survey the boundaries of the District's easement on the applicant's property. Moreover, the District may post signs on the property to advise motorcycle operators of the use restrictions that apply to the area within the District's easement under the terms of the easement or this use permit. The location, content and design of the signs shall be subject to the prior review and approval of the Zoning Administrator following opportunity for comment by the applicant.
15. Prior to this permit being exercised, the applicant will make a cash deposit with the County of \$250. The County will place these funds in a special account for this project. The County may expend these funds to cover staff time and material costs in responding to neighborhood complaints and investigation of this operation for non-compliance with this permit and the ordinance code. If at any time, the residual amount in the accounts falls below \$50, then County staff will inform the applicant and request payment of an additional \$250, or additional payment on additional expended staff costs not to exceed \$2,000. Said payment will be delivered by the applicant to the Community Development Department within 30-days of the date of the letter.

16. Musical concerts including dances are prohibited. Any proposal to allow a musical concert shall be considered with a new land use permit application to modify this permit.
17. Submit a noise impact study performed by a qualified acoustical engineer. The study should be based on noise levels generated by the first scheduled racing event on the oval. The study shall measure noise levels along the east boundary of the Davis property (Parcel #003-020-033). If noise levels exceed the land use compatibility standards prescribed by the Noise Element, mitigation measures shall be provided to reduce the sound levels to within appropriate levels at the Davis property line. The report is subject to review and approval of the Zoning Administrator, and the applicant is responsible for the cost of any technical review given to the report. Mitigation measures to be considered include possible redesign of oval or grandstand. After the initial racing event on the oval, the oval shall not be utilized until the Zoning Administrator gives specific approval to the acoustical study and any required mitigation measures are implemented.
18. Proof of a recording of the following disclosure of deed restrictions shall be submitted to the Community Development Department prior to the issuance of any building or grading permits.

"You are purchasing a property with a permit for a moto-cross trails park. This permit carries with it certain conditions that must be met by the owner of the property. The permit (LP95202) is available from the current owner or from the Contra Costa County Community Development Department. A new owner is required to meet with the Zoning Administrator within 30 days of purchasing the property to discuss the terms of the permit and County requirements and expectations."

Public Works Department Conditions

19. **General Requirements:**
 - A. This development shall conform to the requirements of Division 914 (Drainage) and the remainder of Title 9 and Title 10 of the Subdivision Ordinance. Any exceptions therefrom must be specifically listed in this conditional approval statement. Drainage, road and utility requirements are based on the plan submitted February 28, 1995, and shall be subject to the review and approval of Public Works.
 - B. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with the review and inspection fees, and security for all improvements required by the Ordinance Code or the conditions of approval for this project.
20. **Roadway Improvements (Frontage/On-site/Off-site):**

The applicant shall be permitted an exception from construction of full frontage improvements along the Camino Diablo frontage of this property, at this time, provided that he improves the Camino Diablo entrance to this development to include at least a 6.1 meter (20-foot) wide paved driveway constructed to County private road standards from the edge of pavement to the proposed right of way line. The entrance shall also include paved tapers and flares designed and constructed in accordance with Figure 405.7 from the Caltrans Highway Design Manual from the edge of pavement along Camino Diablo to the right of way line (based on the basic 6.1 meter [20-foot] driveway width).

21. **Access to Adjoining Property:**
Proof of Access/Acquisition

- A. Applicant shall furnish proof to the Public Works Department, Engineering Services Division, of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, road or drainage improvements.

Encroachment Permit

- B. Obtain an encroachment permit from the application & Permit Center for construction of driveways, or other improvements within the right of way of Camino Diablo.

Restrict Access

- C. Restrict Access along Camino Diablo, with the exception of the proposed access.

22. **Road Dedication:**

Applicant shall convey to the County, by Offer of Dedication, additional right of way on Camino Diablo as required for the planned future width of 33.5 meters (110 feet) with at least a 457 meter (1,500-foot) centerline radius.

23. **Intersection Design/Sight Distance:**

Provide a sight distance analysis, subject to the review of the Public Works, which analyzes the proposed Camino Diablo entrance to this development. Provide sight distance based on a design speed of 104 kilometers per hour (65 miles per hour) along Camino Diablo.

24. **Drainage Improvements:**

Collect and Convey

- A. Division 914 of the ordinance Code requires that all storm waters entering or originating within the subject property shall be conveyed, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility which conveys the storm waters to a natural watercourse.
- B. Discharging concentrated storm water into roadside ditches is prohibited by the Ordinance Code. However, as roadside ditches are characteristic of the area, an exception from this requirement is granted provided the applicant verifies the adequacy of the downstream ditch system or constructs any necessary improvements to make this system adequate.

25. **Miscellaneous Drainage Requirements:**

The applicant shall install within a dedicated drainage easement any portion of the drainage system which conveys run-off from public streets.

26. **Utilities/Undergrounding:**

An exception is permitted from undergrounding utility distribution facilities due to the rural nature of this area.

27. **Traffic Control:**

The applicant shall provide special traffic control personnel at the Camino Diablo access to this property for events involving more than 500 vehicles, unless the Zoning Administrator approves the special event without traffic control. Traffic control may also be required for smaller events if significant traffic complaints substantiate a need.

28. **Creek Structure Setbacks:**

The applicant shall be required to observe the creek structure setback line in accordance with Section 914-14.012, "Structures Setback Lines for Unimproved Earth Channels" for any new structures on this property.

29. **National Pollutant Discharge Elimination System (in addition to NPDES permit):**

Within 30 days of the effective date of this (1998) modified permit, the applicant shall insure that he has complied with all components of this condition of approval.

- A. Hazardous wastes, including but not limited to used motor oil, battery acid or

antifreeze shall not be discharged onto the ground.

- B. All hazardous wastes shall be stored in appropriate containers on a covered concrete slab in an area which is not subject to inundation and shall be removed from the facility at least once each 90 days.
- C. The applicant shall pave, cover and contain the various vehicle repair pit areas to prevent contaminants from these areas from reaching the creek. The applicant shall obtain a Hazardous Waste Generator's Permit from the County Health Department to assure adequate maintenance of the vehicle repair pit areas and disposal of the hazardous wastes.
- D. The applicant shall provide an erosion control plan showing how the quantity of silt entering the creek from this property will be reduced. The erosion control plan shall be subject to the review of the Public Works.,

NOTE: In the event that the improvements required by the Public Works Department have been constructed, the applicant shall provide Steve Wright of the Public Works Department with evidence that these improvements have been completed.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL, ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

- A. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Eastern Contra Costa County Subregional Transportation Mitigation Fee Area of Benefit as adopted by the Board of Supervisors.
- B. The applicant shall be required to comply with the drainage fee requirements for Drainage Area 109 as adopted by the Board of Supervisors.
- C. The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) permit for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board or any of its Regional Water Quality Control Boards (San Francisco Bay-Regional II or Central Valley-Region V).

- D. The Project Lies within 100-year flood boundary as designed on the Federal Emergency Flood Rate Maps. The applicant shall be aware of the requirements of the Federal Flood Insurance Program and the County Flood Plain Management Ordinance (Ordinance No. 90-118) as they pertain to future construction of any structures on this property.
- E. This project may be subject to the requirements of the Department of Fish & Game. It is the applicant's responsibility to notify the Department of Fish & Game, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish & Game Code.
- F. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- G. Comply with the requirements of the East Diablo Fire Protection District, including safety requirements for operation of the track.

ELZ/aa
LPV/2020-95c.ELZ
2/13/96
9/3/96
9/23/96 Z.A. Rev. (v)
12/2/96 - EC (a)
2/4/97 - BS (a)
2/24/98 - ZA (rd)

EXHIBIT 2

**Proposed New Site Plan, Dated
10/8/2015**

PROPOSED SITE PLAN

50 CAMINO DIABLO ROAD

DIABLO MX RANCH LLC

BRENTWOOD

CALIFORNIA

OCTOBER, 2014

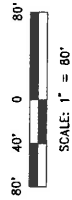
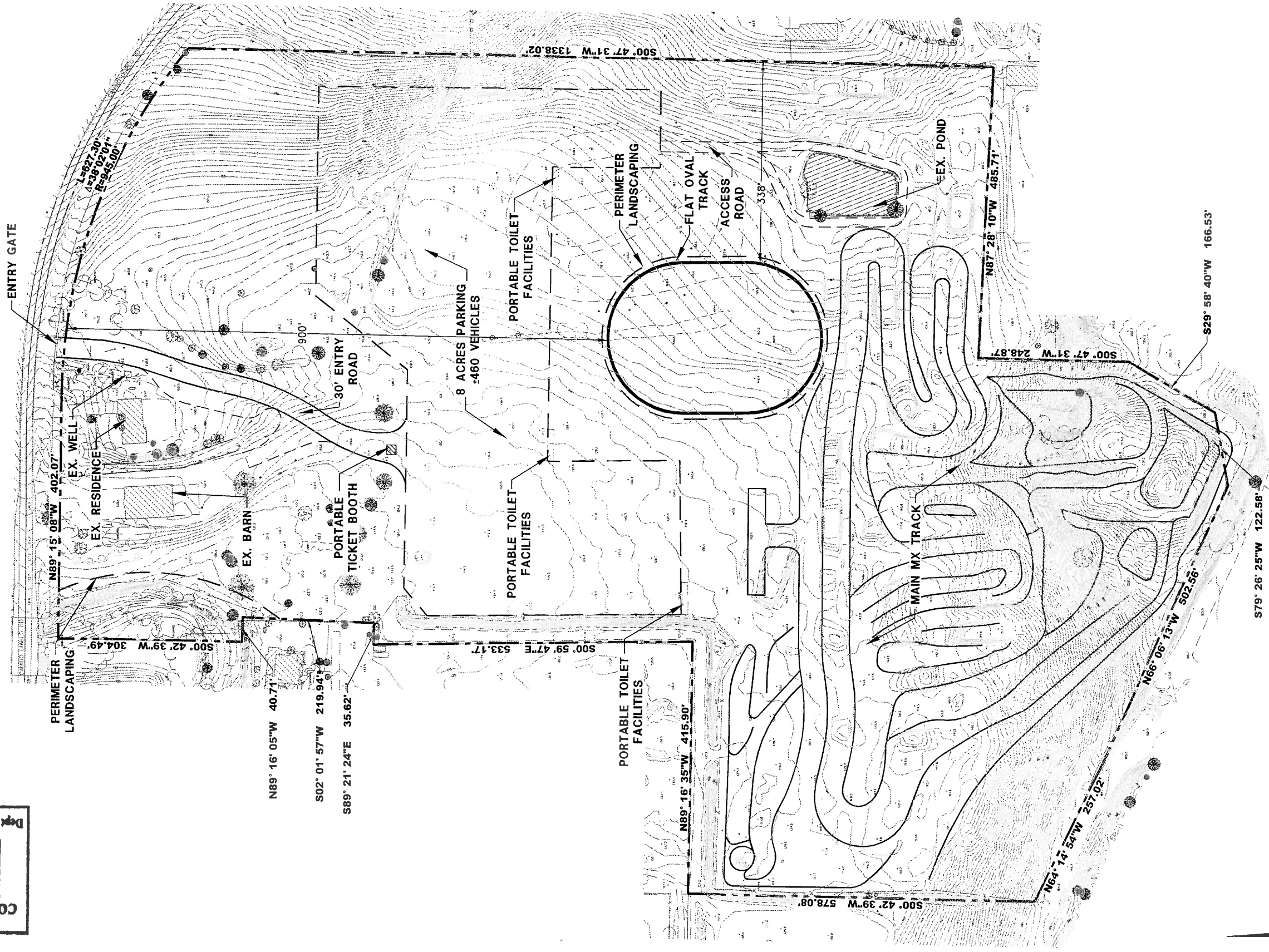
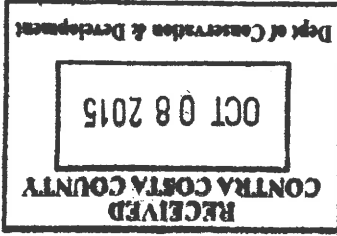
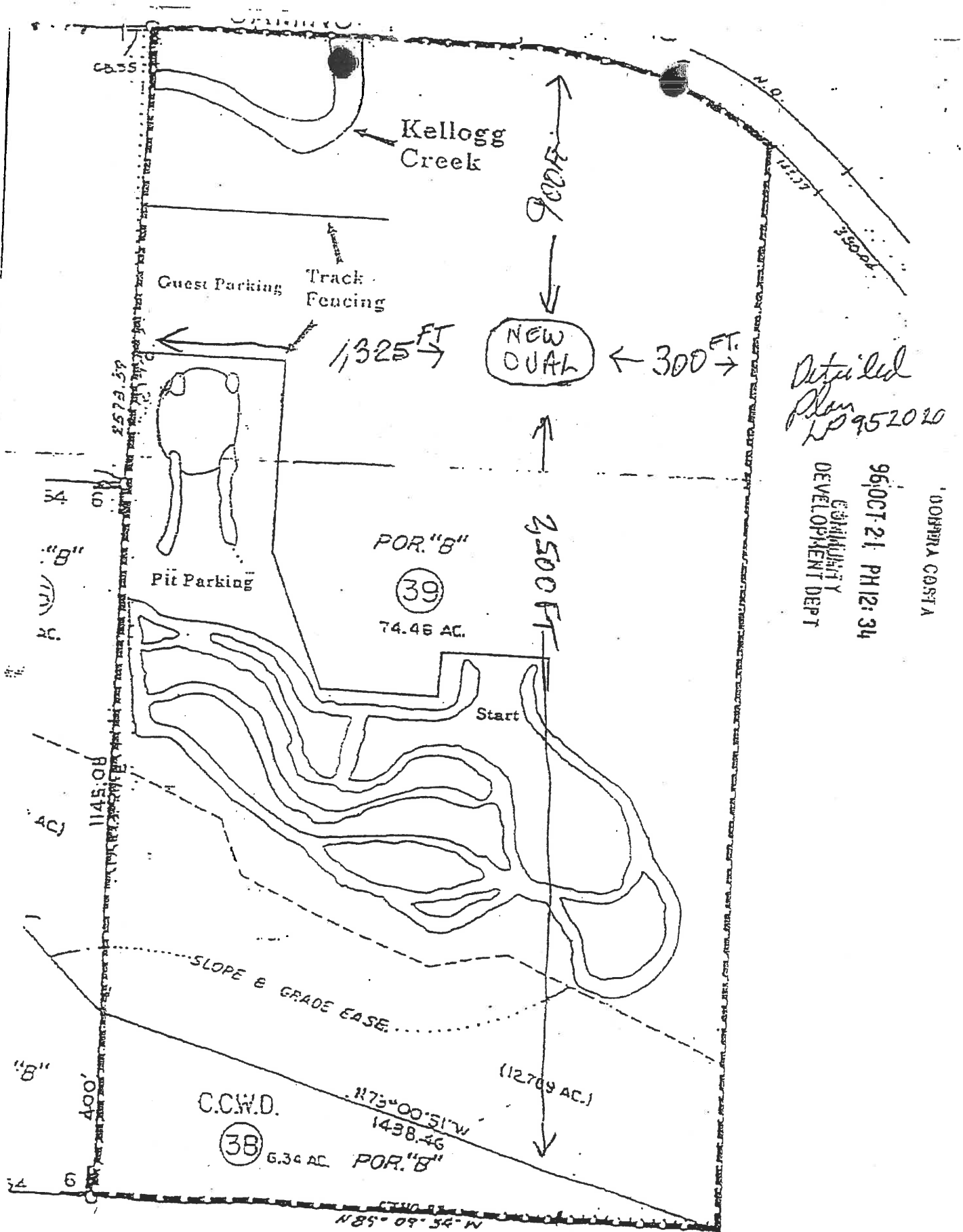


EXHIBIT 3

Current Approved Site Plan for LP95-2020



Detailed
Plan
LP 952020

96 OCT 21 PH 12:34
COMMUNITY
DEVELOPMENT DEPT

DOHERRA COSTA

EXHIBIT 4

EXHIBIT 4

**Trotter Letter of Appeal, Dated
8/1/2016**

Law Offices of
DAVID W. TROTTER
119 Allen Court, Moraga, CA 94556
(925) 876-1503
david.trotter@dtrotterlaw.com

August 1, 2016

HAND-DELIVERED

Community Development Division
Contra Costa County Department of
Conservation and Development
30 Muir Road
Martinez, California 94553

Attn: Aruna Bhat, Deputy Director

**Re: John and Lori Ramirez (Applicants)/James and Dorothy Schmidt (Owners),
County File Nos. LP15-2040
Site Address/Location: 50 Camino Diablo Road, Unincorporated
Brentwood, CA (APN 003-020-048)**

**Appeal By Twenty-Three Camino Diablo and Walnut Avenue Homeowners
and Residents to the Contra Costa County Board of Supervisors of the
County Planning Commission's July 26, 2016 Decision Modifying
Conditions of Approval of County File No. LP95-2020 for the Proposed
Diablo MX Ranch Motocross Park**

Dear Ms. Bhat:

This appeal letter is submitted on behalf of our clients, who include Linda and Gary Thuman; Ron, Tracy and Cassidy Harrison; Cole, Linda and Chuck Harrison; Rick and Donna Kendrick; Rick and Diana Klinger; Christina Morain and Steve Glennon; Howard Bowles; Dave, Brenda and Elione Chapman; Harvey and Gail Webb; Cliff Chatteron; Jerry Glenn; and Ernie Moore (collectively, "Appellants").

Appellants hereby appeal from the above-referenced decision of the County Planning Commission at its July 26, 2016 meeting concerning the proposed Diablo MX Ranch Motocross Park located at 50 Camino Diablo (the "project"). Appellants' homes and residential properties are located nearby, and in some cases immediately adjacent to, the west, northwest, east and south sides of the proposed motocross site.

CONTRA COSTA
2016 AUG -2 AM 11:17
APPLICATION & PERMIT CENTER

Enclosed herewith please find a \$125.00 check covering the required appeal filing fee.

A statement of the specific grounds and reasons for this appeal is set forth in the remainder of this letter.¹ Appellants have not seen or received any written documentation from the County confirming the Planning Commission's July 26, 2016 decision. Accordingly, Appellants reserve the right to further augment the presentation of grounds and reasons for their appeal before and at the hearing before the County Board of Supervisors. Appellants appeal from the Planning Commission's decision on the following grounds:

1. Appeal Ground One: The Diablo MX project is not exempt from CEQA. The Class I exemption from CEQA for "negligible or no expansion of an existing use" is not properly applied to this proposed use.

The Staff Report prepared in advance of the July 26, 2016 Planning Commission hearing ("7/26/2016 Staff Report") states that the Diablo MX project is "categorically exempt" from the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000, *et seq.* under a Class I exemption (CEQA Guidelines Section 15301) applicable where "negligible or no expansion of an existing use" is proposed. See 7/26/16 Staff Report at p. 4. In reliance on this "exemption", the Planning Commission approved the Applicants' modified project without subjecting the project to any CEQA-compliant environmental review.

The Planning Commission's finding that the project was exempt from CEQA, and direction to staff to file a Notice of Exemption ("NOE") for the Project, is unlawful and not supported by the record in this matter for at least two reasons.

First: The proposed Diablo MX motocross facility is not an "existing use" because the 1998 use permit has terminated by operation of law. The County cannot lawfully apply a Class I exemption to a "discontinued" use under a "void" use permit, and its filing of a NOE is contrary to law as well.

This issue is governed by County Code Section 26-2.2016, which provides:

"If a use is established according to the terms and conditions of a permit and the use is discontinued for any reason for a period of six months, the permit shall become void and the use shall not be resumed. Upon application during the six months period by the owner and upon a showing of good cause the director of planning may grant an extension not to exceed a total of six months" (emphasis added).

¹ On May 22, 2015, Appellants filed an appeal from the Planning Commission's May 12, 2015 decision, on a 5-2 vote, finding the Applicants to be "in compliance" with the conditions of approval set forth in Land Use Permit No. LP95-2020. That appeal is still pending before the County Board of Supervisors, and Appellants' May 22, 2015 appeal letter was attached as Exhibit 2 to the 7/26/2016 current Staff Report. **Accordingly, Appellants also incorporate herein by reference the points raised in their May 22, 2015 appeal letter, which is already in the County's files.**

A chronology on this point is briefly set forth below.

The County issued a Land Use Permit dated November 2, 1998 to Tom Anderson (Application LP95-2020) to operate a motorcycle racetrack on Assessor's Parcel No. 003-020-039. According to the May 12, 2015 Staff Report (hereinafter, "5/12/2015 Staff Report"), "[t]he property was sold in 2013, at which time the motorcycle park use ceased operation for six months, during which time a six-month extension of the land use was approved and the use was resumed." See 5/12/2015 Staff Report, p. 2.

There are a number of factual errors and concerns here. First, Anderson was forced to sell the property during the **summer of 2012 – not in 2013**, as represented in the Staff Report. Any statement or suggestion that the use of the property for a motorcycle racetrack or park ceased in 2013 is in error.

In other documents, County staff have taken the position that the "last date of operation" of the motocross park was August 6, 2012. To Appellants' knowledge, the only evidence in the County's files supporting this determination is a reference on the former owner's (i.e., Anderson's) Facebook page. See 5/12/2015 Staff Report, Ex. 4. It also now appears that the subsequent owner, the law firm of Glynn & Finley LLP, requested a six-month extension of the use permit by letter dated December 3, 2012, which the County granted on March 5, 2013. See 5/12/15 Staff Report, Ex. 5. Assuming that this extension was timely and proper, to avoid having the use permit lapse, operations of the motorcycle park had to resume by **no later than August 6, 2013**.

Significantly, that is also what the County told Appellants more than three years ago. In the summer of 2013, Appellants began contacting the County planning staff to ask questions about the status of the 1998 land use permit. On July 10, 2013, County Planner Gary Kupp sent the following e-mail to Appellant Linda Thuman:

"It was determined that the motocross land use ceased on Aug. 6, 2012. They are allowed by **code** 6 months of inactivity, in this case until Feb. 6, 2013. Since they made a timely extension request, they were granted the 6 month extension until Aug. 6, 2013. **So with the extension, they are allowed a year of inactivity**" (emphasis added).

(A true and correct copy of Mr. Kupp's July 10, 2013 e-mail is attached as **Exhibit 1** hereto.) Mr. Kupp's e-mail is entirely consistent with the clear and unambiguous text of Section 26-2.2016. The applicant was entitled to a single year of inactivity, not more than that.

The 5/12/2015 Staff Report states (at p. 2) that "the use was resumed." Again, however, no evidence in support of this statement has been provided by the County. Photographs taken by Ms. Thuman in August 2013, and previously submitted to the County, include a "Sand Hill Motorcycle Park Closed" sign, a "For Sale" sign and other obvious evidence of inactivity.

What are the ramifications of these facts to the claim that the project is exempt from CEQA? Simply put, in the absence of any evidence that the motorcycle park had resumed operations prior to August 6, 2013, the 1998 land use permit expired and became "void" as a

matter of law under County Code Section 26-2.2016. And it inexorably follows that the County cannot lawfully apply a Class I exemption to a “discontinued” use under a “void” use permit. The County’s filing of a NOE is contrary to law as well.

Before the Planning Commission, County staff have tried to get around this by asserting – contrary to the plain language of Section 26-2.2016 – that “discontinued” as used in that section refers to a “change in use, not the **inactivity** of an approved land use.” See 5/12/2015 Staff Report, p. 4.

However, the notion that “discontinued use” means a “change in use” is a complete distortion of the English language. It is also inconsistent with Mr. Kupp’s July 10, 2013 e-mail to Linda Thuman, which specifically states that the property owner was to be allowed only “a year of **inactivity**.” Mr. Kupp’s e-mail appears to be supported by a clear and straightforward interpretation of the ordinance. By contrast, the position that has been articulated by staff to justify a categorical exemption from CEQA now is not supported by the text of the County’s ordinance, which makes clear that if the use is discontinued “for any reason” the permit is deemed to be void.

Under the staff’s logic, operations under a use permit could end for a period of years, yet the use permit would remain valid as long as the empty buildings and structures on the property were not removed. But that is not what the County Code says. In granting and enforcing the use permit at issue here, the County (including its planning staff) “is bound by the terms of the ordinance until the ordinance is amended through proper legislative procedure.” (*Johnston v. Board of Supervisors* (1947) 31 Cal.2d 66, 74; *City and County of San Francisco v. Superior Court* (1959) 53 Cal.2d 236, 250-251 (same).) Put another way, the County cannot place an interpretative “gloss” on the language of Section 26-2.2016, as suggested in the Staff Report, when it is so clearly erroneous and contradicted by the language itself.

At the July 26, 2016 Planning Commission hearing, County staff also suggested that the 1998 use permit remains valid because the Community Development Department has not previously taken action to formally revoke the permit. But this argument ignores the well-settled rule that a public entity, such as the County, lacks the power to waive or consent to a violation of its zoning laws. (See, e.g., *City of Fontana v. Atkinson* (1963) 212 Cal.App.2d 499, 507-508; *Western Surgical Supply Co. v. Affleck* (1952) 110 Cal.App.2d 388, 392-393.) Indeed, the failure of the County staff to properly enforce Section 26-2.2016 according to its terms does not preclude the people of this State – Appellants herein included – from seeking to enforce the County Code now, or in the future. (See, e.g., *Caminetti v. State Mut. Life Ins. Co.* (1942) 52 Cal.App.2d 321, 326; accord, *Western Surgical, supra*, 110 Cal.App.2d at 392-393.)

Finally, the 5/12/2015 Staff Report states (at p. 4) that on March 28, 2014, the property was purchased by the current Applicants and Owners who now intend to operate a motocross facility. In the same vein, the 7/26/2016 Staff Report goes on to state (at p. 11) that: “Even though the park has not been open to the public since being purchased by the applicants, the County deems the land use to be valid since the applicants have been actively pursuing compliance with the conditions of approval for land use permit #LP95-2020.” But this statement is contrary to the record, and the plain language of Section 26-2.2016. In any event, the 1998

land use permit expired and became void no later than August 6, 2013. Nothing that the Schmidts and Ramirezes did, or could have done in March 2014, after they purchased the property, operated to revive the 1998 land use permit. Nor was the County free to grant yet another “extension” of the land use permit to the Applicants. County Code Section 26.2-2016 makes crystal clear that the “director of planning” may only grant a single, one-time extension “not to exceed a total of six months.” The Applicants are out of time and have no rights under the now void 1998 permit.

Second: The Class I exemption is expressly subject to exceptions under the CEQA Guidelines. (See CEQA Guidelines Sections 15300.2 and 15301, attached as Exhibit 2 hereto.) The exception applies with full force here. The Planning Commission’s reliance on the Class I exemption in approving modified project conditions of approval was contrary to CEQA.

The “Discussion” note at the end of Section 15301 makes clear that the exemption for “existing facilities” does not and cannot apply to a project which “has a reasonable possibility of resulting in a significant effect.” To the same effect, see CEQA Guidelines Section 15300.2, which provides that “[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment. . . .”

That is precisely the situation here. There is more than just a “reasonable possibility” that the proposed Diablo MX motocross facility will have significant adverse environmental impacts on neighboring residents, including the Appellants here, due to extreme noise impacts and interference with their quiet enjoyment of their own properties that will result if the Diablo MX motocross facility is permitted to re-open. In fact, Appellants have repeatedly presented substantial evidence on this point before the Planning Commission. Some of that evidence is summarized at pages 9-11 of their May 22, 2015 appeal letter and is incorporated by reference herein.

Appellants have also questioned, and by this appeal challenge, the County’s determination that the Applicants’ proposed “[g]rading for 15,000 cubic yards of direct” is exempt from any CEQA review. As contended by staff. (See 7/26/2016 Staff Report at p. 1.)

What are the legal consequences of all this? First, and at a minimum, the County was required here to prepare an Initial Study and Environmental Checklist (see Public Resources Code § 21080(c)(2), and CEQA Guidelines, §§ 15063 and 15365) addressing the environmental impacts of the Diablo MX project. Staff has been reluctant to go down that road – but that reluctance does not support non-compliance on the County’s part.

Moreover, an Initial Study is just the starting point for compliance with the County’s legal obligations. That is because both CEQA and case law interpreting it require the County to prepare a full Environmental Impact Report (“EIR”) where, as here, there is substantial evidence supporting a “fair argument” that the project has potentially significant environmental impacts. (See Public Resources Code § 21151; *Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123.) Indeed, it is well settled that the “fair argument” standard sets a “low threshold” for requiring the

preparation of an EIR. (See, e.g., *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.)

Appellants have also already submitted more than ample scientific and expert testimony and reports showing that this project will have potentially significant environmental impacts – requiring the preparation of an EIR under the low “fair argument” threshold mandated by CEQA. These include two reports by a leading noise consulting firm, Charles M. Salter Associates, Inc. (“Salter”).

During the summer of 2015, Salter took ambient measurement in the vicinity of the proposed Diablo MX motocross project. In its October 20, 2015 letter report, Salter confirmed that the baseline ambient noise levels in the vicinity of Appellants’ homes in the absence of the motocross park are very low. (A copy of Salter’s October 22, 2015 report was attached as Exhibit 13 to the 7/26/2016 Staff Report, and is incorporated by this reference herein.) Among other things, Salter found that “[i]n general, the measured daytime ambient noise levels were between 40 and 45 dB (L50).” (See Salter 10/22/2015 report at p. 6.) Put another way, this is a very quiet rural residential setting.

Salter also measured **very high noise levels on the afternoon of August 2, 2015, when three motorcycles were observed using the Applicants’ property. At that time, “the typical maximum noise levels” from just three “motocross motorcycles” were measured to be approximately 80 dB to 85 dB.**” (See Salter 10/22/2015 report at p. 7 (emphasis added).) Imagine what the maximum noise levels would have been on Appellants’ property had there been dozens of motocross bikes operating simultaneously, not just three! In any event, the measured and apparent ~40 dB variance between the ambient noise levels with and without motocross bikes on the 50 Camino Diablo property is itself strong evidence that this project “has a reasonable possibility of resulting in a significant [noise] effect” within the meaning of CEQA. This scientific evidence and expert testimony also demonstrates that the project, if approved, will have potentially significant environmental impacts, triggering the ironclad requirement that an EIR be prepared.

But there is more. Salter has also prepared a thorough critique of the noise study subsequently prepared by the Applicants’ consultant, Wilson Ihrig (“WI”), on March 8, 2016. A true and correct copy of Salter’s July 25, 2016 analysis of the WI study is attached as **Exhibit 3** hereto. Among other things, Salter has concluded that:

- (a) The Diablo MX noise analysis conducted by WI used an industrial/agricultural DNL 75 dB standard to assess the impact on surrounding properties. This ignores the reality that the neighboring and surrounding properties are primarily single-family homes – including several in a County-approved residential subdivision – for which a residential 60 dB DNL standard should be used. (See Ex. 3 at pp. 1-2.) [Note: More on this point at pages 7-10, below.] A 60 dB noise standard is consistent with the Noise Element of the County’s General Plan. See, e.g., Policy 11-2, which states that “[t]he **standard for outdoor noise levels in residential areas is a DNL of 60 dB.**” (County General Plan at p. 11-37; emphasis added.)

- (b) The WI noise study failed to assess the projected significant increase in ambient noise levels that will adversely impact the neighboring homes and residential properties. The approach used is contrary to other numerous policies embodied in the Noise Element of the County's General Plan. (See Ex. 3 at pp. 2-3.)
- (c) The WI report failed to address several noise concerns such as maximum motorcycle noise levels that are likely to be generated by the project, cumulative noise load from daily motocross activities and special events, public address (PA) loudspeaker noise, and night time noise and sleep disturbance impacts. (See Ex. 3 at pp. 4-5.)
- (d) The WI report very likely underestimated the potential future noise levels in several respects identified by Salter in its report. Salter has measured the actual maximum noise levels at another commercial motocross/motorcycle facility in operation in Northern California. These ranged from 75 dB to 95 dB at 100 feet; even at 500 feet the noise levels were as high as 80 dB. As Salter noted, the proposed Diablo MX motocross tracks are located within 100 feet of neighboring residential properties. (See Ex. 3 at p. 5.) People living in those single family homes can expect to experience extremely loud and noxious sound levels – levels that are several orders of magnitude above the current, quiet ambient environment (in the ~45 DB range) that are not burdened by the daily operation of a motocross park.
- (e) There has been no independent, third party confirmation that the simulated “racing” activity measured by WI was in fact representative of the actual, likely or worst case racing conditions if Diablo MX is permitted to go into operation at the site. As Salter correctly observed, **“motorcycle noise levels can vary considerably with speed and acceleration, and engine load. It is unclear how ‘competitive’ the simulated race conditions were.”** (See Ex. 3 at p. 5; emphasis added.) This is yet another reason why an EIR that is **independently commissioned and under the control of the County’s consultants, rather than the Applicants**, should be required in this case.

Salter is the leading noise consulting firm in the United States, if not the entire world. Appellants urge the Supervisors to give thoughtful consideration to the points raised by Salter in the technical reports previously submitted to the County, but disregarded by the Planning Commission in its most recent action.

2. Appeal Ground Two: The Board of Supervisors should reject the Planning Commission and County’s staff’s discriminatory application of a 75 dB noise standard to the Diablo MX project.

Reliance on an elevated 75 dB elevated noise standard, rather than a 60 dB standard, is another critical weakness of the Planning Commission’s decision. It is worth noting that in processing the previous application for a five-year compliance review, County staff found that the County’s “60 dBA Noise Control” special program applied. (See Exhibit 21 to the 5/12/2015 Staff Report, a true and correct copy of which is attached as **Exhibit 4** hereto.) 60 dBA is

generated by typical speech or a conversation between friends. 75 dBA is much noisier – more than twice as loud, and comparable to the noise generated by a pneumatic drill at 50 feet or freight cars at 100 feet. See County General Plan, Noise Element, Figure 11-3, at p. 11-6. Significantly, a 10 dB increase in noise levels “almost always causes an adverse community reaction.” See Noise Element at p. 11-8. Here, the expected difference in ambient sound levels if the proposed motocross facility goes into operation is considerably more than that. See Ex. 3 (7/25/2016 Salter letter.) CEQA requires that these impacts be properly evaluated in an EIR.

Moreover, any use of a 75 dB noise standard is **inconsistent with, and contrary to previous actions by the County with respect to the 50 Camino Diablo property, and other projects on Agriculturally zoned lands in Contra Costa County.** This differential treatment of Applicants is discriminatory and simply wrong – and also can and should be remedied through compliance with applicable CEQA standards.

In this regard, Appellants wish to bring the following documents to the attention of the Board of Supervisors:

(a) Exhibit 5: Excerpts from Illingworth & Rodkin Noise Assessment for the Brentwood Rod and Gun Club Initial Study (December 22, 1999).

As the Supervisors may recall 15 years ago the Brentwood Rod & Gun Club was proposing to relocate its gun club operations to the 50 Camino Diablo property – the **same property at issue here.** Thus, it is significant that in assessing the noise impacts of the proposed gun club, I&R stated that:

“The Contra Costa County General Plan has adopted the following goals and policies **which are relevant to the proposed project.**”

“Goal 11-B: To maintain appropriate noise conditions in all areas of the county.

“**The standard for outdoor levels in residential areas is a DNL of 60 dB.**”

“Policy 11-6: If an area is currently below the maximum ‘normally acceptable’ noise level, an increase up to a maximum shall not be allowed necessarily.

“Implementation Measure 11-B: “Evaluate the noise impacts of a proposed project [based] **upon existing land uses . . . and the potential for adverse community response, based on a significant increase in existing noise levels.**”

(See Ex. 5 at p. 15; emphasis added.)

I&R’s references to what the County General Plan required back in 1999 – and still requires today – were absolutely correct. It is simply inappropriate for the County to just look at the zoning designation. A proper environmental evaluation requires that the County look at the “existing land uses” around a project, and then based on those uses assess whether or not the project has the potential for adverse community response. **This language in the County’s Noise**

Element is also very much in line with what CEQA requires here. The record in this case is clear that the existing land uses around the proposed Diablo MX project are **primarily residential, not agricultural.** The fact that the proposed project wishes to invade a quiet residential neighborhood cannot be ignored for purposes of review of its environmental impacts, as much as the Applicants may want that to happen.

By coincidence, the County recently retained I&R to conduct a “peer review” of the WI noise study and the August 2015 ambient noise study prepared by Salter. (A copy of I&R’s April 12, 2016 peer review letter was attached as Exhibit 10 to the July 26, 2016 County Staff Report.) Significantly, I&R acknowledged that the points previously made by Salter “relating to the [Diablo MX] project’s potential to generate noise levels above ambient conditions and whether or not the project would result in a substantial increase in noise above ambient conditions would . . . **be applicable if the project were undergoing CEQA review.**” (See I&R peer review letter at p. 2 (emphasis added).) I&R was able to ignore the serious questions raised by Salter only because it was told by County staff that “the proposed project is not subject to CEQA.” (*Id.*) But that position is open to serious doubt for the reasons set forth in this letter. Ultimately, I&R’s rather wishy-washy statements in the peer review exercise are fundamentally inconsistent with its 1999 forthright interpretation of the noise standards governing a proposed project (the gun club) located adjacent to residential uses, and right next door to the proposed motocross park now.

(b) Exhibit 6: Excerpts from County’s Draft Environmental Impact Report for the Brentwood Rod and Gun Club Project.

As the Board of Supervisors may recall, it ultimately required that the gun club project was subject to CEQA, and ordered the preparation of an Draft Environmental Impact Report (“DEIR”). The DEIR assessed the impact of the gun club project based on the **residential uses of the adjacent property owners**, which were correctly referred to as “nearby sensitive receptor locations.” (See Ex. 6 at p. 4.2-2; emphasis added.)

Significantly, the DEIR did not rely on an LDN of 75 dBA as governing the assessment of noise impacts. Rather, the DEIR was clear that a 75 dBA standard was “more relevant to **stationary noise sources**”, and was not adequate to assess annoyance from sources of impulsive noise impacts, such as gunshots. (See Ex. 6 at p. 4.2-7; emphasis added.) The noise generated by motorcycles is not “stationary” – and it will have some impulsive qualities as motocross bikes rapidly accelerate move around on the various tracks on the 50 Camino Diablo property.

Finally, it is highly significant that the DEIR instead used an LDN of **63 dBA** to evaluate the likely noise impacts of the proposed gun club project. (See Ex. 6 at p. 4.2-7.) Of course, this standard is very consistent with the County General Plan standard of 60 dB for outdoor noise levels in residential areas (per Noise Element Policy 11-2). It is not at all consistent with the 75 dBA standard that the County now seeks to apply to the proposed Diablo MX project. The County has no good or defensible justification for such disparate and prejudicial treatment of Appellants and other adversely impacted neighbors of the proposed motocross facility.

(c) Exhibit 7: Excerpts from County's Noise Control Conditions of Approval for the Keller Canyon Landfill Project.

Finally, in approving the Keller Canyon Landfill (which is similarly located on Ag-zoned lands), the County imposed stiff noise mitigation and monitoring conditions. The County applied a 60 dBA daytime noise standard (and a 50dBA evening and nighttime threshold) at the landfill property boundary to protect adjacent homeowners in the Pittsburg area. (See Ex. 7 at p. 32.)

The County documents highlighted above raise a number of serious questions. These questions were posed by Appellants at the July 26, 2016 hearing, but the Planning Commission and County staff failed to confront them.

Why would the County apply more stringent residential noise standards to the Gun Club project (63 dBA), and to projects in other parts of the County on Ag-zoned lands (60 dBA), and not apply those same standards here to the Diablo MX project?

Why the apparent double standard and inconsistent treatment?

We respectfully submit that such differential treatment is questionable, if not unlawful on the facts of this case. It is already quite clear that the proposed Diablo MX project will never, and cannot meet, a 60 dB or 63 dB noise threshold based on the data already in hand, without fundamental changes in how the facility is operated. And Appellants have presented substantial evidence from Salter studies, which strongly suggest that WI underestimated the project's likely noise impacts on adjacent homeowners and the project will likely exceed the 75 dB standard as well.

3. Appeal Ground Three: The Board of Supervisors should impose more stringent and meaningful noise mitigation conditions on the proposed Diablo MX project.

Finally, the County should have insisted on a properly calibrated noise monitoring program as a condition of approval of the Diablo MX project, along the lines of the Keller Canyon project approvals? Proposed Conditions of Approval Nos. 8 and 9 are woefully inadequate by comparison. Moreover, the Applicants are still being allowed to operate and remain at night up until 11:00 p.m., during evening hours that are likely to interfere both with sleep patterns and the rights of neighboring homeowners to quiet enjoyment of their property.

The County's Noise Element includes (at pp. 11-5 and 11-6 of the General Plan) a discussion of noise exposure that includes a 5 to 10 dBA "penalty" (i.e., a required **reduction** in noise levels) applicable to noisy nighttime activities after 7:00 p.m. and before 7:00 a.m. However, the County has continued to sanction use of the lighted racetrack for motorcycle racing until 10:00 p.m. on Friday and Saturday nights! Appellants have repeatedly and vociferously complained that the project will routinely exceed accepted land use compatibility and community standards during evening and nighttime hours, in violation of the Noise Element and general principles of nuisance law.

The Planning Commission, Zoning Administrator and County planning staff have failed to address and respond to these concerns, and to impose necessary and appropriate mitigation measures to protect the health and welfare of the public and homeowners living in close proximity to the project site. Appellants respectfully submit that the Board of Supervisors has the authority and the duty to ensure that this project is not allowed to operate in a manner that will be inconsistent with California law and the General Plan.

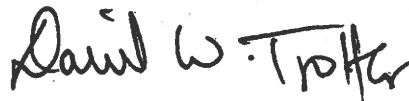
4. Conclusion.

For all of these reasons, Appellants respectfully request that the Board of Supervisors uphold their appeal, overturn the Planning Commission's decision, and direct staff to rescind the NOE and to take all steps necessary for full compliance with CEQA.

Appellants reserve the right to raise other grounds and reasons for its appeal in future submissions to the County Board of Supervisors, and/or staff at the Community Development Division.

On behalf of Appellants, we appreciate the Board of Supervisors' thoughtful reconsideration of this matter, and the issues raised by this appeal.

Very truly yours,



David W. Trotter

Enclosures

cc: Supervisor Mary Piepho (w/encls.) – via U.S. mail
Appellants (w/encls.)

EXHIBIT 1

{00190390.DOC; 1}

To: Gary Kupp
Subject: Re: Sand Hill

thanks Gary. Sorry to be such a pain, appreciate your patience! Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Wednesday, July 10, 2013 10:20 AM
Subject: RE: Sand Hill

Linda:

It was determined that the motorcross land use ceased on Aug 6, 2012. They are allowed by code 6 months of inactivity, in this case until Feb 6, 2013. Since they made a timely extension request, they were granted the 6 month extension until Aug 6, 2013. So with the extension, they are allowed a year of inactivity. Hope this helps. Don't know if the property was sold or not.

Gary Kupp, Planner
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Conservation and Development
30 Muir Road
Martinez, CA 94553
(925) 674-7799—Direct
(925) 674-7205—Main
(925) 674-7258—Fax

From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Wednesday, July 10, 2013 9:04 AM
To: Gary Kupp
Subject: Re: Sand Hill

thanks Gary, sorry about that, I thought it went out in December. do you know how I can find out if it has been sold?

Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Monday, July 8, 2013 12:55 PM
Subject: RE: Sand Hill

February 6, 2013 to August 6, 2013= six months

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EXHIBIT 1

From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Monday, July 08, 2013 11:11 AM
To: Gary Kupp
Subject: Re: Sand Hill

Hi Gary,

I thought it was a 6 month extension, what did I miss? Has it sold?

thanks
Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Monday, July 8, 2013 8:30 AM
Subject: RE: Sand Hill

Linda, the extension was granted until August 6, 2013. Beyond that, they would need a new use permit.

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From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Friday, July 05, 2013 10:02 AM
To: Gary Kupp
Subject: Sand Hill

Hi Gary,

Hope you had a nice 4th! I think the last time we talked was just before Christmas and you said you were planning on issuing the 6 month extension letter to the owners of Sand Hill on December 26. So it has been 6 months & I just wanted to check on the status so I can update the neighbors. It is my understanding that if Sand Hill was not operating during that 6 month period that they would have to go through the entire application process again. So we are hoping that is where Sand Hill is now, no motocross unless they go through the entire application process again.

thank you
Linda Thuman

EXHIBIT 2

{00190390.DOC; 1}

Title 14. California Code of Regulations
Chapter 3. Guidelines for Implementation of the
California Environmental Quality Act

Article 19. Categorical Exemptions

Sections 15300 to 15333

15300. Categorical Exemptions

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.1. Relation to Ministerial Projects

Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.2. Exceptions

(a) **Location.** Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) **Cumulative Impact.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) **Significant Effect.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) **Scenic Highways.** A categorical exemption shall not be used for a project which may result in

ATTACHMENT 1

damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d 190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810; *Association for the Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720; and *Baird v. County of Contra Costa* (1995) 32 Cal.App.4th 1464

Discussion: In *McQueen v. Mid-Peninsula Regional Open Space* (1988) 202 Cal. App. 3d 1136, the court reiterated that categorical exemptions are construed strictly, shall not be unreasonably expanded beyond their terms, and may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

Public Resources Code Section 21084 provides several additional exceptions to the use of categorical exemptions. Pursuant to that statute, none of the following may qualify as a categorical exemption: (1) a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources within a scenic highway (this does not apply to improvements which are required as mitigation for a project for which a negative declaration or EIR has previously been adopted or certified); (2) a project located on a site included on any list compiled pursuant to Government Code section 65962.5 (hazardous and toxic waste sites, etc.); and (3) a project which may cause a substantial adverse change in the significance of a historical resource.

15300.3. Revisions to List of Categorical Exemptions

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.4. Application By Public Agencies

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes and examples in this article except under the provisions of Section 15300.2.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15301. Existing Facilities

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;

(b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;

(c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).

(d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(e) Additions to existing structures provided that the addition will not result in an increase of more than:

(1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or

(2) 10,000 square feet if:

(A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and

(B) The area in which the project is located is not environmentally sensitive.

(f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;

(g) New copy on existing on and off-premise signs;

(h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);

(i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;

(j) Fish stocking by the California Department of Fish and Game;

(k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;

(l) Demolition and removal of individual small structures listed in this subdivision;

(1) One single-family residence. In urbanized areas, up to three single-family residences may be

demolished under this exemption.

(2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.

(3) A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.

(n) Conversion of a single family residence to office use.

(o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

(p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084, Public Resources Code; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307.

Discussion: This section describes the class of projects wherein the proposed activity will involve negligible or no expansion of the use existing at the time the exemption is granted. Application of this exemption, as all categorical exemptions, is limited by the factors described in section 15300.2. Accordingly, a project with significant cumulative impacts or which otherwise has a reasonable possibility of resulting in a significant effect does not qualify for a Class 1 exemption.

15302. Replacement or Reconstruction

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

(a) Replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structures which do not increase capacity more than 50 percent.

(b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

(c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

(d) Conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15303. New Construction or Conversion of Small Structures

EXHIBIT 3

{00190390.DOC; 1}

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25 July 2016

David Trotter
Law Offices of David W. Trotter
119 Allen Court
Moraga, CA 94556
Email: david.trotter@dtrotterlaw.com

Subject: **Proposed Diablo MX Motocross Facility
Comments on Wilson Ihrig Noise Study**
CSA Project: 15-0428

Dear Mr. Trotter:

This letter summarizes comments of Charles M. Salter Associates, Inc. (Salter) on the Wilson Ihrig (WI) noise study report dated 8 March 2016 for the proposed Diablo Motocross facility (Diablo MX) at 50 Camino Diablo in Contra Costa County (County). Our comments follow-up the initial Salter ambient noise report dated 20 October 2015. In summary, there are several deficiencies in the WI noise study that should be rectified to properly assess the expected noise impact of the Diablo MX project.

SUMMARY

Our analysis focuses on the following deficiencies in the WI noise study:

1. The Diablo MX noise analysis used an industrial/agricultural DNL 75 dB¹ noise standard for the surrounding properties. The nearest neighboring properties are single-family homes, at which the residential DNL 60 dB standard should be used.
2. Regardless of the noise standard used, the County's policy is to limit noise increases in quiet areas. Noise Element Policy 11-6 states that "*If an area is currently below the maximum "normally acceptable" noise level, an increase in noise up to the maximum should not be allowed necessarily.*" The Diablo MX noise analysis failed to assess the projected significant increase in ambient noise that is expected to impact the neighboring homes.
3. The WI analysis failed to address several noise concerns such as maximum motorcycle noise levels, cumulative noise from daily activity and special events, PA loudspeaker noise, and nighttime noise impact or sleep disturbance. Additional details are provided below.
4. The WI analysis likely underestimated the potential future noise levels by failing to address several conditions and providing no third-party confirmation of the racing simulations. Detailed comments are provided below.

¹ DNL (Day-Night Average Sound Level) – A descriptor for a 24-hour A-weighted average noise level. DNL accounts for the increased acoustical sensitivity of people to noise during the nighttime hours. DNL penalizes sound levels by 10 dB during the hours from 10 PM to 7 AM. DNL is sometimes written as the symbol L_{dn} .

dB (Decibel) – A unit that describes the magnitude of a sound with respect to a reference sound level near the threshold of hearing. Decibels are based on a logarithmic scale. All sound levels listed in this report are A-weighted, a standard weighting that accounts for the sensitivity of human hearing to the range of audible frequencies.

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Eric (Broadhurst) Mast, PE
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Thomas A. Schindler, PE
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Catherine F. Spurlock

THE WRONG NOISE CRITERION WAS USED

For their evaluation of motocross noise, WI used a General Plan land-use compatibility guideline of DNL 75 dB based on the A3-Heavy Agriculture zoning. The General Plan does list an "Industrial, Manufacturing, Utilities, Agriculture" land-use category. However, the actual land-use of the nearest neighboring properties is rural single-family residential. This land-use, "Residential – low density" has a "normally acceptable" noise limit of DNL 60 dB.

Furthermore, the County Community Development Division's "Agency Comment Request" and compliance review document for the proposed Diablo MX project identifies a "60-dBA Noise Control" standard (see Enclosure 1). It appears that the County intends to apply a 60 dB standard for planning purposes. This would be consistent with the County's "Residential – Low Density" land-use category, which has a "normally acceptable" limit of DNL 60 dB.

Based on the County standard and the actual use of the surrounding lands, it would have been more appropriate to apply the DNL 60 dB standard to the Diablo MX project, and WI should have done so in its noise study. We note that the Diablo MX noise levels that WI measured and projected, up to DNL 73 dB, far exceed the DNL 60 dB land-use compatibility standard.

For reasons discussed below, we believe that the WI study understated the likely noise levels and impacts on residents living nearby. But even if one applies the WI noise data and the appropriate DNL 60 dBA noise standard, the proposed Diablo MX project would result in a substantial increase in environmental noise and a significant adverse noise impact on the neighboring community.

EXPECTED INCREASES IN AMBIENT NOISE LEVELS WERE NOT STUDIED

WI only compared their projected Diablo MX noise levels to a DNL 75 dB criterion. However, to comprehensively study the potential noise impact of the proposed Diablo MX project, the proper and commonly applied methodology also includes a comparison of projected future noise levels to the existing ambient noise levels. WI did not do this. Following this more rigorous approach would be consistent both with the County General Plan and with CEQA Guidelines² for the evaluation of community noise.

The Noise Element of the current County General Plan (2005 to 2020) contains the following goals, policies, and implementation measures that apply to the project.

Goal 11-A: To improve the overall environment in the County by reducing annoying and physically harmful levels of noise for existing and future residents and for all land uses.

Goal 11-B: To maintain appropriate noise conditions in all areas of the County.

Goal 11-C: To ensure that new developments will be constructed so as to limit the effects of exterior noise on the residents.

Goal 11-D: To recognize the economic impacts of noise control and encourage an equitable

² For example, CEQA Appendix G Section XI. Noise requires that the following question be asked: "Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project."

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distribution of these costs.

Goal 11-E: To recognize citizen concerns regarding excessive noise levels, and to utilize measures through which the concerns can be identified and mitigated.

Policy 11-2: The standard for outdoor noise levels in residential areas is a DNL of 60 dB. However, a DNL of 60 dB or less may not be achievable in all residential areas due to economic or aesthetic constraints...

Policy 11-6: If an area is currently below the maximum "normally acceptable" noise level, an increase in noise up to the maximum should not be allowed necessarily.

Implementation Measure 11-a: Continue to require a review and analysis of noise-related impacts as part of the existing project development review procedures of the County.

Implementation Measure 11-b: Evaluate the noise impacts of a proposed project upon existing land uses in terms of the applicable Federal, State, and local codes, and the potential for adverse community response, based on a significant increase in existing noise levels.

Implementation Measure 11-d: Noise mitigation shall be incorporated into the design and construction of new projects or be required as conditions of project approval.

In particular, Policy 11-6 states that it is not necessarily acceptable to allow ambient noise levels to be raised to the maximum limit of the "normally acceptable" land-use standard. Implementation Measure 11-b also requires that the "potential for adverse community response, based on a significant increase in existing noise levels" be studied. Therefore, the expected increase in noise and other pertinent factors (e.g., actual neighboring land-uses) should be considered in the noise study for the proposed Diablo MX project. To put noise increases in context, the County's Noise Element (Page 11-8) also discusses how noise increases are perceived by people, as listed below:

An important factor in assessing a person's subjective reaction is to compare the new noise environment to the existing noise environment. In general, the more a new noise level exceeds the prior existing level, the less acceptable it is. Therefore, a new noise source will be judged more annoying in a quiet area than it would be in a noisier location. Knowledge of the following relationships is helpful in understanding how changes in noise and noise exposure are perceived.

- *Except under special conditions, a change in sound level of 1 dB cannot be perceived;*
- *Outside of the laboratory, a 3 dB change is considered a just-noticeable difference;*
- *A change in level of at least 5 dB is required before any noticeable change in community response would be expected; and*
- *A 10 dB change is subjectively heard as an approximate doubling in loudness and almost always causes an adverse community response.*

Based on the County's Noise Element policies, the proposed Diablo MX project should be considered to have a substantial impact on the neighboring community if it raises ambient noise levels by more than 5 dB. This is consistent with common practice and in-line with standards used by several municipalities and consulting firms in this field of study. The WI noise study ignored these County policies and guidelines for the evaluation of expected increases in ambient noise.

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WI measured ambient noise levels at five (5) locations on the site at 50 Camino Diablo and stated the levels in one section of their report (see Section 3.2 of the WI report). They also calculated projected Diablo MX noise levels at those same measurement locations and reported the levels in a separate section of the report (see Section 6 of the WI report). But, WI did not compare these two sets of data. To put these levels in context, both ambient and projected Diablo MX facility noise data from the WI report are summarized in **Table 1** below.

Table 1. Summary Comparison of WI Measured Ambient and Projected Diablo MX Noise Levels (L_{dn} , dB)

Property Line Location	WI Measured Ambient Noise Levels	WI Projected Diablo MX Noise Levels	Expected Increase in Noise Level
1 (East)	48 to 54	Up to 61	Up to +13 dB
2 (Southeast)	49 to 56	Up to 69	Up to +20 dB
3 (South)	47 to 56	Up to 64	Up to +17 dB
4 (West)	53 to 56	Up to 73	Up to +20 dB
5 (Northwest)	47 to 48	Up to 60	Up to +13 dB

If WI's data is accepted without revision (see subsequent sections of this report), Table 1 shows that Diablo MX noise would increase community noise at adjacent properties by up to 20 dB. This equates to a four-fold increase in perceived loudness. In our professional judgement and per the County Noise Element guidelines (Page 11-8), such an increase would certainly be expected to result in an "adverse community response".

In addition, the WI report state (in Section 7) that projected Diablo MX noise levels are expected to be between DNL 55 dB and DNL 61 dB at neighboring homes (i.e., at the buildings, not the property line). Again, if WI's data is accepted without revision, and assuming similar ambient noise levels at the nearby homes, these noise levels from the project would still increase ambient noise by more than 10 dB at the neighboring homes. This would be perceived as a doubling of loudness and also be expected to trigger an adverse community response (per County Noise Element Guidelines, Page 11-8).

In summary, the WI study indicates that ambient noise levels would be increased by up to 20 dB at the property line and by approximately 10 dB at the neighbors' homes. These changes in ambient noise would be considered significant per the County General Plan Noise Element and common practice. Therefore, projected Diablo MX noise should be deemed to have a significant impact requiring mitigation. For reasons discussed below, we believe that the WI study understated the likely noise levels and impacts on residents living nearby. But even if one applies the WI noise data, the projected Diablo MX motocross noise levels would result in environmentally significant impacts, for which further environmental review and mitigation measures should be required under CEQA and County noise standards.

THE IMPACT OF MAXIMUM MOTOCROSS NOISE LEVELS WAS NOT CONSIDERED

The WI report does not address momentary maximum noise levels (L_{max}) that are generated by motorcycles. These levels would be higher than the reported "average" noise levels reported by WI. Though the County does not specifically regulate such L_{max} levels, it is an important step in the analysis

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of potential noise impact on the community, particularly where the racing tracks are located near adjacent residential property lines.

The WI report does not list the maximum noise levels that they measured. This omission should be rectified.

In a previous project, Salter measured maximum noise levels from motorcycles on a commercial course in Northern California. We found that motorcycle noise varies considerably with vehicle speed, acceleration, hill grade, and direction. Normalized to a distance of 100 feet, we measured maximum noise levels between 75 dB and 95 dB. At other distances, these maximum motorcycle noise levels would be as listed in **Table 2** below.

Table 2. Potential Maximum Motorcycle Noise Levels Based on Measurements at Another Northern California Facility

Distance (ft)	Maximum Motorcycle Noise Levels (L_{max} in dB)
100	75 to 95
175	70 to 90
315	65 to 85
560	60 to 80
1000	55 to 75
1800	50 to 70

The WI report, in Appendix Tables A-1 and A-2, indicates that hourly average ambient noise levels at the 50 Camino Diablo site are typically 45 dB (approximate). By comparison, maximum motorcycle noise levels between 75 dB and 95 dB would be substantially louder than the typical background noise, by 30 dB to 50 dB. There are areas where the proposed Diablo MX motocross tracks would be within 100 feet of neighboring residential properties. At such locations, the noise impacts at these residential properties would be significant and severe. And even at greater distances, the noise levels in Table 2 show that maximum motorcycle noise would likely be substantially greater than the ambient noise level even more than one quarter mile away. This clearly demonstrates the potential impact that motorcycle noise would have on the nearby residential properties. Therefore, such intermittent but severe noise levels should be assessed as part of a thorough environmental Diablo MX noise analysis, complaint with CEQA Guidelines and City Noise Goals.

NO CONFIRMATION THAT THE SIMULATED "RACING" ACTIVITY WAS REPRESENTATIVE OF ACTUAL, LIKELY, OR WORST-CASE CONDITIONS

To develop estimates of race day and practice events, WI and the operators of the proposed Diablo MX facility conducted simulated activities on-site with volunteers. The project applicants and WI did not provide advance notice of their "racing simulation," nor did they give us access to the site so that we could monitor those activities as they were occurring. Thus, there are no independent, third party, observations to confirm that the simulated race and practice events were representative of actual race and practice conditions. As stated above, motorcycle noise levels can vary considerably with speed and acceleration, and engine load. It is unclear how "competitive" the simulated race conditions were. An

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independent observer, familiar with actual racing conditions should have been present to comment on whether the simulation was representative of future conditions.

In addition, we do not know how loud the motorcycles used in the simulation were. The report proposes a mitigation measure that all bikes used on-site meet the State regulation for a maximum of 96 dB at 20 inches from the exhaust at the specified engine RPM. However, WI did not test the motorcycles used in the simulation with regard to this State limit. If the simulation bikes were notably quieter than the limit would allow, then the "racing simulation" would be methodically invalid and not representative of the potential actual, likely, or worst-case conditions which may occur on the site if the project is approved.

QUESTIONABLE ASSUMPTIONS REGARDING MODELED MOTORCYCLE QUANTITIES AND ACTIVITIES WERE USED

To estimate future Diablo MX noise levels, WI made assumptions of how many riders would be on each track under each condition. Their modeling efforts accounted for the following riders:

- For a race, 15 riders on the MX track
- For weekend practice, 10 riders on the MX track and 5 riders on the oval track
- For weekday practice, 5 riders on the MX track and 3 on the oval track
- For the nighttime events, 7 riders on the oval track

These assumptions are questionable and could have underestimated the actual noise impacts to adjacent residences. We note that during their volunteer simulation, the Diablo MX property was able to accommodate 25 riders simultaneously on the motocross track and 10 riders on the oval track. These actual numbers of motorcycle riders exceed all of the calculation assumptions used in the WI noise study.

For an appropriate evaluation of potential noise impact, the analysis should be based on the likely "worst-case" conditions by using a conservative estimate of the maximum number of riders that could be reasonably expected at the facility.

QUESTIONABLE ASSUMPTIONS REGARDING MODELED HOURS OF USE WERE USED

To calculate projected Diablo MX facility daily average noise levels, WI also made certain assumptions for how long the tracks would be used each day. WI limited the number of hours per day of motocross activity as listed below:

- On a race day, 7 hours of racing
- For weekend practice, 4 hours of riding on the MX track and 2 hours of riding on the oval track
- For weekday practice, 1.5 hours of MX track use and 1 hour of oval track use
- For the nighttime event, 4 hours of riding on the oval track

In calculating daily average noise levels (DNL), a longer duration of loud activity would result in higher daily average levels. Therefore, it is methodically important that the noise analysis accurately reflect the amount of time that motocross activity may be permitted at each track. In their noise analysis, WI assumed rather limited total durations of track use, particularly for practice days. Again, WI has provided no confirmation that future use of the facility is properly reflected in their analysis.

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We note that Exhibit 1 to the County's 12 May 2015 staff report Exhibit 1, which states previous conditions of approval, indicates that the facility would be allowed to operate from 8 am to 7 pm daily and from 7 pm to 11 pm at the lighted track on Friday and Saturday nights. Thus, the potential hours of operation would allow for 11 hours (or more on Friday or Saturday) of activity. Therefore, the assumed hours of activity in the WI report are questionable. For an appropriate evaluation of potential noise impact, the analysis should conservatively assess the maximum hours of such motocross activities at the facility. The WI noise analysis failed to do this.

Based on the WI noise data and assumed hours of operation, we estimated the noise levels (DNL) that would occur if the typical motocross activities occur for 11 hours per day, which would be permitted based on the staff report's condition regarding normal hours of operation. We estimate that the worst-case DNL levels would be greater (compared to Table 4 of WI report) by the following amounts for each typical motocross activity:

1. Weekend Race Day: 2 dB louder, and up to DNL 75 dB
2. Weekend Practice: 4 dB louder, and up to DNL 73 dB
3. Weekday Practice: 7 dB louder, and up to DNL 72 dB

These estimated worst-case noise levels are notably higher than those stated in Table 4 of the WI report. For an appropriate evaluation of potential noise impact, the analysis should be based on the likely "worst-case" conditions by using a conservative estimate of the hours of activity that could be reasonably expected at the facility.

THE CUMULATIVE EFFECT OF "NIGHT UNDER THE LIGHTS" NOISE WAS NOT CONSIDERED

In WI's prediction of daily average noise levels, the "Night Under the Lights" levels are generally the quietest of all conditions. However, in a proper DNL analysis, the daily average noise levels of such an event cannot be evaluated separately while ignoring the daytime activities that could occur on the same day (e.g., race or practice). Therefore, the WI noise study did not assess the cumulative effect of 15 hours of daytime and evening/night activities, and thus, has significantly underestimated the actual, cumulative noise levels.

Based on the WI noise data and assumed hours of operation, we estimated the noise levels (DNL) that would occur if the typical motocross activities occur for 11 hours per day and the Friday under the Lights events occur on the same day, which would be permitted. We estimate that the worst-case DNL levels would be greater by the following amounts for each day of cumulative motocross activity as compared to the night event alone (see Table 4 of WI report):

1. Friday Practice + Night Event: up to 16 dB louder
2. Saturday Race + Night Event: up to 19 dB louder

These estimated worst-case noise levels are significantly higher than those stated in Table 4 of the WI report for the Friday under the Lights event. A proper evaluation of noise impact cannot ignore the cumulative effects of various activities that would occur on the Diablo MX site. The WI noise study does not address this cumulative noise impact and is therefore deficient.

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NIGHTTIME NOISE IMPACT ON ADJACENT RESIDENCES WAS NOT CONSIDERED

The proposed Diablo MX project plan includes nighttime activities during the weekend "Night Under the Lights" events. These events would allow motorcycle activities to continue until 11 pm. Beyond calculating daily average noise levels, the WI noise study provides no evaluation of the potential impact of noise at night. Nighttime activities should be addressed carefully due to the sensitivity of neighboring residents and the potential for sleep disturbance.

An appropriate nighttime noise analysis should evaluate the average and maximum noise levels expected during nighttime hours. Noise levels at the property line, outside neighboring homes, and inside homes (with windows in the typical seasonal position) should be evaluated. The potential for sleep disturbance should be addressed and appropriate mitigation proposed, as needed. The WI noise analysis does not do any of this.

Industry references³ indicate that sleep disturbance can begin with intruding noise levels exceed 35 dB to 45 dB. If, on average, sleep disturbance is expected when noise levels exceed 40 dB, then motocross noise should be reduced to 40 dB or quieter inside neighboring homes. With windows open, outdoor noise would need to be limited to 55 dB outdoors at each neighboring home. Based on our previous motocross noise measurements (see above), maximum motorcycle noise levels could be between 50 dB and 70 dB at a distance of 1,800 feet. There are several homes within that distance around the site. Again, the WI noise analysis fails to account for these expected and significant impacts on adjacent residences, nor does it suggest any relevant mitigation measures.

NOISE IMPACT ON ADJACENT RESIDENCES FROM THE PA SYSTEM WAS NOT CONSIDERED

In their noise study, WI assumed that the public address (PA) system would generate a noise level of 90 dB at 50 feet from the Diablo MX loudspeaker. However, WI did not predict or quantify the expected PA noise levels as neighboring property lines. PA could be clearly audible at times. Therefore, we recommend that noise mitigation be incorporated to control PA system noise to meet the project criteria. This could include the following measures:

- The direction of the speaker(s) could be specified (e.g., away from nearby properties)
- Control of loudspeaker dispersion/coverage pattern to reduce stray noise emission to neighbors
- Maximum noise limits at the property lines
- Limits to the type and frequency of use (see below)

The WI study assumes that the PA would be used only on race days for 15 seconds at a time, 8 times per hour for announcements. If the PA were used for a more continuous use, such as music or ongoing race commentary, conceptually, noise exposure from the PA would increase. The noise study should evaluate such effects before the project is approved to determine if limits on the type/frequency of use are appropriately incorporated as mitigation or a condition of approval.

* * *

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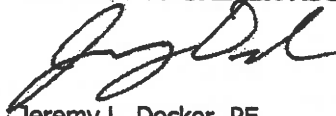
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³ For more information see: World Health Organization, Guidelines for Community Noise, 1999 (Section 3.4 page 46), U.S. Environmental Protection Agency, Public Health and Welfare Criteria for Noise, 1973 (Page 7-13), or ANSI S12.9-2008 Part 6 "Quantities and Procedures for Description and Measurement of Environmental Sound - Part 6: Methods for Estimating of Awakenings Associated with Outdoor Noise Events Heard in Homes."

This concludes our current comments on the WI Noise Study Report for the proposed Diablo MX project. Should you have any questions, please call.

Sincerely,

CHARLES M. SALTER ASSOCIATES

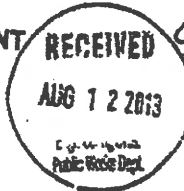


Jeremy L. Decker, PE
Principal Consultant

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CONTRA COSTA COUNTY
 DEPARTMENT OF CONSERVATION AND DEVELOPMENT
 COMMUNITY DEVELOPMENT DIVISION
 30 Muir Road
 Martinez, CA 94553-4601
 Phone: 925-674-7205
 Fax: 925-674-7258



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AGENCY COMMENT REQUEST

We request your comments regarding the attached application currently under review. Date _____

DISTRIBUTION

Internal

Building Inspection Grading Inspection
 Advance Planning Housing Programs
 Trans. Planning Telecom Planner
 ALUC Staff HCP/NCCP Staff
 APC Floodplain Tech County Geologist

Health Services Department

Environmental Health Hazardous Materials

Public Works Department

Engineering Services (Full-size) Traffic
 Flood Control (Full-size) Special Districts

Local

Fire District EAST CONTRA COSTA
 Sanitary District
 Water District CCWD
 City of _____
 School District(s) _____
 LAFCO _____
 Reclamation District # _____
 East Bay Regional Park District _____
 Diablo/Discovery Bay/Crookett CSD _____
 MACITAC BYRON
 Improvement/Community Association _____

Others/Non-local

CHRIS - Sonoma State
 CA Fish and Wildlife, Region 3 - Bay Delta

Additional Regions

CONTRA COSTA COUNTY
 2013 SEP 26 P

Please submit your comments to:

Project Planner Gary Kupp
 Phone # (925) 674-7779
 E-mail gary.kupp@cdcd.cccounty.us
 County File # LP13-2095
 Prior to September 3, 2013

We have found the following special programs apply to this application:

Active Fault Zone (Alquist-Priolo)
 Flood Hazard Area, Panel # _____
 60-dBA Noise Control
 CA EPA Hazardous Waste Site

AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.

Comments: None Below Attached

5-YEAR COMPLIANCE REVIEW OF LP15-2020 (ATTACHED). PLEASE SUBMIT ANY COMMENTS, QUESTIONS, OR CONCERNS REGARDING COAS.

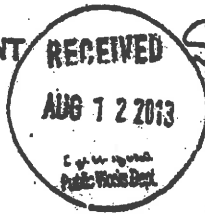
Applicant has complied / Coas for PWD of LP15-200

Print Name Joseph LaPogue
 Signature Joseph LaPogue DATE 09/25/13
 Agency phone # 925-819-2215

EXHIBIT 2

EXHIBIT 4

{00190390.DOC; 1}



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8/9/13
4



AGENCY COMMENT REQUEST

We request your comments regarding the attached application currently under review.

Date _____

DISTRIBUTION

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Building Inspection Grading Inspection
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 APC Floodplain Tech County Geologist

Health Services Department

Environmental Health Hazardous Materials

Public Works Department

Engineering Services (Full-size) Traffic
 Flood Control (Full-size) Special Districts

Local

Fire District EAST CONTRA COSTA

 Sanitary District
 Water District CCWD

 City of _____
 School District(s) _____
 LAFCO _____
 Reclamation District # _____
 East Bay Regional Park District _____
 Diablo/Discovery Bay/Crockett CSD _____
 MACTAC BYRON

 Improvement/Community Association _____

Others/Non-local

CHRIS - Sonoma State
 CA Fish and Wildlife, Region 3 - Bay Delta

Additional Recipients

Please submit your comments to:

Project Planner Gary Kupp
 Phone # (925) 674-7179
 E-mail gary.kupp@cdcd.cccounty.us
 County File # LP13-2095

Prior to September 3, 2013

We have found the following special programs apply to this application:

Active Fault Zone (Alquist-Priolo)
 Flood Hazard Area, Panel # _____
 60-dBA Noise Control
 CA EPA Hazardous Waste Site

AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.

Comments: None Below Attached

5-YEAR COMPLIANCE REVIEW OF LP95-2020 (ATTACHED). PLEASE SUBMIT ANY COMMENTS, QUESTIONS, OR CONCERNS REGARDING COAS.

Applicant has complied/coas by PWD of LP95-200

Print Name Jocelyn LaPoque
 Signature Jocelyn LaPoque DATE 09/27/13
 Agency phone # (925) 919-2215

EXHIBIT 2

Dunneil CONTRA COSTA COUNTY

EXHIBIT 5

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**BRENTWOOD ROD AND GUN CLUB INITIAL STUDY
NOISE ASSESSMENT
COUNTY FILE # LP992027**

December 22, 1999



Prepared for:

Contra Costa County Community Development Department
c/o Darwin Myers, Contract Planner

Prepared by:

Richard B. Rodkin, PE

ILLINGWORTH & RODKIN, INC.

Acoustics · Air Quality

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INTRODUCTION

This report assesses the significance of noise from the Brentwood Rod and Gun Club and its proposed site on Camino Diablo in Contra Costa County (Figure 1). The significance of potential noise impacts is assessed by comparing noise levels anticipated to be generated by the Gun Club with the guidelines set forth in the Contra Costa County Noise Element of the General Plan and existing ambient noise levels in the area. Guns were test fired at the site and noise levels were monitored at sensitive receptors to provide an accurate basis for the assessment. Technical terms are defined in Table 1.

In summary, predicted noise levels would comply with applicable County guidelines and more restrictive significance thresholds with an adequate margin of safety. Overall ambient noise levels would not increase substantially at the nearby sensitive receptors, and the noise impacts resulting from this project are less than significant. The firing of shotguns, at the proposed location and orientation, would be clearly audible above the background noise at the two nearest residences to the east and may result in some disturbance and associated complaints. However, the potential for disturbance at these residences can be controlled with the implementation of individual or combined measures.

DISCUSSION

Criteria

The California Environmental Quality Act (CEQA) asks the following questions regarding potential noise effects from a project. Would the project result in:

- (a) exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies;
- (b) exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels;
- (c) a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project;
- (d) a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project;
- (e) for a project located within an airport land use plan or where such a plan has not been adopted within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels;

- (f) for a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Checklist items (b), (e), and (f) are not relevant to this assessment. Checklist items (a), (c), and (d) are relevant and these checklist items are addressed in the following discussion.

The Contra Costa County General Plan has adopted the following goals and policies which are relevant to the proposed project:

Goal 11-B: To maintain appropriate noise conditions in all areas of the county.

Policy 11-1: New projects shall be required to meet acceptable exterior noise level standards as established in the Noise and Land Use Compatibility Guidelines contained in Figure 11-6[2].

Policy 11-2: The standard for outdoor noise levels in residential areas is a DNL of 60 dB.

Policy 11-6: If an area is currently below the maximum "normally acceptable" noise level, an increase in noise up to a maximum shall not be allowed necessarily.

Implementation Measure 11-B:

Evaluate the noise impacts of a proposed project upon existing land uses in terms of the applicable federal, state, and local codes and the potential for adverse community response, based on a significant increase in existing noise levels.

Goal 11-C: Encourage use of the following mitigation measures to minimize noise impacts of proposed development projects:

(1) **Site Planning**

Proper site planning is the first mitigation measure that should be investigated to reduce noise impacts. By taking advantage of the natural shape and terrain of a site, it often is possible to arrange the buildings and other uses in a manner that will reduce, and possibly eliminate, noise impact.

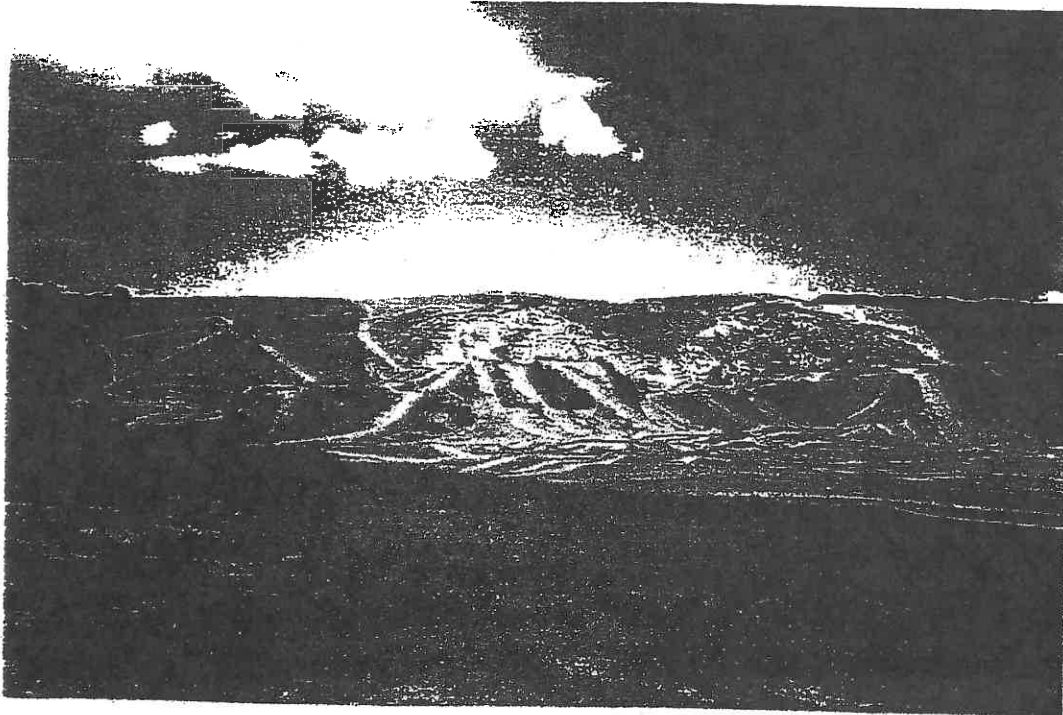
(2, 3, 4): Not applicable

There has been extensive research on the relationship of annoyance caused by noise from firearms and other impulsive sounds. A list of references is included at the end of the report. Based on a review of this research, we conclude that for relatively low and moderate levels of noise, the A-weighted average sound level (L_{eq}) of shooting sounds is about 8 to 13 dB lower than that of equally annoying road traffic noise. Overall, a correction of 10 dBA seems appropriate. An hourly L_{eq} of 50 dBA, or an L_{dn} of about 50 dBA, are therefore suggested as significance

EXHIBIT 6

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Draft
ENVIRONMENTAL IMPACT REPORT
for the
BRENTWOOD ROD AND GUN CLUB
SCH# 2000012092



Prepared for:
Contra Costa County
Community Development Department
651 Pine Street
Martinez, CA 94553

December 2002
Volume 1

ATTACHMENT 3

4.2 NOISE

This section evaluates noise impacts from the construction and operation of the proposed Brentwood Rod and Gun Club.

ENVIRONMENTAL SETTING

Noise Terminology

Noise is often defined as unwanted sound. Sound is easily measured with instruments, but the human variability in subjective and physical responses to sound complicates the understanding of its impact on people. People judge the relative magnitude of sound by subjective terms such as "loudness" or "noisiness."

Impulsive noise consists of one or more bursts of sound energy, each of duration of less than about 1 second. The International Organization for Standardization (ISO) defines a sound from gunfire as "highly impulsive sound". Impulsive noise is generally considered more annoying than continuous noise associated with vehicle pass-by or mechanical noise.

Sound-pressure level (L_p) is measured and quantified in terms of a logarithmic scale in decibels (dB). Research on human hearing sensitivity has shown that a 3 dB increase in the sound is noticeable

and a 10 dB increase would be perceived as twice as loud (Yerges 1978). The human hearing system; however, is not equally sensitive to sound at all frequencies. Therefore, a frequency-dependent adjustment called "A-weighting" has been devised so that sound may be measured in a manner similar to the way the human hearing system responds. The A-weighted sound level is often abbreviated "dBA" or "dB(A)." Figure 4.2-1 provides typical A-weighted sound levels of various noise sources.

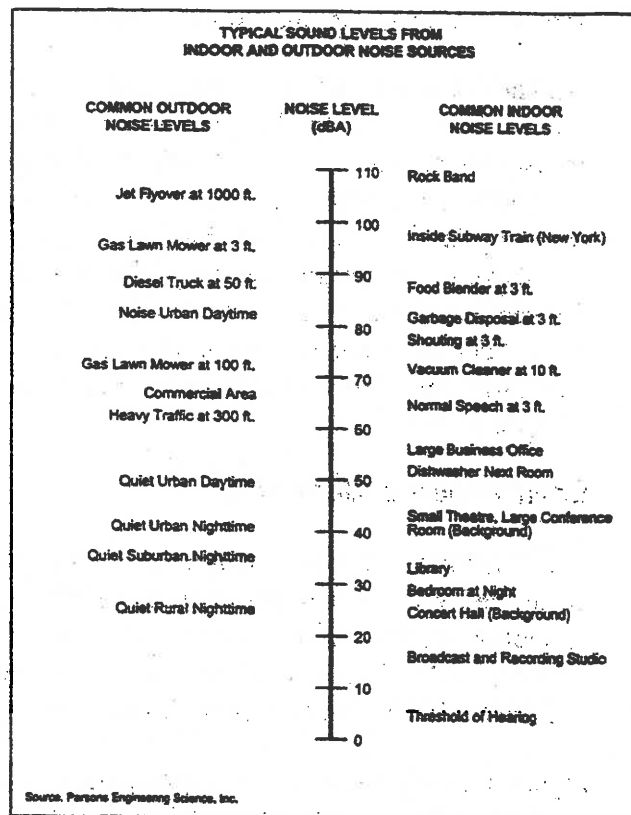


Figure 4.2-1 Typical A-Weighted Noise Levels

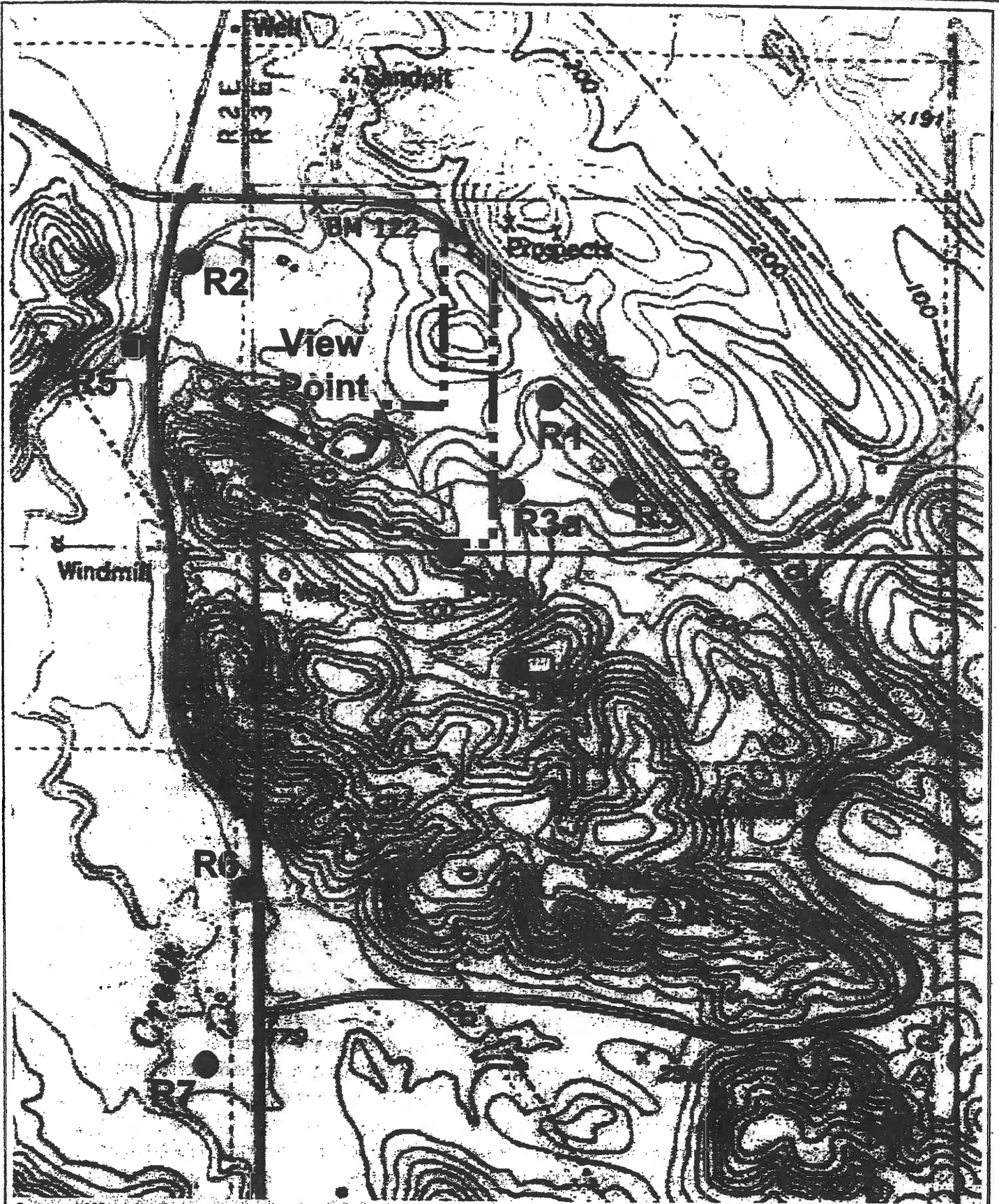
Community noise levels usually change continuously during the day. Community noise also exhibits a daily, weekly, and yearly pattern. Several descriptors have been developed to compare noise levels over different time periods. The most common descriptors are the energy equivalent sound level (L_{eq}) and day-night average sound level (L_{dn}). The L_{eq} is the equivalent steady-state A-weighted sound level that would contain the same acoustical energy as the time varying A-weighted sound level during the same time interval. The L_{dn} is the averaged A-weighted sound level over a 24-hour period with a 10 dB adjustment added to the sound level between 10:00 PM and 7:00 AM. This time weighting is applied in an effort to account for the assumed increased sensitivity to noise intrusions during the nighttime hours.

Another descriptor often used, especially for impulsive noise, is the maximum noise level (L_{max}). The L_{max} is the highest instantaneous sound level measured during a single noise measurement interval no matter how long this sound may persist and whether the noise source is ambient or project related. L_{max} can be measured using several different sampling time intervals. "Fast" detector time, 0.125 second, is typically used for impulsive noise measurement; whereas "Slow" detector time, 1 second, is generally used for vehicular noise. Since the gun shot duration is shorter than one second, using the "Slow" detector time would miss the actual L_{max} ; thus measuring much lower noise levels than using "Fast" detector time. The L_{max} in this section refers to the L_{max} with a "Fast" detector time.

Environmental Setting

The immediate surrounding areas of the proposed project site consist of the Los Vaqueros Watershed on the west and south, FTG Quarry and motocross park on the north, and several residences on the east and south. Farther north of the project area are agricultural uses. Los Vaqueros Watershed is under the jurisdiction of the Contra Costa Water District (CCWD). Activities in this area include picnicking, hiking on trails, and fishing.

Figure 4.2-2 show the project area and nearby noise sensitive receptor locations. Noise measurements were conducted both by Illingworth & Rodkin (1999 and 2000), who completed the noise assessment for the original Initial Study, and by Parsons.



Source: USGS quad, Brentwood, CA; Byron Hot Springs, CA

Contra Costa County
Brentwood Rod and Gun Club

NOISE MEASUREMENT LOCATIONS

Figure 4.2-2

BRENTWOOD ROD AND GUN CLUB
DRAFT EIR

The following is the list of the noise sensitive receptor locations:

- R1: East residence in Initial Study Noise Assessment (300 feet from boundary of proposed gun club property) (APN 003-020-014-1, Cook)
- R2: West residence in Initial Study Noise Assessment (1,200 feet from boundary of proposed gun club property) (APN 003-020-036-1, Davis)
- R3: Western façade of Dunster Residence (700 feet from boundary of the proposed gun club property) (APN 003-020-012)
- R3A: Eastern boundary of the proposed gun club site
- R4: Northern façade of Bowles residence (950 feet from boundary of the proposed gun club property) (APN 003-030-027-1)
- R4A: Southern boundary of the proposed gun club site
- R5: Trail entrance (1,000 feet from boundary of proposed gun club property)
- R6: Los Vaqueros Watershed gated entrance (2,700 feet from boundary of proposed gun club property)
- R7: CCWD corporate yard (4,000 feet from boundary of proposed gun club property)

The residences located east of the gun club have a direct line-of-sight to the gun club boundary, as shown in Figure 4.2-3. This photo was taken at the eastern boundary of the gun club, looking toward the eastern residences (R1 and R3); the viewpoint for the photo is shown in Figure 4.2-2). Terrain located further south of the project site blocks the line-of-sight from a residence (Receptor R4) to the gun club. The actual shooting areas would not be visible from adjacent residences. The skeet and trap fields are located at the base of the hill that forms the southeastern edge of the property, and the rifle and pistol ranges are located at the bottom of the canyon on the southwestern portion of the site. In geometrical relation to the skeet and trap fields, the residences located on the east and south of the gun club are elevated by approximately 100 feet.

The noise environment of the proposed site includes motorcycle noise when the motocross park is operating, occasional construction noise from FTG Quarry and other adjacent quarries, vehicular noise from Camino Diablo and Walnut Boulevard, and blade-flop noise from occasional helicopter and fixed-wing aircraft flyovers. Kellogg Quarry located northeast of the proposed gun club site typically operates overnight. The motocross park opens seven days a week during daylight hours; however, the use of the park is intermittent. Hingworth & Rodkin, Inc. reported that the ambient noise levels near the project area ranged from 40 to 50 dBA at two residences, R1 and R2, respectively. The measurements were made when there were no activities in the motocross park. The measured ambient noise levels could be considered typical of a rural setting, provided that the motocross park is not operating.

Table 4.2-1

Land Use Compatibility for Agricultural Areas

Acceptability	Noise Exposure (L_{dn} or CNEL, dB)
Normally Acceptable	Up to 75 dB
Conditionally Acceptable	70-80 dB
Normally Unacceptable	75-85 dB
Clearly Unacceptable	Greater than 85 dB

Source: Contra Costa County General Plan Noise Element Figure 11-6, Land Use Compatibility for Community Noise Environments

In the Noise Element, an L_{dn} of 75 dBA is considered "Normally Acceptable" for agricultural land use. However, an L_{dn} of 75 dBA would be more relevant to stationary noise sources and applying this limit to evaluate impulse noise impacts without some adjustment would not adequately assess annoyance due to the impulsive gun noise.

Additional Criterion for Impulse Noise

Many publications and research studies show that more stringent noise requirements should apply to gun noise because human ears tend to respond more sensitively to impulse noise. ISO and American National Standards Institute recommend a 12-dBA penalty to account for impulse noise (ISO 1988). Therefore, the L_{dn} of 63 dBA was used for the evaluation of impacts. This criterion can be considered as an "absolute criterion", because it would apply to the assessment regardless of the ambient noise levels.

Perception Criterion

People have different sensitivities to changes in noise levels, but it is generally known that human ears would notice a 3-dBA difference in noise. As a particular noise from a source increases by more than 5-dBA, a normal person would clearly respond (Yerges 1978). Most people perceive a 10-dBA difference in noise levels as a doubling in loudness (Yerges 1978, Harris 1979). Because many people perceive firearms use as being dangerous, they tend to react more acutely to firearms noise, as compared to roadway noise. A fairly stringent criterion for perception of firearms noise is therefore warranted.

The perception criterion can be considered as a "relative criterion", because the allowable noise levels would widely fluctuate depending on the surrounding ambient conditions. For example, the allowable L_{max} at R3 would be 50 dBA

EXHIBIT 7

LAND USE PERMIT 2020-89
CONDITIONS OF APPROVAL
KELLER CANYON LANDFILL

Approved by the:
CONTRA COSTA COUNTY BOARD OF SUPERVISORS
JULY 24, 1990

As Amended or Modified by the:
CONTRA COSTA COUNTY BOARD OF SUPERVISORS
November 1, 1994 (Amendment 1)
June 25, 2002 (Amendment 2)
December 16, 2014 (Permit Review Modification)
September 22, 2015 (Permit Review Modification)

ATTACHMENT 4

controlled and equipment shall be fitted with spark arrestors so potential for causing fires is minimized. Equipment shall not be left idling when not in use. Maintenance records shall be kept on all pieces of Landfill equipment. The records are subject to review by Contra Costa Environmental Health. Equipment shall be stored, serviced, and repaired in a maintenance area designated in the Development and Improvements Plan and approved by the County Conservation and Development Department.

21. NOISE CONTROL

- 21.1 **Noise Control Objective.** The Landfill operator shall manage the facility in a manner that minimizes noise impacts to area residents.
- 21.2 **Noise Monitoring Program.** The Landfill operator shall prepare and implement a noise monitoring and abatement program, which shall be approved by the County Department of Conservation and Development and Contra Costa Environmental Health. The program shall monitor noise levels at sensitive receptor locations, one West of Bailey Road and South of West Leland Road, one near Bailey north of West Leland, and another in the Jacqueline Drive area south of West Leland Road. The Director of Conservation and Development may specify other monitoring locations. Noise monitoring reports shall be submitted to the County Conservation and Development Department on a quarterly basis unless otherwise specified by the Director of Conservation and Development. If the monitoring noise levels at the Landfill boundary line or other monitored location exceed 60 dBA during daylight hours, or 50 dBA during the evening or at night, the County may require the operator to institute additional noise reduction measures to bring noise emanating from the Landfill to the forementioned levels or less.
- 21.3 **Toe Berm.** See Condition 22.3.
- 21.4 **Mitigation/Lift-Level Berms.** See Condition 22.4
- 21.5 **Construction Hours.** See Condition 32.1.
- 21.6 **Truck Noise Suppression.** The Landfill operator shall require transfer trucks and other waste hauling vehicles using the facility to be equipped with factory approved noise suppression equipment, including engine compartment insulation. The Landfill operator shall request the California Highway Patrol actively enforce muffler and vehicle noise standards as required in the California Vehicle Code if, for any reason, noise from heavy trucks becomes a source of complaints in the project area, whether project-related or not. Transfer trucks and other waste hauling vehicles with faulty mufflers shall be denied access to the landfill after one warning by a landfill operator at the

landfill entrance.

- 21.7 Landfill Vehicles. The Landfill operator shall provide Landfill equipment with the best available noise suppressing equipment to minimize sound generation.
- 21.8 Gas Flare Muffling. If flaring is used to dispose of Landfill gas, the flares shall be contained in noise and glare-reducing housing. The housing shall be subject to the approval of the Contra Costa Environmental Health and Conservation and Development Departments and the Bay Area Air Quality Management District.

22. VISUAL QUALITY

- 22.1 Visual Quality Objective. The Landfill developer shall construct and operate the facility in such a manner that the high visual value of the surrounding area is maintained.
- 22.2 Landscape Plan. The Landfill developer shall prepare and implement a site Landscaping Plan. The plan shall enhance the site's visual values as open space and its functional values as wildlife habitat. It shall minimize the visual impacts of the landfill operations and appurtenant facilities through revegetation and landscape screening. The plan shall show the plant species, size, and locations to be used to blend in with the existing natural vegetation. Natural, drought tolerant species shall be used, in accordance with State and local water conservation landscaping requirements. A landscape maintenance program shall be part of the plan. A Weed Monitoring and Control Program shall be included, containing a listing of noxious weeds, a monitoring program, and abatement measure options. A Landscape Plan shall be included in the Development and Improvements Plan. The Landscape Plan shall assure no visual impact on the Cities of Concord and Clayton consistent with the Environmental Impact Report.
- 22.3 Toe Berm. The Landfill developer shall install the first phase of the toe berm prior to other landfill construction and development of the Landfill. Other sections of the toe berm shall be installed in stages (see condition 32.4). The toe berm shall be contoured to blend with existing topography. It shall be designed to screen the landfill access road. It shall be revegetated immediately with native grasses and other vegetation to blend in with the surrounding area.
- 22.4 Mitigation Berms. The Landfill developer shall install landscaped mitigation berms (lift-level peripheral berms) at the face of each lift in areas visible off the Landfill site, before beginning refuse disposal on the lift. The berms shall be

Department of
Conservation and
Development

30 Muir Road
Martinez, CA 94553-4601

Phone: 855-323-2626

Contra
Costa
County



John Kopchik
Director

Aruna Bhat
Deputy Director

Jason Crapo
Deputy Director, Chief Building Official

Maureen Toms
Deputy Director

PAYER:

APPLICATION #: CDLP15-02040

TYPE: Land Use Permit

Payment Type: Check
Check Nbr: 1028

ACCOUNT ITEM LIST:

Item #	Description	Total Fees	Current Paid	Total Paid
0047	Appeal (\$125)	\$125.00	\$125.00	\$125.00
048F	Fish & Wildlife Fee (\$75)	\$75.00	\$0.00	\$75.00
052B	Notification Fee (\$30)	\$30.00	\$0.00	\$30.00
CTRTR	Consultant Contract	\$2,220.00	\$0.00	\$2,220.00
HSDR	Environmental Health Fee (\$57)	\$57.00	\$0.00	\$57.00
LPS0029	LUP-Other	\$2,700.00	\$0.00	\$2,700.00
Total Fees:		\$5,207.00	Paid:	\$5,207.00
			Balance:	\$0.00

ISSUED BY: FLEE

DATE: 08-02-2016

APPLICATION DESC: The applicant requests approval to modify Land Use Permit LP95-2020 with modifications to the conditions of approval for the motorcross land use.
 SITE ADDRESS: 50 CAMINO DIABLO, BRENTWOOD, CA 94513
 PARCEL: 003-020-048
 NOTES: PYMT FOR APPEAL

Receipt Number: 160009405

EXHIBIT 5

Screenshot of Sandhill Ranch Motorcross Facebook Page



Search for people, places and things

Robert Phel



Sand Hill Motocross

80 likes · 94 were here

Like

Message

Sports Venue/Stadium
50 camino diablo, Brentwood, CA.

80

- Concord
- John Creek
- Danville
- Map

About

Photos

Likes

Highlights

Post

Photo / Video

Write something...

Recommendations

See All

Write a recommendation...



Allen Cooper

great place to tear up the track-motocross and flat track t...
over a year ago

Recent Posts by Others on Sand Hill Motocross



Jordan Breilh

WHAT HAPPED!
August 22 at 3:57pm



Pam Anderson Tyer

WE ARE NO LONGER OPEN, Thanks for all the Support.
August 6 at 8:54pm



Loretta M. Cole

http://youtu.be/pPM7FmLtyPs
March 30 at 2:31pm

More Posts

Likes



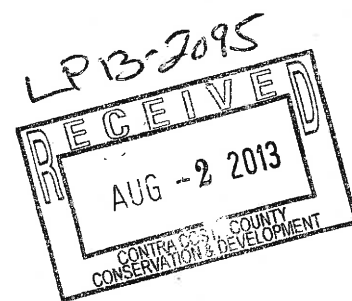
Friend Buzz
Community

Like

EXHIBIT 6

Property Owner's Statement of Use Dated 8/2/2013

GLYNN & FINLEY, LLP
ONE WALNUT CREEK CENTER
SUITE 500
100 PRINGLE AVENUE
WALNUT CREEK, CALIFORNIA 94596
TELEPHONE: (925) 210-2800



FACSIMILE: (925) 945-1975

WRITER'S DIRECT DIAL NUMBER

(925) 210-8800
e-mail: bphelps@glynnfinley.com

August 2, 2013

Sand Hill Ranch – 50 Camino Diablo,
Brentwood, CA – Permit No. LP952020

HAND DELIVERED

Mr. Gary Kupp
Project Planner
Department of Conservation & Development
Contra Costa County
30 Muir Road
Martinez, CA 94553

Dear Mr. Kupp:

On behalf of Sand Hill Ranch Motocross, LLC, the current owner of the Sand Hill Ranch property, we submit this letter in support of the 5-year review of Permit No. LP952020 (the "Permit"). For the reasons set forth herein, we respectfully request that the County approve the continuation of the Permit for an additional 5 years.

In sum, since taking possession of the property in August 2012, the current owners of Sand Hill Ranch faced many time consuming challenges in making the property usable for the permitted purposes. The owners have invested significant amounts of time and money to do so. And, as discussed below, the property is currently in regular use under the Permit, serving as a location for motorcycle safety training classes offered to the public.

I. BACKGROUND AND CURRENT OWNERSHIP.

A. History.

Permit No. LP952020 has a term of 25 years. The Permit was issued for "mechanical (motorcycle) recreation and related activities (motorcycle and go cart racing and practice)..."

The Permit was originally approved by the Board of Supervisors on February 4, 1997,

Mr. Gary Kupp
August 2, 2013
Page 2

and was modified by the East County Regional Planning Commission on November 2, 1998. To the best of the knowledge of the property's current owners, the Permit has been in effect for approximately 15 years.

B. 2012 Change in Ownership.

The property was purchased by Glynn & Finley, LLP ("Glynn & Finley"), at a Sheriff's sale in March 2012. As discussed below, however, Glynn & Finley did not obtain physical possession of the property until August 14, 2012. In June, 2013, the property was conveyed by Glynn & Finley to the current owner, Sand Hill Ranch, LLC.¹

The property was originally sold to Glynn & Finley by order of the Contra Costa Superior Court to satisfy a judgment lien held by Glynn & Finley against Thomas Anderson, the former owner of the property. Thereafter, Glynn & Finley was forced to commence additional time-consuming litigation to obtain physical possession of the property.

Following is an abbreviated timeline of the events surrounding the change in ownership and possession of Sand Hill Ranch:

- Glynn & Finley received title to the property on May 23, 2012.
- Because the prior owner refused to vacate the property, Glynn & Finley was forced to file an Unlawful Detainer action in Contra Costa Superior Court. Following trial, on July 6, 2012, the Superior Court ordered entry of judgment in the Unlawful Detainer case in favor of Glynn & Finley.
- Following the Unlawful Detainer trial, Mr. Anderson asked the Superior Court to stay its judgment giving Glynn & Finley possession of the property. Judge Flinn refused, and expressly noted Mr. Anderson's extensive history of delaying Glynn & Finley's efforts to obtain possession of the property:

"I'm not staying [the judgment or] anything. I've reviewed this matter from the first file to today. I find that Mr. Anderson's conduct in this case of attempting to avoid his obligation is outrageous. I've read everything, I've read that much, and if I have ever seen somebody try to stall meeting their obligation, this is a classic case of that."²

¹ A copy of the recorded deed in favor of Sand Hill Ranch Motocross, LLC, is attached under Tab A.

² Moreover, even after judgment was entered in Glynn & Finley's favor, it took more than a month (and intervention by the Sheriff's Office) before Mr. Anderson finally

- During July, 2012, Glynn & Finley demanded that the prior owner (Mr. Tom Anderson) cease all motocross activities at Sand Hill Ranch and vacate the property. Mr. Anderson refused to vacate the premises, thereby forcing Glynn & Finley to request assistance from the Contra Costa Sheriff.
- The Contra Costa Sheriff conducted eviction proceedings on August 14, 2012, and on that date turned over possession of the Sand Hill Ranch property to Glynn & Finley.
- In late 2012, in recognition that the property had been closed for several months, Glynn & Finley requested an extension of the 6-month “non-use” provision of County Ordinance Code section 26-2.2016. That request was granted on March 5, 2013, and the approved non-use period was thereby extended to August 6, 2013.³
- On June 7, 2013, ownership of the property was conveyed from the Glynn & Finley partnership to Sand Hill Ranch Motocross, LLC, a new entity owned by two of the Glynn & Finley partners.

II. THE CURRENT OWNER’S RESPONSIBLE USE AND REHABILITATION OF THE PROPERTY FOR THE PERMITTED USES WARRANTS EXTENSION OF THE PERMIT.

A. The Current Owners Have Made Substantial Investment of Time and Money to Restore Operations at the Property.

When Glynn & Finley took possession of the property in August 2012, it was in poor physical condition. Several squatters were living on the grounds. Many of the property’s improvements were heavily vandalized by prior occupants. The track facilities themselves were in disrepair and had not recently been maintained. Glynn & Finley’s first step after taking possession of the property was to make sure the track was closed to the public and that the property was posted with “No Trespassing” (or similar) signs.

In August 2012, with the assistance of the Sheriff’s department, the squatters were removed. At least one squatter returned to the property. Glynn & Finley worked directly with the Sheriff’s office to make sure that law enforcement was aware of the change in

vacated the property in mid-August, 2012.

³ As discussed below, however, the property was used under the Permit in late December, 2012. It has been in regular use under the Permit since June 15, 2013 (*i.e.*, before expiration of the extension on August 6, 2013).

Mr. Gary Kupp
August 2, 2013
Page 4

ownership of the facility. All squatters eventually left the property. To the best of the current owner's knowledge, none has returned.

1. Property Security and Insurance.

To secure the property, Glynn & Finley hired Contra Costa Protective Services to provide private security on the property for the balance of 2012 and through early 2013. Glynn & Finley incurred approximately \$8,000.00 in expenses for security guard services.⁴

Glynn & Finley and later Sand Hill Ranch Motocross, LLC, obtained liability insurance for the property. Insurance premiums in excess of \$7,000.00 have been paid.

2. Landscaping and Cleaning.

As previously noted, when Glynn & Finley (and later Sand Hill Ranch Motocross, LLC) took possession of the property, it was in poor condition. The track was not groomed or maintained. Significant vandalism had occurred.

In the Fall of 2012, Glynn & Finley's real estate agent (Cassidy Turley) removed approximately three truckloads of garbage and trash from the site. In May of 2013, the current owners contracted with Echo Landscaping of San Leandro to do landscaping and clean up on a portion of the property, in preparation for use of the property for motorcycle safety training classes, as discussed below. To date, approximately \$2,000.00 has been expended on landscaping and cleaning.

For your reference, below are "before" and "after" photographs showing some of the work done:

⁴ Representatives of Sand Hill Ranch Motocross, LLC, regularly visit the property and verify, among other things, that it remains secured and in proper condition.

Mr. Gary Kupp
August 2, 2013
Page 5



Overgrown weeds, before landscaping and cleanup.



May 17, 2013, after cleaning and landscaping.



Track area (before cleanup), showing trash and vandalism.



Same.

Mr. Gary Kupp
August 2, 2013
Page 7



Same.



Track area, May 17, 2013, after landscaping and cleanup.

B. The Property Is Currently Being Used for the Permitted Purposes, In Compliance With the Permit.

The property is currently being used under the Permit to conduct motorcycle safety training classes for members of the public, under the auspices of the Motorcycle Safety Foundation. We submit that this use of the property provides a significant benefit to the public, in that it offers a location where inexperienced motorcycle riders can learn to ride and operate motorcycles safely.

Glynn & Finley first used the property for motorcycle activities under the Permit in late December, 2012. On December 21, 2012, Glynn & Finley, briefly opened the facility for riding, to (among other things) determine the suitability of the facility for use by motorcyclists. Below are photographs showing the property in use on December 21, 2012.





Because of the weather and its effect on the track, Glynn & Finley did not immediately pursue re-opening the facility until after the end of the rainy season.

In May 2013, the current owners of Sand Hill Ranch entered into a license agreement with P&R Sports. Under that license agreement, P&R Sports has been conducting motorcycle safety training programs at Sand Hill Ranch, under the auspices of the Motorcycle Safety Federation.⁵ An explicit condition of that license is that P&R Sports must at all times conduct its operations at Sand Hill Ranch in compliance with the Permit.

⁵ P&R Sports' website (<http://www.learn Dirtbikes.com/index.html>) provides more detail on the types of classes offered. Since that website was last updated, P&R Sports has resumed safety classes at Sand Hill Ranch.

As stated on its website, the Motorcycle Safety Federation is devoted to “mak[ing] motorcycling safer and more enjoyable by ensuring access to lifelong quality education and training for current and prospective riders, and by advocating a safer riding environment.”

The MSF “is an internationally recognized developer of safety training curricula. It also actively participates in government relations, safety research, public awareness campaigns and the provision of technical assistance to state training and licensing programs. The Motorcycle Safety Foundation is a national, not-for-profit organization sponsored by BMW, BRP, Harley-Davidson, Honda, Kawasaki, KTM, Piaggio, Suzuki, Triumph, Victory and Yamaha.” (<http://online2.msf-usa.org/msf/Default.aspx>).

Mr. Gary Kupp
August 2, 2013
Page 10

P&R Sports is no stranger to Sand Hill Ranch or to the conditions of the Permit. P&R Sports began conducting motorcycle safety classes at Sand Hill Ranch in 2004. P&R Sports resumed conducting those classes at Sand Hill Ranch on June 15, 2013 and has regularly conducted safety training classes at Sand Hill Ranch since then. Below are photographs taken during the safety class P&R Sports conducted at Sand Hill on that date:





P&R Sports conducted similar motorcycle safety training classes at Sand Hill Ranch on July 1, 2013, July 19-20, 2013 and July 22, 2013. Classes are currently scheduled throughout August, 2013.⁶

The safety training classes are conducted in compliance with the Permit. The classes are held in areas where landscaping is maintained. No racing is allowed. No tricks or stunt riding are allowed. Substantially fewer than 25 people are present at any given time. No significant off-street parking is used. All classes are completed during daylight hours. No after-hours riding is allowed. Nor are any artificial lights employed. The included photos show the riders using proper equipment and wearing appropriate helmets and clothing.

C. Contacts With the Motocross Community.

When the property changed owners in 2012, Glynn & Finley reached out to the local motocross community. Glynn & Finley sought to inform this community of the status of Sand Hill Ranch. Those initial efforts were aimed at discouraging potential riders from trying to use the facility while it was closed.

Glynn & Finley also sought to work with the motocross community to answer questions that might arise about the facility's future and to seek their assistance in locating potential buyers for the property who might be interested in continuing to use it as a motocross facility.

D. Efforts to Market the Property As A Motocross Facility.

The current owners engaged the Cassidy Turley real estate firm in 2012 to market the property. The property is currently listed for sale as a motocross facility. *See* Tab B. Prospective buyers have contacted the owners and/or Cassidy Turley. Several interested parties have toured the property. While at least one prospective buyer has made a firm offer to purchase the property, no sale transaction has been completed.

III. CONCLUSION.

Glynn & Finley and Sand Hill Ranch Motocross, LLC faced significant challenges in dealing with the property. Nonetheless, the owners have met those challenges with substantial investment of time and money.

While the property remains for sale, affirmative steps have been taken to protect and secure the property and begin the long process of cleaning and rehabilitation. The

⁶ P&R Sports has its own insurance coverage for the motorcycle safety classes. Sand Hill Ranch Motocross, LLC is named as an additional insured on that policy.

Mr. Gary Kupp
August 2, 2013
Page 13

property is currently in regular use for its permitted purpose. That current use—conducting motorcycle safety training classes—provides a benefit to the public.

For these reasons, we respectfully request that the Permit be approved for an additional 5 years.

Very truly yours,



Robert C. Phelps

Enclosure (Check in the amount of \$1,000)

cc: Sand Hill Ranch Motocross, LLC
P&R Sports

EXHIBIT A



CONTRA COSTA Co Recorder Office
 JOSEPH CANCIAMILLA, Clerk-Recorder
 DOC- 2013-0145008-00

Recording requested by:
 Sand Hill Ranch Motocross, LLC

When recorded, mail this deed and tax statements to:
 Sand Hill Ranch Motocross, LLC
 100 Pringle Avenue, Suite 500
 Walnut Creek, CA 94596

Check Number
 Friday, JUN 07, 2013 12:31:42
 BRE \$572.00:MOD \$3.00:REC \$13.00
 FTC \$2.00:DAF \$2.70:REF \$0.30
 RED \$1.00:ERD \$1.00:
 Ttl Pd \$595.00 Rept # 0001691315
 JUN 11 2013

APN: 003-020-048-9 & 003-020-047-1

For recorder's use only

Quitclaim Deed

The documentary transfer tax is \$ 572.00 and is computed on the full value of the interest or property conveyed.

For a valuable consideration, receipt of which is hereby acknowledged, Glynn & Finley, LLP, a California Limited Liability Partnership, hereby quitclaims to Sand Hill Ranch Motocross, LLC, a California Limited Liability Company the following real property in the County of Contra Costa, City of Brentwood, California: See attached description. GLYNN & FINLEY, LLP

Date: 6/6/13 [Signature]
 Date: 6/6/13 [Signature]
 Date: 6/6/13 [Signature]
 Date: 6/6/13 [Signature]

State of California
 County of Contra Costa

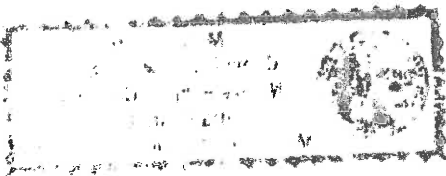
On June 6, 2013, before me, M. C. Clark, a notary public, personally appeared Clement L. Glynn, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Witness my hand and official seal. (Notarization for 4 signers.)

[Signature]
 Signature of Notary (seal)



add
Andrew T. Mortl
James M. Hanlon, Jr.
Adam D. Friedenberg

ATTACHMENT



Legal Description of Property:

PARCEL ONE

BEING A PORTION OF PARCEL "A" AND PARCEL "B" AS SHOWN ON THAT PARCEL MAP RECORDED IN BOOK 89 OF PARCEL MAPS, PAGE 34 (89 PM 34), CONTRA COSTA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS SOUTH 00° 42' 39" WEST, 30.00 FEET FROM THE NORTHEAST CORNER OF PARCEL "B" OF SAID PM 34, THENCE ALONG A LINE WHICH IS PARALLEL TO AND 30.00 FEET SOUTHERLY OF THE NORHT LINE OF SAID PARCEL "B" NORTH 89° 16' 35" WEST, 361.54 FEET TO THE WEST LINE OF SAID PARCEL "B" THENCE NORTH 89° 16' 35" WEST, 24.39 FEET, THENCE PARALLEL TO THE WEST LINE OF SAID PARCEL "B" SOUTH 00° 42' 39" WEST, 446.58 FEET TO THE NORTHERLY LINE OF THE CONTRA COSTA COUNTY WATER DISTRICT EASEMENT AS DESCRIBED IN SERIES NO 2003-0190792, CONTRA COSTA COUNTY RECORDS; THENCE ALONG SAID NORTHERLY LINE SOUTH 68° 47' 02" EAST, 26.04 FEET TO THE SOUTHEAST CORNER OF SAID 2003-0190792, THENCE ALONG THE SOUTH LINE OF THAT LAND DESCRIBED AS PARCEL ONE OF SERIES NO. 94-291866, CONTRA COSTA COUNTY RECORDS SOUTH 00° 42' 39" WEST, 275.32 FEET, THENCE ALONG SAID SOUTH LINE SOUTH 42° 33' 10" EAST, 527.52 FEET TO THE EAST LINE OF SAID 94-291866, THENCE ALONG SAID EAST LINE NORTH 00° 42' 39" EAST, 1115.08 FEET TO THE POINT OF BEGINNING

A.P. N. # 003-020-047

PARCEL TWO

PARCEL B, AS SHOWN ON THE PARCEL MAP FILED JULY 9, 1975, IN BOOK 38 OF PARCEL MAPS, PAGE 41, CONTRA COSTA COUNTY RECORDS.

EXCEPTING THEREFROM:

THAT PORTION CONDEMNED TO CONTRA COSTA WATER DISTRICT, AN AGENCY OF THE STATE OF CALIFORNIA IN THE FINAL ORDER OF CONDEMNATION FILED DECEMBER 29, 1994, IN SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA, AND RECORDED DECEMBER 29, 1994, IN OFFICIAL RECORDS, UNDER RECORDER'S SERIAL NO. 94-304479, CONTRA COSTA COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION AS CONVEYED IN THE DEED FROM TOMMY M. ANDERSON TO FIDEL ALAMILLO AND JESSICA ALAMILLO RECORDED MARCH 16, 2004 AS INSTRUMENT NO 2004-87107.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO BRENTWOOD ROAD AND GUN CLUB, A CALIFORNIA COPRORATION BY GRANT DEED RECORDED SEPTEMBER 22, 1999, INSTRUMENT NO. 99-253211, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM:

RIGHTS RESERVED IN THE DEED FROM A. STEFFENSEN, RECORDED APRIL 5, 1973, BOOK 6907, OR PAGE 623, AS FOLLOWS:

"AN UNDIVIDED ONE-HALF (1/2) INTEREST IN AND TO ALL OIL, GAS, CASINGHEAD GAS, ASPHALTUM AND OTHER HYDROCARBONS, AND ALL CHEMICAL GAS NOW OR HEREAFTER FOUND SITUATED OR LOCATED IN ALL OR ANY PART OR PORTION OF

THE LANDS HEREIN DESCRIBED LYING MORE THAT 500 FEET BELOW THE SURFACE
THEREOF BUT WITHOUT ANY RIGHT WHATSOEVER TO ENTER UPON THE SURFACE
OF SAID LAND OR UPON ANY PART OF SAID LANDS WITHIN 500 FEET VERTICAL
DISTANCE BELOW THE SURFACE THEREOF"

A.P.N. # 003-020-048-9

"END OF DOC"

EXHIBIT B

50.63 Acres

MOTOCROSS TRACK / RANCH LAND
FOR SALE

50 Camino Diablo
Brentwood, California

Asking Price: \$1,150,000



HOME

HIGHLIGHTS

AERIAL

VICINITY MAP

PARCEL MAP



**Cassidy/
Turley/** Commercial
Real Estate Services

Whiff Collins
Managing Partner
925.627.2898
whiff.collins@ctbt.com
LIC #00611570

Tim Schmid
Associate
925.627.2886
tim.schmid@ctbt.com
LIC #01847650

1850 Mt. Diablo Blvd, Suite 540
Walnut Creek, CA 94596
ph: 925.627.2880 fx: 925.627.2899
Cassidy Turley Northern California
www.ctbt.com

50 Camino Diablo Brentwood, California

HOME

HIGHLIGHTS

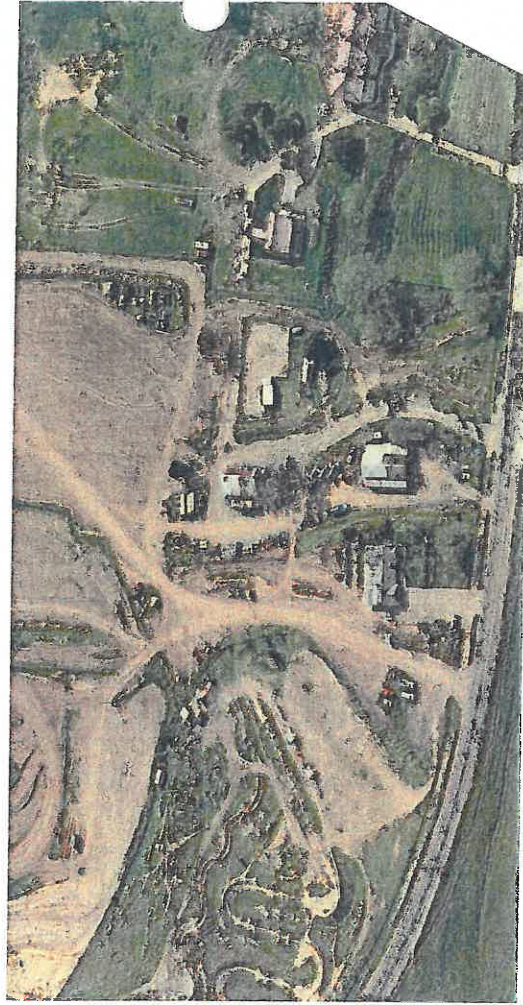
AERIAL

VICINITY MAP

PARCEL MAP

Property Highlights:

- 51.63 Acres
- Zoned A3—Heavy Agriculture
- Two Parcels
APN: 003-020-048-9 (43.62 Acres)
APN: 003-020-047-1 (7.91 Acres)
- Well established motocross track (Est. 1973)
- Great opportunity to take over a business with a long history and tradition.
- Existing use permit with Contra Costa County
- Track lighting allows for night riding on weekends
- Multiple tracks (Motocross, Supercross and Pit Bike Track)
- Property includes:
 - 1,770 square foot single family residence with 3 bedrooms and 2 bathrooms
 - One approximately 4,500 square foot barn
- Septic and well systems
- Property could be easily repositioned into a horse or cattle ranch



**Cassidy/
Turley** /
Commercial
Real Estate Services

Whiff Collins
Managing Partner
925.627.2898
whiff.collins@ctbt.com
LIC #00611570

Tim Schmid
Associate
925.627.2886
tim.schmid@ctbt.com
LIC #01847650

1850 Mt. Diablo Blvd, Suite 540
Walnut Creek, CA 94596
ph: 925.627.2880 fx: 925.627.2899

www.ctbt.com

50 Camino Diablo Brentwood, California

HOME

HIGHLIGHTS

AERIAL

VICINITY MAP

PARCEL MAP

Aerial:



**Cassidy/
Tunley/** Commercial
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50 Camino Diablo Brentwood, California

HOME

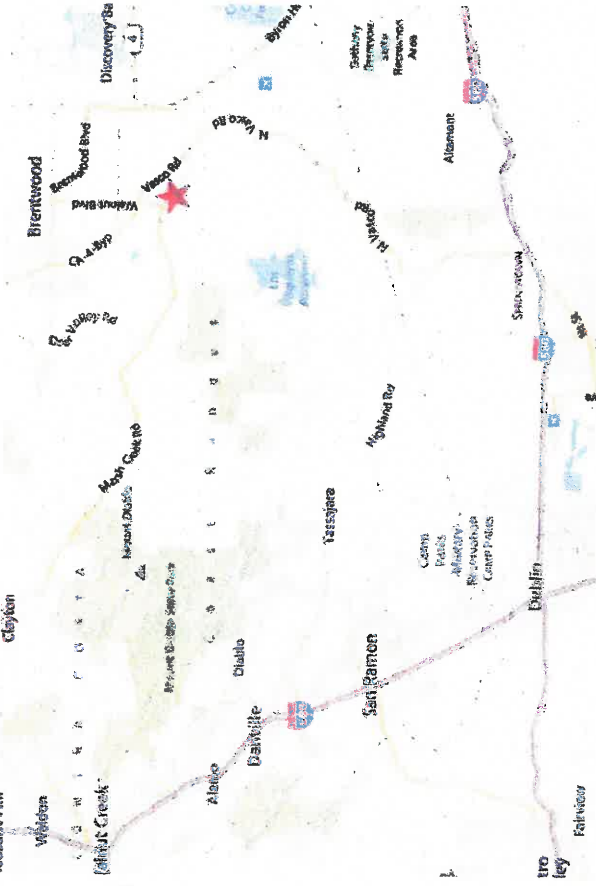
HIGHLIGHTS

AERIAL

VICINITY MAP

PARCEL MAP

Driving Distance from Brentwood to:	
San Francisco	57 Miles
San Jose	57 Miles
Sacramento	74 Miles
Stockton	27 Miles
Fairfield	50 Miles
Livermore	19 Miles
Walnut Creek	32 Miles



Cassidy/Turley
Commercial
Real Estate Services

Whiff Collins
Managing Partner
925.627.2898
whiff.collins@ctbt.com
LIC #00611570

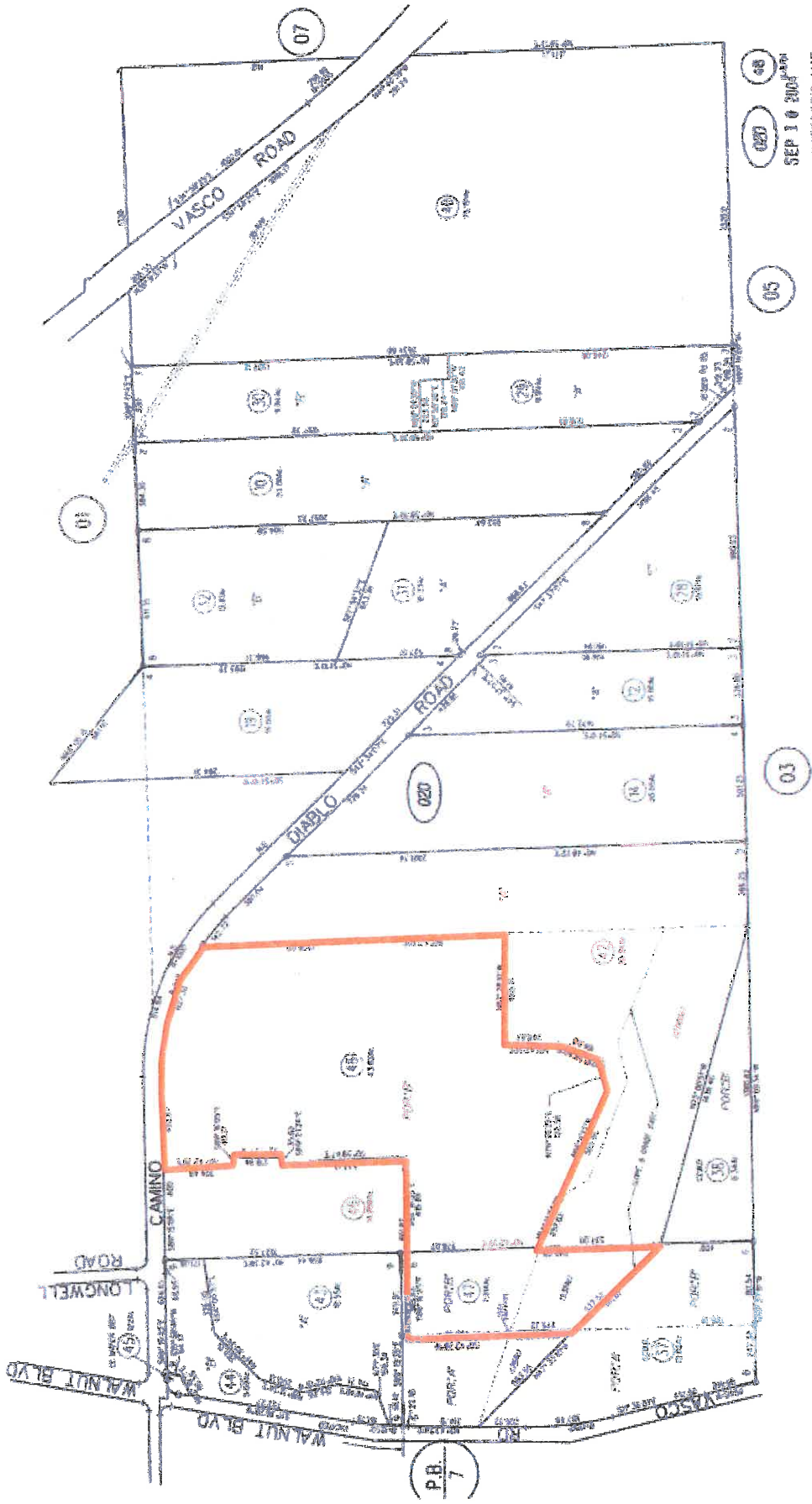
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www.ctbt.com

50 Camino Diablo Brentwood, California

- HOME
- HIGHLIGHTS
- AERIAL
- VICINITY MAP
- PARCEL MAP



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1850 Mt. Diablo Blvd, Suite 540
Walnut Creek, CA 94596
ph: 925.627.2880 fx: 925.627.2899
www.ctbt.com

EXHIBIT 7

**Schmidt Grant Deed Recorded
3/28/2014**

2014P004694700003
CONTRA COSTA Co Recorder Office
JOSEPH CANCIAMILLA, Clerk-Recorder
DOC-2014-0046947-00
Acct 2116-E-North American Title
Friday, MAR 28, 2014 08:54:40
MOD \$3.00|REC \$13.00|FTC \$2.00
RED \$1.00|ERD \$1.00|SUR \$10.00
CCC \$770.00|
Ttl Pd \$800.00 Nbr-0001932644
mom/RC/1-3

RECORDING REQUESTED BY
North American Title Company, Inc.

AND WHEN RECORDED MAIL DOCUMENT TO:
JD 2008 Revocable Trust
5387 Milo Hae Place
Koloa, HI 96756

Space Above This Line for Recorder's Use Only

A.P.N.: 003-020-048-9

File No.: 54702-1280628-14 (NAT)

GRANT DEED

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX \$770.00; CITY TRANSFER TAX \$;
SURVEY MONUMENT FEE \$

[] computed on the consideration or full value of property conveyed, OR
[] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
[**Unincorporated**] unincorporated area; [] City of , and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **Sand Hill Ranch Motocross LLC, a California limited liability company**

hereby GRANTS to **James Keith Schmidt and Dorothy Clair Schmidt, Trustees of JD 2008 Revocable Trust, dated January 25, 2008**

the following described property in the unincorporated area of the County of **Contra Costa**, State of **California**:

PARCEL B, AS SHOWN ON THE PARCEL MAP FILED JULY 9, 1975, IN BOOK 38 OF PARCEL MAPS, PAGE 41, CONTRA COSTA COUNTY RECORDS.

EXCEPTING THEREFROM:

THAT PORTION CONDEMNED TO CONTRA COSTA WATER DISTRICT, AN AGENCY OF THE STATE OF CALIFORNIA IN THE FINAL ORDER OF CONDEMNATION FILED DECEMBER 29, 1994, IN SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA, AND RECORDED DECEMBER 29, 1994, IN OFFICIAL RECORDS, UNDER RECORDER'S SERIAL NO. 94-304479, CONTRA COSTA COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION AS CONVEYED IN THE DEED FROM TOMMY M. ANDERSON TO FIDEL ALAMILLO AND JESSICA ALAMILLO RECORDED MARCH 16, 2004 AS INSTRUMENT NO. 2004-87107.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO BRENTWOOD ROAD AND GUN CLUB, A CALIFORNIA CORPORATION BY GRANT DEED RECORDED SEPTEMBER 22, 1999, INSTRUMENT NO. 99-253211, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM:

RIGHTS RESERVED IN THE DEED FROM A. STEFFENSEN, RECORDED APRIL 5, 1973, BOOK 6907, OR, PAGE 623, AS FOLLOWS:

Mail Tax Statements To: SAME AS ABOVE

EXHIBIT 8

Thuman Letter Dated 12/5/2014

December 5, 2014

Dear Zoning Administrator,

We are the neighbors of 50 Camino Diablo in Brentwood California. That property has been known historically as Sand Hill Motocross Ranch and currently as Diablo MX Ranch. For purposes of this document we will identify it as Sand Hill/Diablo MX.

We have had an opportunity to read the Staff Report prepared by the Department of Conservation and Development and disagree with many of the items, most of which are identified as "In Compliance."

The items are as follows:

California Environmental Quality Act (CEQA) Status: It states "Exempt" and we would like to know know why. We have asked before and have not received a response. (See attached letter to Tomi Riley dated October 6, 2014)

Under "Recommendation 1" It states that the applicants are in compliance. They are not in compliance and have never been in compliance. These non-compliant Conditions of Approval (COA's) will be identified below.

Under "Recommendation 2" It states, "Approve revised site plan submitted October 31, 2014..." On the original permit COA #1, it states "subject to revised site plan dated/received October 21, 1996. On the original permit COA #5 states, "All activities approved by this permit shall be restricted to the existing track and motocross areas as indicated on the plan submitted with the application with the exception of minor changes subject to Zoning Administrator review and approval." A revised site plan submitted 16 years later is not a minor change. We have been told in person by Senior Planner Will Nelson that they had to adhere to the site plan dated October 21, 1996. Through Public Document Request we asked for the original application and any changes, addendum's or revisions. Suddenly we are presented with a map dated 1998 that is being presented as a site plan. No received date stamps from county on this previously unknown document. Again this is not a minor change. (See attached Request for Public Document)

Under "Recommendation 3" It states "Grant planning clearance for issuance of a business license..." As we brought up in the meeting in your presence on December 1, it is our opinion that Sand Hill has been closed for over two years. During that time there was occasional, very quiet motorcycle classes that took place. During that time we advised the county that the site was not in compliance and now we are asking if they had a business license to operate during that time at that location. (During that time we were told that constituted being open for business. For over six months there has been no training. Now we are told that pursuing compliance ((cleaning up property)) fulfills that requirement. If that is the case why did they have to conduct training classes in the first place?) (See attached emails & pictures) *

Under "Background" It state that compliance reviews were conducted in 2003 and 2009. We asked for proof that the property was in compliance during those reviews and did not receive and proof that it was in compliance. (See attached letter to Tomi Riley dated Oct 26, 2014)

Under "Background" it also states that the land use permit is still valid even though the

applicants have not been operating it as a business because they have been pursuing compliance. COA #1 specifically states that the COA's are to be met in a timely manner, not 16 years later.

Under "Background" paragraph two it states, "since there is no evidence of the (sound) study being conducted in the past..." Again, out of compliance as stated on COA #1 which specifically states that the COA's are to be met in a timely manner, not 16 years later. Also under "Background" it states there is no official record of complaints made to Code Enforcement...While we didn't want to bring up old history there is a significant history regarding complaints against Sand Hill as documented in the lawsuit of Carol Davis vs. Tommy Anderson and Thomas Smith (C98-03060). That lawsuit specifically states, "Contentious public hearings occurred before the County Planning Commission and Board of Supervisors in 1996 and early 1997. These hearings received extensive press coverage." It also states that because of concerns of plaintiff and neighbors certain limiting conditions were imposed...As newer residents moved in it appeared that Sand Hill had reduced their hours and ridership was declining and since Tom Anderson was here first no complaints were made that we are aware of at the 5 year review hearings. (See attached Davis v Anderson lawsuit)

Also under "Background" paragraph three it states that we question the validity of the permit originally approved as a 80 plus acre site now reduced to an approximate 40 acre site. The county states this reduction was properly noticed and approved at public hearing in 2004. It may have been approved as a lot line adjustment but not properly investigated as the sound/safety/liability buffer for a motocross race track. Was this specifically noticed as a reduction in the size of a motocross race course?

It appears this may not have been carefully investigated prior to approval or someone should have realized the liability that was created by losing what was in effect a buffer for the motocross tracks. Per the staff report this was noticed and approved on January 5, 2004. Paul Bergstrom rode off a Sand Hill course on March 11, 2004, onto what is now the Harrison property, received significant injuries and successfully sued both Sand Hill for over two million dollars and received a settlement from what is currently the Harrison property for about \$750,000. At that time the Harrison property belonged to the Brentwood Rod and Gun Club. (See attached Paul Bergstrom vs. Sand Hill Ranch lawsuit) A perfect example of why a buffer is essential to this property not only for noise but for safety. We have attached a proposal from a motocross course that includes buffer information. The course is 75 acres, the property is 437 acres. The proposed buffer is, "at least 25 feet high by 70 feet wide.." that is around the course area. "A perimeter vegetated buffer area with an average width of 1,000 feet and minimum width of 500 feet..." That appears to be for the actual perimeter of the property. (See attached proposal from Snohomish County and lawsuit article re motorcyclist)

Now we get to the actual COA's:

COA #1: The staff report states they are in compliance. We disagree. County states they are in compliance but they have to remove two unapproved tracks to conform to original site plan dated October 21, 1996. The county also states, "In order to get the site into better conformance with the approved site plan, the applicants were required to submit new site plans that better reflect the original approval." How do they know what the original approval is supposed to reflect, where they involved in the original? It appears from the lawsuit between Davis and Anderson the original approval reflected concerns of the neighbors. "Because of concerns of

Plaintiff and her neighbors expressed to the county, and in compromise of the conditions sought in the original applications of Anderson and Smith, certain limiting conditions were imposed..." We do not believe the intent of the permit was to expose neighbors to even more noise from the motocross tracks. (See attached lawsuit of Davis and Anderson)

COA#1: This COA also talks about the new owner/applicants applying for a grading permit to move the oval track, which was never in compliance with the 1996 site plan. There is no permit for the track which is a condition of COA#4. These new owner/applicants have already done significant grading, tree removal, course modification, retaining wall construction and building remodeling without a permit. All of these issues have been reported and/or asked about. (See attached Req for Public Doc's, emails and citizen access documents)

COA#2: The staff report says they are in compliance. They are not in compliance. Talks about reconstruction of (unpermitted) oval track and notification to Community Development 30 days prior to any racing event. The track is not permitted, the track never conformed to October 21, 1996 site plan and had this process occurred 16 years ago or been investigated at any of the compliance reviews we would not be bringing it up at this time. (Refer to attachments from COA#1)

COA#3: Staff report states they are in compliance. We agree that they were in compliance as of 2012. After two requests for public documents we received satisfactory documentation.

COA#4: Staff report states they are in compliance. They are not in compliance. States the applicants shall have permits for all structures related to motorcycle activities. On the permit it specifically states "the racetrack." A request for public documents resulted in nothing on file. (attachment on COA#1) This racetrack has never been permitted and never been in compliance. There is also no pond indicated on the original site plan. The applicant/owner did a huge amount of grading, fencing and construction to build the current very large pond. There is no permit for the pond we are aware of.

COA#5: Staff report states they are in compliance. They are not in compliance. They have never been in compliance. If they were in compliance why is there a need for a new site plan? The new site plan includes things that were not on the original site plan such as the pond. The new site plan shows the track much closer to the Harrison property line. COA #5 states that minor changes are to be approved by the Zoning Administrator. This is a major change(s).

COA#6: Staff report states they are in compliance. They are not in compliance. Our public document requests specifically asked for the original application, site plan and any changes or addendum's. We were never given what they identify here as Exhibit 4. This is also the only document that is not date stamped as to when it was received and/or approved by the county. We specifically asked for a 1998 map but were told the 1996 map was the site map. On the county staff report under COA#5 it specifically states, "conform to the approved October 21, 1996 site plan..." Exhibit 4 also states hours start at 7am. COA#1 states "Any expansion or CHANGE in hours of operation, additional types of racing or other uses WILL require the approval of a new Land Use Permit." The hours on the approved permit start at 8am. (See emails.)

COA#7: Staff report states they are in compliance. We state they are not in compliance and have not been for 16 years. Again there is NO timeliness to this, again a violation of COA#1. (See

request for public document.)

COA#8: Staff report states they are in compliance. We can agree to this although we have asked about a designated helo landing area to minimize sound, dust and debris as medical helicopters land on a routine basis. We have been told by fire department staff that when Sand Hill was up and running it was their number one response location.

COA#9: Staff report states they are in compliance. Not in compliance, have not been in compliance for 16 years. Again there is NO timeliness to this, again a violation of COA#1. There has never been a permit for lights on the racetrack, should have been addressed 16 years ago.

COA#10: Staff report states they are in compliance. They do not have any signs up, how could they be in compliance? They did put up signs without approval and had to take them down. If they had met with the county as directed on COA #18 perhaps they would not have again violated the permit.

COA#11: Staff report states they are in compliance/ongoing. However on the staff report it states dust control for parking area. On the permit it states when there are 25 or more present the dust control will include the entire site to avoid dust impacts on nearby properties. We want to ensure proper dust control.

COA#12: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#13: Staff report states they are in compliance. As this has to do with safety helmets releases, minors accompanied by adult, etc they cannot be in compliance until they are open. We have had historic problems with motorcycles from Sand Hill riding on Camino Diablo and Walnut Blvd. The applicant was told of those concerns and said that would not be a problem. Since that time on more than one occasion unlicensed bikes from Sand Hill/Diablo MX have been seen on Camino Diablo and Walnut Blvd.

COA#14: Staff report states they are in compliance. This is regarding Contra Costa County Water (CCW) easement access. We can only assume they would have access.

COA#15: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#16: Staff report states they are in compliance. This is a historical problem as it relates to musical concerts and dances. There used to be Rave parties held at Sand Hill. Traffic on Camino Diablo would be completely blocked by these parties which would also impact traffic on Vasco Rd. While they may not allow concerts or dancing, the loud music played by customers was/is not enjoyed by the neighbors.

COA#17: Staff report states they are in compliance. They are not in compliance and have never been in compliance. THIS IS A HUGE ISSUE. There is no evidence a sound study was ever done. How are we supposed to know what is an acceptable noise level? When we are in our homes with double paned windows with all windows and doors closed we still have to turn up the volume on whatever we are listening to try and drown out the dirt bikes. That to us is

UNACCEPTABLE. We cannot enjoy being outside with friends and family when the motocross is running. Where are our rights to peace and quiet? We believe Sand Hill/Diablo MX is a "Nuisance" property. There is also case law supporting our position. (See attached letter to Supervisor Piepho for details on Nuisance Property and previous case law.)

COA#18: Staff report states they are in compliance. They are not in compliance, the previous owners (attorneys) were not in compliance and according to the county Tom Anderson was not in compliance. The staff report says they are in compliance because they "notified" the county in a timely manner. Nowhere is COA#18 does it say "notify" it specifically states the new owner is to "meet" with the Zoning Administrator(ZA). This same violation was brought up when the attorneys owned the property as they did not meet with the ZA either. We were told at that time the condition was met through a letter. What is the point of having COA's when things like this happen repeatedly? The "disclosure of deed restrictions," COA #18 also states," You are purchasing a property with a permit for a motocross trails park. This permit carries with it certain conditions that must be met by the owner of the property. The permit (LP95202) is available from the current owner or from Contra Costa County Community Development Department. A new owner is required to meet with the Zoning Administrator within 30 days of purchasing the property to discuss the terms of the permit and County requirements and expectations." If the attorney's did not disclose this then the current owners should follow-up with them. If it was disclosed it appears that the current owners decided they did not need to follow the Conditions of Approval as they did not meet with the county and did significant work, grading, construction of a pond, concrete work, signage, fencing, tree removal, retaining walls and remodeling without obtaining permits. If there is a concern of detrimental reliance on the part of the county we believe that is not the case. Previous potential buyers were well aware of the conditions attached to this property. They talked to the neighbors and the county prior to attempting to buy the property and as a result did not buy the property. (John Taylor)

COA#19: Staff report states they are in compliance. We do not believe they are in compliance. As a result of unpermitted grading there are drainage problems on adjoining parcels, specifically the Harrison & Alamillo properties.

COA#20: Staff report states they are in compliance. They are not in compliance. The driveway into the motocross is not in compliance. This was brought up previously and nothing was done. The driveway is not 20 foot wide paved with tapers and flares....in accordance with Caltrans Highway Design....(See Coa#20)

COA's 20 through 29: Staff report states they are in compliance. Without consulting with a specialist in this area we are in general agreement. We still have questions as to which driveway is for the development, if it meets criteria and how many driveways there are supposed to be for that property.

We have attached copies of several letters of concerns:

Letter to Supervisor Piepho delivered in person during meeting on May 7, 2014
Letter to Chief of Staff Tomi Riley, dated Oct 6, 2014
Letter to neighbors at 50 Camino Diablo, dated November 20, 2014

In closing we would like to reiterate that our concerns have not changed. We have stated since 2012 that we do not believe this property has ever been in compliance with the Conditions of Approval on

the Land Use Permit. As stated in COA#1, failure to comply in a timely manner may lead to revocation. Any change in hours will require a new land use permit. It has been closed for over two years. That is a significant change in hours.

(R1)

EXHIBIT 9

General Plan Figure 11-6 Land Use/Noise Compatibility

Figure 11-6 Land Use Compatibility for Community Noise Environments

LAND USE CATEGORY	COMMUNITY NOISE EXPOSURE					
	L _{dn} OR CNEL, dB					
	55	60	65	70	75	80
RESIDENTIAL - LOW DENSITY SINGLE FAMILY, DUPLEX, MOBILE HOMES		Normally Acceptable	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable
RESIDENTIAL - MULTI FAMILY		Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
TRANSIENT LODGING - MOTELS, HOTELS		Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
SCHOOLS, LIBRARIES, CHURCHES, HOSPITALS, NURSING HOMES		Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
AUDITORIUMS, CONCERT HALLS, AMPHITHEATRES	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable
SPORTS ARENA, OUTDOOR SPECTATOR SPORTS	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable
PLAYGROUNDS, NEIGHBOURHOOD PARKS		Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
GOLF COURSES, RIDING STABLES, WATER RECREATION, CEMETARIES		Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
OFFICE BUILDINGS, BUSINESS, COMMERCIAL AND PROFESSIONAL		Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
INDUSTRIAL, MANUFACTURING, UTILITIES, AGRICULTURE		Normally Acceptable	Normally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable

NORMALLY ACCEPTABLE
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

CONDITIONALLY ACCEPTABLE
New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.

NORMALLY UNACCEPTABLE
New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design.

CLEARLY UNACCEPTABLE
New construction or development clearly should not be undertaken.

For lands within 3 miles of Buchanan Field and the East Contra Costa County Airports noise compatibility shall be adjusted to those of the ALUC which are roughly 5 CNEL lower than shown on this table.



EXHIBIT 10

Peer Review of Project Noise Study, Dated 4/12/2016

ILLINGWORTH & RODKIN, INC.
||| Acoustics • Air Quality |||

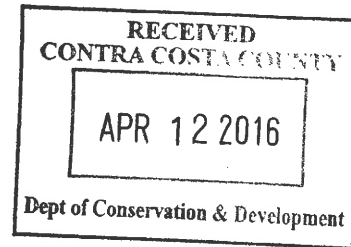
1 Willowbrook Court, Suite 120
Petaluma, California 94954

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April 12, 2016

Gary Kupp
Planner II
Contra Costa County
Conservation & Development
30 Muir Road
Martinez, California 94553



VIA E-MAIL: Gary.Kupp@dcd.cccounty.us

SUBJECT: Review of Diablo MX Ranch Noise Studies

Dear Gary:

At your request, we have reviewed two noise studies prepared for the Diablo MX Ranch project proposed in Contra Costa County, California. The first study was prepared by the appellant's acoustical consultant, Charles M. Salter Associates, Inc. (Salter), in October 2015, and the second study was prepared by the applicant's acoustical consultant, Wilson Ihrig (WIA), in March 2016. The Salter study documented ambient noise levels through a comprehensive noise monitoring survey at several locations surrounding the motocross facility and provided a list of questions that the consultant thought should be addressed in the noise evaluation of the project. The WIA study similarly included a comprehensive ambient noise monitoring survey. The WIA study also included noise measurements of simulated race and practice events and predictions of noise levels under several operating scenarios. The WIA study concluded that the project, as proposed, would produce noise levels that would comply with the Contra Costa County General Plan.

Our peer review of these reports included an assessment of the two separate noise monitoring surveys, an assessment of the predictive methods utilized in the WIA analysis, and an assessment of the conclusions reached by WIA relative to applicable standards. The key issues are that the correct significance criteria have been used and that project-generated noise has been properly evaluated.

Charles M. Salter Associates, Inc. Study

The Salter study first references project standards and then summarizes the results of a comprehensive noise monitoring survey made to document ambient noise conditions near the Diablo MX Ranch project site. Ambient day-night average noise levels (L_{dn} or DNL), in the absence of motocross-related noise, were generally 50 to 60 dBA. Daytime hourly average noise levels typically ranged from approximately 40 to 45 dBA L_{eq} . These data were reviewed and demonstrate that the site and vicinity are subject to relatively low levels of ambient noise. The study then asks several

questions relating to the project's potential to generate noise levels exceeding allowable limits and whether or not the project would result in a substantial increase in noise above ambient conditions. These questions are not answered in the Salter report. It is our understanding that the questions posed by Salter relating to the project's potential to generate noise levels exceeding allowable limits and whether or not the project would result in a substantial increase in noise above ambient conditions would only be applicable if the project were undergoing CEQA review. We understand that the proposed project is not subject to CEQA; therefore the questions posed by Salter are not applicable in the assessment of project-generated noise.

Wilson Ihrig Study

The WIA study presents a description of the proposed project, a summary of Contra Costa County's noise guidelines, and noise measurement data collected to establish ambient noise conditions and noise levels produced by simulated race and practice events. The ambient noise levels documented by WIA were reviewed and found to be similar to those documented by Salter. The noise survey of simulated practices and events also appeared to be reasonable. Predictions of noise levels under several operating scenarios are then made and noise levels are compared to the General Plan's 75 dBA L_{dn} "Normally Acceptable" standard for land zoned for agriculture. Our review indicates that the methodology used in the noise analysis was appropriate, and the calculated noise levels were reasonable based on assumptions detailed in the noise study. The study concludes that the project would not exceed the noise limit established for parcels zoned for agriculture as described in the Contra Costa County General Plan.

Comments

The primary difference between the two studies is the noise level threshold that should be used to evaluate project generated noise. The Salter study references a "60-dBA Noise Control" standard which is assumed to apply at the property line. The Salter study also references the General Plan's 60 dBA L_{dn} "Normally Acceptable" standard, and the State of California Model Community Noise Ordinance standards, which are normally applied to residential land uses. In contrast, the WIA study cites the County General Plan's 75 dBA L_{dn} "Normally Acceptable" standard for land zoned for agriculture and evaluates noise produced by the project with respect to this standard. It is our understanding that the County supports the 75 dBA L_{dn} threshold used in the WIA study because the subject property and surrounding parcels are zoned for agriculture and the proposed use would be consistent with the uses allowed in the agricultural zoning district.



This concludes our comments. Please feel free to contact us, should you have any questions.

Sincerely,



Michael S. Thill
Principal Consultant
ILLINGWORTH & RODKIN, INC.
(16-067)

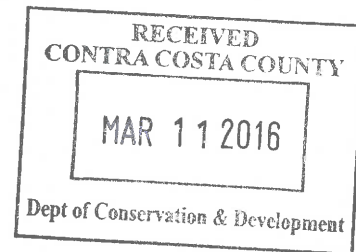
EXHIBIT 11

**Project Noise Study, Dated
3/8/2016, Prepared by Wilson Ihrig
Associates**



Diablo MX Ranch Noise Study – FINAL DRAFT

Contra Costa County, CA



8 March 2016

Prepared for:

Ron Mullin, Esq.
Mullin Law Firm
1355 Willow Way, Suite 110
Concord, CA 94520

Prepared by:

Richard Carman, PhD, P.E. (Senior Principal)
Leisa Nalls (Senior Consultant)
Timothy Johnson (Senior Consultant)

WI Project 16-005



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Executive Summary

As required for a County Land Use Permit, this report presents a noise study prepared for the existing Diablo Motocross Ranch (DMXR) facility at 50 Camino Diablo in Contra Costa County, California. The DMXR facility will host dirt bike races on several weekends a year and allow dirt bike riders to practice on the motocross track and flat oval track on weekends and practice on the motocross track on weekdays.

The purpose of this noise study is to determine the typical noise levels to be expected from dirt bike activity at the DMXR facility. The projected noise levels are compared to the noise guidelines contained in the Noise Element of the Contra Costa County General Plan. This report provides a description of the noise study methodology, the noise measurements conducted during simulated dirt bike race and practice events, ambient noise measured over the course of a few days without bike activity, a discussion of Noise Element noise guidelines, and DMXR activity noise level projections at several points along the DMXR property line. Estimates of noise levels at nearby residences are also provided for a day when races are held.

This study addressed three different event scenarios for dirt bike activity at DMXR:

1. Weekend race day
2. Weekend practice day
3. Weekday practice
4. Friday or Saturday Night Under the Lights event

The analysis to assess these scenarios incorporates noise levels measured at the property line from simulated race and practice activities and existing ambient noise with no bike activity. Based on noise measurements of simulated races and practice activity and ambient noise data, the Day-Night Noise Level (L_{dn}) for each of the four scenarios was calculated based on race and practice activity levels provided by the applicants (John and Lori Ramirez). The noise levels presented herein are intended to represent a typical condition for each of the DMXR activity scenarios evaluated.

It is our understanding that the DMXR property and surrounding land parcels are all zoned as A-3 (Heavy Agricultural District). The Contra Costa General Plan Noise Element indicates that noise levels up to 75 L_{dn} are "Normally Acceptable" for land zoned for agriculture. Based on the model calculations performed for the four activity scenarios, 73 L_{dn} is the highest noise level projected at the DMXR property line due to dirt bike activity on a typical weekend race day. Therefore, the DMXR activity is within the "Normally Acceptable" noise guidelines at the property line.

The highest noise level at an adjacent residence is estimated to be 61 L_{dn} for a typical race day. Noise levels at the other residences are projected to be less for a race day. For weekend and weekday practice the noise levels will be even lower than those occurring on a race day. For Friday or Saturday Night Under the Lights, the highest L_{dn} at two residences is estimated to be 60.

1 Project Description

The DMXR facility is located at 50 Camino Diablo, near the intersection of Camino Diablo and Walnut Boulevard, in Contra Costa County (CCC). The nearest city is Brentwood. The facility has two race

tracks for dirt bike riding, a motocross (MX) track which is the main track and an oval track. The flat oval track that will be used but see less activity compared to the main track. The flat oval track will be used on events referred to as Friday or Saturday Night Under the Lights. The purpose of this noise study is to determine the typical noise levels to be expected from dirt bike activity at the DMXR facility. Four different scenarios for dirt bike activity were evaluated: a weekend race day, a weekend practice day, a weekday practice, and flat track only activity (Friday or Saturday Night Under the Lights event). Figure 1 is an aerial view of the DMXR facility. The oval track visible in this aerial view will be relocated 150 feet to the west of the existing oval track as noted.



Figure 1: Aerial View of DMXR Facility Showing Noise Measurement Locations

The hours of operation of the DMXR (i.e., hours during which the facility will be open to the public) are contained in the Land Use Permit. Figure 2 is a photo of the MX track looking to the southeast from a position near measurement Location 4.



Figure 2: Diablo MX Ranch MX Track

2 Applicable Noise Guidelines

The applicable noise guidelines are contained in the Noise Element of the CCC General Plan (2005 - 2020). The noise guidelines are contained Figure 11-6 (Land Use Compatibility for Community Noise Environments) of the Noise Element, which is replicated herein in Figure 3. CCC Land Use Compatibility noise guidelines are based on the Day-Night Level (L_{dn}) metric. The L_{dn} is the equivalent noise exposure level for a 24-hour period. Noise occurring during the nighttime hours of 10:00 pm to 7:00 am are weighted by adding 10 decibels (dB) to the measured noise levels. The 10 dB weighting accounts for the greater sensitivity of people to noise during nighttime hours compared to noise occurring during the daytime.

Environmental noise levels are measured in terms of A-weighted decibels (dBA), which are closely correlated with the auditory response of the human ear. A-weighting is implicit in noise levels reported in terms of L_{dn} and normally not included when reporting L_{dn} levels. Environmental noise levels fluctuate over time. The term Equivalent Continuous Sound Exposure Level (L_{eq}) refers to a

noise level that is equivalent to a level of a steady noise containing the same total sound energy as the fluctuating noise level for a given period of time (typically one hour). The L_{dn} is determined from the hourly L_{eq} over a 24-hour period with the 10 dB weighting for nighttime hours. Figure 2 below presents the Land Use Compatibility noise guidelines as indicated in Figure 11-6 of the CCC Noise Element. It is our understanding that the land parcels adjacent to DMXR property are zoned agriculture and therefore noise levels up to 75 L_{dn} are considered "Normally Acceptable."

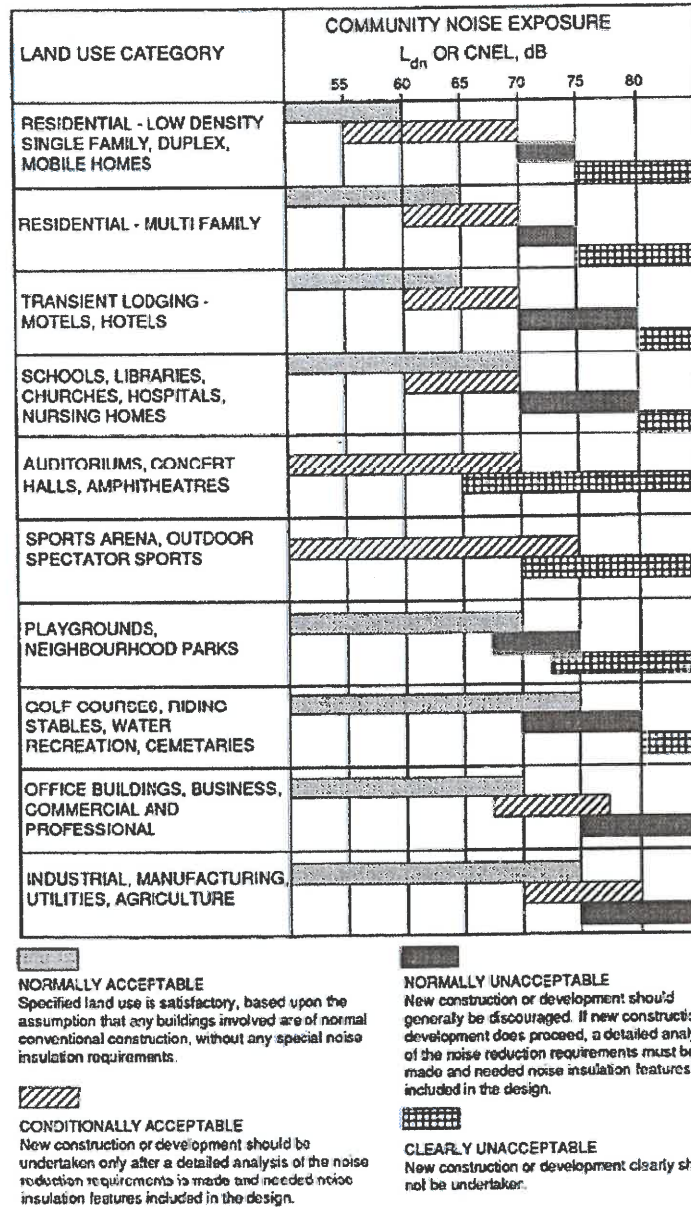


Figure 3: Land Use Compatibility Guidelines for Community Noise Environments (as provided in Figure 11-6 of the Noise Element of the Contra Costa County General Plan)

3 Noise Study Methodology

The noise measurements conducted for this study consisted of both short-term noise recordings and long-term noise measurement at five (5) locations along the DMXR property line. Table 1 summarizes the noise measurement locations and the types of measurements performed at each. Figure 1 shows the position of measurement locations for this noise study on an aerial image of the facility.

Long-Term Measurements

Hourly L_{eq} noise levels were measured along the property line of the site using five Type I logging sound level meters with windscreens. All measurements were calibrated. The noise loggers were left unattended for four full days, two weekdays and a weekend. The long-term loggers were placed at the locations indicated in Table 1 and Figure 1 (Loc. 1 to Loc. 5), where they were secured to the fence or tree support post with extension poles. Microphone height for the long-term loggers was approximately 8 feet above the ground. All long-term meter microphones were provided with a 7 in. weatherproof windscreen to minimize noise created by turbulence at the microphone from wind. The sound meters logged noise levels continuously for several 24-hour periods, providing hourly L_{eq} throughout the measurement duration. The hourly L_{eq} logged were subsequently used to calculate the daily Day-Night Levels (L_{dn}) and typical hourly ambient L_{eq} at each location. Loc. 4 and Loc. 5 only logged data for three complete days due to a loss of battery power.

Short-Term Sound Recordings

Calibrated, digital recordings were made at all five locations to provide representative samples of dirt bike noise and its frequency content for a four-hour period during the simulated race and practice activity conducted on a weekday (Thursday, January 28th). Digital recordings were obtained with microphones at a height of 5 feet above the ground. Microphone windscreens were employed. The locations and descriptions of the measurements are indicated in Figure 1 and Table 1.

Table 1: Environmental and Dirt Bike Noise Measurement Locations

Label	Measurement Type	Location Description
Loc. 1	Long Term - 8 ft mic height Short Term - 5 ft mic height	East property line fence on extension pole, 250' north from north edge of neighbor's barn. On a hillside overlooking the flat track and much of the MX track.
Loc. 2	Long Term - 9.5 ft mic height Short Term - 5 ft mic height	Southeast property line at row of new cedar trees on extension pole, secured to tree support post. Near the MX track and in-line with the eastern edge of the water retention pond on site.
Loc. 3	Long Term - 8.5 ft mic height Short Term - 5 ft mic height	South-southeast property line fence, on extension pole, on MX track hill. Near the section of the MX track where the riders start the final decent off the hill.
Loc. 4	Long Term - 7.5 ft mic height Short Term - 5 ft mic height	West-northwest property line fence, at corner of fence line, on extension pole. Near the start line for the MX track.
Loc. 5	Long Term - 9 ft mic height Short Term - 5 ft mic height	West property line fence on extension pole, in-line with adjacent residence south façade. Farthest from both tracks, and near closest residence.

3.1 Dirt Bike Activity Noise Recordings

Simulated race day and practice activity were conducted with volunteers on 28 January 2016. Approximately fifty riders, with a mix of 2-stroke and 4-stroke bikes, were present over a four-hour period and ridden to simulate motocross (MX) races and practice activity on the MX track and the oval track. Two Wilson Ihrig personnel circulated between measurement Locations 1, 2, 4, and 5 during this four-hour period to observe the noise levels at each location in real time during the dirt bike activity. Loc. 3 was not accessible during the dirt bike activity for safety reasons.

Three race simulations were conducted on the MX track. Each race consisted of 10 laps, the first two races had 20 riders and the third race had 22 riders. Each of these three races had a typical duration of approximately 25 minutes. The bikes ridden during these simulations were a mix of 2 and 4-stroke engines, with a majority of 4-stroke engines. One race simulation, which consisted of 13 riders and 10 laps, was conducted on the flat oval track.

Following the four races the two tracks were opened for bike practice activity for the next 2.5 hours. The number of riders on the track varied throughout the practice time, with the highest number being 25 riders on the MX track and 10 riders on the oval track at the beginning of the practice simulation. A head count of riders was taken roughly every 30 minutes during the practice simulation, with the number of riders on the MX track decreasing by an approximately 5 riders with each 30-minute head count. At the end of the practice simulation there were five riders on the motocross track. The oval track was empty by the end of the first hour of practice time.

The data recorded from these simulated race and practice events were used to establish hourly L_{eq} and L_{dn} levels for the four scenarios for DMXR race and practice functions that were assessed: (1) a weekend race day, (2) a weekend practice day, (3) a weekday practice and (4) Friday or Saturday Night Under the Lights event.

3.2 Ambient Noise Measurement Results

The results of the ambient noise survey without bike activity reveal that the existing noise levels around the DMXR property line range from 47 to 56 L_{dn} . The logged hourly ambient noise levels were used to establish the typical ambient noise levels during the three DMXR function scenarios indicated above, outside the hours when the facility is open and bike activity occurs. The L_{dn} levels measured at each location are presented in Table 2 below.

Table 2: Measured Existing Ambient L_{dn} without DMXR Activity

Day	Day-Night Noise Level (L_{dn})				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
Friday, January 29	48	49	47	56	47
Saturday, January 30	50	50	47	55	47
Sunday, January 31*	53	56	56	53	48
Monday, February 1	54	54	52	--**	--**

* There appeared to be a least one dirt bike rider at the DMXR facility on Sunday, January 30, 2016 during the 3 pm hour

** No data was logged at these locations on this day due to a loss of battery power

3.3 Analysis of Measured and Recorded Noise Data

The results of the simulated race and practice events are summarized in Table 3 below. Sample L_{eq} 's at each site were taken during each of the simulated events. Sample L_{eq} 's obtained from the recordings during the simulated races ranged between 10-15 minutes. Samples obtained during the simulated practices were 30 minutes in duration. Typical weekend and weekday ambient levels for each hour are presented in the Appendix. At each site, the measured ambient hourly L_{eq} 's collected during Saturday and Sunday were averaged to calculate typical weekend ambient levels. Measured ambient hourly L_{eq} 's collected during weekdays were averaged to calculate typical weekday ambient levels.

Table 3: Measured Equivalent Noise Levels (L_{eq}) During Simulated DMXR Activity

Simulated Events	Equivalent Noise Level (L_{eq})				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
Simulated Race on MX Track*	66	74	69	78	65
Simulated Race on Oval Track**	70	58	66	62	70
Simulated MX and Oval Track Practice (10/5 riders)***	65	72	68	75	65
Simulated MX Practice (5 riders)***	64	71	68	74	64
Simulated Oval Track Practice (3 riders)****	64	52	60	56	64

* Samples taken during simulated race events on MX track ranged between 10 – 15 minutes.

** Samples taken during simulated race events on oval track were 10 minutes.

*** Samples taken during simulated practice events were 30 minutes.

**** Adjusted from 10 minute samples taken during simulated race events on oval track.

4 Noise Models for DMXR for Property Line Locations

The results of the ambient noise measurements (typical hourly L_{eq}) were combined with the calculated hourly L_{eq} for racing and practice events to arrive at typical L_{dn} values at the measurement locations. Four different scenarios were modeled based on how the facility will typically operate, including: a weekend race day, a weekend practice day, a weekday practice day, and a Friday or Saturday Night Under the Lights event.

The results of the ambient noise measurements during each hour of the day were averaged for a weekend day and for a weekday. This provided typical hourly L_{eq} during, for example, the 1:00 to 2:00 PM hour on a weekend and on a weekday. The typical ambient levels throughout the day were then combined with the dirt bike noise level for the racing, practice and special event scenarios to project L_{dn} values for these events.

4.1 Weekend MX Race Day

A weekend race day scenario was modeled at each of the five measurement locations. The maximum measured L_{eq} sample taken during the simulated racing events at each location was used as the reference sound level for this scenario. A typical weekend race day was assumed to consist of a total of seven hours of races and a one-hour break for lunch. It was assumed that a total of 33 races each lasting approximately 12.5 minutes would take place on the MX track during a typical weekend race day. Each race was assumed to have on average 15 riders. The noise exposure generated by dirt bike activity is determined by the amount of time riders spend riding and the number of riders doing so. Based on the parameters indicated the level of activity for a race day corresponds to a total of 105 bike rider hours (BRHs) on the MX track.

The model combined the measured racing L_{eq} obtained at each measurement location during the hours of the day when racing would occur with the measured weekend ambient levels during non-racing hours. The measured racing L_{eq} used in the model corresponds to the L_{eq} measured during the racing simulations even though the number of riders were in some cases more than number of riders the model assumes. During typical race days, it was also assumed that a public announcement (PA) system would be utilized. Typical sound levels from similar PA speakers were used to model sound levels at each location. See below for a discussion of the PA sound level and duration assumptions. The PA was assumed to be used during weekend race days once in the morning to play the national anthem and eight times per hour for announcements during the hours when there was racing. The hourly L_{eq} 's during racing hours and non-racing hours were combined to calculate the L_{dn} at each measurement location.

4.2 Weekend Practice Day

A typical weekend practice day scenario was modeled at each of the five measurement locations. The number of riders on the track at any one time during a practice day would be expected to vary. The noise recordings for simulated practice conditions included a number of different riders at different times in order to record a range of rider activity. The modeled noise level for a typical weekend practice day scenario assumes that there are on average 10 riders on the MX track at a time. The duration of a typical weekend practice event is 15 minutes, with a total of 4 hours of bike noise. A total of 40 BRHs would occur on the MX track. The oval track is expected to get much less use. A typical usage would be 5 riders on the oval track for 2 hours of riding. This corresponds to 10 BRHs on the oval track. No PA use is planned during weekend practice days. The maximum measured L_{eq} during simulated weekend practice was combined with the measured weekend ambient levels to calculate the L_{dn} at each measurement location.

4.3 Weekday Practice

A typical weekday practice was assumed to consist a total of 1.5 hours of bike noise based the typical number of riders expected and the average amount of time a rider would spend riding. Weekday afternoon practice consisted of 5 riders on average. This corresponds to 7.5 BRHs on the MX track. The oval track usage is expected to be 3 riders on average for 1 hour of riding on a typical weekday practice. This corresponds to 3 BRHs on the oval track. The computed L_{eq} from recorded samples were combined with the measured weekday ambient levels to calculate the L_{dn} at each measurement

location. No PA use is planned during practice days, so it was not included in the weekday practice scenario.

4.4 Friday or Saturday Night Under the Lights Event

DMXR will occasionally hold these special events in which the public will be able to use only the oval track and not the MX track. For this type of event a maximum usage would be 7 riders on average on the oval track riding for 4 hours. This corresponds to 28 BRHs on the oval track.

4.5 Public Address Loudspeaker Sound Levels

The applicant intends to use a PA system on race days. The existing PA system is not operable, but there is an existing loudspeaker mounted to a telephone pole in the parking lot in front of the MX track as show in Figure 4. Races that are promoted may employ their own PA system, but the loudspeaker(s) will be located next to the existing loudspeaker pole. Typical sound levels for the PA loudspeaker were assumed to be 90 dBA at 50 feet from the loudspeaker. This level is generally consistent with PA sound levels measured by Wilson Ihrig at another MX facility.



Figure 4: Existing PA Loudspeaker on Pole at SW Corner of Parking Lot

Announcements were assumed to occur before and after each race and create 15 seconds of sound each time. It is also anticipated that the national anthem will most likely be played at the beginning of race day. Although the anthem fluctuates in sound level and lasts about 200 seconds, for the purpose of analysis it was assumed that the sound level was constant at 90 dBA. These PA sound levels were factored into the calculation of L_{dn} levels, based on the parameters stated.

5 Noise Model for Adjacent Residences

There are five residences located on the adjacent agricultural land adjacent to DMXR as shown in Figure 5. To model noise levels at the adjacent residences is more complicated than modeling noise levels at the measurement locations, because it requires accounting for attenuation with distance from multiple sources that are distributed over a large area and are constantly moving. Consequently, it was decided to construct a simplified model that assumed an aggregate noise sources concentrated at the approximate centers of the MX track and the oval track.

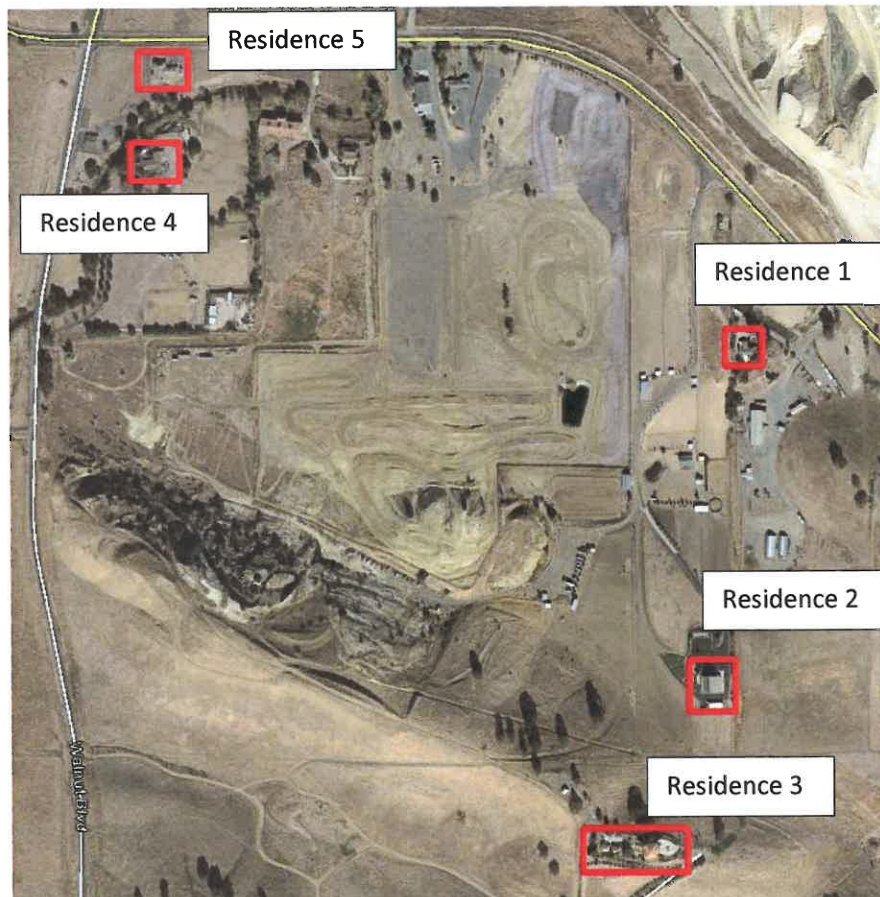


Figure 5: Location of Residences Adjacent to DMXR

Sound from a single source attenuates at a rate of 6 dB/doubling of distance, not accounting for excess attenuation due to ground effects. Excess attenuation would mean lower noise levels at the residences.

Using the calculated L_{dn} for the measurement locations (Loc. 1 through 5), the distance from the MX track center to each measurement location and the oval track to each measurement location, and this simple model, the L_{dn} for each of the five residences was calculated. The L_{dn} for the measurement location(s) in the general direction of each residence was used as a reference from which to project to the residence. For Residences 2, 3 4 and 5, there are two measurement locations that can be used for each residence. For these four residences the data for more than one measurement location were used to estimate the L_{dn} at those residences with emphasis on the measurement location that was more representative.

6 Noise Study Results for DMXR Property Line

The results of the noise modeling are included in Table 4 below. The modeled L_{dn} at all five measurement locations are indicated.

Table 4: Modeled Property Line L_{dn} During DMXR Typical Operating Scenarios

Operating Scenario	Day-Night Noise Level (L_{dn})				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
Weekend Race Day*	61	69	64	73	60
Weekend Practice	58	64	60	68	58
Weekday Practice	56	61	58	64	56
Friday or Saturday Night Under the Lights	60	52	57	56	60

* Weekend race day levels include PA usage

6.1 Race Day

The results of the analysis for a typical weekend race day scenario indicate that the maximum L_{dn} of 73 dBA would occur at Location 4. The predicted L_{dn} at the other locations range between 60 to 69.

6.2 Weekend Practice Day

The results of the analysis for the typical weekend practice day scenario indicate that the maximum L_{dn} of 68 would occur at Location 4. The results at the other four measurement locations indicate L_{dn} ranging from 58 to 64.

6.3 Weekday Practice

The results of the analysis for the typical weekday afternoon practice were lower due to shorter hours of activity. The maximum L_{dn} of 64 is projected to occur at Location 4, with the levels at the other four locations ranging from 54 to 60.

6.4 Friday or Saturday Night Under the Lights Events

The results of the analysis for this special event activity indicate that the maximum L_{dn} of 60 would occur at Locations 1 and 5. The results at the other three measurement locations indicate L_{dn} ranging from 52 to 57.

7 Estimate of Noise Levels at Adjacent Residences

At the nearby residences, the noise level is estimated to be in the range of L_{dn} 58 to 61 at Residence 2 on a typical weekend race day. The L_{dn} at the other residences (Residence 1, 3, 4, and 5) are estimated to be in range of 55 to 60. On weekend and weekday practices, the L_{dn} at residences would be lower than on a typical weekend race day. For a Friday or Saturday Night Under the Lights event the highest L_{dn} is estimated to be 60 for Residences 1 and 4. For this particular type of event the L_{dn} for the other residences would be less than 60. The L_{dn} are expected to be lower than these estimates due to excess attenuation from ground effects, and for Residences 2 and 3 they are expected to be lower due to acoustic shielding by the terrain.

8 Conclusions and Recommendations

The results of the analysis indicate that the maximum day-night noise level would occur during a typical weekend race day scenario. This is to be suspected due to the high number of riders and duration of racing compared to a typical practice day scenario. The predicted levels at all modeled property line locations is below the Noise Element guideline of 75 L_{dn} , which is considered Normally Acceptable for agriculture land. The highest noise level (73 L_{dn}) is projected to occur at Location 4 on the DMXR property line.

Based on the results of this noise study, no mitigation measures are recommended for the DMXR facility other than to implement a noise measurement program for weekend race and practice day bikes following the State of California procedure for controlling individual bike noise emission levels. That procedure requires noise levels measured 20 inches from the exhaust pipe of a stationary bike not exceed 96 dBA when the bike is operated at a specified RPM based on the year, make and model of the bike (i.e., half the manufacturer's rated maximum RPM).



APPENDIX – AMBIENT NOISE DATA

Table A-1: Typical Measured Weekend Ambient Hourly L_{eq}

Hour of Day	Typical L_{eq} (dBA)				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
0:00	42	42	38	49	39
1:00	41	39	44	48	36
2:00	42	40	37	42	35
3:00	42	38	36	41	36
4:00	36	37	35	43	35
5:00	38	36	36	39	38
6:00	41	41	40	40	41
7:00	44	50	41	40	43
8:00	47	45	43	44	45
9:00	45	45	43	42	47
10:00	46	45	44	44	47
11:00	46	44	43	44	46
12:00	47	52	47	45	47
13:00	47	47	47	46	47
14:00	46	50	45	49	46
15:00	51	55	57	55	50
16:00	49	50	49	49	49
17:00	44	49	42	45	43
18:00	49	46	45	48	45
19:00	47	46	44	49	44
20:00	49	45	43	50	45
21:00	50	47	42	49	44
22:00	48	46	42	48	41
23:00	47	47	42	47	39

Table A-2: Typical Measured Weekday Ambient Hourly L_{eq}

Hour of Day	Typical L_{eq} (dBA)				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
0:00	44	41	43	45	38
1:00	45	40	42	48	38
2:00	41	38	37	49	32
3:00	40	38	39	46	33
4:00	41	41	40	45	39
5:00	45	43	44	43	44
6:00	46	46	44	46	45
7:00	46	46	53	43	47
8:00	46	49	43	40	45
9:00	45	46	43	45	44
10:00	46	43	45	41	43
11:00	46	46	45	39	43
12:00	46	50	46	41	43
13:00	46	46	47	39	43
14:00	44	42	43	40	41
15:00	44	43	44	42	43
16:00	42	41	42	43	42
17:00	43	43	41	52	44
18:00	46	44	42	53	45
19:00	46	45	44	53	45
20:00	45	43	42	53	43
21:00	42	43	41	53	43
22:00	40	41	40	53	39
23:00	40	39	37	50	38

EXHIBIT 12

Noise Measurement Locations



Figure 1: Aerial View of DMXR Facility Showing Noise Measurement Locations

EXHIBIT 13

Locations of Nearby Residences Identified in Project Noise Study

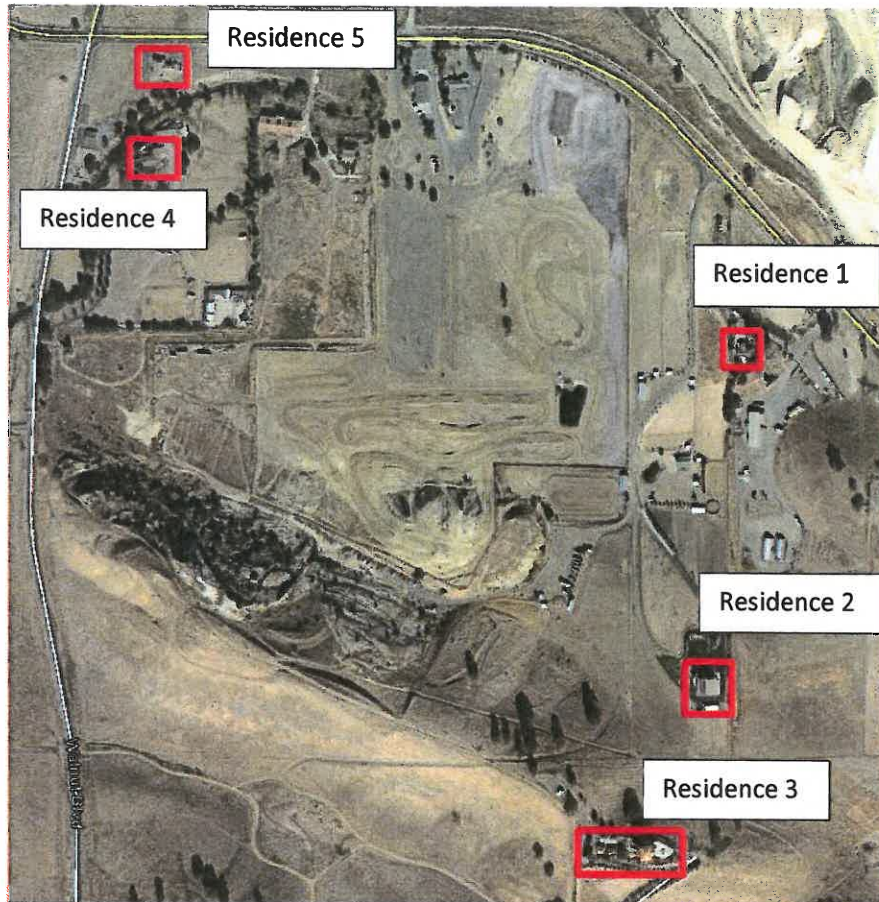


Figure 5: Location of Residences Adjacent to DMXR

EXHIBIT 14

**Appellants' Ambient Noise
Measurements, Dated 10/20/2015,
Prepared by Charles M. Salter
Associates**



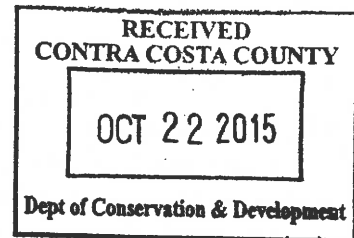
Richard T. Bowles	Lawrence D. Goldberg
Michael P. Verna	Cathleen S. Huang
Robert I. Westerfield	Ethan K. Friedman
Richard A. Ergo	William T. Nagle
K.P. Dean Harper	Michael P. Connolly
Bradley R. Bowles	Nathaniel B. Duncan
Kenneth B. McKenzie	Cheryl A. Noll
David W. Trotter	Michael T. Krueger
Jason J. Granskog	Mallory L. Homewood

Of Counsel
Bruce C. Paltenghi

October 22, 2015

VIA EMAIL AND U.S. MAIL

Community Development Division
Contra Costa County Department of
Conservation and Development
30 Muir Road
Martinez, California 94553
Attn: Aruna Bhat, Deputy Director



**Re: John and Lori Ramirez (Applicants)/James and Dorothy Schmidt (Owners),
County File No. LP13-2095
Site Address/Location: 50 Camino Diablo Road, Unincorporated
Brentwood, CA (APN 003-020-048)**

**Appeal By Twenty-Three Camino Diablo and Walnut Avenue Homeowners
and Residents to the Contra Costa County Board of Supervisors of the
County Planning Commission's May 12, 2015 Decision Allowing Off-Road
Motocross Operations, Finding Applicant to be in Compliance with Land
Use Permit No. LP95-2020 Conditions of Approval, and Approving Revised
Site Plans dated October 31, 2014**

Dear Ms. Bhat:

This letter is submitted on behalf of the Appellants in the above-referenced land use appeal which is currently pending before the County Board of Supervisors. I am writing as a follow-up to Appellants' August 20, 2015 meeting in Brentwood with Supervisor Mary Piepho, her staff and representatives from County Community Development Division Director Kopchik and yourself. Speaking for my clients who attended, we very much appreciated having the opportunity to meet with you and Supervisor Piepho on August 20 to express our concerns regarding the serious adverse impacts of the proposed motocross park on the Appellants' quality of life and quiet enjoyment of their homes and property.

During the course of the August 20 meeting, we briefly discussed the preliminary results of the ambient noise measurements that had been taken a few weeks earlier in the vicinity of the motocross project by Charles M. Salter Associates, Inc. ("Salter"), and I had promised to send a copy of Salter's final report to the County so that it can be included in the administrative record with respect to the pending appeal.



Community Development Division
Contra Costa County
Attention: Aruna Bhat, Deputy Director
October 22, 2015
Page 2

With that in mind, a copy of the Salter ambient noise measurements report dated October 20, 2015 is enclosed. Consistent with what the parties discussed at the August 20 meeting in Supervisor Piepho's office, the baseline ambient noise levels in the vicinity of Appellants' homes in the absence in the motocross park are very low. Salter found that "[i]n general, the measured daytime ambient noise levels were between 40 and 45 dB (L50)." See Salter report at p. 6 (emphasis added). This is a very quiet rural residential setting.

That said, the record should be clear that Salter also measured very high noise levels on the afternoon of August 2, 2015, when three motorcycles were observed using the Diablo MX site. At that time, the "typical maximum noise levels" from these "motocross motorcycles were measured to be approximately 80 dB to 85 dB." See Salter report at p. 7 (emphasis added). These data indicate that the applicant will not, and cannot, comply with the County's stated "60-dBA noise control" standard for this project.

Please include this letter and the Salter report in the administrative record and make them available to the full Board of Supervisors. Appellants appreciate your continuing attention to this matter, and please do not hesitate to contact me should there be any questions. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "David W. Trotter".

DAVID W. TROTTER

DWT:te

Enclosure

cc: The Hon. Mary N. Piepho (w/encl.) – via e-mail and U.S. mail
Supervisor, District III

Ms. Linda Thuman (w/encl.) – via e-mail and U.S. mail

Acoustics

Audiovisual

Telecommunications

Security

Charles M. Salter, PE

David R. Schmidt, FAES

Eric I. Broadhurst, PE

Philip N. Sander, LEED AP

Thomas A. Schindler, PE

Anthony P. Nash, PE

Ken Graven, PE, RCDD, CTS-D

Cristina L. Myar

Jason R. Duty, PE

Durand R. Begault, PhD, FAES

Joseph G. D'Angelo

Thomas J. Corbett, CTS

Eric A. Yee

Joshua M. Roper, PE, LEED AP

Peter K. Holst, PE, LEED AP

Ethan C. Salter, PE, LEED AP

Thomas D. Keller, CDT

Craig I. Gilan, RCDD

Lloyd B. Ranola

Alexander K. Salter, PE

Jeremy L. Decker, PE

Rob Hammond, PSP, NICET III

Andrew J. McKee

Steven A. Woods

Josh J. Vallon

Valerie C. Smith

Benjamin D. Piper

Elizabeth S. Kelson

Joshua J. Harrison

Brian C. Wourms

Shannon M. Sullivan

Ryan G. Raskop, LEED AP

Diego Hernandez

Ryan A. Schofield

McLain H. Pierce

Alex T. Schiefer

Abner E. Morales

Noel J. Bacani

Adrian L. Lu

Greg R. Erenstein

Natalie T. Packard

Philip J. Perry

Brian J. Good

Heather A. Salter

Dee E. Garcia

Catherine F. Spurlack

Morva De Vear - Noordzee

Elizabeth F. Tracker

Jennifer G. Palmer

Jodessa G. Cortez

Susan E. Lonergan

Courtney H. Vaneys

Erin D. Gorton

Tish Patel

Nicolette A. Sullivan

20 October 2015

David Trotter

Bowles & Verna, LLP

2121 North California Boulevard, Suite 875

Walnut Creek, CA 94596

Email: dtrotter@bowlesverna.com

**Subject: Proposed Diablo MX Motocross Facility
50 Camino Diablo, Road, Byron, CA
Ambient Noise Measurements
CSA Project: 15-0428**

Dear David:

This letter summarizes our environmental noise study of ambient noise levels around the Diablo MX motocross facility located at 50 Camino Diablo Road in Byron, CA. The purpose of the study is to measure baseline ambient noise levels at the site to be later compared with noise levels during motocross events.

SUMMARY

The noise levels measured varied by location and day, with typical day-night average noise levels (DNL¹) of approximately 50 dB to 60 dB². Typical daytime hourly percentile (L₅₀) noise levels were between 40 dB and 45 dB (approximately). Noise sources measured at the site included the following:

- Distant traffic
- Wind noise
- Motorcycles at the motocross facility (on one day)
- Trucking activities including grading and rock/gravel dumping (at times)

Additional details and noise levels are provided below.

¹ DNL (Day-Night Average Sound Level) – A descriptor for a 24-hour A-weighted average noise level. DNL accounts for the increased acoustical sensitivity of people to noise during the nighttime hours. DNL penalizes sound levels by 10 dB during the hours from 10 PM to 7 AM. For practical purposes, the DNL and CNEL are usually interchangeable. DNL is sometimes written as L_{dn}.

² dB (Decibel) – A unit that describes the magnitude of a sound with respect to a reference sound level near the threshold of hearing. Decibels are based on a logarithmic scale and therefore cannot be added arithmetically. All sound levels in this report are A-weighted. A-weighting is a standard weighting that accounts for the sensitivity of human hearing to the range of audible frequencies.

PROJECT STANDARDS

Contra Costa County Community Development

Based on county records that you provided, we understand that the current compliance review indicates that the Diablo MX project is subject to a "60-dBA Noise Control" standard. We assume that this 60 dB noise limit addresses noise generated on the Diablo MX property and transmitted to the boundaries of neighboring properties and applies at the property boundary. This standard is found on the "Agency Comment Request" form of the Contra Costa County Department of Conservation and Development – Community Development Division (see Exhibit 2 of the Bowles & Verna LLP appeal letter dated 22 May 2015).

Contra Costa County General Plan

The Noise Element of the Contra Costa County General Plan (2005-2020) contains guidelines for Land use Compatibility for Community Noise Environments. These guidelines assign appropriate noise levels for indoor and outdoor activities at various land use categories. According to the Noise Element, it is "normally acceptable" for low density residential lands to be exposed to a day-night average sound level (DNL) of 60 dB or less.

The County's Noise Element contains the following goals, policies, and implementation measures that apply to the issue of equipment noise from the project.

Goal 11-A: *To improve the overall environment in the County by reducing annoying and physically harmful levels of noise for existing and future residents and for all land uses.*

Goal 11-B: *To maintain appropriate noise conditions in all areas of the County.*

Goal 11-C: *To ensure that new developments will be constructed so as to limit the effects of exterior noise on the residents.*

Goal 11-D: *To recognize the economic impacts of noise control and encourage an equitable distribution of these costs.*

Goal 11-E: *To recognize citizen concerns regarding excessive noise levels, and to utilize measures through which the concerns can be identified and mitigated.*

Policy 11-2: *The standard for outdoor noise levels in residential areas is a DNL of 60 dB. However, a DNL of 60 dB or less may not be achievable in all residential areas due to economic or aesthetic constraints...*

Policy 11-6: *If an area is currently below the maximum "normally acceptable" noise level, an increase in noise up to the maximum should not be allowed necessarily.*

Implementation Measure 11-a: *Continue to require a review and analysis of noise-related impacts as part of the existing project development review procedures of the County.*

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Implementation Measure 11-b: Evaluate the noise impacts of a proposed project upon existing land uses in terms of the applicable Federal, State, and local codes, and the potential for adverse community response, based on a significant increase in existing noise levels.

Implementation Measure 11-d: Noise mitigation shall be incorporated into the design and construction of new projects or be required as conditions of project approval.

The Noise Element also discusses how noise increases are perceived by people, as listed below:

An important factor in assessing a person's subjective reaction is to compare the new noise environment to the existing noise environment. In general, the more a new noise level exceeds the prior existing level, the less acceptable it is. Therefore, a new noise source will be judged more annoying in a quiet area than it would be in a noisier location. Knowledge of the following relationships is helpful in understanding how changes in noise and noise exposure are perceived.

- *Except under special conditions, a change in sound level of 1 dB cannot be perceived;*
- *Outside of the laboratory, a 3 dB change is considered a just-noticeable difference;*
- *A change in level of at least 5 dB is required before any noticeable change in community response would be expected; and*
- *A 10 dB change is subjectively heard as an approximate doubling in loudness and almost always causes an adverse community response.*

State of California – Model Community Noise Control Ordinance

The guidelines established in the State of California Model Community Noise Control Ordinance³ are also provided for consideration to address noise intrusion to residential areas. This document was published by the State of California to provide guidance for communities to develop their own noise ordinances. It is considered a reasonably protective limit and is discussed in this report to provide guidance to the County in reviewing potential noise impacts.

The exterior noise level limits in the Model Community Noise Control Ordinance are shown in the table below and correspond to the median percentile noise level (L_{50})⁴. These limits are not to be exceeded at the receiving land use for more than 30 minutes in an hour. The limits are to be adjusted based on the duration of the source, the level of the ambient noise, and the character of the sound. For brevity, these adjustments are not excerpted in this report.

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³ "Model Community Noise Control Ordinance." Office of Noise Control, California Department of Health, Berkeley, 1977.

⁴ L_n – The sound level exceeded for a stated percentage (n) of a specified measurement period as described in ASTM E1686. L_{10} , L_{50} , and L_{90} are the levels exceeded 10, 50, and 90 percent of the time, respectively.

Model Community Noise Control Ordinance Exterior Noise Limits (L ₅₀ Noise Level)				
Receiving Land Use Category	Time Period	Noise Level (dBA)		
		Noise Zone Classification		
		Rural Suburban	Suburban	Urban
One & Two Family Residential	10 pm – 7 am	40	45	50
	7 am – 10 pm	50	55	60
Multiple Dwelling Residential Public Space	10 pm – 7 am	45	50	55
	7 am – 10 pm	50	55	60
Limited Commercial Some Multiple Dwellings	10 pm – 7 am	55		
	7 am – 10 pm	60		
Commercial	10 pm – 7 am	60		
	7 am – 10 pm	65		
Light Industrial	Anytime	70		
Heavy Industrial	Anytime	75		

The noise zone applicable to the subject residential properties would be the 'rural suburban' zone, as highlighted in the table above.

SETTING

Diablo MX Ranch, formerly Sandhill Ranch, is located at 50 Camino Diablo Road near Byron, CA. It is surrounded by residential property to the west, northwest, south, and southeast. The Unimin quarry is located across Camino Diablo Road to the north.

NOISE MEASUREMENTS

In order to quantify the ambient noise levels around the Diablo MX site, long-term noise measurements were conducted at five locations from 27 July to 3 August 2015 and at two other locations from 12 to 19 August 2015.

Sound level meters were placed at the locations described below and also shown on Figure 1, enclosed.

1. Location 1: On a fence post extension, approximately six feet above grade
2. Location 2: On a fence post extension, approximately ten feet above grade
3. Location 3: On a canopy post, approximately eight feet above grade
4. Location 4: On a canopy post, approximately twelve feet above grade
5. Location 5: On a portable light tower, approximately ten feet above grade
6. Location 6: On a ladder, approximately four feet above grade
7. Location 7: On a post of a gazebo, approximately six feet above grade

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Table 1 lists the measured DNL for each full day at each meter location.

Table 1: Day-Night Average Sound Levels (DNL) Measured at Locations 1 thru 7

Day	Meter Location					Day	Meter Location	
	2	3	4	5	6		1	7
28 July	58	59	57	61	50	13 August	56	49
29 July	58	60	54	63	51	14 August	58	53
30 July	59	63	53	63	49	15 August	53	56
31 July	58	57	55	62	50	16 August	55	65
1 August	59	56	54	63	48	17 August	62	53
2 August	59	58	57	63	50	18 August	57	51

In general, the measured ambient noise levels were in-line with or quieter than the County land-use compatibility standard of DNL 60 dB. Therefore, future Diablo MX Motocross Facility noise should be evaluated by answering both of the following questions:

1. Would motocross noise exceed the County community noise standard of DNL 60 dB at neighboring residential properties?
2. Would motocross noise significantly increase day-night average ambient noise levels at the adjacent residential properties?

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Table 2 below lists the L₅₀ noise level for each hour, averaged (arithmetically) over seven days, for each of the seven meter locations. More detailed results are provided in Appendix A.

Table 2: Hourly Percentile Noise Levels (L₅₀) Measured at Locations 1 thru 7

Time	Meter Location						
	1	2	3	4	5	6	7
0:00	43	47	47	43	51	37	39
1:00	43	45	46	42	53	37	39
2:00	45	48	45	40	54	36	38
3:00	44	51	46	41	56	36	36
4:00	44	54	50	41	58	37	38
5:00	46	55	47	42	58	39	41
6:00	49	45	44	43	47	42	41
7:00	48	43	43	43	45	40	42
8:00	44	41	44	42	44	40	40
9:00	42	41	43	43	44	40	39
10:00	41	41	44	42	43	40	40
11:00	41	40	43	43	43	40	38
12:00	42	42	45	44	45	42	39
13:00	43	44	46	43	45	42	40
14:00	45	41	46	43	44	41	41
15:00	48	41	45	43	43	40	44
16:00	47	40	44	42	45	39	41
17:00	46	42	47	45	47	41	40
18:00	46	41	47	46	47	40	39
19:00	42	37	42	42	42	35	36
20:00	42	37	42	43	42	35	39
21:00	43	45	45	43	48	36	42
22:00	41	43	46	43	50	36	41
23:00	43	44	48	44	52	38	40

In general, the measured daytime ambient noise levels were between 40 and 45 dB (L₅₀). These levels are quieter than the California Model Community Noise Ordinance standard of 50 dB for daytime but in-line with the nighttime standard of 40 dB. Therefore, future Diablo MX Motocross Facility noise should be evaluated by answering the following questions as well:

3. Would motocross noise exceed the California Model Noise Ordinance standards of 40 dB (nighttime) and 50 dB (daytime) at neighboring residential properties?
4. Would motocross noise significantly increase hourly ambient noise levels at the adjacent residential properties?

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COMMENTS

A log of noise events was created by a residential neighbor between 27 July and 3 August during our measurements. This log is enclosed as Appendix B. During the measurements, there were some single-event noises such as motorcycles, trucks, and emergency vehicles on the local roadway. However, these were fairly infrequent. Other noise sources measured throughout the week included wind noise and crickets.

On 2 August 2015 in the afternoon, the resident log indicates that three motorcycles used the Diablo MX site sporadically. At Locations 3, 4, and 6, typical maximum noise levels (L_{max})⁵ from motocross motorcycles were measured to be approximately 80 dB to 85 dB. These levels and the source were identified using audio recordings created by the noise monitors when the noise level exceeded a preset threshold. The log also records rock dumping by trucks and related grading equipment activities at the Diablo MX site during the ambient noise measurement period. At Locations 3, 4, and 6, typical maximum noise levels (L_{max}) from trucking activities were measured between 55 dB and 70 dB.

*

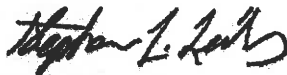
*

*

This concludes our comments on the subject project. Should you have any questions please call.

Sincerely,

CHARLES M. SALTER ASSOCIATES



Stephen L. Leiby
Consultant



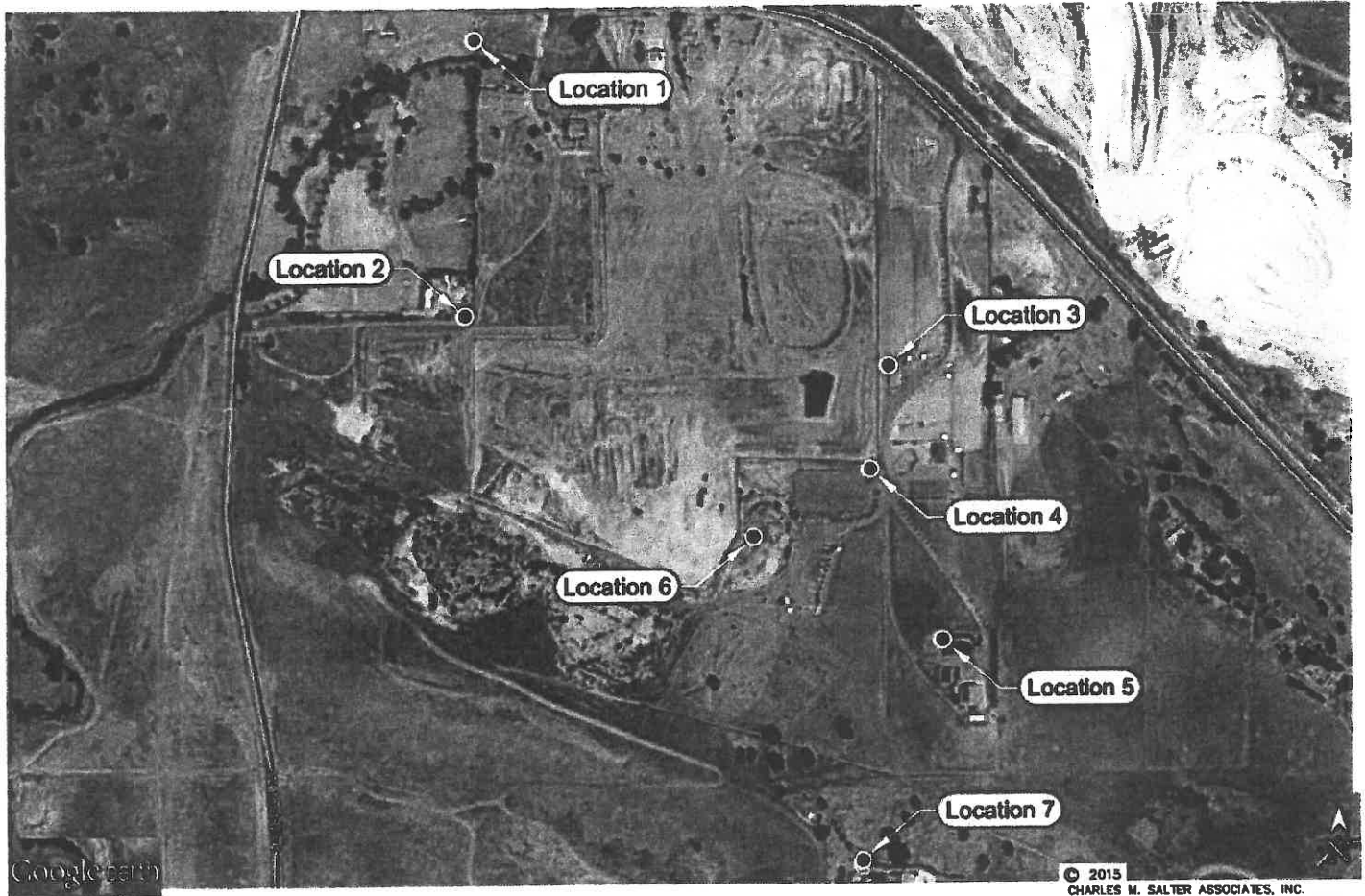
Jeremy L. Decker, PE
Principal Consultant

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⁵ L_{max} (Maximum Sound Level) – The maximum sound level for a specified measurement period of time as defined in ASTM E1686.



BYRON MOTOCROSS
MEASUREMENT LOCATIONS

FIGURE 1

CSA #
15-0428

SLI/JLD
10.20.15

APPENDIX A

Long-term noise measurement data at Locations 1 thru 7 are summarized in the tables below.

Location 1

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
12-Aug	17:00	52	61	55	51	48	40	69
12-Aug	18:00	52	61	56	52	50	41	70
12-Aug	19:00	49	59	54	48	44	34	66
12-Aug	20:00	46	56	49	44	41	37	65
12-Aug	21:00	45	56	47	43	41	39	60
12-Aug	22:00	45	56	47	44	42	39	64
12-Aug	23:00	47	55	50	47	45	39	60
13-Aug	0:00	48	56	51	47	45	40	64
13-Aug	1:00	45	54	47	45	43	40	61
13-Aug	2:00	47	53	50	48	46	41	60
13-Aug	3:00	48	56	50	49	48	41	61
13-Aug	4:00	48	56	50	48	47	42	63
13-Aug	5:00	52	60	56	51	49	44	67
13-Aug	6:00	53	62	57	53	50	42	68
13-Aug	7:00	53	61	56	52	50	41	71
13-Aug	8:00	50	60	55	49	46	36	66
13-Aug	9:00	48	58	52	44	39	32	63
13-Aug	10:00	46	56	50	42	38	31	62
13-Aug	11:00	46	57	49	42	39	32	67
13-Aug	12:00	50	61	53	46	43	36	74
13-Aug	13:00	52	62	56	50	47	41	67
13-Aug	14:00	57	66	61	54	51	45	69
13-Aug	15:00	57	68	61	54	51	44	74
13-Aug	16:00	54	63	57	53	50	44	68
13-Aug	17:00	53	63	56	52	50	43	66
13-Aug	18:00	53	63	56	52	49	41	70
13-Aug	19:00	50	60	53	48	45	38	72
13-Aug	20:00	48	57	52	46	43	38	61
13-Aug	21:00	46	56	48	43	41	39	65
13-Aug	22:00	44	53	46	43	42	40	58
13-Aug	23:00	48	57	51	47	45	40	60
14-Aug	0:00	50	60	53	48	45	41	63
14-Aug	1:00	49	60	51	46	44	41	65
14-Aug	2:00	56	66	60	53	50	41	70
14-Aug	3:00	45	55	47	43	42	40	60

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
14-Aug	4:00	46	59	48	41	40	38	69
14-Aug	5:00	52	63	57	48	43	38	66
14-Aug	6:00	55	64	60	53	50	40	70
14-Aug	7:00	54	63	58	53	49	39	70
14-Aug	8:00	49	59	54	46	42	35	69
14-Aug	9:00	52	60	53	47	43	34	79
14-Aug	10:00	48	58	51	44	41	34	70
14-Aug	11:00	48	58	52	44	41	34	69
14-Aug	12:00	49	60	53	46	43	36	67
14-Aug	13:00	51	62	54	48	45	39	68
14-Aug	14:00	53	63	57	51	48	42	69
14-Aug	15:00	54	63	58	53	51	44	72
14-Aug	16:00	54	63	57	52	49	40	69
14-Aug	17:00	54	64	58	53	49	38	69
14-Aug	18:00	56	65	59	54	51	44	78
14-Aug	19:00	51	61	54	47	43	35	77
14-Aug	20:00	47	58	50	44	42	38	72
14-Aug	21:00	51	61	51	44	42	40	77
14-Aug	22:00	48	57	51	46	44	41	69
14-Aug	23:00	50	64	51	44	42	39	71
15-Aug	0:00	50	60	51	44	42	39	72
15-Aug	1:00	44	54	43	41	40	38	64
15-Aug	2:00	43	51	43	41	40	38	64
15-Aug	3:00	43	54	46	41	40	38	60
15-Aug	4:00	43	51	45	43	42	39	58
15-Aug	5:00	45	55	47	44	43	39	61
15-Aug	6:00	49	60	52	46	44	40	66
15-Aug	7:00	50	62	53	47	45	41	69
15-Aug	8:00	50	59	52	47	45	41	74
15-Aug	9:00	50	60	53	49	47	43	65
15-Aug	10:00	50	60	53	47	45	41	71
15-Aug	11:00	54	61	53	47	44	39	83
15-Aug	12:00	49	59	52	47	45	41	66
15-Aug	13:00	48	58	51	46	44	40	63
15-Aug	14:00	49	59	53	47	44	37	64
15-Aug	15:00	50	62	53	47	45	38	65
15-Aug	16:00	50	59	53	46	43	37	70
15-Aug	17:00	50	61	53	45	42	36	68
15-Aug	18:00	49	61	53	43	39	35	65
15-Aug	19:00	50	61	54	41	37	33	75

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
15-Aug	20:00	51	61	52	44	41	36	80
15-Aug	21:00	45	57	47	42	41	39	60
15-Aug	22:00	47	57	49	43	42	41	68
15-Aug	23:00	43	54	43	41	41	39	61
16-Aug	0:00	49	62	47	42	42	40	70
16-Aug	1:00	44	55	44	42	41	39	60
16-Aug	2:00	52	59	58	51	43	41	61
16-Aug	3:00	48	59	54	42	42	40	61
16-Aug	4:00	44	54	44	43	42	41	64
16-Aug	5:00	44	54	45	42	41	39	59
16-Aug	6:00	45	56	47	42	40	37	61
16-Aug	7:00	47	56	50	46	44	41	63
16-Aug	8:00	47	57	50	44	42	39	65
16-Aug	9:00	48	58	51	46	45	42	65
16-Aug	10:00	49	58	52	47	45	42	66
16-Aug	11:00	51	60	53	46	44	38	76
16-Aug	12:00	47	57	52	45	43	37	63
16-Aug	13:00	50	60	52	46	43	36	74
16-Aug	14:00	49	59	53	47	43	36	64
16-Aug	15:00	47	57	51	44	42	34	64
16-Aug	16:00	47	58	51	43	41	35	64
16-Aug	17:00	48	59	53	44	40	35	64
16-Aug	18:00	49	60	53	45	42	32	65
16-Aug	19:00	49	60	53	42	37	31	73
16-Aug	20:00	48	58	52	45	43	38	64
16-Aug	21:00	57	63	61	58	56	41	67
16-Aug	22:00	47	57	51	41	40	38	72
16-Aug	23:00	52	60	58	53	47	38	62
17-Aug	0:00	45	54	49	44	42	39	60
17-Aug	1:00	58	64	63	59	55	38	65
17-Aug	2:00	58	62	61	59	58	39	64
17-Aug	3:00	58	64	61	59	57	42	65
17-Aug	4:00	58	65	62	59	57	43	69
17-Aug	5:00	59	66	62	59	57	46	69
17-Aug	6:00	58	65	61	57	56	48	68
17-Aug	7:00	55	64	59	54	51	45	76
17-Aug	8:00	52	60	56	50	46	38	70
17-Aug	9:00	50	60	54	46	40	33	66
17-Aug	10:00	49	60	52	43	40	35	69
17-Aug	11:00	48	58	50	43	41	36	71

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
17-Aug	12:00	48	59	52	45	43	38	70
17-Aug	13:00	48	59	51	45	43	38	64
17-Aug	14:00	48	58	51	44	42	36	68
17-Aug	15:00	50	60	55	49	46	40	64
17-Aug	16:00	54	64	57	51	48	42	72
17-Aug	17:00	53	62	56	51	47	38	77
17-Aug	18:00	50	59	53	48	45	37	69
17-Aug	19:00	47	58	51	45	42	35	64
17-Aug	20:00	53	63	59	47	42	37	68
17-Aug	21:00	53	63	59	46	41	39	68
17-Aug	22:00	44	57	44	40	39	37	63
17-Aug	23:00	42	54	42	40	40	38	60
18-Aug	0:00	42	50	43	41	40	39	56
18-Aug	1:00	41	50	43	40	39	37	56
18-Aug	2:00	45	55	48	44	42	39	61
18-Aug	3:00	42	53	42	41	40	39	60
18-Aug	4:00	48	59	49	43	42	41	64
18-Aug	5:00	54	65	59	51	46	42	71
18-Aug	6:00	56	64	61	56	53	44	70
18-Aug	7:00	53	62	58	52	48	40	65
18-Aug	8:00	52	61	57	50	45	37	68
18-Aug	9:00	50	60	54	45	41	34	69
18-Aug	10:00	51	60	53	45	40	33	76
18-Aug	11:00	47	58	51	44	41	33	67
18-Aug	12:00	46	56	50	42	39	34	63
18-Aug	13:00	49	60	51	44	40	34	69
18-Aug	14:00	48	61	52	45	41	33	66
18-Aug	15:00	56	65	60	54	51	44	68
18-Aug	16:00	55	64	59	54	51	43	74
18-Aug	17:00	52	61	55	51	48	39	67
18-Aug	18:00	53	61	55	50	47	37	79
18-Aug	19:00	49	58	53	46	42	32	67
18-Aug	20:00	48	59	51	42	40	36	66
18-Aug	21:00	46	57	47	41	40	39	61
18-Aug	22:00	46	57	44	41	40	39	69
18-Aug	23:00	44	56	43	41	41	39	65
19-Aug	0:00	42	48	43	42	41	40	54
19-Aug	1:00	42	50	43	42	42	40	57
19-Aug	2:00	40	45	42	41	40	39	50
19-Aug	3:00	42	54	42	40	39	38	61

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
19-Aug	4:00	48	61	51	41	40	38	64
19-Aug	5:00	54	63	58	49	45	40	71
19-Aug	6:00	57	65	61	56	54	44	67
19-Aug	7:00	55	64	59	53	49	40	68
19-Aug	8:00	51	61	56	47	42	35	63
19-Aug	9:00	50	60	54	47	42	35	73
19-Aug	10:00	49	59	53	46	41	33	64
19-Aug	11:00	46	57	49	41	39	33	66
19-Aug	12:00	47	57	50	44	41	33	66
19-Aug	13:00	46	56	50	43	39	32	63
19-Aug	14:00	56	61	53	47	43	35	87
19-Aug	15:00	54	64	58	52	48	38	72

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Location 2

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	44	52	45	41	39	34	69
27-Jul	17:00	45	55	47	44	42	36	67
27-Jul	18:00	52	62	56	51	47	40	68
27-Jul	19:00	49	60	53	43	38	31	65
27-Jul	20:00	41	51	44	38	36	30	62
27-Jul	21:00	48	56	53	48	46	36	59
27-Jul	22:00	43	52	47	42	41	37	58
27-Jul	23:00	45	56	49	44	41	37	59
28-Jul	0:00	49	57	53	48	47	36	59
28-Jul	1:00	45	52	50	42	40	36	53
28-Jul	2:00	49	58	52	45	42	38	59
28-Jul	3:00	52	59	57	51	49	41	59
28-Jul	4:00	54	59	58	55	53	49	61
28-Jul	5:00	56	61	60	57	54	51	62
28-Jul	6:00	50	54	51	48	46	43	77
28-Jul	7:00	49	59	52	48	46	41	65
28-Jul	8:00	51	61	54	50	48	42	70
28-Jul	9:00	55	63	60	55	51	44	66
28-Jul	10:00	50	60	53	48	46	41	66
28-Jul	11:00	45	56	48	42	41	36	60
28-Jul	12:00	49	58	52	48	47	43	62
28-Jul	13:00	49	59	52	47	44	40	65
28-Jul	14:00	46	58	49	44	42	36	62
28-Jul	15:00	46	55	49	46	44	39	60
28-Jul	16:00	44	52	48	44	42	37	60
28-Jul	17:00	44	53	46	43	41	36	66
28-Jul	18:00	43	53	45	41	39	32	66
28-Jul	19:00	44	54	48	43	40	32	61
28-Jul	20:00	45	54	47	40	37	31	68
28-Jul	21:00	50	60	56	45	43	39	62
28-Jul	22:00	49	60	49	43	42	38	62
28-Jul	23:00	48	56	52	47	45	40	65
29-Jul	0:00	50	56	53	51	50	43	65
29-Jul	1:00	47	54	52	46	44	39	58
29-Jul	2:00	47	56	51	46	44	39	61
29-Jul	3:00	51	58	55	51	48	42	59
29-Jul	4:00	55	61	59	56	54	46	62
29-Jul	5:00	57	62	60	57	55	51	63

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
29-Jul	6:00	49	57	52	49	48	44	62
29-Jul	7:00	45	52	47	45	44	42	64
29-Jul	8:00	45	55	47	43	41	37	60
29-Jul	9:00	51	60	54	49	47	43	66
29-Jul	10:00	48	56	51	47	46	40	59
29-Jul	11:00	47	57	50	46	44	39	61
29-Jul	12:00	45	53	48	45	43	39	58
29-Jul	13:00	47	55	51	46	44	39	59
29-Jul	14:00	45	55	48	44	42	38	59
29-Jul	15:00	44	51	47	44	42	36	63
29-Jul	16:00	43	51	46	42	40	35	65
29-Jul	17:00	46	54	49	45	43	37	64
29-Jul	18:00	49	58	52	47	45	39	63
29-Jul	19:00	42	54	45	40	37	31	60
29-Jul	20:00	38	46	41	37	35	30	56
29-Jul	21:00	53	59	58	54	49	39	60
29-Jul	22:00	46	55	51	45	43	37	60
29-Jul	23:00	49	59	52	47	44	40	63
30-Jul	0:00	55	65	59	54	48	40	67
30-Jul	1:00	50	62	50	45	44	36	65
30-Jul	2:00	47	55	53	44	42	38	57
30-Jul	3:00	52	59	56	51	49	46	60
30-Jul	4:00	55	60	59	57	53	46	60
30-Jul	5:00	59	63	62	60	59	51	64
30-Jul	6:00	51	56	55	52	49	43	58
30-Jul	7:00	45	53	48	45	43	40	59
30-Jul	8:00	42	50	45	41	40	37	56
30-Jul	9:00	42	54	44	39	37	33	61
30-Jul	10:00	44	54	44	38	36	31	67
30-Jul	11:00	45	57	48	44	42	34	61
30-Jul	12:00	45	55	49	43	40	34	65
30-Jul	13:00	46	57	49	44	41	35	63
30-Jul	14:00	43	53	48	41	39	33	56
30-Jul	15:00	45	55	48	43	41	34	60
30-Jul	16:00	48	61	50	43	40	32	68
30-Jul	17:00	42	51	45	40	38	31	59
30-Jul	18:00	41	51	44	39	37	31	56
30-Jul	19:00	40	50	44	39	36	31	55
30-Jul	20:00	43	51	47	42	39	34	58
30-Jul	21:00	50	58	52	49	48	42	65

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
30-Jul	22:00	48	58	53	43	39	32	60
30-Jul	23:00	46	54	52	43	41	36	59
31-Jul	0:00	49	56	55	47	43	38	59
31-Jul	1:00	50	55	53	50	49	40	61
31-Jul	2:00	54	59	58	56	53	43	60
31-Jul	3:00	51	59	56	51	47	42	60
31-Jul	4:00	53	58	56	55	53	45	60
31-Jul	5:00	56	60	59	57	56	50	64
31-Jul	6:00	46	52	48	46	45	43	58
31-Jul	7:00	48	57	51	47	45	42	59
31-Jul	8:00	46	55	50	45	43	38	65
31-Jul	9:00	44	55	48	42	39	31	58
31-Jul	10:00	47	55	51	46	44	37	63
31-Jul	11:00	46	57	50	42	39	32	61
31-Jul	12:00	48	60	51	45	42	34	66
31-Jul	13:00	50	61	52	48	47	41	70
31-Jul	14:00	44	55	47	42	39	34	65
31-Jul	15:00	43	53	46	41	39	33	62
31-Jul	16:00	43	52	46	41	39	34	60
31-Jul	17:00	47	58	50	45	42	35	66
31-Jul	18:00	42	53	44	38	35	31	58
31-Jul	19:00	42	52	45	38	36	29	66
31-Jul	20:00	42	50	47	41	38	29	63
31-Jul	21:00	53	64	55	49	46	40	76
31-Jul	22:00	51	58	53	52	50	41	67
31-Jul	23:00	51	58	54	52	51	41	61
1-Aug	0:00	50	56	54	51	50	40	65
1-Aug	1:00	50	58	55	51	45	37	63
1-Aug	2:00	53	58	56	54	51	47	63
1-Aug	3:00	57	62	59	58	57	45	62
1-Aug	4:00	56	61	59	58	57	47	61
1-Aug	5:00	54	59	56	55	53	42	61
1-Aug	6:00	45	54	49	43	41	37	55
1-Aug	7:00	48	52	42	38	37	33	78
1-Aug	8:00	41	51	44	39	37	32	55
1-Aug	9:00	41	51	44	39	36	33	58
1-Aug	10:00	43	52	46	42	40	36	55
1-Aug	11:00	46	56	49	45	42	37	64
1-Aug	12:00	45	52	48	44	42	37	56
1-Aug	13:00	46	54	50	46	44	39	60

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1-Aug	14:00	44	54	47	43	41	35	62
1-Aug	15:00	44	54	48	42	40	34	61
1-Aug	16:00	45	56	49	43	40	34	63
1-Aug	17:00	49	60	53	47	44	38	66
1-Aug	18:00	49	59	52	47	44	37	65
1-Aug	19:00	44	56	47	39	37	31	61
1-Aug	20:00	42	52	46	40	37	31	60
1-Aug	21:00	48	57	51	44	42	38	69
1-Aug	22:00	47	56	50	46	45	41	62
1-Aug	23:00	46	54	49	46	44	40	60
2-Aug	0:00	47	55	50	46	43	38	63
2-Aug	1:00	49	58	53	47	45	39	67
2-Aug	2:00	54	60	58	55	53	39	61
2-Aug	3:00	54	61	57	52	51	45	62
2-Aug	4:00	55	61	58	55	53	46	62
2-Aug	5:00	57	62	60	57	56	46	63
2-Aug	6:00	50	61	58	39	36	32	63
2-Aug	7:00	38	49	41	36	34	30	54
2-Aug	8:00	39	50	41	36	34	30	57
2-Aug	9:00	38	47	41	37	35	31	54
2-Aug	10:00	42	54	45	38	36	32	58
2-Aug	11:00	40	50	41	37	34	30	60
2-Aug	12:00	45	57	48	41	37	31	64
2-Aug	13:00	59	72	60	50	45	34	81
2-Aug	14:00	46	57	48	43	40	34	66
2-Aug	15:00	53	66	53	44	40	32	74
2-Aug	16:00	48	60	51	46	42	34	67
2-Aug	17:00	52	62	56	49	46	39	66
2-Aug	18:00	49	60	52	44	40	31	64
2-Aug	19:00	41	49	40	35	32	27	69
2-Aug	20:00	47	58	49	37	35	29	61
2-Aug	21:00	52	62	56	50	44	36	62
2-Aug	22:00	45	55	50	42	39	36	56
2-Aug	23:00	48	59	52	46	42	35	66
3-Aug	0:00	50	59	52	49	47	39	68
3-Aug	1:00	51	58	55	50	48	46	69
3-Aug	2:00	55	63	58	54	52	45	70
3-Aug	3:00	55	65	57	55	53	46	72
3-Aug	4:00	58	63	61	59	57	52	66
3-Aug	5:00	56	62	60	55	53	50	62

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
3-Aug	6:00	49	55	52	50	49	41	59
3-Aug	7:00	49	54	51	50	49	46	65
3-Aug	8:00	47	54	50	48	47	36	64
3-Aug	9:00	43	50	48	43	41	35	57
3-Aug	10:00	42	53	45	38	36	32	62
3-Aug	11:00	42	51	45	41	38	32	60
3-Aug	12:00	48	59	49	43	41	37	70
3-Aug	13:00	49	61	52	46	43	37	69
3-Aug	14:00	49	61	52	46	43	38	68

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	46	56	49	44	42	36	62
27-Jul	17:00	44	52	47	43	41	36	63
27-Jul	18:00	54	65	58	50	47	41	71
27-Jul	19:00	52	63	56	49	46	39	74
27-Jul	20:00	50	57	49	44	42	38	76
27-Jul	21:00	49	58	53	48	46	40	64
27-Jul	22:00	47	56	51	46	44	39	62
27-Jul	23:00	51	61	54	48	46	39	64
28-Jul	0:00	45	53	48	44	40	34	66
28-Jul	1:00	45	55	47	42	38	34	62
28-Jul	2:00	54	59	58	56	49	39	60
28-Jul	3:00	52	57	56	53	52	37	60
28-Jul	4:00	55	58	57	56	55	48	60
28-Jul	5:00	56	61	60	57	52	44	64
28-Jul	6:00	54	63	60	51	49	44	68
28-Jul	7:00	49	58	50	47	45	42	71
28-Jul	8:00	56	66	62	52	49	45	71
28-Jul	9:00	51	62	54	50	48	44	67
28-Jul	10:00	52	62	54	49	47	43	65
28-Jul	11:00	48	57	49	45	43	38	76
28-Jul	12:00	55	63	61	51	48	43	67
28-Jul	13:00	53	63	58	50	48	42	74
28-Jul	14:00	51	62	53	48	46	40	66
28-Jul	15:00	49	58	52	48	46	41	62
28-Jul	16:00	50	61	54	48	45	38	66
28-Jul	17:00	49	62	52	46	44	38	63
28-Jul	18:00	45	54	48	44	41	35	69
28-Jul	19:00	46	58	49	43	41	34	64
28-Jul	20:00	48	61	48	43	41	35	68
28-Jul	21:00	47	56	51	46	44	40	62
28-Jul	22:00	52	60	55	51	49	44	65
28-Jul	23:00	52	60	56	52	50	44	66
29-Jul	0:00	51	59	54	50	48	43	64
29-Jul	1:00	52	60	56	52	50	44	64
29-Jul	2:00	50	58	54	50	48	41	67
29-Jul	3:00	54	60	57	55	53	45	65
29-Jul	4:00	53	57	57	55	51	43	59
29-Jul	5:00	55	61	59	56	49	45	68

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29-Jul	6:00	56	66	54	50	48	43	78
29-Jul	7:00	51	62	52	48	47	43	70
29-Jul	8:00	47	56	50	46	45	40	61
29-Jul	9:00	56	63	56	48	46	42	86
29-Jul	10:00	48	55	50	48	47	43	62
29-Jul	11:00	50	57	53	50	49	45	63
29-Jul	12:00	55	63	59	52	49	44	82
29-Jul	13:00	52	62	53	48	47	43	78
29-Jul	14:00	52	62	57	48	46	42	64
29-Jul	15:00	46	53	48	46	44	39	63
29-Jul	16:00	46	55	49	44	43	38	63
29-Jul	17:00	46	53	48	45	43	39	75
29-Jul	18:00	52	61	55	50	47	42	72
29-Jul	19:00	44	55	47	42	40	35	59
29-Jul	20:00	49	56	47	43	41	37	78
29-Jul	21:00	49	58	51	48	46	41	71
29-Jul	22:00	50	60	54	49	46	40	66
29-Jul	23:00	57	65	60	56	54	47	69
30-Jul	0:00	54	63	58	53	50	43	66
30-Jul	1:00	49	58	52	48	46	40	63
30-Jul	2:00	55	66	54	46	43	38	67
30-Jul	3:00	59	66	64	59	50	43	67
30-Jul	4:00	62	67	66	62	61	47	68
30-Jul	5:00	59	63	62	62	61	45	64
30-Jul	6:00	49	59	50	47	46	42	66
30-Jul	7:00	47	56	49	46	44	41	74
30-Jul	8:00	45	54	48	44	42	39	63
30-Jul	9:00	45	57	47	42	40	37	69
30-Jul	10:00	45	56	45	41	39	36	67
30-Jul	11:00	44	55	46	42	40	36	63
30-Jul	12:00	45	53	47	44	42	36	65
30-Jul	13:00	49	56	48	44	42	35	80
30-Jul	14:00	45	55	48	44	41	35	62
30-Jul	15:00	45	55	49	44	41	35	62
30-Jul	16:00	43	51	45	39	37	33	69
30-Jul	17:00	50	59	54	48	44	36	64
30-Jul	18:00	48	55	50	46	43	36	76
30-Jul	19:00	48	53	47	42	40	35	78
30-Jul	20:00	48	57	51	47	44	38	64
30-Jul	21:00	48	57	51	46	44	39	64

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30-Jul	22:00	44	53	48	42	40	35	62
30-Jul	23:00	51	60	55	49	47	40	66
31-Jul	0:00	52	62	56	51	48	43	68
31-Jul	1:00	54	63	58	53	51	45	67
31-Jul	2:00	46	58	49	43	42	38	64
31-Jul	3:00	41	47	45	40	40	38	53
31-Jul	4:00	43	47	44	43	42	40	56
31-Jul	5:00	46	56	49	44	43	40	62
31-Jul	6:00	52	63	54	46	45	42	69
31-Jul	7:00	51	62	51	47	46	42	64
31-Jul	8:00	51	62	53	47	45	41	74
31-Jul	9:00	46	55	49	44	42	39	62
31-Jul	10:00	51	62	50	46	44	38	64
31-Jul	11:00	48	62	48	44	42	37	63
31-Jul	12:00	51	60	55	46	44	38	77
31-Jul	13:00	49	59	52	47	45	40	65
31-Jul	14:00	53	62	57	49	48	43	78
31-Jul	15:00	50	60	53	48	45	40	66
31-Jul	16:00	47	55	49	45	43	39	71
31-Jul	17:00	50	58	51	46	43	39	81
31-Jul	18:00	43	52	46	42	40	36	60
31-Jul	19:00	47	56	49	44	42	36	76
31-Jul	20:00	45	57	47	41	39	35	71
31-Jul	21:00	58	69	61	55	51	43	76
31-Jul	22:00	55	66	58	51	47	40	75
31-Jul	23:00	48	58	52	47	44	38	62
1-Aug	0:00	48	59	52	45	43	38	65
1-Aug	1:00	47	57	51	44	42	38	62
1-Aug	2:00	49	56	53	48	43	38	61
1-Aug	3:00	43	54	43	41	40	38	55
1-Aug	4:00	43	49	45	42	41	39	67
1-Aug	5:00	45	52	48	43	42	40	59
1-Aug	6:00	49	62	49	43	41	38	67
1-Aug	7:00	43	51	46	42	40	37	66
1-Aug	8:00	42	51	45	41	40	37	64
1-Aug	9:00	43	51	46	42	40	37	63
1-Aug	10:00	56	64	61	52	49	42	82
1-Aug	11:00	48	57	52	46	45	41	70
1-Aug	12:00	48	56	52	46	44	40	70
1-Aug	13:00	52	62	56	47	43	38	66

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1-Aug	14:00	50	58	53	49	47	42	69
1-Aug	15:00	55	60	56	50	47	41	80
1-Aug	16:00	56	64	60	56	53	46	68
1-Aug	17:00	60	68	64	60	57	50	72
1-Aug	18:00	60	68	63	59	57	50	70
1-Aug	19:00	51	61	55	49	46	37	67
1-Aug	20:00	50	60	54	48	44	36	65
1-Aug	21:00	48	58	51	47	45	40	62
1-Aug	22:00	51	59	54	52	50	42	65
1-Aug	23:00	52	61	55	51	50	45	68
2-Aug	0:00	54	61	58	53	50	44	65
2-Aug	1:00	52	61	55	50	48	41	69
2-Aug	2:00	42	50	44	41	39	35	64
2-Aug	3:00	47	60	48	43	42	38	66
2-Aug	4:00	49	58	52	48	46	42	65
2-Aug	5:00	43	50	45	44	42	34	55
2-Aug	6:00	47	58	50	41	37	32	69
2-Aug	7:00	44	54	47	42	39	33	60
2-Aug	8:00	51	64	51	42	39	33	69
2-Aug	9:00	51	63	46	41	40	36	76
2-Aug	10:00	58	72	47	41	39	36	82
2-Aug	11:00	41	50	43	39	37	34	59
2-Aug	12:00	54	54	46	41	38	34	86
2-Aug	13:00	60	73	60	49	45	36	84
2-Aug	14:00	61	70	56	48	44	36	90
2-Aug	15:00	61	75	59	48	44	35	82
2-Aug	16:00	51	62	53	46	43	35	74
2-Aug	17:00	62	71	66	61	59	51	75
2-Aug	18:00	59	69	63	57	52	36	79
2-Aug	19:00	45	58	45	40	37	31	65
2-Aug	20:00	50	61	53	46	43	36	68
2-Aug	21:00	46	56	49	44	40	35	61
2-Aug	22:00	50	61	53	47	44	38	67
2-Aug	23:00	54	64	58	53	50	42	70
3-Aug	0:00	54	64	58	53	50	43	69
3-Aug	1:00	55	66	59	53	51	44	70
3-Aug	2:00	56	66	60	54	51	43	74
3-Aug	3:00	54	65	58	52	49	42	70
3-Aug	4:00	53	61	57	53	51	40	67
3-Aug	5:00	46	55	49	45	42	39	64

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3-Aug	6:00	49	59	51	47	45	39	68
3-Aug	7:00	50	62	51	46	44	38	63
3-Aug	8:00	55	65	62	51	48	41	69
3-Aug	9:00	51	61	54	50	49	43	66
3-Aug	10:00	50	53	48	45	42	37	81
3-Aug	11:00	60	67	62	52	48	38	91
3-Aug	12:00	56	63	60	55	53	48	81
3-Aug	13:00	58	64	61	56	53	49	82
3-Aug	14:00	55	63	59	54	52	47	66
3-Aug	15:00	50	58	53	50	48	44	72

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Location 4

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	45	56	48	42	40	35	62
27-Jul	17:00	44	54	47	43	41	36	62
27-Jul	18:00	55	65	59	52	48	39	70
27-Jul	19:00	54	64	57	51	49	43	69
27-Jul	20:00	48	57	50	46	45	41	72
27-Jul	21:00	48	57	50	46	44	40	73
27-Jul	22:00	46	54	48	44	42	39	69
27-Jul	23:00	45	54	46	42	41	38	72
28-Jul	0:00	42	49	43	41	39	37	62
28-Jul	1:00	39	46	41	39	38	35	57
28-Jul	2:00	41	47	43	40	40	38	51
28-Jul	3:00	40	46	42	40	40	38	57
28-Jul	4:00	42	49	43	41	41	39	55
28-Jul	5:00	48	56	50	46	45	42	64
28-Jul	6:00	59	70	63	52	48	43	77
28-Jul	7:00	54	65	51	47	45	40	76
28-Jul	8:00	55	64	60	52	50	44	66
28-Jul	9:00	53	64	56	51	48	42	70
28-Jul	10:00	53	63	57	50	47	42	68
28-Jul	11:00	49	59	51	46	44	38	74
28-Jul	12:00	53	63	59	48	45	40	71
28-Jul	13:00	51	62	55	45	43	38	64
28-Jul	14:00	47	59	48	42	41	36	67
28-Jul	15:00	46	57	49	44	43	38	65
28-Jul	16:00	47	60	49	43	41	37	66
28-Jul	17:00	47	61	45	40	38	34	69
28-Jul	18:00	44	57	44	38	36	32	65
28-Jul	19:00	49	58	50	44	42	35	78
28-Jul	20:00	48	60	50	42	39	33	66
28-Jul	21:00	48	57	46	42	40	35	78
28-Jul	22:00	44	53	47	43	42	38	59
28-Jul	23:00	45	54	48	44	42	38	62
29-Jul	0:00	43	52	46	42	40	37	58
29-Jul	1:00	44	53	48	44	42	38	60
29-Jul	2:00	43	52	46	42	40	37	57
29-Jul	3:00	46	56	50	45	43	39	61
29-Jul	4:00	43	53	43	41	41	38	58
29-Jul	5:00	46	54	48	45	45	42	61

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
29-Jul	6:00	49	59	51	48	46	42	69
29-Jul	7:00	51	62	53	46	44	40	66
29-Jul	8:00	51	63	50	45	43	38	72
29-Jul	9:00	53	63	58	51	47	40	70
29-Jul	10:00	49	59	52	46	44	40	69
29-Jul	11:00	47	54	49	46	44	42	69
29-Jul	12:00	51	62	56	45	43	39	70
29-Jul	13:00	49	61	52	44	42	37	64
29-Jul	14:00	50	61	55	43	41	37	68
29-Jul	15:00	43	53	45	41	39	35	64
29-Jul	16:00	43	53	45	41	39	34	63
29-Jul	17:00	46	56	49	44	42	37	63
29-Jul	18:00	51	60	55	50	47	41	65
29-Jul	19:00	47	57	49	46	44	40	63
29-Jul	20:00	47	56	49	46	44	40	70
29-Jul	21:00	47	55	48	43	42	39	76
29-Jul	22:00	47	58	49	44	42	39	67
29-Jul	23:00	51	61	55	50	47	41	67
30-Jul	0:00	47	57	51	46	43	39	63
30-Jul	1:00	46	55	50	45	43	38	63
30-Jul	2:00	44	54	47	43	41	37	60
30-Jul	3:00	46	54	49	44	43	40	62
30-Jul	4:00	44	49	45	44	43	42	56
30-Jul	5:00	45	54	47	45	44	43	62
30-Jul	6:00	47	59	47	44	43	40	67
30-Jul	7:00	50	57	46	42	41	39	76
30-Jul	8:00	48	59	51	44	41	38	72
30-Jul	9:00	55	60	52	47	44	36	86
30-Jul	10:00	46	59	46	39	37	33	66
30-Jul	11:00	47	56	50	46	44	40	69
30-Jul	12:00	47	58	50	45	43	38	66
30-Jul	13:00	46	56	50	43	40	36	64
30-Jul	14:00	47	57	51	45	41	35	66
30-Jul	15:00	43	55	46	40	37	32	62
30-Jul	16:00	43	54	46	40	37	31	61
30-Jul	17:00	48	57	53	47	42	33	65
30-Jul	18:00	45	55	49	44	42	35	59
30-Jul	19:00	47	57	50	42	40	35	64
30-Jul	20:00	47	57	50	46	43	37	67
30-Jul	21:00	46	56	49	44	42	39	65

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
30-Jul	22:00	44	54	46	41	39	36	66
30-Jul	23:00	48	60	51	45	42	37	66
31-Jul	0:00	48	60	52	45	42	36	67
31-Jul	1:00	51	61	55	48	45	38	67
31-Jul	2:00	46	57	48	42	40	36	66
31-Jul	3:00	42	51	43	40	40	38	61
31-Jul	4:00	43	49	44	43	42	40	58
31-Jul	5:00	45	54	45	43	43	41	69
31-Jul	6:00	48	58	51	44	43	40	69
31-Jul	7:00	51	63	51	44	42	39	66
31-Jul	8:00	49	61	52	45	43	38	71
31-Jul	9:00	46	56	49	44	41	37	68
31-Jul	10:00	50	61	54	46	43	38	67
31-Jul	11:00	48	60	51	46	44	38	65
31-Jul	12:00	49	58	53	47	45	39	68
31-Jul	13:00	48	61	49	43	41	36	70
31-Jul	14:00	50	60	54	46	43	38	62
31-Jul	15:00	50	60	53	48	45	39	68
31-Jul	16:00	47	58	50	44	42	37	66
31-Jul	17:00	46	57	48	43	41	36	66
31-Jul	18:00	43	52	44	39	37	34	66
31-Jul	19:00	47	57	50	45	42	36	67
31-Jul	20:00	45	54	47	43	41	37	68
31-Jul	21:00	56	67	59	52	50	43	71
31-Jul	22:00	52	62	55	49	47	42	69
31-Jul	23:00	49	57	52	48	46	42	65
1-Aug	0:00	48	59	50	47	45	41	70
1-Aug	1:00	45	55	48	43	41	38	64
1-Aug	2:00	43	54	45	41	40	38	61
1-Aug	3:00	40	45	41	40	39	38	52
1-Aug	4:00	41	47	42	41	40	39	56
1-Aug	5:00	44	55	45	42	41	39	63
1-Aug	6:00	47	57	49	44	42	38	69
1-Aug	7:00	44	53	47	42	41	36	69
1-Aug	8:00	42	51	45	40	38	33	58
1-Aug	9:00	47	59	50	43	39	34	67
1-Aug	10:00	53	63	59	46	42	37	66
1-Aug	11:00	49	57	51	47	44	36	76
1-Aug	12:00	48	57	52	46	44	38	63
1-Aug	13:00	49	59	54	46	42	37	65

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1-Aug	14:00	48	58	52	47	44	39	64
1-Aug	15:00	50	60	54	48	45	39	64
1-Aug	16:00	54	63	58	54	51	42	66
1-Aug	17:00	59	67	63	58	56	46	70
1-Aug	18:00	59	67	63	59	56	49	69
1-Aug	19:00	52	63	57	49	43	34	70
1-Aug	20:00	52	62	55	50	47	42	69
1-Aug	21:00	49	62	50	44	43	40	69
1-Aug	22:00	47	56	50	45	43	40	64
1-Aug	23:00	46	55	49	45	43	40	63
2-Aug	0:00	46	56	50	45	43	39	64
2-Aug	1:00	47	57	51	45	43	38	66
2-Aug	2:00	40	48	40	38	37	36	64
2-Aug	3:00	44	56	45	40	39	37	63
2-Aug	4:00	47	58	50	44	42	39	64
2-Aug	5:00	42	50	44	41	40	36	61
2-Aug	6:00	45	56	48	42	40	35	65
2-Aug	7:00	47	58	50	44	41	34	64
2-Aug	8:00	51	63	51	42	40	34	68
2-Aug	9:00	46	57	49	41	39	34	72
2-Aug	10:00	45	56	50	41	38	34	60
2-Aug	11:00	45	54	48	43	40	34	65
2-Aug	12:00	46	58	48	43	41	37	65
2-Aug	13:00	52	65	53	47	43	37	74
2-Aug	14:00	67	70	54	47	43	38	93
2-Aug	15:00	63	71	56	48	45	36	89
2-Aug	16:00	49	61	53	46	43	38	66
2-Aug	17:00	60	68	64	60	58	50	70
2-Aug	18:00	59	68	63	57	52	34	71
2-Aug	19:00	41	52	43	38	36	31	67
2-Aug	20:00	48	59	51	46	44	36	69
2-Aug	21:00	47	56	50	45	43	39	70
2-Aug	22:00	47	58	50	45	43	39	66
2-Aug	23:00	52	62	55	50	47	40	67
3-Aug	0:00	52	63	55	49	47	40	68
3-Aug	1:00	52	63	56	49	45	38	69
3-Aug	2:00	52	64	56	49	45	39	70
3-Aug	3:00	51	62	54	47	44	39	70
3-Aug	4:00	45	55	48	43	41	37	61
3-Aug	5:00	46	56	46	40	39	37	73

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
3-Aug	6:00	47	59	49	44	42	37	68
3-Aug	7:00	54	64	56	53	48	39	71
3-Aug	8:00	55	66	58	46	43	38	74
3-Aug	9:00	47	60	45	42	40	38	69
3-Aug	10:00	49	57	49	44	42	38	80
3-Aug	11:00	52	62	57	47	44	39	67
3-Aug	12:00	52	61	55	50	47	42	71
3-Aug	13:00	52	60	55	50	47	41	78
3-Aug	14:00	53	60	54	50	47	41	81
3-Aug	15:00	66	61	52	47	45	40	98

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Location 5

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	48	57	51	47	45	39	61
27-Jul	17:00	50	60	54	48	46	38	64
27-Jul	18:00	58	66	62	58	56	49	70
27-Jul	19:00	54	62	57	52	50	44	72
27-Jul	20:00	47	54	49	46	44	41	69
27-Jul	21:00	51	61	53	49	48	45	70
27-Jul	22:00	51	62	53	50	48	45	67
27-Jul	23:00	52	61	55	52	50	45	68
28-Jul	0:00	50	58	53	49	48	45	62
28-Jul	1:00	52	56	54	53	51	46	59
28-Jul	2:00	53	59	55	54	53	50	64
28-Jul	3:00	56	60	57	56	55	52	75
28-Jul	4:00	58	62	60	58	57	55	69
28-Jul	5:00	60	64	63	61	60	53	72
28-Jul	6:00	51	58	54	51	50	46	63
28-Jul	7:00	54	61	57	53	52	46	69
28-Jul	8:00	58	67	62	58	56	50	70
28-Jul	9:00	60	68	63	59	57	51	71
28-Jul	10:00	55	63	59	55	53	47	67
28-Jul	11:00	52	61	55	50	48	42	66
28-Jul	12:00	53	61	56	53	50	43	66
28-Jul	13:00	50	59	53	49	47	42	68
28-Jul	14:00	48	57	52	47	45	39	61
28-Jul	15:00	49	59	53	48	45	40	62
28-Jul	16:00	50	59	54	49	47	40	62
28-Jul	17:00	46	54	49	46	43	38	59
28-Jul	18:00	44	52	46	42	40	36	69
28-Jul	19:00	51	60	55	50	47	37	63
28-Jul	20:00	44	52	49	42	39	34	64
28-Jul	21:00	49	58	52	48	47	44	67
28-Jul	22:00	53	60	55	52	51	47	71
28-Jul	23:00	53	60	55	52	50	46	80
29-Jul	0:00	53	61	55	52	50	44	69
29-Jul	1:00	54	61	57	53	52	47	81
29-Jul	2:00	54	60	57	55	53	49	69
29-Jul	3:00	57	62	59	57	56	54	68
29-Jul	4:00	59	63	62	60	59	56	73
29-Jul	5:00	61	64	63	62	61	58	64

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax	
29-Jul	6:00	52	57	55	52	50	46	62	
29-Jul	7:00	47	54	51	47	46	43	63	
29-Jul	8:00	47	56	50	47	45	42	62	
29-Jul	9:00	49	57	53	49	47	41	60	
29-Jul	10:00	48	54	51	48	47	42	60	
29-Jul	11:00	50	56	52	50	49	45	61	
29-Jul	12:00	50	56	53	50	48	44	61	
29-Jul	13:00	52	62	54	49	47	42	76	
29-Jul	14:00	47	55	50	46	44	38	59	
29-Jul	15:00	44	52	48	44	42	38	54	
29-Jul	16:00	46	55	50	45	43	37	61	
29-Jul	17:00	53	61	56	52	49	43	65	
29-Jul	18:00	56	63	60	56	54	48	68	
29-Jul	19:00	46	55	49	44	42	34	63	
29-Jul	20:00	42	50	45	42	40	36	58	
29-Jul	21:00	52	61	57	49	46	42	70	
29-Jul	22:00	55	64	57	53	51	47	74	
29-Jul	23:00	56	65	59	56	53	46	75	
30-Jul	0:00	56	62	59	55	52	47	80	
30-Jul	1:00	56	63	59	57	53	46	72	
30-Jul	2:00	58	63	62	59	57	52	74	
30-Jul	3:00	58	65	60	58	57	51	72	
30-Jul	4:00	60	64	62	60	59	56	65	
30-Jul	5:00	60	63	62	61	60	55	64	
30-Jul	6:00	50	56	53	50	49	45	61	
30-Jul	7:00	50	58	53	50	48	43	70	
30-Jul	8:00	45	53	48	45	43	39	60	
30-Jul	9:00	46	56	49	44	42	36	62	
30-Jul	10:00	45	55	47	41	39	35	70	
30-Jul	11:00	45	54	48	43	42	36	69	
30-Jul	12:00	46	54	49	46	44	36	68	
Acoustics	30-Jul	13:00	44	53	48	43	40	35	62
Audiovisual	30-Jul	14:00	46	53	50	46	43	35	58
Telecommunications	30-Jul	15:00	43	51	46	42	39	34	59
Security	30-Jul	16:00	47	58	50	44	40	34	70
	30-Jul	17:00	48	58	51	46	44	36	65
	30-Jul	18:00	46	55	49	44	42	36	66
130 Sutter Street	30-Jul	19:00	40	48	43	38	37	33	57
Floor 5	30-Jul	20:00	47	54	50	46	44	37	72
San Francisco CA	30-Jul	21:00	51	58	53	50	49	45	67
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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
30-Jul	22:00	53	60	59	50	47	43	69
30-Jul	23:00	56	65	60	55	52	46	72
31-Jul	0:00	56	63	58	54	51	44	80
31-Jul	1:00	55	63	58	53	51	46	75
31-Jul	2:00	52	60	56	50	49	44	75
31-Jul	3:00	55	60	58	55	54	50	61
31-Jul	4:00	59	64	61	60	58	55	65
31-Jul	5:00	59	63	61	60	59	54	68
31-Jul	6:00	52	59	57	52	49	46	62
31-Jul	7:00	51	59	56	50	47	43	61
31-Jul	8:00	49	59	50	45	43	39	71
31-Jul	9:00	46	57	48	44	42	38	66
31-Jul	10:00	45	54	48	44	42	37	62
31-Jul	11:00	44	55	46	41	39	35	60
31-Jul	12:00	46	54	49	45	43	37	70
31-Jul	13:00	46	55	49	45	43	37	64
31-Jul	14:00	48	58	51	46	44	40	70
31-Jul	15:00	48	57	52	47	44	37	70
31-Jul	16:00	53	64	57	51	47	38	72
31-Jul	17:00	52	61	55	49	45	39	76
31-Jul	18:00	48	58	52	44	41	36	69
31-Jul	19:00	45	56	48	42	40	34	67
31-Jul	20:00	49	59	52	45	41	34	70
31-Jul	21:00	59	68	61	56	53	47	86
31-Jul	22:00	58	67	60	57	54	46	83
31-Jul	23:00	56	67	58	53	52	43	75
1-Aug	0:00	54	65	57	52	48	43	77
1-Aug	1:00	59	69	60	57	57	49	76
1-Aug	2:00	58	66	60	57	55	51	81
1-Aug	3:00	57	61	59	57	56	52	71
1-Aug	4:00	58	62	60	59	58	56	63
1-Aug	5:00	56	60	59	57	56	52	64
1-Aug	6:00	44	51	47	44	42	39	55
1-Aug	7:00	44	55	48	41	39	36	60
1-Aug	8:00	43	54	47	41	39	35	59
1-Aug	9:00	43	52	46	41	40	36	58
1-Aug	10:00	49	59	53	47	45	39	64
1-Aug	11:00	45	52	48	45	43	39	58
1-Aug	12:00	44	52	46	43	41	37	59
1-Aug	13:00	46	55	50	43	40	36	59

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
1-Aug	14:00	48	57	50	45	43	38	68
1-Aug	15:00	49	60	52	47	44	37	69
1-Aug	16:00	51	61	54	50	47	41	70
1-Aug	17:00	55	64	59	54	52	44	70
1-Aug	18:00	54	62	58	54	52	46	66
1-Aug	19:00	50	60	53	48	45	40	67
1-Aug	20:00	48	56	51	47	45	39	69
1-Aug	21:00	52	62	55	51	49	44	69
1-Aug	22:00	56	67	58	52	50	45	75
1-Aug	23:00	58	68	60	56	54	49	77
2-Aug	0:00	58	69	60	55	54	48	78
2-Aug	1:00	56	66	59	54	52	45	76
2-Aug	2:00	56	60	59	58	55	47	61
2-Aug	3:00	58	68	59	58	57	53	77
2-Aug	4:00	60	71	60	58	57	53	83
2-Aug	5:00	58	62	61	59	58	54	64
2-Aug	6:00	52	58	57	44	39	34	69
2-Aug	7:00	45	55	45	40	38	34	70
2-Aug	8:00	46	58	48	41	39	34	61
2-Aug	9:00	42	52	45	39	37	33	58
2-Aug	10:00	43	54	46	40	38	34	59
2-Aug	11:00	41	52	44	39	37	33	62
2-Aug	12:00	51	62	55	49	45	37	70
2-Aug	13:00	55	65	58	53	49	40	70
2-Aug	14:00	49	60	54	47	43	35	66
2-Aug	15:00	53	66	53	45	43	36	72
2-Aug	16:00	53	64	57	48	44	36	68
2-Aug	17:00	55	65	58	53	50	39	72
2-Aug	18:00	53	64	58	50	43	32	69
2-Aug	19:00	40	49	41	36	35	31	64
2-Aug	20:00	49	60	51	47	43	36	74
2-Aug	21:00	50	59	54	47	46	41	67
2-Aug	22:00	55	66	58	52	49	42	73
2-Aug	23:00	58	70	59	55	53	46	79
3-Aug	0:00	59	71	59	55	53	45	82
3-Aug	1:00	60	72	62	56	54	49	81
3-Aug	2:00	61	73	63	57	55	50	81
3-Aug	3:00	61	72	62	58	56	53	87
3-Aug	4:00	58	68	60	57	56	51	81
3-Aug	5:00	55	60	57	55	54	51	62

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
3-Aug	6:00	49	54	52	50	49	45	60
3-Aug	7:00	48	58	51	46	44	39	63
3-Aug	8:00	50	59	54	47	44	39	66
3-Aug	9:00	43	51	46	43	41	37	57
3-Aug	10:00	44	54	46	43	41	38	62
3-Aug	11:00	47	57	51	44	41	36	70
3-Aug	12:00	49	59	53	48	45	39	68
3-Aug	13:00	54	63	58	52	49	41	77
3-Aug	14:00	54	64	57	52	49	41	77
3-Aug	15:00	50	60	54	48	45	39	70

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Location 6

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	17:00	43	52	46	41	39	33	57
27-Jul	18:00	50	60	54	48	45	37	66
27-Jul	19:00	46	56	50	43	40	32	60
27-Jul	20:00	39	49	42	36	34	30	57
27-Jul	21:00	42	53	44	39	37	33	59
27-Jul	22:00	41	52	43	39	38	34	60
27-Jul	23:00	42	51	45	40	38	34	63
28-Jul	0:00	39	47	42	38	36	31	53
28-Jul	1:00	39	48	43	38	36	32	54
28-Jul	2:00	42	49	45	42	40	36	51
28-Jul	3:00	38	45	41	38	36	33	52
28-Jul	4:00	42	48	44	42	40	37	55
28-Jul	5:00	46	54	48	45	43	40	62
28-Jul	6:00	46	52	48	46	44	41	57
28-Jul	7:00	46	55	49	45	44	40	63
28-Jul	8:00	50	59	54	50	48	43	62
28-Jul	9:00	52	61	56	51	49	42	67
28-Jul	10:00	49	58	53	48	46	39	63
28-Jul	11:00	46	56	49	43	41	35	60
28-Jul	12:00	48	57	52	47	44	38	60
28-Jul	13:00	47	56	51	47	45	36	65
28-Jul	14:00	45	52	48	44	42	36	57
28-Jul	15:00	45	53	48	44	43	39	61
28-Jul	16:00	45	55	49	44	42	36	60
28-Jul	17:00	43	53	45	41	39	34	64
28-Jul	18:00	39	48	41	38	36	32	58
28-Jul	19:00	44	54	48	42	39	31	58
28-Jul	20:00	37	46	40	35	33	29	58
28-Jul	21:00	39	47	42	37	36	32	54
28-Jul	22:00	43	52	46	41	39	35	59
28-Jul	23:00	44	54	48	43	40	35	60
29-Jul	0:00	42	52	46	40	38	33	57
29-Jul	1:00	43	53	47	41	39	34	56
29-Jul	2:00	42	50	46	41	38	33	55
29-Jul	3:00	44	54	48	43	41	34	57
29-Jul	4:00	38	48	41	37	35	32	52
29-Jul	5:00	46	50	48	46	45	41	56
29-Jul	6:00	46	52	49	47	45	42	57

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
29-Jul	7:00	45	52	47	44	43	40	56
29-Jul	8:00	44	53	46	43	42	39	59
29-Jul	9:00	45	53	48	44	42	38	58
29-Jul	10:00	45	53	48	45	44	39	57
29-Jul	11:00	48	53	50	48	47	43	55
29-Jul	12:00	48	55	51	47	46	41	59
29-Jul	13:00	46	53	49	46	44	40	56
29-Jul	14:00	45	52	49	45	44	39	55
29-Jul	15:00	42	50	45	42	41	35	55
29-Jul	16:00	42	51	44	40	38	33	64
29-Jul	17:00	46	56	50	44	42	35	61
29-Jul	18:00	48	57	52	47	44	38	62
29-Jul	19:00	42	55	43	38	35	29	60
29-Jul	20:00	39	47	42	38	36	31	55
29-Jul	21:00	39	49	42	37	36	33	55
29-Jul	22:00	43	53	46	39	37	34	68
29-Jul	23:00	48	58	52	46	42	35	70
30-Jul	0:00	43	52	47	42	39	34	57
30-Jul	1:00	41	51	45	40	37	31	56
30-Jul	2:00	40	51	43	37	34	30	57
30-Jul	3:00	41	51	45	39	36	33	61
30-Jul	4:00	40	47	44	40	38	34	52
30-Jul	5:00	43	48	45	43	42	39	55
30-Jul	6:00	45	49	47	45	44	42	52
30-Jul	7:00	45	53	46	44	42	40	63
30-Jul	8:00	43	52	44	41	39	37	62
30-Jul	9:00	43	55	44	39	38	34	61
30-Jul	10:00	44	53	43	38	36	33	70
30-Jul	11:00	41	50	44	39	37	33	58
30-Jul	12:00	41	50	45	41	39	34	57
30-Jul	13:00	42	51	45	41	38	32	60
30-Jul	14:00	43	52	47	41	39	32	57
30-Jul	15:00	40	49	43	39	37	32	54
30-Jul	16:00	43	54	46	40	37	31	61
30-Jul	17:00	42	53	46	40	37	31	59
30-Jul	18:00	40	51	44	38	35	29	56
30-Jul	19:00	38	49	42	35	33	28	54
30-Jul	20:00	41	52	44	39	37	33	59
30-Jul	21:00	40	52	42	37	35	32	60
30-Jul	22:00	36	47	38	33	31	28	55

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
30-Jul	23:00	45	56	48	39	36	31	63
31-Jul	0:00	44	55	47	40	36	32	60
31-Jul	1:00	47	58	50	43	40	33	62
31-Jul	2:00	38	50	40	34	33	31	56
31-Jul	3:00	35	43	36	35	34	32	52
31-Jul	4:00	41	45	43	41	40	37	52
31-Jul	5:00	39	45	41	39	38	37	58
31-Jul	6:00	44	49	47	44	43	40	56
31-Jul	7:00	45	53	48	44	43	40	55
31-Jul	8:00	44	54	48	43	40	37	59
31-Jul	9:00	42	53	44	39	37	32	58
31-Jul	10:00	43	51	47	42	39	34	55
31-Jul	11:00	41	52	43	39	37	32	55
31-Jul	12:00	43	51	47	42	40	33	57
31-Jul	13:00	44	55	45	41	39	33	64
31-Jul	14:00	45	54	47	43	41	36	63
31-Jul	15:00	42	52	46	40	38	33	58
31-Jul	16:00	46	56	49	42	39	33	63
31-Jul	17:00	45	56	48	42	39	34	62
31-Jul	18:00	40	51	43	37	35	32	55
31-Jul	19:00	41	53	45	38	35	30	62
31-Jul	20:00	39	50	41	36	35	31	56
31-Jul	21:00	51	63	53	46	42	35	71
31-Jul	22:00	47	58	49	41	38	34	65
31-Jul	23:00	41	53	44	38	35	32	58
1-Aug	0:00	41	52	43	36	34	31	61
1-Aug	1:00	41	52	43	35	33	31	62
1-Aug	2:00	38	51	39	34	33	31	57
1-Aug	3:00	34	40	36	34	33	31	47
1-Aug	4:00	36	41	38	36	35	33	45
1-Aug	5:00	37	43	40	37	36	34	50
1-Aug	6:00	42	48	45	42	40	36	52
1-Aug	7:00	40	51	42	38	36	33	55
1-Aug	8:00	40	52	43	37	35	33	56
1-Aug	9:00	40	50	42	37	36	33	58
1-Aug	10:00	46	54	51	44	41	38	57
1-Aug	11:00	44	54	47	43	41	38	60
1-Aug	12:00	44	53	46	43	41	37	58
1-Aug	13:00	44	53	48	43	40	35	58
1-Aug	14:00	44	54	47	42	40	36	60

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
1-Aug	15:00	45	56	48	43	40	34	62
1-Aug	16:00	47	58	50	45	42	35	67
1-Aug	17:00	52	62	56	49	46	37	65
1-Aug	18:00	51	61	56	50	47	36	67
1-Aug	19:00	45	56	49	39	36	30	65
1-Aug	20:00	41	52	44	38	35	31	58
1-Aug	21:00	40	50	42	38	36	34	56
1-Aug	22:00	44	55	46	40	39	36	64
1-Aug	23:00	43	53	47	41	39	36	58
2-Aug	0:00	44	55	47	40	38	34	65
2-Aug	1:00	44	55	47	40	37	31	62
2-Aug	2:00	34	41	35	33	32	30	49
2-Aug	3:00	39	52	40	34	33	32	59
2-Aug	4:00	44	56	45	37	35	31	65
2-Aug	5:00	36	46	37	33	32	30	59
2-Aug	6:00	36	45	38	34	33	31	53
2-Aug	7:00	37	48	40	35	33	31	55
2-Aug	8:00	41	52	43	37	35	32	56
2-Aug	9:00	38	46	41	37	36	33	55
2-Aug	10:00	42	56	44	38	36	33	60
2-Aug	11:00	38	48	40	36	34	31	59
2-Aug	12:00	47	59	50	42	38	32	64
2-Aug	13:00	52	64	55	48	45	35	71
2-Aug	14:00	45	58	47	41	38	32	63
2-Aug	15:00	56	68	56	44	41	31	80
2-Aug	16:00	46	58	49	42	38	32	64
2-Aug	17:00	52	63	56	50	47	36	67
2-Aug	18:00	50	61	54	45	39	28	68
2-Aug	19:00	36	46	37	33	31	27	59
2-Aug	20:00	40	50	42	37	35	30	58
2-Aug	21:00	39	50	42	36	33	30	58
2-Aug	22:00	41	52	44	36	34	31	64
2-Aug	23:00	46	58	50	42	38	33	61
3-Aug	0:00	48	59	51	44	40	33	67
3-Aug	1:00	47	59	50	41	37	33	65
3-Aug	2:00	49	61	52	43	39	34	68
3-Aug	3:00	48	60	52	43	39	35	68
3-Aug	4:00	46	56	46	39	37	34	70
3-Aug	5:00	39	47	43	39	37	34	52
3-Aug	6:00	43	50	46	43	41	37	53

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
3-Aug	7:00	43	52	46	42	40	36	55
3-Aug	8:00	44	53	49	43	41	36	57
3-Aug	9:00	42	48	44	42	40	37	54
3-Aug	10:00	42	53	45	41	39	35	57
3-Aug	11:00	44	52	49	43	39	33	58
3-Aug	12:00	46	56	49	44	43	38	59
3-Aug	13:00	49	60	52	46	44	38	65
3-Aug	14:00	49	59	53	47	44	38	64

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
12-Aug	17:00	42	52	46	41	38	32	55
12-Aug	18:00	41	50	43	40	38	33	62
12-Aug	19:00	39	47	43	39	37	32	51
12-Aug	20:00	37	44	39	37	36	33	53
12-Aug	21:00	39	45	40	38	38	36	50
12-Aug	22:00	53	69	41	38	37	35	74
12-Aug	23:00	54	71	40	38	37	34	75
13-Aug	0:00	45	44	38	37	36	33	72
13-Aug	1:00	37	43	38	37	36	34	46
13-Aug	2:00	37	40	39	38	37	34	46
13-Aug	3:00	37	44	40	38	37	33	45
13-Aug	4:00	39	42	41	40	39	36	46
13-Aug	5:00	42	47	44	42	42	40	52
13-Aug	6:00	43	50	44	42	41	40	64
13-Aug	7:00	43	49	44	41	40	37	69
13-Aug	8:00	43	56	42	38	37	35	65
13-Aug	9:00	44	51	42	38	37	35	73
13-Aug	10:00	48	51	42	38	37	35	76
13-Aug	11:00	41	50	44	40	38	34	65
13-Aug	12:00	42	50	44	41	39	36	61
13-Aug	13:00	46	53	47	42	41	37	72
13-Aug	14:00	47	56	50	46	44	40	65
13-Aug	15:00	50	57	53	50	48	42	63
13-Aug	16:00	47	56	50	46	44	38	61
13-Aug	17:00	50	59	54	48	45	39	65
13-Aug	18:00	50	61	53	46	43	38	70
13-Aug	19:00	41	49	44	41	39	34	53
13-Aug	20:00	40	47	43	40	39	36	52
13-Aug	21:00	41	47	44	41	40	37	54
13-Aug	22:00	38	43	40	38	38	36	51
13-Aug	23:00	41	46	43	41	40	38	55
14-Aug	0:00	50	55	47	45	44	41	71
14-Aug	1:00	48	55	52	48	47	39	58
14-Aug	2:00	50	60	52	47	43	37	71
14-Aug	3:00	37	42	39	37	36	34	46
14-Aug	4:00	38	43	41	39	38	35	47
14-Aug	5:00	40	47	42	39	39	37	51
14-Aug	6:00	42	49	45	41	40	36	63

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
14-Aug	7:00	42	51	45	42	41	37	56
14-Aug	8:00	53	65	44	39	37	35	77
14-Aug	9:00	42	52	45	39	37	34	57
14-Aug	10:00	43	53	44	39	37	35	67
14-Aug	11:00	42	52	45	39	37	33	59
14-Aug	12:00	44	53	46	41	39	35	62
14-Aug	13:00	45	55	46	42	40	37	65
14-Aug	14:00	47	56	50	46	43	38	60
14-Aug	15:00	53	62	57	52	48	41	65
14-Aug	16:00	50	63	50	42	40	36	69
14-Aug	17:00	45	56	47	43	41	35	68
14-Aug	18:00	54	68	55	48	45	40	72
14-Aug	19:00	47	52	43	38	36	32	71
14-Aug	20:00	55	71	41	39	38	33	75
14-Aug	21:00	40	46	42	39	38	37	53
14-Aug	22:00	46	51	48	46	45	42	54
14-Aug	23:00	45	52	47	44	43	40	57
15-Aug	0:00	44	52	47	44	43	39	57
15-Aug	1:00	57	72	44	41	40	38	74
15-Aug	2:00	54	71	46	42	40	37	73
15-Aug	3:00	38	43	40	38	37	35	47
15-Aug	4:00	39	44	41	39	38	37	50
15-Aug	5:00	40	46	42	40	40	38	51
15-Aug	6:00	45	51	44	41	40	38	68
15-Aug	7:00	49	62	46	43	42	40	73
15-Aug	8:00	43	52	45	42	41	39	58
15-Aug	9:00	48	60	51	45	43	38	66
15-Aug	10:00	45	55	49	44	42	37	61
15-Aug	11:00	41	50	45	41	39	35	56
15-Aug	12:00	47	59	48	43	40	35	69
15-Aug	13:00	45	54	48	44	41	36	59
15-Aug	14:00	51	57	50	45	43	37	78
15-Aug	15:00	48	57	51	46	44	38	67
15-Aug	16:00	44	54	48	43	41	36	59
15-Aug	17:00	43	51	46	42	40	36	56
15-Aug	18:00	40	48	43	40	38	35	55
15-Aug	19:00	40	48	42	39	38	35	54
15-Aug	20:00	39	46	41	39	38	34	57
15-Aug	21:00	39	44	42	40	39	37	49
15-Aug	22:00	39	44	41	39	39	36	48

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
15-Aug	23:00	39	44	41	40	39	36	50
16-Aug	0:00	38	45	40	38	38	36	51
16-Aug	1:00	39	43	41	39	38	36	54
16-Aug	2:00	50	50	40	38	37	35	73
16-Aug	3:00	44	42	38	36	35	33	71
16-Aug	4:00	38	42	40	38	37	33	46
16-Aug	5:00	40	47	41	39	39	37	55
16-Aug	6:00	41	47	43	41	40	38	55
16-Aug	7:00	44	51	46	43	42	39	69
16-Aug	8:00	43	50	45	42	40	37	60
16-Aug	9:00	43	52	46	41	40	36	60
16-Aug	10:00	45	53	49	44	42	38	62
16-Aug	11:00	56	64	50	43	41	36	82
16-Aug	12:00	45	57	47	43	40	34	63
16-Aug	13:00	47	59	47	42	39	35	71
16-Aug	14:00	53	65	46	41	39	34	78
16-Aug	15:00	43	52	45	40	38	33	69
16-Aug	16:00	41	51	45	40	38	33	57
16-Aug	17:00	41	50	45	40	38	34	57
16-Aug	18:00	37	45	40	36	35	32	50
16-Aug	19:00	38	48	39	35	34	31	56
16-Aug	20:00	46	57	42	38	37	34	75
16-Aug	21:00	61	73	67	39	37	35	75
16-Aug	22:00	66	75	71	66	43	35	79
16-Aug	23:00	64	74	69	39	36	33	78
17-Aug	0:00	51	64	41	35	34	32	70
17-Aug	1:00	52	66	49	36	35	33	71
17-Aug	2:00	37	44	39	36	35	33	50
17-Aug	3:00	36	40	38	36	35	33	42
17-Aug	4:00	40	44	42	40	40	34	46
17-Aug	5:00	42	48	44	42	41	38	62
17-Aug	6:00	44	54	45	42	41	39	67
17-Aug	7:00	46	53	48	45	44	41	61
17-Aug	8:00	43	49	45	43	41	37	61
17-Aug	9:00	40	48	42	39	37	35	53
17-Aug	10:00	43	53	44	39	37	34	63
17-Aug	11:00	42	52	44	40	38	34	61
17-Aug	12:00	44	53	47	43	41	36	60
17-Aug	13:00	44	52	48	44	42	37	55
17-Aug	14:00	44	54	47	42	40	35	65

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
17-Aug	15:00	47	56	51	46	44	38	61
17-Aug	16:00	45	54	49	45	43	38	61
17-Aug	17:00	43	51	46	42	40	34	59
17-Aug	18:00	39	47	42	37	35	31	59
17-Aug	19:00	37	48	39	35	34	30	57
17-Aug	20:00	56	68	60	46	36	29	77
17-Aug	21:00	47	49	47	47	47	46	51
17-Aug	22:00	47	49	47	47	47	46	55
17-Aug	23:00	47	57	48	47	47	41	59
18-Aug	0:00	43	49	46	44	42	37	54
18-Aug	1:00	42	46	45	43	42	39	48
18-Aug	2:00	38	45	42	38	36	34	47
18-Aug	3:00	48	51	37	36	35	34	74
18-Aug	4:00	40	45	42	40	39	36	67
18-Aug	5:00	45	52	47	45	44	41	58
18-Aug	6:00	45	51	48	45	44	41	59
18-Aug	7:00	45	50	46	43	42	40	69
18-Aug	8:00	47	58	46	43	41	38	71
18-Aug	9:00	52	67	47	42	41	38	75
18-Aug	10:00	52	67	47	42	40	37	74
18-Aug	11:00	46	55	46	41	40	37	77
18-Aug	12:00	39	46	41	38	37	34	58
18-Aug	13:00	39	46	42	39	37	35	51
18-Aug	14:00	41	51	44	40	38	33	56
18-Aug	15:00	46	54	49	45	44	40	61
18-Aug	16:00	44	52	48	44	42	38	60
18-Aug	17:00	43	50	46	42	40	37	60
18-Aug	18:00	43	55	44	40	39	35	62
18-Aug	19:00	39	50	40	37	36	30	62
18-Aug	20:00	49	56	52	52	50	33	63
18-Aug	21:00	52	55	54	54	53	39	61
18-Aug	22:00	39	44	41	39	37	35	51
18-Aug	23:00	46	59	39	38	38	36	67
19-Aug	0:00	47	45	40	39	38	36	71
19-Aug	1:00	40	44	41	40	39	38	51
19-Aug	2:00	38	42	40	39	38	35	43
19-Aug	3:00	39	42	40	39	39	37	49
19-Aug	4:00	39	44	41	39	39	37	55
19-Aug	5:00	43	50	46	43	42	40	53
19-Aug	6:00	46	52	49	46	44	40	63

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
19-Aug	7:00	45	52	48	44	43	39	62
19-Aug	8:00	41	50	43	40	38	35	57
19-Aug	9:00	44	54	46	42	40	36	61
19-Aug	10:00	46	57	48	43	41	37	64
19-Aug	11:00	42	51	44	39	38	34	68
19-Aug	12:00	42	53	45	39	38	34	56
19-Aug	13:00	44	53	47	43	41	35	59
19-Aug	14:00	44	52	46	42	40	36	65
19-Aug	15:00	45	54	49	44	42	36	58

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APPENDIX B

Homeowner Noise Log

07/27/15: About 5pm loud motorcycle on Camino Diablo. Had some evening wind

07/28/15: Fairly quiet, minimal wind, 100 degree heat. Sand Hill/Diablo MX has semi trucks with single trailers dumping rock initially next to Morain property. Per Cliff Chatterton (130 Walnut) they have been dumping since last Friday, 072415, some days starting as early as 7:00am, with at least two semi's. No semi truck activity over weekend.

07/29/15: Per Cliff he thinks the semi's were dumping all day. Tracy Harrison (280 Camino Diablo) also confirmed they were dumping all day. Per Tracy Harrison, about 10:15am a business, Scwhmms (?) with no permit at 350 Camino Diablo started doing tractor work at temporary buildings close to Harrison property line. Same business also had a bobcat or forklift type vehicle moving pallets with a loud beeper. They also had a pressure washer operating. This occurred from about 10:00am-2:00pm. Some late afternoon early evening wind.

07/30/15: 9:00am Oversize equipment, man lift, on a semi with a loud beeper was parked on Longwell at Camino Diablo for a couple of minutes before turning left on Camino Diablo and then left into the old Unimen Quarry. About 11:25am fire vehicles with sirens went by traveling east on Camino Diablo towards Vasco Rd, possibly to a fire on Vasco Rd. About the same time two semi's with single trailers pulled into Sand Hill/Diablo MX. Cliff confirmed the semi's were there at 12:00 noon, 1:45pm and 3:17pm.

07/31/15: Semi's running most of the day to Sand Hill/Diablo MX. At one point during the day I counted four semi's. 1:15pm white cab with a black trailer dumped a load at Sand Hill/Diablo MX. At 1:22pm a white semi (A&R Enterprises, Fairfield) with a white trailer left Sand Hill/Diablo MX. At 1:24pm a blue semi with a sleeper and a white trailer left Sand Hill/Diablo MX. At 1:25pm a white semi with a blue trailer left Sand Hill/Diablo MX and went to 2111 Hillcrest in Antioch, PG&E Service Center. Late afternoon, early evening wind. 8:00pm a loud motorcycle drove by on Camino Diablo.

08/01/15: There was a lot of grading at Sand Hill/Diablo MX in the n/e area of the old bmx and oval area. Grading equipment and water truck.

08/02/15: Quiet morning. 1:05pm 1 motorcycle out at Sand Hill/Diablo MX, very quiet, low speed low rpm's only out for a few minutes. About 1:40pm until about 4:00pm 3 motorcycles out at Sand Hill/Diablo MX, much louder and faster.

08/03/15: About 8:40am continued grading around the n/e area, grading equipment and water truck. About 10:00am semi's coming in with what looks like gravel for possible parking area. 12:00 noon, Schwmm's, 350 Camino Diablo, using commercial equipment with loud beepers.

During this week we generally had commute traffic in the weekday mornings and evenings and a late afternoon breeze that usually died down by 8:00pm-9:00pm.

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EXHIBIT 15

**Charles M. Salter Associates
Comments on Project Noise Study,
Dated 7/25/2016**

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25 July 2016

David Trotter
Law Offices of David W. Trotter
119 Allen Court
Moraga, CA 94556
Email: david.trotter@dtrotterlaw.com

Subject: **Proposed Diablo MX Motocross Facility
Comments on Wilson Ihrig Noise Study**
CSA Project: 15-0428

Dear Mr. Trotter:

This letter summarizes comments of Charles M. Salter Associates, Inc. (Salter) on the Wilson Ihrig (WI) noise study report dated 8 March 2016 for the proposed Diablo Motocross facility (Diablo MX) at 50 Camino Diablo in Contra Costa County (County). Our comments follow-up the initial Salter ambient noise report dated 20 October 2015. In summary, there are several deficiencies in the WI noise study that should be rectified to properly assess the expected noise impact of the Diablo MX project.

SUMMARY

Our analysis focuses on the following deficiencies in the WI noise study:

1. The Diablo MX noise analysis used an industrial/agricultural DNL 75 dB¹ noise standard for the surrounding properties. The nearest neighboring properties are single-family homes, at which the residential DNL 60 dB standard should be used.
2. Regardless of the noise standard used, the County's policy is to limit noise increases in quiet areas. Noise Element Policy 11-6 states that "*If an area is currently below the maximum "normally acceptable" noise level, an increase in noise up to the maximum should not be allowed necessarily.*" The Diablo MX noise analysis failed to assess the projected significant increase in ambient noise that is expected to impact the neighboring homes.
3. The WI analysis failed to address several noise concerns such as maximum motorcycle noise levels, cumulative noise from daily activity and special events, PA loudspeaker noise, and nighttime noise impact or sleep disturbance. Additional details are provided below.
4. The WI analysis likely underestimated the potential future noise levels by failing to address several conditions and providing no third-party confirmation of the racing simulations. Detailed comments are provided below.

¹ DNL (Day-Night Average Sound Level) – A descriptor for a 24-hour A-weighted average noise level. DNL accounts for the increased acoustical sensitivity of people to noise during the nighttime hours. DNL penalizes sound levels by 10 dB during the hours from 10 PM to 7 AM. DNL is sometimes written as the symbol L_{dn} .

dB (Decibel) – A unit that describes the magnitude of a sound with respect to a reference sound level near the threshold of hearing. Decibels are based on a logarithmic scale. All sound levels listed in this report are A-weighted, a standard weighting that accounts for the sensitivity of human hearing to the range of audible frequencies.

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THE WRONG NOISE CRITERION WAS USED

For their evaluation of motocross noise, WI used a General Plan land-use compatibility guideline of DNL 75 dB based on the A3-Heavy Agriculture zoning. The General Plan does list an "Industrial, Manufacturing, Utilities, Agriculture" land-use category. However, the actual land-use of the nearest neighboring properties is rural single-family residential. This land-use, "Residential – low density" has a "normally acceptable" noise limit of DNL 60 dB.

Furthermore, the County Community Development Division's "Agency Comment Request" and compliance review document for the proposed Diablo MX project identifies a "60-dBA Noise Control" standard (see Enclosure 1). It appears that the County intends to apply a 60 dB standard for planning purposes. This would be consistent with the County's "Residential – Low Density" land-use category, which has a "normally acceptable" limit of DNL 60 dB.

Based on the County standard and the actual use of the surrounding lands, it would have been more appropriate to apply the DNL 60 dB standard to the Diablo MX project, and WI should have done so in its noise study. We note that the Diablo MX noise levels that WI measured and projected, up to DNL 73 dB, far exceed the DNL 60 dB land-use compatibility standard.

For reasons discussed below, we believe that the WI study understated the likely noise levels and impacts on residents living nearby. But even if one applies the WI noise data and the appropriate DNL 60 dBA noise standard, the proposed Diablo MX project would result in a substantial increase in environmental noise and a significant adverse noise impact on the neighboring community.

EXPECTED INCREASES IN AMBIENT NOISE LEVELS WERE NOT STUDIED

WI only compared their projected Diablo MX noise levels to a DNL 75 dB criterion. However, to comprehensively study the potential noise impact of the proposed Diablo MX project, the proper and commonly applied methodology also includes a comparison of projected future noise levels to the existing ambient noise levels. WI did not do this. Following this more rigorous approach would be consistent both with the County General Plan and with CEQA Guidelines² for the evaluation of community noise.

The Noise Element of the current County General Plan (2005 to 2020) contains the following goals, policies, and implementation measures that apply to the project.

Goal 11-A: To improve the overall environment in the County by reducing annoying and physically harmful levels of noise for existing and future residents and for all land uses.

Goal 11-B: To maintain appropriate noise conditions in all areas of the County.

Goal 11-C: To ensure that new developments will be constructed so as to limit the effects of exterior noise on the residents.

Goal 11-D: To recognize the economic impacts of noise control and encourage an equitable

² For example, CEQA Appendix G Section XI. Noise requires that the following question be asked: "Would the project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project."

distribution of these costs.

Goal 11-E: To recognize citizen concerns regarding excessive noise levels, and to utilize measures through which the concerns can be identified and mitigated.

Policy 11-2: The standard for outdoor noise levels in residential areas is a DNL of 60 dB. However, a DNL of 60 dB or less may not be achievable in all residential areas due to economic or aesthetic constraints...

Policy 11-6: If an area is currently below the maximum "normally acceptable" noise level, an increase in noise up to the maximum should not be allowed necessarily.

Implementation Measure 11-a: Continue to require a review and analysis of noise-related impacts as part of the existing project development review procedures of the County.

Implementation Measure 11-b: Evaluate the noise impacts of a proposed project upon existing land uses in terms of the applicable Federal, State, and local codes, and the potential for adverse community response, based on a significant increase in existing noise levels.

Implementation Measure 11-d: Noise mitigation shall be incorporated into the design and construction of new projects or be required as conditions of project approval.

In particular, Policy 11-6 states that it is not necessarily acceptable to allow ambient noise levels to be raised to the maximum limit of the "normally acceptable" land-use standard. Implementation Measure 11-b also requires that the "potential for adverse community response, based on a significant increase in existing noise levels" be studied. Therefore, the expected increase in noise and other pertinent factors (e.g., actual neighboring land-uses) should be considered in the noise study for the proposed Diablo MX project. To put noise increases in context, the County's Noise Element (Page 11-8) also discusses how noise increases are perceived by people, as listed below:

An important factor in assessing a person's subjective reaction is to compare the new noise environment to the existing noise environment. In general, the more a new noise level exceeds the prior existing level, the less acceptable it is. Therefore, a new noise source will be judged more annoying in a quiet area than it would be in a noisier location. Knowledge of the following relationships is helpful in understanding how changes in noise and noise exposure are perceived.

- *Except under special conditions, a change in sound level of 1 dB cannot be perceived;*
- *Outside of the laboratory, a 3 dB change is considered a just-noticeable difference;*
- *A change in level of at least 5 dB is required before any noticeable change in community response would be expected; and*
- *A 10 dB change is subjectively heard as an approximate doubling in loudness and almost always causes an adverse community response.*

Based on the County's Noise Element policies, the proposed Diablo MX project should be considered to have a substantial impact on the neighboring community if it raises ambient noise levels by more than 5 dB. This is consistent with common practice and in-line with standards used by several municipalities and consulting firms in this field of study. The WI noise study ignored these County policies and guidelines for the evaluation of expected increases in ambient noise.

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WI measured ambient noise levels at five (5) locations on the site at 50 Camino Diablo and stated the levels in one section of their report (see Section 3.2 of the WI report). They also calculated projected Diablo MX noise levels at those same measurement locations and reported the levels in a separate section of the report (see Section 6 of the WI report). But, WI did not compare these two sets of data. To put these levels in context, both ambient and projected Diablo MX facility noise data from the WI report are summarized in **Table 1** below.

Table 1. Summary Comparison of WI Measured Ambient and Projected Diablo MX Noise Levels (L_{dn} , dB)

Property Line Location	WI Measured Ambient Noise Levels	WI Projected Diablo MX Noise Levels	Expected Increase in Noise Level
1 (East)	48 to 54	Up to 61	Up to +13 dB
2 (Southeast)	49 to 56	Up to 69	Up to +20 dB
3 (South)	47 to 56	Up to 64	Up to +17 dB
4 (West)	53 to 56	Up to 73	Up to +20 dB
5 (Northwest)	47 to 48	Up to 60	Up to +13 dB

If WI's data is accepted without revision (see subsequent sections of this report), Table 1 shows that Diablo MX noise would increase community noise at adjacent properties by up to 20 dB. This equates to a four-fold increase in perceived loudness. In our professional judgement and per the County Noise Element guidelines (Page 11-8), such an increase would certainly be expected to result in an "adverse community response".

In addition, the WI report state (in Section 7) that projected Diablo MX noise levels are expected to be between DNL 55 dB and DNL 61 dB at neighboring homes (i.e., at the buildings, not the property line). Again, if WI's data is accepted without revision, and assuming similar ambient noise levels at the nearby homes, these noise levels from the project would still increase ambient noise by more than 10 dB at the neighboring homes. This would be perceived as a doubling of loudness and also be expected to trigger an adverse community response (per County Noise Element Guidelines, Page 11-8).

In summary, the WI study indicates that ambient noise levels would be increased by up to 20 dB at the property line and by approximately 10 dB at the neighbors' homes. These changes in ambient noise would be considered significant per the County General Plan Noise Element and common practice. Therefore, projected Diablo MX noise should be deemed to have a significant impact requiring mitigation. For reasons discussed below, we believe that the WI study understated the likely noise levels and impacts on residents living nearby. But even if one applies the WI noise data, the projected Diablo MX motocross noise levels would result in environmentally significant impacts, for which further environmental review and mitigation measures should be required under CEQA and County noise standards.

THE IMPACT OF MAXIMUM MOTOCROSS NOISE LEVELS WAS NOT CONSIDERED

The WI report does not address momentary maximum noise levels (L_{max}) that are generated by motorcycles. These levels would be higher than the reported "average" noise levels reported by WI. Though the County does not specifically regulate such L_{max} levels, it is an important step in the analysis

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of potential noise impact on the community, particularly where the racing tracks are located near adjacent residential property lines.

The WI report does not list the maximum noise levels that they measured. This omission should be rectified.

In a previous project, Salter measured maximum noise levels from motorcycles on a commercial course in Northern California. We found that motorcycle noise varies considerably with vehicle speed, acceleration, hill grade, and direction. Normalized to a distance of 100 feet, we measured maximum noise levels between 75 dB and 95 dB. At other distances, these maximum motorcycle noise levels would be as listed in **Table 2** below.

Table 2. Potential Maximum Motorcycle Noise Levels Based on Measurements at Another Northern California Facility

Distance (ft)	Maximum Motorcycle Noise Levels (L_{max} in dB)
100	75 to 95
175	70 to 90
315	65 to 85
560	60 to 80
1000	55 to 75
1800	50 to 70

The WI report, in Appendix Tables A-1 and A-2, indicates that hourly average ambient noise levels at the 50 Camino Diablo site are typically 45 dB (approximate). By comparison, maximum motorcycle noise levels between 75 dB and 95 dB would be substantially louder than the typical background noise, by 30 dB to 50 dB. There are areas where the proposed Diablo MX motocross tracks would be within 100 feet of neighboring residential properties. At such locations, the noise impacts at these residential properties would be significant and severe. And even at greater distances, the noise levels in Table 2 show that maximum motorcycle noise would likely be substantially greater than the ambient noise level even more than one quarter mile away. This clearly demonstrates the potential impact that motorcycle noise would have on the nearby residential properties. Therefore, such intermittent but severe noise levels should be assessed as part of a thorough environmental Diablo MX noise analysis, complaint with CEQA Guidelines and City Noise Goals.

NO CONFIRMATION THAT THE SIMULATED "RACING" ACTIVITY WAS REPRESENTATIVE OF ACTUAL, LIKELY, OR WORST-CASE CONDITIONS

To develop estimates of race day and practice events, WI and the operators of the proposed Diablo MX facility conducted simulated activities on-site with volunteers. The project applicants and WI did not provide advance notice of their "racing simulation," nor did they give us access to the site so that we could monitor those activities as they were occurring. Thus, there are no independent, third party, observations to confirm that the simulated race and practice events were representative of actual race and practice conditions. As stated above, motorcycle noise levels can vary considerably with speed and acceleration, and engine load. It is unclear how "competitive" the simulated race conditions were. An

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independent observer, familiar with actual racing conditions should have been present to comment on whether the simulation was representative of future conditions.

In addition, we do not know how loud the motorcycles used in the simulation were. The report proposes a mitigation measure that all bikes used on-site meet the State regulation for a maximum of 96 dB at 20 inches from the exhaust at the specified engine RPM. However, WI did not test the motorcycles used in the simulation with regard to this State limit. If the simulation bikes were notably quieter than the limit would allow, then the "racing simulation" would be methodically invalid and not representative of the potential actual, likely, or worst-case conditions which may occur on the site if the project is approved.

QUESTIONABLE ASSUMPTIONS REGARDING MODELED MOTORCYCLE QUANTITIES AND ACTIVITIES WERE USED

To estimate future Diablo MX noise levels, WI made assumptions of how many riders would be on each track under each condition. Their modeling efforts accounted for the following riders:

- For a race, 15 riders on the MX track
- For weekend practice, 10 riders on the MX track and 5 riders on the oval track
- For weekday practice, 5 riders on the MX track and 3 on the oval track
- For the nighttime events, 7 riders on the oval track

These assumptions are questionable and could have underestimated the actual noise impacts to adjacent residences. We note that during their volunteer simulation, the Diablo MX property was able to accommodate 25 riders simultaneously on the motocross track and 10 riders on the oval track. These actual numbers of motorcycle riders exceed all of the calculation assumptions used in the WI noise study.

For an appropriate evaluation of potential noise impact, the analysis should be based on the likely "worst-case" conditions by using a conservative estimate of the maximum number of riders that could be reasonably expected at the facility.

QUESTIONABLE ASSUMPTIONS REGARDING MODELED HOURS OF USE WERE USED

To calculate projected Diablo MX facility daily average noise levels, WI also made certain assumptions for how long the tracks would be used each day. WI limited the number of hours per day of motocross activity as listed below:

- On a race day, 7 hours of racing
- For weekend practice, 4 hours of riding on the MX track and 2 hours of riding on the oval track
- For weekday practice, 1.5 hours of MX track use and 1 hour of oval track use
- For the nighttime event, 4 hours of riding on the oval track

In calculating daily average noise levels (DNL), a longer duration of loud activity would result in higher daily average levels. Therefore, it is methodically important that the noise analysis accurately reflect the amount of time that motocross activity may be permitted at each track. In their noise analysis, WI assumed rather limited total durations of track use, particularly for practice days. Again, WI has provided no confirmation that future use of the facility is properly reflected in their analysis.

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We note that Exhibit 1 to the County's 12 May 2015 staff report Exhibit 1, which states previous conditions of approval, indicates that the facility would be allowed to operate from 8 am to 7 pm daily and from 7 pm to 11 pm at the lighted track on Friday and Saturday nights. Thus, the potential hours of operation would allow for 11 hours (or more on Friday or Saturday) of activity. Therefore, the assumed hours of activity in the WI report are questionable. For an appropriate evaluation of potential noise impact, the analysis should conservatively assess the maximum hours of such motocross activities at the facility. The WI noise analysis failed to do this.

Based on the WI noise data and assumed hours of operation, we estimated the noise levels (DNL) that would occur if the typical motocross activities occur for 11 hours per day, which would be permitted based on the staff report's condition regarding normal hours of operation. We estimate that the worst-case DNL levels would be greater (compared to Table 4 of WI report) by the following amounts for each typical motocross activity:

1. Weekend Race Day: 2 dB louder, and up to DNL 75 dB
2. Weekend Practice: 4 dB louder, and up to DNL 73 dB
3. Weekday Practice: 7 dB louder, and up to DNL 72 dB

These estimated worst-case noise levels are notably higher than those stated in Table 4 of the WI report. For an appropriate evaluation of potential noise impact, the analysis should be based on the likely "worst-case" conditions by using a conservative estimate of the hours of activity that could be reasonably expected at the facility.

THE CUMULATIVE EFFECT OF "NIGHT UNDER THE LIGHTS" NOISE WAS NOT CONSIDERED

In WI's prediction of daily average noise levels, the "Night Under the Lights" levels are generally the quietest of all conditions. However, in a proper DNL analysis, the daily average noise levels of such an event cannot be evaluated separately while ignoring the daytime activities that could occur on the same day (e.g., race or practice). Therefore, the WI noise study did not assess the cumulative effect of 15 hours of daytime and evening/night activities, and thus, has significantly underestimated the actual, cumulative noise levels.

Based on the WI noise data and assumed hours of operation, we estimated the noise levels (DNL) that would occur if the typical motocross activities occur for 11 hours per day and the Friday under the Lights events occur on the same day, which would be permitted. We estimate that the worst-case DNL levels would be greater by the following amounts for each day of cumulative motocross activity as compared to the night event alone (see Table 4 of WI report):

1. Friday Practice + Night Event: up to 16 dB louder
2. Saturday Race + Night Event: up to 19 dB louder

These estimated worst-case noise levels are significantly higher than those stated in Table 4 of the WI report for the Friday under the Lights event. A proper evaluation of noise impact cannot ignore the cumulative effects of various activities that would occur on the Diablo MX site. The WI noise study does not address this cumulative noise impact and is therefore deficient.

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NIGHTTIME NOISE IMPACT ON ADJACENT RESIDENCES WAS NOT CONSIDERED

The proposed Diablo MX project plan includes nighttime activities during the weekend "Night Under the Lights" events. These events would allow motorcycle activities to continue until 11 pm. Beyond calculating daily average noise levels, the WI noise study provides no evaluation of the potential impact of noise at night. Nighttime activities should be addressed carefully due to the sensitivity of neighboring residents and the potential for sleep disturbance.

An appropriate nighttime noise analysis should evaluate the average and maximum noise levels expected during nighttime hours. Noise levels at the property line, outside neighboring homes, and inside homes (with windows in the typical seasonal position) should be evaluated. The potential for sleep disturbance should be addressed and appropriate mitigation proposed, as needed. The WI noise analysis does not do any of this.

Industry references³ indicate that sleep disturbance can begin with intruding noise levels exceed 35 dB to 45 dB. If, on average, sleep disturbance is expected when noise levels exceed 40 dB, then motocross noise should be reduced to 40 dB or quieter inside neighboring homes. With windows open, outdoor noise would need to be limited to 55 dB outdoors at each neighboring home. Based on our previous motocross noise measurements (see above), maximum motorcycle noise levels could be between 50 dB and 70 dB at a distance of 1,800 feet. There are several homes within that distance around the site. Again, the WI noise analysis fails to account for these expected and significant impacts on adjacent residences, nor does it suggest any relevant mitigation measures.

NOISE IMPACT ON ADJACENT RESIDENCES FROM THE PA SYSTEM WAS NOT CONSIDERED

In their noise study, WI assumed that the public address (PA) system would generate a noise level of 90 dB at 50 feet from the Diablo MX loudspeaker. However, WI did not predict or quantify the expected PA noise levels as neighboring property lines. PA could be clearly audible at times. Therefore, we recommend that noise mitigation be incorporated to control PA system noise to meet the project criteria. This could include the following measures:

- The direction of the speaker(s) could be specified (e.g., away from nearby properties)
- Control of loudspeaker dispersion/coverage pattern to reduce stray noise emission to neighbors
- Maximum noise limits at the property lines
- Limits to the type and frequency of use (see below)

The WI study assumes that the PA would be used only on race days for 15 seconds at a time, 8 times per hour for announcements. If the PA were used for a more continuous use, such as music or ongoing race commentary, conceptually, noise exposure from the PA would increase. The noise study should evaluate such effects before the project is approved to determine if limits on the type/frequency of use are appropriately incorporated as mitigation or a condition of approval.

* * *

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T 415.397.0442
F 415.397.0454
www.cmsalter.com

³ For more information see: World Health Organization, Guidelines for Community Noise, 1999 (Section 3.4 page 46), U.S. Environmental Protection Agency, Public Health and Welfare Criteria for Noise, 1973 (Page 7-13), or ANSI S12.9-2008 Part 6 "Quantities and Procedures for Description and Measurement of Environmental Sound - Part 6: Methods for Estimating of Awakenings Associated with Outdoor Noise Events Heard in Homes."

This concludes our current comments on the WI Noise Study Report for the proposed Diablo MX project. Should you have any questions, please call.

Sincerely,

CHARLES M. SALTER ASSOCIATES

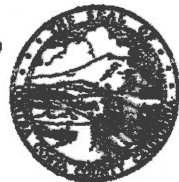
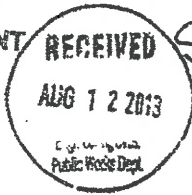


Jeremy L. Decker, PE
Principal Consultant

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CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
COMMUNITY DEVELOPMENT DIVISION
30 Muir Road
Martinez, CA 94553-4601
Phone: 925-674-7205
Fax: 925-674-7258



AGENCY COMMENT REQUEST

We request your comments regarding the attached application currently under review. Date _____

DISTRIBUTION

Internal

- Building Inspection
- Advance Planning
- Trans. Planning
- ALUC Staff
- APC Floodplain Tech
- Grading Inspection
- Housing Programs
- Telecom Planner
- HCP/NCCP Staff
- County Geologist

Health Services Department

- Environmental Health
- Hazardous Materials

Public Works Department

- Engineering Services (Full-size)
- Flood Control (Full-size)
- Traffic
- Special Districts

Local

- Fire District EAST CONTRA COSTA
- Sanitary District
- Water District CCWD
- City of _____
- School District(s) _____
- LAFCO _____
- Reclamation District # _____
- East Bay Regional Park District
- Diablo/Discovery Bay/Crockett CSD
- MAC/TAC BYRON
- Improvement/Community Association _____

Others/Non-local

- CHRIS - Sonoma State
- CA Fish and Wildlife, Region 3 - Bay Delta

Additional Recipients

- CONTRA COSTA COUNTY
- 2013 SEP 26 P

Please submit your comments to:

Project Planner Gary Kupp
 Phone # (925) 674-7779
 E-mail gary.kupp@cdcd.cccounty.us
 County File # LP13-2095
 Prior to September 3, 2013

We have found the following special programs apply to this application:

- Active Fault Zone (Alquist-Priolo)
- Flood Hazard Area, Panel # _____
- 60-dBA Noise Control
- CA EPA Hazardous Waste Site

AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.

Comments: None Below Attached
5-YEAR COMPLIANCE REVIEW OF LP95-2020 (ATTACHED). PLEASE SUBMIT ANY COMMENTS, QUESTIONS, OR CONCERNS REGARDING COAS.

Applicant has complied/coas for PWD of LP95-200

Print Name Jocelyn LaPocque
 Signature Jocelyn LaPocque DATE 09/23/13
 Agency phone # (925) 319-7215

EXHIBIT 2

EXHIBIT 16

CEQA Notice of Determination and Initial Study for LP95-2020

Page 18

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF DETERMINATION

FILED

CONTRA COSTA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
651 PINE STREET 4TH FLOOR NORTH WING MARTINEZ, CALIFORNIA 94553
Telephone: (510) 646-2091 Contact Person: EDY ZWIERYCKI

S.E. WELLS, COUNTY CLERK
CONTRA COSTA COUNTY
BY *[Signature]* DEPUTY

Project Description, Common Name (if any) and Location:

TOM ANDERSON (Applicant & Owner), County File #LP952020: The applicant requests approval of a land use permit to allow for the continued use of a motorcycle racetrack, with site plan modifications, on a permanent basis. Subject property is an 82.86 acre property fronting approximately 1,350 feet on the south side of Camino Diablo Road, immediately opposite Longwell Road, in the Byron area. Subject property is addressed #50 Camino Diablo. (A-3) (ZA: Q-26) (CT 3040.00) (Parcel #003-020-020)

The project was approved on 2-4-97
Pursuant to the provisions of the California Environmental Quality Act:

- An Environmental Impact Report was prepared and certified (SCH # _____).
- The Project was encompassed by an Environmental Impact Report previously prepared for _____ (SCH # _____).
- A Negative Declaration was issued indicating that preparation of an Environmental Impact Report was not required.

Copies of the record of project approval and the Negative Declaration or the final EIR may be examined at the office of the Contra Costa County Community Development Department.

- The Project will not have a significant environmental effect.
- The Project will have a significant environmental effect.
- Mitigation measures were made a condition of approval of the project.
- A statement of overriding considerations was adopted.
- Findings were adopted pursuant to Section 15091 of the State CEQA Guidelines.

Date: 2-5-97 By: *[Signature]*
Community Development Department Representative

AFFIDAVIT OF FILING AND POSTING

I declare that on 3-3-97 I received and posted this notice as required by California Public Resources Code Section 21152(c). Said notice will remain posted for 30 days from the filing date.

K. THAMES DEPUTY COUNTY CLERK
Signature Title

CONTRA COSTA COUNTY

ENVIRONMENTAL CHECKLIST FORM
(INITIAL STUDY)

I. Background

1. Name of Proponent: Tom Anderson
2. Address and Phone Number of Proponents: 50 Camino Diablo
Brentwood, CA 94513
510-634-3328
3. Date Checklist Submitted: January 16, 1996
4. Name of Proposal, if applicable: Motorcycle Racetrack
LP#952020
5. Copies of this proposal for viewing/purchase are available at:
Contra Costa County
Community Development Department
651 Pine Street, North Wing - Second Floor
Martinez, CA 94553-1229
(510) 646-2071

II. Environmental Impacts

Quad Sheet Byron Hot Springs
Parcel # 003-020-020

Date of Site Visit November 1995

Note: Panel numbers indicated below refer to 7.5 minute U.S.G.S. quadrangle map sheets located in the Community Development Department offices at 651 Pine Street, North Wing -2nd Floor, Martinez, California 94553.

1. Earth. Could the proposal result in: S I
- a. Unstable earth conditions or in changes in geologic substructures? X
Project Description/Site Visit
Geology Report Dated:
 - b. Disruptions, displacements, compaction or over-covering of the soil? X
Project Description/Site Visit
Same as 1.a.

REFER TO MITIGATION MEASURE REQUIRED UNDER SECTION 3, WATER.

c. Change in topography or ground surface relief features? _____ X

Project Description/Site Visit
Same as 1.a.

d. The destruction, covering or modification of any unique geologic or physical features? _____ X

Project Description/Site Visit

e. Any increase in wind or water erosion of soils, either on or off the site? X _____

Project Description/Site Visit
Same as 1 a.

REFER TO MITIGATION MEASURE REQUIRED UNDER SECTION 3, WATER.

f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake? _____ X

Project Description/Site Visit
Same as 1.a.

g. Exposure of people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards? _____ X

Project Description/Site Visit
Same as 1.a.

U.S.G.S. Quad Overlay System Nos. 1, 2 & 3

2. Air. Could the proposal result in:

a. Substantial air emissions or deterioration of ambient air quality? _____ X

Project Description/Site Visit

b. The creation of objectionable odors? _____ X

BAAQMD letter dated: N/A
Project Description/Site Visit
Same as 2.a.

c. Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally? _____ X

Project Description/Site Visit

3. Water. Could the proposal result in:

a. Changes in currents, or the course of direction of water movements, in either marine or fresh waters.

_____ X

Project Description/Site Visit

b. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?

_____ X

Project Description/Site Visit
Same as 3.a.

c. Alterations to the course or flow of flood waters?

_____ X

F.E.M.A. Flood Map - Panel #0250
Flood Zones A & C

d. Change in the amount of surface water in any water body?

_____ X

Project Description/Site Visit
Same as 3.a.

e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?

X _____

Project Description/Site Visit
Same as 3.a.

f. Alteration of the direction or rate of flow of ground waters?

_____ X

Project Description/Site Visit
Same as 3.a.

g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

_____ X

Project Description/Site Visit
Same as 3.a.

h. Substantial reduction in the amount of water otherwise available for public water supply?

_____ X

Project Description/Site Visit
Same as 3.a.

- i. Exposure of people or property to water related hazards such as flooding or tidal waves?

X

F.E.M.A. Flood Map - Panel #0250
Flood Zones A & C

FLOOD PLAINS

The 100-year flood plain (Flood Zone A) covers only the area immediately surrounding Kellogg Creek within the northwestern corner of the subject property. The remainder of the site, including the area of the motorcycle racetrack, parking, and other facilities associated with the project, are located within Flood Zone C. As a result, the project proposal is not likely to cause people or property to be exposed to water related hazards, such as flooding.

STORM WATER RUNOFF TO ADJACENT CREEK

The project proposal has the potential to significantly increase the amount of contaminants (including, but not limited to motor oil, battery acid) being discharged into Kellogg Creek on the north end of the site via stormwater runoff, due to the erosion activities caused by the movement of motorcycles across the property and within the racetrack.

Mitigation Measures

- 1. Prior to the exercising of an approved land use permit for a motorcycle racetrack, including issuance of any ministerial permits (such as, but not limited to, obtaining a small public water system permit from the Contra Costa County Health Services Department or a building permit for permanent toilet facilities), the applicant shall complete the following:

A. Submit a Final Landscape/ Irrigation Plan

- (1) Submit a landscape/ irrigation plan prepared by a licensed landscape architect, to the Community Development Department for the review and approval of the Zoning Administrator;
- (2) Landscaping shall conform to the County Water Conservation Ordinance 82-26 and the licensed landscape architect shall certify that the plans comply with the ordinance improvement standards and

reporting requirements;

- (3) The plan shall provide a minimum 10 foot strip of grass or vegetation either around the outer rim of the entire racetrack or the northern half of the track; and a minimum 15 foot strip of grass or vegetation along the entire southern and eastern boundary of Kellogg Creek on the subject property. Refer to staff's delineation of these vegetation areas on the attached Staff Study Map dated January 16, 1996.
- (4) The plan shall address the need for delivering soil, including the type and amount, to the subject property, if applicable.

B. Provide Security in the Event of Landscape Failure

- (1) The landscape/ irrigation plan shall be accompanied by a cost estimate from the landscape architect to include the materials and labor for the proposed landscape improvements. These landscape improvements shall be designed to minimize landscape maintenance costs; and
 - (2) The applicant shall (1) enter into a landscape improvement agreement and (2) either post a cash performance bond or cash deposit with the County. This agreement and security shall ensure the replacement of landscaping/ irrigation in the event that the approved landscaping/ irrigation fails within 24 months following installation.
2. Prior to the exercising of an approved land use permit for a motorcycle racetrack, including issuance of any ministerial permits, the landscape architect shall make an on-site inspection of the landscape/ irrigation improvements and submit a written report to the Zoning Administrator that covers the following:

A. Acceptance of Landscape Improvements

- (1) Certifies the completion of the landscape/ irrigation plan including consideration of plant species, size and location; and
- (2) Requests the Zoning Administrator to

accept the landscape/ irrigation improvements.

3. The property owner shall maintain the approved landscaping in good condition at all times.

4. Plant Life. Could the proposal result in:

a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?

_____ X

Project Description/Site Visit

b. Reduction of the numbers of any unique, rare or endangered species of plants?

_____ X

Project Description/Site Visit
Same as 4.a.

U.S.G.S. Quad Overlay System No. 5

c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?

_____ X

Project Description/Site Visit
Same as 4.a.

U.S.G.S. Quad Overlay System No. 5

d. Reduction in acreage of any agricultural crop?

_____ X

Project Description/Site Visit
Same as 4.a.

5. Animal Life. Could the proposal result in:

a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects)?

_____ X

Project Description/Site Visit

U.S.G.S. Quad Overlay System No. 5

- b. Reduction of the numbers of any unique, rare or endangered species of animals? _____ X

Project Description/Site Visit
Same as 5.a.

U.S.G.S. Quad Overlay System No. 5

- c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals? _____ X

- d. Deterioration to existing fish or wildlife habitat? _____ X

Project Description/Site Visit
Same as 5.a.

6. Noise. Could the proposal result in:

- a. Increases in existing noise levels? _____ X

Project Description/Site Visit

- b. Exposure of people to severe noise levels? _____ X

U.S.G.S. Quad Overlay No. 16
Project Description/Site Visit
Same as 6.a.

- 7. Light and Glare. Could the proposal produce new light or glare? _____ X

Project Description/Site Visit

8. Land Use.

- a. Could the proposal result in substantial alteration of the present or planned land use of an area? _____ X

General Plan Land Use Designation:
Agricultural Lands

- b. Will the proposal be consistent with existing zoning plans and other applicable land use controls? _____ X

The proposal lies within the A-3 Zoning District.

- 9. Natural Resource. Could the proposal result in an increase in the rate of use of any natural resources? _____ X

10. Risk of Upset. Could the proposal involve:

- a. A risk of an explosion or the release of hazardous substances (including, but not limited to oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions? X

Project Description/Site Visit

- b. Possible interference with an emergency response plan or an emergency evacuation plan? X

Project Description/Site Visit
Same as 10.a.

RELEASE OF HAZARDOUS MATERIALS

There is a significant potential for stormwater flowing over the site to carry oil and gas contaminants to the Kellogg Creek on the northern portion of the subject property. The Mitigation Measures required under Section 3 titled "Water" above, is required to reduce or eliminate the potential for stormwater runoff to carry oil, gas, and other contaminants into this creek.

- 11. Population. Could the proposal alter the location, distribution, density, or growth rate of the human population of an area? X

Project Description/Site Visit

- 12. Housing. Could the proposal affect existing housing, or create a demand for additional housing? X

Project Description/Site Visit

13. Transportation/Circulation: Could the proposal result in:

- a. Generation of substantial additional vehicular movement? X

Project Description/Site Visit

- b. Effects on existing parking facilities, or demand for new parking? X

Project Description/Site Visit
Same as 13.a.

- c. Substantial impact upon existing transportation systems? X

U.S.G.S. Quad Overlay No. 17

- d. Alterations to present patterns of circulation or movement of people and/or goods? X
U.S.G.S. Quad Overlay No. 17

- e. Alterations to waterborne, rail or air traffic? X

Project Description/Site Visit
Same as 13.a.

- f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians? X

U.S.G.S. Quad Overlay No. 15

14. Public Services. Could the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:

- a. Fire protection? X

Fire District Memo dated 3/7/95

The referenced Fire District Memo provided no comments.

- b. Police protection? X

Project Description/Site Visit

- c. Schools? X

Project Description/Site Visit
Same as 14.b.

- d. Parks or other recreational facilities? X

Project Description/Site Visit
Same as 14.b.

- e. Maintenance of public facilities, including roads? X

Project Description/Site Visit
Same as 14.b.

- f. Other governmental services? X

Project Description/Site Visit
Same as 14.b.

15. Energy. Could the proposal result in:

- a. Use of substantial amounts of fuel or energy? X

Project Description/Site Visit

- b. Substantial increase in demand upon existing sources or energy, or require the development of new sources of energy? _____ X _____

Project Description/Site Visit
Same as 15.a.

- 16. Utilities. Could the proposal result in a need for new systems, or substantial alterations to the following utilities? X

Project Description/Site Visit

- 17. Human Health. Could the proposal result in:

- a. Creation of any health hazard or potential health hazard (excluding mental health)? X _____

Project Description/Site Visit

- b. Exposure of people to potential health hazards? X _____

Project Description/Site Visit
Same as 17.a.

Mitigation Measures

Some activities associated with the motor cycle racetrack currently exist on-site which have potentially significant health impacts. The applicant shall comply with the requirements of the Contra Costa County Health Services Department according to the attached letters dated April 4, 1995 and December 21, 1995, to mitigate these health impacts.

- 18. Aesthetics. Could the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view? _____ X _____

U.S.G.S. Quad Overlay No. 14

- 19. Recreation: Could the proposal result in an impact upon the quality or quantity of existing recreational opportunities? _____ X _____

Project Description/Site Visit

- 20. Cultural Resources.

- a. Could the proposal result in the alteration of or the

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destruction of a prehistoric or historic archaeological site?

X

Sonoma State Notification dated: 25 April 1995
Project Description/Site Visit

According to a letter dated April 25, 1995, The North West Information Center (Sonoma State University) considers the subject property to be archaeologically sensitive and recommends that a field study be conducted.

The motorcycle racetrack project shall not significantly alter the site since the motorcycle racetrack and related facilities have already been built on the subject property. The Community Development Department will be requiring that the applicant comply with a condition of approval to construct a limited number of permanent restroom facilities (for men and women), however, the construction of such facilities are unlikely to cause the destruction of a prehistoric site.

- b. Could the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object? X

Project Description/Site Visit
Same as 20.a.

- c. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values? X

Project Description/Site Visit
Same as 20.a.

- d. Will the proposal restrict existing religious or sacred uses within the potential impact area? X

Project Description/Site Visit
Same as 20.a.

21. Mandatory Findings of Significance.

- a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? X

Project Description/Site Visit

- b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.) _____ X

Project Description/Site Visit
Same as 21.a.

- c. Does the project have potential impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of these impacts on the environment is significant.) _____ X

Project Description/Site Visit
Same as 21.a.

- d. Does the project have environmental effects which could cause substantial adverse effects on human beings, either directly or indirectly? _____ X

Project Description/Site Visit
Same as 21.a.

III. Discussion of Environmental Evaluation

Based on the foregoing review, the project will not result in any potentially significant environmental impacts.

IV. Determination

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. _____

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION WILL BE PREPARED. _____ X

I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. _____

1/18/96
Date

Edy J. Zwierycka
Signature

[Handwritten Signature]

Reviewed By:

EXHIBIT 17

Proposed New Conditions of Approval for LP15-2040

**GROWTH MANAGEMENT PERFORMANCE STANDARDS, FINDINGS, AND
CONDITIONS OF APPROVAL FOR COUNTY FILE #LP15-2040**

A. Growth Management Performance Standards

1. **Traffic:** The Growth Management Element of the County General Plan requires consideration of permanent traffic increases related to population growth. Growth is influenced by development that increases population by attracting new residents to the county. New residential and commercial developments are the primary causes of growth that can increase traffic in an area on a permanent basis. No residential or commercial development is proposed as part of this project that would require implementation of the requirements of the Growth Management Element. The project is a modification to an existing entitlement for the continued operation of an existing off-road motorcycle recreational park. The subject motorcycle recreational park has been in operation since 1973. The project will continue the operation of the facility in a manner consistent with the existing entitlements. No expansion or intensification of the use is approved; therefore, no changes in existing traffic levels associated with the operation of the facility are proposed.
2. **Water:** The subject property currently receives water from an existing onsite water well. No new residential or commercial construction is proposed that would require additional water service to the site.
3. **Sewage Disposal:** The subject property is serviced by an existing septic system. No new residential or commercial development is proposed that would require additional sewage facilities; therefore, the project will not impact water-quality standards or waste-discharge requirements.
4. **Fire Protection:** The site is currently served by the East Contra Costa Fire Protection District. The District has reviewed the project and provided their comments and conditions relating to the proposed project, and no new or increased fire protection services were required.
5. **Public Protection:** The Growth Management Element, Section 4.4 of the County General Plan requires 155 square feet of Sheriff's station area and support facilities for every 1,000 members of the population. Since there is no residential or commercial development proposed, which could induce population growth, the project would not increase the population up to or within this threshold, and therefore, the project would not increase the demand for police service facilities or require the construction of, or the need for new police substations within the area.

6. **Parks and Recreation:** The County General Plan requires that three acres of neighborhood parks be available for every 1,000 members of the population. The proposed project will not result in an increase in the County population. There will not be an impact on the demand for parks within the County, nor will there be an associated increase in the population as a result of the project. The project proposes no residential or commercial development that could induce population growth in the area.
7. **Flood Control and Drainage:** The project does not propose any drainage improvements or significant changes in existing grades or contours on the subject property that could affect existing drainage patterns. The subject site is not located within a 100-year flood hazard zone as determined by the Federal Emergency Management Agency. Therefore, the proposed project will not adversely impact or alter flood control or drainage patterns.

B. **Land Use Permit Findings**

1. ***The proposed project will not be detrimental to health, safety, and the general welfare of the County.***

Project Finding: The proposed Land Use Permit modification for the existing off-road motocross recreation park as conditioned will not pose a threat to the health, safety, or welfare of the County. All of the requirements of the Community Development Division, the Building Inspection Division, the Health Services Department, and the Fire District must be adhered to at all times. The continued operation of an existing motorcycle recreational facility will not impact the health, welfare, and safety of the County.

2. ***The proposed project will not adversely affect the orderly development of property within the County.***

Project Finding: The project does not propose any development, but rather to continue the operation of an existing off-road motocross recreation park. The land use is consistent with both the General Plan and Zoning designations for the subject agricultural property, and thus it will not adversely affect the orderly development of property within the County.

3. ***The project as conditioned will not adversely affect the preservation of property values and the protection of the tax base within the County.***

Project Finding: Typically, illegal land uses that are established in a manner inconsistent with the General Plan and the zoning code have the potential to degrade property values. Also, homes, properties, and buildings that are allowed to decline into a condition of disrepair can contribute to negative property values. The proposed Land Use Permit modification for the existing off-road motocross recreation park is consistent with both the General Plan and Zoning designations for the subject agricultural property, and the facility and property has been maintained in good condition by the current property owners. Once the facility is open to the public, its operation will contribute to the tax base of the County with taxes generated from revenue received by operation of the park. Therefore, it will not have a detrimental effect on property values or the County tax base.

4. ***The project as conditioned will not adversely affect the policy and goals as set by the General Plan.***

Project Finding: The subject property has a General Plan designation of "Agricultural Lands" (AL), which states that extensive recreational facilities may be allowed in agricultural areas that are designated AL by issuance of a land use permit. The continued operation of the existing off-road motocross recreation park is consistent with the goals and policies of the General Plan.

5. ***The project as conditioned will not create a nuisance and/or enforcement problem within the neighborhood or community.***

Project Finding: The primary potential nuisance that could be associated with this land use would be posed by loud noise generated from running motorcycles. The sound study prepared for the project predicted that noise levels at all the modeled property line locations is below the Noise Element guideline of 75 decibels, which is considered "normally acceptable" for areas with a General Plan designation of Agricultural Lands. As conditioned, and with the reduced hours of operation and by reducing the days open from 7 days to 5 days per week, the project will not create a nuisance and/or enforcement problem within the neighborhood or community.

6. ***The proposed project will not encourage marginal development within the community.***

Project Finding: Development is controlled by zoning, the General Plan, and physical constraints. The existing motorcycle recreation park has been in operation since 1973 and has not contributed to marginal development in the surrounding community. In fact, the project proposes no new development, and therefore will not encourage or set precedence for marginal development within the community.

7. ***That special conditions or unique characteristics of the subject property and its location or surroundings are established.***

Project Finding: The subject property is unique in that it has been the location of the only permitted off-road motorcycle recreational facility in the county since 1973. The property has unique and varied topography that makes it ideal for motorcycle sports. These characteristics, along with the proper zoning and General Plan designations, and the isolated location, make the subject property ideal for this kind of land use.

CONDITIONS OF APPROVAL FOR COUNTY FILE #LP15-2040

Land Use Permit Approval

1. A Land Use Permit is APPROVED for the operation of an off-road motorcycle recreation park based on the following documents:
 - Application and materials submitted to the Department of Conservation and Development, dated October 8, 2015
 - Site plan received on October 8, 2015
 - Noise Study prepared by Wilson Ihrig Consultants, dated March 8, 2016

This permit and conditions of approval supersede County File #LP95-2020 and is approved for mechanical recreation and related activities (i.e. motorcycle and go-cart racing, recreational riding, and practice). The only vehicles allowed on this site for commercial recreation use are motorcycles and go-carts. Mini-sprint vehicles are allowed if they are motorcycle powered (i.e. chain driven) only as long as the noise levels referenced in the March 8, 2016 project noise study are

not exceeded. Any expansion, intensification of the use, change in hours of operation, or additional types of racing or other uses will require the approval of a new Land Use Permit.

All activities approved by this permit shall be restricted to the tracks and motocross areas as indicated on the October 8, 2015 site plan. The location of the main track as shown on the October 8, 2015 site plan should be interpreted as the general location of riding activities for that track, and is not to be strictly enforced as the required configuration of the track. Periodic routine minor changes to the configuration of the main track are allowed under this permit, as long as the changes occur in the general location shown on the approved site plan.

Application Costs

2. This application is subject to an initial application deposit of \$2,700.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first. The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

Compliance Reviews

3. The park operator and/or property owners shall submit an application for a compliance review annually for three (3) years, then every five (5) years thereafter. A report detailing the steps taken to comply with the conditions of approval shall accompany the application. The applicant is responsible for costs associated with the compliance reviews. A deposit/fee in the amount of \$1000.00 (subject to time and materials) will be filed with the compliance review application to allow for review of the conditions of approval. Compliance shall be determined by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of the site and to any individuals or parties expressing interest in the project.

Prior to First Formalized Competitive Racing Event

4. Upon reconstruction of the oval track to the east-central portion of the property, notify the Community Development Division a minimum of 30 days in advance

of the opening of the oval track for the first formalized weekend racing event and/or the first "Friday (or Saturday) Night Under The Lights" event.

5. At least 30 days prior to the first racing event, provide documentation to the Community Development Division that all Health Services Department requirements have been satisfied for that use.

Hours of Operation

6. Recreational and Practice Riding Activities [*"Friday or Saturday Night Under The Lights" is considered a recreational riding activity.*]

Recreational and practice riding activities on the main track and the lighted oval track is permitted 5 days a week (Thursday through Monday) and shall be limited to the hours of 9:00 A.M. to 7:00 P.M. or sundown, whichever comes first.

The lighted oval track may be used for late night recreational riding until 10:00 P.M., but not more than two (2) days per each calendar month on a Friday or Saturday if no racing events are scheduled in the same month, and the park shall be emptied by 11:00 P.M.

Tuesdays and Wednesdays shall be "quiet days" with no riding activities allowed by customers, or for the property owners' private use or otherwise.

7. Formalized Racing Events [*A racing event is one that has registered contestants who have paid entry fees to compete in official competitive races on the site.*]

All motorcycle racing events on the main track and the lighted oval track shall be allowed on one night per weekend (Saturday or Sunday) and on holidays, but not to exceed two (2) racing events per calendar month. No motorcycle activity or racing shall be allowed on Thanksgiving or Christmas. Racing hours shall be limited from 9:00 A.M. to 7:00 P.M. or sundown, whichever comes first, except that the lighted oval track may be used until 10:00 P.M., and the site shall be emptied by 11:00 P.M. There shall be no late night recreational riding on the lighted oval track allowed during any month with a scheduled racing event.

Noise Emissions

8. Average noise levels generated motorcycle/go-cart riding and racing activities shall not exceed the community noise exposure level of 75 decibels specified by the General Plan for agricultural areas, and shall not exceed those specified in the analysis of the March 8, 2016 project noise study. For formalized racing events, no more than 25 riders will be allowed on the main track at a time, and no more than 13 riders will be allowed on the oval track. The park operator shall maintain

a log of riders for all formalized racing events. Race heats shall be conducted on one track at a time to avoid simultaneous heats on both tracks in order to reduce noise levels.

9. All individual motorcycles and/or go-carts using the park shall be required to meet a noise standard of not more than 96 decibels when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287. Noise measurements shall be taken on a daily basis prior to admission and use of the park for all motorcycles and/or go-carts seeking to use the park. Any measured vehicles not meeting this standard shall not be allowed admission and use of the park.

Lighting for Oval Track

10. Exterior lights for the oval racetrack shall be deflected so that lights shine onto the applicant's property and not toward adjacent properties. Lighting shall be reviewed for approval by the Community Development Division and the Building Inspection Division prior to installation and operation. If deemed necessary by the Building Inspection Division, a building permit must be issued prior to installation and operation of lighting.

Signage

11. All signs shall be subject to the review and approval of the Community Development Division prior to installation. The hours of operation shall be clearly posted in a visible location at the park entrance.

Dust Control

12. The off-street parking area shall be sprayed with water to prevent the creation of dust. This shall be done as needed to keep dust from causing nuisances to neighboring residences. On those days when there are 25 or more people present at one time on the site to either run or observe recreational vehicles, the applicant will apply water as necessary to avoid fugitive dust impacts on nearby properties. The application of water will include motorcycle and go-cart track areas, parking lot, and driveways.

Health and Safety Requirements for All Racing Events and for Practice/Recreational Riding Activities

13. The following regulations for the operation of the motocross facility shall be enforced by the park operator and/or property owners and made part of this permit as follows:
 - A. All riders shall wear helmets and boots.
 - B. Ambulance service, first aid, and fire-fighting equipment shall be provided at all racing events, or as required by the fire district or Health Services Department.
 - C. Posted speed limits shall be obeyed.
 - D. Smoking shall be allowed only in designated areas or parking lots.
 - E. All vehicles shall display current day's admission sticker.
 - F. All persons under the age of 18 shall have a signed release from a parent or legal guardian.
 - G. All guest vehicles shall be cleared from the grounds by closing time.
 - H. All trash shall be put in receptacles, including all trash and debris around the perimeter of the park resulting from the use.
 - I. All children under the age of 12 shall be accompanied by an adult at all times.
 - J. No open fires are allowed.
 - K. No wheel stands, spinning donuts, or racing in parking lots is allowed.
 - L. No riding on graded or filled banks around parking lots or main roads is allowed.
 - M. Anyone behaving in a manner dangerous to other persons or property shall be asked to leave and not come back.
 - N. No riding in or near Kellogg Creek is allowed.

- O. All motorcycles shall have spark arrestors and silencers.

Concerts/Live Music Prohibited

14. Musical concerts and dances are prohibited.

Overnight Camping Prohibited

15. No overnight camping or sleeping by patrons of the park, race participants, or spectators is allowed on the property. The park premises must be cleared of visitors at the end of each day.

Grading/Track Maintenance and Grooming

16. Grading for routine track maintenance and grooming associated with the motorcycle park land use is exempt from the permit requirements of the grading ordinance. Extensive track reconfiguration will require the review and approval of the Community Development Division, and may require a grading permit.

Buffer Planting

17. Within 30 days of approval of this permit, a row of mature Leyland Cypress trees shall be planted in a spacing pattern of no less than six feet apart along the fenceline adjacent to the arena and corral of APN 003-020-042 to serve as a physical buffer between the subject property and APN 003-020-042. Verification shall be provided to the Community Development Division once the planting is completed and prior to the first formalized racing event.

Indemnification

18. The property owners shall deliver an executed indemnification agreement between the property owners and Contra Costa County requiring the property owners to defend, indemnify, and hold harmless Contra Costa County against any expenses arising from or related to claims or litigating regarding the County's actions in reviewing or approving this Land Use Permit application (County File No. LP15-2040). The Director of the Department of Conservation and Development is authorized to execute the indemnification agreement on behalf of the County.

PUBLIC WORKS DEPARTMENT CONDITIONS OF APPROVAL FOR LP15-2040

General Requirements

19. This development shall conform to the requirements of Division 914 (Drainage) and the remainder of Title 9 and Title 10 of the Subdivision Ordinance. Any exceptions therefrom must be specifically listed in this conditional approval statement.
20. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with the review and inspection fees, and security for all improvements required by the Ordinance Code or the conditions of approval for this project.

Roadway Improvements (Frontage/On-site/Off-site)

21. The applicant shall be permitted an exception from construction of full frontage improvements along the Camino Diablo Frontage of this property, at this time, provided that he improves the Camino Diablo entrance to this development to include at least a 6.1 meter (20-foot) wide paved driveway constructed to County private road standards from the edge of pavement to the proposed right-of-way line. The entrance shall also include paved tapers and flares designed and constructed in accordance with Figure 405.7 from the Caltrans Highway Design Manual from the edge of pavement along Camino Diablo to the right-of-way line (based on the basic 6.1 meter [20-feet] driveway width).

Access to Adjoining Property

22. Proof of Access/Acquisition
Applicant shall furnish proof to the Public Works Department, Engineering Services Division, of the acquisition of all necessary rights-of-way, rights-of-entry, permits and/or easements for the construction of off-site, temporary or permanent, road or drainage improvements.
23. Encroachment Permit
Obtain an encroachment permit from the Application & Permit Center for construction of driveways, or other improvements within the right-of-way of Camino Diablo.

24. Restrict Access

Restrict access along Camino Diablo, with the exception of the proposed access.

Road Dedication

25. Applicant shall convey to the County, by Offer of Dedication, additional right-of-way on Camino Diablo as required for the planned future width of 33.5 meters (110 feet) with at least a 457 meter (1,500 feet) centerline radius.

Intersection Design/Sight Distance

26. Provide a sight distance analysis, subject to the review of the Public Works Department, which analyzes the proposed Camino Diablo entrance to this development. Provide sight distance based on a design speed of 104 kilometers per hour (65 miles per hour) along Camino Diablo.

Drainage Improvements/Collect and Convey

27. Division 914 of the Ordinance Code requires that all storm waters entering or originating within the subject property shall be conveyed, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility which conveys the storm waters to a natural watercourse.
28. Discharging concentrated storm water into roadside ditches is prohibited by the Ordinance Code. However, as roadside ditches are characteristic of the area, an exception from this requirement is granted provided the applicant verifies the adequacy of the downstream ditch system or constructs any necessary improvements to make this system adequate.

Miscellaneous Drainage Requirements

29. The applicant shall install within a dedicated drainage easement any portion of the drainage system which conveys run-off from public streets.

Utilities/Undergrounding

30. An exception is permitted from undergrounding utility distribution facilities due to the rural nature of this area.

Traffic Control

31. The applicant shall provide special traffic control personnel at the Camino Diablo access to this property for events involving more than 500 vehicles, unless the Zoning Administrator approves the special event without traffic control. Traffic Control may also be required for smaller events if significant traffic complaints substantiate a need.

Creek Structure Setbacks

32. The applicant shall be required to observe the creek structure setback line in accordance with Section 914-14.012, "Structures Setback Lines for Unimproved Earth Channels" for any new structures on this property.

National Pollutant Discharge Elimination System (in addition to NPDES permit)

33. Within 30 days of the effective date of this (1998) modified permit, the applicant shall ensure that he has complied with all components of this condition of approval.
 - A. Hazardous wastes, including but not limited to used motor oil, battery acid or antifreeze shall not be discharged onto the ground.
 - B. All hazardous wastes shall be stored in appropriate containers on a covered concrete slab in an area which is not subject to inundation and shall be removed from the facility at least one each 90 days.
 - C. The applicant shall pave, cover and contain the various vehicle repair pit areas to prevent contaminants from these areas from reaching the creek. The applicant shall obtain a Hazardous Waste Generator's Permit from the County Health Department to assure adequate maintenance of the vehicle repair pit areas and disposal of the hazardous wastes.
 - D. The applicant shall provide an erosion control plan showing how the quantity of silt entering the creek from this property will be reduced. The erosion control plan shall be subject to the review of the Public Works.

NOTE: In the event that the improvements required by the Public Works Department have been constructed, the applicant shall provide the Public Works Department with evidence that these improvements have been completed.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

- A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.


Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B. Additional requirements may be imposed by the East Contra Costa Fire Protection District. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.
- C. Additional requirements may be imposed by the Contra Costa Health Services, Environmental Health Division. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.
- D. Additional requirements may be imposed by the Building Inspection Division. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.
- E. Additional requirements may be imposed by the Public Works Department. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.

EXHIBIT 18

1999 Lot Line Adjustment Reducing Subject Parcel Size

RECORDING REQUESTED BY
Old Republic Title Company
271455-BCS
APN 003-020-017 and 003-020-039
WHEN RECORDED MAIL TO


CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 1999-0253211-00
Check Number
W, SEP 22, 1999 10:55:00
CCC \$533.50 SUR \$10.00 MIC \$1.00
MOD \$3.00 REC \$7.00 TCF \$2.00
Ttl Pd \$556.50 Nbr-0000678902
mom/R3/1-3

21

Name Brentwood Rod & Gun Club
Street Address c/o Field, Richardson & Wilhelm
2033 No. Main St., ste 900
City Walnut Creek, Calif. 94596
State
Zip

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Grant Deed

The undersigned grantor(s) declare(s):
Documentary transfer tax is \$ 533.50
(X) computed on full value of property conveyed, or
() computed on full value less value of liens and encumbrances remaining at time of sale.
(X) Unincorporated area: () City of _____
() Realty not sold.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Tommy M. Anderson, an unmarried man

hereby GRANT(S) to ~~XX~~
~~XXXXXXXXXXXX~~


BRENTWOOD ROD AND GUN CLUB, A CALIFORNIA CORPORATION

that property in Contra Costa County, State of California, described as:

for legal description see exhibit "A" attached hereto and made a part hereof

Mail Tax Statements to Grantee at address above

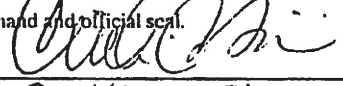
Date September 13, 1999


Tommy M. Anderson

STATE OF CALIFORNIA
COUNTY OF Contra Costa

On SEPT. 13, 1999 before me, the undersigned, a Notary Public in and for said State, personally appeared
Tommy M. Anderson

personally known to me (or 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.

WITNESS my hand and official seal.
Signature 
Name Cecilia A. Siino
(typed or printed)

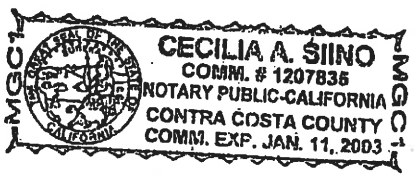


Exhibit "A"
Legal Description
 Lot Line Adjustment - Area "A"
 (Brentwood Gun Club)

253211

All that real property situate in the unincorporated area of the County of Contra Costa, State of California, described as follows:

All of *PARCEL "A"* and a portion of *PARCEL "B"* as shown on that certain map entitled *PARCEL MAP, M.S. 141-74*, filed July 9, 1975, in Book 38 of Parcel Maps, at Page 41, Contra Costa County Records, further described as follows:

Commencing at the most Southwesterly corner of said *PARCEL "B"*, said corner being the common section corner of Sections 1 and 12, T.1 S., R. 2 E, and Sections 6 and 7, T. 1 S., R. 3 E., M. D. B. & M.; thence from said point of commencement along the Westerly boundary line of said *PARCEL "B"* North 00°42'39" East 400.00 feet to the northwesterly corner of that certain *Fee Parcel* of land acquired by Contra Costa Water District, Series No. 94-304479, also being the point of beginning; thence from said point of beginning along the Westerly boundary line of said *PARCEL "B"* and along the boundary line of that certain *Slope Easement* acquired by Contra Costa Water District, Series No. 94-304479, North 00°42'39" East 537.00 feet to the northwesterly corner of said *Slope Easement*; thence along said *Slope Easement* line South 64°14'54" East 257.03 feet; thence leaving last said line the following courses:

South 66°06'13" East, 502.56 feet,
 North 79°26'25" East, 122.58 feet,
 North 29°58'40" East, 166.53 feet,
 North 00°47'31" East, 248.87 feet,
 South 87°28'10" East, 485.71 feet,

to a point on the Westerly boundary line of said *PARCEL "A"*; thence along the boundary line of last said parcel the following five courses: North 00°47'31" East 1,338.02 feet to a point on the Southerly right of way line of Camino Diablo Road as shown on said *MS 141-74* also being the beginning of a non-tangent curve concave to the southwest having a radius of 945.00 feet and to which beginning a radial line bears North 38°46'53" East; thence southeasterly 142.72 feet along said Southerly right of way line and along said curve through a central angle of 08°39'12"; thence South 42°33'55" East 380.62 feet; thence leaving said Southerly right of way line South 00°48'22" West, 2,001.74; thence North 89°09'34" West 366.25 feet to the southwesterly corner of said *PARCEL "A"* also being the easterly corner of said Contra Costa Water District *Fee Parcel* (94-304479); thence along last said line North 73°00'51" West 1,438.46 feet to the point of beginning.

Containing an area of 39.34 Acres more or less.

Assessors Parcel Numbers 003-020-017 and 003-020-039 (portion).

The bearings shown for the above description are based on the California Coordinate System, Zone III. All distances are ground level distances.



253211

CAMINO

N.89°15'08"W. 802.07'

R=945'
D=46°41'12"(T)
L=770.02'(T)

D=38°02'01"
L=627.30'

N 38°46'53" (R)

D=08°39'12"
L=142.72'

N.42°33'55"W.
380.62'



KELLOG

CREEK

DIABLO

ROAD

PARCEL "C"
(38PM41)

DAVIS

003-020-033

2172.60' (T)
1635.60'

AREA "B"

53.62 AC.±

PARCEL "B"
(38PM41)

SERIES NO.
94-291866

SMITH

P.O.B.
AREA "B"
003-020-036

N.00°47'31"E.
248.87'

N.29°58'40"E.
166.53'

N.79°26'25"E.
122.58'

N.64°14'54"W.
257.03'

N.66°06'13"W.
502.56'

NEW LOT LINE

N.87°28'10"W.
485.71'

PARCEL "A"
(38PM41)

2001.74'
N.00°48'22"E.

PARCEL "A"
(20PM26)

COOK

003-020-014

PARCEL "B"
(89PM34)

003-020-037

CCWD

AREA "A"

GOSS 39.34 AC±
NET 26.55 AC±

SERIES NO.94-304479
CCWD SLOPE & GRADING EASEMENT
P.O.B. AREA "A" 12.79AC.±

OLD LOT LINE

CCWD

003-020-038

SERIES NO.94-304479

N.73°00'51"W

1438.46'

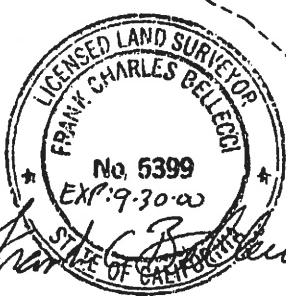
366.25'

N.89°09'34"W.

12

7

P.O.C.



"LOT4" (346 M 9) "LOT2"

GALLAGHER
003-030-027

BARULICH
003-030-029

END OF DOCUMENT

APN. 003-020-017
APN. 003-020-039

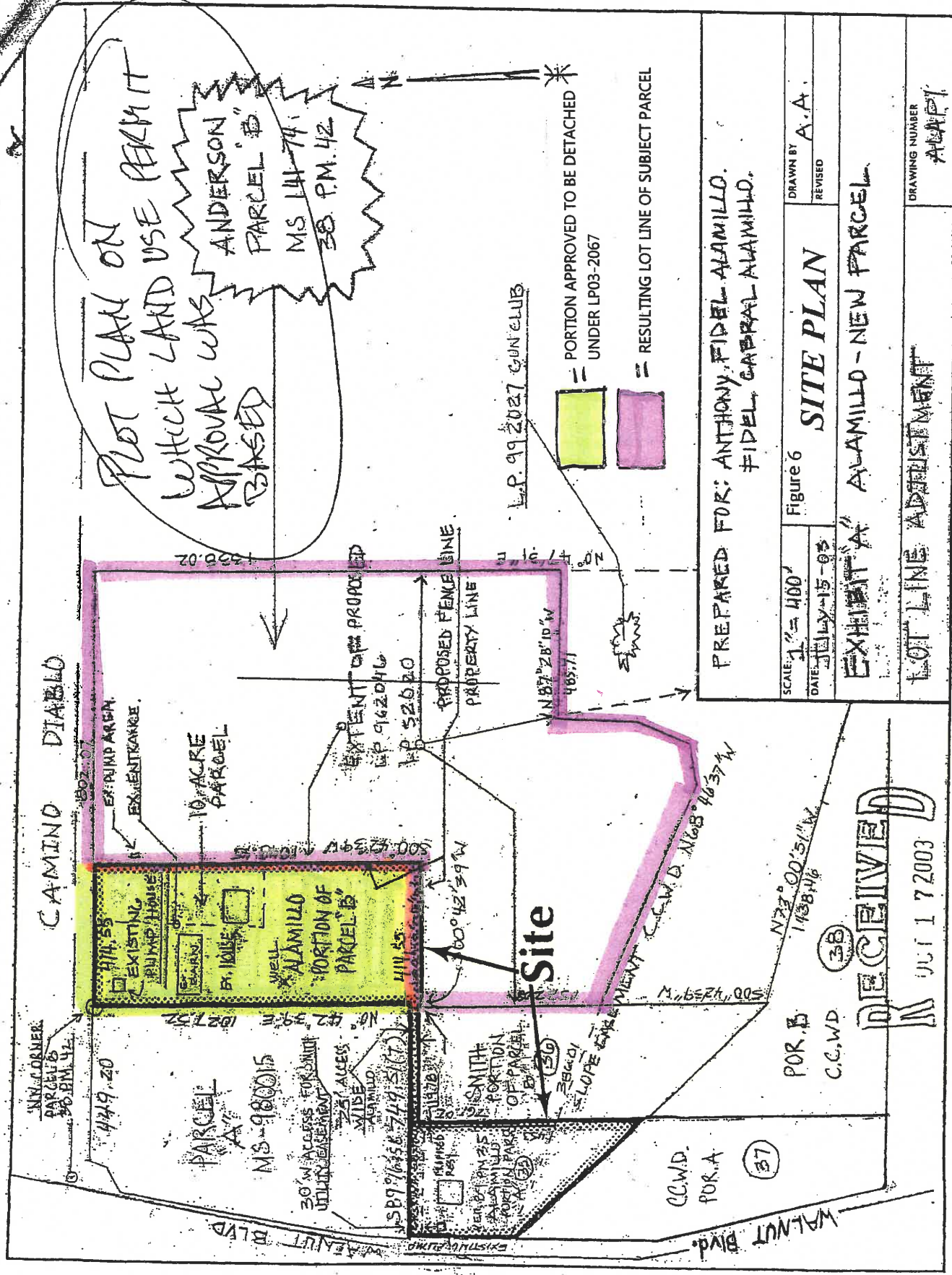
OLD PARCEL "A" = 18.60AC.±; NEW AREA "A" = 39.34AC±
OLD PARCEL "B" = 74.36AC.±; NEW AREA "B" = 53.62AC±

BELLECCI & ASSOCIATES, INC.
CIVIL ENGINEERING • LAND PLANNING • LAND SURVEYING
PHONE (925) 685-4569 • FAX (925) 685-4838
2290 DIAMOND BLVD., SUITE 100 CONCORD CA. 94520

DATE: MAY 1999 SCALE: 400' ±
FILE NO.: L10pl1 (99007) SHEET 1 OF 1
LOT LINE ADJUSTMENT

EXHIBIT 19

**LL03-0049 Lot Line Adjustment
Reducing Subject Parcel Size**



PLOT PLAN ON WHICH LAND USE PERMIT APPROVAL WAS BASED

ANDERSON'S PARCEL B

MS 144 741

38 P.M. 42

L.P. 992027 COUN CLUB

- = PORTION APPROVED TO BE DETACHED UNDER LP03-2067
- = RESULTING LOT LINE OF SUBJECT PARCEL

Figure 6		SITE PLAN	
SCALE: 1" = 400'	DATE: July-15-03	DRAWN BY: A.A.	REVISED:
PREPARED FOR: ANTHONY FIDEL ALAMILLO. FIDEL GABRAL ALAMILLO.		DRAWING NUMBER: ALAF01	
EXHIBIT A' ALAMILLO - NEW PARCEL		LOT LINE ADJUSTMENT	

RECEIVED

JUL 17 2003

C.C.W.D. (38)

C.C.W.D. (37)

CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT

APPROVED SITE PLAN FOR LP03-2067

Community
Development
Department

County Administration Building
651 Pine Street
4th Floor, North Wing
Martinez, California 94553-0095

Phone:
(925) 335-1214

Contra
Costa
County



Dennis M. Barry, AICP
Community Development Director

February 23, 2004

Fidel Alamillo
772 Avio Court
Pleasanton, CA 94566

Dear Fidel:

**Re: Approval of Proposed Lot Line Adjustment to
Sandhill Motorcycle Ranch Park
Assessor's Parcel Number 003-020-035, -036, & -041;
Camino Ramon, Byron area**

County File #LL030049

We have reviewed your application for lot line adjustment proposing to reconfigure the above three listed parcels. Your requested lot line adjustment does not constitute a subdivision of land, and is consistent with the zoning and building ordinances. The proposed adjustment also conforms to the general plan. Therefore, this is to advise you that the request is administratively approved as shown on the proposed plot plan subject to the following requirements:


1. This approval is valid for a period of *six months from the date of this letter*.
2. Grant deeds must be recorded to implement the property exchange.
3. The property being transferred shall be combined with the receiving parcel to form one parcel for tax assessment purposes.
4. A copy of the recorded grant deeds providing evidence of the performance of Items #2 and #3 shall be forwarded to the Community Development Department *within seven months from the date of this letter*. The Department file number shown at the top of this letter shall be noted on all documents.

Office Hours Monday - Friday: 8:00 a.m. - 5:00 p.m.
Office is closed the 1st, 3rd & 5th Fridays of each month

If you have any further questions regarding this matter, please contact me at 925-335-1214.

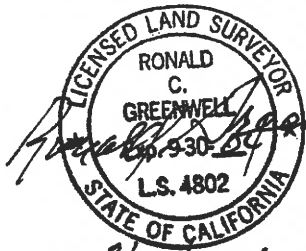
Sincerely,

DENNIS M. BARRY, AICP
Community Development Director

By 
Bob Drake
Principal Planner

cc: Tom Anderson & Tom Smith, Sandhill Ranch
Darwin Myers
File #LL030049

\\fs-cd\users\$\bdrake\Personal\LL030049.ltr.doc
RD\



2/19/2004

CAMINO DIABLO ROAD

PARCEL B
180 PM 5

PARCEL A
180 PM 5

LINE TABLE

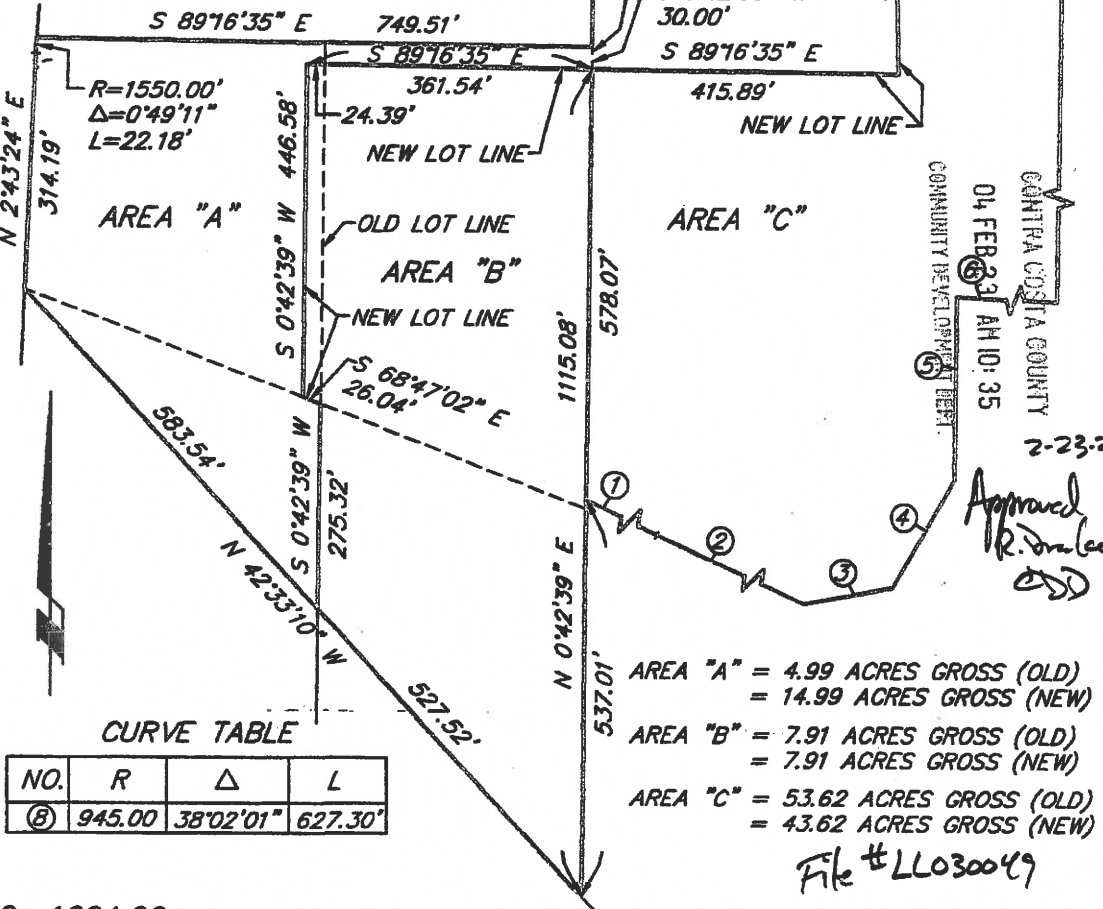
NO.	BEARING	DISTANCE
①	S 64°14'54" E	257.03'
②	S 66°06'13" E	502.56'
③	N 79°26'25" E	122.58'
④	N 29°58'40" E	166.53'
⑤	N 00°47'31" E	248.87'
⑥	S 87°28'10" E	485.71'
⑦	N 00°47'31" E	1338.02'
⑧	N 89°15'08" W	402.07'

BLVD.

WALNUT

N 2°43'24" E

N 42°33'10" W



CURVE TABLE

NO.	R	Δ	L
⑧	945.00	38°02'01"	627.30'

AREA "A" = 4.99 ACRES GROSS (OLD)
= 14.99 ACRES GROSS (NEW)
AREA "B" = 7.91 ACRES GROSS (OLD)
= 7.91 ACRES GROSS (NEW)
AREA "C" = 53.62 ACRES GROSS (OLD)
= 43.62 ACRES GROSS (NEW)

File # LLO30049

W.O. 1664.00

PREPARED BY
RGA
RONALD GREENWELL & ASSOCIATES, INC.
LAND SURVEYING & DEVELOPMENT
10 SOUTH LAKE DRIVE, SUITE 1
ANTIOCH, CALIFORNIA 94509
TEL (925) 778-0626
FAX (925) 778-7160

EXHIBIT FOR
LOT LINE ADJUSTMENT
AREA "A"

CONTRA COSTA

CALIFORNIA

DRAWN	HP	CHKD	DA
APP'D	RG		
SCALE	1"=200'		
DATE	2-18-04		
REV.		DATE	
SHEET	1	OF	1

CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT DEPT.
04 FEB 23 AM 10:35

2-23-2004

Approved
R. Dumble
ESD

2

RECORDING REQUESTED BY
Alliance Title Company
AND WHEN RECORDED MAIL TO

Name Thomas Smith
Street Address 4350 St. Charles Place
City, State Zip Concord, CA 94521

Order No 11195992-403-ECM

CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2004-0087109-00

Acct 15- Alliance Title Company
Tuesday, MAR 16, 2004 08:00:00
SUR \$10.00 NIC \$1.00 MOD \$2.00
REC \$8.00 TCF \$1.00
Ttl Pd \$20.00
Nbr-0002028121
ENS/R2/1-2

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(s) DECLARE(s)
City of Unincorporated
Conveyance Tax is \$0.00
Parcel No 003-020-041

Documentary Transfer Tax is \$0.00

computed on full value of interest or property conveyed, or
 full value less value of liens or encumbrances remaining at
the time of sale
Fidel Alamillo
Declarant or Agent Determining Tax

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

Fidel Alamillo, a married man, as his sole & separate Property and Jessica Alamillo, an unmarried woman, as joint tenants

hereby GRANT(s) to THOMAS SMITH, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY

the following real property in the city of UNINCORPORATED

county of Contra Costa, state of California:

See Exhibit A attached hereto and made a part hereof.

THIS GRANT DEED IS BEING EXECUTED TO IMPLEMENT THE LOT LINE ADJUSTMENTS PURSUANT TO LLA #30049, DATED FEBRUARY 23, 2004

Dated: March 8, 2004

STATE OF CALIFORNIA
COUNTY OF Contra Costa

On March 8, 2004 before me,
R. M. Moreno

a Notary Public in and for said County and State, personally appeared

Fidel Alamillo &
Jessica Alamillo

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that ~~he~~ they executed the same in ~~his~~ their authorized capacity(ies) and that by ~~his~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Signature R. M. Moreno

Fidel Alamillo
S.S. FIDEL ALAMILLO

Jessica Alamillo
JESSICA ALAMILLO



(This area for official notonal seal)

5

0087109

Exhibit A

All that certain real property situate in the Unincorporated Area, County of Contra Costa, State of California, described as follows:

Being a portion of Parcel "A" and Parcel "B" as shown on that Parcel Map recorded in Book 89 of Parcel Maps, Page 34 (89 PM 34), Contra Costa County Records, more particularly described as follows:

Beginning at a point which is South 00° 42' 39" West, 30.00 feet from the Northeast corner of Parcel "B" of said 89 PM 34, thence along a line which is parallel to and 30.00 feet Southerly of the North line of said Parcel "B" North 89° 16' 35" West, 361.54 feet to the West line of said Parcel "B"; thence North 89° 16' 35" West, 24.39 feet, thence parallel to the West line of said Parcel "B" South 00° 42' 39" West, 446.58 feet to the Northerly line of the Contra Costa County Water District Easement as described in Series No. 2003-0190792, Contra Costa County Records; thence along said Northerly line South 68° 47' 02" East, 26.04 feet to the Southeast corner of said 2003-0190792, thence along the South line of that land described as Parcel One of Series No. 94-291866, Contra Costa County Records South 00° 42' 39" West, 275.32 feet; thence along said South line South 42° 33' 10" East, 527.52 feet to the East line of said 94-291866, thence along said East line North 00° 42' 39" East, 1115.08 feet to the point of beginning

END OF DOCUMENT

EXHIBIT 20

Regional Survey of Motocross Park Hours of Operation

Regional Survey of Motocross Park Hours of Operation

<p>Carnegie State Vehicular Recreation Area Tracy, California</p>	<p>8am-8pm – Summer 8am-7pm – Spring/Fall 8am-6pm – Winter 7 days a week</p>
<p>Club Moto Livermore, California</p>	<p>Wednesday, 3pm-dark Saturday, 9am-2pm Sunday, 9am-3pm Days open for practice are split as needed. Open Saturdays and Sundays for races.</p>
<p>Prairie City MX Rancho Cordova, California</p>	<p>1pm- 5pm (Nov thru Feb) 2pm-6pm (Mar & Oct) 3pm-7pm (Apr & Sept) 4pm-8pm (May thru Aug) Saturdays & Sundays 9am-2pm (Year Round) Open from 7am to 10pm on race days.</p>
<p>Argyll MX Dixon, California</p>	<p>Saturday 9am-2pm Sunday 9am-3pm Thursday 3pm to Dark Open Saturdays and Sundays for races.</p>

EXHIBIT 21

CPC Resolution No. 13-2016

RESOLUTION NO. 13-2016

RESOLUTION OF THE COUNTY PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, TO APPROVE COUNTY FILE #LP15-2040 TO MODIFY THE CONDITIONS OF APPROVAL OF A LAND USE PERMIT FOR AN EXISTING OFF-ROAD MOTORCYCLE RECREATION PARK.

WHEREAS, John and Lori Ramirez (Applicants) and James and Dorothy Schmidt (Owners) have submitted an application to modify the Conditions of Approval for an existing land use permit (County File #LP95-2020) for the operation of an off-road motorcycle recreation park. No expansions or modifications to the existing entitlement are proposed. The applicants also request a grading permit to 15,000 cubic yards of dirt for abatement of non-permitted motorcycle tracks constructed by the previous property owners, and to move the oval track to the approved location, and for overall general site maintenance and track grooming that is required in order to reopen the park to the public; and

WHEREAS, for the purpose of compliance with the provisions of the California Environmental Quality Act (CEQA), and State and County CEQA Guidelines, Staff has determined that County File #LP15-2040 is categorically exempt under a Class I exemption pursuant to Section 15301 for existing facilities; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the County Planning Commission on Tuesday, July 26, 2016, during which hearing the County Planning Commission fully reviewed, considered and evaluated all testimony and evidence submitted in this matter.

NOW, THEREFORE, BE IT RESOLVED, that the County Planning Commission takes the following actions:

1. FIND County File #LP15-2040 to be exempt from the California Environmental Quality Act (CEQA);
2. APPROVE the revised site plan received on October 8, 2015, and the proposed modifications to the Conditions of Approval for County File #LP95-2020, and approve County File #LP15-2040 subject to the attached findings and conditions of approval; and
3. DIRECT staff to file a CEQA Notice of Exemption with the County Clerk.

BE IT FURTHER RESOLVED that the reasons for these recommendations are as follows and as described in the July 26, 2016 staff report to the County Planning Commission:

PROJECT FINDINGS

A. Growth Management Performance Standards:

1. **Traffic** The Growth Management Element of the County General Plan requires consideration of permanent traffic increases related to population growth. Growth is influenced by development that increases population by attracting new residents to the county. New residential and commercial developments are the primary causes of growth that can increase traffic in an area on a permanent basis. No residential or commercial development is proposed as part of this project that would require implementation of the requirements of the Growth Management Element. The project is a modification to an existing entitlement for the continued operation of an existing off-road motorcycle recreational park. The subject motorcycle recreational park has been in operation since 1973. The project will continue the operation of the facility in a manner consistent with the existing entitlements. No expansion or intensification of the use is approved; therefore, no changes in existing traffic levels associated with the operation of the facility are proposed.
2. **Water** The subject property currently receives water from an existing onsite water well. No new residential or commercial construction is proposed that would require additional water service to the site.
3. **Sewage Disposal** The subject property is serviced by an existing septic system. No new residential or commercial development is proposed that would require additional sewage facilities; therefore, the project will not impact water-quality standards or waste-discharge requirements.
4. **Fire Protection** The site is currently served by the East Contra Costa Fire Protection District. The District has reviewed the project and provided their comments and conditions relating to the proposed project, and no new or increased fire protection services were required.
5. **Public Protection** The Growth Management Element, Section 4.4 of the County General Plan requires 155 square feet of Sheriff's station area and support facilities for every 1,000 members of the population. Since there is no residential or commercial development proposed, which could induce population growth, the project would not increase the population up to or

within this threshold, and therefore, the project would not increase the demand for police service facilities or require the construction of, or the need for new police substations within the area.

6. **Parks and Recreation** The County General Plan requires that three acres of neighborhood parks be available for every 1,000 members of the population. The proposed project will not result in an increase in the County population. There will not be an impact on the demand for parks within the County, nor will there be an associated increase in the population as a result of the project. The project proposes no residential or commercial development that could induce population growth in the area.
7. **Flood Control and Drainage** The project does not propose any drainage improvements or significant changes in existing grades or contours on the subject property that could affect existing drainage patterns. The subject site is not located within a 100-year flood hazard zone as determined by the Federal Emergency Management Agency. Therefore, the proposed project will not adversely impact or alter flood control or drainage patterns.

B. Land Use Permit Findings:

1. ***The proposed project will not be detrimental to health, safety, and the general welfare of the County.***

Project Finding The proposed Land Use Permit modification for the existing off-road motocross recreation park as conditioned will not pose a threat to the health, safety, or welfare of the County. All of the requirements of the Community Development Division, the Building Inspection Division, the Health Services Department, and the Fire District must be adhered to at all times. The continued operation of an existing motorcycle recreational facility will not impact the health, welfare, and safety of the County.

2. ***The proposed project will not adversely affect the orderly development of property within the County.***

Project Finding The project does not propose any development, but rather to continue the operation of an existing off-road motocross recreation park. The land use is consistent with both the General Plan and Zoning designations for the subject agricultural property, and thus it will not adversely affect the orderly development of property within the County.

3. ***The project as conditioned will not adversely affect the preservation of property values and the protection of the tax base within the County.***

Project Finding Typically, illegal land uses that are established in a manner inconsistent with the General Plan and the zoning code have the potential to degrade property values. Also, homes, properties, and buildings that are allowed to decline into a condition of disrepair can contribute to negative property values. The proposed Land Use Permit modification for the existing off-road motocross recreation park is consistent with both the General Plan and Zoning designations for the subject agricultural property, and the facility and property has been maintained in good condition by the current property owners. Once the facility is open to the public, its operation will contribute to the tax base of the County with taxes generated from revenue received by operation of the park. Therefore, it will not have a detrimental effect on property values or the County tax base.

4. ***The project as conditioned will not adversely affect the policy and goals as set by the General Plan.***

Project Finding The subject property has a General Plan designation of "Agricultural Lands" (AL), which states that extensive recreational facilities may be allowed in agricultural areas that are designated AL by issuance of a land use permit. The continued operation of the existing off-road motocross recreation park is consistent with the goals and policies of the General Plan.

5. ***The project as conditioned will not create a nuisance and/or enforcement problem within the neighborhood or community.***

Project Finding The primary potential nuisance that could be associated with this land use would be posed by loud noise generated from running motorcycles. The sound study prepared for the project predicted that noise levels at all the modeled property line locations is below the Noise Element guideline of 75 decibels, which is considered "normally acceptable" for areas with a General Plan designation of Agricultural Lands. As conditioned, and with the reduced hours of operation and by reducing the days open from 7 days to 5 days per week, the project will not create a nuisance and/or enforcement problem within the neighborhood or community.

6. ***The proposed project will not encourage marginal development within the community.***

Project Finding Development is controlled by zoning, the General Plan, and physical constraints. The existing motorcycle recreation park has been in operation since 1973 and has not contributed to marginal development in the surrounding community. In fact, the project proposes no new development, and therefore will not encourage or set precedence for marginal development within the community.

7. ***That special conditions or unique characteristics of the subject property and its location or surroundings are established.***

Project Finding The subject property is unique in that it has been the location of the only permitted off-road motorcycle recreational facility in the county since 1973. The property has unique and varied topography that makes it ideal for motorcycle sports. These characteristics, along with the proper zoning and General Plan designations, and the isolated location, make the subject property ideal for this kind of land use.

WHEREAS, at the July 26, 2016 hearing, the County Planning Commission found the project to be exempt from CEQA and approved County File #LP15-2040; and

WHEREAS, in a letter dated August 1, 2016, the law offices of David W. Trotter representing project opponents filed an appeal of the County Planning Commission's decision to approve County File #LP15-2040, citing primarily objections to the project's exemption from CEQA, the project's noise compatibility with the General Plan, and the validity of the existing use permit; and

NOW BE IT RESOLVED that the secretary of this Commission will sign and attest the certified copy of this resolution and deliver the same to the Board of Supervisors, all in accordance with the Government Code of the State of California.

This Resolution was approved upon motion of the County Planning Commission on Tuesday, July 26, 2016 by the following vote:

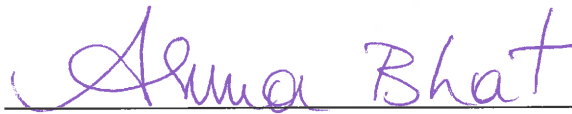
AYES: Wright, Terrell, Swenson, Snyder, Steele

NOES: None

ABSENT: Clark

ABSTAIN: None

Duane Steele, Chair
County Planning Commission
County of Contra Costa, State of California



ATTEST:

ARUNA BHAT, Secretary
County of Contra Costa,
State of California

EXHIBIT 22

7/26/16 Planning Commission Staff Report



Department of Conservation and Development

County Planning Commission

Tuesday, July 26, 2016 – 7:00 .P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	Modification to the Conditions of Approval of County File #LP95-2020 for the Diablo MX Ranch Motocross Park
County File:	#LP15-2040
Applicant/Owner:	John & Lori Ramirez / James & Dorothy Schmidt
General Plan/Zoning:	Agricultural Lands (AL) / Heavy Agricultural District (A-3)
Site Address/Location:	50 Camino Diablo Road, Brentwood/Assessor Parcel Number (APN) 003-020-048
California Environmental Quality Act (CEQA) Status:	Exempt under a Class I exemption pursuant to Section 15301 (See Section V(3) on Page 4 for CEQA discussion.)
Project Planner:	Gary Kupp, (925) 674-7799
Staff Recommendation:	Approve the Proposed Modifications (See Section II on Page 2 for full recommendations.)

I. PROJECT SUMMARY

This is a request to modify County File #LP95-2020 for the following reasons:

1. Submittal of a revised site plan to supersede the current approved site plan.
2. Relocation of the central oval racetrack to its approved location. The track was moved to its current location by the previous property owners without review or approval by the Department of Conservation and Development.
3. Grading for 15,000 cubic yards of dirt for abatement of non-permitted motorcycle tracks constructed by the previous property owners, and to move the oval track to the approved location, and for overall general site

maintenance and track grooming that is required in order to reopen the park to the public.

4. Modification of the Conditions of Approval (“COA”) for County File #LP95-2020 (See Section VII(3) on Page 11 for a discussion of the proposed modifications).
5. To open the park to the public and operate it in a manner consistent with the existing entitlement with no expansion or intensification of the use.

II. RECOMMENDATIONS

Staff recommends that the County Planning Commission:

1. **FIND** the applicant to be exempt from the California Environmental Quality Act (CEQA);
2. **APPROVE** the revised site plan received on October 8, 2015, and the proposed modifications to the Conditions of Approval for County File #LP95-2020, and approve County File #LP15-2040 subject to the attached findings and conditions of approval; and
3. **DIRECT** staff to file a CEQA Notice of Exemption with the County Clerk.

III. BACKGROUND

This is a request to modify County File #LP95-2020 in order to continue the operation of an off-road motorcycle recreational park. LP95-2020 was approved on November 2, 1998, which was the latest entitlement of the site’s approved land use that has been in operation more or less continuously since 1973 (see Section V(6) on Page 6 “Previous Applications”). The property was purchased on March 28, 2014 by the current owners, James and Dorothy Schmidt and John and Lori Ramirez. The property owners intend to operate the park as a family business open to customers, as allowed by the current land use entitlement.

COA #1 of the approved Land Use Permit LP95-2020 (Exhibit #1) states that “...*the applicant [is] to initiate and fund 5-year reviews for compliance by the Zoning Administrator in a public hearing...*” The required compliance review was applied for on August 7, 2013, and was approved by the Zoning Administrator on

December 15, 2014. Compliance reviews were also approved in 2003 and 2009, which indicate that the park has been deemed compliant with the land use entitlement that was approved in 1998.

Nonetheless, since the compliance reviews are required to be approved at a public hearing under LP95-2020, they are therefore subject to appeal. On December 24, 2014, an appeal of the compliance review approval to the County Planning Commission was filed by the law firm of Bowles & Verna LLP, representing twenty-three residents living on Camino Diablo Road and Walnut Avenue in Brentwood. Accordingly, on May 12, 2015, the Planning Commission held an appeal hearing, during which they voted to uphold the Zoning Administrator's approval, and deny the appeal. On May 22, 2015, an appeal to the Board of Supervisors was filed by the law firm of Bowles & Verna LLP for the reasons set forth in their letter of appeal (Exhibit #2).

Prior to proceeding with the appeal hearing before the Board of Supervisors, the applicants submitted this application to modify the conditions of approval for LP95-2020 for the purpose of addressing the concerns of the appellants and to present a more accurate site plan (Exhibit 3) for approval that is consistent with the current approved site plan that is on file (Exhibit 4).

IV. PROPOSED PROJECT

The applicants propose to modify County File #LP95-2020 for the continued operation of an off-road recreational motorcycle facility and seek approval of (1) a revised site plan (Exhibit 3) for LP95-2020, (2) the relocation of the central oval racetrack to an area on the property consistent with the location approved by LP95-2020, (3) a grading permit for 15,000 cubic yards of dirt for the abatement of non-permitted motorcycle tracks constructed by the previous property owners, for the relocation of the oval track, and for general site maintenance and track grooming, (4) to modify the conditions of approval for County File #LP95-2020, and (5) to operate the park in a manner consistent with the existing entitlement with no expansion or intensification of the use.

V. GENERAL INFORMATION

1. **General Plan:** The subject property has a General Plan designation of Agricultural Lands (AL).

2. **Zoning:** The parcel is zoned Heavy Agricultural District (A-3).
3. **Environmental Review:** The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under a Class I exemption pursuant to Section 15301 for existing facilities where *“negligible or no expansion of an existing use”* is proposed.

The applicants propose to operate the facility in a manner consistent with the approved current entitlement. No expansion of, or intensification of the use is proposed. The motorcycle activities will be conducted entirely within existing disturbed areas that have already been approved for and used for motorcycle riding since approximately 1973.

The environmental impacts of the motocross park were analyzed in accordance with CEQA during the review and approval process for the existing entitlement, during which an Initial Study was conducted that analyzed the motocross activities in terms of their effect on various environmental categories, including biological resources, wildlife, air quality, soil/geology, water quality, noise, cultural resources, and traffic. As a result, a Negative Declaration was issued indicating that the land use would not have a significant effect on the environment (Exhibit #5).

It is noted here that the project opponents have argued that because the subject parcel is smaller than it was when the entitlement was approved in 1998, that the project should now be subject to CEQA. In fact, the property is roughly half the size it was when it was originally approved for motorcycle activities in the early 1970s. The property size was first reduced by a lot line adjustment that created the abutting Harrison parcel APN #003-020-042 that was recorded on September 22, 1999 (Exhibit #6). Subsequently, the subject parcel was further reduced by County File #LP03-2067, which approved Lot Line Adjustment #LL03-0049 that established the current configuration of the property (Exhibit #7). County File #LP03-2067 was approved at a public hearing on January 5, 2004 and found to be exempt from CEQA. Lot Line Adjustment #LL03-0049 was recorded on March 16, 2004; thus, legally creating the subject parcel in its current configuration after appropriate consideration under CEQA.

This modification application does not propose any expansion to the existing facility, nor does it propose to intensify the land use beyond what was

previously approved. In fact, the proposal includes a reduction of the hours of operation of the park. By proposing to reduce the hours of operation and to reduce the days open from 7 days to 5 days per week, the intensity of the land use is considered to be lessened. Therefore, the proposed modification application is categorically exempt, since it does not expand the current approved land use, and thereby would not increase any environmental impacts, no further CEQA review is required.

4. **Lot Creation:** The subject property was created in its current configuration by Lot Line Adjustment #LL03-0049.

5. **Other Regulatory Concerns:**

(1) **60 dB Noise Contour:** The northern frontage of the subject property is situated within the Camino Diablo 60 decibel noise contour. The noise contour alerts the Department of Conservation and Development that Camino Diablo Road generates high noise levels. The 60 decibel noise contour is generally taken into account when considering projects proposing new residential development. The noise contour was established to identify residential projects that could potentially be impacted by noise. The proposed project is not a residential project, nor is the project site located in a residential zoning district. The noise-generating activities of the motorcycle park will take place entirely outside the boundary of the Camino Diablo noise contour.

The existing conditions of approval for the facility require a sound study for the "first scheduled racing event". The property owners have not scheduled a racing event, so no sound study has previously been required based on the wording of the existing condition. Even though no racing event is currently scheduled, the applicants agreed to provide a sound study at the request of the County for the purposes of this modification application. The requested sound study was conducted and the results are discussed in Section VII(1) starting on Page 7 of this staff report.

(2) **Active Fault Zone:** The site is not within an active fault zone as designated by the Alquist-Priolo Earthquake Fault Zoning Act.

(3) **Flood Hazard Area:** The motocross activities are located in an area on the

property designated as Flood Zone X, which is an area of little or no flooding.

6. Pertinent Previous Applications:

- (1) **LP341-73**: Approved to establish a motorcycle recreational facility. Approved June 13, 1974.
- (2) **LP2146-74**: Approved to amend LP341-73 to allow daily use and night events at the park. Approved June 11, 1975.
- (3) **LP2108-83**: Approved for the continued operation of a motorcycle recreation park. Approved March 23, 1984.
- (4) **LP2026-89**: Approved to renew LP2108-83 with modified COAs. Approved March 16, 1990.
- (5) **LP95-2020**: Subject permit is approved for the continued operation of a motorcycle race track with modified COAs and the requirement for a compliance review and a hearing every five years. Approved November 12, 1998.
- (6) **LP03-2067**: Modification to allow lot line adjustment to reduce the size of the subject parcel. Approved January 16, 2004.
- (7) **LL03-0049**: Lot line adjustment, as approved by LP03-2067, to reduce the size of the subject parcel. Approved February 23, 2004.
- (8) **PC12-0014**: Six month extension for the continued operation of an off-road motorcycle recreation park. Approved March 5, 2013.
- (9) **LP13-2095**: Five year compliance review for the operation of an off-road motorcycle recreation park. Currently under appeal, as of May 22, 2015.

VI. SITE/AREA DESCRIPTION

The subject property is an approximately 43-acre agricultural property in the unincorporated Brentwood area, located approximately 1,000 feet east of the intersection of Camino Diablo Road and Walnut Boulevard. The property fronts for approximately 1,000 feet on the south side of Camino Diablo Road, and is addressed as 50 Camino Diablo Road in Brentwood. All of the surrounding parcels share the same A-3 (Heavy Agricultural District) zoning designation. A sand quarry

operated by G3 Enterprises is located directly across Camino Diablo Road from the subject parcel to the north.

VII. STAFF ANALYSIS/DISCUSSION

1. **General Plan Consistency:** The subject parcel has the General Plan land use designation Agricultural Lands (AL). The purpose of the AL designation is to preserve and protect lands capable of, and generally used for the production of food, fiber, and plant materials. The AL designation is intended to be descriptive of the predominant agricultural uses that take place in such areas, and the General Plan emphasizes that this description shall not be used to exclude or limit other types of non-urban uses, such as the existing subject outdoor motorcycle recreational facility. The General Plan further states that “extensive recreational facilities” may be allowed in agricultural areas that are designated AL by issuance of a land use permit.

Table 3-5 of the General Plan identifies consistency among the various General Plan land use designations and the Zoning Ordinance. The property on which the motocross facility is located is zoned Heavy Agricultural District (A-3). Table 3-5 establishes that any of the uses allowed with or without a land use permit by the A-3 district are consistent with the AL designation of the General Plan, including the operation of a commercial recreational facility.

Noise Study

The Noise Element of the General Plan establishes an acceptable community noise exposure level of 75 decibels in agricultural areas of the county (Exhibit #8). In order to verify that the project noise levels would be consistent with this standard, and because the existing conditions of approval for the motorcycle park intended the requirement of a sound study, a sound study was therefore required for this modification permit application.

The project noise study, dated March 8, 2016 (Exhibit #9), was prepared by Wilson Irhig, an acoustical and noise consulting firm. The purpose of the study was to determine the typical noise levels to be expected from dirt bike activity at the facility and evaluate them against the 75 decibel noise exposure level cited in the General Plan for agricultural areas. The study addressed four different scenarios for motorcycle activity: weekend race days, weekend non-race practice/recreational riding, weekday practice/recreational riding, and an occasional riding event called “Friday (or Saturday) Night Under the Lights”.

These four activities were determined to have the potential to produce the most intensive noise levels.

The applicant's sound study was peer-reviewed by an independent third party acoustical consultant retained by the county (Exhibit #10). The peer-review concluded that the appropriate methodology was used for project sound study and that the calculated noise levels presented in the report are reasonable.

Noise Study Overview

Simulated race day and practice/recreational riding were conducted with the participation of approximately 50 volunteer riders over a four-hour period on January 28, 2016, and the sound levels of these activities were measured by Wilson Irhig personnel. The project opponents were solicited for permission to place noise measuring devices on their properties, but permission was not granted. Therefore, the noise levels were measured at the property lines of the subject property, which in actuality provides a more conservative measurement of the noise, since it can be reasonably assumed that any noise measurements taken farther out from the subject property boundaries would have been lower. Five measurement locations were setup around the property lines, with measurement Location 4 generally receiving the highest sound levels (see Exhibit #11 for measurement locations).

Noise Study Results

Weekend Race Day Noise Levels: The noise study indicated that a weekend race day event would generate the loudest noise with a maximum level of 73 decibels, measured at Location 4. The other measurement locations measured noise levels between 60 to 69 decibels for a weekend race day event.

Weekend Recreational/Practice Noise Levels: The results of the analysis for a typical non-race weekend indicates that the maximum noise level at Location 4 would be 68 decibels, and the results at the other four measurement locations indicate that noise levels would range from 58 to 64 decibels.

Weekday Recreational/Practice Noise Levels: The results of the analysis for a typical weekday recreational/practice riding day indicated lower noise levels due to shorter hours of activity, with a noise level at Location 4 of 64 decibels. The noise levels at the other four measurement locations ranged from 54 to 60 decibels.

Friday Night Under the Lights Noise Levels: The results of the analysis for a “Friday (or Saturday) Night Under the Lights” event indicated a noise level of 60 decibels at Locations 1 and 5. The results at the other three measurement locations indicate expected noise levels to range from 52 to 57 decibels.

Estimated Noise Levels at Nearby Residences (see Exhibit #12 for residence locations)

The neighboring residences are located farther out from the measurement locations, so the noise levels would therefore be lower at the residence locations. The noise levels were estimated to range from 58 to 61 decibels at Residence 2 for a typical weekend race day event; the noise level estimated for the other residences would range from 55 to 60 decibels. For weekend and weekday recreational/practice riding, the levels would be lower. For the “Friday (or Saturday) Night Under the Lights” event, the highest noise level is estimated to be 60 decibels at Residences 1 and 4 and even lower at the other residences. General Plan Figure 11-6 (Exhibit #8) establishes community noise levels ranging from 60 to 65 decibels as “normally acceptable” for residential land use categories. The results of the noise study demonstrate that the project noise impacts to the neighboring residences can be expected to range from 55 to 61 decibels for the most noise-intensive racing events, and even lower for non-race activity. Based on this data, the project conforms to noise standards of the General Plan for both agricultural and residential land uses.

Noise Study Conclusion

The results of the sound study show that the maximum noise levels would occur during a weekend race day scenario, due to a higher number of riders and a longer duration of riding activities than that of a typical non-race recreational/practice riding day. The predicted noise levels at all the modeled property line locations for the neighboring residences is below the Noise Element guideline of 75 decibels, which is considered “normally acceptable” for areas with a General Plan designation of Agricultural Lands; therefore, no mitigation measures for noise were recommended by the acoustical engineer.

It should also be noted that the project opponents submitted a sound report dated October 20, 2015, prepared by Charles M. Salter Associates (Exhibit #13), that presented ambient noise measurements. The opponents’ sound report was also peer-reviewed (see again Exhibit #10) by the county-retained acoustical consultant who concluded that the report assumes the project is subject to the

General Plan Noise Element's 60 decibel noise exposure level for residential land uses. Based on this assumption, the project opponents assert that the motorcycle park cannot comply with the General Plan due to sound levels in excess of 60 decibels. As discussed previously, the project is not a residential project, nor is the project site located in a residential zoning district, but rather the project site is located in an agricultural zoning district and has an agricultural General Plan designation, and therefore, the 75 decibel General Plan noise exposure level for agricultural areas is the appropriate standard for the project. The proposal also includes a reduction of the hours of operation of the park. By proposing to reduce the hours of operation and reducing the days open from 7 days to 5 days per week, the intensity of the land use is lessened. Thus, the results of the sound study along with the reduced hours of operation of the park clearly demonstrate that the noise levels generated by the facility are consistent with the General Plan.

2. **Zoning Consistency:** The subject parcel is zoned Heavy Agricultural District (A-3). The proposed modifications are consistent with Section 84-38.404(20) of the of the Zoning Ordinance, which allows outdoor commercial recreational facilities in the A-3 zoning district with approval of a land use permit. The outdoor motorcycle racing/riding facility is proposed to take place on existing outdoor motorcycle tracks, and the other aspects of the existing facility do not conflict with the intent and standards of the A-3 zoning district.

During the compliance review that took place prior to this modification request, it was contended by neighbors of the subject property that pursuant to Section 26-2.2016 of the Zoning Code that the permit had expired due to inactivity and the lack of use at the facility by the prior property owners. Section 26-2.2016 states:

"If a use is established according to the terms and conditions of a permit and the use is discontinued for any reason for a period of six months, the permit shall become void and the use will not be resumed. Upon application during the six months period by the owner and upon a showing of good cause the director of planning may grant an extension not to exceed a total of six months."

Strict application of Section 26-2.2016 is not appropriate in the case of the park not being open to the public or in use, since this is not what would constitute the use being discontinued. It has generally been the practice of the Department of Conservation and Development to also take into consideration

whether or not there is a clear intent to continue the use in the immediate future, as well as any proposed change in use when applying this section of the code. Thus, inactivity is not the sole consideration. For instance, it is very common for gas stations to close for indefinite periods of time and reopen after the property is sold at a later date. In these cases, the County does not terminate the land use permit or require a new one in order to reopen if the intent to continue to use the property as a gas station is still apparent. If the gas station's infrastructure, such as buildings, canopies, pumps, etc., is still available, then the use is still valid. In the case of the subject property, the intent to continue to use the property as a motocross park has never been in question; the tracks and other aspects of the motocross park have remained in place.

Even though the park has not been open to the public since being purchased by the applicants, the County deems the land use to be valid since the applicants have been actively pursuing compliance with the conditions of approval for land use permit #LP95-2020. By virtue of the applicants' consistent good-faith efforts to comply with the conditions of approval, which has been demonstrated by the payment of all required County fees and the hiring of various consultants, engineers, and contractors to help them bring the property into compliance with the permit, irrespective of the park not being open to the public, the existing entitlement is considered valid.

Furthermore, it is a moot point to argue these interpretations, because even by the project opponents' strict application of Section 26-2.2016, a timely extension was granted on March 5, 2013 to the previous property owners within the six-month time frame stated by Section 26-2.2016. Therefore, the existing entitlement is fully in force and may be exercised upon approval of this application.

3. **Modification to Conditions of Approval:** The modification proposal includes changes to the conditions of approval for LP95-2020. The following discussions highlight the significant changes to the conditions of approval for LP95-2020. There will also be deletions of conditions that no longer apply, and minor edits and updates to several of the other conditions for the sake of clarity and consistency with the original entitlement. The complete list of proposed revised conditions for LP15-2040 is attached at the end of this staff report (See Attachment A).

COA #1: This condition will now refer to the new proposed site plan submitted on October 8, 2015 for the motorcycle and go-cart activities. Staff also

recommends that the expiration date of November 16, 2028 be eliminated, since land use permits are intended to run with the land in perpetuity and are not subject to expiration.

ORIGINAL CONDITION #1 LP95-2020	MODIFIED COA LP15-2040
<p>COA #1 This permit is issued for mechanical (motorcycle) recreation and related activities (motorcycle and go-cart racing and practice) subject to the revised site plan submitted dated received October 21, 1996. The only vehicles allowed on this site for commercial recreation use are motorcycles and go-carts. Mini-sprint vehicles are allowed if they are motor cycle powered, chain driven only as long as the noise level standards are not exceeded. This permit will not be exercised until the following conditions of approval are met within the time specified. Furthermore, failure to comply with all of the conditions of approval in a timely manner may lead to the revocation of this permit. Any expansion or change in hours of operation, additional types of racing or other uses will require the approval of a new Land Use Permit. This use is approved for 25 years with the applicant to initiate and fund five (5) year reviews for the compliance by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of site and individuals expressing interest in the project. Before the end of each 5-year review period the applicant shall submit a report detailing the steps taken to comply with the approval dictates. The first such submittal shall be made prior to November 1, 2003. This permit shall expire November 16, 2028. The applicant is responsible for costs associated with the 5-year reviews.</p>	<p>COA #1 A Land Use Permit is APPROVED for the operation of an off-road motorcycle recreation park based on the following documents:</p> <ul style="list-style-type: none"> • Application and materials submitted to the Department of Conservation and Development, dated October 8, 2015 • Site plan received October 8, 2015 • Noise Study prepared by Wilson Ihrig Consultants, dated March 8, 2016 <p>This permit and conditions of approval supersede County File #LP95-2020 and is approved for mechanical recreation and related activities (i.e. motorcycle and go-cart racing, recreational riding, and practice). The only vehicles allowed on this site for commercial recreation use are motorcycles and go-carts. Mini-sprint vehicles are allowed if they are motorcycle powered (i.e. chain driven) only as long as the noise levels referenced in the March 8, 2016 project noise study are not exceeded. Any expansion, intensification of the use, change in hours of operation, or additional types of racing or other uses will require the approval of a new Land Use Permit. All activities approved by this permit shall be restricted to the tracks and motocross areas as indicated on the October 8, 2015 site plan. The location of the main track as shown on the October 8, 2015 site plan should be interpreted as the general location of riding activities for that track, and is not to be strictly enforced as the required configuration of the track. Periodic routine minor changes to the configuration of the</p>

	main track are allowed under this permit, as long as the changes occur in the general location shown on the approved site plan.
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COA #5 This addresses the park’s hours of operation. The condition has been broken down into two new conditions of approval, and has been modified to reduce the hours of operation for use of the facility from 7 days a week to 5 days, with 2 days of non-operation or “quiet days” where no riding activity is allowed, including private use by the property owners. The hours of operation will also be modified to end all activities on the lighted oval track by 10:00 P.M. with the requirement that the park be emptied by 11:00 P.M. Riding hours on the main back track will be from 8:00 am to 7:00 P.M. or sundown, whichever comes first. Based upon review of the hours of operation for other motocross parks in the region (Attachment E), the proposed reduction in the number of days that the park can be open and the reduced hours of operation are reasonable modifications to the land use permit.

ORIGINAL CONDITION #5 LP95-2020	MODIFIED COAs for LP15-2040
<p>COA #5 All activities approved by this permit shall be restricted to the existing track and motocross area as indicated on the plan submitted with the application except for minor changes subject to Zoning Administrator review and approval. Motorcycle activity is permitted 7 days a week but limited to the hours of 8:00 A.M. to 7:00 P.M. or sundown whichever comes first, except that the lighted racetrack may be used on Friday or Saturday nights from 7:00 P.M. to 11:00 P.M. Motorcycle racing shall be limited to Saturday and Sunday and holidays except that no racing or motorcycle activity shall be allowed on Thanksgiving or Christmas. Motorcycle activity shall be confined to the tracks.</p>	<p>COA #6 <u>Recreational and Practice Riding Activities</u> [<i>“Friday or Saturday Night Under The Lights” is considered a recreational riding activity.</i>]</p> <p>Recreational and practice riding activities on the main track and the lighted oval track is permitted 5 days a week (Thursday through Monday) and shall be limited to the hours of 8:00 A.M. to 7:00 P.M. or sundown, whichever comes first.</p> <p>The lighted oval track may be used for late night recreational riding until 10:00 P.M., but not more than two (2) days per each calendar month on a Friday or Saturday if no racing events are scheduled in the same month, and the park shall be emptied by 11:00 P.M.</p> <p>Tuesdays and Wednesdays shall be “quiet days” with no riding activities allowed by customers, or for the property owners’ private use or otherwise.</p>

	<p>COA #7 <u>Formalized Racing Events</u> <i>[A racing event is one that has registered contestants who have paid entry fees to compete in official competitive races on the site.]</i></p> <p>All motorcycle racing events on the main track and the lighted oval track shall be allowed on one night per weekend (Saturday or Sunday) and on holidays, but not to exceed two (2) racing events per calendar month. No motorcycle activity or racing shall be allowed on Thanksgiving or Christmas. Racing hours shall be limited from 8:00 A.M. to 7:00 P.M. or sundown, whichever comes first, except that the lighted oval track may be used until 10:00 P.M., and the site shall be emptied by 11:00 P.M. There shall be no late night recreational riding on the lighted oval track allowed during any month with a scheduled racing event.</p>
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COA #6: This condition will be deleted, since the proposed new site plan will supersede this requirement.

COA #7: This condition will be deleted, since the required plantings have been implemented and changes to the property's boundary configuration have made the requirement unnecessary.

COA #14: This condition will be deleted, since the Water District's easement is no longer located on the subject property.

COA #17: This condition will be deleted since the required sound study has been conducted and the conclusions have been reviewed and accepted by the county.

COA #18: This condition will be deleted since the required deed restriction has been recorded. This deed restriction notifies future property owners of the existing land use permit and conditions of approval for the operation of a motorcycle recreation park.

In addition to re-numbering, deletions, and modifications made to the existing conditions of approval, the permit will have new conditions added, specifically

COAs #2, #3, #4, #5, #8, #9, #15, #16, #17, and #18 (See Attachment A). The Public Works conditions will remain essentially as written with no changes.

VIII. AGENCY COMMENTS

1. **Byron Municipal Advisory Committee (Byron MAC)**: On October 21, 2015, the project was reviewed by the Byron MAC. The MAC Chair stated that she was impressed with the work the applicants have done on the property, and a motion to accept the modification to the land use permit was passed by a vote of four (4) Ayes to one (1) Abstention.
2. **California Historical Resources Information System (CHRIS)**: On October 26, 2015, CHRIS submitted a comment letter stating that based on cultural resource studies conducted in 1986 and in 1990, that they recommend a professional survey of the project area be conducted for portions of the property not covered by these studies. Chris also recommended that a formal CEQA evaluation be conducted for any building or structure on the subject property that is older than 45 years in order to assess historical value.

As detailed above in Section V(3) on Page 4 of this staff report, a CEQA evaluation was conducted in 1996 under County File #LP95-2020 which found that the off-road motorcycle activities would not have a significant impact on cultural resources; therefore, the professional surveys recommended by CHRIS are not necessary and the recommended formal CEQA evaluation is considered complete by the 1996 environmental document. Furthermore, since the motorcycle activities will be conducted entirely within approved, already-disturbed areas and because the requested modification to LP95-2020 does not propose any expansion to the existing facility, and because it does not propose to intensify the existing land use beyond what was previously approved, this application is categorically exempt from any further CEQA review.

3. **Contra Costa Environmental Health Division (CCEHD)**: On October 23, 2015, CCEHD submitted a standard comment addressing the procedures required for the drilling of wells and soil borings, and the abandonment of wells and septic tanks.
4. **Contra Costa County Fire Protection District**: On November 17, 2015, the Fire District submitted an e-mail comment requiring a permit from their office for any temporary tent that is greater than 400 square feet.

5. **Building Inspection Division:** On November 6, 2015, the Building Inspection Division submitted a comment requiring that “all construction shall be per current codes.”
6. **Flood Plain Technician:** On November 4, 2015, the Flood Plain Technician submitted a comment stating that the project plans indicate that “there are no proposed changes/construction within the FZA” (flood zone area).
7. **Building Inspection Division, Grading Section:** On January 5, 2015, the Grading Section submitted a comment requiring a civil engineer’s plan showing existing contours and the amount of grading required in cubic yards.
8. **Habitat Conservation Program/Natural Community Conservation Planning (HCP/NCCP):** No comments were received from the HCP/NCCP program.
9. **Public Works Department, Traffic Division:** No comments were received from the Traffic Division.
10. **Save Mount Diablo:** No comments were received from Save Mount Diablo.
11. **California Department of Fish & Wildlife (CDFW):** No comments were received from the CDFW.

IX. CONCLUSION

Staff recommends that the Planning Commission approve County File #LP15-2040, subject to the attached findings and conditions of approval.

ATTACHMENTS

- A. Findings & COAs for LP15-2040
- B. Maps and Plans
- C. Agency Comments
- D. Site Photographs Dated March 23, 2016
- E. Regional Survey of Motocross Park Hours of Operation

EXHIBITS

1. Conditions of Approval for LP95-2020
2. May 22, 2015 Letter of Appeal of CPC’s Decision of May 12, 2015
3. Proposed New Site Plan, Dated October 8, 2015
4. Approved Site Plan for LP95-2020
5. CEQA Notice of Determination and Initial Study for LP95-2020
6. Grant Deed Creating Harrison Parcel (APN: 003-020-042), Dated Sept. 22, 1999
7. Approved Site Plan for LP03-2067 and Approved Lot Line Adjustment LL03-0049
8. General Plan Figure 11-6 Land Use/Noise Compatibility
9. Project Noise Study, Dated March 8, 2016, Prepared by Wilson Ihrig Associates

10. Peer Review of Noise Study, Dated April 12, 2016
11. Noise Measurement Locations
12. Locations of Nearby Residences Identified in Project Noise Study
13. Project Opponents' Ambient Noise Measurements, Dated October 20, 2015, Prepared by Charles M. Salter Associates

ATTACHMENT A
FINDINGS
&
CONDITIONS OF APPROVAL
FOR
LP15-2040

**GROWTH MANAGEMENT PERFORMANCE STANDARDS, FINDINGS, AND
CONDITIONS OF APPROVAL FOR COUNTY FILE #LP15-2040**

A. Growth Management Performance Standards

- 1. Traffic:** The Growth Management Element of the County General Plan requires consideration of permanent traffic increases related to population growth. Growth is influenced by development that increases population by attracting new residents to the county. New residential and commercial developments are the primary causes of growth that can increase traffic in an area on a permanent basis. No residential or commercial development is proposed as part of this project that would require implementation of the requirements of the Growth Management Element. The project is a modification to an existing entitlement for the continued operation of an existing off-road motorcycle recreational park. The subject motorcycle recreational park has been in operation since 1973. The project will continue the operation of the facility in a manner consistent with the existing entitlements. No expansion or intensification of the use is approved; therefore, no changes in existing traffic levels associated with the operation of the facility are proposed.
- 2. Water:** The subject property currently receives water from an existing onsite water well. No new residential or commercial construction is proposed that would require additional water service to the site.
- 3. Sewage Disposal:** The subject property is serviced by an existing septic system. No new residential or commercial development is proposed that would require additional sewage facilities; therefore, the project will not impact water-quality standards or waste-discharge requirements.
- 4. Fire Protection:** The site is currently served by the East Contra Costa Fire Protection District. The District has reviewed the project and provided their comments and conditions relating to the proposed project, and no new or increased fire protection services were required.
- 5. Public Protection:** The Growth Management Element, Section 4.4 of the County General Plan requires 155 square feet of Sheriff's station area and support facilities for every 1,000 members of the population. Since there is no residential or commercial development proposed, which could induce population growth, the project would not increase the population up to or within this threshold, and therefore, the project would not increase the demand for police service facilities or require the construction of, or the need for new police substations within the area.

6. **Parks and Recreation:** The County General Plan requires that three acres of neighborhood parks be available for every 1,000 members of the population. The proposed project will not result in an increase in the County population. There will not be an impact on the demand for parks within the County, nor will there be an associated increase in the population as a result of the project. The project proposes no residential or commercial development that could induce population growth in the area.
7. **Flood Control and Drainage:** The project does not propose any drainage improvements or significant changes in existing grades or contours on the subject property that could affect existing drainage patterns. The subject site is not located within a 100-year flood hazard zone as determined by the Federal Emergency Management Agency. Therefore, the proposed project will not adversely impact or alter flood control or drainage patterns.

B. **Land Use Permit Findings**

1. ***The proposed project will not be detrimental to health, safety, and the general welfare of the County.***

Project Finding: The proposed Land Use Permit modification for the existing off-road motocross recreation park as conditioned will not pose a threat to the health, safety, or welfare of the County. All of the requirements of the Community Development Division, the Building Inspection Division, the Health Services Department, and the Fire District must be adhered to at all times. The continued operation of an existing motorcycle recreational facility will not impact the health, welfare, and safety of the County.

2. ***The proposed project will not adversely affect the orderly development of property within the County.***

Project Finding: The project does not propose any development, but rather to continue the operation of an existing off-road motocross recreation park. The land use is consistent with both the General Plan and Zoning designations for the subject agricultural property, and thus it will not adversely affect the orderly development of property within the County.

3. ***The project as conditioned will not adversely affect the preservation of property values and the protection of the tax base within the County.***

Project Finding: Typically, illegal land uses that are established in a manner inconsistent with the General Plan and the zoning code have the potential to degrade property values. Also, homes, properties, and buildings that are allowed to decline into a condition of disrepair can contribute to negative property values. The proposed Land Use Permit modification for the existing off-road motocross recreation park is consistent with both the General Plan and Zoning designations for the subject agricultural property, and the facility and property has been maintained in good condition by the current property owners. Once the facility is open to the public, its operation will contribute to the tax base of the County with taxes generated from revenue received by operation of the park. Therefore, it will not have a detrimental effect on property values or the County tax base.

4. ***The project as conditioned will not adversely affect the policy and goals as set by the General Plan.***

Project Finding: The subject property has a General Plan designation of "Agricultural Lands" (AL), which states that extensive recreational facilities may be allowed in agricultural areas that are designated AL by issuance of a land use permit. The continued operation of the existing off-road motocross recreation park is consistent with the goals and policies of the General Plan.

5. ***The project as conditioned will not create a nuisance and/or enforcement problem within the neighborhood or community.***

Project Finding: The primary potential nuisance that could be associated with this land use would be posed by loud noise generated from running motorcycles. The sound study prepared for the project predicted that noise levels at all the modeled property line locations is below the Noise Element guideline of 75 decibels, which is considered "normally acceptable" for areas with a General Plan designation of Agricultural Lands. As conditioned, and with the reduced hours of operation and by reducing the days open from 7 days to 5 days per week, the project will not create a nuisance and/or enforcement problem within the neighborhood or community.

6. ***The proposed project will not encourage marginal development within the community.***

Project Finding: Development is controlled by zoning, the General Plan, and physical constraints. The existing motorcycle recreation park has been in operation since 1973 and has not contributed to marginal development in the surrounding community. In fact, the project proposes no new development, and therefore will not encourage or set precedence for marginal development within the community.

7. ***That special conditions or unique characteristics of the subject property and its location or surroundings are established.***

Project Finding: The subject property is unique in that it has been the location of the only permitted off-road motorcycle recreational facility in the county since 1973. The property has unique and varied topography that makes it ideal for motorcycle sports. These characteristics, along with the proper zoning and General Plan designations, and the isolated location, make the subject property ideal for this kind of land use.

CONDITIONS OF APPROVAL FOR COUNTY FILE #LP15-2040

Land Use Permit Approval

1. A Land Use Permit is APPROVED for the operation of an off-road motorcycle recreation park based on the following documents:
 - Application and materials submitted to the Department of Conservation and Development, dated October 8, 2015
 - Site plan received on October 8, 2015
 - Noise Study prepared by Wilson Ihrig Consultants, dated March 8, 2016

This permit and conditions of approval supersede County File #LP95-2020 and is approved for mechanical recreation and related activities (i.e. motorcycle and go-cart racing, recreational riding, and practice). The only vehicles allowed on this site for commercial recreation use are motorcycles and go-carts. Mini-sprint vehicles are allowed if they are motorcycle powered (i.e. chain driven)

only as long as the noise levels referenced in the March 8, 2016 project noise study are not exceeded. Any expansion, intensification of the use, change in hours of operation, or additional types of racing or other uses will require the approval of a new Land Use Permit.

All activities approved by this permit shall be restricted to the tracks and motocross areas as indicated on the October 8, 2015 site plan. The location of the main track as shown on the October 8, 2015 site plan should be interpreted as the general location of riding activities for that track, and is not to be strictly enforced as the required configuration of the track. Periodic routine minor changes to the configuration of the main track are allowed under this permit, as long as the changes occur in the general location shown on the approved site plan.

Application Costs

2. This application is subject to an initial application deposit of \$2,700.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first. The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

Compliance Reviews

3. The park operator and/or property owners shall submit an application for a compliance review annually for three (3) years, then every five (5) years thereafter. A report detailing the steps taken to comply with the conditions of approval shall accompany the application. The applicant is responsible for costs associated with the compliance reviews. A deposit/fee in the amount of \$1000.00 (subject to time and materials) will be filed with the compliance review application to allow for review of the conditions of approval. Compliance shall be determined by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of the site and to any individuals or parties expressing interest in the project.

Prior to First Formalized Competitive Racing Event

4. Upon reconstruction of the oval track to the east-central portion of the property, notify the Community Development Division a minimum of 30 days in advance of the opening of the oval track for the first formalized weekend racing event and/or the first "Friday (or Saturday) Night Under The Lights" event.
5. At least 30 days prior to the first racing event, provide documentation to the Community Development Division that all Health Services Department requirements have been satisfied for that use.

Hours of Operation

6. Recreational and Practice Riding Activities [*"Friday or Saturday Night Under The Lights" is considered a recreational riding activity.*]

Recreational and practice riding activities on the main track and the lighted oval track is permitted 5 days a week (Thursday through Monday) and shall be limited to the hours of 8:00 A.M. to 7:00 P.M. or sundown, whichever comes first.

The lighted oval track may be used for late night recreational riding until 10:00 P.M., but not more than two (2) days per each calendar month on a Friday or Saturday if no racing events are scheduled in the same month, and the park shall be emptied by 11:00 P.M.

Tuesdays and Wednesdays shall be "quiet days" with no riding activities allowed by customers, or for the property owners' private use or otherwise.

7. Formalized Racing Events [*A racing event is one that has registered contestants who have paid entry fees to compete in official competitive races on the site.*]

All motorcycle racing events on the main track and the lighted oval track shall be allowed on one night per weekend (Saturday or Sunday) and on holidays, but not to exceed two (2) racing events per calendar month. No motorcycle activity or racing shall be allowed on Thanksgiving or Christmas. Racing hours shall be limited from 8:00 A.M. to 7:00 P.M. or sundown, whichever comes first, except that the lighted oval track may be used until 10:00 P.M., and the site shall be emptied by 11:00 P.M. There shall be no late night recreational riding on the lighted oval track allowed during any month with a scheduled racing event.

Noise Emissions

8. Average noise levels generated motorcycle/go-cart riding and racing activities shall not exceed the community noise exposure level of 75 decibels specified by the General Plan for agricultural areas, and shall not exceed those specified in the analysis of the March 8, 2016 project noise study. For formalized racing events, no more than 25 riders will be allowed on the main track at a time, and no more than 13 riders will be allowed on the oval track. The park operator shall maintain a log of riders for all formalized racing events. Race heats shall be conducted on one track at a time to avoid simultaneous heats on both tracks in order to reduce noise levels.
9. All individual motorcycles and/or go-carts using the park shall be required to meet a noise standard of not more than 96 decibels when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287. Noise measurements shall be taken on a daily basis prior to admission and use of the park for all motorcycles and/or go-carts seeking to use the park. Any measured vehicles not meeting this standard shall not be allowed admission and use of the park.

Lighting for Oval Track

10. Exterior lights for the oval racetrack shall be deflected so that lights shine onto the applicant's property and not toward adjacent properties. Lighting shall be reviewed for approval by the Community Development Division and the Building Inspection Division prior to installation and operation. If deemed necessary by the Building Inspection Division, a building permit must be issued prior to installation and operation of lighting.

Signage

11. All signs shall be subject to the review and approval of the Community Development Division prior to installation. The hours of operation shall be clearly posted in a visible location at the park entrance.

Dust Control

12. The off-street parking area shall be sprayed with water to prevent the creation of dust. This shall be done as needed to keep dust from causing nuisances to neighboring residences. On those days when there are 25 or more people

present at one time on the site to either run or observe recreational vehicles, the applicant will apply water as necessary to avoid fugitive dust impacts on nearby properties. The application of water will include motorcycle and go-cart track areas, parking lot, and driveways.

Health and Safety Requirements for All Racing Events and for Practice/Recreational Riding Activities

13. The following regulations for the operation of the motocross facility shall be enforced by the park operator and/or property owners and made part of this permit as follows:
 - A. All riders shall wear helmets and boots.
 - B. Ambulance service, first aid, and fire-fighting equipment shall be provided at all racing events, or as required by the fire district or Health Services Department.
 - C. Posted speed limits shall be obeyed.
 - D. Smoking shall be allowed only in designated areas or parking lots.
 - E. All vehicles shall display current day's admission sticker.
 - F. All persons under the age of 18 shall have a signed release from a parent or legal guardian.
 - G. All guest vehicles shall be cleared from the grounds by closing time.
 - H. All trash shall be put in receptacles, including all trash and debris around the perimeter of the park resulting from the use.
 - I. All children under the age of 12 shall be accompanied by an adult at all times.
 - J. No open fires are allowed.
 - K. No wheel stands, spinning donuts, or racing in parking lots is allowed.

- L. No riding on graded or filled banks around parking lots or main roads is allowed.
- M. Anyone behaving in a manner dangerous to other persons or property shall be asked to leave and not come back.
- N. No riding in or near Kellogg Creek is allowed.
- O. All motorcycles shall have spark arrestors and silencers.

Concerts/Live Music Prohibited

- 14. Musical concerts and dances are prohibited.

Overnight Camping Prohibited

- 15. No overnight camping or sleeping by patrons of the park, race participants, or spectators is allowed on the property. The park premises must be cleared of visitors at the end of each day.

Grading/Track Maintenance and Grooming

- 16. Grading for routine track maintenance and grooming associated with the motorcycle park land use is exempt from the permit requirements of the grading ordinance. Extensive track reconfiguration will require the review and approval of the Community Development Division, and may require a grading permit.

Buffer Planting

- 17. Within 30 days of approval of this permit, a row of mature Leyland Cypress trees shall be planted in a spacing pattern of no less than six feet apart along the fenceline adjacent to the arena and corral of APN 003-020-042 to serve as a physical buffer between the subject property and APN 003-020-042. Verification shall be provided to the Community Development Division once the planting is completed and prior to the first formalized racing event.

Indemnification

18. The property owners shall deliver an executed indemnification agreement between the property owners and Contra Costa County requiring the property owners to defend, indemnify, and hold harmless Contra Costa County against any expenses arising from or related to claims or litigating regarding the County's actions in reviewing or approving this Land Use Permit application (County File No. LP15-2040). The Director of the Department of Conservation and Development is authorized to execute the indemnification agreement on behalf of the County.

PUBLIC WORKS DEPARTMENT CONDITIONS OF APPROVAL FOR LP15-2040

General Requirements

19. This development shall conform to the requirements of Division 914 (Drainage) and the remainder of Title 9 and Title 10 of the Subdivision Ordinance. Any exceptions therefrom must be specifically listed in this conditional approval statement.
20. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with the review and inspection fees, and security for all improvements required by the Ordinance Code or the conditions of approval for this project.

Roadway Improvements (Frontage/On-site/Off-site)

21. The applicant shall be permitted an exception from construction of full frontage improvements along the Camino Diablo Frontage of this property, at this time, provided that he improves the Camino Diablo entrance to this development to include at least a 6.1 meter (20-foot) wide paved driveway constructed to County private road standards from the edge of pavement to the proposed right-of-way line. The entrance shall also include paved tapers and flares designed and constructed in accordance with Figure 405.7 from the Caltrans Highway Design Manual from the edge of pavement along Camino Diablo to the right-of-way line (based on the basic 6.1 meter [20-feet] driveway width).

Access to Adjoining Property

22. Proof of Access/Acquisition

Applicant shall furnish proof to the Public Works Department, Engineering Services Division, of the acquisition of all necessary rights-of-way, rights-of-entry, permits and/or easements for the construction of off-site, temporary or permanent, road or drainage improvements.

23. Encroachment Permit

Obtain an encroachment permit from the Application & Permit Center for construction of driveways, or other improvements within the right-of-way of Camino Diablo.

24. Restrict Access

Restrict access along Camino Diablo, with the exception of the proposed access.

Road Dedication

25. Applicant shall convey to the County, by Offer of Dedication, additional right-of-way on Camino Diablo as required for the planned future width of 33.5 meters (110 feet) with at least a 457 meter (1,500 feet) centerline radius.

Intersection Design/Sight Distance

26. Provide a sight distance analysis, subject to the review of the Public Works Department, which analyzes the proposed Camino Diablo entrance to this development. Provide sight distance based on a design speed of 104 kilometers per hour (65 miles per hour) along Camino Diablo.

Drainage Improvements/Collect and Convey

27. Division 914 of the Ordinance Code requires that all storm waters entering or originating within the subject property shall be conveyed, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility which conveys the storm waters to a natural watercourse.

28. Discharging concentrated storm water into roadside ditches is prohibited by the Ordinance Code. However, as roadside ditches are characteristic of the area, an exception from this requirement is granted provided the applicant

verifies the adequacy of the downstream ditch system or constructs any necessary improvements to make this system adequate.

Miscellaneous Drainage Requirements

29. The applicant shall install within a dedicated drainage easement any portion of the drainage system which conveys run-off from public streets.

Utilities/Undergrounding

30. An exception is permitted from undergrounding utility distribution facilities due to the rural nature of this area.

Traffic Control

31. The applicant shall provide special traffic control personnel at the Camino Diablo access to this property for events involving more than 500 vehicles, unless the Zoning Administrator approves the special event without traffic control. Traffic Control may also be required for smaller events if significant traffic complaints substantiate a need.

Creek Structure Setbacks

32. The applicant shall be required to observe the creek structure setback line in accordance with Section 914-14.012, "Structures Setback Lines for Unimproved Earth Channels" for any new structures on this property.

National Pollutant Discharge Elimination System (in addition to NPDES permit)

33. Within 30 days of the effective date of this (1998) modified permit, the applicant shall ensure that he has complied with all components of this condition of approval.
 - A. Hazardous wastes, including but not limited to used motor oil, battery acid or antifreeze shall not be discharged onto the ground.
 - B. All hazardous wastes shall be stored in appropriate containers on a covered concrete slab in an area which is not subject to inundation and shall be removed from the facility at least one each 90 days.

- C. The applicant shall pave, cover and contain the various vehicle repair pit areas to prevent contaminants from these areas from reaching the creek. The applicant shall obtain a Hazardous Waste Generator's Permit from the County Health Department to assure adequate maintenance of the vehicle repair pit areas and disposal of the hazardous wastes.
- D. The applicant shall provide an erosion control plan showing how the quantity of silt entering the creek from this property will be reduced. The erosion control plan shall be subject to the review of the Public Works.

NOTE: In the event that the improvements required by the Public Works Department have been constructed, the applicant shall provide the Public Works Department with evidence that these improvements have been completed.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

- A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B. Additional requirements may be imposed by the East Contra Costa Fire Protection District. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.

- C. Additional requirements may be imposed by the Contra Costa Health Services, Environmental Health Division. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.

- D. Additional requirements may be imposed by the Building Inspection Division. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.

- E. Additional requirements may be imposed by the Public Works Department. The Applicant is strongly encouraged to review this agency's requirements prior to continuing with the project.

ATTACHMENT B

MAPS & PLANS

PROPOSED SITE PLAN

50 CAMINO DIABLO ROAD

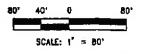
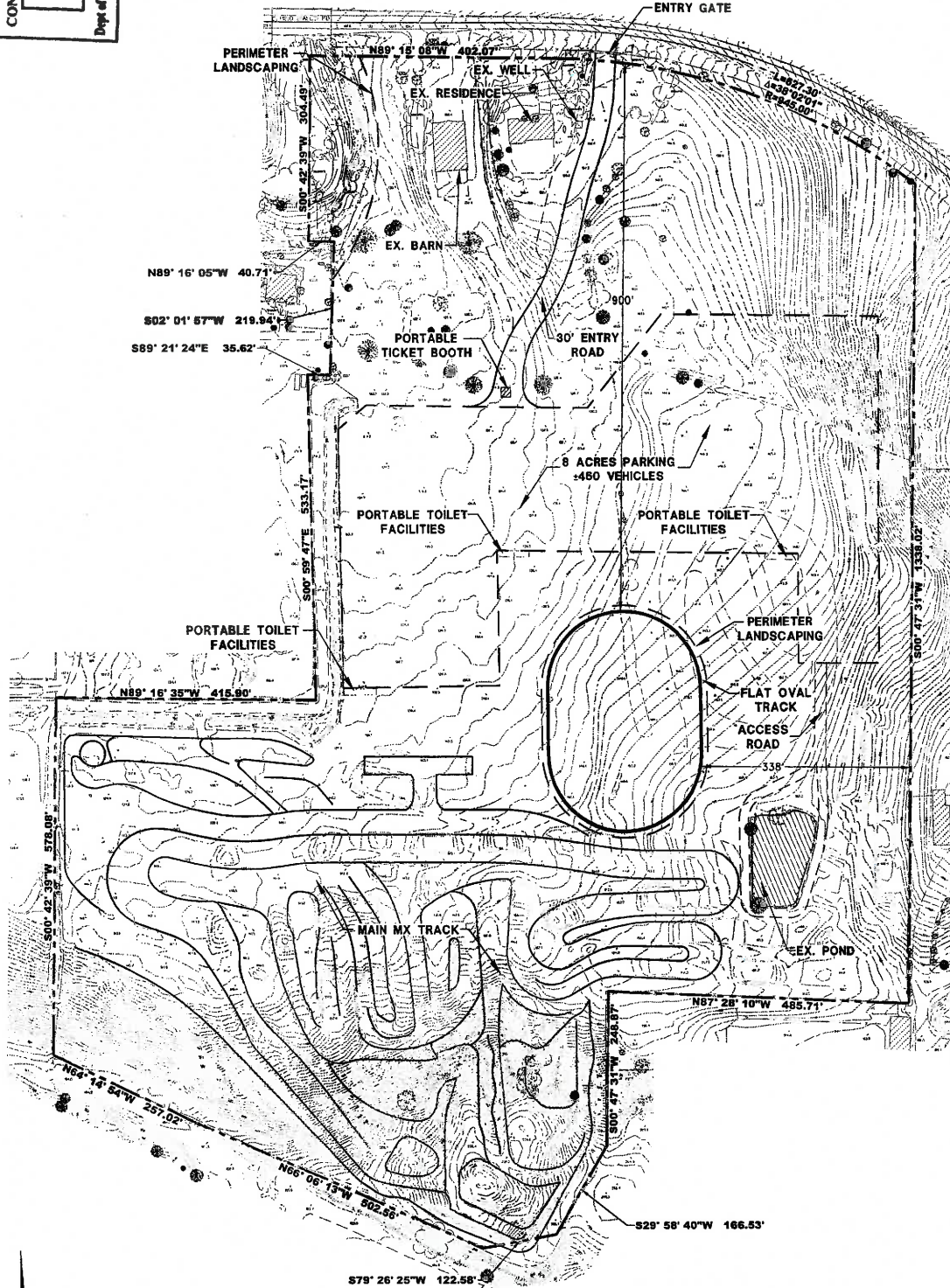
DIABLO MX RANCH LLC

BRENTWOOD

CALIFORNIA

OCTOBER, 2014

RECEIVED
CONTRA COSTA COUNTY
OCT 08 2015
Dept. of Conservation & Development



WOOD RODGERS
 DEVELOPING INNOVATIVE DESIGN SOLUTIONS
 4201 HACIENDA DR. STE 100 TEL 925.847.1550
 PLEASANTON, CA 94588 FAX 925.847.1557

WOOD RODGERS, 4201 Hacienda Dr., Ste 100, Pleasanton, CA 94588, Tel: 925.847.1550, Fax: 925.847.1557

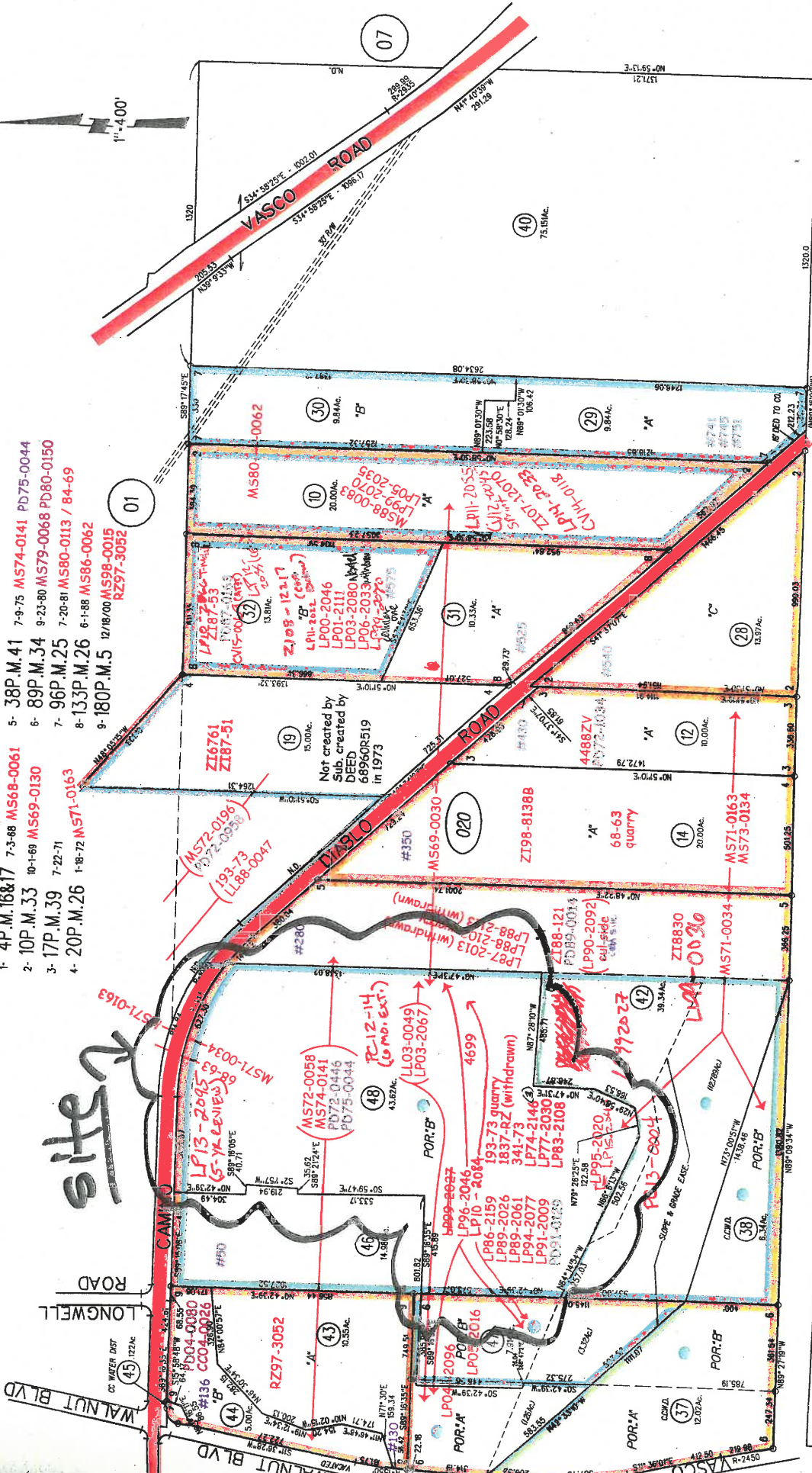
CT.3551.04



S 1/2 SEC. 6 T1S R3E M.D.B.M.

POR.SEC.1 T1S R2E M.D.B.M.

- 1- 4P.M.16&17 7-3-88 MS68-0061
- 2- 10P.M.33 10-1-89 MS69-0130
- 3- 17P.M.39 7-22-71
- 4- 20P.M.26 1-18-72 MS71-0163
- 5- 38P.M.41 7-9-75 MS74-0141 PD75-0044
- 6- 89P.M.34 9-23-80 MS79-0068 PD80-0150
- 7- 96P.M.25 7-20-81 MS80-0113 / 84-69
- 8- 133P.M.26 6-1-88 MS86-0062
- 9- 180P.M.5 12/18/00 MS98-0015 RZ97-3052



NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION DELINEATED HEREON. USE AT YOUR OWN RISK.

RESERVOIR STUDY

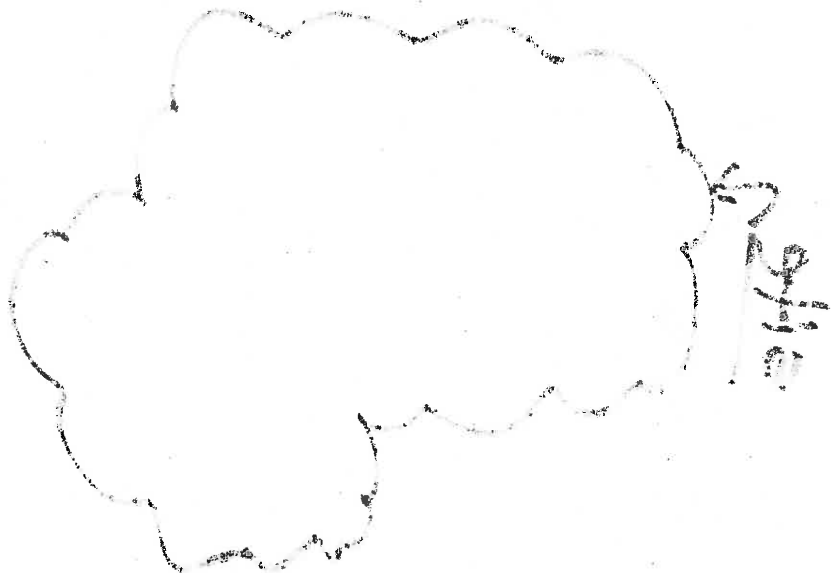
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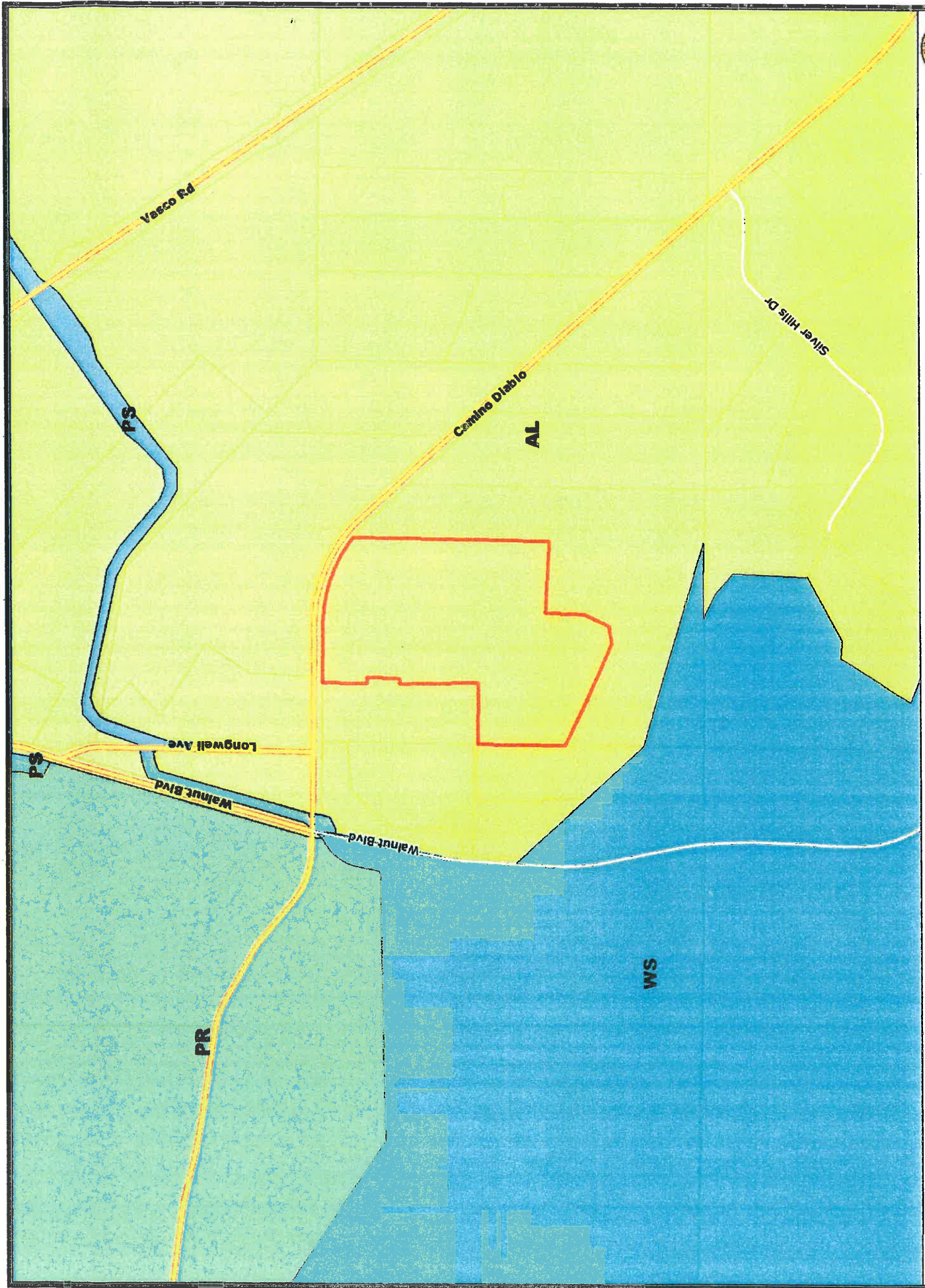
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Book 3

07

AR

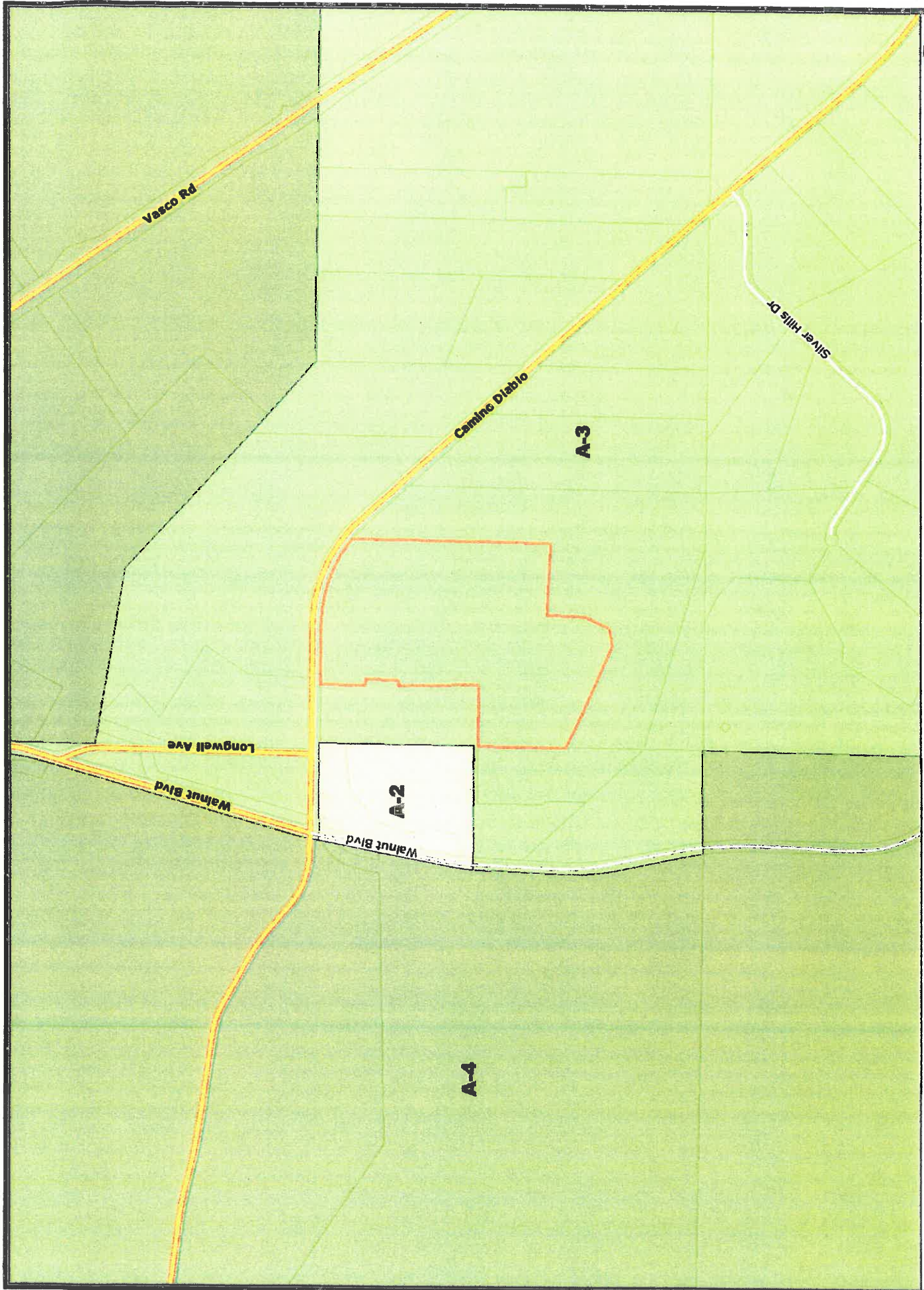




Scale 1:10,000
Contra Costa Internet GIS Map
Printed: Oct 8, 2015 4:47:32 PM

General Plan: Agricultural Lands





Scale 1:10,000
Contra Costa Internet GIS Map
Printed: Oct 8, 2015 4:48:16 PM

Zoning: A-3





Scale 1:10,000
Contra Costa Internet GIS Map
Printed: Oct 8, 2015 4:50:29 PM

Aerial View



ATTACHMENT C

AGENCY COMMENTS

**Byron
Municipal
Advisory
Council
DRAFT**



Office of Supervisor Mary N. Piepho
Contact: Alicia Nuchols
3361 Walnut Blvd, Suite 140
Brentwood, CA 94513
925-252-4500

Respectfully submitted by: _____

*The Byron Municipal Advisory Council serves as an advisory body to the
Contra Costa County Board of Supervisors and the County Planning Agency.*

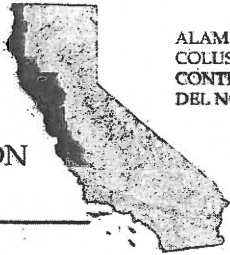
**Record of Actions
Meeting start time: 6:00 p.m.
Wednesday, October 21, 2015**

1. **Meeting called to order by Chair Juarez at 6:00 p.m. All members present.**
2. **Public Comment: None**
3. **Review Record of Actions from 7-15-15 and 9-16-15 meetings:** Record of actions from 7-15-15 and 9-16-15 were reviewed and approved as presented.
4. **Agency Reports**
 - a) **East Contra Costa Fire Protection District: No Report**
 - b) **Contra Costa County Sheriff's Department:** Officer Fontenot provided a report for activity for the month of September 2015. LT Hobbs was also in attendance.
 - c) **California Highway Patrol:** No Report or attendance
 - d) **Office of Supervisor Mary N. Piepho: New date for BOS Hearing Nov 10th:** Weight restrictions for both Camino Diablo and Holway. **All-MAC Meeting:** We are working on scheduling the date/time for January. Supervisor Piepho's Annual Holiday Open House is Monday, December 14th 4-6pm. Marsh Creek Road update, letter to Caltrans & State Legislators is being worked on. Public works items being worked on: *No outlet sign pulling out of the airport turning left. *Radar enforced underneath the speed limit signs on Camino Diablo and across from the church down by McCabe. *Ryan Hernandez from County will be at the November 18th meeting to discuss water and well issues in Byron/County.
5. **Items for Discussion and/or Action**
 - a) **Discuss update on Camino Diablo:**

Truck/weight restriction – New Hearing Notices for November 10th @ BOS
Flashing Beacon – This item is still under review for direction – looking for possible solar options
Our Traffic Section discussed the flashing beacon on Camino Diablo at Holway Drive with our Signal Shop. The existing wire from the beacon to the Fire Station will need to be replaced
 - b) **Discuss Upcoming meeting schedule (November/December):** Meeting schedule was discussed and approved combine November/December meeting.
 - c) **Discuss 2015 Overview and 2016 Workplan:** Overview was reviewed and approved. Work Plan for 2016 was reviewed and a clarification was added to move illegal dumping under Code Enforcement Priorities. Item 8 was added for Office of Emergency Services (OES) – Chair Juarez to attend meetings. Correction to spelling of St Anne's. Request was made to move the Byron MAC meetings to the 4th Tuesday of every month beginning January 2016. Field representative Alicia Nuchols is to check with the BUSD, to confirm he room is available on those days.
 - d) **Discuss Agency Comment Request for County File #LP15-2040:** This file was reviewed and discussed by the Board. Applicants attorney, Ronald Mullin was present for any questions. Chair Juarez stated she was impressed with the work they have done on the property. A few questions on the operating hours, attorney advised they will be operating less than what the current land use permit states they can. Motion to accept the modification to the land use permit by Vice Chair Larsen, second by Councilmember Schmit. AYES: 4-1. Councilmember Lopez abstained.
6. **Correspondence Key: R= Received S= Sent**
 7. **R-9/18/15 Contra Costa County Planning Commission Agenda for September 29, 2015**
 8. **R-9/28/15 Contra Costa County Zoning Administrator Agenda for October 5, 2015**
 9. **R-9/28/15 Notice of Public Hearing Before the Board of Supervisors October 6, 2015**

This meeting record is provided pursuant to Better Government Ordinance 95-6, Article 25-2.205(d) of the Contra Costa County Ordinance Code.

CALIFORNIA
HISTORICAL
RESOURCES
INFORMATION
SYSTEM



ALAMEDA
COLUSA
CONTRA-COSTA
DEL NORTE

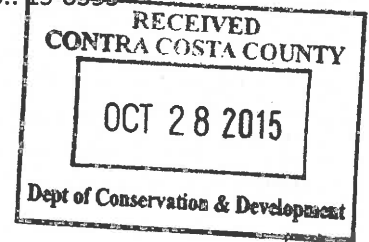
HUMBOLDT
LAKE
MARIN
MENDOCINO
MONTEREY
NAPA
SAN BENITO

SAN FRANCISCO
SAN MATEO
SANTA CLATA
SANTA CRUZ
SOLANO
SONOMA
YOLO

Northwest Information Center
Sonoma State University
150 Professional Center Drive, Suite E
Rohnert Park, California 94928-3609
Tel: 707.588.8455
nwic@sonoma.edu
<http://www.sonoma.edu/nwic>

October 26, 2015
Gary Kupp, Project Planner
Contra Costa County
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601

File No.: 15-0592



re: LP15-2040 / 50 Camino Diablo Rd.; APN: 003-020-048 / John and Lori Ramirez

Dear Gary Kupp,

Records at this office were reviewed to determine if this project could adversely affect cultural resources. **Please note that use of the term cultural resources includes both archaeological sites and historical buildings and/or structures. The review for possible historic-era building/structures, however, was limited to references currently in our office and should not be considered comprehensive.**

Previous Studies:

XX Study # 7987 (Orlins 1986) and Study # 12800 (Bramlette 1990), covering approximately 20% of the proposed project area, identified one or more cultural resources (see recommendation below).

Archaeological and Native American Resources Recommendations:

XX The proposed project area contains an archaeological site informally known as H169 (Bramlette 1990: 23, 59, Maps 4 and 6). This site consists of the remains of the extant Sand Hill Ranch farm complex (Bramlette: 23). Bramlette recommends that a qualified professional assess the status of this resource by recording the site area, conducting historical research and an oral history, test excavations, and preparing a building evaluation form (1990:59). In addition, it is recommended that a professional survey the project area not covered by Bramlette (1990) and provide specific recommendations.

XX We recommend you contact the local Native American tribe(s) regarding traditional, cultural, and religious heritage values. For a complete listing of tribes in the vicinity of the project, please contact the Native American Heritage Commission at 916/373-3710.

Built Environment Recommendations:

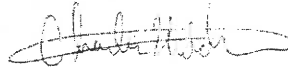
XX The Byron USGS (1943) 15' quad depicts a building, and a quarry or open pit mine in the proposed project area. The Office of Historic Preservation has determined that any building or structure 45 years or older may be of historical value. If any of these buildings or structures are still extant, it is recommended that prior to commencement of project activities, a qualified professional familiar with the architecture and history of Contra Costa County conduct a formal CEQA evaluation.

Due to processing delays and other factors, not all of the historical resource reports and resource records that have been submitted to the Office of Historic Preservation are available via this records search. Additional information may be available through the federal, state, and local agencies that produced or paid for historical resource management work in the search area. Additionally, Native American tribes have historical resource information not in the California Historical Resources Information System (CHRIS) Inventory, and you should contact the California Native American Heritage Commission for information on local/regional tribal contacts.

The California Office of Historic Preservation (OHP) contracts with the California Historical Resources Information System's (CHRIS) regional Information Centers (ICs) to maintain information in the CHRIS inventory and make it available to local, state, and federal agencies, cultural resource professionals, Native American tribes, researchers, and the public. Recommendations made by IC coordinators or their staff regarding the interpretation and application of this information are advisory only. Such recommendations do not necessarily represent the evaluation or opinion of the State Historic Preservation Officer in carrying out the OHP's regulatory authority under federal and state law.

For your reference, a list of qualified professionals in California that meet the Secretary of the Interior's Standards can be found at <http://www.chrisinfo.org>. If archaeological resources are encountered during the project, work in the immediate vicinity of the finds should be halted until a qualified archaeologist has evaluated the situation. If you have any questions please give us a call (707) 588-8455.

Sincerely,



Charles Hutcheson
Researcher
For Bryan Much, Coordinator

cc: John and Lori Ramirez, diablomxranch@yahoo.com

WILLIAM B. WALKER, M.D.
HEALTH SERVICES DIRECTOR

RANDALL L. SAWYER
CHIEF ENVIRONMENTAL HEALTH & HAZMAT OFFICER

MARILYN C. UNDERWOOD, PH.D. REHS
DIRECTOR OF ENVIRONMENTAL HEALTH



CONTRA COSTA
ENVIRONMENTAL HEALTH

2120 Diamond Blvd., Suite 200
Concord, California 94520
Ph (925) 692-2500
Fax (925) 692-2502
www.cchealth.org/eh/

October 23, 2015

Gary Kupp
Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601

DEPARTMENT OF CONSERVATION
AND DEVELOPMENT

RE: LP13-2095 and LP15-2040 (Review of LUP for motorcycle racetrack)
50 Camino Diablo, Byron
APN 003-020-048

Dear Mr. Kupp:

Contra Costa Environmental Health Division (CCEHD) has received a request for agency comments for the above referenced project. The following are our comments if there is no food/beverage service and the property is served by public sewer and public water:

1. A permit from CCEHD is required for any well or soil boring prior to commencing drilling activities, including those associated with water supply, environmental investigation and cleanup, or geotechnical investigation.
2. Any abandoned wells (water, environmental, or geotechnical) and septic tanks must be destroyed under permit from CCEHD. If the existence of such wells or septic tanks are known in advance or discovered during construction or other activities, these must be clearly marked, kept secure, and destroyed pursuant to CCEHD requirements.

These comments do not limit an applicant's obligation to comply with all applicable laws and regulations. If you should have any questions, please do not hesitate to call me at (925) 692-2535.

Sincerely,

Joseph G. Doser, REHS
Supervising Environmental Health Specialist

cc: Salvador Ruiz, Contra Costa Environmental Health Specialist

JGD:tf



Gary Kupp

From: Leach, Ted <TLeac@cccfpd.org>
Sent: Tuesday, November 17, 2015 8:49 AM
To: Gary Kupp
Subject: LP15-2040; 50 Camino Diablo Road, Brentwood

Hi Gary,

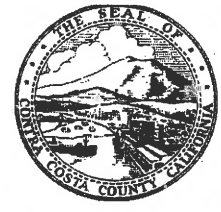
Our only comment is that if they ever propose to erect temporary tents on site, that a permit is required for any temporary tent that is greater than 400 square feet.

Regards,

Ted Leach - Fire Inspector
Contra Costa County
Fire Protection District
2010 Geary Road
Pleasant Hill, CA 94523
(925) 941-3539

"CONFIDENTIALITY NOTICE: This electronic mail transmission may contain privileged and/or confidential information only for use by the intended recipients. Unless you are the addressee (or authorized to receive messages for the addressee), you may not use, copy, disclose, or distribute this message (or any information contained in or attached to it) to anyone. You may be subject to civil action and/or criminal penalties for violation of this restriction. If you received this transmission in error, please notify the sender by reply e-mail or by telephone and delete the transmission. Thank you."

*Jan
10/13/15
17*



AGENCY COMMENT REQUEST

Date _____

We request your comments regarding the attached application currently under review.

DISTRIBUTION	Please submit your comments to:
<u>Internal</u> <input checked="" type="checkbox"/> Building Inspection <input checked="" type="checkbox"/> Grading Inspection <input type="checkbox"/> Advance Planning <input type="checkbox"/> Housing Programs <input type="checkbox"/> Trans. Planning <input type="checkbox"/> Telecom Planner <input type="checkbox"/> ALUC Staff <input checked="" type="checkbox"/> HCP/NCCP Staff <input checked="" type="checkbox"/> APC Floodplain Tech <input type="checkbox"/> County Geologist	Project Planner <u>Gary Kupp</u> Phone # <u>(925) 674-7799</u> E-mail <u>Gary.Kupp@dccd.cccounty.us</u> County File # <u>LP15-2040</u> Prior to <u>November 9, 2015</u> *****
<u>Health Services Department</u> <input checked="" type="checkbox"/> Environmental Health <input type="checkbox"/> Hazardous Materials	We have found the following special programs apply to this application: <input checked="" type="checkbox"/> Active Fault Zone (Alquist-Priolo) <input checked="" type="checkbox"/> Flood Hazard Area, Panel # _____ <input checked="" type="checkbox"/> 60-dBA Noise Control <input checked="" type="checkbox"/> CA EPA Hazardous Waste Site *****
<u>Public Works Department</u> <input type="checkbox"/> Engineering Services (Full-size) <input checked="" type="checkbox"/> Traffic <input type="checkbox"/> Flood Control (Full-size) <input type="checkbox"/> Special Districts <u>Local</u> <i>Consolidated fire@cccfd.org</i> <input checked="" type="checkbox"/> Fire District <u>E. Contra Costa</u> <input type="checkbox"/> Sanitary District _____ <input type="checkbox"/> Water District _____ <input type="checkbox"/> City of _____ <input type="checkbox"/> School District(s) _____ <input type="checkbox"/> LAFCO _____ <input type="checkbox"/> Reclamation District # _____ <input type="checkbox"/> East Bay Regional Park District _____ <input type="checkbox"/> Diablo/Discovery Bay/Crockett CSD _____ <input checked="" type="checkbox"/> MAC/TAC <u>Byron</u> <input type="checkbox"/> Improvement/Community Association _____	AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner. Comments: <input type="checkbox"/> None <input checked="" type="checkbox"/> Below <input type="checkbox"/> Attached <u>1. ALL ALL CONSTRUCTION SHALL BE PER CURRENT CODES.</u>
<u>Others/Non-local</u> <input checked="" type="checkbox"/> CHRIS - Sonoma State <input checked="" type="checkbox"/> CA Fish and Wildlife, Region 3 - Bay Delta	
<u>Additional Recipients</u> <u>Supervisor Piepho's office</u>	
_____ _____ _____	Print Name <u>ALD CHADNEY</u> <u>ALD Chadney</u> <u>11/6/15</u> Signature DATE Agency phone # _____

*See
10/13/15
17*



CONTRA COSTA COUNTY

AGENCY COMMENT REQUEST

Date _____

We request your comments regarding the attached application currently under review.

DISTRIBUTION

Internal

- Building Inspection
- Advance Planning
- Trans. Planning
- ALUC Staff
- APC Floodplain Tech
- Health Services Department
- Environmental Health
- Public Works Department
- Engineering Services (Full-size)
- Flood Control (Full-size)
- Local
- Fire District
- Sanitary District
- Water District
- City of
- School District(s)
- LAFCO
- Reclamation District #
- East Bay Regional Park District
- Diablo/Discovery Bay/Crockett CSD
- MAC/TAC
- Improvement/Community Association
- Others/Non-local
- CHRIS - Sonoma State
- CA Fish and Wildlife, Region 3 - Bay Delta
- Additional Recipients

- Grading Inspection
- Housing Programs
- Telecom Planner
- HCP/NCCP Staff
- County Geologist
- Hazardous Materials
- Special Districts
- fire@cccfd.org
- E. Contra Costa
- Byron

Please submit your comments to:

Project Planner Gary Kupp
 Phone # (925) 674-7799
 E-mail Gary.Kupp@dcd.cccounty.us
 County File # LP15-2040

Prior to November 9, 2015

We have found the following special programs apply to this application:

- Active Fault Zone (Alquist-Priolo)
- Flood Hazard Area, Panel # 0525 F
- 60-dBA Noise Control
- CA EPA Hazardous Waste Site

AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.

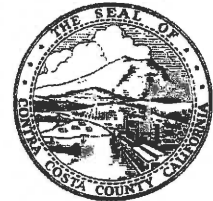
Comments: None Below Attached

THERE ARE NO PROPOSED CHANGES/
CONSTRUCTION WITHIN FEA

RECEIVED
 NOV - 5 P 4: 52
 DEPARTMENT OF CONSERVATION AND DEVELOPMENT
 CONTRA COSTA COUNTY

Print Name ROBERT B HENDRY III
 Signature Robert B Hendry III DATE 11/4/15
 Agency phone # 4-7744

Done
 10/13/15
 (17)



AGENCY COMMENT REQUEST

Date _____

We request your comments regarding the attached application currently under review.

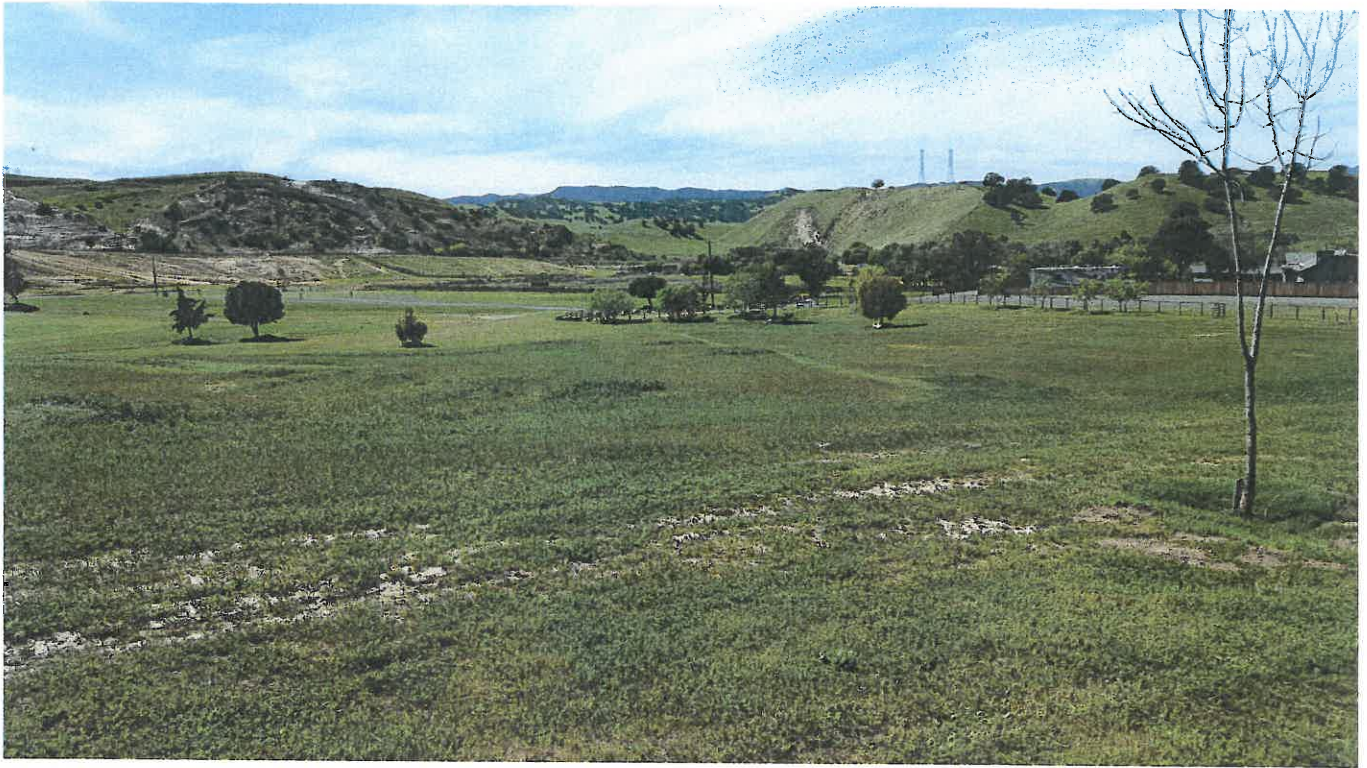
DISTRIBUTION	Please submit your comments to:
<p><u>Internal</u></p> <p><input checked="" type="checkbox"/> Building Inspection <input checked="" type="checkbox"/> Grading Inspection</p> <p><input type="checkbox"/> Advance Planning <input type="checkbox"/> Housing Programs</p> <p><input type="checkbox"/> Trans. Planning <input type="checkbox"/> Telecom Planner</p> <p><input type="checkbox"/> ALUC Staff <input checked="" type="checkbox"/> HCP/NCCP Staff</p> <p><input checked="" type="checkbox"/> APC Floodplain Tech <input type="checkbox"/> County Geologist</p> <p><u>Health Services Department</u></p> <p><input checked="" type="checkbox"/> Environmental Health <input type="checkbox"/> Hazardous Materials</p> <p><u>Public Works Department</u></p> <p><input type="checkbox"/> Engineering Services (Full-size) <input checked="" type="checkbox"/> Traffic</p> <p><input type="checkbox"/> Flood Control (Full-size) <input type="checkbox"/> Special Districts</p> <p><u>Local</u> <i>Consolidated fire@cccfd.org</i></p> <p><input checked="" type="checkbox"/> Fire District <u>E. Contra Costa</u></p> <p><input type="checkbox"/> Sanitary District _____</p> <p><input type="checkbox"/> Water District _____</p> <p><input type="checkbox"/> City of _____</p> <p><input type="checkbox"/> School District(s) _____</p> <p><input type="checkbox"/> LAFCO _____</p> <p><input type="checkbox"/> Reclamation District # _____</p> <p><input type="checkbox"/> East Bay Regional Park District _____</p> <p><input type="checkbox"/> Diablo/Discovery Bay/Crockett CSD _____</p> <p><input checked="" type="checkbox"/> MAC/TAC <u>Byron</u></p> <p><input type="checkbox"/> Improvement/Community Association _____</p> <p><u>Others/Non-local</u></p> <p><input checked="" type="checkbox"/> CHRIS - Sonoma State</p> <p><input checked="" type="checkbox"/> CA Fish and Wildlife, Region 3 - Bay Delta</p> <p><u>Additional Recipients</u></p> <p><u>Superior Peoples office</u></p>	<p>Project Planner <u>Gary Kupp</u></p> <p>Phone # <u>(925) 674-7799</u></p> <p>E-mail <u>Gary.Kupp@dcd.cccounty.us</u></p> <p>County File # <u>LP15-2040</u></p> <p>Prior to <u>November 9, 2015</u></p> <p style="text-align: center;">*****</p> <p>We have found the following special programs apply to this application:</p> <p><input checked="" type="checkbox"/> Active Fault Zone (Alquist-Priolo)</p> <p><input checked="" type="checkbox"/> Flood Hazard Area, Panel # _____</p> <p><input checked="" type="checkbox"/> 60-dBA Noise Control</p> <p><input checked="" type="checkbox"/> CA EPA Hazardous Waste Site</p> <p style="text-align: center;">*****</p> <p>AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.</p> <p>Comments: <input type="checkbox"/> None <input type="checkbox"/> Below <input type="checkbox"/> Attached</p> <p><u>I. Need a Civil Engineer</u> <u>Plan showing the existing</u> <u>conditions & show the</u> <u>cubic yards that were</u> <u>moved</u></p> <p>Print Name <u>[Signature]</u></p> <p>Signature <u>[Signature]</u> DATE <u>1-5-16</u></p> <p>Agency phone # _____</p>

ATTACHMENT D

SITE PHOTOGRAPHS

MARCH 23, 2016





ATTACHMENT E

REGIONAL SURVEY OF MOTOCROSS PARK HOURS OF OPERATION

Regional Survey of Motocross Park Hours of Operation

<p>Carnegie State Vehicular Recreation Area Tracy, California</p>	<p>8am-8pm – Summer 8am-7pm – Spring/Fall 8am-6pm – Winter 7 days a week</p>
<p>Club Moto Livermore, California</p>	<p>Wednesday, 3pm-dark Saturday, 9am-2pm Sunday, 9am-3pm Days open for practice are split as needed. Open Saturdays and Sundays for races.</p>
<p>Prairie City MX Rancho Cordova, California</p>	<p>1pm- 5pm (Nov thru Feb) 2pm-6pm (Mar & Oct) 3pm-7pm (Apr & Sept) 4pm-8pm (May thru Aug) Saturdays & Sundays 9am–2pm (Year Round) Open from 7am to 10pm on race days.</p>
<p>Argyll MX Dixon, California</p>	<p>Saturday 9am-2pm Sunday 9am-3pm Thursday 3pm to Dark Open Saturdays and Sundays for races.</p>

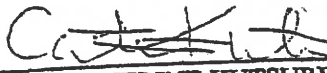
EXHIBIT 1

CONTRA COSTA COUNTY
 COMMUNITY DEVELOPMENT DEPARTMENT
APPROVED PERMIT

APPLICANT: Tom Anderson 50 Camino Diablo Road Brentwood, CA 94513	APPLICATION NO.	LP952020
OWNER: Same	ASSESSOR'S PARCEL NO.	003-020-039
	ZONING DISTRICT:	A-3
	APPROVED DATE:	11/2/98
	EFFECTIVE DATE:	11/12/98

This matter not having been appealed within the time prescribed by law, a LAND USE PERMIT TO CONTINUE OPERATION OF A MOTORCYCLE RACETRACK is hereby GRANTED, subject to the attached conditions.

DENNIS M. BARRY, AICP
 Community Development Director

By: 
 CATHERINE KUTSURIIS
 Deputy Zoning Administrator

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE YEAR from the effective date if the use allowed by this permit is not established within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

DM/sc

CONDITIONS OF APPROVAL FOR LAND USE PERMIT 2020-95 AS APPROVED BY THE BOARD OF SUPERVISORS ON FEBRUARY 4, 1997, AS MODIFIED BY THE EAST COUNTY REGIONAL PLANNING COMMISSION ON NOVEMBER 2, 1998

1. This permit is issued for mechanical (motorcycle) recreation and related activities (motorcycle and go cart racing and practice) subject to the revised site plan submitted dated received October 21, 1996. The only vehicles allowed on this site for commercial recreation use are motorcycles and go-carts. Mini-sprint vehicles are allowed if they are motor cycle powered, chain driven only as long as the noise level standards are not exceeded. This permit will not be exercised until the following conditions of approval are met within the time specified. Furthermore, failure to comply with all of the conditions of approval in a timely manner may lead to the revocation of this permit. Any expansion or change in hours of operation, additional types of racing or other uses will require the approval of a new Land Use Permit.

The use is approved for 25 years with the applicant to initiate and fund five (5) year reviews for compliance by the Zoning Administrator in a public hearing with appropriate notice to property owners within 300 feet of site and individuals expressing interest in the project. Before the end of each 5-year review period the applicant shall submit a report detailing the steps taken to comply with the approval dictates. The first such submittal shall be made prior to November 1, 2003. This permit shall expire November 16, 2028. The applicant is responsible for costs associated with the 5-year reviews.

2. Upon reconstruction of the oval to the east-central portion of the property, notify the Community Development Department a minimum of 30 days in advance of the opening of the oval for any racing event.
3. At least 30 days prior to the initial racing event on the oval, provide documentation to the Zoning Administrator that all Health Services Department requirements have been satisfied for that use. Health Services Department requirements that pertain to the moto-cross trails use shall be satisfied by December 31, 1998 or the moto-cross trails use shall cease after that date until the requirements have been met.

Please note that failure to comply with their requirements within the time period specified may result in the revocation of this permit.

4. Within 30 days of the effective date of this (1998) modified permit, the applicant shall provide evidence to the Zoning Administrator that building permits have been obtained for all structures related to motorcycle activities (i.e., the racetrack, restroom facility, concession stand, announcement booths).
5. All activities approved by this permit shall be restricted to the existing track and motocross area as indicated on the plan submitted with the application except for minor

changes subject to Zoning Administrator review and approval.

Motorcycle activity is permitted 7 days a week but limited to the hours of 8:00 A.M. to 7:00 P.M. or sundown whichever comes first, except that the lighted racetrack may be used on Friday or Saturday nights from 7:00 P.M. to 11:00 P.M. Motorcycle racing shall be limited to Saturday and Sunday and holidays except that no racing or motorcycle activity shall be allowed on Thanksgiving or Christmas. Motorcycle activity shall be confined to the tracks.

6. Within 45 days of the effective date of this (1998) modified permit, the applicant shall submit a revised site plan drawn to scale for the review and approval of the Zoning Administrator that reflects the following:

- A. Removal of the "proposed future motorcycle use/sand quarry" label from the site plan.
- B. A clear delineation of an 8 acre parking area set up to provide space for vehicles towing trailers drawn to scale shall be submitted for the review and approval of the Zoning Administrator. Clear location of racetrack, buildings-landscaped areas, planned trees, fences, signs, entrance road and parking areas, and a clear statement of how many vehicles are to be parked on site for any event. The site plan shall delineate the location of quarry locations and reclaimed quarry areas.

No motorcycle activity shall be permitted in either the quarry or reclaimed areas which shall be so stipulated on the revised site plan.
- C. Modified hours of operation to reflect the tenure of this permit.
- D. A topographic map that delineates the location of the use restriction easement held by the Contra Costa Water District.

7. Within 30 days of the effective date of this permit, complete the following:

- A. Submit a Final Landscape/Irrigation Plan addressing the following concerns or meeting the following criteria. Landscaping shall be installed within 180 days of the effective date of this permit.
 - 1) Submit a landscape/irrigation plan prepared by a licensed landscape architect, to the Community Development Department for the review and approval of the Zoning Administrator.
 - 2) Landscaping shall conform to the County Water Conservation Ordinance 82-26 and the licensed landscape architect shall certify that the plans

comply with the ordinance improvement standards and reporting requirements.

- 3) The plan shall provide a minimum 10 foot strip of grass and vegetation (bushes/trees) either around the outer rim of the entire racetrack or the northern half of the track; and a minimum 15 foot strip of grass or vegetation along the entire southern and eastern boundary of Kellogg Creek on the subject property. Refer to staff's delineation of these vegetation areas on the attached Staff Study Map dated January 16, 1996. A row of trees shall be planted and maintained adjacent to the east boundary of the Davis property to screen views of the LP952020 site as viewed from the existing residence on the Davis property. The screen should emphasize use of evergreen trees and oleander. The spacing of trees and size of trees shall be subject to review and approval of the Zoning Administrator. The SWIPP shall specify the type of vegetation that is planned, and make provision for monitoring the success of growth. The plants shall be hardy, drought tolerant, and effective for the purposes of trapping sediment, heavy metals and other contaminants (e.g. petroleum products).

B. Provide Security in the Event of Landscape Failure

- 1) The landscaping/irrigation plan shall be accompanied by a cost estimate from the landscape architect to include the materials and labor for the proposed landscape improvements. These landscape improvements shall be designed to minimize landscape maintenance costs; and
- 2) The applicant shall (a) enter into a landscape improvement agreement and (b) either post a cash performance bond or cash deposit with the County. This agreement and security shall ensure the replacement of landscaping/irrigation in the event that the approved landscaping/irrigation fails within 24 months following installation.

C. Prior to the exercising of an approved land use permit for a motorcycle racetrack, including issuance of any ministerial permits, the landscape architect shall make an on-site inspection of the landscape/irrigation improvements and submit a written report to the Zoning Administrator that cover the following:

- 1) Acceptance of Landscape Improvements:
 - a. Certifies the completion of the landscape/irrigation plan including consideration of plant species, size and location; and

- b. Requests the Zoning Administrator to accept the landscape/irrigation improvements.

D. The property owner shall maintain the approved landscaping in good condition at all times.

- 8. Ambulance service, first aid, and fire fighting equipment shall be provided at all races.
- 9. Exterior lights for the racetrack shall be deflected so that lights shine onto the applicant's property and not toward adjacent properties.
- 10. All signs shall be subject to the review and approval of the County Zoning Administrator prior to installation. The existing sign at the site's entrance is acceptable except that the hours of operation shall be clearly shown on the sign.
- 11. The off-street parking area shall be periodically sprayed with water to prevent the creation of dust. This shall be done on a weekly basis.

On those days when there are 25 or more people present at on time on the site to either run or observe recreational vehicles, the applicant will apply water as necessary to avoid fugitive dust impacts on nearby properties. The application of water will include motorcycle and go-cart track area, parking lot and driveways.

- 12. The application is subject to an initial application fee of \$2,700.00 which was paid with the application submittal, plus time and material costs if the application review expenses exceed 120% of the initial fee. Any additional fee due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first; or other arrangement for payment of fees agreed to by County staff. The fees include costs through permit issuance plus 5 working days for file preparation. You may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.
- 13. The regulations submitted with the application #341-73 for the operation of the recreation facilities shall be enforced by the applicant and made part of this permit as follows:
 - A. All riders to wear helmets and boots.
 - B. Posted speed limits to be obeyed.
 - C. Smoking allowed only in designated areas or parking lots.

- D. All vehicles to display current day's admission sticker.
 - E. All persons under the age of 18 to have a signed release from a parent or guardian.
 - F. All vehicles to leave ground by closing time.
 - G. All trash to be put in receptacles, including all trash and debris around the perimeter of the park resulting from the use.
 - H. All children under the age of 12 to be accompanied by an adult at all times.
 - I. No open fires.
 - J. No wheel stands, spinning donuts, or racing in parking lots.
 - K. No riding on graded or filled banks around parking lots or main roads.
 - L. Anyone behaving in a manner dangerous to other persons or property will be asked to leave and not come back.
 - M. No riding in or near Kellogg Creek.
 - N. All Motorcycles shall have spark arrestors and silencers.
14. The applicant shall allow the Contra Costa Water District access to survey the boundaries of the District's easement on the applicant's property. Moreover, the District may post signs on the property to advise motorcycle operators of the use restrictions that apply to the area within the District's easement under the terms of the easement or this use permit. The location, content and design of the signs shall be subject to the prior review and approval of the Zoning Administrator following opportunity for comment by the applicant.
15. Prior to this permit being exercised, the applicant will make a cash deposit with the County of \$250. The County will place these funds in a special account for this project. The County may expend these funds to cover staff time and material costs in responding to neighborhood complaints and investigation of this operation for non-compliance with this permit and the ordinance code. If at any time, the residual amount in the accounts falls below \$50, then County staff will inform the applicant and request payment of an additional \$250, or additional payment on additional expended staff costs not to exceed \$2,000. Said payment will be delivered by the applicant to the Community Development Department within 30-days of the date of the letter.

16. Musical concerts including dances are prohibited. Any proposal to allow a musical concert shall be considered with a new land use permit application to modify this permit.
17. Submit a noise impact study performed by a qualified acoustical engineer. The study should be based on noise levels generated by the first scheduled racing event on the oval. The study shall measure noise levels along the east boundary of the Davis property (Parcel #003-020-033). If noise levels exceed the land use compatibility standards prescribed by the Noise Element, mitigation measures shall be provided to reduce the sound levels to within appropriate levels at the Davis property line. The report is subject to review and approval of the Zoning Administrator, and the applicant is responsible for the cost of any technical review given to the report. Mitigation measures to be considered include possible redesign of oval or grandstand. After the initial racing event on the oval, the oval shall not be utilized until the Zoning Administrator gives specific approval to the acoustical study and any required mitigation measures are implemented.
18. Proof of a recording of the following disclosure of deed restrictions shall be submitted to the Community Development Department prior to the issuance of any building or grading permits.

"You are purchasing a property with a permit for a moto-cross trails park. This permit carries with it certain conditions that must be met by the owner of the property. The permit (LP95202) is available from the current owner or from the Contra Costa County Community Development Department. A new owner is required to meet with the Zoning Administrator within 30 days of purchasing the property to discuss the terms of the permit and County requirements and expectations."

Public Works Department Conditions

19. **General Requirements:**
 - A. This development shall conform to the requirements of Division 914 (Drainage) and the remainder of Title 9 and Title 10 of the Subdivision Ordinance. Any exceptions therefrom must be specifically listed in this conditional approval statement. Drainage, road and utility requirements are based on the plan submitted February 28, 1995, and shall be subject to the review and approval of Public Works.
 - B. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with the review and inspection fees, and security for all improvements required by the Ordinance Code or the conditions of approval for this project.
20. **Roadway Improvements (Frontage/On-site/Off-site):**

The applicant shall be permitted an exception from construction of full frontage improvements along the Camino Diablo frontage of this property, at this time, provided that he improves the Camino Diablo entrance to this development to include at least a 6.1 meter (20-foot) wide paved driveway constructed to County private road standards from the edge of pavement to the proposed right of way line. The entrance shall also include paved tapers and flares designed and constructed in accordance with Figure 405.7 from the Caltrans Highway Design Manual from the edge of pavement along Camino Diablo to the right of way line (based on the basic 6.1 meter [20-foot] driveway width).

21. **Access to Adjoining Property:**
Proof of Access/Acquisition

- A. Applicant shall furnish proof to the Public Works Department, Engineering Services Division, of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, road or drainage improvements.

Encroachment Permit

- B. Obtain an encroachment permit from the application & Permit Center for construction of driveways, or other improvements within the right of way of Camino Diablo.

Restrict Access

- C. Restrict Access along Camino Diablo, with the exception of the proposed access.

22. **Road Dedication:**

Applicant shall convey to the County, by Offer of Dedication, additional right of way on Camino Diablo as required for the planned future width of 33.5 meters (110 feet) with at least a 457 meter (1,500-foot) centerline radius.

23. **Intersection Design/Sight Distance:**

Provide a sight distance analysis, subject to the review of the Public Works, which analyzes the proposed Camino Diablo entrance to this development. Provide sight distance based on a design speed of 104 kilometers per hour (65 miles per hour) along Camino Diablo.

24. **Drainage Improvements:**

Collect and Convey

- A. Division 914 of the ordinance Code requires that all storm waters entering or originating within the subject property shall be conveyed, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility which conveys the storm waters to a natural watercourse.
- B. Discharging concentrated storm water into roadside ditches is prohibited by the Ordinance Code. However, as roadside ditches are characteristic of the area, an exception from this requirement is granted provided the applicant verifies the adequacy of the downstream ditch system or constructs any necessary improvements to make this system adequate.

25. **Miscellaneous Drainage Requirements:**

The applicant shall install within a dedicated drainage easement any portion of the drainage system which conveys run-off from public streets.

26. **Utilities/Undergrounding:**

An exception is permitted from undergrounding utility distribution facilities due to the rural nature of this area.

27. **Traffic Control:**

The applicant shall provide special traffic control personnel at the Camino Diablo access to this property for events involving more than 500 vehicles, unless the Zoning Administrator approves the special event without traffic control. Traffic control may also be required for smaller events if significant traffic complaints substantiate a need.

28. **Creek Structure Setbacks:**

The applicant shall be required to observe the creek structure setback line in accordance with Section 914-14.012, "Structures Setback Lines for Unimproved Earth Channels" for any new structures on this property.

29. **National Pollutant Discharge Elimination System (in addition to NPDES permit):**

Within 30 days of the effective date of this (1998) modified permit, the applicant shall insure that he has complied with all components of this condition of approval.

- A. Hazardous wastes, including but not limited to used motor oil, battery acid or

antifreeze shall not be discharged onto the ground.

- B. All hazardous wastes shall be stored in appropriate containers on a covered concrete slab in an area which is not subject to inundation and shall be removed from the facility at least once each 90 days.
- C. The applicant shall pave, cover and contain the various vehicle repair pit areas to prevent contaminants from these areas from reaching the creek. The applicant shall obtain a Hazardous Waste Generator's Permit from the County Health Department to assure adequate maintenance of the vehicle repair pit areas and disposal of the hazardous wastes.
- D. The applicant shall provide an erosion control plan showing how the quantity of silt entering the creek from this property will be reduced. The erosion control plan shall be subject to the review of the Public Works.,

NOTE: In the event that the improvements required by the Public Works Department have been constructed, the applicant shall provide Steve Wright of the Public Works Department with evidence that these improvements have been completed.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL, ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

- A. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Eastern Contra Costa County Subregional Transportation Mitigation Fee Area of Benefit as adopted by the Board of Supervisors.
- B. The applicant shall be required to comply with the drainage fee requirements for Drainage Area 109 as adopted by the Board of Supervisors.
- C. The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) permit for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board or any of it's Regional Water Quality Control Boards (San Francisco Bay-Regional II or Central Valley-Region V).

- D. The Project Lies within 100-year flood boundary as designed on the Federal Emergency Flood Rate Maps. The applicant shall be aware of the requirements of the Federal Flood Insurance Program and the County Flood Plain Management Ordinance (Ordinance No. 90-118) as they pertain to future construction of any structures on this property.
- E. This project may be subject to the requirements of the Department of Fish & Game. It is the applicant's responsibility to notify the Department of Fish & Game, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish & Game Code.
- F. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- G. Comply with the requirements of the East Diablo Fire Protection District, including safety requirements for operation of the track.

ELZ/aa
LPV/2020-95c.ELZ
2/13/96
9/3/96
9/23/96 Z.A. Rev. (v)
12/2/96 - EC (a)
2/4/97 - BS (a)
2/24/98 - ZA (rd)

EXHIBIT 2



CONTRA COSTA

2015 MAY 22 PM 12:21

APPLICATION & PERMIT CENTER

LP13-2095

Richard I. Bowles
Michael P. Verna
Robert L. Westerfield
Richard A. Ergo
K.P. Dean Harper
Kenneth G. Jones
Bradley R. Bowles
Kenneth B. McKenzie
David W. Trotter
Jason J. Granskog

Lawrence D. Goldberg
Cathleen S. Huang
Ethan K. Friedman
William T. Nagle
Michael P. Connolly
Nathaniel B. Duncan
Cheryl A. Noll
Michael T. Krueger
Deborah P. Furth
Mallory L. Homewood

Of Counsel
Bruce C. Paltenghi

May 22, 2015

HAND-DELIVERED

Community Development Division
Contra Costa County Department of
Conservation and Development
30 Muir Road
Martinez, California 94553

Attn: Aruna Bhat, Deputy Director

**Re: John and Lori Ramirez (Applicants)/James and Dorothy Schmidt (Owners),
County File No. LP13-2095
Site Address/Location: 50 Camino Diablo Road, Unincorporated
Brentwood, CA (APN 003-020-048)**

**Appeal By Twenty-Three Camino Diablo and Walnut Avenue Homeowners
and Residents to the Contra Costa County Board of Supervisors of the
County Planning Commission's May 12, 2015 Decision Allowing Off-Road
Motocross Operations, Finding Applicant to be in Compliance with Land
Use Permit No. LP95-2020 Conditions of Approval, and Approving Revised
Site Plans dated October 31, 2014**

Dear Ms. Bhat:

This appeal letter is submitted on behalf of our clients, who include Linda and Gary Thuman; Ron, Tracy and Cassidy Harrison; Cole, Linda and Chuck Harrison; Rick and Donna Kendrick; Rick and Diana Klinger; Christina Morain and Steve Glennon; Howard Bowles; Dave, Brenda and Elione Chapman; Harvey and Gail Webb; Cliff Chatteron; Jerry Glenn; and Ernie Moore (collectively, "Appellants").

Appellants hereby appeal from the above-referenced decision of the County Planning Commission, resulting from a 5-2 vote of the Commission members at the conclusion of the Commission's May 12, 2015 Five-Year Compliance Review hearing for the proposed Diablo MX Ranch Motocross Park located at 50 Camino Diablo (the "project"). Appellants' homes and

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residential properties are located nearby, and in some cases immediately adjacent to, the west, northwest, east and south sides of the proposed motocross site.

Enclosed herewith please find a \$125.00 check covering the required appeal filing fee.

A statement of the specific grounds and reasons for this appeal is set forth in the remainder of this letter. Appellants have not seen or received any written confirmation of the Planning Commission's decision from the County. Accordingly, Appellants reserve the right to further augment the presentation of grounds and reasons for their appeal before and at the hearing before the County Board of Supervisors. Appellants appeal from the Planning Commission's decision on the following grounds:

1. The 1998 use permit has terminated by operation of law. If the Applicant and Owner now wish to operate a motocross park on the property, then under the terms of the Contra Costa County Code they must apply for and obtain a new use permit – which they have not done.

This issue is governed by County Code Section 26-2.2016, which provides:

“If a use is established according to the terms and conditions of a permit and the use is discontinued for any reason for a period of six months, the permit shall become void and the use shall not be resumed. Upon application during the six months period by the owner and upon a showing of good cause the director of planning may grant an extension not to exceed a total of six months” (emphasis added).

The County issued Land Use Permit dated November 2, 1998 to Tom Anderson (Application LP95-2020) to operate a motorcycle racetrack on Assessor's Parcel No. 003-020-039. According to the May 12, 2015 Staff Report (hereinafter, “Staff Report”), “[t]he property was sold in 2013, at which time the motorcycle park use ceased operation for six months, during which time a six-month extension of the land use was approved and the use was resumed.” See Staff Report, p. 2.

There are a number of factual errors and concerns here. First, Anderson was forced to sell the property during the **summer of 2012 – not in 2013**, as represented in the Staff Report. Any statement or suggestion that the use of the property for a motorcycle racetrack or park ceased in 2013 is in error.

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In other documents, County staff have taken the position that the “last date of operation” of the motocross park was August 6, 2012. To Appellants’ knowledge, the only evidence in the County’s files supporting this determination is a reference on the former owner’s (i.e., Anderson’s) Facebook page. See Staff Report, Ex. 4. It also now appears that the subsequent owner, the law firm of Glynn & Finley LLP, requested a six-month extension of the use permit by letter dated December 3, 2012, which the County granted on March 5, 2013. See Staff Report, Ex. 5. Assuming that this extension was timely and proper, to avoid having the use permit lapse, operations of the motorcycle park had to resume **by no later than August 6, 2013.**

Significantly, this is also what the County told Appellants. In the summer of 2013, Appellants began contacting the County planning staff to ask questions about the status of the 1998 land use permit. On July 10, 2013, County Planner Gary Kupp sent the following e-mail to Appellant Linda Thuman:

“It was determined that the motocross land use ceased on Aug. 6, 2012. They are allowed **by code** 6 months of inactivity, in this case until Feb. 6, 2013. Since they made a timely extension request, they were granted the 6 month extension until Aug. 6, 2013. **So with the extension, they are allowed a year of inactivity**” (emphasis added).

(A true and correct copy of Mr. Kupp’s July 10, 2013 e-mail is attached as **Exhibit 1** hereto.) Mr. Kupp’s e-mail is entirely consistent with the clear and unambiguous text of Section 26-2.2016. The applicant was entitled to a single year of inactivity, not more than that.

The Staff Report states (at p. 2) that “the use was resumed.” Again, however, no evidence in support of this statement has been provided by the County. Photographs taken by Ms. Thuman in August 2013, and previously submitted to the County, include a “Sand Hill Motorcycle Park Closed” sign, a “For Sale” sign and other obvious evidence of inactivity. **In the absence of any evidence that the motorcycle park had resumed operations prior to August 6, 2013, the 1998 land use permit expired and became “void” as a matter of law under County Code Section 26-2.2016.**

The Staff Report tries to get around this by asserting – contrary to the plain language of Section 26-2.2016 – that “discontinued” as used in that section refers to a “change in use, not the **inactivity** of an approved land use.” See Staff Report, p. 4.

However, the notion that “discontinued use” means a “change in use” is a complete distortion of the English language. It is also inconsistent with Mr. Kupp’s July 10, 2013 e-mail to Linda Thuman, which specifically states that the property owner was to be allowed only “a

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year of **inactivity**.” Mr. Kupp’s e-mail appears to be supported by a clear and straightforward interpretation of the ordinance. By contrast, the position now articulated in the current Staff Report is not supported by the text of the County’s ordinance, which makes clear that if the use is discontinued “for any reason” the permit is deemed to be void.

Under the staff’s logic, operations under a use permit could end for a period of years, yet the use permit would remain valid as long as the empty buildings and structures on the property were not removed. But that is not what the County Code says. In granting and enforcing the use permit at issue here, the County (including its planning staff) “is bound by the terms of the ordinance until the ordinance is amended through proper legislative procedure.” (*Johnston v. Board of Supervisors* (1947) 31 Cal.2d 66, 74; *City and County of San Francisco v. Superior Court* (1959) 53 Cal.2d 236, 250-251 (same).) Put another way, the County cannot place an interpretative “gloss” on the language of Section 26-2.2016, as suggested in the Staff Report, when it is so clearly erroneous and contradicted by the language itself.

At the May 12, 2015 Planning Commission hearing, County staff also suggested that the 1998 use permit remains valid because the Community Development Department had not previously taken action to formally revoke the permit. But this argument ignores the well-settled rule that a public entity, such as the County, lacks the power to waive or consent to a violation of its zoning laws. (See, e.g., *City of Fontana v. Atkinson* (1963) 212 Cal.App.2d 499, 507-508; *Western Surgical Supply Co. v. Affleck* (1952) 110 Cal.App.2d 388, 392-393.) Indeed, the failure of the County staff to properly enforce Section 26-2.2016 according to its terms does not preclude the people of this State – Appellants herein included – from seeking to enforce the County Code now, or in the future. (See, e.g., *Caminetti v. State Mut. Life Ins. Co.* (1942) 52 Cal.App.2d 321, 326, accord, *Western Surgical, supra*, 110 Cal.App.2d at 392-393.)

Finally, the Staff Report states (at p. 4) that on March 28, 2014, the property was purchased by the current Applicants and Owners who now intend to operate a motocross facility. The Staff Report goes on to state that: “Even though the park has not been open to the public since being purchased by the Schmidts and Ramirezes, the land use is still valid since the applicants have been actively pursuing compliance with the conditions of the permit.” **This statement is contrary to the record, and the plain language of Section 26-2.2016.** In any event, the 1998 land use permit expired and became void **no later than August 6, 2013.** Nothing that the Schmidts and Ramirezes did, or could have done in March 2014, after they purchased the property, operated to revive the 1998 land use permit. Nor was the County free to grant yet another “extension” of the land use permit to the Applicants. County Code Section 26.2-2016 makes crystal clear that the “director of planning” may only grant a single, one-time

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extension “not to exceed a total of six months.” The Applicants are out of time and have no rights under the now void 1998 permit.

There are, moreover, sound public policy reasons to apply Section 26.2-2016 according to its terms. The process by which a use permit was approved in 1998 was less than rigorous. The motocross project was approved based on an Initial Study which concluded that the proposed project would result in “insignificant” increases in existing noise levels and “insignificant” exposure of people to severe noise levels. See Staff Report, Ex. 6. That was a dubious conclusion in 1998, and it remains seriously flawed today.

It is also worth noting that in processing the current application for a five-year compliance review, County staff has found that the County’s “60 dBA Noise Control” special program applies to this application. (See Exhibit 21 to the Staff Report, a true and correct copy of which is attached as **Exhibit 2** to this appeal letter.) 60 dBA is generated by typical speech or a conversation between friends. See County General Plan, Noise Element, Figure 11-3, at p. 11-6. (Pertinent excerpts from the County’s Noise Element are attached as **Exhibit 3** hereto.) Prior motocross park nuisance litigation and other published scientific reports indicate it is extremely doubtful that the operation of a motocross park at this location has ever met, or can meet, a 60 dBA standard. Both the Planning Commission, and the Zoning Administrator at the previous December 15, 2014 public hearing, heard testimony from the Appellants that operation of the motocross park has routinely interfered with efforts to carry on a conversation both inside and outside of their homes.

2. The Diablo MX motocross project is subject to, and not exempt from, the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000, et seq.

Appellants made the same legal and factual arguments in their December 24, 2014 letter appealing from the Zoning Administrator’s decision. At the outset, it should be noted that the Staff Report failed to address the CEQA case law and arguments directly or on their legal merits – a point which Appellants made before the Planning Commission. For the benefit of the Board of Supervisors, Appellants’ position is again briefly restated below.

First: CEQA applies to the current proceedings before the County because the 1998 land use permit is no longer valid. Any consideration of the Applicant’s proposal to resume motocross operations at the property requires the filing of a new application for a use permit, and constitutes a new “project” within the meaning of CEQA. At a minimum, the County is required to prepare an Initial Study and Environmental Checklist (see Public Resources Code §

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21080(c)(2), and CEQA Guidelines, §§ 15063 and 15365). Indeed, CEQA and case law interpreting it require the County to prepare a full Environmental Impact Report (“EIR”) where, as here, there is substantial evidence supporting a “fair argument” that the project has potentially significant environmental impacts. (See Public Resources Code § 21151; *Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123.) It is well settled that the “fair argument” standard sets a “low threshold” for requiring the preparation of an EIR. (See, e.g., *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.)

Second: Even if one assumes that the 1998 permit is effective (i.e., not void under County Code Section 26.2-2016 despite all evidence to the contrary), the County’s recent action on the proposed Diablo MX motocross facility is still a “project” that is subject to CEQA today.

CEQA generally applies to “discretionary projects proposed to be carried out or approved by public agencies.” Public Resources Code § 21080(a). CEQA specifically applies to an activity for issuance of a permit or entitlement for use of the project involving an exercise of discretion by the agency. (See Public Resources Code § 21065, defining “project”, and CEQA Guidelines, § 15352(b), defining “approval”.) Section 15378(a) of the CEQA Guidelines amplifies this point, with a broad definition of “project” as meaning “the **whole of an action**, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment” (emphasis added). The term “project” is “given a broad interpretation in order to maximize protection of the environment.” (*McQueen v. Board of Directors of the Midpeninsula Regional Open Space District* (1988) 202 Cal.App.3d 1136, 1143.) Put another way, an agency must fully analyze each “project” in a single environmental review document. It cannot segment or divide the project, and not analyze all of its impacts, without running afoul of CEQA. (*Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592.)

Does the Applicant seek the issuance of a new permit by the County? Yes, absolutely. The noticed Agenda for the December 15, 2014 Zoning Administrator hearing described the project as including “a request for a grading permit to grade 12,800 cubic yards for track renovations” – i.e., roughly the equivalent of **1,280 truckloads of dirt**. The Staff Report presented to the Planning Commission glossed over this fact, but it remains unchallenged. Has the County analyzed the potential environmental impacts of those grading operations? Apparently not, since the County is taking the position that the project is “exempt” from CEQA and that the requested grading permit is “ministerial.” But the Staff Report does not address the potential environmental impacts of moving and off-hauling that much dirt. This is contrary to CEQA principles.

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Leaving aside the grading permit, the County has expressly reserved the power to exercise its discretion and impose other “discretionary conditions” in the future with respect to the Diablo MX project. This is something that the Staff Report completely failed to acknowledge. Again, this is a significant flaw in the staff analysis of the CEQA issue.

The fact that the County has retained planning “discretion” really cannot credibly be denied. The Staff Report (at p. 12) states that under Condition of Approval No 17, the applicant cannot use the oval track “until the Community Development Division has a chance to review the [required noise impact] study **and implement any noise mitigation measures that may be required based on the results of the study**” (emphasis added). Put another way, the County is retaining its full planning discretion to impose further necessary and appropriate conditions on this project.

The existence of that discretion is yet another reason why CEQA applies to the current Diablo MX motocross project. The statements by the Zoning Administrator at the December 15, 2014 hearing in announcing her decision, to the effect that the “County has no discretion”, are disingenuous. They cannot be squared with the presentation in the Staff Report, or the express language of Condition of Approval No. 17.

The Staff Report asserts (at p. 7) that requiring this project or the current applicant to comply with CEQA “would essentially be a form of double jeopardy.” But this is not a criminal proceeding. The applicant is subject to the use permit conditions and all applicable laws, including CEQA. Rather than “double jeopardy”, the core issue is what CEQA requires with respect to projects where, as here, the County clearly has **retained planning discretion** to impose further conditions and mitigation measures by virtue of Condition of Approval No. 17, and the applicant has in fact applied for additional permits. If the former owner of the property had done the required noise study previously or completed the necessary grading shortly after the 1998 use permit was approved, perhaps CEQA would not be triggered here. But that was not the situation before the Planning Commission, or before the Board of Supervisors now.

Third: The requirement under CEQA that agencies analyze the potential environmental impacts of the “whole of an action” is a critical element of CEQA compliance. It is one which the County unfortunately has not met in this case. The County may or may not have complied with CEQA prior to approval of the 1998 land use permit, but that is not germane here. What is relevant is that **the Diablo MX project circa 2014-2-15 is not the same as the project approved by the County back in 1998.**

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Again, the Staff Report (at p. 2) confirms this fact. It recommends that the Zoning Administrator “APPROVE the revised site plans, received on October 31, 2014” (emphasis added). Clearly, the current project description has changed since 1998, including among other things the following project modifications: (1) “relocation of the oval track”, acknowledged at page 2 of the Staff Report; (2) changes in track layout; (3) changes in the pit parking area; (4) the project site has been reduced by 50 percent, from approximately 80 to approximately 40 acres, significantly reducing the extent of previous buffer zones between the motorcycle tracks and adjacent homes; (5) additional grading is now required, requiring a grading permit as previously discussed; (6) the very noisy motorcycle park operations are now in closer proximity to adjacent single family homes and properties, which impacts must be analyzed; and (6) the elevations on site have been changed, including the cutting down of hilly terrain and removal of trees. Those changes and their potential environmental impacts were not analyzed in 1998. They must be properly analyzed now in accordance with CEQA standards.

At the May 12 Planning Commission hearing, County staff tried to characterize the changes in the location of the oval track as “consistent” with the 1998 use permit approvals. But such statements are belied by the record in this case, and specifically by a comparison of the 1996 site plan (Staff Report, Ex. 10) with the October 2014 proposed site plan (Staff Report, Ex. 11). (Copies of the 1996 and 2014 site plans clearly depicting the changed location and reconfiguration of the newly proposed oval track are attached as **Exhibit 4** and **Exhibit 5** hereto, respectively.) The changes in the project description mandate further environmental review under CEQA.

Final point on the CEQA issue: The Staff Report states that Appellants submitted “no evidence of data that demonstrate that the approved land use is adversely impacting the environment.” This is contrary to the record.

Appellants presented evidence and testimony at the December 15, 2014 Zoning Administrator hearing, and again before the Planning Commission, that these and other changes to the project raised a number of potentially significant environmental impacts. This included testimony regarding impacts with respect to (1) noise, first and foremost; (2) air quality and pollution impacts from motorcycle exhaust; (3) noxious fumes and odors permeating and invading adjacent residential properties and homes; (4) threats to wildlife species of special concern including eagles, woodpecker and other birds, San Joaquin kit fox, bobcats and badgers which have returned to the property and populated the surrounding area since the shutdown of motocross operations in 2012; (5) impacts of groundwater pumping and the use of up to 40,000 gallons per day by the project, for dust control and other purposes, on Appellants’ groundwater use and rights to extract water from the same aquifer, and other potential hydrologic impacts; (6)

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erosion of soil on the project's barren slopes and potential impacts of such erosion on Kellogg Creek; and (7) potential safety hazards on Camino Diablo from the tracking of mud from motorcycles and other vehicles involved in racing and other motocross activities on the property. None of these impacts resulting from changes in the project have been adequately addressed by the County in a CEQA compliant manner.

3. The applicant is not in compliance with all of the conditions of approval imposed by the County in connection with the 1998 use permit issuance (File No. LP95-2020). The Planning Commission's findings of such compliance are contrary to the evidence.

This appeal point specifically applies to Conditions of Approval Nos. 1, 2, 4, 5, 6, 11, 13, 17, 18 and 20. The reasons why the applicant is not in compliance with the conditions of approval are set forth in further detail in Appellant Linda Thuman's December 5, 2014 letter to the Zoning Administrator (see **Exhibit 6** enclosed herewith), which is incorporated by reference herein.

4. The proposed motocross project imposes severe and unmitigated noise impacts on adjacent residents, including Appellants, which are contrary to, and inconsistent with the County's General Plan, including the Noise Element.

County staff have made a number of questionable assertions. First, the May 12 Staff Report states (at p. 13) that "[n]oise was analyzed in the Initial Study." However, there is no evidence that a noise study or analysis was actually conducted back in the late 1990's. Given the inherently noisy nature of the proposed motorcycle park use, this statement by staff must be viewed with some considerable skepticism.

Also on page 13, the Staff Report states that the Appellants have provided "no data or evidence that the [motorcycle] park activities are in violation of the General Plan" However, Appellants have previously provided the County with video evidence, documents, and oral testimony regarding the significant and unavoidable impacts that operation of a motocross park and racing events would have on their quality of life and property rights.

For example, the Harrison family – whose property is right next door to motorcycle trails that run within a few feet of their property line – testified eloquently at the December 15, 2014 hearing about the impacts of the motocross facility on their quiet enjoyment of their property. They also testified about the safety risks of nearby, high-volume motorcycle noise on horses and equestrians (including Cassidy Harrison) who cannot use the corral for calf-roping activities

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because motorcycles on the adjacent track have startled horses and raised fears that horses will “bolt” and buck them off, resulting in potentially serious injuries to both horse and rider.

And Appellants Rick and Donna Kendrick provided testimony that a star-gazing party in their backyard was thoroughly disrupted by nighttime racing activity on the motocross property. It was so noisy that the astronomer who had been invited to speak about the stars could not be heard by those in the Kendrick backyard over the motorcycle noise emanating from 50 Camino Diablo – despite his use of a microphone.

The Zoning Administrator ignored that evidence in issuing her December 15, 2014 decision; and ultimately, the Planning Commission’s 5-2 majority failed to rectify the situation in upholding the Zoning Administrator’s decision. The Planning Commission’s decision is inconsistent with, and contrary to, the Noise Element of the County General Plan.

The County is required by California law to have a Noise Element as part of its General Plan. See Gov. Code § 65302(f). This statute requires the County to “identify and work toward mitigation of noise problems in the community.” See Ex. 3 (County General Plan at p. 11-1). Moreover, the Noise Element recognizes the obvious fact that “residential areas” are particularly “noise-sensitive” (*id.* at p. 11-2), and that “noise can affect adversely the enjoyment of quiet activities in open space” (*id.* at p. 11-3). The Planning Commission’s decision ignored that there will be severe “noise problems” associated with the project, and did nothing to address or mitigate those impacts.

The Noise Element recognizes that the effects of noise on people include nuisance and annoyance; interference with activities such as speech, sleep and learning; and physiological effects such as anxiety or hearing loss (*id.* at p. 11-5). Appellants provided substantial testimony and evidence that the motocross park will subject them to these adverse impacts. In her haste to find the Applicant to be “in compliance”, this evidence was disregarded by the Zoning Administrator. So did the Planning Commission majority.

Finally, the Noise Element includes a discussion of noise exposure that includes a 5 to 10 dBA “penalty” (i.e., a required **reduction** in noise levels) applicable to noisy nighttime activities after 7:00 p.m. and before 7:00 a.m. (*id.* at pp. 11-5 and 11-6). However, the County has sanctioned use of the lighted racetrack for motorcycle racing until 11:00 p.m. on Friday and Saturday nights! (See Condition of Approval No. 5.) Appellants have repeatedly and vociferously complained that the project will routinely exceed accepted land use compatibility and community standards during evening and nighttime hours, in violation of the Noise Element and general principles of nuisance law.

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The Planning Commission, Zoning Administrator and County planning staff have failed to address and respond to these concerns, and to impose necessary and appropriate mitigation measures to protect the health and welfare of the public and homeowners living in close proximity to the project site. Appellants respectfully submit that the Board of Supervisors has the authority and the duty to ensure that this project is not allowed to operate in a manner that will be inconsistent with California law and the General Plan.

5. The Planning Commission's decision fails to provide any rational direction or process guidance, or technical criteria to be followed in connection with the "noise impact study" required by Condition of Approval No. 17.

The May 12 Staff Report appears to miss the point being raised by Appellants here. The County staff apparently feel they are "bound" by the language of Condition of Approval No. 17 (see Staff Report, p. 14). However, this condition is less than clear, and for that reason, the Planning Commission could and should have appropriately interpreted that condition and provided explicit direction to staff, the applicant and Appellants regarding how the noise impact study should be carried out.

Such direction would have been particularly appropriate, given the fact that the applicant expects that the County will be "hir[ing] the necessary acoustical consultant to complete the sound study." See Applicant's Staff Report, Ex. 12, at p. 1. Since County staff apparently will be responsible for oversight of the required noise impact study, it is appropriate for the Board of Supervisors to provide such direction now. The Planning Commission discussed this issue during their deliberations. However, the Commission majority ultimately declined to come to grips with this issue and to "leave it up to the Board."

In any event, appropriate direction from the Board of Supervisors would include, at a minimum, the following:

(a) The taking of ambient noise measurements.

Unless ambient noise measurements while racing activities are not taking place are required as part of the "impact study", the County will not have any baseline data for purposes of comparison. The Staff Report indicates (at p. 13) that the operation of the motorcycle park must comply with the "land use compatibility standards prescribed by the Noise Element." Requiring the collection of ambient baseline data would be entirely consistent with the County's Noise Element.

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(b) Direction regarding applicable noise standards.

The Staff Report remains unclear as to the applicable noise standards which are to be adhered to in this case. For example, it is not clear that the noise impact study must account for the required noise penalty [i.e., reduction in noise levels] set forth in the Noise Element applicable to nighttime noise levels. But clearly, that study should meet the Noise Element standard, given Condition of Approval No. 5's authorization of nighttime racing until 11:00 p.m. on Friday and Saturday nights.

(c) Fair and open process, including prior notice to Appellants.

Moreover, there is a need for better direction regarding a fair process to govern the noise impact study activities going forward. As a matter of due process, it is important – and just plain fair – for prior notice to be given to Appellants of the date of the first race, open communication, and cooperation with Appellants to ensure that proper noise measurement protocols are followed and reliable data is collected in the field by acoustical experts under a fair and scientific process that is not skewed in favor of the applicants.

Such advance notice is particularly appropriate given the applicant's assurances to the County that they will "notify the Community Development Department a minimum of 30 days in advance of the opening of the oval for any racing events." See their March 28, 2014 letter to Gary Kupp (Staff Report, Ex. 12); see also, Use Permit Condition of Approval No. 2. If the applicant is going to be giving notice to the County, this Commission can reasonably direct staff to provide notice to the Appellants **at the same time**.

It should be noted that the County fostered such an open and fair process when it conducted noise studies in connection with the proposed Brentwood Rod and Gun Club project back in 2001 and 2002 – a project that impacted many of the same properties owned by Appellants here.

Finally, we note that it may also be appropriate for the County to permit the first race to be conducted during the pendency of any future appeal to the Board of Supervisors in this matter. As a matter of good public policy, it would better to have the results of any noise impact study in hand before final action is taken on this project, rather than after.

Appellants reserve the right to raise other grounds and reasons for its appeal in future submissions to the County Board of Supervisors, and/or staff at the Community Development Division.

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On behalf of Appellants, we appreciate the Board of Supervisors' thoughtful reconsideration of this matter, and the issues raised by this appeal.

Very truly yours,


DAVID W. TROTTER

Enclosures

cc: Supervisor Mary Piepho (w/encls.) – via U.S. mail
Appellants (w/encls.) – via e-mail and U.S. mail

To: Gary Kupp
Subject: Re: Sand Hill

thanks Gary. Sorry to be such a pain, appreciate your patience! Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Wednesday, July 10, 2013 10:20 AM
Subject: RE: Sand Hill

Linda:

It was determined that the motorcross land use ceased on Aug 6, 2012. They are allowed by code 6 months of inactivity, in this case until Feb 6, 2013. Since they made a timely extension request, they were granted the 6 month extension until Aug 6, 2013. So with the extension, they are allowed a year of inactivity. Hope this helps. Don't know if the property was sold or not.

Gary Kupp, Planner
CONTRA COSTA COUNTY
Conservation and Development
30 Muir Road
Martinez, CA 94553
(925) 674-7799—Direct
(925) 674-7205—Main
(925) 674-7258—Fax

From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Wednesday, July 10, 2013 9:04 AM
To: Gary Kupp
Subject: Re: Sand Hill

thanks Gary, sorry about that, I thought it went out in December. do you know how I can find out if it has been sold?

Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Monday, July 8, 2013 12:55 PM
Subject: RE: Sand Hill

February 6, 2013 to August 6, 2013= six months

Gary Kupp, Planner
CONTRA COSTA COUNTY
Conservation and Development
30 Muir Road
Martinez, CA 94553
(925) 674-7799—Direct
(925) 674-7205—Main
(925) 674-7258—Fax

EXHIBIT 1

From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Monday, July 08, 2013 11:11 AM
To: Gary Kupp
Subject: Re: Sand Hill

Hi Gary,

I thought it was a 6 month extension, what did I miss? Has it sold?

thanks
Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Monday, July 8, 2013 8:30 AM
Subject: RE: Sand Hill

Linda, the extension was granted until August 6, 2013. Beyond that, they would need a new use permit.

Gary Kupp, Planner
CONTRA COSTA COUNTY
Conservation and Development
30 Muir Road
Martinez, CA 94553
(925) 674-7799—Direct
(925) 674-7205—Main
(925) 674-7258—Fax

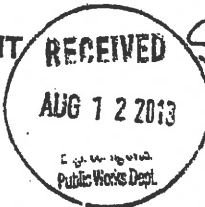
From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Friday, July 05, 2013 10:02 AM
To: Gary Kupp
Subject: Sand Hill

Hi Gary,

Hope you had a nice 4th! I think the last time we talked was just before Christmas and you said you were planning on issuing the 6 month extension letter to the owners of Sand Hill on December 26. So it has been 6 months & I just wanted to check on the status so I can update the neighbors. It is my understanding that if Sand Hill was not operating during that 6 month period that they would have to go through the entire application process again. So we are hoping that is where Sand Hill is now, no motocross unless they go through the entire application process again.

thank you
Linda Thuman

CONTRA COSTA COUNTY
 DEPARTMENT OF CONSERVATION AND DEVELOPMENT
 COMMUNITY DEVELOPMENT DIVISION
 30 Muir Road
 Martinez, CA 94553-4601
 Phone: 925-674-7205
 Fax: 925-674-7258



Sum
8/12/13
4



AGENCY COMMENT REQUEST

We request your comments regarding the attached application currently under review.

Date _____

DISTRIBUTION

Internal

- Building Inspection
- Advance Planning
- Trans. Planning
- ALUC Staff
- APC Floodplain Tech
- Grading Inspection
- Housing Programs
- Telecom Planner
- HCP/NCCP Staff
- County Geologist

Health Services Department

- Environmental Health
- Hazardous Materials

Public Works Department

- Engineering Services (Full-size)
- Flood Control (Full-size)
- Traffic
- Special Districts

Local

- Fire District EAST CONTRA COSTA
- Sanitary District

- Water District CCWD

City of _____

School District(s) _____

LAFCO _____

Reclamation District # _____

East Bay Regional Park District _____

Diablo/Discovery Bay/Crocker CSD _____

- MAC/TAC BYRON

Improvement/Community Association _____

Others/Non-local

CHRIS - Sonoma State

CA Fish and Wildlife, Region 3 - Bay Delta

Additional Recipients

- _____
- _____
- _____
- _____
- _____

Please submit your comments to:

Project Planner Gary Kupp

Phone # (925) 674-7799

E-mail gary.kupp@dcd.cccounty.us

County File # LP13-2095

Prior to September 3, 2013

We have found the following special programs apply to this application:

Active Fault Zone (Alquist-Priolo)

Flood Hazard Area, Panel # _____

60-dBA Noise Control

CA EPA Hazardous Waste Site

AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.

Comments: None Below Attached

5-YEAR COMPLIANCE REVIEW OF LP95-2020 (ATTACHED). PLEASE SUBMIT ANY COMMENTS, QUESTIONS, OR CONCERNS REGARDING COAS.

Applicant has complied w/COAS for PWD of LP95-2020

Print Name Jocelyn LaPoque

Signature [Signature] DATE 09/23/13

Agency phone # (925) 817-2215

EXHIBIT 2

Dunneil CONTRACOSTA

11. NOISE ELEMENT

11.1 INTRODUCTION

Section 65302 (f) of the California Government Code requires that a noise element be prepared as a part of all city and county general plans. This State law requires that a jurisdiction's noise element identify and work toward mitigation of noise problems in the community. This Noise Element analyzes and quantifies, to the extent practical as determined by the legislative body, current and projected noise levels for all of the following sources:

- o Highways and freeways;
- o Primary arterials and major local streets;
- o Passenger and freight on-line railroad operations and ground rapid transit systems;
- o Commercial and general aviation, heliport, helistop, and military airport operations; aircraft flyovers, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation;
- o Local industrial plants including, but not limited to, railroad classification (switching) yards; and
- o Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

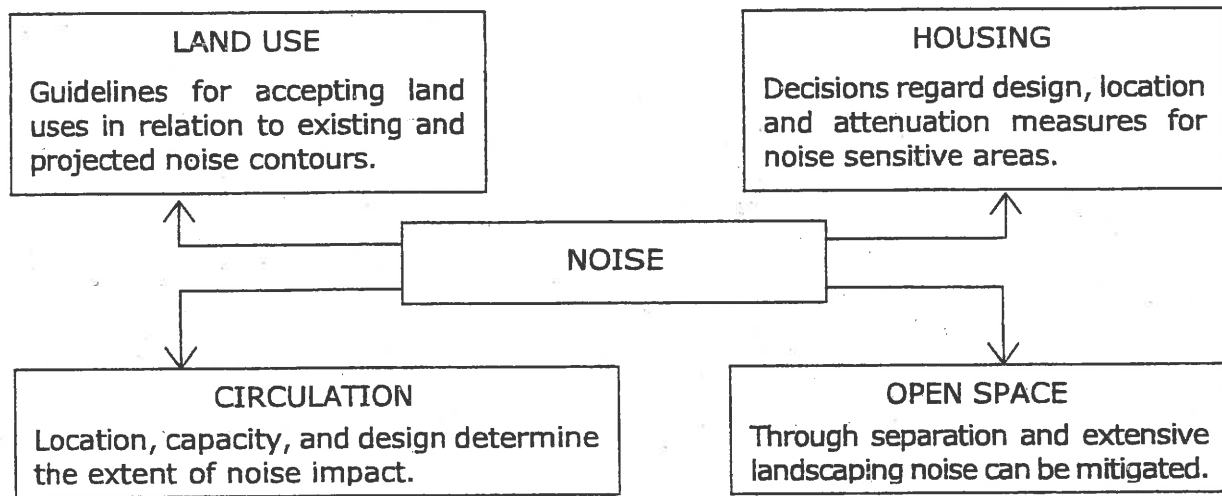
Noise contours are shown for many of these sources and stated in terms of the day/night average sound level (DNL or L_{dn}). The noise contours are to be used to guide land uses, as specified in the Land Use Element, so that the exposure of community residences to excessive noise is minimized.

According to the Code, noise elements shall also include implementation measures and possible solutions that address any existing and perceivable noise problems. The adopted Noise Element shall serve as a guideline for compliance with the State Noise Insulation Standards. (Title 24, Part II, CCR.)

This Noise Element follows the guidelines established by the California Department of Health Services entitled, "Guidelines for the Preparation and Content of the Noise Element of the General Plan." The State Guidelines define noise metrics, discuss the process of Noise Element development, and present land use compatibility guidelines based on various noise levels. The contents of the State's guidelines document were reviewed in preparation of this Element and the relevant portions are incorporated into this document.

11.2 RELATIONSHIP TO OTHER GENERAL PLAN ELEMENTS

The General Plan elements are important tools used by elected officials to provide policy guidance and assist in decision making. All of the elements of the General Plan are related and interdependent to some degree. However, the Noise Element is most closely related to the Land Use, Housing, Circulation, and Open Space Elements, as shown in Table 11-1.

TABLE 11-1 RELATIONSHIP OF NOISE ELEMENT TO OTHER GENERAL PLAN ELEMENTS

The major objective of a noise element is to provide guidelines to achieve noise land use compatibility. The Land Use and Noise Elements, therefore, are related closely. By identifying noise-sensitive land uses and establishing compatibility guidelines for land use and noise, the Noise Element will influence the general distribution, location, and intensity of future land use. Effective land use planning can alleviate noise problems.

Residential areas are one of the noise-sensitive land uses. Therefore, the Housing Element is directly affected by the Noise Element. The Housing Element policies and programs should include safeguards against noise intrusion. The implementation of Land Use/Noise Compatibility Guidelines can reduce noise impacts in residential locations. In addition, proper noise mitigation measures during housing construction can guard against adverse noise impact.

A city's circulation system is one of the major sources of continuous noise. Therefore, the existing and future circulation system identified in the Circulation Element will influence greatly the Noise Element. Circulation routes such as freeways, highways, and truck routes should be located to minimize the noise impact on noise-sensitive land uses. The location and design of transportation facilities and possible mitigation of noise from existing and planned facilities will greatly influence the overall noise environment within the City.

Since noise can affect adversely the enjoyment of quiet activities in open space, the Noise Element is also related closely to the Open Space Element. Inversely, open space can be used as a noise buffer between incompatible land uses. This technique can reduce community noise levels and also provide usable open space for recreation.

The goals, policies and implementation measures contained in this Element are intended to guide planning for public and private projects that are subject either to approval of the County Planning Agency or to review by County staff, although they may be under the jurisdiction of other public agencies operating in the County. Such goals, policies and implementation measures are further intended to be in accordance with the other elements of the General Plan, as well as with other planning documents. This Element completely supersedes the 1975 Noise Element.

11.3 ACOUSTICAL STANDARDS

Many governmental agencies have promulgated noise standards for various types of projects. In general, these standards are intended to protect persons from excessive

exterior and interior noise. Most of these standards address vehicular traffic noise while others address rail, aircraft, or fixed sources.

The Department of Housing and Urban Development (HUD) has developed noise policies for Federal housing projects. These HUD policies are contained in The Noise Guidebook. The policies contained in the guidebook discuss various outdoor noise environments and recommend acceptable interior and exterior noise level goals.

The State of California has adopted Title 21 and Title 24, Part 2, of the California Code of Regulations. Title 21 limits airport noise near residential communities to minimize existing and future land use conflicts. Title 24, Part 2, is concerned with transportation and industrial noise sources and specifically regulates the maximum allowable interior noise level for hotels, motels, and multi-family housing. Title 24, Part 2, also establishes standards for sound isolation of party walls, corridor walls, and floor/ceiling assemblies in multi-family residential construction.

The Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) have similar policies for new roadway construction and roadway expansion. These policies contain maximum acceptable noise levels in areas adjacent to vehicular traffic. These policies also have guidelines for determining when noise barriers should be constructed.

The County's Airport Land Use Commission (ALUC) oversees development near airports. The ALUC has a plan which contains goals and policies. These policies are considered when a project is proposed near an airport or heliport in the County. In addition to a noise element, counties and cities can also adopt noise ordinances. A noise ordinance is intended to regulate sources such as amplified music, construction and mechanical equipment.

11.4 NOISE ELEMENT ORGANIZATION

The Noise Element is divided into six remaining sections. These sections define noise problems; quantify the noise problems; set up goals and policies; and, finally, provide implementation measures to minimize or eliminate the noise problems.

11.5 FUNDAMENTAL CONCEPTS OF ENVIRONMENTAL NOISE

BACKGROUND

Three aspects of community noise are important in determining subjective response:

- o The level of the sound (i.e., magnitude or loudness);
- o The frequency composition or spectrum of the sound; and
- o The variation in sound level with time.

Airborne sound is a rapid fluctuation of air pressure and local air velocity. Sound levels are measured and expressed in decibels (dB) with 0 dB roughly equal to the threshold of hearing.

The frequency of a sound is a measure of the pressure fluctuations per second, measured in Hertz (Hz). Most sounds do not consist of a single frequency, but are comprised of a broad band of frequencies differing in level. The characterization of sound level magnitude with respect to frequency is the sound spectrum. A sound spectrum is often described in octave bands that divide the audible human frequency range (i.e., from 20 to 20,000 Hz) into ten segments. Figure 11-1 shows a range of sound spectra for various types of sound over the audible hearing range.

Figure 11.1 Range of Sound Spectra

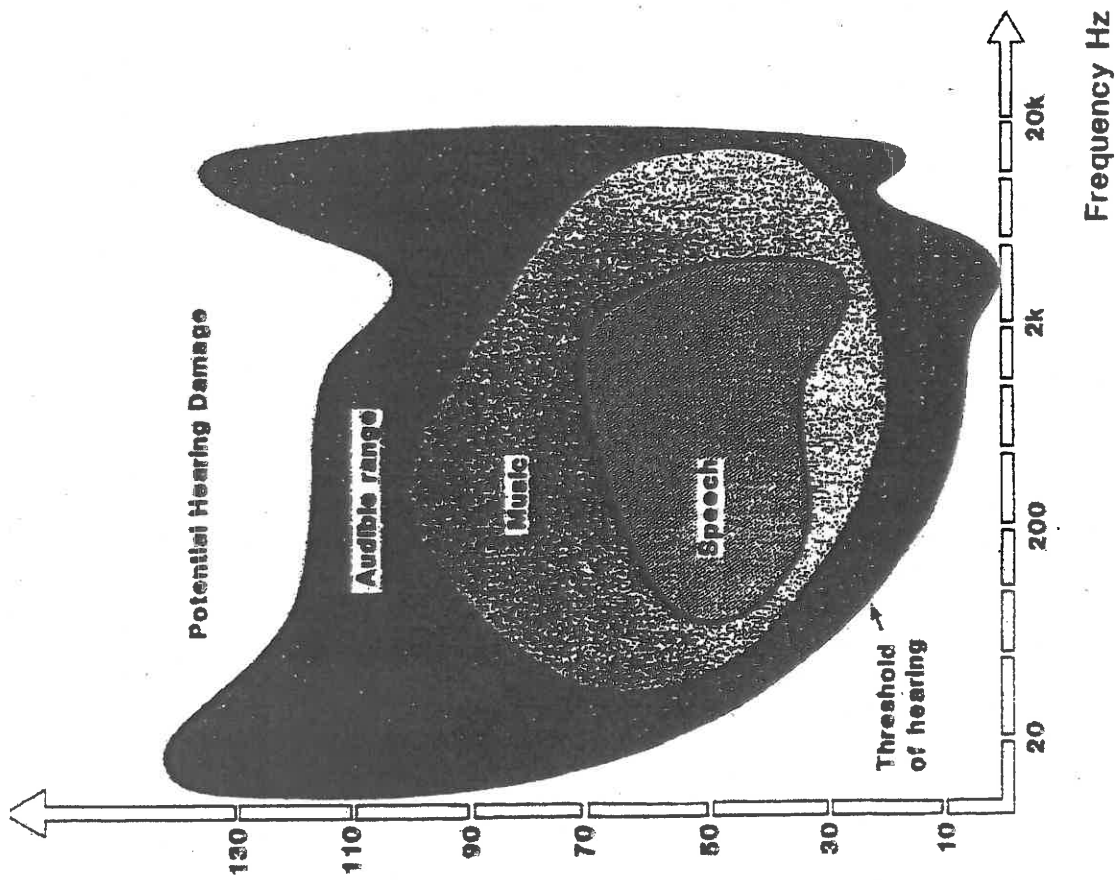
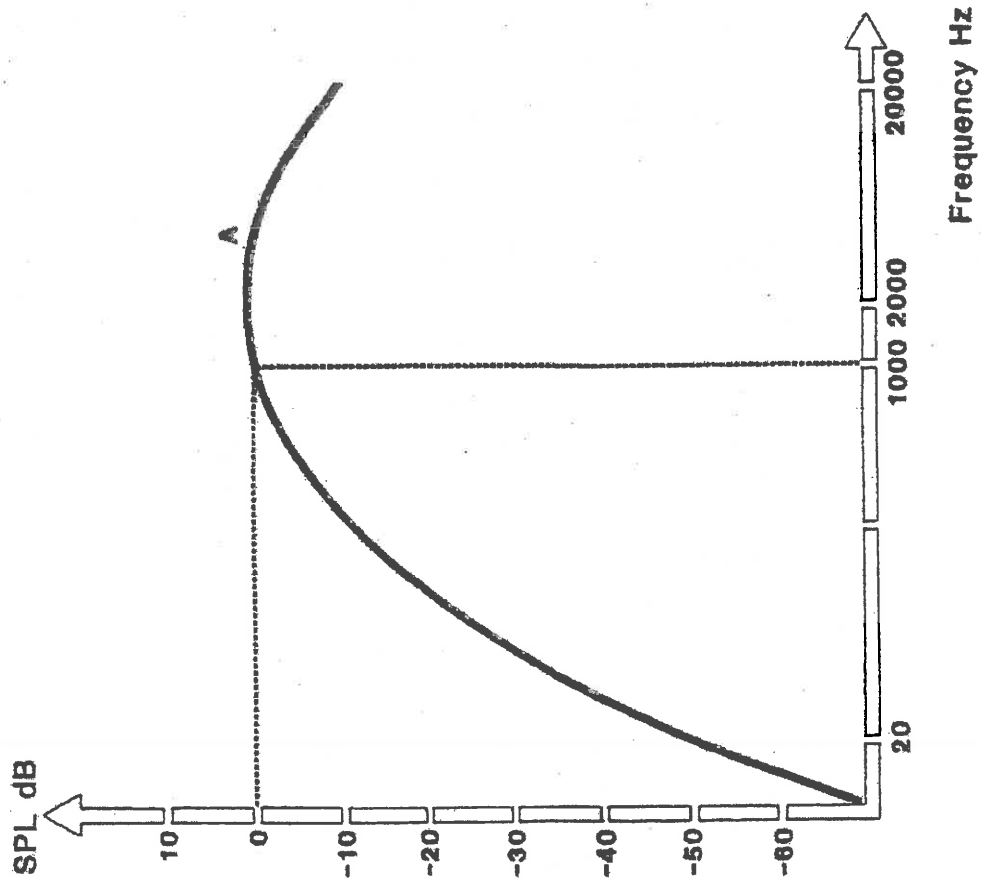


Figure 11.2 A-Weighting Network



FREQUENCY WEIGHTING

Many rating methods exist to analyze sound of different spectra. Generally, the simplest method is used so that measurements may be made and noise impacts readily assessed using basic acoustical instrumentation. This method evaluates all frequencies by using a single weighting filter that progressively de-emphasizes frequency components below 1000 Hz and above 5000 Hz. This frequency weighting, shown in Figure 11-2, reflects the relative decreased sensitivity of humans to both low and extremely high frequencies. This weighting is called A-weighting and is applied by an electrical filter in all U.S. and international standard sound level meters. Some typical A-weighted sound levels are presented in Figure 11-3.

NOISE EXPOSURE

Noise exposure is a measure of noise over a period of time, whereas the noise level is at an instant in time. Although a single sound level may describe adequately community noise at any moment, community noise levels vary continuously. Most community noise is produced by many distant noise sources that produce a relatively steady background noise having no identifiable source. These distant sources change gradually throughout the day and include traffic, wind in trees, and distant industrial activities. Superimposed on this slowly varying background is a succession of identifiable noise events of brief duration. These include nearby activities, such as single vehicle passbys or aircraft flyovers.

A single number called the equivalent sound level (L_{eq}) is used to describe the average noise level over a period of time (i.e., the total sound energy divided by the duration). Thus, the L_{eq} is the constant sound level that would contain the same acoustic energy as the varying sound level, during the same time period.

In determining the daily measure of community noise, it is important to account for the difference in human response to daytime and nighttime noise. Nighttime exterior background and household noise levels are generally lower than in the daytime. People are more sensitive to noise at night than during other periods of the day and exterior noise intrusions become more noticeable.

To account for human sensitivity to nighttime noise, the DNL (L_{dn}) descriptor was adopted by the Environmental Protection Agency to describe community noise exposure from all sources. The DNL is called the day-night sound level and represents the 24-hour A-weighted equivalent sound level with a 10-dB penalty added to the "nighttime" hourly noise levels (HNL) between 10:00 PM to 7:00 AM.

DNL and CNEL levels are typically computed by energy summation of HNL values, with the proper adjustment applied for the period of evening or night. The CNEL is computed identically to the DNL but with the addition of a 5-dB penalty to the evening HNL (i.e., 7:00 PM to 10:00 PM). The CNEL value is typically less than 1 dB above the DNL value. Figure 11-4 shows the adjustments applied for the DNL and CNEL measures. Noise exposure measures such as L_{eq} , HNL, DNL, and CNEL are all A-weighted, with units expressed in decibels.

SUBJECTIVE RESPONSE TO NOISE

The effects of noise on people can be classified into three general categories:

- o Subjective effects of annoyance, nuisance, dissatisfaction;
- o Interference with activities such as speech, sleep, and learning; and
- o Physiological effects such as anxiety or hearing loss.

Figure 11-3 Typical Sound Levels Measured in the Environment and Industry

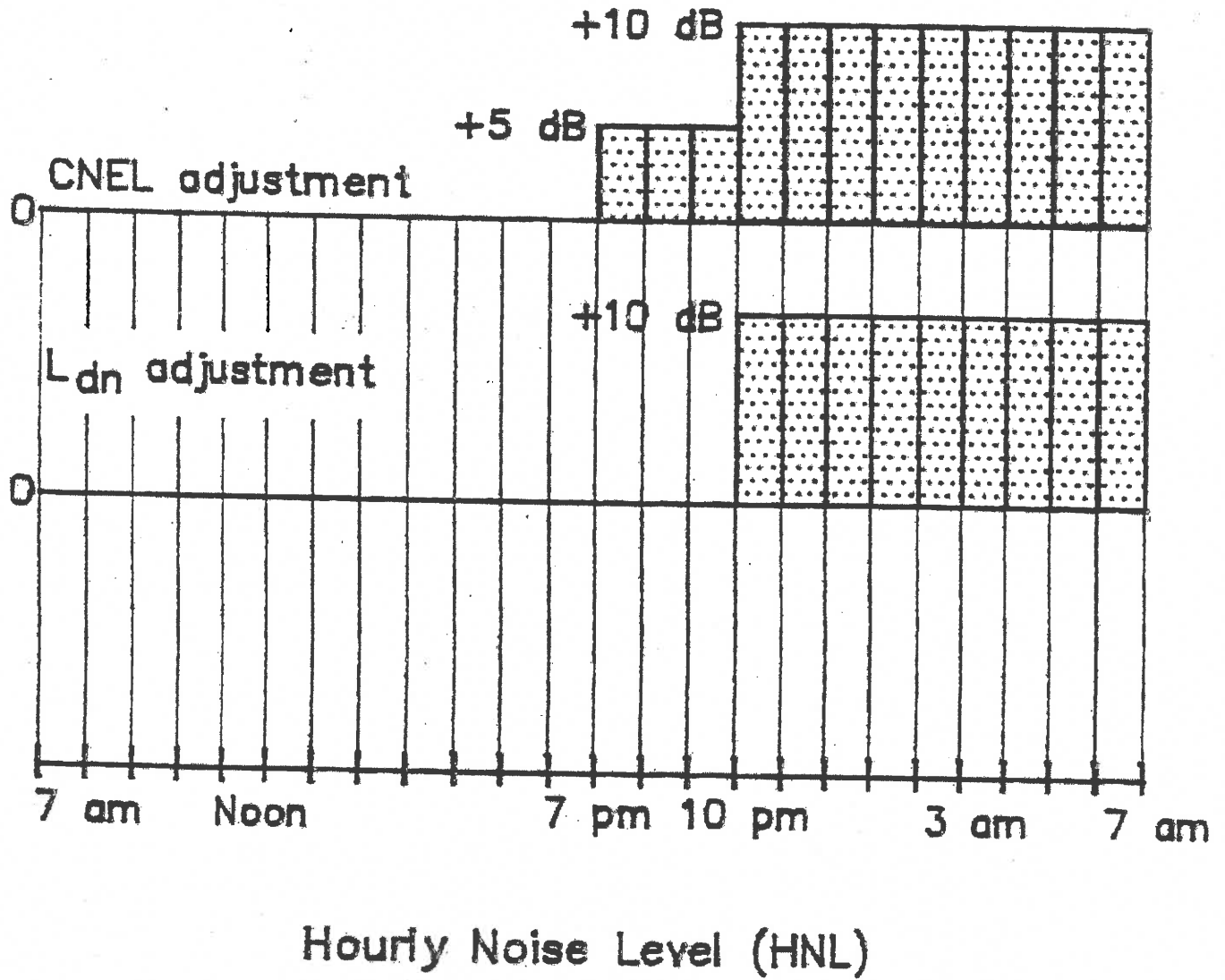
A-WEIGHTED
SOUND PRESSURE LEVEL,
IN DECIBELS

	140	} THRESHOLD OF PAIN
	130	
CIVIL DEFENSE SIREN (100') JET TAKEOFF (200')	120	
RIVETING MACHINE	110	
DIESEL BUS (15')	100	ROCK MUSIC BAND PILEDRIVER (50') AMBULANCE SIREN (100')
BAY AREA RAPID TRANSIT TRAIN PASSBY (10')	90	BOILER ROOM
PNEUMATIC DRILL (50')	80	PRINTING PRESS PLANT GARBAGE DISPOSAL IN THE HOME
SF MUNI LIGHT-RAIL VEHICLE (35') FREIGHT CARS (100')	70	INSIDE SPORTS CAR, 50 MPH
VACUUM CLEANER (10') SPEECH (1')	60	
AUTO TRAFFIC NEAR FREEWAY LARGE TRANSFORMER (200')	50	DATA PROCESSING CENTER DEPARTMENT STORE PRIVATE BUSINESS OFFICE
AVERAGE RESIDENCE	40	LIGHT TRAFFIC (100')
	30	TYPICAL MINIMUM NIGHTTIME LEVELS--RESIDENTIAL AREAS
SOFT WHISPER (5')	20	
RUSTLING LEAVES	10	RECORDING STUDIO
THRESHOLD OF HEARING	0	MOSQUITO (3')

(100') = DISTANCE IN FEET
BETWEEN SOURCE
AND LISTENER



Figure 11-4 Hourly Noise Levels and Annual Metrics



11. Noise Element

The sound levels associated with community noise usually produce effects only in the first two categories. No universal measure for the subjective effects of noise has been developed, nor does a measure exist for the corresponding human reactions from noise annoyance. This is primarily due to the wide variation in individual attitudes regarding the noise source(s).

An important factor in assessing a person's subjective reaction is to compare the new noise environment to the existing noise environment. In general, the more a new noise level exceeds the prior existing level, the less acceptable it is. Therefore, a new noise source will be judged more annoying in a quiet area than it would be in a noisier location.

Knowledge of the following relationships is helpful in understanding how changes in noise and noise exposure are perceived.

- o Except under special conditions, a change in sound level of 1 dB cannot be perceived;
- o Outside of the laboratory, a 3 dB change is considered a just-noticeable difference;
- o A change in level of at least 5 dB is required before any noticeable change in community response would be expected; and
- o A 10 dB change is subjectively heard as an approximate doubling in loudness and almost always causes an adverse community response.

COMBINATION OF SOUND LEVELS

Because we perceive both the level and frequency of sound in a non-linear way, the logarithmic decibel scale is used to describe sound levels. The frequency scale is also measured in logarithmic increments. Decibels, measuring sound energy, combine logarithmically. A doubling of sound energy (for instance, from two identical automobiles passing simultaneously) creates a 3-dB increase (i.e., the resultant sound level is the sound level from a single passing automobile plus 3 dB). The rules for decibel addition used in community noise prediction are:

- o If two sound levels are within 1 dB of each other, their sum is the highest value plus 3 dB;
- o If two sound levels are within 2 to 4 dB of each other, their sum is the highest value plus 2 dB;
- o If two sound levels are within 5 to 9 dB of each other, their sum is the highest value plus 1 dB; and
- o If two sound levels are greater than 9 dB apart, the contribution of the lower value is negligible and the sum is simply the higher value.

11.6 NOISE IN CONTRA COSTA COUNTY

OVERVIEW

In Contra Costa County, traffic along freeways (e.g., Interstate 80, Interstate 680, State Route 24, and State Route 4), and major arterials (e.g., Willow Pass Road and Ygnacio Valley Road) are the primary sources of vehicular traffic noise.

Rail operations also contribute to the noise environment in the County. The Atchison Topeka and Santa Fe (ATSF) and Southern Pacific (SP) railroad corridors in the County are primarily freight lines. These lines generate high noise levels during passbys and their trains are required to sound their whistles when crossing roadways at-grade. The Bay Area Rapid Transit (BART) system is an electrically driven passenger line. BART passbys

11. Noise Element

are typically less noisy than the freight trains. BART trains do not have at-grade crossings.

Existing air traffic activity also contributes to the noise in Contra Costa County. Buchanan Field, near Concord, is the primary source of aircraft noise. Other sources of aircraft noise are local emergency airports and military helicopter activity.

The remaining noise sources are industrial plants such as oil refineries and materials processing plants. The Camp Parks Reserve Forces Training Area (RFTA) near San Ramon also is a noise source. Typical operations at Parks RFTA include small caliber weapons training, helicopter overflights, and vehicular activity.

ONGOING PROBLEMS

There are many areas within the County that have existing noise problems. Buchanan Field is a constant source of noise complaints. According to the County, it generated 375 complaints in 2003. Interstate 80, 680 and Route 4 also generate complaints. However, these complaints typically are handled by the California Department of Transportation. Rail switching yards in Martinez and Richmond are also noisy and have generated complaints. Industrial noise generation continues to be a concern.

Loud music, parties, sporting events at high schools, outdoors music at nightclubs, and, in the past, livestock, has also been the source of complaints to the County.

FORESEEABLE FUTURE PROBLEMS

Potential foreseeable future problems will be similar to many current problems. For example, residential land uses still will remain in relatively close proximity to some industrial noise sources. Currently, residential development is being built or proposed near Camp Parks RFTA. Although adequate setbacks and noise mitigation are usually incorporated into these projects, occasional complaints can be expected. Similarly, loud parties, outdoor music, and other industrial sources will continue to generate sporadic complaints. Activities at Buchanan Field are not anticipated to decrease in the future and may even increase. This activity would be expected to generate future complaints. Gas wells located in East County may be a source of future complaints. These wells generate a high-frequency hissing sound.

In preparing this Noise Element, all the existing noise complaints and potential future ones were considered in the development of goals and policies. The purpose of these goals and policies is to protect future residents from the negative impact of noise and, if possible, minimize and reduce the number of complaints the County receives.

11.7 NOISE CONTOURS

METHODOLOGY

Existing and future traffic noise levels are based on calculations using the Federal Highway Administration Traffic Noise Prediction Model (FHWA RD-77-108), continuous 24-hour noise measurements, and short-term 15-minute measurements along freeways and major arterials in the County. The FHWA method predicts the average hourly noise level along a roadway based on the number of vehicles, the speed of the vehicles, and the percentage of medium and heavy trucks.

The 24-hour average noise level (DNL) along a roadway, was calculated from the continuous 24-hour noise measurements. Along some roadways, however, only a 15-minute noise measurement was made. To calculate the DNL, the 15-minute measurement results were compared to the noise level measured during the same time

11. Noise Element

period at a 24-hour noise measurement location on a nearby or similar roadway. The difference between the measured hourly noise levels and the DNL then was calculated for the 24-hour measurement location and the same offset was applied for the 15-minute measurement location.

To determine the 24-hour noise level where no measurements were taken, the peak hour L_{eq} was calculated using the FHWA method and traffic volumes provided by the County. The DNL was determined in a manner similar to that of the short-term measured roadways. By comparing the peak-hour noise level (L_{eq}) and the DNL from 24-hour noise measurements made in the vicinity of the roadway, a peak hour L_{eq} to DNL offset was determined. This offset was applied to the calculated peak hour level to determine the DNL at the non-measured location.

NOISE CONTOUR MAPS/TABLES

Roadways/Rail Lines

Existing and future DNL noise contours have been prepared for freeways, major arterials, and railways in the County. The contours were prepared on USGS quad maps. A reduced set of the future contours are provided in this document (see Figures 11-5A through 11-5V). Table 11-2 summarizes the information contained in the future noise contours. A complete set of full size existing and future noise contours is available for public review at the Community Development Department offices.

Airports/Heliports

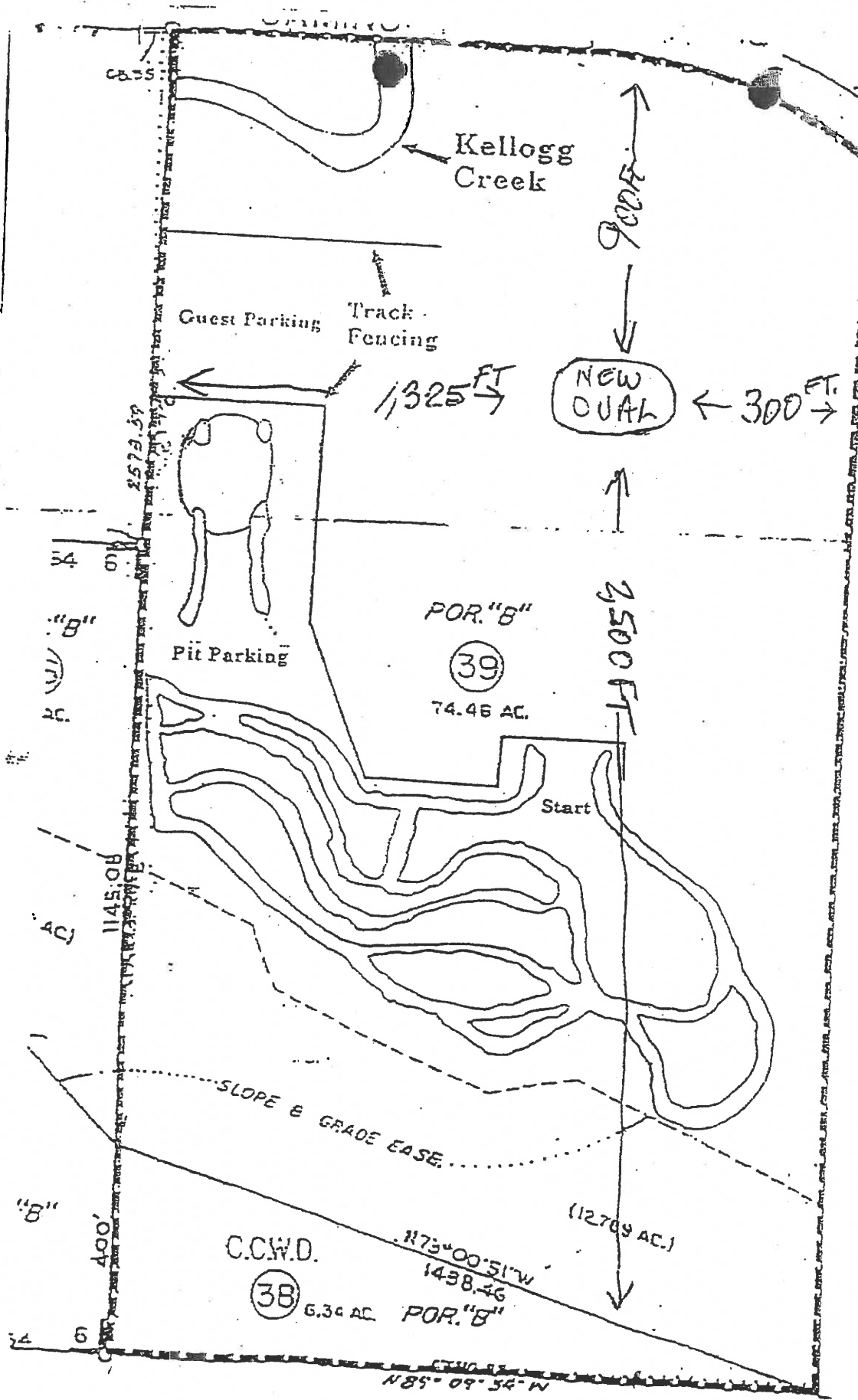
Existing and future CNEL noise contours are provided for Buchanan Field and Byron Airport. These contours were taken from the Airport Land Use Compatibility Plan adopted by the Contra Costa County Airport Land Use Commission in December of 2000.

USE OF MAPS/TABLES

Noise contours are typically used for planning purposes in conjunction with new residential development. Since the actual full-size contour maps for roadways and rail lines are not contained in the Noise Element, Table 11-2 has been prepared. These tables and maps are designed to help planners, developers, and consultants identify a parcel or proposed residential project that is potentially impacted by noise. The table is intended to be used as follows:

- Step 1. Determine distance of the project site from a major noise source such as a roadway, airport, or rail line.
- Step 2. If the noise source is a roadway or rail line: from Table 11-2, determine the distance from the rail line or roadway centerline to the future 60 DNL contour.
If the noise source is an airport, determine if the project is within the 60 CNEL contour.
- Step 3. If the project is within the future 60 DNL or CNEL contour, an acoustical study should be initiated.

Noise contours do not always account for the acoustical shielding provided by site geometry or terrain. Therefore, these contours may overestimate the noise exposure of a particular site. However, noise contours should only be used as a screening tool. Site-specific noise levels and other acoustical issues should be addressed in the acoustical study for the project.



Detailed
Plan
LP 952020

96/OCT 21 PH 12:34
COMMUNITY
DEVELOPMENT DEPT

DOHERRA COSTA

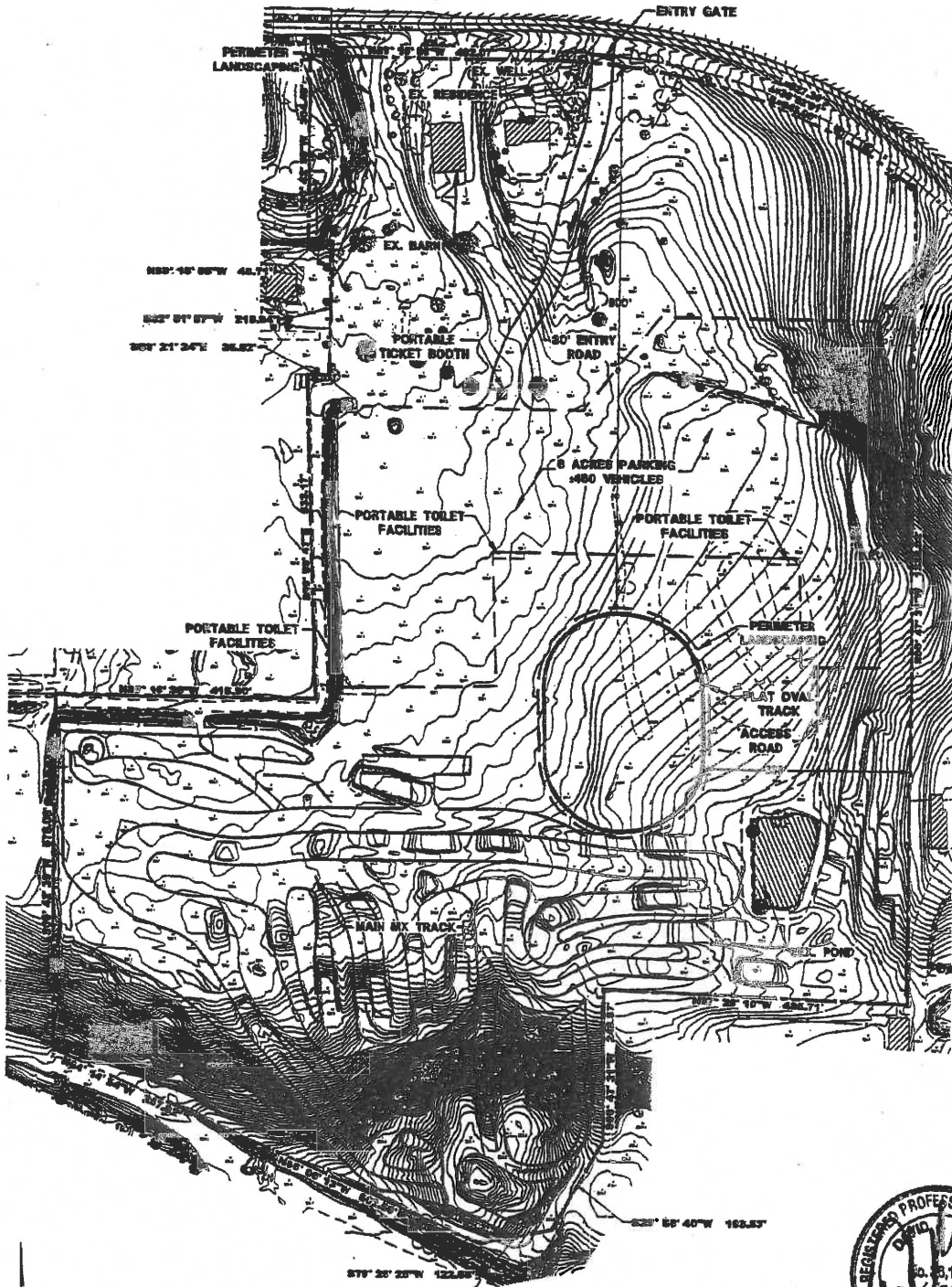
EXHIBIT 4

PROPOSED SITE PLAN
50 CAMINO DIABLO ROAD
 DIABLO MX RANCH LLC

BRENTWOOD CALIFORNIA

OCTOBER, 2014

CENTRAL CALIFORNIA COUNTY
 OCT 31 2014
 Dept of Conservation & Development



WOOD ADDERS
 DESIGNERS ENGINEERS ARCHITECTS
 6801 SANDHILL DR., STE 100 TEL: 925-845-0000
 PLEASANTON, CA 94588 FAX: 925-845-0001

EXHIBIT 5

December 5, 2014

Dear Zoning Administrator,

We are the neighbors of 50 Camino Diablo in Brentwood California. That property has been known historically as Sand Hill Motocross Ranch and currently as Diablo MX Ranch. For purposes of this document we will identify it as Sand Hill/Diablo MX.

We have had an opportunity to read the Staff Report prepared by the Department of Conservation and Development and disagree with many of the items, most of which are identified as "In Compliance."

The items are as follows:

California Environmental Quality Act (CEQA) Status: It states "Exempt" and we would like to know know why. We have asked before and have not received a response. (See attached letter to Tomi Riley dated October 6, 2014)

Under "Recommendation 1" It states that the applicants are in compliance. They are not in compliance and have never been in compliance. These non-compliant Conditions of Approval (COA's) will be identified below.

Under "Recommendation 2" It states, "Approve revised site plan submitted October 31, 2014..." On the original permit, COA #1, it states "subject to revised site plan dated/received October 21, 1996. On the original permit COA #5 states, "All activities approved by this permit shall be restricted to the existing track and motocross areas as indicated on the plan submitted with the application with the exception of minor changes subject to Zoning Administrator review and approval." A revised site plan submitted 16 years later is not a minor change. We have been told in person by Senior Planner Will Nelson that they had to adhere to the site plan dated October 21, 1996. Through Public Document Request we asked for the original application and any changes, addendum's or revisions. Suddenly we are presented with a map dated 1998 that is being presented as a site plan. No received date stamps from county on this previously unknown document. Again this is not a minor change. (See attached Request for Public Document)

Under "Recommendation 3" It states "Grant planning clearance for issuance of a business license..." As we brought up in the meeting in your presence on December 1, it is our opinion that Sand Hill has been closed for over two years. During that time there was occasional, very quiet motorcycle classes that took place. During that time we advised the county that the site was not in compliance and now we are asking if they had a business license to operate during that time at that location. (During that time we were told that constituted being open for business. For over six months there has been no training. Now we are told that pursuing compliance ((cleaning up property)) fulfills that requirement. If that is the case why did they have to conduct training classes in the first place?) (See attached emails & pictures)

Under "Background" It state that compliance reviews were conducted in 2003 and 2009. We asked for proof that the property was in compliance during those reviews and did not receive and proof that it was in compliance. (See attached letter to Tomi Riley dated Oct 26, 2014)

Under "Background" it also states that the land use permit is still valid even though the

EXHIBIT 6

applicants have not been operating it as a business because they have been pursuing compliance. COA #1 specifically states that the COA's are to be met in a timely manner, not 16 years later.

Under "Background" paragraph two it states, "since there is no evidence of the (sound) study being conducted in the past..." Again, out of compliance as stated on COA #1 which specifically states that the COA's are to be met in a timely manner, not 16 years later. Also under "Background" it states there is no official record of complaints made to Code Enforcement...While we didn't want to bring up old history there is a significant history regarding complaints against Sand Hill as documented in the lawsuit of Carol Davis vs. Tommy Anderson and Thomas Smith (C98-03060). That lawsuit specifically states, "Contentious public hearings occurred before the County Planning Commission and Board of Supervisors in 1996 and early 1997. These hearings received extensive press coverage." It also states that because of concerns of plaintiff and neighbors certain limiting conditions were imposed...As newer residents moved in it appeared that Sand Hill had reduced their hours and ridership was declining and since Tom Anderson was here first no complaints were made that we are aware of at the 5 year review hearings. (See attached Davis v Anderson lawsuit)

Also under "Background" paragraph three it states that we question the validity of the permit originally approved as a 80 plus acre site now reduced to an approximate 40 acre site. The county states this reduction was properly noticed and approved at public hearing in 2004. It may have been approved as a lot line adjustment but not properly investigated as the sound/safety/liability buffer for a motocross race track. Was this specifically noticed as a reduction in the size of a motocross race course?

It appears this may not have been carefully investigated prior to approval or someone should have realized the liability that was created by losing what was in effect a buffer for the motocross tracks. Per the staff report this was noticed and approved on January 5, 2004. Paul Bergstrom rode off a Sand Hill course on March 11, 2004, onto what is now the Harrison property, received significant injuries and successfully sued both Sand Hill for over two million dollars and received a settlement from what is currently the Harrison property for about \$750,000. At that time the Harrison property belonged to the Brentwood Rod and Gun Club. (See attached Paul Bergstrom vs. Sand Hill Ranch lawsuit) A perfect example of why a buffer is essential to this property not only for noise but for safety. We have attached a proposal from a motocross course that includes buffer information. The course is 75 acres, the property is 437 acres. The proposed buffer is, "at least 25 feet high by 70 feet wide.." that is around the course area. "A perimeter vegetated buffer area with an average width of 1,000 feet and minimum width of 500 feet..." That appears to be for the actual perimeter of the property. (See attached proposal from Snohomish County and lawsuit article re motorcyclist)

Now we get to the actual COA's:

COA #1: The staff report states they are in compliance. We disagree. County states they are in compliance but they have to remove two unapproved tracks to conform to original site plan dated October 21, 1996. The county also states, "In order to get the site into better conformance with the approved site plan, the applicants were required to submit new site plans that better reflect the original approval." How do they know what the original approval is supposed to reflect, where they involved in the original? It appears from the lawsuit between Davis and Anderson the original approval reflected concerns of the neighbors. "Because of concerns of

Plaintiff and her neighbors expressed to the county, and in compromise of the conditions sought in the original applications of Anderson and Smith, certain limiting conditions were imposed..." We do not believe the intent of the permit was to expose neighbors to even more noise from the motocross tracks. (See attached lawsuit of Davis and Anderson)

COA#1: This COA also talks about the new owner/applicants applying for a grading permit to move the oval track, which was never in compliance with the 1996 site plan. There is no permit for the track which is a condition of COA#4. These new owner/applicants have already done significant grading, tree removal, course modification, retaining wall construction and building remodeling without a permit. All of these issues have been reported and/or asked about. (See attached Req for Public Doc's, emails and citizen access documents)

COA#2: The staff report says they are in compliance. They are not in compliance. Talks about reconstruction of (unpermitted) oval track and notification to Community Development 30 days prior to any racing event. The track is not permitted, the track never conformed to October 21, 1996 site plan and had this process occurred 16 years ago or been investigated at any of the compliance reviews we would not be bringing it up at this time. (Refer to attachments from COA#1)

COA#3: Staff report states they are in compliance. We agree that they were in compliance as of 2012. After two requests for public documents we received satisfactory documentation.

COA#4: Staff report states they are in compliance. They are not in compliance. States the applicants shall have permits for all structures related to motorcycle activities. On the permit it specifically states "the racetrack." A request for public documents resulted in nothing on file. (attachment on COA#1) This racetrack has never been permitted and never been in compliance. There is also no pond indicated on the original site plan. The applicant/owner did a huge amount of grading, fencing and construction to build the current very large pond. There is no permit for the pond we are aware of.

COA#5: Staff report states they are in compliance. They are not in compliance. They have never been in compliance. If they were in compliance why is there a need for a new site plan? The new site plan includes things that were not on the original site plan such as the pond. The new site plan shows the track much closer to the Harrison property line. COA #5 states that minor changes are to be approved by the Zoning Administrator. This is a major change(s).

COA#6: Staff report states they are in compliance. They are not in compliance. Our public document requests specifically asked for the original application, site plan and any changes or addendum's. We were never given what they identify here as Exhibit 4. This is also the only document that is not date stamped as to when it was received and/or approved by the county. We specifically asked for a 1998 map but were told the 1996 map was the site map. On the county staff report under COA#5 it specifically states, "conform to the approved October 21, 1996 site plan..." Exhibit 4 also states hours start at 7am. COA#1 states "Any expansion or CHANGE in hours of operation, additional types of racing or other uses WILL require the approval of a new Land Use Permit." The hours on the approved permit start at 8am. (See emails.)

COA#7: Staff report states they are in compliance. We state they are not in compliance and have not been for 16 years. Again there is NO timeliness to this, again a violation of COA#1. (See

request for public document.)

COA#8: Staff report states they are in compliance. We can agree to this although we have asked about a designated helo landing area to minimize sound, dust and debris as medical helicopters land on a routine basis. We have been told by fire department staff that when Sand Hill was up and running it was their number one response location.

COA#9: Staff report states they are in compliance. Not in compliance, have not been in compliance for 16 years. Again there is NO timeliness to this, again a violation of COA#1. There has never been a permit for lights on the racetrack, should have been addressed 16 years ago.

COA#10: Staff report states they are in compliance. They do not have any signs up, how could they be in compliance? They did put up signs without approval and had to take them down. If they had met with the county as directed on COA #18 perhaps they would not have again violated the permit.

COA#11: Staff report states they are in compliance/ongoing. However on the staff report it states dust control for parking area. On the permit it states when there are 25 or more present the dust control will include the entire site to avoid dust impacts on nearby properties. We want to ensure proper dust control.

COA#12: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#13: Staff report states they are in compliance. As this has to do with safety helmets releases, minors accompanied by adult, etc they cannot be in compliance until they are open. We have had historic problems with motorcycles from Sand Hill riding on Camino Diablo and Walnut Blvd. The applicant was told of those concerns and said that would not be a problem. Since that time on more then one occasion unlicensed bikes from Sand Hill/Diablo MX have been seen on Camino Diablo and Walnut Blvd.

COA#14: Staff report states they are in compliance. This is regarding Contra Costa County Water (CCW) easement access. We can only assume they would have access.

COA#15: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#16: Staff report states they are in compliance. This is a historical problem as it relates to musical concerts and dances. There used to be Rave parties held at Sand Hill. Traffic on Camino Diablo would be completely blocked by these parties which would also impact traffic on Vasco Rd. While they may not allow concerts or dancing, the loud music played by customers was/is not enjoyed by the neighbors.

COA#17: Staff report states they are in compliance. They are not in compliance and have never been in compliance. THIS IS A HUGE ISSUE. There is no evidence a sound study was ever done. How are we supposed to know what is an acceptable noise level? When we are in our homes with double paned windows with all windows and doors closed we still have to turn up the volume on whatever we are listening to try and drown out the dirt bikes. That to us is

UNACCEPTABLE. We cannot enjoy being outside with friends and family when the motocross is running. Where are our rights to peace and quiet? We believe Sand Hill/Diablo MX is a "Nuisance" property. There is also case law supporting our position. (See attached letter to Supervisor Piepho for details on Nuisance Property and previous case law.)

COA#18: Staff report states they are in compliance. They are not in compliance, the previous owners (attorneys) were not in compliance and according to the county Tom Anderson was not in compliance. The staff report says they are in compliance because they "notified" the county in a timely manner. Nowhere is COA#18 does it say "notify" it specifically states the new owner is to "meet" with the Zoning Administrator(ZA). This same violation was brought up when the attorneys owned the property as they did not meet with the ZA either. We were told at that time the condition was met through a letter. What is the point of having COA's when things like this happen repeatedly? The "disclosure of deed restrictions," COA #18 also states," You are purchasing a property with a permit for a motocross trails park. This permit carries with it certain conditions that must be met by the owner of the property. The permit (LP95202) is available from the current owner or from Contra Costa County Community Development Department. A new owner is required to meet with the Zoning Administrator within 30 days of purchasing the property to discuss the terms of the permit and County requirements and expectations." If the attorney's did not disclose this then the current owners should follow-up with them. If it was disclosed it appears that the current owners decided they did not need to follow the Conditions of Approval as they did not meet with the county and did significant work, grading, construction of a pond, concrete work, signage, fencing, tree removal, retaining walls and remodeling without obtaining permits. If there is a concern of detrimental reliance on the part of the county we believe that is not the case. Previous potential buyers were well aware of the conditions attached to this property. They talked to the neighbors and the county prior to attempting to buy the property and as a result did not buy the property. (John Taylor)

COA#19: Staff report states they are in compliance. We do not believe they are in compliance. As a result of unpermitted grading there are drainage problems on adjoining parcels, specifically the Harrison & Alamillo properties.

COA#20: Staff report states they are in compliance. They are not in compliance. The driveway into the motocross is not in compliance. This was brought up previously and nothing was done. The driveway is not 20 foot wide paved with tapers and flares....in accordance with Caltrans Highway Design....(See Coa#20)

COA's 20 through 29: Staff report states they are in compliance. Without consulting with a specialist in this area we are in general agreement. We still have questions as to which driveway is for the development, if it meets criteria and how many driveways there are supposed to be for that property.

We have attached copies of several letters of concerns:

Letter to Supervisor Piepho delivered in person during meeting on May 7, 2014

Letter to Chief of Staff Tomi Riley, dated Oct 6, 2014

Letter to neighbors at 50 Camino Diablo, dated November 20, 2014

In closing we would like to reiterate that our concerns have not changed. We have stated since 2012 that we do not believe this property has ever been in compliance with the Conditions of Approval on

the Land Use Permit. As stated in COA#1, failure to comply in a timely manner may lead to revocation. Any change in hours will require a new land use permit. It has been closed for over two years. That is a significant change in hours.

(R1)

EXHIBIT 3

PROPOSED SITE PLAN

50 CAMINO DIABLO ROAD

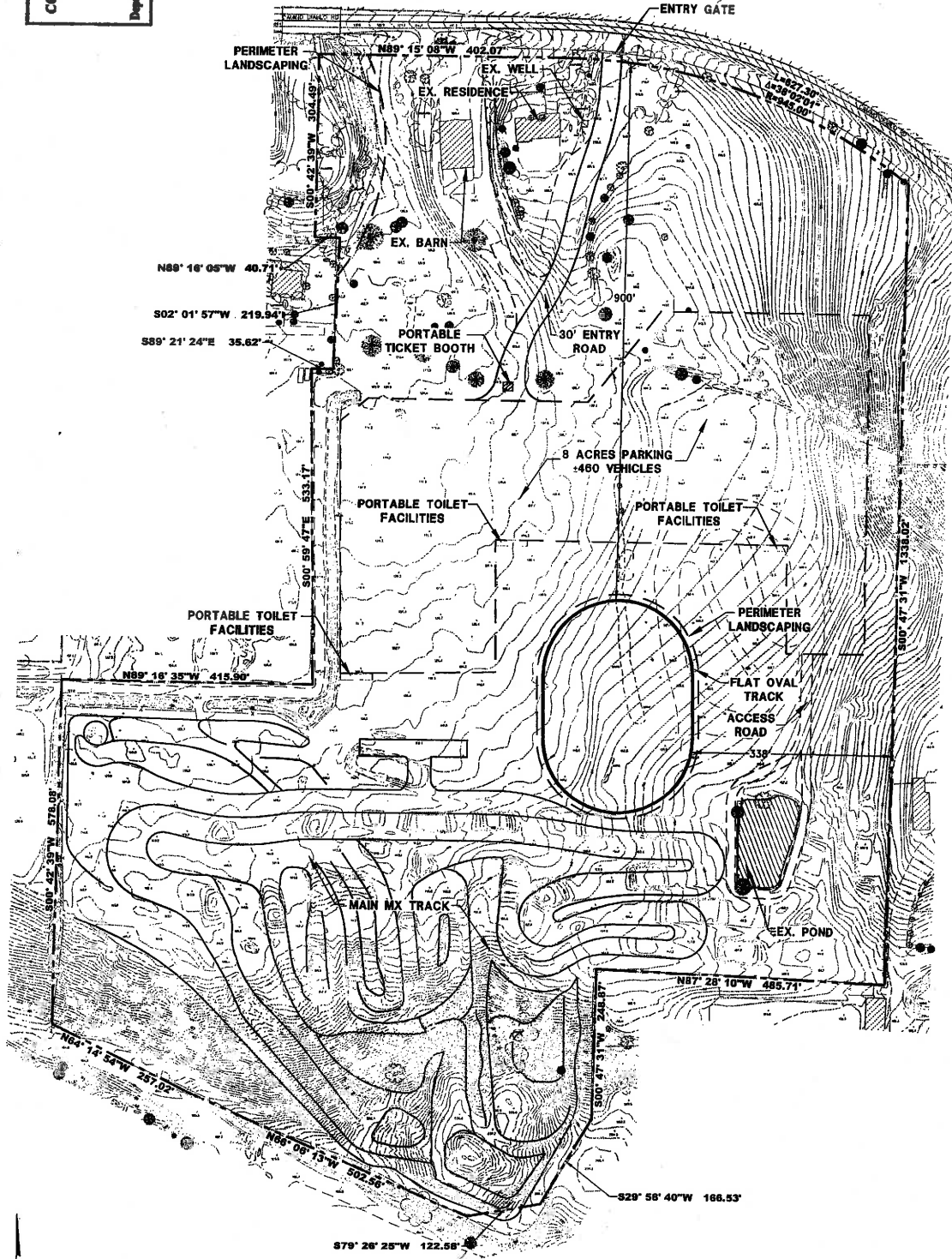
DIABLO MX RANCH LLC

BRENTWOOD

CALIFORNIA

OCTOBER, 2014

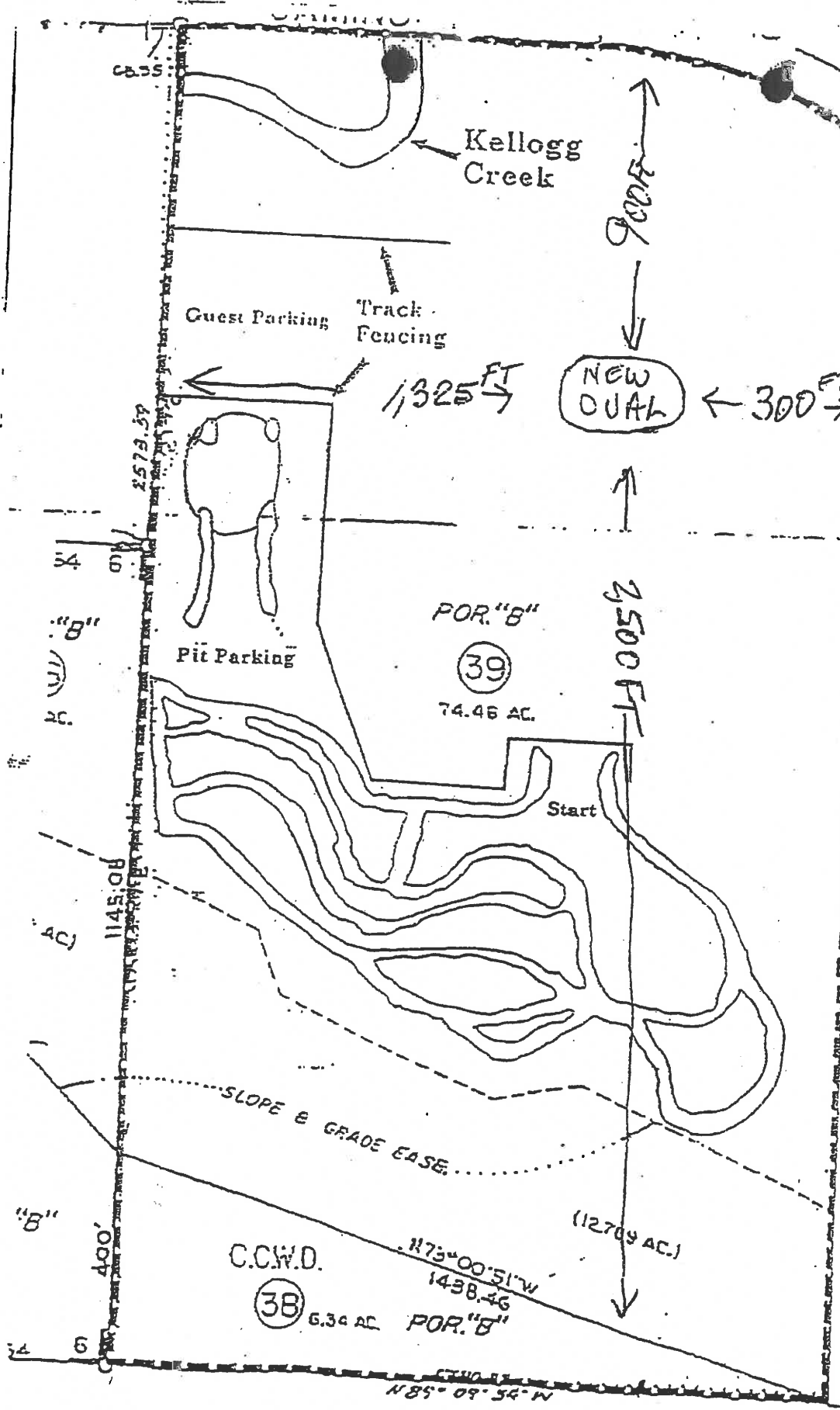
RECEIVED
CONTRA COSTA COUNTY
OCT 08 2015
Dept of Conservation & Development



60' 40' 0' 80'
SCALE: 1" = 80'

S:\Projects\50 Camino Diablo Ranch\50 Camino Diablo Ranch\50 Camino Diablo Ranch.dwg 10/7/2014 1:43 PM Ryan Brown

EXHIBIT 4



*Detailed
Plan
LP 952020*

96/OCT-21 PM 12:34
COMMUNITY
DEVELOPMENT DEPT

BOHENA COSTA

EXHIBIT 5

Page 18

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF DETERMINATION

FILED

CONTRA COSTA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
651 PINE STREET 4TH FLOOR NORTH WING MARTINEZ, CALIFORNIA 94553
MAR 30 1997

Telephone: (510) 646-2091

Contact Person: EDY ZWIERYCKI

S.L. WEIR, COUNTY CLERK
CONTRA COSTA COUNTY

BY Ed Richards DEPUTY

Project Description, Common Name (if any) and Location:

TOM ANDERSON (Applicant & Owner), County File #LP952020: The applicant requests approval of a land use permit to allow for the continued use of a motorcycle racetrack, with site plan modifications, on a permanent basis. Subject property is an 82.86 acre property fronting approximately 1,350 feet on the south side of Camino Diablo Road, immediately opposite Longwell Road, in the Byron area. Subject property is addressed #50 Camino Diablo. (A-3) (ZA: Q-26) (CT 3040.00) (Parcel #003-020-020)

The project was approved on 2-4-97
Pursuant to the provisions of the California Environmental Quality Act:

- An Environmental Impact Report was prepared and certified (SCH # _____).
- The Project was encompassed by an Environmental Impact Report previously prepared for _____ (SCH # _____).
- A Negative Declaration was issued indicating that preparation of an Environmental Impact Report was not required.

Copies of the record of project approval and the Negative Declaration or the final EIR may be examined at the office of the Contra Costa County Community Development Department.

- The Project will not have a significant environmental effect.
- The Project will have a significant environmental effect.
- Mitigation measures were made a condition of approval of the project.
- A statement of overriding considerations was adopted.
- Findings were adopted pursuant to Section 15091 of the State CEQA Guidelines.

Date: 2-5-97 By: Anthony Beresford
Community Development Department Representative

AFFIDAVIT OF FILING AND POSTING

I declare that on 3-3-97 I received and posted this notice as required by California Public Resources Code Section 21152(c). Said notice will remain posted for 30 days from the filing date.

K. THAMES

DEPUTY COUNTY CLERK

Signature

Title

Receipt #100562

CONTRA COSTA COUNTY

ENVIRONMENTAL CHECKLIST FORM
(INITIAL STUDY)

I. Background

- 1. Name of Proponent: Tom Anderson
- 2. Address and Phone Number of Proponents: 50 Camino Diablo
Brentwood, CA 94513
510-634-3328
- 3. Date Checklist Submitted: January 16, 1996
- 4. Name of Proposal, if applicable: Motorcycle Racetrack
LP#952020
- 5. Copies of this proposal for viewing/purchase are available at:
Contra Costa County
Community Development Department
651 Pine Street, North Wing - Second Floor
Martinez, CA 94553-1229
(510) 646-2071

II. Environmental Impacts

Quad Sheet Byron Hot Springs
Parcel # 003-020-020

Date of Site Visit November 1995

Note: Panel numbers indicated below refer to 7.5 minute U.S.G.S. quadrangle map sheets located in the Community Development Department offices at 651 Pine Street, North Wing -2nd Floor, Martinez, California 94553.

- 1. Earth. Could the proposal result in: S I
 - a. Unstable earth conditions or in changes in geologic substructures? X
Project Description/Site Visit
Geology Report Dated:
 - b. Disruptions, displacements, compaction or over-covering of the soil? X
Project Description/Site Visit
Same as 1.a.

REFER TO MITIGATION MEASURE REQUIRED UNDER SECTION 3, WATER.

Project Description/Site Visit

3. Water. Could the proposal result in:

a. Changes in currents, or the course of direction of water movements, in either marine or fresh waters.

_____ X

Project Description/Site Visit

b. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?

_____ X

Project Description/Site Visit
Same as 3.a.

c. Alterations to the course or flow of flood waters?

_____ X

F.E.M.A. Flood Map - Panel #0250
Flood Zones A & C

d. Change in the amount of surface water in any water body?

_____ X

Project Description/Site Visit
Same as 3.a.

e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?

X _____

Project Description/Site Visit
Same as 3.a.

f. Alteration of the direction or rate of flow of ground waters?

_____ X

Project Description/Site Visit
Same as 3.a.

g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

_____ X

Project Description/Site Visit
Same as 3.a.

h. Substantial reduction in the amount of water otherwise available for public water supply?

_____ X

Project Description/Site Visit
Same as 3.a.

- i. Exposure of people or property to water related hazards such as flooding or tidal waves? _____ X

F.E.M.A. Flood Map - Panel #0250
Flood Zones A & C

FLOOD PLAINS

The 100-year flood plain (Flood Zone A) covers only the area immediately surrounding Kellogg Creek within the northwestern corner of the subject property. The remainder of the site, including the area of the motorcycle racetrack, parking, and other facilities associated with the project, are located within Flood Zone C. As a result, the project proposal is not likely to cause people or property to be exposed to water related hazards, such as flooding.

STORM WATER RUNOFF TO ADJACENT CREEK

The project proposal has the potential to significantly increase the amount of contaminants (including, but not limited to motor oil, battery acid) being discharged into Kellogg Creek on the north end of the site via stormwater runoff, due to the erosion activities caused by the movement of motorcycles across the property and within the racetrack.

Mitigation Measures

- 1. Prior to the exercising of an approved land use permit for a motorcycle racetrack, including issuance of any ministerial permits (such as, but not limited to, obtaining a small public water system permit from the Contra Costa County Health Services Department or a building permit for permanent toilet facilities), the applicant shall complete the following:
 - A. Submit a Final Landscape/ Irrigation Plan
 - (1) Submit a landscape/ irrigation plan prepared by a licensed landscape architect, to the Community Development Department for the review and approval of the Zoning Administrator;
 - (2) Landscaping shall conform to the County Water Conservation Ordinance 82-26 and the licensed landscape architect shall certify that the plans comply with the ordinance improvement standards and

reporting requirements;

- (3) The plan shall provide a minimum 10 foot strip of grass or vegetation either around the outer rim of the entire racetrack or the northern half of the track; and a minimum 15 foot strip of grass or vegetation along the entire southern and eastern boundary of Kellogg Creek on the subject property. Refer to staff's delineation of these vegetation areas on the attached Staff Study Map dated January 16, 1996.
- (4) The plan shall address the need for delivering soil, including the type and amount, to the subject property, if applicable.

B. Provide Security in the Event of Landscape Failure

- (1) The landscape/ irrigation plan shall be accompanied by a cost estimate from the landscape architect to include the materials and labor for the proposed landscape improvements. These landscape improvements shall be designed to minimize landscape maintenance costs; and
 - (2) The applicant shall (1) enter into a landscape improvement agreement and (2) either post a cash performance bond or cash deposit with the County. This agreement and security shall ensure the replacement of landscaping/ irrigation in the event that the approved landscaping/ irrigation fails within 24 months following installation.
2. Prior to the exercising of an approved land use permit for a motorcycle racetrack, including issuance of any ministerial permits, the landscape architect shall make an on-site inspection of the landscape/ irrigation improvements and submit a written report to the Zoning Administrator that covers the following:

A. Acceptance of Landscape Improvements

- (1) Certifies the completion of the landscape/ irrigation plan including consideration of plant species, size and location; and
- (2) Requests the Zoning Administrator to

accept the landscape/ irrigation improvements.

3. The property owner shall maintain the approved landscaping in good condition at all times.

4. Plant Life. Could the proposal result in:

a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)? _____ X

Project Description/Site Visit

b. Reduction of the numbers of any unique, rare or endangered species of plants? _____ X

Project Description/Site Visit
Same as 4.a.

U.S.G.S. Quad Overlay System No. 5

c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species? _____ X

Project Description/Site Visit
Same as 4.a.

U.S.G.S. Quad Overlay System No. 5

d. Reduction in acreage of any agricultural crop? _____ X

Project Description/Site Visit
Same as 4.a.

5. Animal Life. Could the proposal result in:

a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects)? _____ X

Project Description/Site Visit

U.S.G.S. Quad Overlay System No. 5

- b. Reduction of the numbers of any unique, rare or endangered species of animals? _____ X

Project Description/Site Visit
Same as 5.a.

U.S.G.S. Quad Overlay System No. 5

- c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals? _____ X

- d. Deterioration to existing fish or wildlife habitat? _____ X

Project Description/Site Visit
Same as 5.a.

6. Noise. Could the proposal result in:

- a. Increases in existing noise levels? _____ X

Project Description/Site Visit

- b. Exposure of people to severe noise levels? _____ X

U.S.G.S. Quad Overlay No. 16
Project Description/Site Visit
Same as 6.a.

- 7. Light and Glare. Could the proposal produce new light or glare? _____ X

Project Description/Site Visit

8. Land Use.

- a. Could the proposal result in substantial alteration of the present or planned land use of an area? _____ X

General Plan Land Use Designation:
Agricultural Lands

- b. Will the proposal be consistent with existing zoning plans and other applicable land use controls? _____ X

The proposal lies within the A-3 Zoning District.

- 9. Natural Resource. Could the proposal result in an increase in the rate of use of any natural resources? _____ X

10. Risk of Upset. Could the proposal involve:

- a. A risk of an explosion or the release of hazardous substances (including, but not limited to oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions? X

Project Description/Site Visit

- b. Possible interference with an emergency response plan or an emergency evacuation plan? X

Project Description/Site Visit
Same as 10.a.

RELEASE OF HAZARDOUS MATERIALS

There is a significant potential for stormwater flowing over the site to carry oil and gas contaminants to the Kellogg Creek on the northern portion of the subject property. The Mitigation Measures required under Section 3 titled "Water" above, is required to reduce or eliminate the potential for stormwater runoff to carry oil, gas, and other contaminants into this creek.

- 11. Population. Could the proposal alter the location, distribution, density, or growth rate of the human population of an area? X

Project Description/Site Visit

- 12. Housing. Could the proposal affect existing housing, or create a demand for additional housing? X

Project Description/Site Visit

- 13. Transportation/Circulation. Could the proposal result in:

- a. Generation of substantial additional vehicular movement? X

Project Description/Site Visit

- b. Effects on existing parking facilities, or demand for new parking? X

Project Description/Site Visit
Same as 13.a.

- c. Substantial impact upon existing transportation systems? X

U.S.G.S. Quad Overlay No. 17

S

I

- d. Alterations to present patterns of circulation or movement of people and/or goods? X
U.S.G.S. Quad Overlay No. 17
- e. Alterations to waterborne, rail or air traffic? X
Project Description/Site Visit
Same as 13.a.
- f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians? X
U.S.G.S. Quad Overlay No. 15

14. Public Services. Could the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:

- a. Fire protection? X
Fire District Memo dated 3/7/95
The referenced Fire District Memo provided no comments.
- b. Police protection? X
Project Description/Site Visit
- c. Schools? X
Project Description/Site Visit
Same as 14.b.
- d. Parks or other recreational facilities? X
Project Description/Site Visit
Same as 14.b.
- e. Maintenance of public facilities, including roads? X
Project Description/Site Visit
Same as 14.b.
- f. Other governmental services? X
Project Description/Site Visit
Same as 14.b.

15. Energy. Could the proposal result in:

- a. Use of substantial amounts of fuel or energy? X

Project Description/Site Visit

- b. Substantial increase in demand upon existing sources or energy, or require the development of new sources of energy? _____ X

Project Description/Site Visit
Same as 15.a.

16. Utilities. Could the proposal result in a need for new systems, or substantial alterations to the following utilities X

Project Description/Site Visit

17. Human Health. Could the proposal result in:

- a. Creation of any health hazard or potential health hazard (excluding mental health)? X _____

Project Description/Site Visit

- b. Exposure of people to potential health hazards? X _____

Project Description/Site Visit
Same as 17.a.

Mitigation Measures

Some activities associated with the motor cycle racetrack currently exist on-site which have potentially significant health impacts. The applicant shall comply with the requirements of the Contra Costa County Health Services Department according to the attached letters dated April 4, 1995 and December 21, 1995, to mitigate these health impacts.

- 18. Aesthetics. Could the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view? _____ X

U.S.G.S. Quad Overlay No. 14

- 19. Recreation: Could the proposal result in an impact upon the quality or quantity of existing recreational opportunities? _____ X

Project Description/Site Visit

20. Cultural Resources.

- a. Could the proposal result in the alteration of or the

destruction of a prehistoric or historic archaeological site?

X

Sonoma State Notification dated: 25 April 1995
Project Description/Site Visit

According to a letter dated April 25, 1995, The North West Information Center (Sonoma State University) considers the subject property to be archaeologically sensitive and recommends that a field study be conducted.

The motorcycle racetrack project shall not significantly alter the site since the motorcycle racetrack and related facilities have already been built on the subject property. The Community Development Department will be requiring that the applicant comply with a condition of approval to construct a limited number of permanent restroom facilities (for men and women), however, the construction of such facilities are unlikely to cause the destruction of a prehistoric site.

- b. Could the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object? X

Project Description/Site Visit
Same as 20.a.

- c. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values? X

Project Description/Site Visit
Same as 20.a.

- d. Will the proposal restrict existing religious or sacred uses within the potential impact area? X

Project Description/Site Visit
Same as 20.a.

21. Mandatory Findings of Significance.

- a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? X

Project Description/Site Visit

- b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.) _____ X

Project Description/Site Visit
Same as 21.a.

- c. Does the project have potential impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of these impacts on the environment is significant.) _____ X

Project Description/Site Visit
Same as 21.a.

- d. Does the project have environmental effects which could cause substantial adverse effects on human beings, either directly or indirectly? _____ X

Project Description/Site Visit
Same as 21.a.

III. Discussion of Environmental Evaluation

Based on the foregoing review, the project will not result in any potentially significant environmental impacts.

IV. Determination

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. _____

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION WILL BE PREPARED. _____ X

I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. _____

1/18/96
Date

Edy J. Zimzycka
Signature

Reviewed By: _____

EXHIBIT 6

Exhibit "A"
Legal Description
 Lot Line Adjustment - Area "A"
 (Brentwood Gun Club)

253211

All that real property situate in the unincorporated area of the County of Contra Costa, State of California, described as follows:

All of *PARCEL "A"* and a portion of *PARCEL "B"* as shown on that certain map entitled *PARCEL MAP, M.S. 141-74*, filed July 9, 1975, in Book 38 of Parcel Maps, at Page 41, Contra Costa County Records, further described as follows:

Commencing at the most Southwesterly corner of said *PARCEL "B"*, said corner being the common section corner of Sections 1 and 12, T. 1 S., R. 2 E., and Sections 6 and 7, T. 1 S., R. 3 E., M. D. B. & M.; thence from said point of commencement along the Westerly boundary line of said *PARCEL "B"* North 00°42'39" East 400.00 feet to the northwesterly corner of that certain *Fee Parcel* of land acquired by Contra Costa Water District, Series No. 94-304479, also being the point of beginning; thence from said point of beginning along the Westerly boundary line of said *PARCEL "B"* and along the boundary line of that certain *Slope Easement* acquired by Contra Costa Water District, Series No. 94-304479, North 00°42'39" East 537.00 feet to the northwesterly corner of said *Slope Easement*; thence along said *Slope Easement* line South 64°14'54" East 257.03 feet; thence leaving last said line the following courses:

South 66°06'13" East, 502.56 feet,
 North 79°26'25" East, 122.58 feet,
 North 29°58'40" East, 166.53 feet,
 North 00°47'31" East, 248.87 feet,
 South 87°28'10" East, 485.71 feet,

to a point on the Westerly boundary line of said *PARCEL "A"*; thence along the boundary line of last said parcel the following five courses: North 00°47'31" East 1,338.02 feet to a point on the Southerly right of way line of Camino Diablo Road as shown on said *MS 141-74* also being the beginning of a non-tangent curve concave to the southwest having a radius of 945.00 feet and to which beginning a radial line bears North 38°46'53" East; thence southeasterly 142.72 feet along said Southerly right of way line and along said curve through a central angle of 08°39'12"; thence South 42°33'55" East 380.62 feet; thence leaving said Southerly right of way line South 00°48'22" West, 2,001.74; thence North 89°09'34" West 366.25 feet to the southwesterly corner of said *PARCEL "A"* also being the easterly corner of said Contra Costa Water District *Fee Parcel* (94-304479); thence along last said line North 73°00'51" West 1,438.46 feet to the point of beginning.

Containing an area of 39.34 Acres more or less.

Assessors Parcel Numbers 003-020-017 and 003-020-039 (portion).

The bearings shown for the above description are based on the California Coordinate System, Zone III. All distances are ground level distances.

F:\WPBDOCS\199007A.WPD



253211

CAMINO

N.89°15'08"W. 802.07'

R=945'
D=46°41'12"(T)
L=770.02'(T)

D=38°02'01"
L=627.30'

N 38°46'53" (R)

D=08°39'12"
L=142.72'

N.42°33'55"W
380.62'



KELLOG

PARCEL "C"
(38PM41)

DAVIS
003-020-033

2172.60' (T)

1635.60'

AREA "B"
53.62 AC.±

PARCEL "B"
(38PM41)

SERIES NO.
94-291866
SMITH

P.O.B.
AREA "B"

003-020-036

PARCEL "B"
(89PM34)

CCWD

003-020-037

12

7

N.00°42'39"E.
400.00 TIE

537.00

CCWD

003-020-038

SERIES NO.94-304479

P.O.B.
AREA "A"

SERIES NO.94-304479
CCWD SLOPE & GRADING EASEMENT
12.79AC.±

N.73°00'51"W

1438.46'

003-020-038



NEW LOT LINE

N.00°47'31"E.
248.87'

N.29°58'40"E.
166.53'

N.79°26'25"E.
122.58'

N.64°14'54"W.
257.03'

N.66°06'13"W.
502.56'

N.87°28'10"W.
485.71'

AREA "A"

GOSS 39.34 AC±
NET 26.55 AC±

PARCEL "A"
(38PM41)

OLD LOT LINE

366.25'

N.89°09'34"W.

PARCEL "A"
(20PM26)

COOK

003-020-014

N.00°48'22"E.
2001.74'

"LOT4" (346 M 9)

GALLAGHER
003-030-027

"LOT2"
BARULICH
003-030-029

END OF DOCUMENT

APN. 003-020-017
APN. 003-020-039

OLD PARCEL "A" = 18.60AC.±; NEW AREA "A" = 39.34AC±
OLD PARCEL "B" = 74.36AC.±; NEW AREA "B" = 53.62AC±

BELLECCI & ASSOCIATES, INC.

CIVIL ENGINEERING • LAND PLANNING • LAND SURVEYING
PHONE (925) 685-4569 • FAX (925) 685-4838
2290 DIAMOND BLVD., SUITE 100 CONCORD CA. 94520

DATE: MAY 1999

FILE NO.: Llopllt (99007)

SCALE: 400' ±

SHEET 1 OF 1

LOT LINE ADJUSTMENT

EXHIBIT 7

Community
Development
Department

County Administration Building
651 Pine Street
4th Floor, North Wing
Martinez, California 94553-0095

Phone:
(925) 335-1214

Contra
Costa
County



Dennis M. Barry, AICP
Community Development Director

February 23, 2004

Fidel Alamillo
772 Avio Court
Pleasanton, CA 94566

Dear Fidel:

**Re: Approval of Proposed Lot Line Adjustment to
Sandhill Motorcycle Ranch Park
Assessor's Parcel Number 003-020-035, -036, & -041;
Camino Ramon, Byron area**

County File #LL030049

We have reviewed your application for lot line adjustment proposing to reconfigure the above three listed parcels. Your requested lot line adjustment does not constitute a subdivision of land, and is consistent with the zoning and building ordinances. The proposed adjustment also conforms to the general plan. Therefore, this is to advise you that the request is administratively approved as shown on the proposed plot plan subject to the following requirements:


1. This approval is valid for a period of *six months from the date of this letter*.
2. Grant deeds must be recorded to implement the property exchange.
3. The property being transferred shall be combined with the receiving parcel to form one parcel for tax assessment purposes.
4. A copy of the recorded grant deeds providing evidence of the performance of Items #2 and #3 shall be forwarded to the Community Development Department *within seven months from the date of this letter*. The Department file number shown at the top of this letter shall be noted on all documents.

Office Hours Monday - Friday: 8:00 a.m. - 5:00 p.m.
Office is closed the 1st, 3rd & 5th Fridays of each month

If you have any further questions regarding this matter, please contact me at 925-335-1214.

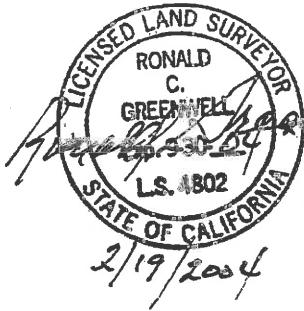
Sincerely,

DENNIS M. BARRY, AICP
Community Development Director

By 
Bob Drake
Principal Planner

cc: Tom Anderson & Tom Smith, Sandhill Ranch
Darwin Myers
File #LL030049

\\fs-cd\users\$\bdrake\Personal\LL030049.ltr.doc
RD\



CAMINO DIABLO ROAD

PARCEL B
180 PM 5

S 89°15'08" E 400.00'

N 38°46'53" E

LINE TABLE

NO.	BEARING	DISTANCE
①	S 64°14'54" E	257.03'
②	S 66°06'13" E	502.56'
③	N 79°26'25" E	122.58'
④	N 29°58'40" E	166.53'
⑤	N 00°47'31" E	248.87'
⑥	S 87°28'10" E	485.71'
⑦	N 00°47'31" E	1338.02'
⑧	N 89°15'08" W	402.07'

PARCEL A
180 PM 5

57'
Existing
Arrow

BLVD.

WALNUT

N 2°43'24" E

314.19'

R=1550.00'
Δ=0°49'11"
L=22.18'

S 89°16'35" E 749.51'

S 89°16'35" E

361.54'

24.39'

446.58'

S 0°42'39" W

NEW LOT LINE

OLD LOT LINE

AREA "A"

AREA "B"

NEW LOT LINE

S 68°47'02" E

26.04'

1115.08'

S 89°16'35" E

415.89'

NEW LOT LINE

AREA "C"

S 0°42'39" W

30.00'

OLD LOT LINE

S 0°59'47" E

533.17'

N 89°21'24" W

35.62'

S 271°57' W

219.94'

S 89°16'05" E

40.71'

S 0°42'39" W

304.49'

N 38°46'53" E

578.07'

537.01'

N 0°42'39" E

527.52'

CURVE TABLE

NO.	R	Δ	L
⑧	945.00	38°02'01"	627.30'

AREA "A" = 4.99 ACRES GROSS (OLD)
= 14.99 ACRES GROSS (NEW)
AREA "B" = 7.91 ACRES GROSS (OLD)
= 7.91 ACRES GROSS (NEW)
AREA "C" = 53.62 ACRES GROSS (OLD)
= 43.62 ACRES GROSS (NEW)

File # LLO30049

CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT DEPT.
04 FEB 23 AM 10:35

2-23-2004

Approved
R. D. Lee
ESD

W.O. 1664.00

PREPARED BY
RONALD GREENWELL & ASSOCIATES, INC.
LAND SURVEYING & DEVELOPMENT
10 SOUTH LAKE DRIVE, SUITE 1
ANTIOCH, CALIFORNIA 94509
TEL. (925) 778-0626
FAX (925) 778-7160

EXHIBIT FOR
LOT LINE ADJUSTMENT
AREA "A"

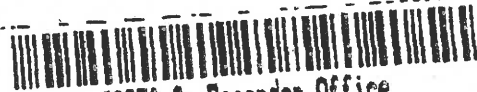
CONTRA COSTA

CALIFORNIA

DRAWN	HP	CHKD	DA
APP'D	RG		
SCALE	1"=200'		
DATE	2-18-04		
REV.		DATE	
SHEET	1	OF	1

RECORDING REQUESTED BY
Alliance Title Company
AND WHEN RECORDED MAIL TO

Name **Thomas Smith**
Street Address **4350 St. Charles Place**
Concord, CA 94521
City, State
Zip
Order No **11195992-403-ECM**



CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2004-0087109-00

Acct 15- Alliance Title Company
Tuesday, MAR 16, 2004 08:00:00
SUR \$10.00 MIC \$1.00 MOD \$2.00
REC \$8.00 TCF \$1.00
Ttl Pd \$20.00
Nbr-0002028121
ENS/R2/1-2

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(s) DECLARE(s)
City of Unincorporated
Conveyance Tax is \$0.00
Parcel No 003-020-041

Documentary Transfer Tax is \$0.00

computed on full value of interest or property conveyed, or
 full value less value of liens or encumbrances remaining at
the time of sale
Fidel Alamillo
Declarant or Agent Determining Tax

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

Fidel Alamillo, a married man, as his sole & separate Property and Jessica Alamillo, an unmarried woman, as joint tenants

hereby GRANT(s) to THOMAS SMITH, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY

the following real property in the city of UNINCORPORATED
county of Contra Costa, state of California:
See Exhibit A attached hereto and made a part hereof.

THIS GRANT DEED IS BEING EXECUTED TO IMPLEMENT THE LOT LINE ADJUSTMENTS PURSUANT TO
LLA #30049, DATED FEBRUARY 23, 2004

Dated: March 8, 2004

STATE OF CALIFORNIA
COUNTY OF Contra Costa

On March 8, 2004 before me,
R. M. Moreno

S.S. Fidel Alamillo
Jessica Alamillo
JESSICA ALAMILLO

a Notary Public in and for said County and State, personally appeared

Fidel Alamillo &
Jessica Alamillo

personally known to me (or 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

WITNESS my hand and official seal

Signature: R. M. Moreno



(This area for official notonal seal)

5

0087109

Exhibit A

All that certain real property situate in the Unincorporated Area, County of Contra Costa, State of California, described as follows:

Being a portion of Parcel "A" and Parcel "B" as shown on that Parcel Map recorded in Book 89 of Parcel Maps, Page 34 (89 PM 34), Contra Costa County Records, more particularly described as follows:

Beginning at a point which is South 00° 42' 39" West, 30.00 feet from the Northeast corner of Parcel "B" of said 89 PM 34, thence along a line which is parallel to and 30.00 feet Southerly of the North line of said Parcel "B" North 89° 16' 35" West, 361.54 feet to the West line of said Parcel "B"; thence North 89° 16' 35" West, 24.39 feet, thence parallel to the West line of said Parcel "B" South 00° 42' 39" West, 446.58 feet to the Northerly line of the Contra Costa County Water District Easement as described in Series No. 2003-0190792, Contra Costa County Records; thence along said Northerly line South 68° 47' 02" East, 26.04 feet to the Southeast corner of said 2003-0190792, thence along the South line of that land described as Parcel One of Series No. 94-291866, Contra Costa County Records South 00° 42' 39" West, 275.32 feet; thence along said South line South 42° 33' 10" East, 527.52 feet to the East line of said 94-291866, thence along said East line North 00° 42' 39" East, 1115.08 feet to the point of beginning

END OF DOCUMENT

EXHIBIT 8

Figure 11-6 Land Use Compatibility for Community Noise Environments

LAND USE CATEGORY	COMMUNITY NOISE EXPOSURE					
	L _{dn} OR CNEL, dB					
	55	60	65	70	75	80
RESIDENTIAL - LOW DENSITY SINGLE FAMILY, DUPLEX, MOBILE HOMES	Normally Acceptable	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable
RESIDENTIAL - MULTI FAMILY	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
TRANSIENT LODGING - MOTELS, HOTELS	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
SCHOOLS, LIBRARIES, CHURCHES, HOSPITALS, NURSING HOMES	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
AUDITORIUMS, CONCERT HALLS, AMPHITHEATRES	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable
SPORTS ARENA, OUTDOOR SPECTATOR SPORTS	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable	Clearly Unacceptable
PLAYGROUNDS, NEIGHBOURHOOD PARKS	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
GOLF COURSES, RIDING STABLES, WATER RECREATION, CEMETARIES	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
OFFICE BUILDINGS, BUSINESS, COMMERCIAL AND PROFESSIONAL	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
INDUSTRIAL, MANUFACTURING, UTILITIES, AGRICULTURE	Normally Acceptable	Normally Acceptable	Normally Unacceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable

NORMALLY ACCEPTABLE
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

CONDITIONALLY ACCEPTABLE
New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.

NORMALLY UNACCEPTABLE
New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design.

CLEARLY UNACCEPTABLE
New construction or development clearly should not be undertaken.

For lands within 3 miles of Buchanan Field and the East Contra Costa County Airports noise compatibility shall be adjusted to those of the ALUC which are roughly 5 CNEL lower than shown on this table.

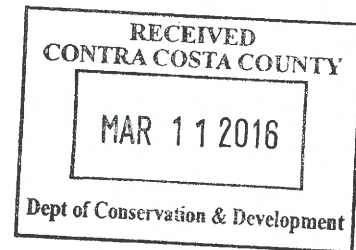


EXHIBIT 9



Diablo MX Ranch Noise Study – FINAL DRAFT

Contra Costa County, CA



8 March 2016

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WI Project 16-005



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Executive Summary

As required for a County Land Use Permit, this report presents a noise study prepared for the existing Diablo Motocross Ranch (DMXR) facility at 50 Camino Diablo in Contra Costa County, California. The DMXR facility will host dirt bike races on several weekends a year and allow dirt bike riders to practice on the motocross track and flat oval track on weekends and practice on the motocross track on weekdays.

The purpose of this noise study is to determine the typical noise levels to be expected from dirt bike activity at the DMXR facility. The projected noise levels are compared to the noise guidelines contained in the Noise Element of the Contra Costa County General Plan. This report provides a description of the noise study methodology, the noise measurements conducted during simulated dirt bike race and practice events, ambient noise measured over the course of a few days without bike activity, a discussion of Noise Element noise guidelines, and DMXR activity noise level projections at several points along the DMXR property line. Estimates of noise levels at nearby residences are also provided for a day when races are held.

This study addressed three different event scenarios for dirt bike activity at DMXR:

1. Weekend race day
2. Weekend practice day
3. Weekday practice
4. Friday or Saturday Night Under the Lights event

The analysis to assess these scenarios incorporates noise levels measured at the property line from simulated race and practice activities and existing ambient noise with no bike activity. Based on noise measurements of simulated races and practice activity and ambient noise data, the Day-Night Noise Level (L_{dn}) for each of the four scenarios was calculated based on race and practice activity levels provided by the applicants (John and Lori Ramirez). The noise levels presented herein are intended to represent a typical condition for each of the DMXR activity scenarios evaluated.

It is our understanding that the DMXR property and surrounding land parcels are all zoned as A-3 (Heavy Agricultural District). The Contra Costa General Plan Noise Element indicates that noise levels up to 75 L_{dn} are "Normally Acceptable" for land zoned for agriculture. Based on the model calculations performed for the four activity scenarios, 73 L_{dn} is the highest noise level projected at the DMXR property line due to dirt bike activity on a typical weekend race day. Therefore, the DMXR activity is within the "Normally Acceptable" noise guidelines at the property line.

The highest noise level at an adjacent residence is estimated to be 61 L_{dn} for a typical race day. Noise levels at the other residences are projected to be less for a race day. For weekend and weekday practice the noise levels will be even lower than those occurring on a race day. For Friday or Saturday Night Under the Lights, the highest L_{dn} at two residences is estimated to be 60.

1 Project Description

The DMXR facility is located at 50 Camino Diablo, near the intersection of Camino Diablo and Walnut Boulevard, in Contra Costa County (CCC). The nearest city is Brentwood. The facility has two race

tracks for dirt bike riding, a motocross (MX) track which is the main track and an oval track. The flat oval track that will be used but see less activity compared to the main track. The flat oval track will be used on events referred to as Friday or Saturday Night Under the Lights. The purpose of this noise study is to determine the typical noise levels to be expected from dirt bike activity at the DMXR facility. Four different scenarios for dirt bike activity were evaluated: a weekend race day, a weekend practice day, a weekday practice, and flat track only activity (Friday or Saturday Night Under the Lights event). Figure 1 is an aerial view of the DMXR facility. The oval track visible in this aerial view will be relocated 150 feet to the west of the existing oval track as noted.



Figure 1: Aerial View of DMXR Facility Showing Noise Measurement Locations

The hours of operation of the DMXR (i.e., hours during which the facility will be open to the public) are contained in the Land Use Permit. Figure 2 is a photo of the MX track looking to the southeast from a position near measurement Location 4.



Figure 2: Diablo MX Ranch MX Track

2 Applicable Noise Guidelines

The applicable noise guidelines are contained in the Noise Element of the CCC General Plan (2005 - 2020). The noise guidelines are contained Figure 11-6 (Land Use Compatibility for Community Noise Environments) of the Noise Element, which is replicated herein in Figure 3. CCC Land Use Compatibility noise guidelines are based on the Day-Night Level (L_{dn}) metric. The L_{dn} is the equivalent noise exposure level for a 24-hour period. Noise occurring during the nighttime hours of 10:00 pm to 7:00 am are weighted by adding 10 decibels (dB) to the measured noise levels. The 10 dB weighting accounts for the greater sensitivity of people to noise during nighttime hours compared to noise occurring during the daytime.

Environmental noise levels are measured in terms of A-weighted decibels (dBA), which are closely correlated with the auditory response of the human ear. A-weighting is implicit in noise levels reported in terms of L_{dn} and normally not included when reporting L_{dn} levels. Environmental noise levels fluctuate over time. The term Equivalent Continuous Sound Exposure Level (L_{eq}) refers to a

noise level that is equivalent to a level of a steady noise containing the same total sound energy as the fluctuating noise level for a given period of time (typically one hour). The L_{dn} is determined from the hourly L_{eq} over a 24-hour period with the 10 dB weighting for nighttime hours. Figure 2 below presents the Land Use Compatibility noise guidelines as indicated in Figure 11-6 of the CCC Noise Element. It is our understanding that the land parcels adjacent to DMXR property are zoned agriculture and therefore noise levels up to 75 L_{dn} are considered "Normally Acceptable."

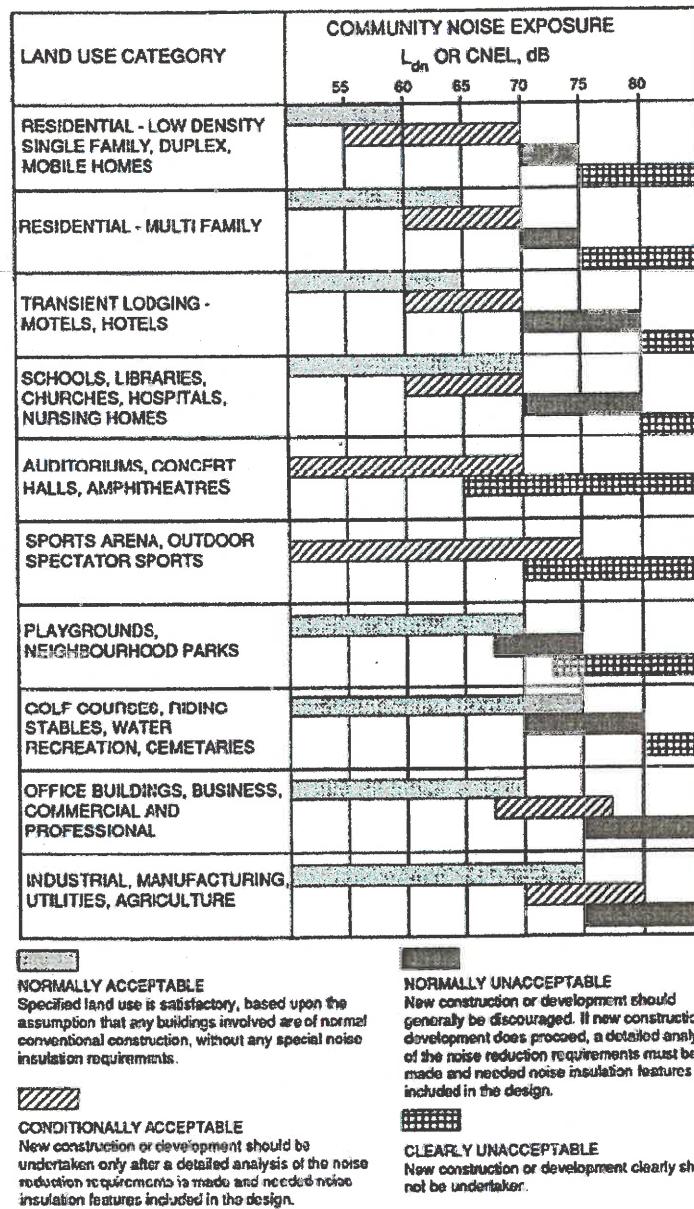


Figure 3: Land Use Compatibility Guidelines for Community Noise Environments (as provided in Figure 11-6 of the Noise Element of the Contra Costa County General Plan)

3 Noise Study Methodology

The noise measurements conducted for this study consisted of both short-term noise recordings and long-term noise measurement at five (5) locations along the DMXR property line. Table 1 summarizes the noise measurement locations and the types of measurements performed at each. Figure 1 shows the position of measurement locations for this noise study on an aerial image of the facility.

Long-Term Measurements

Hourly L_{eq} noise levels were measured along the property line of the site using five Type I logging sound level meters with windscreens. All measurements were calibrated. The noise loggers were left unattended for four full days, two weekdays and a weekend. The long-term loggers were placed at the locations indicated in Table 1 and Figure 1 (Loc. 1 to Loc. 5), where they were secured to the fence or tree support post with extension poles. Microphone height for the long-term loggers was approximately 8 feet above the ground. All long-term meter microphones were provided with a 7 in. weatherproof windscreen to minimize noise created by turbulence at the microphone from wind. The sound meters logged noise levels continuously for several 24-hour periods, providing hourly L_{eq} throughout the measurement duration. The hourly L_{eq} logged were subsequently used to calculate the daily Day-Night Levels (L_{dn}) and typical hourly ambient L_{eq} at each location. Loc. 4 and Loc. 5 only logged data for three complete days due to a loss of battery power.

Short-Term Sound Recordings

Calibrated, digital recordings were made at all five locations to provide representative samples of dirt bike noise and its frequency content for a four-hour period during the simulated race and practice activity conducted on a weekday (Thursday, January 28th). Digital recordings were obtained with microphones at a height of 5 feet above the ground. Microphone windscreens were employed. The locations and descriptions of the measurements are indicated in Figure 1 and Table 1.

Table 1: Environmental and Dirt Bike Noise Measurement Locations

Label	Measurement Type	Location Description
Loc. 1	Long Term - 8 ft mic height Short Term - 5 ft mic height	East property line fence on extension pole, 250' north from north edge of neighbor's barn. On a hillside overlooking the flat track and much of the MX track.
Loc. 2	Long Term - 9.5 ft mic height Short Term - 5 ft mic height	Southeast property line at row of new cedar trees on extension pole, secured to tree support post. Near the MX track and in-line with the eastern edge of the water retention pond on site.
Loc. 3	Long Term - 8.5 ft mic height Short Term - 5 ft mic height	South-southeast property line fence, on extension pole, on MX track hill. Near the section of the MX track where the riders start the final decent off the hill.
Loc. 4	Long Term - 7.5 ft mic height Short Term - 5 ft mic height	West-northwest property line fence, at corner of fence line, on extension pole. Near the start line for the MX track.
Loc. 5	Long Term - 9 ft mic height Short Term - 5 ft mic height	West property line fence on extension pole, in-line with adjacent residence south façade. Farthest from both tracks, and near closest residence.

3.1 Dirt Bike Activity Noise Recordings

Simulated race day and practice activity were conducted with volunteers on 28 January 2016. Approximately fifty riders, with a mix of 2-stroke and 4-stroke bikes, were present over a four-hour period and ridden to simulate motocross (MX) races and practice activity on the MX track and the oval track. Two Wilson Ihrig personnel circulated between measurement Locations 1, 2, 4, and 5 during this four-hour period to observe the noise levels at each location in real time during the dirt bike activity. Loc. 3 was not accessible during the dirt bike activity for safety reasons.

Three race simulations were conducted on the MX track. Each race consisted of 10 laps, the first two races had 20 riders and the third race had 22 riders. Each of these three races had a typical duration of approximately 25 minutes. The bikes ridden during these simulations were a mix of 2 and 4-stroke engines, with a majority of 4-stroke engines. One race simulation, which consisted of 13 riders and 10 laps, was conducted on the flat oval track.

Following the four races the two tracks were opened for bike practice activity for the next 2.5 hours. The number of riders on the track varied throughout the practice time, with the highest number being 25 riders on the MX track and 10 riders on the oval track at the beginning of the practice simulation. A head count of riders was taken roughly every 30 minutes during the practice simulation, with the number of riders on the MX track decreasing by an approximately 5 riders with each 30-minute head count. At the end of the practice simulation there were five riders on the motocross track. The oval track was empty by the end of the first hour of practice time.

The data recorded from these simulated race and practice events were used to establish hourly L_{eq} and L_{dn} levels for the four scenarios for DMXR race and practice functions that were assessed: (1) a weekend race day, (2) a weekend practice day, (3) a weekday practice and (4) Friday or Saturday Night Under the Lights event.

3.2 Ambient Noise Measurement Results

The results of the ambient noise survey without bike activity reveal that the existing noise levels around the DMXR property line range from 47 to 56 L_{dn} . The logged hourly ambient noise levels were used to establish the typical ambient noise levels during the three DMXR function scenarios indicated above, outside the hours when the facility is open and bike activity occurs. The L_{dn} levels measured at each location are presented in Table 2 below.

Table 2: Measured Existing Ambient L_{dn} without DMXR Activity

Day	Day-Night Noise Level (L_{dn})				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc. 5
Friday, January 29	48	49	47	56	47
Saturday, January 30	50	50	47	55	47
Sunday, January 31*	53	56	56	53	48
Monday, February 1	54	54	52	--**	--**

* There appeared to be a least one dirt bike rider at the DMXR facility on Sunday, January 30, 2016 during the 3 pm hour

** No data was logged at these locations on this day due to a loss of battery power



3.3 Analysis of Measured and Recorded Noise Data

The results of the simulated race and practice events are summarized in Table 3 below. Sample L_{eq} 's at each site were taken during each of the simulated events. Sample L_{eq} 's obtained from the recordings during the simulated races ranged between 10-15 minutes. Samples obtained during the simulated practices were 30 minutes in duration. Typical weekend and weekday ambient levels for each hour are presented in the Appendix. At each site, the measured ambient hourly L_{eq} 's collected during Saturday and Sunday were averaged to calculate typical weekend ambient levels. Measured ambient hourly L_{eq} 's collected during weekdays were averaged to calculate typical weekday ambient levels.

Table 3: Measured Equivalent Noise Levels (L_{eq}) During Simulated DMXR Activity

Simulated Events	Equivalent Noise Level (L_{eq})				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
Simulated Race on MX Track*	66	74	69	78	65
Simulated Race on Oval Track**	70	58	66	62	70
Simulated MX and Oval Track Practice (10/5 riders)***	65	72	68	75	65
Simulated MX Practice (5 riders)***	64	71	68	74	64
Simulated Oval Track Practice (3 riders)****	64	52	60	56	64

* Samples taken during simulated race events on MX track ranged between 10 – 15 minutes.

** Samples taken during simulated race events on oval track were 10 minutes.

*** Samples taken during simulated practice events were 30 minutes.

**** Adjusted from 10 minute samples taken during simulated race events on oval track.

4 Noise Models for DMXR for Property Line Locations

The results of the ambient noise measurements (typical hourly L_{eq}) were combined with the calculated hourly L_{eq} for racing and practice events to arrive at typical L_{dn} values at the measurement locations. Four different scenarios were modeled based on how the facility will typically operate, including: a weekend race day, a weekend practice day, a weekday practice day, and a Friday or Saturday Night Under the Lights event.

The results of the ambient noise measurements during each hour of the day were averaged for a weekend day and for a weekday. This provided typical hourly L_{eq} during, for example, the 1:00 to 2:00 PM hour on a weekend and on a weekday. The typical ambient levels throughout the day were then combined with the dirt bike noise level for the racing, practice and special event scenarios to project L_{dn} values for these events.

4.1 Weekend MX Race Day

A weekend race day scenario was modeled at each of the five measurement locations. The maximum measured L_{eq} sample taken during the simulated racing events at each location was used as the reference sound level for this scenario. A typical weekend race day was assumed to consist of a total of seven hours of races and a one-hour break for lunch. It was assumed that a total of 33 races each lasting approximately 12.5 minutes would take place on the MX track during a typical weekend race day. Each race was assumed to have on average 15 riders. The noise exposure generated by dirt bike activity is determined by the amount of time riders spend riding and the number of riders doing so. Based on the parameters indicated the level of activity for a race day corresponds to a total of 105 bike rider hours (BRHs) on the MX track.

The model combined the measured racing L_{eq} obtained at each measurement location during the hours of the day when racing would occur with the measured weekend ambient levels during non-racing hours. The measured racing L_{eq} used in the model corresponds to the L_{eq} measured during the racing simulations even though the number of riders were in some cases more than number of riders the model assumes. During typical race days, it was also assumed that a public announcement (PA) system would be utilized. Typical sound levels from similar PA speakers were used to model sound levels at each location. See below for a discussion of the PA sound level and duration assumptions. The PA was assumed to be used during weekend race days once in the morning to play the national anthem and eight times per hour for announcements during the hours when there was racing. The hourly L_{eq} 's during racing hours and non-racing hours were combined to calculate the L_{dn} at each measurement location.

4.2 Weekend Practice Day

A typical weekend practice day scenario was modeled at each of the five measurement locations. The number of riders on the track at any one time during a practice day would be expected to vary. The noise recordings for simulated practice conditions included a number of different riders at different times in order to record a range of rider activity. The modeled noise level for a typical weekend practice day scenario assumes that there are on average 10 riders on the MX track at a time. The duration of a typical weekend practice event is 15 minutes, with a total of 4 hours of bike noise. A total of 40 BRHs would occur on the MX track. The oval track is expected to get much less use. A typical usage would be 5 riders on the oval track for 2 hours of riding. This corresponds to 10 BRHs on the oval track. No PA use is planned during weekend practice days. The maximum measured L_{eq} during simulated weekend practice was combined with the measured weekend ambient levels to calculate the L_{dn} at each measurement location.

4.3 Weekday Practice

A typical weekday practice was assumed to consist a total of 1.5 hours of bike noise based the typical number of riders expected and the average amount of time a rider would spend riding. Weekday afternoon practice consisted of 5 riders on average. This corresponds to 7.5 BRHs on the MX track. The oval track usage is expected to be 3 riders on average for 1 hour of riding on a typical weekday practice. This corresponds to 3 BRHs on the oval track. The computed L_{eq} from recorded samples were combined with the measured weekday ambient levels to calculate the L_{dn} at each measurement

location. No PA use is planned during practice days, so it was not included in the weekday practice scenario.

4.4 Friday or Saturday Night Under the Lights Event

DMXR will occasionally hold these special events in which the public will be able to use only the oval track and not the MX track. For this type of event a maximum usage would be 7 riders on average on the oval track riding for 4 hours. This corresponds to 28 BRHs on the oval track.

4.5 Public Address Loudspeaker Sound Levels

The applicant intends to use a PA system on race days. The existing PA system is not operable, but there is an existing loudspeaker mounted to a telephone pole in the parking lot in front of the MX track as show in Figure 4. Races that are promoted may employ their own PA system, but the loudspeaker(s) will be located next to the existing loudspeaker pole. Typical sound levels for the PA loudspeaker were assumed to be 90 dBA at 50 feet from the loudspeaker. This level is generally consistent with PA sound levels measured by Wilson Ihrig at another MX facility.



Figure 4: Existing PA Loudspeaker on Pole at SW Corner of Parking Lot

Announcements were assumed to occur before and after each race and create 15 seconds of sound each time. It is also anticipated that the national anthem will most likely be played at the beginning of race day. Although the anthem fluctuates in sound level and lasts about 200 seconds, for the purpose of analysis it was assumed that the sound level was constant at 90 dBA. These PA sound levels were factored into the calculation of L_{dn} levels, based on the parameters stated.

5 Noise Model for Adjacent Residences

There are five residences located on the adjacent agricultural land adjacent to DMXR as shown in Figure 5. To model noise levels at the adjacent residences is more complicated than modeling noise levels at the measurement locations, because it requires accounting for attenuation with distance from multiple sources that are distributed over a large area and are constantly moving. Consequently, it was decided to construct a simplified model that assumed an aggregate noise sources concentrated at the approximate centers of the MX track and the oval track.

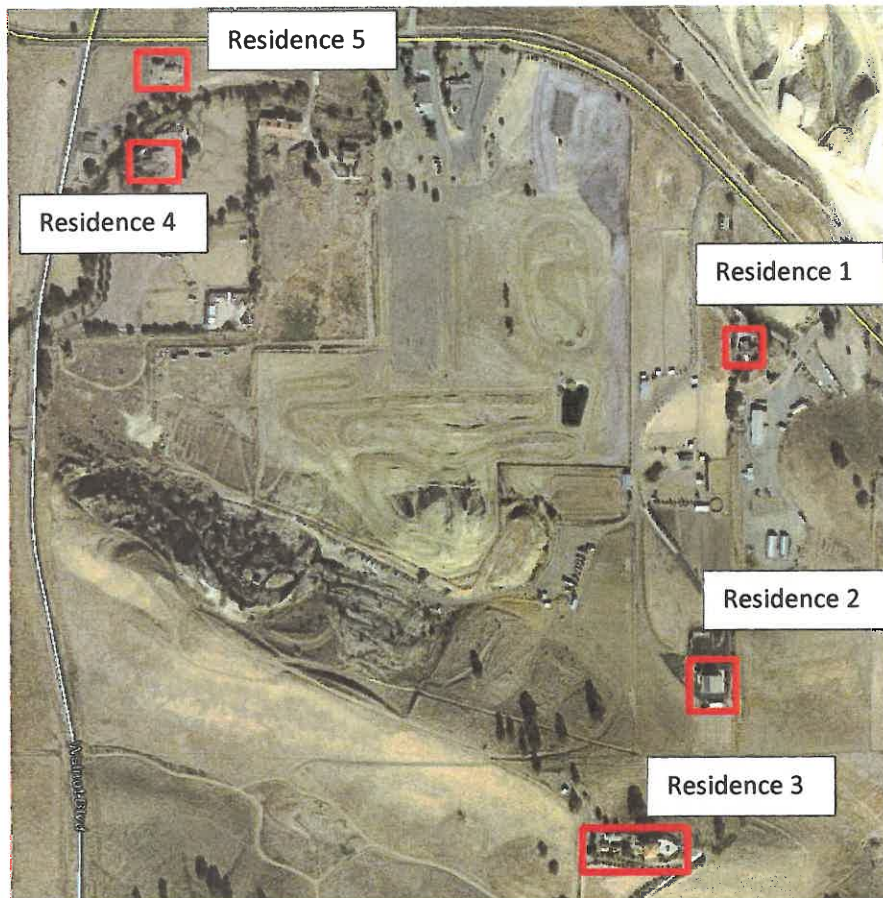


Figure 5: Location of Residences Adjacent to DMXR

Sound from a single source attenuates at a rate of 6 dB/doubling of distance, not accounting for excess attenuation due to ground effects. Excess attenuation would mean lower noise levels at the residences.

Using the calculated L_{dn} for the measurement locations (Loc. 1 through 5), the distance from the MX track center to each measurement location and the oval track to each measurement location, and this simple model, the L_{dn} for each of the five residences was calculated. The L_{dn} for the measurement location(s) in the general direction of each residence was used as a reference from which to project to the residence. For Residences 2, 3 4 and 5, there are two measurement locations that can be used for each residence. For these four residences the data for more than one measurement location were used to estimate the L_{dn} at those residences with emphasis on the measurement location that was more representative.

6 Noise Study Results for DMXR Property Line

The results of the noise modeling are included in Table 4 below. The modeled L_{dn} at all five measurement locations are indicated.

Table 4: Modeled Property Line L_{dn} During DMXR Typical Operating Scenarios

Operating Scenario	Day-Night Noise Level (L_{dn})				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
Weekend Race Day*	61	69	64	73	60
Weekend Practice	58	64	60	68	58
Weekday Practice	56	61	58	64	56
Friday or Saturday Night Under the Lights	60	52	57	56	60

* Weekend race day levels include PA usage

6.1 Race Day

The results of the analysis for a typical weekend race day scenario indicate that the maximum L_{dn} of 73 dBA would occur at Location 4. The predicted L_{dn} at the other locations range between 60 to 69.

6.2 Weekend Practice Day

The results of the analysis for the typical weekend practice day scenario indicate that the maximum L_{dn} of 68 would occur at Location 4. The results at the other four measurement locations indicate L_{dn} ranging from 58 to 64.

6.3 Weekday Practice

The results of the analysis for the typical weekday afternoon practice were lower due to shorter hours of activity. The maximum L_{dn} of 64 is projected to occur at Location 4, with the levels at the other four locations ranging from 54 to 60.

6.4 Friday or Saturday Night Under the Lights Events

The results of the analysis for this special event activity indicate that the maximum L_{dn} of 60 would occur at Locations 1 and 5. The results at the other three measurement locations indicate L_{dn} ranging from 52 to 57.

7 Estimate of Noise Levels at Adjacent Residences

At the nearby residences, the noise level is estimated to be in the range of L_{dn} 58 to 61 at Residence 2 on a typical weekend race day. The L_{dn} at the other residences (Residence 1, 3, 4, and 5) are estimated to be in range of 55 to 60. On weekend and weekday practices, the L_{dn} at residences would be lower than on a typical weekend race day. For a Friday or Saturday Night Under the Lights event the highest L_{dn} is estimated to be 60 for Residences 1 and 4. For this particular type of event the L_{dn} for the other residences would be less than 60. The L_{dn} are expected to be lower than these estimates due to excess attenuation from ground effects, and for Residences 2 and 3 they are expected to be lower due to acoustic shielding by the terrain.

8 Conclusions and Recommendations

The results of the analysis indicate that the maximum day-night noise level would occur during a typical weekend race day scenario. This is to be suspected due to the high number of riders and duration of racing compared to a typical practice day scenario. The predicted levels at all modeled property line locations is below the Noise Element guideline of 75 L_{dn} , which is considered Normally Acceptable for agriculture land. The highest noise level (73 L_{dn}) is projected to occur at Location 4 on the DMXR property line.

Based on the results of this noise study, no mitigation measures are recommended for the DMXR facility other than to implement a noise measurement program for weekend race and practice day bikes following the State of California procedure for controlling individual bike noise emission levels. That procedure requires noise levels measured 20 inches from the exhaust pipe of a stationary bike not exceed 96 dBA when the bike is operated at a specified RPM based on the year, make and model of the bike (i.e., half the manufacturer's rated maximum RPM).

APPENDIX – AMBIENT NOISE DATA

Table A-1: Typical Measured Weekend Ambient Hourly L_{eq}

Hour of Day	Typical L_{eq} (dBA)				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
0:00	42	42	38	49	39
1:00	41	39	44	48	36
2:00	42	40	37	42	35
3:00	42	38	36	41	36
4:00	36	37	35	43	35
5:00	38	36	36	39	38
6:00	41	41	40	40	41
7:00	44	50	41	40	43
8:00	47	45	43	44	45
9:00	45	45	43	42	47
10:00	46	45	44	44	47
11:00	46	44	43	44	46
12:00	47	52	47	45	47
13:00	47	47	47	46	47
14:00	46	50	45	49	46
15:00	51	55	57	55	50
16:00	49	50	49	49	49
17:00	44	49	42	45	43
18:00	49	46	45	48	45
19:00	47	46	44	49	44
20:00	49	45	43	50	45
21:00	50	47	42	49	44
22:00	48	46	42	48	41
23:00	47	47	42	47	39



Table A-2: Typical Measured Weekday Ambient Hourly L_{eq}

Hour of Day	Typical L_{eq} (dBA)				
	Loc. 1	Loc. 2	Loc. 3	Loc. 4	Loc.5
0:00	44	41	43	45	38
1:00	45	40	42	48	38
2:00	41	38	37	49	32
3:00	40	38	39	46	33
4:00	41	41	40	45	39
5:00	45	43	44	43	44
6:00	46	46	44	46	45
7:00	46	46	53	43	47
8:00	46	49	43	40	45
9:00	45	46	43	45	44
10:00	46	43	45	41	43
11:00	46	46	45	39	43
12:00	46	50	46	41	43
13:00	46	46	47	39	43
14:00	44	42	43	40	41
15:00	44	43	44	42	43
16:00	42	41	42	43	42
17:00	43	43	41	52	44
18:00	46	44	42	53	45
19:00	46	45	44	53	45
20:00	45	43	42	53	43
21:00	42	43	41	53	43
22:00	40	41	40	53	39
23:00	40	39	37	50	38

Announcements were assumed to occur before and after each race and create 15 seconds of sound each time. It is also anticipated that the national anthem will most likely be played at the beginning of race day. Although the anthem fluctuates in sound level and lasts about 200 seconds, for the purpose of analysis it was assumed that the sound level was constant at 90 dBA. These PA sound levels were factored into the calculation of L_{dn} levels, based on the parameters stated.

5 Noise Model for Adjacent Residences

There are five residences located on the adjacent agricultural land adjacent to DMXR as shown in Figure 5. To model noise levels at the adjacent residences is more complicated than modeling noise levels at the measurement locations, because it requires accounting for attenuation with distance from multiple sources that are distributed over a large area and are constantly moving. Consequently, it was decided to construct a simplified model that assumed an aggregate noise sources concentrated at the approximate centers of the MX track and the oval track.

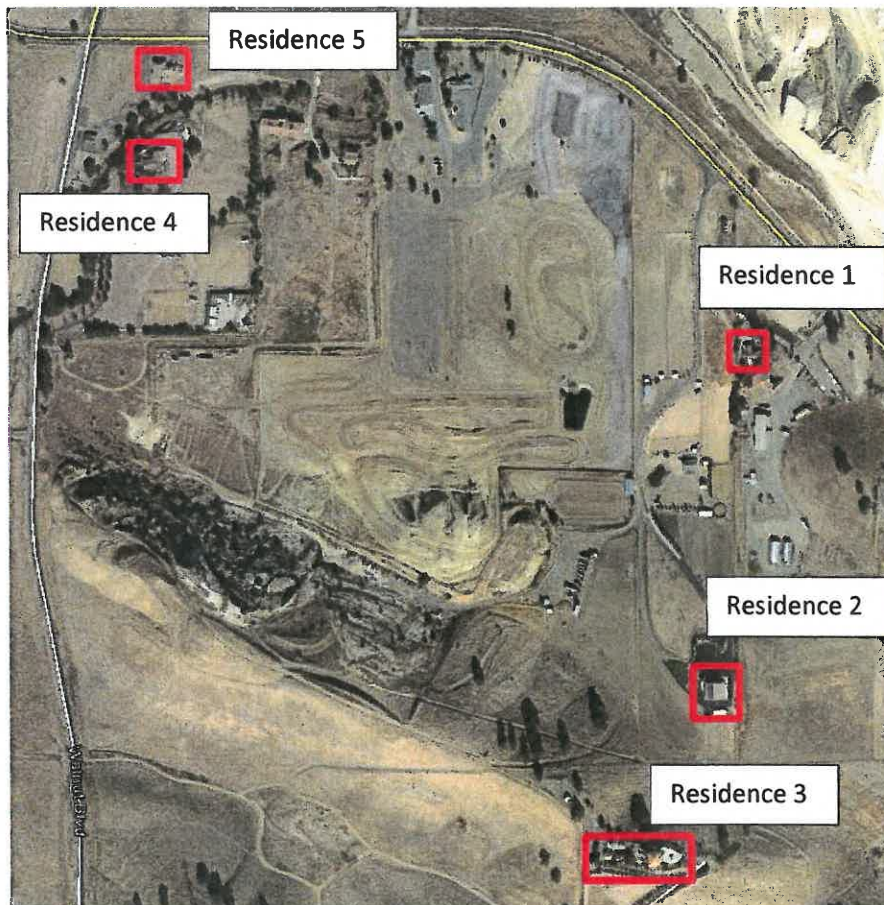


Figure 5: Location of Residences Adjacent to DMXR

Sound from a single source attenuates at a rate of 6 dB/doubling of distance, not accounting for excess attenuation due to ground effects. Excess attenuation would mean lower noise levels at the residences.

tracks for dirt bike riding, a motocross (MX) track which is the main track and an oval track. The flat oval track that will be used but see less activity compared to the main track. The flat oval track will be used on events referred to as Friday or Saturday Night Under the Lights. The purpose of this noise study is to determine the typical noise levels to be expected from dirt bike activity at the DMXR facility. Four different scenarios for dirt bike activity were evaluated: a weekend race day, a weekend practice day, a weekday practice, and flat track only activity (Friday or Saturday Night Under the Lights event). Figure 1 is an aerial view of the DMXR facility. The oval track visible in this aerial view will be relocated 150 feet to the west of the existing oval track as noted.



Figure 1: Aerial View of DMXR Facility Showing Noise Measurement Locations

EXHIBIT 10

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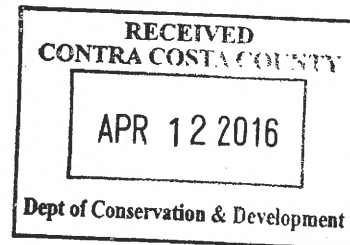
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April 12, 2016

Gary Kupp
Planner II
Contra Costa County
Conservation & Development
30 Muir Road
Martinez, California 94553



VIA E-MAIL: Gary.Kupp@dcd.cccounty.us

SUBJECT: Review of Diablo MX Ranch Noise Studies

Dear Gary:

At your request, we have reviewed two noise studies prepared for the Diablo MX Ranch project proposed in Contra Costa County, California. The first study was prepared by the appellant's acoustical consultant, Charles M. Salter Associates, Inc. (Salter), in October 2015, and the second study was prepared by the applicant's acoustical consultant, Wilson Ihrig (WIA), in March 2016. The Salter study documented ambient noise levels through a comprehensive noise monitoring survey at several locations surrounding the motocross facility and provided a list of questions that the consultant thought should be addressed in the noise evaluation of the project. The WIA study similarly included a comprehensive ambient noise monitoring survey. The WIA study also included noise measurements of simulated race and practice events and predictions of noise levels under several operating scenarios. The WIA study concluded that the project, as proposed, would produce noise levels that would comply with the Contra Costa County General Plan.

Our peer review of these reports included an assessment of the two separate noise monitoring surveys, an assessment of the predictive methods utilized in the WIA analysis, and an assessment of the conclusions reached by WIA relative to applicable standards. The key issues are that the correct significance criteria have been used and that project-generated noise has been properly evaluated.

Charles M. Salter Associates, Inc. Study

The Salter study first references project standards and then summarizes the results of a comprehensive noise monitoring survey made to document ambient noise conditions near the Diablo MX Ranch project site. Ambient day-night average noise levels (L_{dn} or DNL), in the absence of motocross-related noise, were generally 50 to 60 dBA. Daytime hourly average noise levels typically ranged from approximately 40 to 45 dBA L_{eq} . These data were reviewed and demonstrate that the site and vicinity are subject to relatively low levels of ambient noise. The study then asks several

questions relating to the project's potential to generate noise levels exceeding allowable limits and whether or not the project would result in a substantial increase in noise above ambient conditions. These questions are not answered in the Salter report. It is our understanding that the questions posed by Salter relating to the project's potential to generate noise levels exceeding allowable limits and whether or not the project would result in a substantial increase in noise above ambient conditions would only be applicable if the project were undergoing CEQA review. We understand that the proposed project is not subject to CEQA; therefore the questions posed by Salter are not applicable in the assessment of project-generated noise.

Wilson Ihrig Study

The WIA study presents a description of the proposed project, a summary of Contra Costa County's noise guidelines, and noise measurement data collected to establish ambient noise conditions and noise levels produced by simulated race and practice events. The ambient noise levels documented by WIA were reviewed and found to be similar to those documented by Salter. The noise survey of simulated practices and events also appeared to be reasonable. Predictions of noise levels under several operating scenarios are then made and noise levels are compared to the General Plan's 75 dBA L_{dn} "Normally Acceptable" standard for land zoned for agriculture. Our review indicates that the methodology used in the noise analysis was appropriate, and the calculated noise levels were reasonable based on assumptions detailed in the noise study. The study concludes that the project would not exceed the noise limit established for parcels zoned for agriculture as described in the Contra Costa County General Plan.

Comments

The primary difference between the two studies is the noise level threshold that should be used to evaluate project generated noise. The Salter study references a "60-dBA Noise Control" standard which is assumed to apply at the property line. The Salter study also references the General Plan's 60 dBA L_{dn} "Normally Acceptable" standard, and the State of California Model Community Noise Ordinance standards, which are normally applied to residential land uses. In contrast, the WIA study cites the County General Plan's 75 dBA L_{dn} "Normally Acceptable" standard for land zoned for agriculture and evaluates noise produced by the project with respect to this standard. It is our understanding that the County supports the 75 dBA L_{dn} threshold used in the WIA study because the subject property and surrounding parcels are zoned for agriculture and the proposed use would be consistent with the uses allowed in the agricultural zoning district.



This concludes our comments. Please feel free to contact us, should you have any questions.

Sincerely,

Michael S. Thill
Principal Consultant
ILLINGWORTH & RODKIN, INC.
(16-067)

EXHIBIT 11



Figure 1: Aerial View of DMXR Facility Showing Noise Measurement Locations

EXHIBIT 12

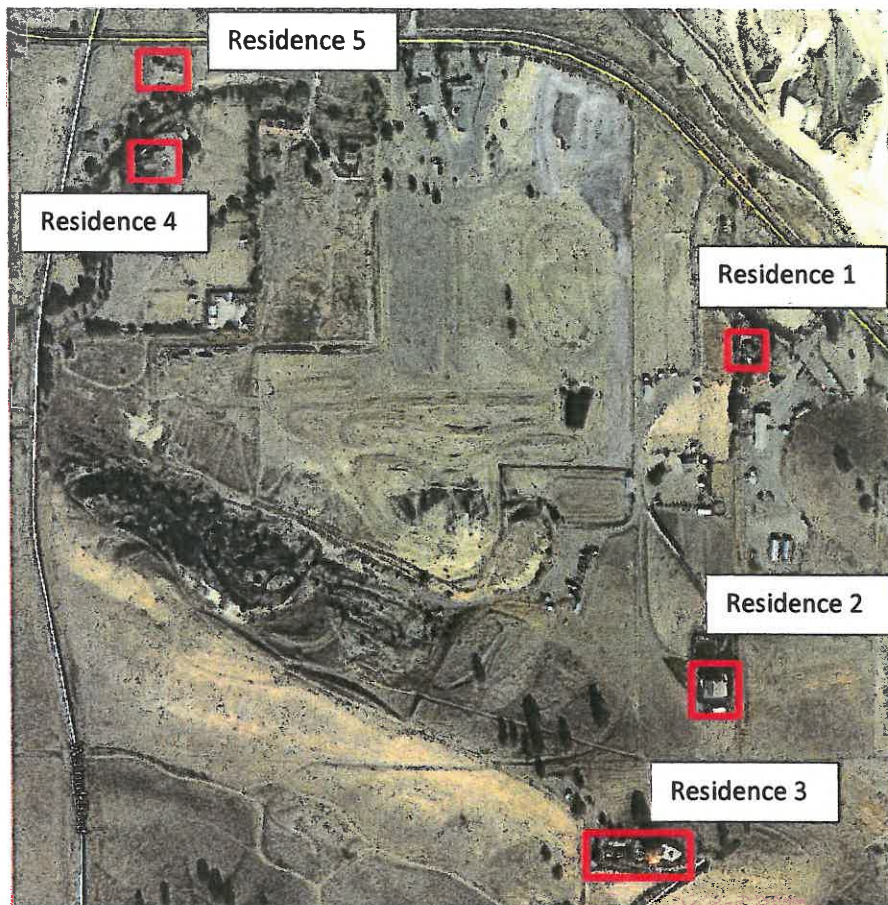


Figure 5: Location of Residences Adjacent to DMXR

EXHIBIT 13



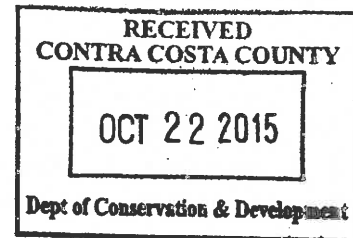
Richard T. Bowles
Michael P. Verna
Robert L. Westerfield
Richard A. Ergo
K. F. Dean Harper
Bradley R. Bowles
Kenneth B. McKenzie
David W. Trotter
Jason J. Granskog
Lawrence D. Goldberg
Cathleen S. Huang
Ethan K. Friedman
William T. Nagle
Michael P. Connolly
Nathaniel B. Duncan
Cheryl A. Noll
Michael T. Krueger
Mallory L. Homewood

Of Counsel
Bruce C. Paltenghi

October 22, 2015

VIA EMAIL AND U.S. MAIL

Community Development Division
Contra Costa County Department of
Conservation and Development
30 Muir Road
Martinez, California 94553
Attn: Aruna Bhat, Deputy Director



**Re: John and Lori Ramirez (Applicants)/James and Dorothy Schmidt (Owners),
County File No. LP13-2095
Site Address/Location: 50 Camino Diablo Road, Unincorporated
Brentwood, CA (APN 003-020-048)**

**Appeal By Twenty-Three Camino Diablo and Walnut Avenue Homeowners
and Residents to the Contra Costa County Board of Supervisors of the
County Planning Commission's May 12, 2015 Decision Allowing Off-Road
Motocross Operations, Finding Applicant to be in Compliance with Land
Use Permit No. LP95-2020 Conditions of Approval, and Approving Revised
Site Plans dated October 31, 2014**

Dear Ms. Bhat:

This letter is submitted on behalf of the Appellants in the above-referenced land use appeal which is currently pending before the County Board of Supervisors. I am writing as a follow-up to Appellants' August 20, 2015 meeting in Brentwood with Supervisor Mary Piepho, her staff and representatives from County Community Development Division Director Kopchik and yourself. Speaking for my clients who attended, we very much appreciated having the opportunity to meet with you and Supervisor Piepho on August 20 to express our concerns regarding the serious adverse impacts of the proposed motocross park on the Appellants' quality of life and quiet enjoyment of their homes and property.

During the course of the August 20 meeting, we briefly discussed the preliminary results of the ambient noise measurements that had been taken a few weeks earlier in the vicinity of the motocross project by Charles M. Salter Associates, Inc. ("Salter"), and I had promised to send a copy of Salter's final report to the County so that it can be included in the administrative record with respect to the pending appeal.



Community Development Division
Contra Costa County
Attention: Aruna Bhat, Deputy Director
October 22, 2015
Page 2

With that in mind, a copy of the Salter ambient noise measurements report dated October 20, 2015 is enclosed. Consistent with what the parties discussed at the August 20 meeting in Supervisor Piepho's office, the baseline ambient noise levels in the vicinity of Appellants' homes in the absence in the motocross park are very low. Salter found that "[i]n general, the measured daytime ambient noise levels were between 46 and 45 dB (L50)." See Salter report at p. 6 (emphasis added). This is a very quiet rural residential setting.

That said, the record should be clear that Salter also measured very high noise levels on the afternoon of August 2, 2015, when three motorcycles were observed using the Diablo MX site. At that time, the "typical maximum noise levels" from these "motocross motorcycles were measured to be approximately 80 dB to 85 dB." See Salter report at p. 7 (emphasis added). These data indicate that the applicant will not, and cannot, comply with the County's stated "60-dBA noise control" standard for this project.

Please include this letter and the Salter report in the administrative record and make them available to the full Board of Supervisors. Appellants appreciate your continuing attention to this matter, and please do not hesitate to contact me should there be any questions. Thank you.

Very truly yours,

DAVID W. TROTTER

DWT:te

Enclosure

cc: The Hon. Mary N. Piepho (w/encl.) – via e-mail and U.S. mail
Supervisor, District III

Ms. Linda Thuman (w/encl.) – via e-mail and U.S. mail

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Telecommunications

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Charles M. Salter, PE
David R. Schmidt, FAES
Eric I. Broadhurst, PE
Philip N. Sanders, LEED AP
Thomas A. Schneider, PE
Anthony P. Nash, PE
Ken Groven, PE, RCDD, CTS-D
Cristina I. Myer
Jason R. Duty, PE
Durand R. Begault, PhD, FAES
Joseph G. D'Angelo
Thomas J. Corbett, CTS
Eric A. Yee
Joshua M. Roper, PE, LEED AP
Peter K. Holt, PE, LEED AP
Ethan C. Salter, PE, LEED AP
Thomas D. Keller, CDT
Craig I. Gilson, RCDD
Lloyd B. Ranolo
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Jeremy L. Decker, PE
Rob Hammond, PSP, NICET III
Andrew J. McKee
Steven A. Woods
Josh J. Vallon
Valerie C. Smith
Benjamin D. Piper
Elisabeth S. Nelson
Joshua J. Harrison
Brian C. Wourms
Shonna M. Sullivan
Ryan G. Raskop, LEED AP
Diego Hernandez
Ryan A. Schofield
McLean H. Pierce
Alex T. Schiefer
Abner E. Morales
Noel J. Bocani
Adrian L. Lu
Greg R. Erenstein
Natalie T. Packard
Philip J. Perry
Brian J. Good
Heather A. Salter
Dee E. Garcia
Catherine F. Spurlack
Marva De Vear - Noordzee
Elizabeth F. Trocker
Jennifer G. Palmer
Jodessa G. Cortez
Susan E. Lonergan
Courtney H. Vinyas
Erin D. Gorton
Tish Patel
Nicolette A. Sullivan

20 October 2015

David Trotter
Bowles & Verna, LLP
2121 North California Boulevard, Suite 875
Walnut Creek, CA 94596
Email: dtrotter@bowlesverna.com

**Subject: Proposed Diablo MX Motocross Facility
50 Camino Diablo, Road, Byron, CA
Ambient Noise Measurements
CSA Project: 15-0428**

Dear David:

This letter summarizes our environmental noise study of ambient noise levels around the Diablo MX motocross facility located at 50 Camino Diablo Road in Byron, CA. The purpose of the study is to measure baseline ambient noise levels at the site to be later compared with noise levels during motocross events.

SUMMARY

The noise levels measured varied by location and day, with typical day-night average noise levels (DNL¹) of approximately 50 dB to 60 dB². Typical daytime hourly percentile (L₅₀) noise levels were between 40 dB and 45 dB (approximately). Noise sources measured at the site included the following:

- Distant traffic
- Wind noise
- Motorcycles at the motocross facility (on one day)
- Trucking activities including grading and rock/gravel dumping (at times)

Additional details and noise levels are provided below.

¹ DNL (Day-Night Average Sound Level) – A descriptor for a 24-hour A-weighted average noise level. DNL accounts for the increased acoustical sensitivity of people to noise during the nighttime hours. DNL penalizes sound levels by 10 dB during the hours from 10 PM to 7 AM. For practical purposes, the DNL and CNEL are usually interchangeable. DNL is sometimes written as L_{dn}.

² dB (Decibel) – A unit that describes the magnitude of a sound with respect to a reference sound level near the threshold of hearing. Decibels are based on a logarithmic scale and therefore cannot be added arithmetically. All sound levels in this report are A-weighted. A-weighting is a standard weighting that accounts for the sensitivity of human hearing to the range of audible frequencies.

PROJECT STANDARDS

Contra Costa County Community Development

Based on county records that you provided, we understand that the current compliance review indicates that the Diablo MX project is subject to a "60-dBA Noise Control" standard. We assume that this 60 dB noise limit addresses noise generated on the Diablo MX property and transmitted to the boundaries of neighboring properties and applies at the property boundary. This standard is found on the "Agency Comment Request" form of the Contra Costa County Department of Conservation and Development – Community Development Division (see Exhibit 2 of the Bowles & Verna LLP appeal letter dated 22 May 2015).

Contra Costa County General Plan

The Noise Element of the Contra Costa County General Plan (2005-2020) contains guidelines for Land use Compatibility for Community Noise Environments. These guidelines assign appropriate noise levels for indoor and outdoor activities at various land use categories. According to the Noise Element, it is "normally acceptable" for low density residential lands to be exposed to a day-night average sound level (DNL) of 60 dB or less.

The County's Noise Element contains the following goals, policies, and implementation measures that apply to the issue of equipment noise from the project.

Goal 11-A: *To improve the overall environment in the County by reducing annoying and physically harmful levels of noise for existing and future residents and for all land uses.*

Goal 11-B: *To maintain appropriate noise conditions in all areas of the County.*

Goal 11-C: *To ensure that new developments will be constructed so as to limit the effects of exterior noise on the residents.*

Goal 11-D: *To recognize the economic impacts of noise control and encourage an equitable distribution of these costs.*

Goal 11-E: *To recognize citizen concerns regarding excessive noise levels, and to utilize measures through which the concerns can be identified and mitigated.*

Policy 11-2: *The standard for outdoor noise levels in residential areas is a DNL of 60 dB. However, a DNL of 60 dB or less may not be achievable in all residential areas due to economic or aesthetic constraints...*

Policy 11-6: *If an area is currently below the maximum "normally acceptable" noise level, an increase in noise up to the maximum should not be allowed necessarily.*

Implementation Measure 11-a: *Continue to require a review and analysis of noise-related impacts as part of the existing project development review procedures of the County.*

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Implementation Measure 11-b: Evaluate the noise impacts of a proposed project upon existing land uses in terms of the applicable Federal, State, and local codes, and the potential for adverse community response, based on a significant increase in existing noise levels.

Implementation Measure 11-d: Noise mitigation shall be incorporated into the design and construction of new projects or be required as conditions of project approval.

The Noise Element also discusses how noise increases are perceived by people, as listed below:

An important factor in assessing a person's subjective reaction is to compare the new noise environment to the existing noise environment. In general, the more a new noise level exceeds the prior existing level, the less acceptable it is. Therefore, a new noise source will be judged more annoying in a quiet area than it would be in a noisier location. Knowledge of the following relationships is helpful in understanding how changes in noise and noise exposure are perceived.

- *Except under special conditions, a change in sound level of 1 dB cannot be perceived;*
- *Outside of the laboratory, a 3 dB change is considered a just-noticeable difference;*
- *A change in level of at least 5 dB is required before any noticeable change in community response would be expected; and*
- *A 10 dB change is subjectively heard as an approximate doubling in loudness and almost always causes an adverse community response.*

State of California – Model Community Noise Control Ordinance

The guidelines established in the State of California Model Community Noise Control Ordinance³ are also provided for consideration to address noise intrusion to residential areas. This document was published by the State of California to provide guidance for communities to develop their own noise ordinances. It is considered a reasonably protective limit and is discussed in this report to provide guidance to the County in reviewing potential noise impacts.

The exterior noise level limits in the Model Community Noise Control Ordinance are shown in the table below and correspond to the median percentile noise level (L_{50})⁴. These limits are not to be exceeded at the receiving land use for more than 30 minutes in an hour. The limits are to be adjusted based on the duration of the source, the level of the ambient noise, and the character of the sound. For brevity, these adjustments are not excerpted in this report.

³ "Model Community Noise Control Ordinance." Office of Noise Control, California Department of Health, Berkeley, 1977.

⁴ L_n – The sound level exceeded for a stated percentage (n) of a specified measurement period as described in ASTM E1686. L_{10} , L_{50} , and L_{90} are the levels exceeded 10, 50, and 90 percent of the time, respectively.

Model Community Noise Control Ordinance Exterior Noise Limits (L ₅₀ Noise Level)				
Receiving Land Use Category	Time Period	Noise Level (dBA)		
		Noise Zone Classification		
		Rural Suburban	Suburban	Urban
One & Two Family Residential	10 pm – 7 am	40	45	50
	7 am – 10 pm	50	55	60
Multiple Dwelling Residential Public Space	10 pm – 7 am	45	50	55
	7 am – 10 pm	50	55	60
Limited Commercial Some Multiple Dwellings	10 pm – 7 am	55		
	7 am – 10 pm	60		
Commercial	10 pm – 7 am	60		
	7 am – 10 pm	65		
Light Industrial	Anytime	70		
Heavy Industrial	Anytime	75		

The noise zone applicable to the subject residential properties would be the 'rural suburban' zone, as highlighted in the table above.

SETTING

Diablo MX Ranch, formerly Sandhill Ranch, is located at 50 Camino Diablo Road near Byron, CA. It is surrounded by residential property to the west, northwest, south, and southeast. The Unimin quarry is located across Camino Diablo Road to the north.

NOISE MEASUREMENTS

In order to quantify the ambient noise levels around the Diablo MX site, long-term noise measurements were conducted at five locations from 27 July to 3 August 2015 and at two other locations from 12 to 19 August 2015.

Sound level meters were placed at the locations described below and also shown on Figure 1, enclosed.

1. Location 1: On a fence post extension, approximately six feet above grade
2. Location 2: On a fence post extension, approximately ten feet above grade
3. Location 3: On a canopy post, approximately eight feet above grade
4. Location 4: On a canopy post, approximately twelve feet above grade
5. Location 5: On a portable light tower, approximately ten feet above grade
6. Location 6: On a ladder, approximately four feet above grade
7. Location 7: On a post of a gazebo, approximately six feet above grade

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Table 1 lists the measured DNL for each full day at each meter location.

Table 1: Day-Night Average Sound Levels (DNL) Measured at Locations 1 thru 7

Day	Meter Location					Day	Meter Location	
	2	3	4	5	6		1	7
28 July	58	59	57	61	50	13 August	56	49
29 July	58	60	54	63	51	14 August	58	53
30 July	59	63	53	63	49	15 August	53	56
31 July	58	57	55	62	50	16 August	55	65
1 August	59	56	54	63	48	17 August	62	53
2 August	59	58	57	63	50	18 August	57	51

In general, the measured ambient noise levels were in-line with or quieter than the County land-use compatibility standard of DNL 60 dB. Therefore, future Diablo MX Motocross Facility noise should be evaluated by answering both of the following questions:

1. Would motocross noise exceed the County community noise standard of DNL 60 dB at neighboring residential properties?
2. Would motocross noise significantly increase day-night average ambient noise levels at the adjacent residential properties?

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Table 2 below lists the L₅₀ noise level for each hour, averaged (arithmetically) over seven days, for each of the seven meter locations. More detailed results are provided in Appendix A.

Table 2: Hourly Percentile Noise Levels (L₅₀) Measured at Locations 1 thru 7

Time	Meter Location						
	1	2	3	4	5	6	7
0:00	43	47	47	43	51	37	39
1:00	43	45	46	42	53	37	39
2:00	45	48	45	40	54	36	38
3:00	44	51	46	41	56	36	36
4:00	44	54	50	41	58	37	38
5:00	46	55	47	42	58	39	41
6:00	49	45	44	43	47	42	41
7:00	48	43	43	43	45	40	42
8:00	44	41	44	42	44	40	40
9:00	42	41	43	43	44	40	39
10:00	41	41	44	42	43	40	40
11:00	41	40	43	43	43	40	38
12:00	42	42	45	44	45	42	39
13:00	43	44	46	43	45	42	40
14:00	45	41	46	43	44	41	41
15:00	48	41	45	43	43	40	44
16:00	47	40	44	42	45	39	41
17:00	46	42	47	45	47	41	40
18:00	46	41	47	46	47	40	39
19:00	42	37	42	42	42	35	36
20:00	42	37	42	43	42	35	39
21:00	43	45	45	43	48	36	42
22:00	41	43	46	43	50	36	41
23:00	43	44	48	44	52	38	40

In general, the measured daytime ambient noise levels were between 40 and 45 dB (L₅₀). These levels are quieter than the California Model Community Noise Ordinance standard of 50 dB for daytime but in-line with the nighttime standard of 40 dB. Therefore, future Diablo MX Motocross Facility noise should be evaluated by answering the following questions as well:

3. Would motocross noise exceed the California Model Noise Ordinance standards of 40 dB (nighttime) and 50 dB (daytime) at neighboring residential properties?
4. Would motocross noise significantly increase hourly ambient noise levels at the adjacent residential properties?

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COMMENTS

A log of noise events was created by a residential neighbor between 27 July and 3 August during our measurements. This log is enclosed as Appendix B. During the measurements, there were some single-event noises such as motorcycles, trucks, and emergency vehicles on the local roadway. However, these were fairly infrequent. Other noise sources measured throughout the week included wind noise and crickets.

On 2 August 2015 in the afternoon, the resident log indicates that three motorcycles used the Diablo MX site sporadically. At Locations 3, 4, and 6, typical maximum noise levels (L_{max})⁵ from motocross motorcycles were measured to be approximately 80 dB to 85 dB. These levels and the source were identified using audio recordings created by the noise monitors when the noise level exceeded a preset threshold. The log also records rock dumping by trucks and related grading equipment activities at the Diablo MX site during the ambient noise measurement period. At Locations 3, 4, and 6, typical maximum noise levels (L_{max}) from trucking activities were measured between 55 dB and 70 dB.

*


*

*

This concludes our comments on the subject project. Should you have any questions please call.

Sincerely,

CHARLES M. SALTER ASSOCIATES



Stephen L. Leiby
Consultant



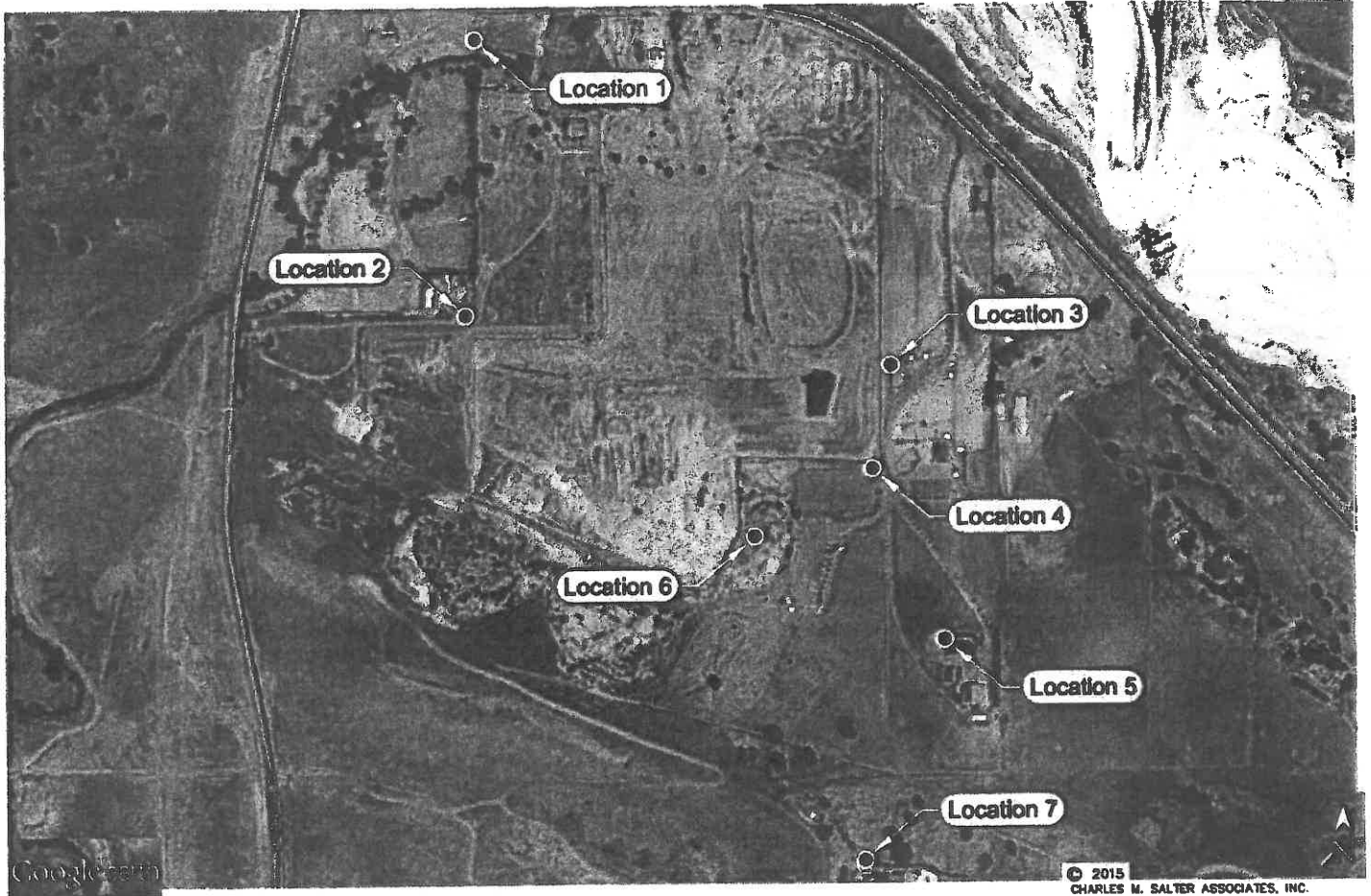
Jeremy L. Decker, PE
Principal Consultant

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⁵ L_{max} (Maximum Sound Level) = The maximum sound level for a specified measurement period of time as defined in ASTM E1686.



BYRON MOTOCROSS MEASUREMENT LOCATIONS

FIGURE 1

CSA #
15-0428

SL/JLD
10.20.15

APPENDIX A

Long-term noise measurement data at Locations 1 thru 7 are summarized in the tables below.

Location 1

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
12-Aug	17:00	52	61	55	51	48	40	69
12-Aug	18:00	52	61	56	52	50	41	70
12-Aug	19:00	49	59	54	48	44	34	66
12-Aug	20:00	46	56	49	44	41	37	65
12-Aug	21:00	45	56	47	43	41	39	60
12-Aug	22:00	45	56	47	44	42	39	64
12-Aug	23:00	47	55	50	47	45	39	60
13-Aug	0:00	48	56	51	47	45	40	64
13-Aug	1:00	45	54	47	45	43	40	61
13-Aug	2:00	47	53	50	48	46	41	60
13-Aug	3:00	48	56	50	49	48	41	61
13-Aug	4:00	48	56	50	48	47	42	63
13-Aug	5:00	52	60	56	51	49	44	67
13-Aug	6:00	53	62	57	53	50	42	68
13-Aug	7:00	53	61	56	52	50	41	71
13-Aug	8:00	50	60	55	49	46	36	66
13-Aug	9:00	48	58	52	44	39	32	63
13-Aug	10:00	46	56	50	42	38	31	62
13-Aug	11:00	46	57	49	42	39	32	67
13-Aug	12:00	50	61	53	46	43	36	74
13-Aug	13:00	52	62	56	50	47	41	67
13-Aug	14:00	57	66	61	54	51	45	69
13-Aug	15:00	57	68	61	54	51	44	74
13-Aug	16:00	54	63	57	53	50	44	68
13-Aug	17:00	53	63	56	52	50	43	66
13-Aug	18:00	53	63	56	52	49	41	70
13-Aug	19:00	50	60	53	48	45	38	72
13-Aug	20:00	48	57	52	46	43	38	61
13-Aug	21:00	46	56	48	43	41	39	65
13-Aug	22:00	44	53	46	43	42	40	58
13-Aug	23:00	48	57	51	47	45	40	60
14-Aug	0:00	50	60	53	48	45	41	63
14-Aug	1:00	49	60	51	46	44	41	65
14-Aug	2:00	56	66	60	53	50	41	70
14-Aug	3:00	45	55	47	43	42	40	60

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
14-Aug	4:00	46	59	48	41	40	38	69
14-Aug	5:00	52	63	57	48	43	38	66
14-Aug	6:00	55	64	60	53	50	40	70
14-Aug	7:00	54	63	58	53	49	39	70
14-Aug	8:00	49	59	54	46	42	35	69
14-Aug	9:00	52	60	53	47	43	34	79
14-Aug	10:00	48	58	51	44	41	34	70
14-Aug	11:00	48	58	52	44	41	34	69
14-Aug	12:00	49	60	53	46	43	36	67
14-Aug	13:00	51	62	54	48	45	39	68
14-Aug	14:00	53	63	57	51	48	42	69
14-Aug	15:00	54	63	58	53	51	44	72
14-Aug	16:00	54	63	57	52	49	40	69
14-Aug	17:00	54	64	58	53	49	38	69
14-Aug	18:00	56	65	59	54	51	44	78
14-Aug	19:00	51	61	54	47	43	35	77
14-Aug	20:00	47	58	50	44	42	38	72
14-Aug	21:00	51	61	51	44	42	40	77
14-Aug	22:00	48	57	51	46	44	41	69
14-Aug	23:00	50	64	51	44	42	39	71
15-Aug	0:00	50	60	51	44	42	39	72
15-Aug	1:00	44	54	43	41	40	38	64
15-Aug	2:00	43	51	43	41	40	38	64
15-Aug	3:00	43	54	46	41	40	38	60
15-Aug	4:00	43	51	45	43	42	39	58
15-Aug	5:00	45	55	47	44	43	39	61
15-Aug	6:00	49	60	52	46	44	40	66
15-Aug	7:00	50	62	53	47	45	41	69
15-Aug	8:00	50	59	52	47	45	41	74
15-Aug	9:00	50	60	53	49	47	43	65
15-Aug	10:00	50	60	53	47	45	41	71
15-Aug	11:00	54	61	53	47	44	39	83
15-Aug	12:00	49	59	52	47	45	41	66
15-Aug	13:00	48	58	51	46	44	40	63
15-Aug	14:00	49	59	53	47	44	37	64
15-Aug	15:00	50	62	53	47	45	38	65
15-Aug	16:00	50	59	53	46	43	37	70
15-Aug	17:00	50	61	53	45	42	36	68
15-Aug	18:00	49	61	53	43	39	35	65
15-Aug	19:00	50	61	54	41	37	33	75

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
15-Aug	20:00	51	61	52	44	41	36	80
15-Aug	21:00	45	57	47	42	41	39	60
15-Aug	22:00	47	57	49	43	42	41	68
15-Aug	23:00	43	54	43	41	41	39	61
16-Aug	0:00	49	62	47	42	42	40	70
16-Aug	1:00	44	55	44	42	41	39	60
16-Aug	2:00	52	59	58	51	43	41	61
16-Aug	3:00	48	59	54	42	42	40	61
16-Aug	4:00	44	54	44	43	42	41	64
16-Aug	5:00	44	54	45	42	41	39	59
16-Aug	6:00	45	56	47	42	40	37	61
16-Aug	7:00	47	56	50	46	44	41	63
16-Aug	8:00	47	57	50	44	42	39	65
16-Aug	9:00	48	58	51	46	45	42	65
16-Aug	10:00	49	58	52	47	45	42	66
16-Aug	11:00	51	60	53	46	44	38	76
16-Aug	12:00	47	57	52	45	43	37	63
16-Aug	13:00	50	60	52	46	43	36	74
16-Aug	14:00	49	59	53	47	43	36	64
16-Aug	15:00	47	57	51	44	42	34	64
16-Aug	16:00	47	58	51	43	41	35	64
16-Aug	17:00	48	59	53	44	40	35	64
16-Aug	18:00	49	60	53	45	42	32	65
16-Aug	19:00	49	60	53	42	37	31	73
16-Aug	20:00	48	58	52	45	43	38	64
16-Aug	21:00	57	63	61	58	56	41	67
16-Aug	22:00	47	57	51	41	40	38	72
16-Aug	23:00	52	60	58	53	47	38	62
17-Aug	0:00	45	54	49	44	42	39	60
17-Aug	1:00	58	64	63	59	55	38	65
17-Aug	2:00	58	62	61	59	58	39	64
17-Aug	3:00	58	64	61	59	57	42	65
17-Aug	4:00	58	65	62	59	57	43	69
17-Aug	5:00	59	66	62	59	57	46	69
17-Aug	6:00	58	65	61	57	56	48	68
17-Aug	7:00	55	64	59	54	51	45	76
17-Aug	8:00	52	60	56	50	46	38	70
17-Aug	9:00	50	60	54	46	40	33	66
17-Aug	10:00	49	60	52	43	40	35	69
17-Aug	11:00	48	58	50	43	41	36	71

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
17-Aug	12:00	48	59	52	45	43	38	70
17-Aug	13:00	48	59	51	45	43	38	64
17-Aug	14:00	48	58	51	44	42	36	68
17-Aug	15:00	50	60	55	49	46	40	64
17-Aug	16:00	54	64	57	51	48	42	72
17-Aug	17:00	53	62	56	51	47	38	77
17-Aug	18:00	50	59	53	48	45	37	69
17-Aug	19:00	47	58	51	45	42	35	64
17-Aug	20:00	53	63	59	47	42	37	68
17-Aug	21:00	53	63	59	46	41	39	68
17-Aug	22:00	44	57	44	40	39	37	63
17-Aug	23:00	42	54	42	40	40	38	60
18-Aug	0:00	42	50	43	41	40	39	56
18-Aug	1:00	41	50	43	40	39	37	56
18-Aug	2:00	45	55	48	44	42	39	61
18-Aug	3:00	42	53	42	41	40	39	60
18-Aug	4:00	48	59	49	43	42	41	64
18-Aug	5:00	54	65	59	51	46	42	71
18-Aug	6:00	56	64	61	56	53	44	70
18-Aug	7:00	53	62	58	52	48	40	65
18-Aug	8:00	52	61	57	50	45	37	68
18-Aug	9:00	50	60	54	45	41	34	69
18-Aug	10:00	51	60	53	45	40	33	76
18-Aug	11:00	47	58	51	44	41	33	67
18-Aug	12:00	46	56	50	42	39	34	63
18-Aug	13:00	49	60	51	44	40	34	69
18-Aug	14:00	48	61	52	45	41	33	66
18-Aug	15:00	56	65	60	54	51	44	68
18-Aug	16:00	55	64	59	54	51	43	74
18-Aug	17:00	52	61	55	51	48	39	67
18-Aug	18:00	53	61	55	50	47	37	79
18-Aug	19:00	49	58	53	46	42	32	67
18-Aug	20:00	48	59	51	42	40	36	66
18-Aug	21:00	46	57	47	41	40	39	61
18-Aug	22:00	46	57	44	41	40	39	69
18-Aug	23:00	44	56	43	41	41	39	65
19-Aug	0:00	42	48	43	42	41	40	54
19-Aug	1:00	42	50	43	42	42	40	57
19-Aug	2:00	40	45	42	41	40	39	50
19-Aug	3:00	42	54	42	40	39	38	61

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
19-Aug	4:00	48	61	51	41	40	38	64
19-Aug	5:00	54	63	58	49	45	40	71
19-Aug	6:00	57	65	61	56	54	44	67
19-Aug	7:00	55	64	59	53	49	40	68
19-Aug	8:00	51	61	56	47	42	35	63
19-Aug	9:00	50	60	54	47	42	35	73
19-Aug	10:00	49	59	53	46	41	33	64
19-Aug	11:00	46	57	49	41	39	33	66
19-Aug	12:00	47	57	50	44	41	33	66
19-Aug	13:00	46	56	50	43	39	32	63
19-Aug	14:00	56	61	53	47	43	35	87
19-Aug	15:00	54	64	58	52	48	38	72

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	44	52	45	41	39	34	69
27-Jul	17:00	45	55	47	44	42	36	67
27-Jul	18:00	52	62	56	51	47	40	68
27-Jul	19:00	49	60	53	43	38	31	65
27-Jul	20:00	41	51	44	38	36	30	62
27-Jul	21:00	48	56	53	48	46	36	59
27-Jul	22:00	43	52	47	42	41	37	58
27-Jul	23:00	45	56	49	44	41	37	59
28-Jul	0:00	49	57	53	48	47	36	59
28-Jul	1:00	45	52	50	42	40	36	53
28-Jul	2:00	49	58	52	45	42	38	59
28-Jul	3:00	52	59	57	51	49	41	59
28-Jul	4:00	54	59	58	55	53	49	61
28-Jul	5:00	56	61	60	57	54	51	62
28-Jul	6:00	50	54	51	48	46	43	77
28-Jul	7:00	49	59	52	48	46	41	65
28-Jul	8:00	51	61	54	50	48	42	70
28-Jul	9:00	55	63	60	55	51	44	66
28-Jul	10:00	50	60	53	48	46	41	66
28-Jul	11:00	45	56	48	42	41	36	60
28-Jul	12:00	49	58	52	48	47	43	62
28-Jul	13:00	49	59	52	47	44	40	65
28-Jul	14:00	46	58	49	44	42	36	62
28-Jul	15:00	46	55	49	46	44	39	60
28-Jul	16:00	44	52	48	44	42	37	60
28-Jul	17:00	44	53	46	43	41	36	66
28-Jul	18:00	43	53	45	41	39	32	66
28-Jul	19:00	44	54	48	43	40	32	61
28-Jul	20:00	45	54	47	40	37	31	68
28-Jul	21:00	50	60	56	45	43	39	62
28-Jul	22:00	49	60	49	43	42	38	62
28-Jul	23:00	48	56	52	47	45	40	65
29-Jul	0:00	50	56	53	51	50	43	65
29-Jul	1:00	47	54	52	46	44	39	58
29-Jul	2:00	47	56	51	46	44	39	61
29-Jul	3:00	51	58	55	51	48	42	59
29-Jul	4:00	55	61	59	56	54	46	62
29-Jul	5:00	57	62	60	57	55	51	63

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29-Jul	6:00	49	57	52	49	48	44	62
29-Jul	7:00	45	52	47	45	44	42	64
29-Jul	8:00	45	55	47	43	41	37	60
29-Jul	9:00	51	60	54	49	47	43	66
29-Jul	10:00	48	56	51	47	46	40	59
29-Jul	11:00	47	57	50	46	44	39	61
29-Jul	12:00	45	53	48	45	43	39	58
29-Jul	13:00	47	55	51	46	44	39	59
29-Jul	14:00	45	55	48	44	42	38	59
29-Jul	15:00	44	51	47	44	42	36	63
29-Jul	16:00	43	51	46	42	40	35	65
29-Jul	17:00	46	54	49	45	43	37	64
29-Jul	18:00	49	58	52	47	45	39	63
29-Jul	19:00	42	54	45	40	37	31	60
29-Jul	20:00	38	46	41	37	35	30	56
29-Jul	21:00	53	59	58	54	49	39	60
29-Jul	22:00	46	55	51	45	43	37	60
29-Jul	23:00	49	59	52	47	44	40	63
30-Jul	0:00	55	65	59	54	48	40	67
30-Jul	1:00	50	62	50	45	44	36	65
30-Jul	2:00	47	55	53	44	42	38	57
30-Jul	3:00	52	59	56	51	49	46	60
30-Jul	4:00	55	60	59	57	53	46	60
30-Jul	5:00	59	63	62	60	59	51	64
30-Jul	6:00	51	56	55	52	49	43	58
30-Jul	7:00	45	53	48	45	43	40	59
30-Jul	8:00	42	50	45	41	40	37	56
30-Jul	9:00	42	54	44	39	37	33	61
30-Jul	10:00	44	54	44	38	36	31	67
30-Jul	11:00	45	57	48	44	42	34	61
30-Jul	12:00	45	55	49	43	40	34	65
30-Jul	13:00	46	57	49	44	41	35	63
30-Jul	14:00	43	53	48	41	39	33	56
30-Jul	15:00	45	55	48	43	41	34	60
30-Jul	16:00	48	61	50	43	40	32	68
30-Jul	17:00	42	51	45	40	38	31	59
30-Jul	18:00	41	51	44	39	37	31	56
30-Jul	19:00	40	50	44	39	36	31	55
30-Jul	20:00	43	51	47	42	39	34	58
30-Jul	21:00	50	58	52	49	48	42	65

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30-Jul	22:00	48	58	53	43	39	32	60
30-Jul	23:00	46	54	52	43	41	36	59
31-Jul	0:00	49	56	55	47	43	38	59
31-Jul	1:00	50	55	53	50	49	40	61
31-Jul	2:00	54	59	58	56	53	43	60
31-Jul	3:00	51	59	56	51	47	42	60
31-Jul	4:00	53	58	56	55	53	45	60
31-Jul	5:00	56	60	59	57	56	50	64
31-Jul	6:00	46	52	48	46	45	43	58
31-Jul	7:00	48	57	51	47	45	42	59
31-Jul	8:00	46	55	50	45	43	38	65
31-Jul	9:00	44	55	48	42	39	31	58
31-Jul	10:00	47	55	51	46	44	37	63
31-Jul	11:00	46	57	50	42	39	32	61
31-Jul	12:00	48	60	51	45	42	34	66
31-Jul	13:00	50	61	52	48	47	41	70
31-Jul	14:00	44	55	47	42	39	34	65
31-Jul	15:00	43	53	46	41	39	33	62
31-Jul	16:00	43	52	46	41	39	34	60
31-Jul	17:00	47	58	50	45	42	35	66
31-Jul	18:00	42	53	44	38	35	31	58
31-Jul	19:00	42	52	45	38	36	29	66
31-Jul	20:00	42	50	47	41	38	29	63
31-Jul	21:00	53	64	55	49	46	40	76
31-Jul	22:00	51	58	53	52	50	41	67
31-Jul	23:00	51	58	54	52	51	41	61
1-Aug	0:00	50	56	54	51	50	40	65
1-Aug	1:00	50	58	55	51	45	37	63
1-Aug	2:00	53	58	56	54	51	47	63
1-Aug	3:00	57	62	59	58	57	45	62
1-Aug	4:00	56	61	59	58	57	47	61
1-Aug	5:00	54	59	56	55	53	42	61
1-Aug	6:00	45	54	49	43	41	37	55
1-Aug	7:00	48	52	42	38	37	33	78
1-Aug	8:00	41	51	44	39	37	32	55
1-Aug	9:00	41	51	44	39	36	33	58
1-Aug	10:00	43	52	46	42	40	36	55
1-Aug	11:00	46	56	49	45	42	37	64
1-Aug	12:00	45	52	48	44	42	37	56
1-Aug	13:00	46	54	50	46	44	39	60

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1-Aug	14:00	44	54	47	43	41	35	62
1-Aug	15:00	44	54	48	42	40	34	61
1-Aug	16:00	45	56	49	43	40	34	63
1-Aug	17:00	49	60	53	47	44	38	66
1-Aug	18:00	49	59	52	47	44	37	65
1-Aug	19:00	44	56	47	39	37	31	61
1-Aug	20:00	42	52	46	40	37	31	60
1-Aug	21:00	48	57	51	44	42	38	69
1-Aug	22:00	47	56	50	46	45	41	62
1-Aug	23:00	46	54	49	46	44	40	60
2-Aug	0:00	47	55	50	46	43	38	63
2-Aug	1:00	49	58	53	47	45	39	67
2-Aug	2:00	54	60	58	55	53	39	61
2-Aug	3:00	54	61	57	52	51	45	62
2-Aug	4:00	55	61	58	55	53	46	62
2-Aug	5:00	57	62	60	57	56	46	63
2-Aug	6:00	50	61	58	39	36	32	63
2-Aug	7:00	38	49	41	36	34	30	54
2-Aug	8:00	39	50	41	36	34	30	57
2-Aug	9:00	38	47	41	37	35	31	54
2-Aug	10:00	42	54	45	38	36	32	58
2-Aug	11:00	40	50	41	37	34	30	60
2-Aug	12:00	45	57	48	41	37	31	64
2-Aug	13:00	59	72	60	50	45	34	81
2-Aug	14:00	46	57	48	43	40	34	66
2-Aug	15:00	53	66	53	44	40	32	74
2-Aug	16:00	48	60	51	46	42	34	67
2-Aug	17:00	52	62	56	49	46	39	66
2-Aug	18:00	49	60	52	44	40	31	64
2-Aug	19:00	41	49	40	35	32	27	69
2-Aug	20:00	47	58	49	37	35	29	61
2-Aug	21:00	52	62	56	50	44	36	62
2-Aug	22:00	45	55	50	42	39	36	56
2-Aug	23:00	48	59	52	46	42	35	66
3-Aug	0:00	50	59	52	49	47	39	68
3-Aug	1:00	51	58	55	50	48	46	69
3-Aug	2:00	55	63	58	54	52	45	70
3-Aug	3:00	55	65	57	55	53	46	72
3-Aug	4:00	58	63	61	59	57	52	66
3-Aug	5:00	56	62	60	55	53	50	62

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3-Aug	6:00	49	55	52	50	49	41	59
3-Aug	7:00	49	54	51	50	49	46	65
3-Aug	8:00	47	54	50	48	47	36	64
3-Aug	9:00	43	50	48	43	41	35	57
3-Aug	10:00	42	53	45	38	36	32	62
3-Aug	11:00	42	51	45	41	38	32	60
3-Aug	12:00	48	59	49	43	41	37	70
3-Aug	13:00	49	61	52	46	43	37	69
3-Aug	14:00	49	61	52	46	43	38	68

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	46	56	49	44	42	36	62
27-Jul	17:00	44	52	47	43	41	36	63
27-Jul	18:00	54	65	58	50	47	41	71
27-Jul	19:00	52	63	56	49	46	39	74
27-Jul	20:00	50	57	49	44	42	38	76
27-Jul	21:00	49	58	53	48	46	40	64
27-Jul	22:00	47	56	51	46	44	39	62
27-Jul	23:00	51	61	54	48	46	39	64
28-Jul	0:00	45	53	48	44	40	34	66
28-Jul	1:00	45	55	47	42	38	34	62
28-Jul	2:00	54	59	58	56	49	39	60
28-Jul	3:00	52	57	56	53	52	37	60
28-Jul	4:00	55	58	57	56	55	48	60
28-Jul	5:00	56	61	60	57	52	44	64
28-Jul	6:00	54	63	60	51	49	44	68
28-Jul	7:00	49	58	50	47	45	42	71
28-Jul	8:00	56	66	62	52	49	45	71
28-Jul	9:00	51	62	54	50	48	44	67
28-Jul	10:00	52	62	54	49	47	43	65
28-Jul	11:00	48	57	49	45	43	38	76
28-Jul	12:00	55	63	61	51	48	43	67
28-Jul	13:00	53	63	58	50	48	42	74
28-Jul	14:00	51	62	53	48	46	40	66
28-Jul	15:00	49	58	52	48	46	41	62
28-Jul	16:00	50	61	54	48	45	38	66
28-Jul	17:00	49	62	52	46	44	38	63
28-Jul	18:00	45	54	48	44	41	35	69
28-Jul	19:00	46	58	49	43	41	34	64
28-Jul	20:00	48	61	48	43	41	35	68
28-Jul	21:00	47	56	51	46	44	40	62
28-Jul	22:00	52	60	55	51	49	44	65
28-Jul	23:00	52	60	56	52	50	44	66
29-Jul	0:00	51	59	54	50	48	43	64
29-Jul	1:00	52	60	56	52	50	44	64
29-Jul	2:00	50	58	54	50	48	41	67
29-Jul	3:00	54	60	57	55	53	45	65
29-Jul	4:00	53	57	57	55	51	43	59
29-Jul	5:00	55	61	59	56	49	45	68

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
29-Jul	6:00	56	66	54	50	48	43	78
29-Jul	7:00	51	62	52	48	47	43	70
29-Jul	8:00	47	56	50	46	45	40	61
29-Jul	9:00	56	63	56	48	46	42	86
29-Jul	10:00	48	55	50	48	47	43	62
29-Jul	11:00	50	57	53	50	49	45	63
29-Jul	12:00	55	63	59	52	49	44	82
29-Jul	13:00	52	62	53	48	47	43	78
29-Jul	14:00	52	62	57	48	46	42	64
29-Jul	15:00	46	53	48	46	44	39	63
29-Jul	16:00	46	55	49	44	43	38	63
29-Jul	17:00	46	53	48	45	43	39	75
29-Jul	18:00	52	61	55	50	47	42	72
29-Jul	19:00	44	55	47	42	40	35	59
29-Jul	20:00	49	56	47	43	41	37	78
29-Jul	21:00	49	58	51	48	46	41	71
29-Jul	22:00	50	60	54	49	46	40	66
29-Jul	23:00	57	65	60	56	54	47	69
30-Jul	0:00	54	63	58	53	50	43	66
30-Jul	1:00	49	58	52	48	46	40	63
30-Jul	2:00	55	66	54	46	43	38	67
30-Jul	3:00	59	66	64	59	50	43	67
30-Jul	4:00	62	67	66	62	61	47	68
30-Jul	5:00	59	63	62	62	61	45	64
30-Jul	6:00	49	59	50	47	46	42	66
30-Jul	7:00	47	56	49	46	44	41	74
30-Jul	8:00	45	54	48	44	42	39	63
30-Jul	9:00	45	57	47	42	40	37	69
30-Jul	10:00	45	56	45	41	39	36	67
30-Jul	11:00	44	55	46	42	40	36	63
30-Jul	12:00	45	53	47	44	42	36	65
30-Jul	13:00	49	56	48	44	42	35	80
30-Jul	14:00	45	55	48	44	41	35	62
30-Jul	15:00	45	55	49	44	41	35	62
30-Jul	16:00	43	51	45	39	37	33	69
30-Jul	17:00	50	59	54	48	44	36	64
30-Jul	18:00	48	55	50	46	43	36	76
30-Jul	19:00	48	53	47	42	40	35	78
30-Jul	20:00	48	57	51	47	44	38	64
30-Jul	21:00	48	57	51	46	44	39	64

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
30-Jul	22:00	44	53	48	42	40	35	62
30-Jul	23:00	51	60	55	49	47	40	66
31-Jul	0:00	52	62	56	51	48	43	68
31-Jul	1:00	54	63	58	53	51	45	67
31-Jul	2:00	46	58	49	43	42	38	64
31-Jul	3:00	41	47	45	40	40	38	53
31-Jul	4:00	43	47	44	43	42	40	56
31-Jul	5:00	46	56	49	44	43	40	62
31-Jul	6:00	52	63	54	46	45	42	69
31-Jul	7:00	51	62	51	47	46	42	64
31-Jul	8:00	51	62	53	47	45	41	74
31-Jul	9:00	46	55	49	44	42	39	62
31-Jul	10:00	51	62	50	46	44	38	64
31-Jul	11:00	48	62	48	44	42	37	63
31-Jul	12:00	51	60	55	46	44	38	77
31-Jul	13:00	49	59	52	47	45	40	65
31-Jul	14:00	53	62	57	49	48	43	78
31-Jul	15:00	50	60	53	48	45	40	66
31-Jul	16:00	47	55	49	45	43	39	71
31-Jul	17:00	50	58	51	46	43	39	81
31-Jul	18:00	43	52	46	42	40	36	60
31-Jul	19:00	47	56	49	44	42	36	76
31-Jul	20:00	45	57	47	41	39	35	71
31-Jul	21:00	58	69	61	55	51	43	76
31-Jul	22:00	55	66	58	51	47	40	75
31-Jul	23:00	48	58	52	47	44	38	62
1-Aug	0:00	48	59	52	45	43	38	65
1-Aug	1:00	47	57	51	44	42	38	62
1-Aug	2:00	49	56	53	48	43	38	61
1-Aug	3:00	43	54	43	41	40	38	55
1-Aug	4:00	43	49	45	42	41	39	67
1-Aug	5:00	45	52	48	43	42	40	59
1-Aug	6:00	49	62	49	43	41	38	67
1-Aug	7:00	43	51	46	42	40	37	66
1-Aug	8:00	42	51	45	41	40	37	64
1-Aug	9:00	43	51	46	42	40	37	63
1-Aug	10:00	56	64	61	52	49	42	82
1-Aug	11:00	48	57	52	46	45	41	70
1-Aug	12:00	48	56	52	46	44	40	70
1-Aug	13:00	52	62	56	47	43	38	66

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
1-Aug	14:00	50	58	53	49	47	42	69
1-Aug	15:00	55	60	56	50	47	41	80
1-Aug	16:00	56	64	60	56	53	46	68
1-Aug	17:00	60	68	64	60	57	50	72
1-Aug	18:00	60	68	63	59	57	50	70
1-Aug	19:00	51	61	55	49	46	37	67
1-Aug	20:00	50	60	54	48	44	36	65
1-Aug	21:00	48	58	51	47	45	40	62
1-Aug	22:00	51	59	54	52	50	42	65
1-Aug	23:00	52	61	55	51	50	45	68
2-Aug	0:00	54	61	58	53	50	44	65
2-Aug	1:00	52	61	55	50	48	41	69
2-Aug	2:00	42	50	44	41	39	35	64
2-Aug	3:00	47	60	48	43	42	38	66
2-Aug	4:00	49	58	52	48	46	42	65
2-Aug	5:00	43	50	45	44	42	34	55
2-Aug	6:00	47	58	50	41	37	32	69
2-Aug	7:00	44	54	47	42	39	33	60
2-Aug	8:00	51	64	51	42	39	33	69
2-Aug	9:00	51	63	46	41	40	36	76
2-Aug	10:00	58	72	47	41	39	36	82
2-Aug	11:00	41	50	43	39	37	34	59
2-Aug	12:00	54	54	46	41	38	34	86
2-Aug	13:00	60	73	60	49	45	36	84
2-Aug	14:00	61	70	56	48	44	36	90
2-Aug	15:00	61	75	59	48	44	35	82
2-Aug	16:00	51	62	53	46	43	35	74
2-Aug	17:00	62	71	66	61	59	51	75
2-Aug	18:00	59	69	63	57	52	36	79
2-Aug	19:00	45	58	45	40	37	31	65
2-Aug	20:00	50	61	53	46	43	36	68
2-Aug	21:00	46	56	49	44	40	35	61
2-Aug	22:00	50	61	53	47	44	38	67
2-Aug	23:00	54	64	58	53	50	42	70
3-Aug	0:00	54	64	58	53	50	43	69
3-Aug	1:00	55	66	59	53	51	44	70
3-Aug	2:00	56	66	60	54	51	43	74
3-Aug	3:00	54	65	58	52	49	42	70
3-Aug	4:00	53	61	57	53	51	40	67
3-Aug	5:00	46	55	49	45	42	39	64

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
3-Aug	6:00	49	59	51	47	45	39	68
3-Aug	7:00	50	62	51	46	44	38	63
3-Aug	8:00	55	65	62	51	48	41	69
3-Aug	9:00	51	61	54	50	49	43	66
3-Aug	10:00	50	53	48	45	42	37	81
3-Aug	11:00	60	67	62	52	48	38	91
3-Aug	12:00	56	63	60	55	53	48	81
3-Aug	13:00	58	64	61	56	53	49	82
3-Aug	14:00	55	63	59	54	52	47	66
3-Aug	15:00	50	58	53	50	48	44	72

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	45	56	48	42	40	35	62
27-Jul	17:00	44	54	47	43	41	36	62
27-Jul	18:00	55	65	59	52	48	39	70
27-Jul	19:00	54	64	57	51	49	43	69
27-Jul	20:00	48	57	50	46	45	41	72
27-Jul	21:00	48	57	50	46	44	40	73
27-Jul	22:00	46	54	48	44	42	39	69
27-Jul	23:00	45	54	46	42	41	38	72
28-Jul	0:00	42	49	43	41	39	37	62
28-Jul	1:00	39	46	41	39	38	35	57
28-Jul	2:00	41	47	43	40	40	38	51
28-Jul	3:00	40	46	42	40	40	38	57
28-Jul	4:00	42	49	43	41	41	39	55
28-Jul	5:00	48	56	50	46	45	42	64
28-Jul	6:00	59	70	63	52	48	43	77
28-Jul	7:00	54	65	51	47	45	40	76
28-Jul	8:00	55	64	60	52	50	44	66
28-Jul	9:00	53	64	56	51	48	42	70
28-Jul	10:00	53	63	57	50	47	42	68
28-Jul	11:00	49	59	51	46	44	38	74
28-Jul	12:00	53	63	59	48	45	40	71
28-Jul	13:00	51	62	55	45	43	38	64
28-Jul	14:00	47	59	48	42	41	36	67
28-Jul	15:00	46	57	49	44	43	38	65
28-Jul	16:00	47	60	49	43	41	37	66
28-Jul	17:00	47	61	45	40	38	34	69
28-Jul	18:00	44	57	44	38	36	32	65
28-Jul	19:00	49	58	50	44	42	35	78
28-Jul	20:00	48	60	50	42	39	33	66
28-Jul	21:00	48	57	46	42	40	35	78
28-Jul	22:00	44	53	47	43	42	38	59
28-Jul	23:00	45	54	48	44	42	38	62
29-Jul	0:00	43	52	46	42	40	37	58
29-Jul	1:00	44	53	48	44	42	38	60
29-Jul	2:00	43	52	46	42	40	37	57
29-Jul	3:00	46	56	50	45	43	39	61
29-Jul	4:00	43	53	43	41	41	38	58
29-Jul	5:00	46	54	48	45	45	42	61

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29-Jul	6:00	49	59	51	48	46	42	69
29-Jul	7:00	51	62	53	46	44	40	66
29-Jul	8:00	51	63	50	45	43	38	72
29-Jul	9:00	53	63	58	51	47	40	70
29-Jul	10:00	49	59	52	46	44	40	69
29-Jul	11:00	47	54	49	46	44	42	69
29-Jul	12:00	51	62	56	45	43	39	70
29-Jul	13:00	49	61	52	44	42	37	64
29-Jul	14:00	50	61	55	43	41	37	68
29-Jul	15:00	43	53	45	41	39	35	64
29-Jul	16:00	43	53	45	41	39	34	63
29-Jul	17:00	46	56	49	44	42	37	63
29-Jul	18:00	51	60	55	50	47	41	65
29-Jul	19:00	47	57	49	46	44	40	63
29-Jul	20:00	47	56	49	46	44	40	70
29-Jul	21:00	47	55	48	43	42	39	76
29-Jul	22:00	47	58	49	44	42	39	67
29-Jul	23:00	51	61	55	50	47	41	67
30-Jul	0:00	47	57	51	46	43	39	63
30-Jul	1:00	46	55	50	45	43	38	63
30-Jul	2:00	44	54	47	43	41	37	60
30-Jul	3:00	46	54	49	44	43	40	62
30-Jul	4:00	44	49	45	44	43	42	56
30-Jul	5:00	45	54	47	45	44	43	62
30-Jul	6:00	47	59	47	44	43	40	67
30-Jul	7:00	50	57	46	42	41	39	76
30-Jul	8:00	48	59	51	44	41	38	72
30-Jul	9:00	55	60	52	47	44	36	86
30-Jul	10:00	46	59	46	39	37	33	66
30-Jul	11:00	47	56	50	46	44	40	69
30-Jul	12:00	47	58	50	45	43	38	66
30-Jul	13:00	46	56	50	43	40	36	64
30-Jul	14:00	47	57	51	45	41	35	66
30-Jul	15:00	43	55	46	40	37	32	62
30-Jul	16:00	43	54	46	40	37	31	61
30-Jul	17:00	48	57	53	47	42	33	65
30-Jul	18:00	45	55	49	44	42	35	59
30-Jul	19:00	47	57	50	42	40	35	64
30-Jul	20:00	47	57	50	46	43	37	67
30-Jul	21:00	46	56	49	44	42	39	65

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30-Jul	22:00	44	54	46	41	39	36	66
30-Jul	23:00	48	60	51	45	42	37	66
31-Jul	0:00	48	60	52	45	42	36	67
31-Jul	1:00	51	61	55	48	45	38	67
31-Jul	2:00	46	57	48	42	40	36	66
31-Jul	3:00	42	51	43	40	40	38	61
31-Jul	4:00	43	49	44	43	42	40	58
31-Jul	5:00	45	54	45	43	43	41	69
31-Jul	6:00	48	58	51	44	43	40	69
31-Jul	7:00	51	63	51	44	42	39	66
31-Jul	8:00	49	61	52	45	43	38	71
31-Jul	9:00	46	56	49	44	41	37	68
31-Jul	10:00	50	61	54	46	43	38	67
31-Jul	11:00	48	60	51	46	44	38	65
31-Jul	12:00	49	58	53	47	45	39	68
31-Jul	13:00	48	61	49	43	41	36	70
31-Jul	14:00	50	60	54	46	43	38	62
31-Jul	15:00	50	60	53	48	45	39	68
31-Jul	16:00	47	58	50	44	42	37	66
31-Jul	17:00	46	57	48	43	41	36	66
31-Jul	18:00	43	52	44	39	37	34	66
31-Jul	19:00	47	57	50	45	42	36	67
31-Jul	20:00	45	54	47	43	41	37	68
31-Jul	21:00	56	67	59	52	50	43	71
31-Jul	22:00	52	62	55	49	47	42	69
31-Jul	23:00	49	57	52	48	46	42	65
1-Aug	0:00	48	59	50	47	45	41	70
1-Aug	1:00	45	55	48	43	41	38	64
1-Aug	2:00	43	54	45	41	40	38	61
1-Aug	3:00	40	45	41	40	39	38	52
1-Aug	4:00	41	47	42	41	40	39	56
1-Aug	5:00	44	55	45	42	41	39	63
1-Aug	6:00	47	57	49	44	42	38	69
1-Aug	7:00	44	53	47	42	41	36	69
1-Aug	8:00	42	51	45	40	38	33	58
1-Aug	9:00	47	59	50	43	39	34	67
1-Aug	10:00	53	63	59	46	42	37	66
1-Aug	11:00	49	57	51	47	44	36	76
1-Aug	12:00	48	57	52	46	44	38	63
1-Aug	13:00	49	59	54	46	42	37	65

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1-Aug	14:00	48	58	52	47	44	39	64
1-Aug	15:00	50	60	54	48	45	39	64
1-Aug	16:00	54	63	58	54	51	42	66
1-Aug	17:00	59	67	63	58	56	46	70
1-Aug	18:00	59	67	63	59	56	49	69
1-Aug	19:00	52	63	57	49	43	34	70
1-Aug	20:00	52	62	55	50	47	42	69
1-Aug	21:00	49	62	50	44	43	40	69
1-Aug	22:00	47	56	50	45	43	40	64
1-Aug	23:00	46	55	49	45	43	40	63
2-Aug	0:00	46	56	50	45	43	39	64
2-Aug	1:00	47	57	51	45	43	38	66
2-Aug	2:00	40	48	40	38	37	36	64
2-Aug	3:00	44	56	45	40	39	37	63
2-Aug	4:00	47	58	50	44	42	39	64
2-Aug	5:00	42	50	44	41	40	36	61
2-Aug	6:00	45	56	48	42	40	35	65
2-Aug	7:00	47	58	50	44	41	34	64
2-Aug	8:00	51	63	51	42	40	34	68
2-Aug	9:00	46	57	49	41	39	34	72
2-Aug	10:00	45	56	50	41	38	34	60
2-Aug	11:00	45	54	48	43	40	34	65
2-Aug	12:00	46	58	48	43	41	37	65
2-Aug	13:00	52	65	53	47	43	37	74
2-Aug	14:00	67	70	54	47	43	38	93
2-Aug	15:00	63	71	56	48	45	36	89
2-Aug	16:00	49	61	53	46	43	38	66
2-Aug	17:00	60	68	64	60	58	50	70
2-Aug	18:00	59	68	63	57	52	34	71
2-Aug	19:00	41	52	43	38	36	31	67
2-Aug	20:00	48	59	51	46	44	36	69
2-Aug	21:00	47	56	50	45	43	39	70
2-Aug	22:00	47	58	50	45	43	39	66
2-Aug	23:00	52	62	55	50	47	40	67
3-Aug	0:00	52	63	55	49	47	40	68
3-Aug	1:00	52	63	56	49	45	38	69
3-Aug	2:00	52	64	56	49	45	39	70
3-Aug	3:00	51	62	54	47	44	39	70
3-Aug	4:00	45	55	48	43	41	37	61
3-Aug	5:00	46	56	46	40	39	37	73

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
3-Aug	6:00	47	59	49	44	42	37	68
3-Aug	7:00	54	64	56	53	48	39	71
3-Aug	8:00	55	66	58	46	43	38	74
3-Aug	9:00	47	60	45	42	40	38	69
3-Aug	10:00	49	57	49	44	42	38	80
3-Aug	11:00	52	62	57	47	44	39	67
3-Aug	12:00	52	61	55	50	47	42	71
3-Aug	13:00	52	60	55	50	47	41	78
3-Aug	14:00	53	60	54	50	47	41	81
3-Aug	15:00	66	61	52	47	45	40	98

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Location 5

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	16:00	48	57	51	47	45	39	61
27-Jul	17:00	50	60	54	48	46	38	64
27-Jul	18:00	58	66	62	58	56	49	70
27-Jul	19:00	54	62	57	52	50	44	72
27-Jul	20:00	47	54	49	46	44	41	69
27-Jul	21:00	51	61	53	49	48	45	70
27-Jul	22:00	51	62	53	50	48	45	67
27-Jul	23:00	52	61	55	52	50	45	68
28-Jul	0:00	50	58	53	49	48	45	62
28-Jul	1:00	52	56	54	53	51	46	59
28-Jul	2:00	53	59	55	54	53	50	64
28-Jul	3:00	56	60	57	56	55	52	75
28-Jul	4:00	58	62	60	58	57	55	69
28-Jul	5:00	60	64	63	61	60	53	72
28-Jul	6:00	51	58	54	51	50	46	63
28-Jul	7:00	54	61	57	53	52	46	69
28-Jul	8:00	58	67	62	58	56	50	70
28-Jul	9:00	60	68	63	59	57	51	71
28-Jul	10:00	55	63	59	55	53	47	67
28-Jul	11:00	52	61	55	50	48	42	66
28-Jul	12:00	53	61	56	53	50	43	66
28-Jul	13:00	50	59	53	49	47	42	68
28-Jul	14:00	48	57	52	47	45	39	61
28-Jul	15:00	49	59	53	48	45	40	62
28-Jul	16:00	50	59	54	49	47	40	62
28-Jul	17:00	46	54	49	46	43	38	59
28-Jul	18:00	44	52	46	42	40	36	69
28-Jul	19:00	51	60	55	50	47	37	63
28-Jul	20:00	44	52	49	42	39	34	64
28-Jul	21:00	49	58	52	48	47	44	67
28-Jul	22:00	53	60	55	52	51	47	71
28-Jul	23:00	53	60	55	52	50	46	80
29-Jul	0:00	53	61	55	52	50	44	69
29-Jul	1:00	54	61	57	53	52	47	81
29-Jul	2:00	54	60	57	55	53	49	69
29-Jul	3:00	57	62	59	57	56	54	68
29-Jul	4:00	59	63	62	60	59	56	73
29-Jul	5:00	61	64	63	62	61	58	64

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
29-Jul	6:00	52	57	55	52	50	46	62
29-Jul	7:00	47	54	51	47	46	43	63
29-Jul	8:00	47	56	50	47	45	42	62
29-Jul	9:00	49	57	53	49	47	41	60
29-Jul	10:00	48	54	51	48	47	42	60
29-Jul	11:00	50	56	52	50	49	45	61
29-Jul	12:00	50	56	53	50	48	44	61
29-Jul	13:00	52	62	54	49	47	42	76
29-Jul	14:00	47	55	50	46	44	38	59
29-Jul	15:00	44	52	48	44	42	38	54
29-Jul	16:00	46	55	50	45	43	37	61
29-Jul	17:00	53	61	56	52	49	43	65
29-Jul	18:00	56	63	60	56	54	48	68
29-Jul	19:00	46	55	49	44	42	34	63
29-Jul	20:00	42	50	45	42	40	36	58
29-Jul	21:00	52	61	57	49	46	42	70
29-Jul	22:00	55	64	57	53	51	47	74
29-Jul	23:00	56	65	59	56	53	46	75
30-Jul	0:00	56	62	59	55	52	47	80
30-Jul	1:00	56	63	59	57	53	46	72
30-Jul	2:00	58	63	62	59	57	52	74
30-Jul	3:00	58	65	60	58	57	51	72
30-Jul	4:00	60	64	62	60	59	56	65
30-Jul	5:00	60	63	62	61	60	55	64
30-Jul	6:00	50	56	53	50	49	45	61
30-Jul	7:00	50	58	53	50	48	43	70
30-Jul	8:00	45	53	48	45	43	39	60
30-Jul	9:00	46	56	49	44	42	36	62
30-Jul	10:00	45	55	47	41	39	35	70
30-Jul	11:00	45	54	48	43	42	36	69
30-Jul	12:00	46	54	49	46	44	36	68
30-Jul	13:00	44	53	48	43	40	35	62
30-Jul	14:00	46	53	50	46	43	35	58
30-Jul	15:00	43	51	46	42	39	34	59
30-Jul	16:00	47	58	50	44	40	34	70
30-Jul	17:00	48	58	51	46	44	36	65
30-Jul	18:00	46	55	49	44	42	36	66
30-Jul	19:00	40	48	43	38	37	33	57
30-Jul	20:00	47	54	50	46	44	37	72
30-Jul	21:00	51	58	53	50	49	45	67

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
30-Jul	22:00	53	60	59	50	47	43	69
30-Jul	23:00	56	65	60	55	52	46	72
31-Jul	0:00	56	63	58	54	51	44	80
31-Jul	1:00	55	63	58	53	51	46	75
31-Jul	2:00	52	60	56	50	49	44	75
31-Jul	3:00	55	60	58	55	54	50	61
31-Jul	4:00	59	64	61	60	58	55	65
31-Jul	5:00	59	63	61	60	59	54	68
31-Jul	6:00	52	59	57	52	49	46	62
31-Jul	7:00	51	59	56	50	47	43	61
31-Jul	8:00	49	59	50	45	43	39	71
31-Jul	9:00	46	57	48	44	42	38	66
31-Jul	10:00	45	54	48	44	42	37	62
31-Jul	11:00	44	55	46	41	39	35	60
31-Jul	12:00	46	54	49	45	43	37	70
31-Jul	13:00	46	55	49	45	43	37	64
31-Jul	14:00	48	58	51	46	44	40	70
31-Jul	15:00	48	57	52	47	44	37	70
31-Jul	16:00	53	64	57	51	47	38	72
31-Jul	17:00	52	61	55	49	45	39	76
31-Jul	18:00	48	58	52	44	41	36	69
31-Jul	19:00	45	56	48	42	40	34	67
31-Jul	20:00	49	59	52	45	41	34	70
31-Jul	21:00	59	68	61	56	53	47	86
31-Jul	22:00	58	67	60	57	54	46	83
31-Jul	23:00	56	67	58	53	52	43	75
1-Aug	0:00	54	65	57	52	48	43	77
1-Aug	1:00	59	69	60	57	57	49	76
1-Aug	2:00	58	66	60	57	55	51	81
1-Aug	3:00	57	61	59	57	56	52	71
1-Aug	4:00	58	62	60	59	58	56	63
1-Aug	5:00	56	60	59	57	56	52	64
1-Aug	6:00	44	51	47	44	42	39	55
1-Aug	7:00	44	55	48	41	39	36	60
1-Aug	8:00	43	54	47	41	39	35	59
1-Aug	9:00	43	52	46	41	40	36	58
1-Aug	10:00	49	59	53	47	45	39	64
1-Aug	11:00	45	52	48	45	43	39	58
1-Aug	12:00	44	52	46	43	41	37	59
1-Aug	13:00	46	55	50	43	40	36	59

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
1-Aug	14:00	48	57	50	45	43	38	68
1-Aug	15:00	49	60	52	47	44	37	69
1-Aug	16:00	51	61	54	50	47	41	70
1-Aug	17:00	55	64	59	54	52	44	70
1-Aug	18:00	54	62	58	54	52	46	66
1-Aug	19:00	50	60	53	48	45	40	67
1-Aug	20:00	48	56	51	47	45	39	69
1-Aug	21:00	52	62	55	51	49	44	69
1-Aug	22:00	56	67	58	52	50	45	75
1-Aug	23:00	58	68	60	56	54	49	77
2-Aug	0:00	58	69	60	55	54	48	78
2-Aug	1:00	56	66	59	54	52	45	76
2-Aug	2:00	56	60	59	58	55	47	61
2-Aug	3:00	58	68	59	58	57	53	77
2-Aug	4:00	60	71	60	58	57	53	83
2-Aug	5:00	58	62	61	59	58	54	64
2-Aug	6:00	52	58	57	44	39	34	69
2-Aug	7:00	45	55	45	40	38	34	70
2-Aug	8:00	46	58	48	41	39	34	61
2-Aug	9:00	42	52	45	39	37	33	58
2-Aug	10:00	43	54	46	40	38	34	59
2-Aug	11:00	41	52	44	39	37	33	62
2-Aug	12:00	51	62	55	49	45	37	70
2-Aug	13:00	55	65	58	53	49	40	70
2-Aug	14:00	49	60	54	47	43	35	66
2-Aug	15:00	53	66	53	45	43	36	72
2-Aug	16:00	53	64	57	48	44	36	68
2-Aug	17:00	55	65	58	53	50	39	72
2-Aug	18:00	53	64	58	50	43	32	69
2-Aug	19:00	40	49	41	36	35	31	64
2-Aug	20:00	49	60	51	47	43	36	74
2-Aug	21:00	50	59	54	47	46	41	67
2-Aug	22:00	55	66	58	52	49	42	73
2-Aug	23:00	58	70	59	55	53	46	79
3-Aug	0:00	59	71	59	55	53	45	82
3-Aug	1:00	60	72	62	56	54	49	81
3-Aug	2:00	61	73	63	57	55	50	81
3-Aug	3:00	61	72	62	58	56	53	87
3-Aug	4:00	58	68	60	57	56	51	81
3-Aug	5:00	55	60	57	55	54	51	62

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
3-Aug	6:00	49	54	52	50	49	45	60
3-Aug	7:00	48	58	51	46	44	39	63
3-Aug	8:00	50	59	54	47	44	39	66
3-Aug	9:00	43	51	46	43	41	37	57
3-Aug	10:00	44	54	46	43	41	38	62
3-Aug	11:00	47	57	51	44	41	36	70
3-Aug	12:00	49	59	53	48	45	39	68
3-Aug	13:00	54	63	58	52	49	41	77
3-Aug	14:00	54	64	57	52	49	41	77
3-Aug	15:00	50	60	54	48	45	39	70

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Location 6

Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
27-Jul	17:00	43	52	46	41	39	33	57
27-Jul	18:00	50	60	54	48	45	37	66
27-Jul	19:00	46	56	50	43	40	32	60
27-Jul	20:00	39	49	42	36	34	30	57
27-Jul	21:00	42	53	44	39	37	33	59
27-Jul	22:00	41	52	43	39	38	34	60
27-Jul	23:00	42	51	45	40	38	34	63
28-Jul	0:00	39	47	42	38	36	31	53
28-Jul	1:00	39	48	43	38	36	32	54
28-Jul	2:00	42	49	45	42	40	36	51
28-Jul	3:00	38	45	41	38	36	33	52
28-Jul	4:00	42	48	44	42	40	37	55
28-Jul	5:00	46	54	48	45	43	40	62
28-Jul	6:00	46	52	48	46	44	41	57
28-Jul	7:00	46	55	49	45	44	40	63
28-Jul	8:00	50	59	54	50	48	43	62
28-Jul	9:00	52	61	56	51	49	42	67
28-Jul	10:00	49	58	53	48	46	39	63
28-Jul	11:00	46	56	49	43	41	35	60
28-Jul	12:00	48	57	52	47	44	38	60
28-Jul	13:00	47	56	51	47	45	36	65
28-Jul	14:00	45	52	48	44	42	36	57
28-Jul	15:00	45	53	48	44	43	39	61
28-Jul	16:00	45	55	49	44	42	36	60
28-Jul	17:00	43	53	45	41	39	34	64
28-Jul	18:00	39	48	41	38	36	32	58
28-Jul	19:00	44	54	48	42	39	31	58
28-Jul	20:00	37	46	40	35	33	29	58
28-Jul	21:00	39	47	42	37	36	32	54
28-Jul	22:00	43	52	46	41	39	35	59
28-Jul	23:00	44	54	48	43	40	35	60
29-Jul	0:00	42	52	46	40	38	33	57
29-Jul	1:00	43	53	47	41	39	34	56
29-Jul	2:00	42	50	46	41	38	33	55
29-Jul	3:00	44	54	48	43	41	34	57
29-Jul	4:00	38	48	41	37	35	32	52
29-Jul	5:00	46	50	48	46	45	41	56
29-Jul	6:00	46	52	49	47	45	42	57

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29-Jul	7:00	45	52	47	44	43	40	56
29-Jul	8:00	44	53	46	43	42	39	59
29-Jul	9:00	45	53	48	44	42	38	58
29-Jul	10:00	45	53	48	45	44	39	57
29-Jul	11:00	48	53	50	48	47	43	55
29-Jul	12:00	48	55	51	47	46	41	59
29-Jul	13:00	46	53	49	46	44	40	56
29-Jul	14:00	45	52	49	45	44	39	55
29-Jul	15:00	42	50	45	42	41	35	55
29-Jul	16:00	42	51	44	40	38	33	64
29-Jul	17:00	46	56	50	44	42	35	61
29-Jul	18:00	48	57	52	47	44	38	62
29-Jul	19:00	42	55	43	38	35	29	60
29-Jul	20:00	39	47	42	38	36	31	55
29-Jul	21:00	39	49	42	37	36	33	55
29-Jul	22:00	43	53	46	39	37	34	68
29-Jul	23:00	48	58	52	46	42	35	70
30-Jul	0:00	43	52	47	42	39	34	57
30-Jul	1:00	41	51	45	40	37	31	56
30-Jul	2:00	40	51	43	37	34	30	57
30-Jul	3:00	41	51	45	39	36	33	61
30-Jul	4:00	40	47	44	40	38	34	52
30-Jul	5:00	43	48	45	43	42	39	55
30-Jul	6:00	45	49	47	45	44	42	52
30-Jul	7:00	45	53	46	44	42	40	63
30-Jul	8:00	43	52	44	41	39	37	62
30-Jul	9:00	43	55	44	39	38	34	61
30-Jul	10:00	44	53	43	38	36	33	70
30-Jul	11:00	41	50	44	39	37	33	58
30-Jul	12:00	41	50	45	41	39	34	57
30-Jul	13:00	42	51	45	41	38	32	60
30-Jul	14:00	43	52	47	41	39	32	57
30-Jul	15:00	40	49	43	39	37	32	54
30-Jul	16:00	43	54	46	40	37	31	61
30-Jul	17:00	42	53	46	40	37	31	59
30-Jul	18:00	40	51	44	38	35	29	56
30-Jul	19:00	38	49	42	35	33	28	54
30-Jul	20:00	41	52	44	39	37	33	59
30-Jul	21:00	40	52	42	37	35	32	60
30-Jul	22:00	36	47	38	33	31	28	55

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
30-Jul	23:00	45	56	48	39	36	31	63
31-Jul	0:00	44	55	47	40	36	32	60
31-Jul	1:00	47	58	50	43	40	33	62
31-Jul	2:00	38	50	40	34	33	31	56
31-Jul	3:00	35	43	36	35	34	32	52
31-Jul	4:00	41	45	43	41	40	37	52
31-Jul	5:00	39	45	41	39	38	37	58
31-Jul	6:00	44	49	47	44	43	40	56
31-Jul	7:00	45	53	48	44	43	40	55
31-Jul	8:00	44	54	48	43	40	37	59
31-Jul	9:00	42	53	44	39	37	32	58
31-Jul	10:00	43	51	47	42	39	34	55
31-Jul	11:00	41	52	43	39	37	32	55
31-Jul	12:00	43	51	47	42	40	33	57
31-Jul	13:00	44	55	45	41	39	33	64
31-Jul	14:00	45	54	47	43	41	36	63
31-Jul	15:00	42	52	46	40	38	33	58
31-Jul	16:00	46	56	49	42	39	33	63
31-Jul	17:00	45	56	48	42	39	34	62
31-Jul	18:00	40	51	43	37	35	32	55
31-Jul	19:00	41	53	45	38	35	30	62
31-Jul	20:00	39	50	41	36	35	31	56
31-Jul	21:00	51	63	53	46	42	35	71
31-Jul	22:00	47	58	49	41	38	34	65
31-Jul	23:00	41	53	44	38	35	32	58
1-Aug	0:00	41	52	43	36	34	31	61
1-Aug	1:00	41	52	43	35	33	31	62
1-Aug	2:00	38	51	39	34	33	31	57
1-Aug	3:00	34	40	36	34	33	31	47
1-Aug	4:00	36	41	38	36	35	33	45
1-Aug	5:00	37	43	40	37	36	34	50
1-Aug	6:00	42	48	45	42	40	36	52
1-Aug	7:00	40	51	42	38	36	33	55
1-Aug	8:00	40	52	43	37	35	33	56
1-Aug	9:00	40	50	42	37	36	33	58
1-Aug	10:00	46	54	51	44	41	38	57
1-Aug	11:00	44	54	47	43	41	38	60
1-Aug	12:00	44	53	46	43	41	37	58
1-Aug	13:00	44	53	48	43	40	35	58
1-Aug	14:00	44	54	47	42	40	36	60

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
1-Aug	15:00	45	56	48	43	40	34	62
1-Aug	16:00	47	58	50	45	42	35	67
1-Aug	17:00	52	62	56	49	46	37	65
1-Aug	18:00	51	61	56	50	47	36	67
1-Aug	19:00	45	56	49	39	36	30	65
1-Aug	20:00	41	52	44	38	35	31	58
1-Aug	21:00	40	50	42	38	36	34	56
1-Aug	22:00	44	55	46	40	39	36	64
1-Aug	23:00	43	53	47	41	39	36	58
2-Aug	0:00	44	55	47	40	38	34	65
2-Aug	1:00	44	55	47	40	37	31	62
2-Aug	2:00	34	41	35	33	32	30	49
2-Aug	3:00	39	52	40	34	33	32	59
2-Aug	4:00	44	56	45	37	35	31	65
2-Aug	5:00	36	46	37	33	32	30	59
2-Aug	6:00	36	45	38	34	33	31	53
2-Aug	7:00	37	48	40	35	33	31	55
2-Aug	8:00	41	52	43	37	35	32	56
2-Aug	9:00	38	46	41	37	36	33	55
2-Aug	10:00	42	56	44	38	36	33	60
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2-Aug	14:00	45	58	47	41	38	32	63
2-Aug	15:00	56	68	56	44	41	31	80
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3-Aug	1:00	47	59	50	41	37	33	65
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3-Aug	3:00	48	60	52	43	39	35	68
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3-Aug	6:00	43	50	46	43	41	37	53

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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
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3-Aug	10:00	42	53	45	41	39	35	57
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3-Aug	13:00	49	60	52	46	44	38	65
3-Aug	14:00	49	59	53	47	44	38	64

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Location 7

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12-Aug	22:00	53	69	41	38	37	35	74
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13-Aug	13:00	46	53	47	42	41	37	72
13-Aug	14:00	47	56	50	46	44	40	65
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13-Aug	17:00	50	59	54	48	45	39	65
13-Aug	18:00	50	61	53	46	43	38	70
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13-Aug	20:00	40	47	43	40	39	36	52
13-Aug	21:00	41	47	44	41	40	37	54
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14-Aug	3:00	37	42	39	37	36	34	46
14-Aug	4:00	38	43	41	39	38	35	47
14-Aug	5:00	40	47	42	39	39	37	51
14-Aug	6:00	42	49	45	41	40	36	63

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14-Aug	23:00	45	52	47	44	43	40	57
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15-Aug	10:00	45	55	49	44	42	37	61
15-Aug	11:00	41	50	45	41	39	35	56
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15-Aug	21:00	39	44	42	40	39	37	49
15-Aug	22:00	39	44	41	39	39	36	48

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16-Aug	5:00	40	47	41	39	39	37	55
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Date	Time	Leq	L1	L10	L33	L50	L90	Lmax
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19-Aug	14:00	44	52	46	42	40	36	65
19-Aug	15:00	45	54	49	44	42	36	58

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APPENDIX B

Homeowner Noise Log

07/27/15: About 5pm loud motorcycle on Camino Diablo. Had some evening wind

07/28/15: Fairly quiet, minimal wind, 100 degree heat. Sand Hill/Diablo MX has semi trucks with single trailers dumping rock initially next to Morain property. Per Cliff Chatterton (130 Walnut) they have been dumping since last Friday, 072415, some days starting as early as 7:00am, with at least two semi's. No semi truck activity over weekend.

07/29/15: Per Cliff he thinks the semi's were dumping all day. Tracy Harrison (280 Camino Diablo) also confirmed they were dumping all day. Per Tracy Harrison, about 10:15am a business, Scwhmms (?) with no permit at 350 Camino Diablo started doing tractor work at temporary buildings close to Harrison property line. Same business also had a bobcat or forklift type vehicle moving pallets with a loud beeper. They also had a pressure washer operating. This occurred from about 10:00am-2:00pm. Some late afternoon early evening wind.

07/30/15: 9:00am Oversize equipment, man lift, on a semi with a loud beeper was parked on Longwell at Camino Diablo for a couple of minutes before turning left on Camino Diablo and then left into the old Unimen Quarry. About 11:25am fire vehicles with sirens went by traveling east on Camino Diablo towards Vasco Rd, possibly to a fire on Vasco Rd. About the same time two semi's with single trailers pulled into Sand Hill/Diablo MX. Cliff confirmed the semi's were there at 12:00 noon, 1:45pm and 3:17pm.

07/31/15: Semi's running most of the day to Sand Hill/Diablo MX. At one point during the day I counted four semi's. 1:15pm white cab with a black trailer dumped a load at Sand Hill/Diablo MX. At 1:22pm a white semi (A&R Enterprises, Fairfield) with a white trailer left Sand Hill/Diablo MX. At 1:24pm a blue semi with a sleeper and a white trailer left Sand Hill/Diablo MX. At 1:25pm a white semi with a blue trailer left Sand Hill/Diablo MX and went to 2111 Hillcrest in Antioch, PG&E Service Center. Late afternoon, early evening wind. 8:00pm a loud motorcycle drove by on Camino Diablo.

08/01/15: There was a lot of grading at Sand Hill/Diablo MX in the n/e area of the old bmx and oval area. Grading equipment and water truck.

08/02/15: Quiet morning. 1:05pm 1 motorcycle out at Sand Hill/Diablo MX, very quiet, low speed low rpm's only out for a few minutes. About 1:40pm until about 4:00pm 3 motorcycles out at Sand Hill/Diablo MX, much louder and faster.

08/03/15: About 8:40am continued grading around the n/e area, grading equipment and water truck. About 10:00am semi's coming in with what looks like gravel for possible parking area. 12:00 noon, Schwmm's, 350 Camino Diablo, using commercial equipment with loud beepers.

During this week we generally had commute traffic in the weekday mornings and evenings and a late afternoon breeze that usually died down by 8:00pm-9:00pm.

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EXHIBIT 23

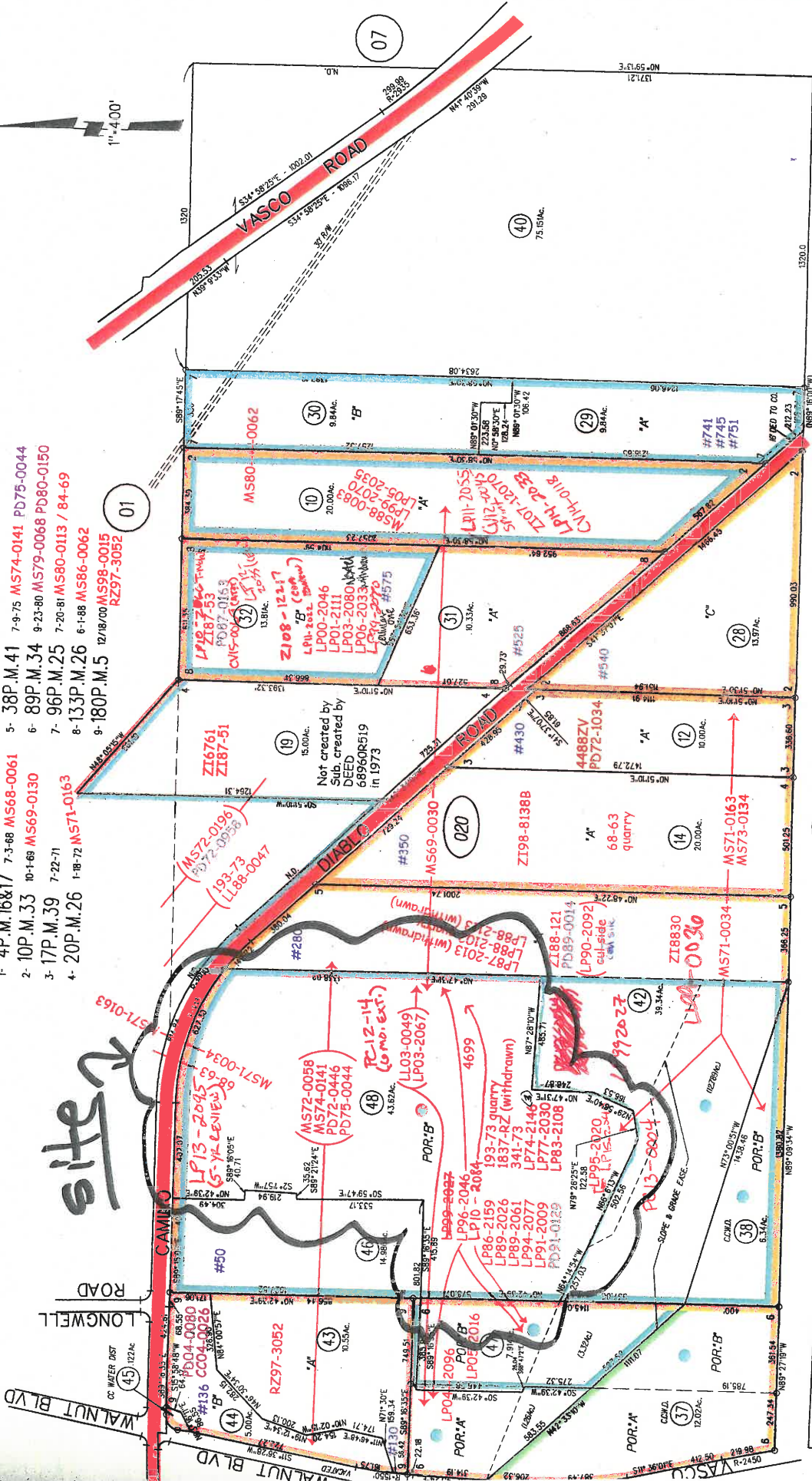
Pertinent Maps

CT. 3551.04



S 1/2 SEC. 6 T1S R3E M.D.B.M.
POR. SEC. 1 T1S R2E M.D.B.M.

- 1- 4P.M.16&17 7-3-88 MS68-0061
- 2- 10P.M.33 10-1-89 MS69-0130
- 3- 17P.M.39 7-22-71
- 4- 20P.M.26 1-18-72 MS71-0163
- 5- 38P.M.41 7-9-75 MS74-0141 PD75-0044
- 6- 89P.M.34 9-23-80 MS79-0068 PD80-0150
- 7- 96P.M.25 7-20-81 MS80-0113 / 84-69
- 8- 133P.M.26 6-1-88 MS86-0062
- 9- 180P.M.5 12/18/00 MS98-0015 RZ97-3052



site

ROAD

LONGWELL

WALNUT BLVD

WALNUT BLVD

AR

0088

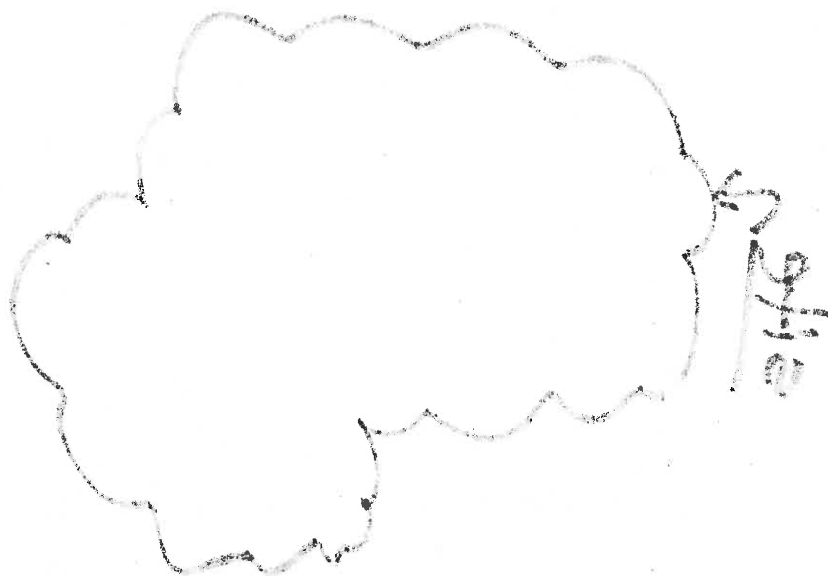
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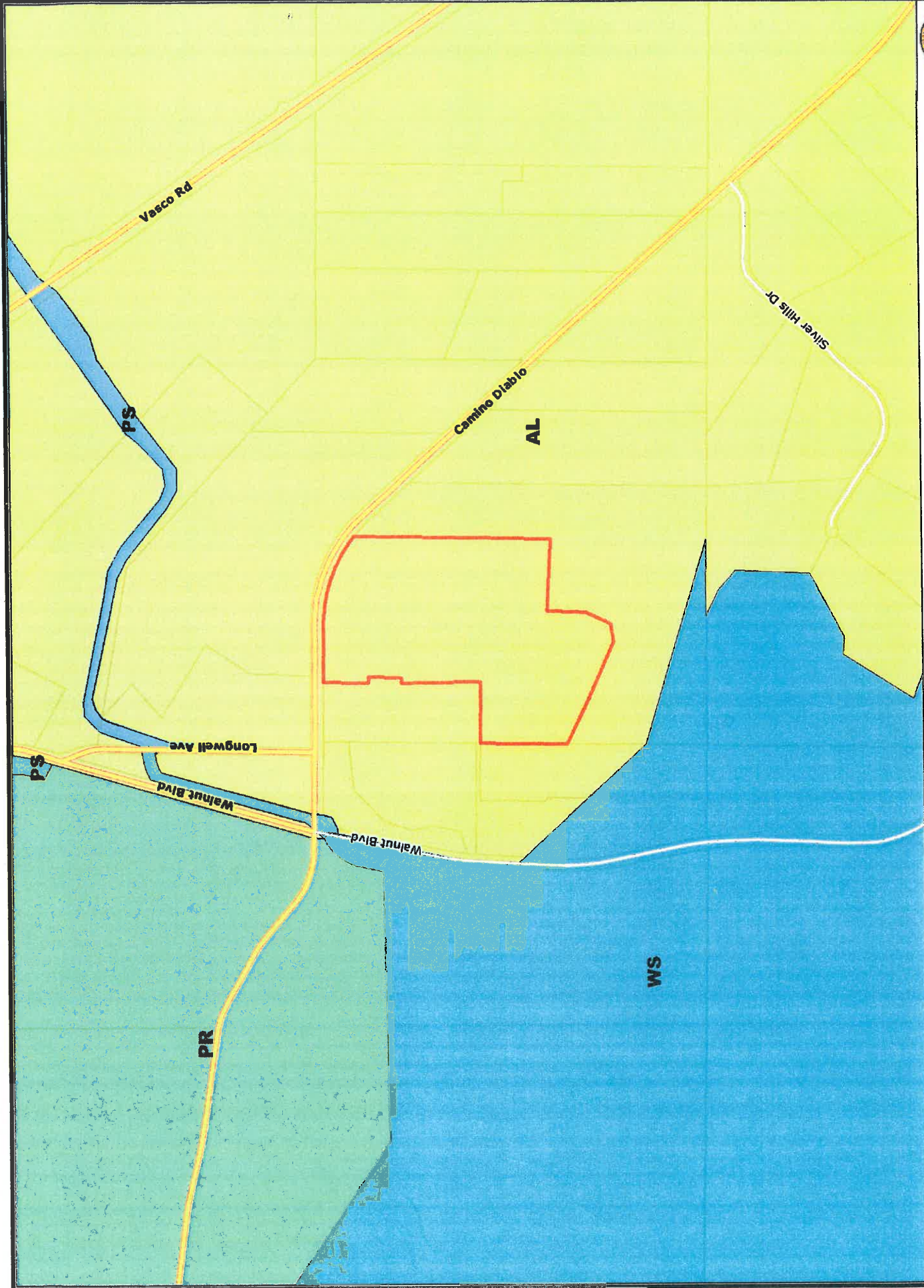
Book 3

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= RESERVOIR STUDY

NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION DELINEATED HEREIN. ASSOCIATE ENGINEER

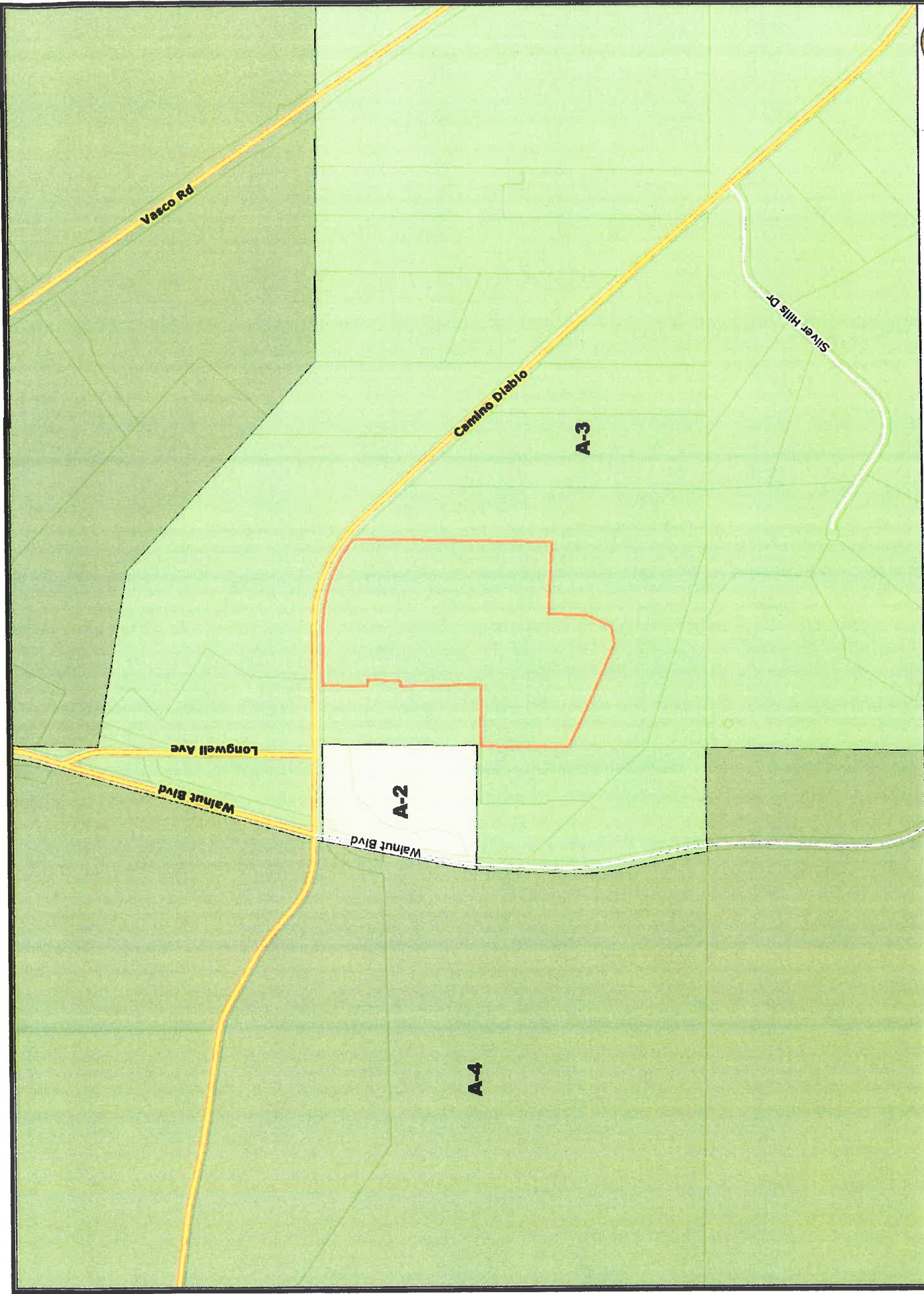




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Contra Costa Internet GIS Map
Printed: Oct 8, 2015 4:47:32 PM

General Plan: Agricultural Lands

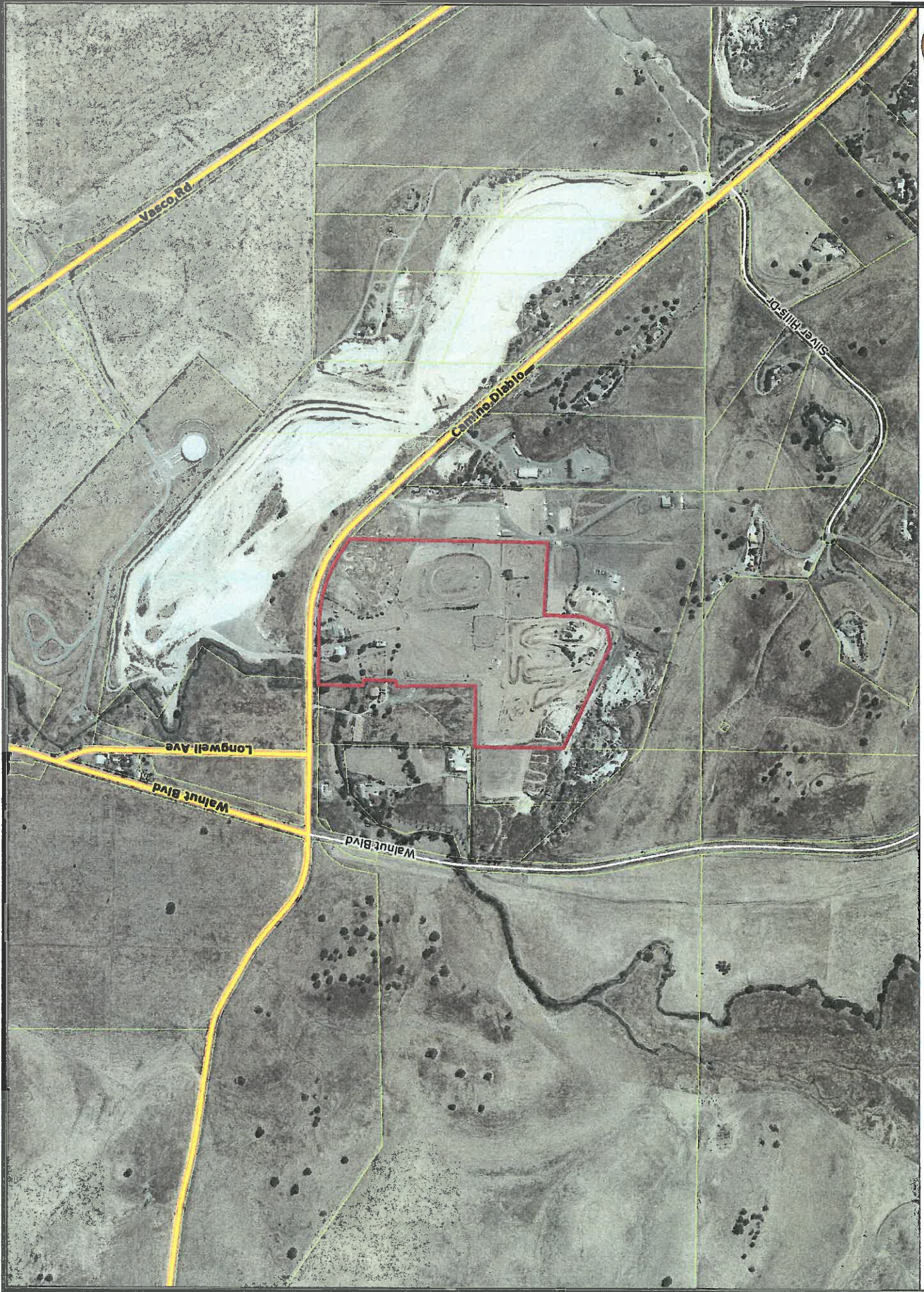




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Zoning: A-3





Scale 1:10,000
Contra Costa Internet GIS Map
Printed: Oct 6, 2015 4:50:29 PM

Aerial View



EXHIBIT 24

**Trotter Letter of Appeal, Dated
5/22/2015**



CONTRA COSTA

2015 MAY 22 PM 12: 21

APPLICATION & PERMIT CENTER

LP13-2095

Richard T. Bowles
Michael P. Verna
Robert I. Westerfield
Richard A. Ergo
K.P. Dean Harper
Kenneth G. Jones
Bradley R. Bowles
Kenneth B. McKenzie
David W. Trotter
Jason J. Granskog

Lawrence D. Goldberg
Cathleen S. Huang
Ethan K. Friedman
William T. Nagle
Michael P. Connolly
Nathaniel B. Duncan
Cheryl A. Noll
Michael T. Krueger
Deborah P. Furth
Mallory L. Homewood

Of Counsel
Bruce C. Paltenghi

May 22, 2015

HAND-DELIVERED

Community Development Division
Contra Costa County Department of
Conservation and Development
30 Muir Road
Martinez, California 94553

Attn: Aruna Bhat, Deputy Director

**Re: John and Lori Ramirez (Applicants)/James and Dorothy Schmidt (Owners),
County File No. LP13-2095
Site Address/Location: 50 Camino Diablo Road, Unincorporated
Brentwood, CA (APN 003-020-048)**

**Appeal By Twenty-Three Camino Diablo and Walnut Avenue Homeowners
and Residents to the Contra Costa County Board of Supervisors of the
County Planning Commission's May 12, 2015 Decision Allowing Off-Road
Motocross Operations, Finding Applicant to be in Compliance with Land
Use Permit No. LP95-2020 Conditions of Approval, and Approving Revised
Site Plans dated October 31, 2014**

Dear Ms. Bhat:

This appeal letter is submitted on behalf of our clients, who include Linda and Gary Thuman; Ron, Tracy and Cassidy Harrison; Cole, Linda and Chuck Harrison; Rick and Donna Kendrick; Rick and Diana Klinger; Christina Morain and Steve Glennon; Howard Bowles; Dave, Brenda and Elione Chapman; Harvey and Gail Webb; Cliff Chatterton; Jerry Glenn; and Ernie Moore (collectively, "Appellants").

Appellants hereby appeal from the above-referenced decision of the County Planning Commission, resulting from a 5-2 vote of the Commission members at the conclusion of the Commission's May 12, 2015 Five-Year Compliance Review hearing for the proposed Diablo MX Ranch Motocross Park located at 50 Camino Diablo (the "project"). Appellants' homes and

Community Development Division
Contra Costa County
May 22, 2015
Page 2

residential properties are located nearby, and in some cases immediately adjacent to, the west, northwest, east and south sides of the proposed motocross site.

Enclosed herewith please find a \$125.00 check covering the required appeal filing fee.

A statement of the specific grounds and reasons for this appeal is set forth in the remainder of this letter. Appellants have not seen or received any written confirmation of the Planning Commission's decision from the County. Accordingly, Appellants reserve the right to further augment the presentation of grounds and reasons for their appeal before and at the hearing before the County Board of Supervisors. Appellants appeal from the Planning Commission's decision on the following grounds:

1. The 1998 use permit has terminated by operation of law. If the Applicant and Owner now wish to operate a motocross park on the property, then under the terms of the Contra Costa County Code they must apply for and obtain a new use permit – which they have not done.

This issue is governed by County Code Section 26-2.2016, which provides:

“If a use is established according to the terms and conditions of a permit and the use is discontinued for any reason for a period of six months, the permit shall become void and the use shall not be resumed. Upon application during the six months period by the owner and upon a showing of good cause the director of planning may grant an extension **not to exceed a total of six months**” (emphasis added).

The County issued Land Use Permit dated November 2, 1998 to Tom Anderson (Application LP95-2020) to operate a motorcycle racetrack on Assessor's Parcel No. 003-020-039. According to the May 12, 2015 Staff Report (hereinafter, “Staff Report”), “[t]he property was sold in 2013, at which time the motorcycle park use ceased operation for six months, during which time a six-month extension of the land use was approved and the use was resumed.” See Staff Report, p. 2.

There are a number of factual errors and concerns here. First, Anderson was forced to sell the property during the **summer of 2012 – not in 2013**, as represented in the Staff Report. Any statement or suggestion that the use of the property for a motorcycle racetrack or park ceased in 2013 is in error.

Community Development Division
Contra Costa County
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In other documents, County staff have taken the position that the “last date of operation” of the motocross park was August 6, 2012. To Appellants’ knowledge, the only evidence in the County’s files supporting this determination is a reference on the former owner’s (i.e., Anderson’s) Facebook page. See Staff Report, Ex. 4. It also now appears that the subsequent owner, the law firm of Glynn & Finley LLP, requested a six-month extension of the use permit by letter dated December 3, 2012, which the County granted on March 5, 2013. See Staff Report, Ex. 5. Assuming that this extension was timely and proper, to avoid having the use permit lapse, operations of the motorcycle park had to resume **by no later than August 6, 2013.**

Significantly, this is also what the County told Appellants. In the summer of 2013, Appellants began contacting the County planning staff to ask questions about the status of the 1998 land use permit. On July 10, 2013, County Planner Gary Kupp sent the following e-mail to Appellant Linda Thuman:

“It was determined that the motocross land use ceased on Aug. 6, 2012. They are allowed **by code** 6 months of inactivity, in this case until Feb. 6, 2013. Since they made a timely extension request, they were granted the 6 month extension until Aug. 6, 2013. **So with the extension, they are allowed a year of inactivity**” (emphasis added).

(A true and correct copy of Mr. Kupp’s July 10, 2013 e-mail is attached as **Exhibit 1** hereto.) Mr. Kupp’s e-mail is entirely consistent with the clear and unambiguous text of Section 26-2.2016. The applicant was entitled to a single year of inactivity, not more than that.

The Staff Report states (at p. 2) that “the use was resumed.” Again, however, no evidence in support of this statement has been provided by the County. Photographs taken by Ms. Thuman in August 2013, and previously submitted to the County, include a “Sand Hill Motorcycle Park Closed” sign, a “For Sale” sign and other obvious evidence of inactivity. **In the absence of any evidence that the motorcycle park had resumed operations prior to August 6, 2013, the 1998 land use permit expired and became “void” as a matter of law under County Code Section 26-2.2016.**

The Staff Report tries to get around this by asserting – contrary to the plain language of Section 26-2.2016 – that “discontinued” as used in that section refers to a “change in use, not the **inactivity** of an approved land use.” See Staff Report, p. 4.

However, the notion that “discontinued use” means a “change in use” is a complete distortion of the English language. It is also inconsistent with Mr. Kupp’s July 10, 2013 e-mail to Linda Thuman, which specifically states that the property owner was to be allowed only “a

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year of **inactivity**.” Mr. Kupp’s e-mail appears to be supported by a clear and straightforward interpretation of the ordinance. By contrast, the position now articulated in the current Staff Report is not supported by the text of the County’s ordinance, which makes clear that if the use is discontinued “for any reason” the permit is deemed to be void.

Under the staff’s logic, operations under a use permit could end for a period of years, yet the use permit would remain valid as long as the empty buildings and structures on the property were not removed. But that is not what the County Code says. In granting and enforcing the use permit at issue here, the County (including its planning staff) “is bound by the terms of the ordinance until the ordinance is amended through proper legislative procedure.” (*Johnston v. Board of Supervisors* (1947) 31 Cal.2d 66, 74; *City and County of San Francisco v. Superior Court* (1959) 53 Cal.2d 236, 250-251 (same).) Put another way, the County cannot place an interpretative “gloss” on the language of Section 26-2.2016, as suggested in the Staff Report, when it is so clearly erroneous and contradicted by the language itself.

At the May 12, 2015 Planning Commission hearing, County staff also suggested that the 1998 use permit remains valid because the Community Development Department had not previously taken action to formally revoke the permit. But this argument ignores the well-settled rule that a public entity, such as the County, lacks the power to waive or consent to a violation of its zoning laws. (*See, e.g., City of Fontana v. Atkinson* (1963) 212 Cal.App.2d 499, 507-508; *Western Surgical Supply Co. v. Affleck* (1952) 110 Cal.App.2d 388, 392-393.) Indeed, the failure of the County staff to properly enforce Section 26-2.2016 according to its terms does not preclude the people of this State – Appellants herein included – from seeking to enforce the County Code now, or in the future. (*See, e.g., Caminetti v. State Mut. Life Ins. Co.* (1942) 52 Cal.App.2d 321, 326, accord, *Western Surgical, supra*, 110 Cal.App.2d at 392-393.)

Finally, the Staff Report states (at p. 4) that on March 28, 2014, the property was purchased by the current Applicants and Owners who now intend to operate a motocross facility. The Staff Report goes on to state that: “Even though the park has not been open to the public since being purchased by the Schmidts and Ramirez, the land use is still valid since the applicants have been actively pursuing compliance with the conditions of the permit.” **This statement is contrary to the record, and the plain language of Section 26-2.2016.** In any event, the 1998 land use permit expired and became void **no later than August 6, 2013.** Nothing that the Schmidts and Ramirez did, or could have done in March 2014, after they purchased the property, operated to revive the 1998 land use permit. Nor was the County free to grant yet another “extension” of the land use permit to the Applicants. County Code Section 26.2-2016 makes crystal clear that the “director of planning” may only grant a single, one-time

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extension “not to exceed a total of six months.” The Applicants are out of time and have no rights under the now void 1998 permit.

There are, moreover, sound public policy reasons to apply Section 26.2-2016 according to its terms. The process by which a use permit was approved in 1998 was less than rigorous. The motocross project was approved based on an Initial Study which concluded that the proposed project would result in “insignificant” increases in existing noise levels and “insignificant” exposure of people to severe noise levels. See Staff Report, Ex. 6. That was a dubious conclusion in 1998, and it remains seriously flawed today.

It is also worth noting that in processing the current application for a five-year compliance review, County staff has found that the County’s “60 dBA Noise Control” special program applies to this application. (See Exhibit 21 to the Staff Report, a true and correct copy of which is attached as **Exhibit 2** to this appeal letter.) 60 dBA is generated by typical speech or a conversation between friends. See County General Plan, Noise Element, Figure 11-3, at p. 11-6. (Pertinent excerpts from the County’s Noise Element are attached as **Exhibit 3** hereto.) Prior motocross park nuisance litigation and other published scientific reports indicate it is extremely doubtful that the operation of a motocross park at this location has ever met, or can meet, a 60 dBA standard. Both the Planning Commission, and the Zoning Administrator at the previous December 15, 2014 public hearing, heard testimony from the Appellants that operation of the motocross park has routinely interfered with efforts to carry on a conversation both inside and outside of their homes.

2. The Diablo MX motocross project is subject to, and not exempt from, the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000, et seq.

Appellants made the same legal and factual arguments in their December 24, 2014 letter appealing from the Zoning Administrator’s decision. At the outset, it should be noted that the Staff Report failed to address the CEQA case law and arguments directly or on their legal merits – a point which Appellants made before the Planning Commission. For the benefit of the Board of Supervisors, Appellants’ position is again briefly restated below.

First: CEQA applies to the current proceedings before the County because the 1998 land use permit is no longer valid. Any consideration of the Applicant’s proposal to resume motocross operations at the property requires the filing of a new application for a use permit, and constitutes a new “project” within the meaning of CEQA. At a minimum, the County is required to prepare an Initial Study and Environmental Checklist (see Public Resources Code §

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21080(c)(2), and CEQA Guidelines, §§ 15063 and 15365). Indeed, CEQA and case law interpreting it require the County to prepare a full Environmental Impact Report (“EIR”) where, as here, there is substantial evidence supporting a “fair argument” that the project has potentially significant environmental impacts. (See Public Resources Code § 21151; *Laurel Heights Improvement Association of San Francisco, Inc. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123.) It is well settled that the “fair argument” standard sets a “low threshold” for requiring the preparation of an EIR. (See, e.g., *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.)

Second: Even if one assumes that the 1998 permit is effective (i.e., not void under County Code Section 26.2-2016 despite all evidence to the contrary), the County’s recent action on the proposed Diablo MX motocross facility is still a “project” that is subject to CEQA today.

CEQA generally applies to “discretionary projects proposed to be carried out or approved by public agencies.” Public Resources Code § 21080(a). CEQA specifically applies to an activity for issuance of a permit or entitlement for use of the project involving an exercise of discretion by the agency. (See Public Resources Code § 21065, defining “project”, and CEQA Guidelines, § 15352(b), defining “approval”.) Section 15378(a) of the CEQA Guidelines amplifies this point, with a broad definition of “project” as meaning “the **whole of an action**, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment” (emphasis added). The term “project” is “given a broad interpretation in order to maximize protection of the environment.” (*McQueen v. Board of Directors of the Midpeninsula Regional Open Space District* (1988) 202 Cal.App.3d 1136, 1143.) Put another way, an agency must fully analyze each “project” in a single environmental review document. It cannot segment or divide the project, and not analyze all of its impacts, without running afoul of CEQA. (*Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592.)

Does the Applicant seek the issuance of a new permit by the County? Yes, absolutely. The noticed Agenda for the December 15, 2014 Zoning Administrator hearing described the project as including “a request for a grading permit to grade 12,800 cubic yards for track renovations” – i.e., roughly the equivalent of **1,280 truckloads of dirt**. The Staff Report presented to the Planning Commission glossed over this fact, but it remains unchallenged. Has the County analyzed the potential environmental impacts of those grading operations? Apparently not, since the County is taking the position that the project is “exempt” from CEQA and that the requested grading permit is “ministerial.” But the Staff Report does not address the potential environmental impacts of moving and off-hauling that much dirt. This is contrary to CEQA principles.

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Leaving aside the grading permit, the County has expressly reserved the power to exercise its discretion and impose other “discretionary conditions” in the future with respect to the Diablo MX project. This is something that the Staff Report completely failed to acknowledge. Again, this is a significant flaw in the staff analysis of the CEQA issue.

The fact that the County has retained planning “discretion” really cannot credibly be denied. The Staff Report (at p. 12) states that under Condition of Approval No 17, the applicant cannot use the oval track “until the Community Development Division has a chance to review the [required noise impact] study **and implement any noise mitigation measures that may be required based on the results of the study**” (emphasis added). Put another way, the County is retaining its full planning discretion to impose further necessary and appropriate conditions on this project.

The existence of that discretion is yet another reason why CEQA applies to the current Diablo MX motocross project. The statements by the Zoning Administrator at the December 15, 2014 hearing in announcing her decision, to the effect that the “County has no discretion”, are disingenuous. They cannot be squared with the presentation in the Staff Report, or the express language of Condition of Approval No. 17.

The Staff Report asserts (at p. 7) that requiring this project or the current applicant to comply with CEQA “would essentially be a form of double jeopardy.” But this is not a criminal proceeding. The applicant is subject to the use permit conditions and all applicable laws, including CEQA. Rather than “double jeopardy”, the core issue is what CEQA requires with respect to projects where, as here, the County clearly has **retained planning discretion** to impose further conditions and mitigation measures by virtue of Condition of Approval No. 17, and the applicant has in fact applied for additional permits. If the former owner of the property had done the required noise study previously or completed the necessary grading shortly after the 1998 use permit was approved, perhaps CEQA would not be triggered here. But that was not the situation before the Planning Commission, or before the Board of Supervisors now.

Third: The requirement under CEQA that agencies analyze the potential environmental impacts of the “whole of an action” is a critical element of CEQA compliance. It is one which the County unfortunately has not met in this case. The County may or may not have complied with CEQA prior to approval of the 1998 land use permit, but that is not germane here. What is relevant is that **the Diablo MX project circa 2014-2-15 is not the same as the project approved by the County back in 1998.**

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Again, the Staff Report (at p. 2) confirms this fact. It recommends that the Zoning Administrator “APPROVE the **revised site plans, received on October 31, 2014**” (emphasis added). Clearly, the current project description has changed since 1998, including among other things the following project modifications: (1) “relocation of the oval track”, acknowledged at page 2 of the Staff Report; (2) changes in track layout; (3) changes in the pit parking area; (4) the project site has been reduced by 50 percent, from approximately 80 to approximately 40 acres, significantly reducing the extent of previous buffer zones between the motorcycle tracks and adjacent homes; (5) additional grading is now required, requiring a grading permit as previously discussed; (6) the very noisy motorcycle park operations are now in closer proximity to adjacent single family homes and properties, which impacts must be analyzed; and (6) the elevations on site have been changed, including the cutting down of hilly terrain and removal of trees. Those changes and their potential environmental impacts were not analyzed in 1998. They must be properly analyzed now in accordance with CEQA standards.

At the May 12 Planning Commission hearing, County staff tried to characterize the changes in the location of the oval track as “consistent” with the 1998 use permit approvals. But such statements are belied by the record in this case, and specifically by a comparison of the 1996 site plan (Staff Report, Ex. 10) with the October 2014 proposed site plan (Staff Report, Ex. 11). (Copies of the 1996 and 2014 site plans clearly depicting the changed location and reconfiguration of the newly proposed oval track are attached as **Exhibit 4** and **Exhibit 5** hereto, respectively.) The changes in the project description mandate further environmental review under CEQA.

Final point on the CEQA issue: The Staff Report states that Appellants submitted “no evidence of data that demonstrate that the approved land use is adversely impacting the environment.” This is contrary to the record.

Appellants presented evidence and testimony at the December 15, 2014 Zoning Administrator hearing, and again before the Planning Commission, that these and other changes to the project raised a number of potentially significant environmental impacts. This included testimony regarding impacts with respect to (1) noise, first and foremost; (2) air quality and pollution impacts from motorcycle exhaust; (3) noxious fumes and odors permeating and invading adjacent residential properties and homes; (4) threats to wildlife species of special concern including eagles, woodpecker and other birds, San Joaquin kit fox, bobcats and badgers which have returned to the property and populated the surrounding area since the shutdown of motocross operations in 2012; (5) impacts of groundwater pumping and the use of up to 40,000 gallons per day by the project, for dust control and other purposes, on Appellants’ groundwater use and rights to extract water from the same aquifer, and other potential hydrologic impacts; (6)

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erosion of soil on the project's barren slopes and potential impacts of such erosion on Kellogg Creek; and (7) potential safety hazards on Camino Diablo from the tracking of mud from motorcycles and other vehicles involved in racing and other motocross activities on the property. None of these impacts resulting from changes in the project have been adequately addressed by the County in a CEQA compliant manner.

3. The applicant is not in compliance with all of the conditions of approval imposed by the County in connection with the 1998 use permit issuance (File No. LP95-2020). The Planning Commission's findings of such compliance are contrary to the evidence.

This appeal point specifically applies to Conditions of Approval Nos. 1, 2, 4, 5, 6, 11, 13, 17, 18 and 20. The reasons why the applicant is not in compliance with the conditions of approval are set forth in further detail in Appellant Linda Thuman's December 5, 2014 letter to the Zoning Administrator (see **Exhibit 6** enclosed herewith), which is incorporated by reference herein.

4. The proposed motocross project imposes severe and unmitigated noise impacts on adjacent residents, including Appellants, which are contrary to, and inconsistent with the County's General Plan, including the Noise Element.

County staff have made a number of questionable assertions. First, the May 12 Staff Report states (at p. 13) that "[n]oise was analyzed in the Initial Study." However, there is no evidence that a noise study or analysis was actually conducted back in the late 1990's. Given the inherently noisy nature of the proposed motorcycle park use, this statement by staff must be viewed with some considerable skepticism.

Also on page 13, the Staff Report states that the Appellants have provided "no data or evidence that the [motorcycle] park activities are in violation of the General Plan" However, Appellants have previously provided the County with video evidence, documents, and oral testimony regarding the significant and unavoidable impacts that operation of a motocross park and racing events would have on their quality of life and property rights.

For example, the Harrison family – whose property is right next door to motorcycle trails that run within a few feet of their property line – testified eloquently at the December 15, 2014 hearing about the impacts of the motocross facility on their quiet enjoyment of their property. They also testified about the safety risks of nearby, high-volume motorcycle noise on horses and equestrians (including Cassidy Harrison) who cannot use the corral for calf-roping activities

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because motorcycles on the adjacent track have startled horses and raised fears that horses will “bolt” and buck them off, resulting in potentially serious injuries to both horse and rider.

And Appellants Rick and Donna Kendrick provided testimony that a star-gazing party in their backyard was thoroughly disrupted by nighttime racing activity on the motocross property. It was so noisy that the astronomer who had been invited to speak about the stars could not be heard by those in the Kendrick backyard over the motorcycle noise emanating from 50 Camino Diablo – despite his use of a microphone.

The Zoning Administrator ignored that evidence in issuing her December 15, 2014 decision; and ultimately, the Planning Commission’s 5-2 majority failed to rectify the situation in upholding the Zoning Administrator’s decision. The Planning Commission’s decision is inconsistent with, and contrary to, the Noise Element of the County General Plan.

The County is required by California law to have a Noise Element as part of its General Plan. See Gov. Code § 65302(f). This statute requires the County to “identify and work toward mitigation of noise problems in the community.” See Ex. 3 (County General Plan at p. 11-1). Moreover, the Noise Element recognizes the obvious fact that “residential areas” are particularly “noise-sensitive” (*id.* at p. 11-2), and that “noise can affect adversely the enjoyment of quiet activities in open space” (*id.* at p. 11-3). The Planning Commission’s decision ignored that there will be severe “noise problems” associated with the project, and did nothing to address or mitigate those impacts.

The Noise Element recognizes that the effects of noise on people include nuisance and annoyance; interference with activities such as speech, sleep and learning; and physiological effects such as anxiety or hearing loss (*id.* at p. 11-5). Appellants provided substantial testimony and evidence that the motocross park will subject them to these adverse impacts. In her haste to find the Applicant to be “in compliance”, this evidence was disregarded by the Zoning Administrator. So did the Planning Commission majority.

Finally, the Noise Element includes a discussion of noise exposure that includes a 5 to 10 dBA “penalty” (i.e., a required **reduction** in noise levels) applicable to noisy nighttime activities after 7:00 p.m. and before 7:00 a.m. (*id.* at pp. 11-5 and 11-6). However, the County has sanctioned use of the lighted racetrack for motorcycle racing until 11:00 p.m. on Friday and Saturday nights! (See Condition of Approval No. 5.) Appellants have repeatedly and vociferously complained that the project will routinely exceed accepted land use compatibility and community standards during evening and nighttime hours, in violation of the Noise Element and general principles of nuisance law.

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The Planning Commission, Zoning Administrator and County planning staff have failed to address and respond to these concerns, and to impose necessary and appropriate mitigation measures to protect the health and welfare of the public and homeowners living in close proximity to the project site. Appellants respectfully submit that the Board of Supervisors has the authority and the duty to ensure that this project is not allowed to operate in a manner that will be inconsistent with California law and the General Plan.

5. The Planning Commission's decision fails to provide any rational direction or process guidance, or technical criteria to be followed in connection with the "noise impact study" required by Condition of Approval No. 17.

The May 12 Staff Report appears to miss the point being raised by Appellants here. The County staff apparently feel they are "bound" by the language of Condition of Approval No. 17 (see Staff Report, p. 14). However, this condition is less than clear; and for that reason, the Planning Commission could and should have appropriately interpreted that condition and provided explicit direction to staff, the applicant and Appellants regarding how the noise impact study should be carried out.

Such direction would have been particularly appropriate, given the fact that the applicant expects that the County will be "hir[ing] the necessary acoustical consultant to complete the sound study." See Applicant's Staff Report, Ex. 12, at p. 1. Since County staff apparently will be responsible for oversight of the required noise impact study, it is appropriate for the Board of Supervisors to provide such direction now. The Planning Commission discussed this issue during their deliberations. However, the Commission majority ultimately declined to come to grips with this issue and to "leave it up to the Board."

In any event, appropriate direction from the Board of Supervisors would include, at a minimum, the following:

(a) The taking of ambient noise measurements.

Unless ambient noise measurements while racing activities are not taking place are required as part of the "impact study", the County will not have any baseline data for purposes of comparison. The Staff Report indicates (at p. 13) that the operation of the motorcycle park must comply with the "land use compatibility standards prescribed by the Noise Element." Requiring the collection of ambient baseline data would be entirely consistent with the County's Noise Element.

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(b) Direction regarding applicable noise standards.

The Staff Report remains unclear as to the applicable noise standards which are to be adhered to in this case. For example, it is not clear that the noise impact study must account for the required noise penalty [i.e., reduction in noise levels] set forth in the Noise Element applicable to nighttime noise levels. But clearly, that study should meet the Noise Element standard, given Condition of Approval No. 5's authorization of nighttime racing until 11:00 p.m. on Friday and Saturday nights.

(c) Fair and open process, including prior notice to Appellants.

Moreover, there is a need for better direction regarding a fair process to govern the noise impact study activities going forward. As a matter of due process, it is important – and just plain fair – for prior notice to be given to Appellants of the date of the first race, open communication, and cooperation with Appellants to ensure that proper noise measurement protocols are followed and reliable data is collected in the field by acoustical experts under a fair and scientific process that is not skewed in favor of the applicants.

Such advance notice is particularly appropriate given the applicant's assurances to the County that they will "notify the Community Development Department a minimum of 30 days in advance of the opening of the oval for any racing events." See their March 28, 2014 letter to Gary Kupp (Staff Report, Ex. 12); see also, Use Permit Condition of Approval No. 2. If the applicant is going to be giving notice to the County, this Commission can reasonably direct staff to provide notice to the Appellants **at the same time**.

It should be noted that the County fostered such an open and fair process when it conducted noise studies in connection with the proposed Brentwood Rod and Gun Club project back in 2001 and 2002 – a project that impacted many of the same properties owned by Appellants here.

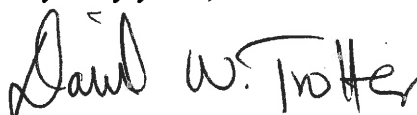
Finally, we note that it may also be appropriate for the County to permit the first race to be conducted during the pendency of any future appeal to the Board of Supervisors in this matter. As a matter of good public policy, it would better to have the results of any noise impact study in hand before final action is taken on this project, rather than after.

Appellants reserve the right to raise other grounds and reasons for its appeal in future submissions to the County Board of Supervisors, and/or staff at the Community Development Division.

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On behalf of Appellants, we appreciate the Board of Supervisors' thoughtful reconsideration of this matter, and the issues raised by this appeal.

Very truly yours,


DAVID W. TROTTER

Enclosures

cc: Supervisor Mary Piepho (w/encls.) – via U.S. mail
Appellants (w/encls.) – via e-mail and U.S. mail

To: Gary Kupp
Subject: Re: Sand Hill

thanks Gary. Sorry to be such a pain, appreciate your patience! Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Wednesday, July 10, 2013 10:20 AM
Subject: RE: Sand Hill

Linda:

It was determined that the motorcross land use ceased on Aug 6, 2012. They are allowed by code 6 months of inactivity, in this case until Feb 6, 2013. Since they made a timely extension request, they were granted the 6 month extension until Aug 6, 2013. So with the extension, they are allowed a year of inactivity. Hope this helps. Don't know if the property was sold or not.

Gary Kupp, Planner
CONTRA COSTA COUNTY
Conservation and Development
30 Muir Road
Martinez, CA 94553
(925) 674-7799—Direct
(925) 674-7205—Main
(925) 674-7258—Fax

From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Wednesday, July 10, 2013 9:04 AM
To: Gary Kupp
Subject: Re: Sand Hill

thanks Gary, sorry about that, I thought it went out in December. do you know how I can find out if it has been sold?

Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Monday, July 8, 2013 12:55 PM
Subject: RE: Sand Hill

February 6, 2013 to August 6, 2013= six months

Gary Kupp, Planner
CONTRA COSTA COUNTY
Conservation and Development
30 Muir Road
Martinez, CA 94553
(925) 674-7799—Direct
(925) 674-7205—Main
(925) 674-7258—Fax

EXHIBIT 1

From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Monday, July 08, 2013 11:11 AM
To: Gary Kupp
Subject: Re: Sand Hill

Hi Gary,

I thought it was a 6 month extension, what did I miss? Has it sold?

thanks
Linda

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
To: Linda Thuman <lthuman7151@sbcglobal.net>
Sent: Monday, July 8, 2013 8:30 AM
Subject: RE: Sand Hill

Linda, the extension was granted until August 6, 2013. Beyond that, they would need a new use permit.

Gary Kupp, Planner
CONTRA COSTA COUNTY
Conservation and Development
30 Muir Road
Martinez, CA 94553
(925) 674-7799—Direct
(925) 674-7205—Main
(925) 674-7258—Fax

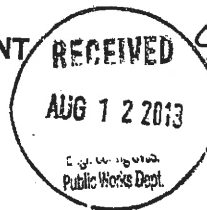
From: Linda Thuman [mailto:lthuman7151@sbcglobal.net]
Sent: Friday, July 05, 2013 10:02 AM
To: Gary Kupp
Subject: Sand Hill

Hi Gary,

Hope you had a nice 4th! I think the last time we talked was just before Christmas and you said you were planning on issuing the 6 month extension letter to the owners of Sand Hill on December 26. So it has been 6 months & I just wanted to check on the status so I can update the neighbors. It is my understanding that if Sand Hill was not operating during that 6 month period that they would have to go through the entire application process again. So we are hoping that is where Sand Hill is now, no motocross unless they go through the entire application process again.

thank you
Linda Thuman

CONTRA COSTA COUNTY
 DEPARTMENT OF CONSERVATION AND DEVELOPMENT
 COMMUNITY DEVELOPMENT DIVISION
 30 Muir Road
 Martinez, CA 94553-4601
 Phone: 925-674-7205
 Fax: 925-674-7258



Seen 8/12/13
 (4)



AGENCY COMMENT REQUEST

We request your comments regarding the attached application currently under review.

Date _____

DISTRIBUTION

Internal

- Building Inspection
- Advance Planning
- Trans. Planning
- ALUC Staff
- APC Floodplain Tech
- Grading Inspection
- Housing Programs
- Telecom Planner
- HCP/NCCP Staff
- County Geologist

Health Services Department

- Environmental Health
- Hazardous Materials

Public Works Department

- Engineering Services (Full-size)
- Flood Control (Full-size)
- Traffic
- Special Districts

Local

- Fire District EAST CONTRA COSTA

Sanitary District _____

- Water District CCWD

City of _____

School District(s) _____

LAFCO _____

Reclamation District # _____

East Bay Regional Park District _____

Diablo/Discovery Bay/Crocker CSD _____

- MAC/TAC BYRON

Improvement/Community Association _____

Others/Non-local

CHRIS - Sonoma State _____

CA Fish and Wildlife, Region 3 - Bay Delta _____

Additional Recipients

Please submit your comments to:

Project Planner Gary Kupp

Phone # (925) 674-7799

E-mail gary.kupp@dcd.cccounty.us

County File # LP13-2095

Prior to September 3, 2013

We have found the following special programs apply to this application:

Active Fault Zone (Alquist-Priolo)

Flood Hazard Area, Panel # _____

60-dBA Noise Control

CA EPA Hazardous Waste Site

AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.

Comments: None Below Attached

5-YEAR COMPLIANCE REVIEW OF LP95-2020 (ATTACHED).

PLEASE SUBMIT ANY COMMENTS, QUESTIONS, OR CONCERNS REGARDING COAS.

Applicant has complied w/COAS by PWD of LP95-2020

Print Name Jocelyn LaPocque

Signature Jocelyn LaPocque DATE 09/25/13

Agency phone # (925) 317-2215

CONTRA COSTA COUNTY
 2013 SEP 26 P 4:44

EXHIBIT 2

Dina... can...

11. NOISE ELEMENT

11.1 INTRODUCTION

Section 65302 (f) of the California Government Code requires that a noise element be prepared as a part of all city and county general plans. This State law requires that a jurisdiction's noise element identify and work toward mitigation of noise problems in the community. This Noise Element analyzes and quantifies, to the extent practical as determined by the legislative body, current and projected noise levels for all of the following sources:

- o Highways and freeways;
- o Primary arterials and major local streets;
- o Passenger and freight on-line railroad operations and ground rapid transit systems;
- o Commercial and general aviation, heliport, helistop, and military airport operations; aircraft flyovers, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation;
- o Local industrial plants including, but not limited to, railroad classification (switching) yards; and
- o Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours are shown for many of these sources and stated in terms of the day/night average sound level (DNL or L_{dn}). The noise contours are to be used to guide land uses, as specified in the Land Use Element, so that the exposure of community residences to excessive noise is minimized.

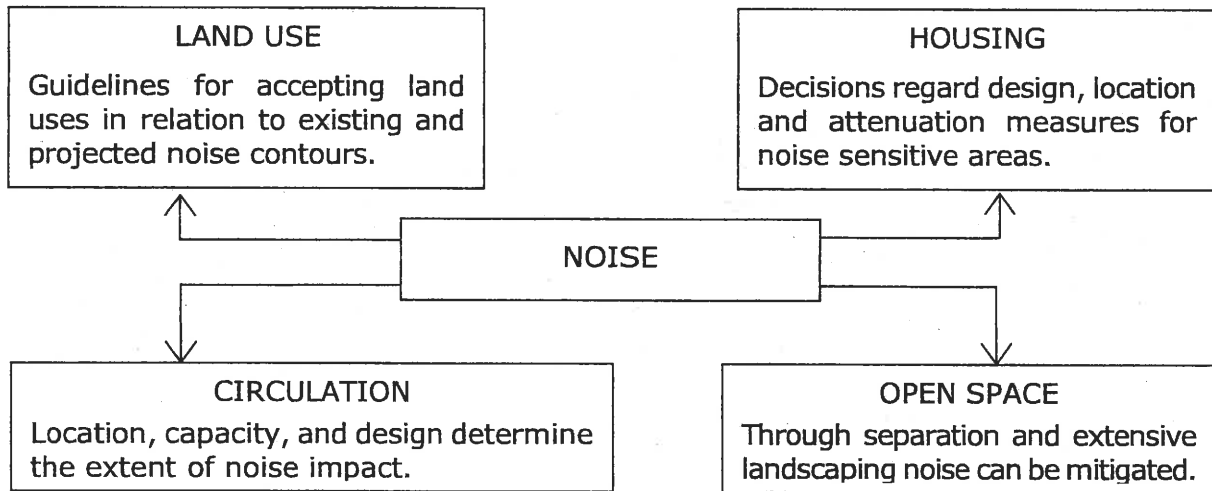
According to the Code, noise elements shall also include implementation measures and possible solutions that address any existing and perceivable noise problems. The adopted Noise Element shall serve as a guideline for compliance with the State Noise Insulation Standards. (Title 24, Part II, CCR.)

This Noise Element follows the guidelines established by the California Department of Health Services entitled, "Guidelines for the Preparation and Content of the Noise Element of the General Plan." The State Guidelines define noise metrics, discuss the process of Noise Element development, and present land use compatibility guidelines based on various noise levels. The contents of the State's guidelines document were reviewed in preparation of this Element and the relevant portions are incorporated into this document.

11.2 RELATIONSHIP TO OTHER GENERAL PLAN ELEMENTS

The General Plan elements are important tools used by elected officials to provide policy guidance and assist in decision making. All of the elements of the General Plan are related and interdependent to some degree. However, the Noise Element is most closely related to the Land Use, Housing, Circulation, and Open Space Elements, as shown in Table 11-1.

TABLE 11-1 RELATIONSHIP OF NOISE ELEMENT TO OTHER GENERAL PLAN ELEMENTS



The major objective of a noise element is to provide guidelines to achieve noise land use compatibility. The Land Use and Noise Elements, therefore, are related closely. By identifying noise-sensitive land uses and establishing compatibility guidelines for land use and noise, the Noise Element will influence the general distribution, location, and intensity of future land use. Effective land use planning can alleviate noise problems.

Residential areas are one of the noise-sensitive land uses. Therefore, the Housing Element is directly affected by the Noise Element. The Housing Element policies and programs should include safeguards against noise intrusion. The implementation of Land Use/Noise Compatibility Guidelines can reduce noise impacts in residential locations. In addition, proper noise mitigation measures during housing construction can guard against adverse noise impact.

A city's circulation system is one of the major sources of continuous noise. Therefore, the existing and future circulation system identified in the Circulation Element will influence greatly the Noise Element. Circulation routes such as freeways, highways, and truck routes should be located to minimize the noise impact on noise-sensitive land uses. The location and design of transportation facilities and possible mitigation of noise from existing and planned facilities will greatly influence the overall noise environment within the City.

Since noise can affect adversely the enjoyment of quiet activities in open space, the Noise Element is also related closely to the Open Space Element. Inversely, open space can be used as a noise buffer between incompatible land uses. This technique can reduce community noise levels and also provide usable open space for recreation.

The goals, policies and implementation measures contained in this Element are intended to guide planning for public and private projects that are subject either to approval of the County Planning Agency or to review by County staff, although they may be under the jurisdiction of other public agencies operating in the County. Such goals, policies and implementation measures are further intended to be in accordance with the other elements of the General Plan, as well as with other planning documents. This Element completely supersedes the 1975 Noise Element.

11.3 ACOUSTICAL STANDARDS

Many governmental agencies have promulgated noise standards for various types of projects. In general, these standards are intended to protect persons from excessive

11. Noise Element

exterior and interior noise. Most of these standards address vehicular traffic noise while others address rail, aircraft, or fixed sources.

The Department of Housing and Urban Development (HUD) has developed noise policies for Federal housing projects. These HUD policies are contained in The Noise Guidebook. The policies contained in the guidebook discuss various outdoor noise environments and recommend acceptable interior and exterior noise level goals.

The State of California has adopted Title 21 and Title 24, Part 2, of the California Code of Regulations. Title 21 limits airport noise near residential communities to minimize existing and future land use conflicts. Title 24, Part 2, is concerned with transportation and industrial noise sources and specifically regulates the maximum allowable interior noise level for hotels, motels, and multi-family housing. Title 24, Part 2, also establishes standards for sound isolation of party walls, corridor walls, and floor/ceiling assemblies in multi-family residential construction.

The Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) have similar policies for new roadway construction and roadway expansion. These policies contain maximum acceptable noise levels in areas adjacent to vehicular traffic. These policies also have guidelines for determining when noise barriers should be constructed.

The County's Airport Land Use Commission (ALUC) oversees development near airports. The ALUC has a plan which contains goals and policies. These policies are considered when a project is proposed near an airport or heliport in the County. In addition to a noise element, counties and cities can also adopt noise ordinances. A noise ordinance is intended to regulate sources such as amplified music, construction and mechanical equipment.

11.4 NOISE ELEMENT ORGANIZATION

The Noise Element is divided into six remaining sections. These sections define noise problems; quantify the noise problems; set up goals and policies; and, finally, provide implementation measures to minimize or eliminate the noise problems.

11.5 FUNDAMENTAL CONCEPTS OF ENVIRONMENTAL NOISE

BACKGROUND

Three aspects of community noise are important in determining subjective response:

- o The level of the sound (i.e., magnitude or loudness);
- o The frequency composition or spectrum of the sound; and
- o The variation in sound level with time.

Airborne sound is a rapid fluctuation of air pressure and local air velocity. Sound levels are measured and expressed in decibels (dB) with 0 dB roughly equal to the threshold of hearing.

The frequency of a sound is a measure of the pressure fluctuations per second, measured in Hertz (Hz). Most sounds do not consist of a single frequency, but are comprised of a broad band of frequencies differing in level. The characterization of sound level magnitude with respect to frequency is the sound spectrum. A sound spectrum is often described in octave bands that divide the audible human frequency range (i.e., from 20 to 20,000 Hz) into ten segments. Figure 11-1 shows a range of sound spectra for various types of sound over the audible hearing range.

Figure 11.1 Range of Sound Spectra

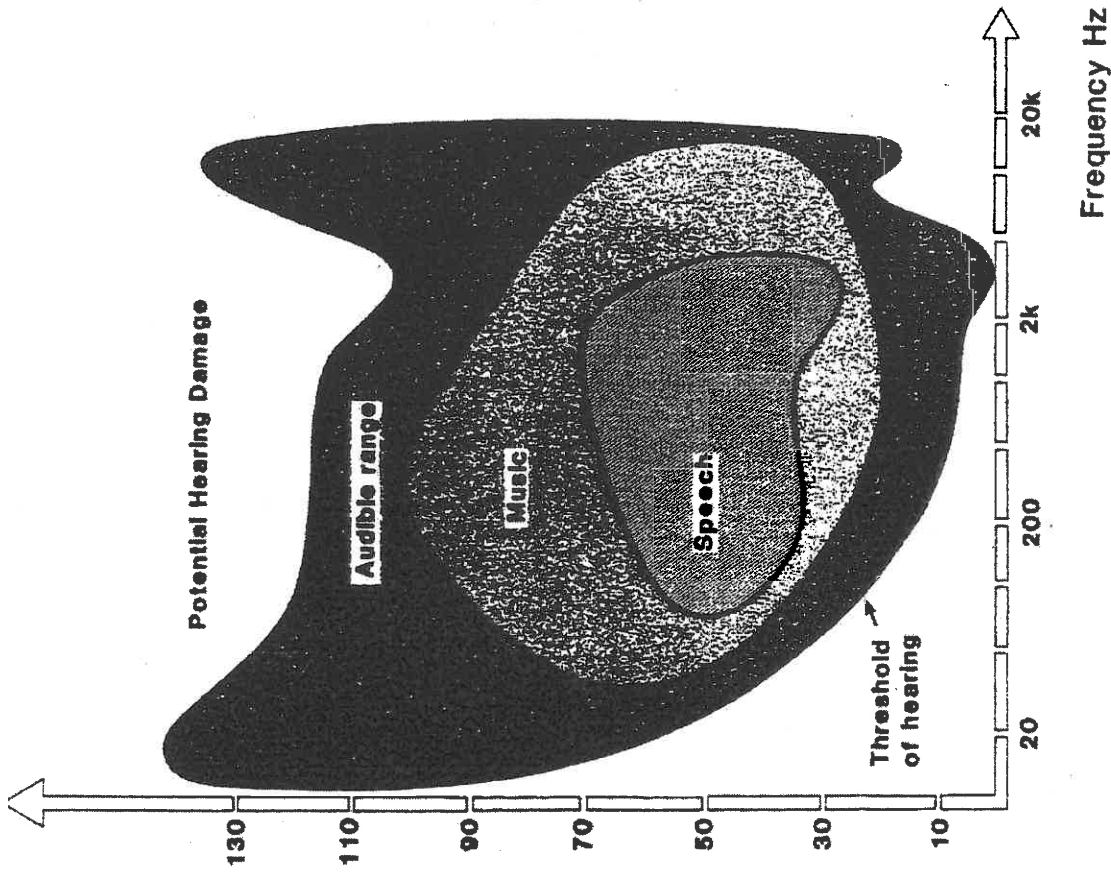
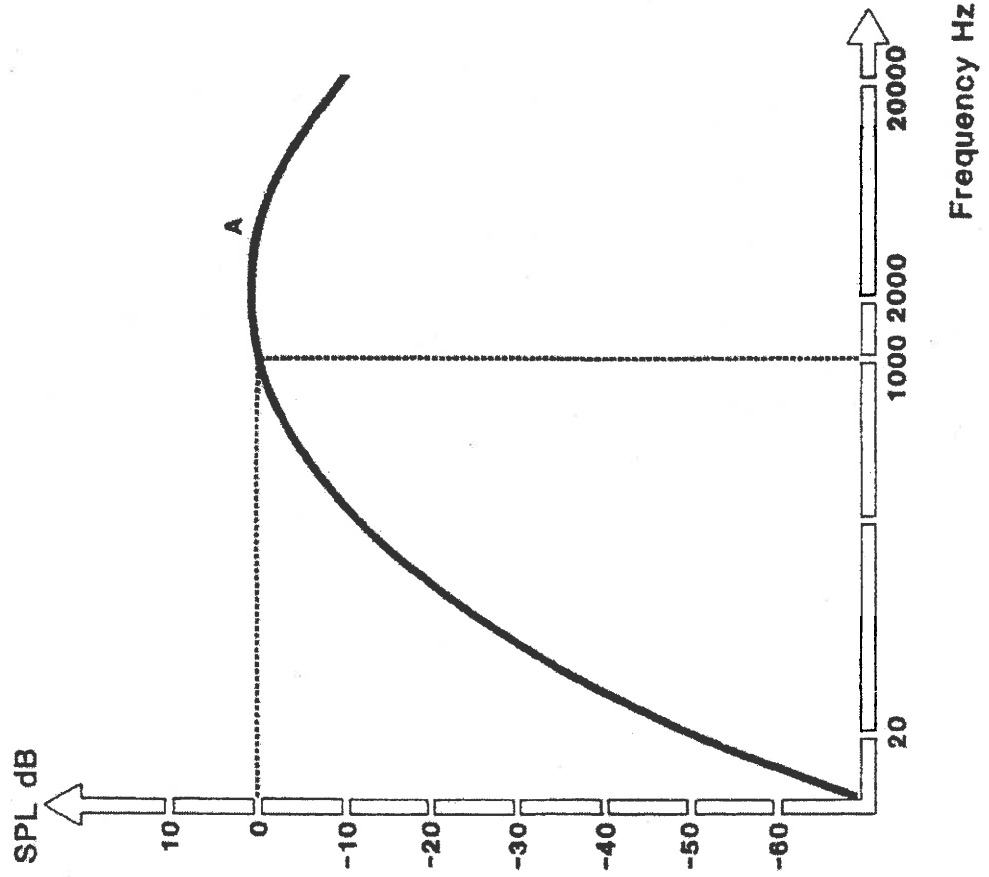


Figure 11.2 A-Weighting Network



FREQUENCY WEIGHTING

Many rating methods exist to analyze sound of different spectra. Generally, the simplest method is used so that measurements may be made and noise impacts readily assessed using basic acoustical instrumentation. This method evaluates all frequencies by using a single weighting filter that progressively de-emphasizes frequency components below 1000 Hz and above 5000 Hz. This frequency weighting, shown in Figure 11-2, reflects the relative decreased sensitivity of humans to both low and extremely high frequencies. This weighting is called A-weighting and is applied by an electrical filter in all U.S. and international standard sound level meters. Some typical A-weighted sound levels are presented in Figure 11-3.

NOISE EXPOSURE

Noise exposure is a measure of noise over a period of time, whereas the noise level is at an instant in time. Although a single sound level may describe adequately community noise at any moment, community noise levels vary continuously. Most community noise is produced by many distant noise sources that produce a relatively steady background noise having no identifiable source. These distant sources change gradually throughout the day and include traffic, wind in trees, and distant industrial activities. Superimposed on this slowly varying background is a succession of identifiable noise events of brief duration. These include nearby activities, such as single vehicle passbys or aircraft flyovers.

A single number called the equivalent sound level (L_{eq}) is used to describe the average noise level over a period of time (i.e., the total sound energy divided by the duration). Thus, the L_{eq} is the constant sound level that would contain the same acoustic energy as the varying sound level, during the same time period.

In determining the daily measure of community noise, it is important to account for the difference in human response to daytime and nighttime noise. Nighttime exterior background and household noise levels are generally lower than in the daytime. People are more sensitive to noise at night than during other periods of the day and exterior noise intrusions become more noticeable.

To account for human sensitivity to nighttime noise, the DNL (L_{dn}) descriptor was adopted by the Environmental Protection Agency to describe community noise exposure from all sources. The DNL is called the day-night sound level and represents the 24-hour A-weighted equivalent sound level with a 10-dB penalty added to the "nighttime" hourly noise levels (HNL) between 10:00 PM to 7:00 AM.

DNL and CNEL levels are typically computed by energy summation of HNL values, with the proper adjustment applied for the period of evening or night. The CNEL is computed identically to the DNL but with the addition of a 5-dB penalty to the evening HNL (i.e., 7:00 PM to 10:00 PM). The CNEL value is typically less than 1 dB above the DNL value. Figure 11-4 shows the adjustments applied for the DNL and CNEL measures. Noise exposure measures such as L_{eq} , HNL, DNL, and CNEL are all A-weighted, with units expressed in decibels.

SUBJECTIVE RESPONSE TO NOISE

The effects of noise on people can be classified into three general categories:

- o Subjective effects of annoyance, nuisance, dissatisfaction;
- o Interference with activities such as speech, sleep, and learning; and
- o Physiological effects such as anxiety or hearing loss.

Figure 11-3 Typical Sound Levels Measured in the Environment and Industry

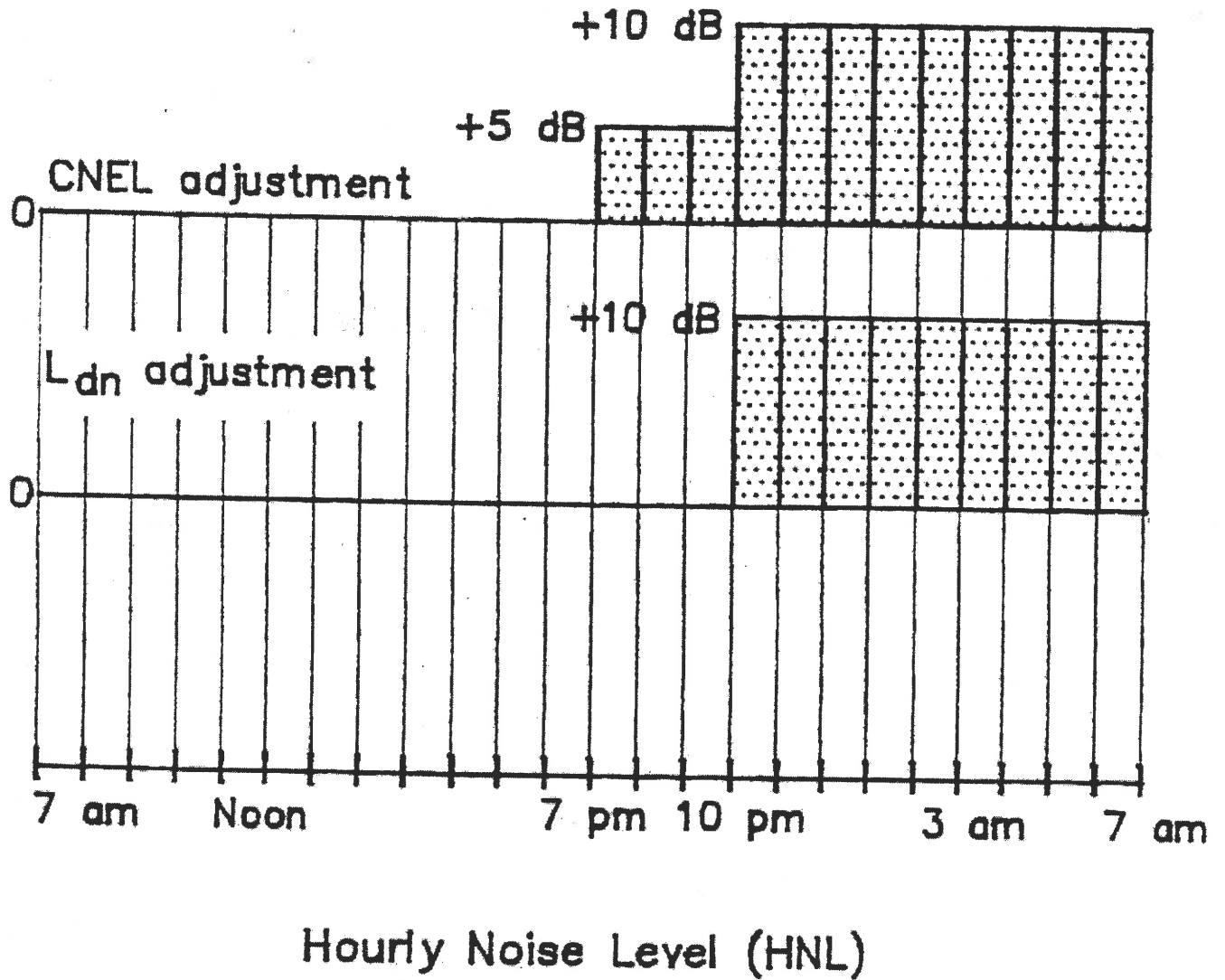
A-WEIGHTED
SOUND PRESSURE LEVEL,
IN DECIBELS

	140	} THRESHOLD OF PAIN
	130	
CIVIL DEFENSE SIREN (100') JET TAKEOFF (200')	120	
RIVETING MACHINE	110	
DIESEL BUS (15')	100	ROCK MUSIC BAND PILEDRIVER (50') AMBULANCE SIREN (100')
BAY AREA RAPID TRANSIT TRAIN PASSBY (10')	90	BOILER ROOM
PNEUMATIC DRILL (50')	80	PRINTING PRESS PLANT
SF MUNI LIGHT-RAIL VEHICLE (35') FREIGHT CARS (100')	70	GARBAGE DISPOSAL IN THE HOME INSIDE SPORTS CAR, 50 MPH
VACUUM CLEANER (10') SPEECH (1')	60	DATA PROCESSING CENTER
AUTO TRAFFIC NEAR FREEWAY	50	DEPARTMENT STORE
LARGE TRANSFORMER (200')	40	PRIVATE BUSINESS OFFICE
AVERAGE RESIDENCE	30	LIGHT TRAFFIC (100')
SOFT WHISPER (5')	20	TYPICAL MINIMUM NIGHTTIME LEVELS--RESIDENTIAL AREAS
RUSTLING LEAVES	10	RECORDING STUDIO
THRESHOLD OF HEARING	0	MOSQUITO (3')

(100') = DISTANCE IN FEET
BETWEEN SOURCE
AND LISTENER



Figure 11-4 Hourly Noise Levels and Annual Metrics



11. Noise Element

The sound levels associated with community noise usually produce effects only in the first two categories. No universal measure for the subjective effects of noise has been developed, nor does a measure exist for the corresponding human reactions from noise annoyance. This is primarily due to the wide variation in individual attitudes regarding the noise source(s).

An important factor in assessing a person's subjective reaction is to compare the new noise environment to the existing noise environment. In general, the more a new noise level exceeds the prior existing level, the less acceptable it is. Therefore, a new noise source will be judged more annoying in a quiet area than it would be in a noisier location.

Knowledge of the following relationships is helpful in understanding how changes in noise and noise exposure are perceived.

- o Except under special conditions, a change in sound level of 1 dB cannot be perceived;
- o Outside of the laboratory, a 3 dB change is considered a just-noticeable difference;
- o A change in level of at least 5 dB is required before any noticeable change in community response would be expected; and
- o A 10 dB change is subjectively heard as an approximate doubling in loudness and almost always causes an adverse community response.

COMBINATION OF SOUND LEVELS

Because we perceive both the level and frequency of sound in a non-linear way, the logarithmic decibel scale is used to describe sound levels. The frequency scale is also measured in logarithmic increments. Decibels, measuring sound energy, combine logarithmically. A doubling of sound energy (for instance, from two identical automobiles passing simultaneously) creates a 3-dB increase (i.e., the resultant sound level is the sound level from a single passing automobile plus 3 dB). The rules for decibel addition used in community noise prediction are:

- o If two sound levels are within 1 dB of each other, their sum is the highest value plus 3 dB;
- o If two sound levels are within 2 to 4 dB of each other, their sum is the highest value plus 2 dB;
- o If two sound levels are within 5 to 9 dB of each other, their sum is the highest value plus 1 dB; and
- o If two sound levels are greater than 9 dB apart, the contribution of the lower value is negligible and the sum is simply the higher value.

11.6 NOISE IN CONTRA COSTA COUNTY

OVERVIEW

In Contra Costa County, traffic along freeways (e.g., Interstate 80, Interstate 680, State Route 24, and State Route 4), and major arterials (e.g., Willow Pass Road and Ygnacio Valley Road) are the primary sources of vehicular traffic noise.

Rail operations also contribute to the noise environment in the County. The Atchison Topeka and Santa Fe (ATSF) and Southern Pacific (SP) railroad corridors in the County are primarily freight lines. These lines generate high noise levels during passbys and their trains are required to sound their whistles when crossing roadways at-grade. The Bay Area Rapid Transit (BART) system is an electrically driven passenger line. BART passbys

11. Noise Element

are typically less noisy than the freight trains. BART trains do not have at-grade crossings.

Existing air traffic activity also contributes to the noise in Contra Costa County. Buchanan Field, near Concord, is the primary source of aircraft noise. Other sources of aircraft noise are local emergency airports and military helicopter activity.

The remaining noise sources are industrial plants such as oil refineries and materials processing plants. The Camp Parks Reserve Forces Training Area (RFTA) near San Ramon also is a noise source. Typical operations at Parks RFTA include small caliber weapons training, helicopter overflights, and vehicular activity.

ONGOING PROBLEMS

There are many areas within the County that have existing noise problems. Buchanan Field is a constant source of noise complaints. According to the County, it generated 375 complaints in 2003. Interstate 80, 680 and Route 4 also generate complaints. However, these complaints typically are handled by the California Department of Transportation. Rail switching yards in Martinez and Richmond are also noisy and have generated complaints. Industrial noise generation continues to be a concern.

Loud music, parties, sporting events at high schools, outdoors music at nightclubs, and, in the past, livestock, has also been the source of complaints to the County.

FORESEEABLE FUTURE PROBLEMS

Potential foreseeable future problems will be similar to many current problems. For example, residential land uses still will remain in relatively close proximity to some industrial noise sources. Currently, residential development is being built or proposed near Camp Parks RFTA. Although adequate setbacks and noise mitigation are usually incorporated into these projects, occasional complaints can be expected. Similarly, loud parties, outdoor music, and other industrial sources will continue to generate sporadic complaints. Activities at Buchanan Field are not anticipated to decrease in the future and may even increase. This activity would be expected to generate future complaints. Gas wells located in East County may be a source of future complaints. These wells generate a high-frequency hissing sound.

In preparing this Noise Element, all the existing noise complaints and potential future ones were considered in the development of goals and policies. The purpose of these goals and policies is to protect future residents from the negative impact of noise and, if possible, minimize and reduce the number of complaints the County receives.

11.7 NOISE CONTOURS

METHODOLOGY

Existing and future traffic noise levels are based on calculations using the Federal Highway Administration Traffic Noise Prediction Model (FHWA RD-77-108), continuous 24-hour noise measurements, and short-term 15-minute measurements along freeways and major arterials in the County. The FHWA method predicts the average hourly noise level along a roadway based on the number of vehicles, the speed of the vehicles, and the percentage of medium and heavy trucks.

The 24-hour average noise level (DNL) along a roadway, was calculated from the continuous 24-hour noise measurements. Along some roadways, however, only a 15-minute noise measurement was made. To calculate the DNL, the 15-minute measurement results were compared to the noise level measured during the same time

11. Noise Element

period at a 24-hour noise measurement location on a nearby or similar roadway. The difference between the measured hourly noise levels and the DNL then was calculated for the 24-hour measurement location and the same offset was applied for the 15-minute measurement location.

To determine the 24-hour noise level where no measurements were taken, the peak hour L_{eq} was calculated using the FHWA method and traffic volumes provided by the County. The DNL was determined in a manner similar to that of the short-term measured roadways. By comparing the peak-hour noise level (L_{eq}) and the DNL from 24-hour noise measurements made in the vicinity of the roadway, a peak hour L_{eq} to DNL offset was determined. This offset was applied to the calculated peak hour level to determine the DNL at the non-measured location.

NOISE CONTOUR MAPS/TABLES

Roadways/Rail Lines

Existing and future DNL noise contours have been prepared for freeways, major arterials, and railways in the County. The contours were prepared on USGS quad maps. A reduced set of the future contours are provided in this document (see Figures 11-5A through 11-5V). Table 11-2 summarizes the information contained in the future noise contours. A complete set of full size existing and future noise contours is available for public review at the Community Development Department offices.

Airports/Heliports

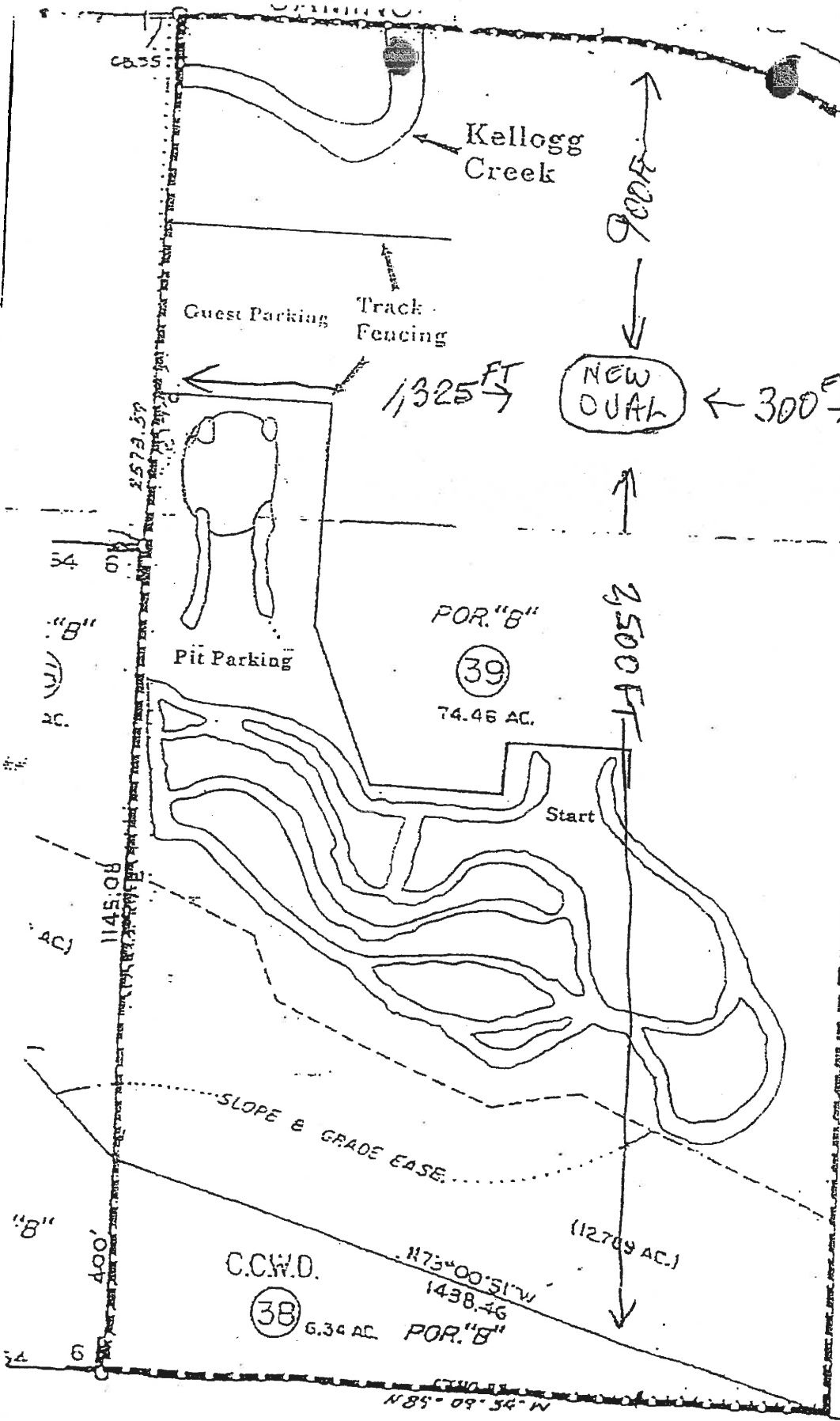
Existing and future CNEL noise contours are provided for Buchanan Field and Byron Airport. These contours were taken from the Airport Land Use Compatibility Plan adopted by the Contra Costa County Airport Land Use Commission in December of 2000.

USE OF MAPS/TABLES

Noise contours are typically used for planning purposes in conjunction with new residential development. Since the actual full-size contour maps for roadways and rail lines are not contained in the Noise Element, Table 11-2 has been prepared. These tables and maps are designed to help planners, developers, and consultants identify a parcel or proposed residential project that is potentially impacted by noise. The table is intended to be used as follows:

- Step 1. Determine distance of the project site from a major noise source such as a roadway, airport, or rail line.
- Step 2. If the noise source is a roadway or rail line: from Table 11-2, determine the distance from the rail line or roadway centerline to the future 60 DNL contour.
If the noise source is an airport, determine if the project is within the 60 CNEL contour.
- Step 3. If the project is within the future 60 DNL or CNEL contour, an acoustical study should be initiated.

Noise contours do not always account for the acoustical shielding provided by site geometry or terrain. Therefore, these contours may overestimate the noise exposure of a particular site. However, noise contours should only be used as a screening tool. Site-specific noise levels and other acoustical issues should be addressed in the acoustical study for the project.



Detailed
Plan
LP 952020

96 OCT 21 PM 12:34
COMMUNITY
DEVELOPMENT DEPT

DOHERRA COSTA

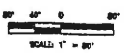
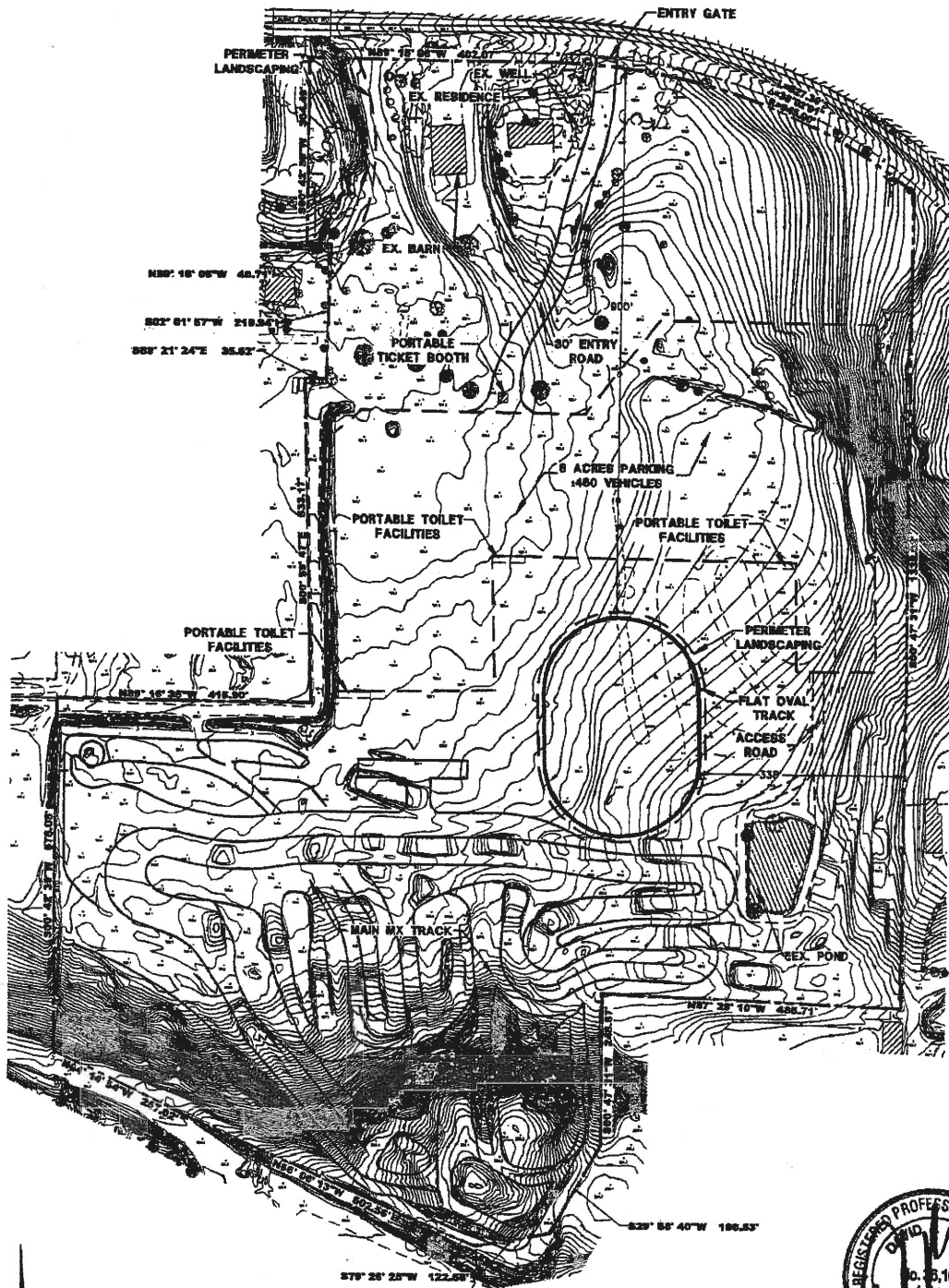
EXHIBIT 4

PROPOSED SITE PLAN
50 CAMINO DIABLO ROAD
 DIABLO MX RANCH LLC

BRENTWOOD CALIFORNIA

OCTOBER, 2014

CENTRAL CALIFORNIA COUNTY
 OCT 31 2014
 Dept of Conservation & Development



WOOD RODGERS
 DEVELOPING SUSTAINABLE DESIGN TELEPHONE
 4801 HABERSHA DR. STE 100 TEL 925-847-0000
 PLEASANTON, CA 94588 FAX 925-847-0000

EXHIBIT 5

December 5, 2014

Dear Zoning Administrator,

We are the neighbors of 50 Camino Diablo in Brentwood California. That property has been known historically as Sand Hill Motocross Ranch and currently as Diablo MX Ranch. For purposes of this document we will identify it as Sand Hill/Diablo MX.

We have had an opportunity to read the Staff Report prepared by the Department of Conservation and Development and disagree with many of the items, most of which are identified as "In Compliance."

The items are as follows:

California Environmental Quality Act (CEQA) Status: It states "Exempt" and we would like to know know why. We have asked before and have not received a response. (See attached letter to Tomi Riley dated October 6, 2014)

Under "Recommendation 1" It states that the applicants are in compliance. They are not in compliance and have never been in compliance. These non-compliant Conditions of Approval (COA's) will be identified below.

Under "Recommendation 2" It states, "Approve revised site plan submitted October 31, 2014..." On the original permit, COA #1, it states "subject to revised site plan dated/received October 21, 1996. On the original permit COA #5 states, "All activities approved by this permit shall be restricted to the existing track and motocross areas as indicated on the plan submitted with the application with the exception of minor changes subject to Zoning Administrator review and approval." A revised site plan submitted 16 years later is not a minor change. We have been told in person by Senior Planner Will Nelson that they had to adhere to the site plan dated October 21, 1996. Through Public Document Request we asked for the original application and any changes, addendum's or revisions. Suddenly we are presented with a map dated 1998 that is being presented as a site plan. No received date stamps from county on this previously unknown document. Again this is not a minor change. (See attached Request for Public Document)

Under "Recommendation 3" It states "Grant planning clearance for issuance of a business license..." As we brought up in the meeting in your presence on December 1, it is our opinion that Sand Hill has been closed for over two years. During that time there was occasional, very quiet motorcycle classes that took place. During that time we advised the county that the site was not in compliance and now we are asking if they had a business license to operate during that time at that location. (During that time we were told that constituted being open for business. For over six months there has been no training. Now we are told that pursuing compliance ((cleaning up property)) fulfills that requirement. If that is the case why did they have to conduct training classes in the first place?) (See attached emails & pictures)

Under "Background" It state that compliance reviews were conducted in 2003 and 2009. We asked for proof that the property was in compliance during those reviews and did not receive and proof that it was in compliance. (See attached letter to Tomi Riley dated Oct 26, 2014)

Under "Background" it also states that the land use permit is still valid even though the

EXHIBIT 6

applicants have not been operating it as a business because they have been pursuing compliance. COA #1 specifically states that the COA's are to be met in a timely manner, not 16 years later.

Under "Background" paragraph two it states, "since there is no evidence of the (sound) study being conducted in the past..." Again, out of compliance as stated on COA #1 which specifically states that the COA's are to be met in a timely manner, not 16 years later. Also under "Background" it states there is no official record of complaints made to Code Enforcement... While we didn't want to bring up old history there is a significant history regarding complaints against Sand Hill as documented in the lawsuit of Carol Davis vs. Tommy Anderson and Thomas Smith (C98-03060). That lawsuit specifically states, "Contentious public hearings occurred before the County Planning Commission and Board of Supervisors in 1996 and early 1997. These hearings received extensive press coverage." It also states that because of concerns of plaintiff and neighbors certain limiting conditions were imposed... As newer residents moved in it appeared that Sand Hill had reduced their hours and ridership was declining and since Tom Anderson was here first no complaints were made that we are aware of at the 5 year review hearings. (See attached Davis v Anderson lawsuit)

Also under "Background" paragraph three it states that we question the validity of the permit originally approved as a 80 plus acre site now reduced to an approximate 40 acre site. The county states this reduction was properly noticed and approved at public hearing in 2004. It may have been approved as a lot line adjustment but not properly investigated as the sound/safety/liability buffer for a motocross race track. Was this specifically noticed as a reduction in the size of a motocross race course?

It appears this may not have been carefully investigated prior to approval or someone should have realized the liability that was created by losing what was in effect a buffer for the motocross tracks. Per the staff report this was noticed and approved on January 5, 2004. Paul Bergstrom rode off a Sand Hill course on March 11, 2004, onto what is now the Harrison property, received significant injuries and successfully sued both Sand Hill for over two million dollars and received a settlement from what is currently the Harrison property for about \$750,000. At that time the Harrison property belonged to the Brentwood Rod and Gun Club. (See attached Paul Bergstrom vs. Sand Hill Ranch lawsuit) A perfect example of why a buffer is essential to this property not only for noise but for safety. We have attached a proposal from a motocross course that includes buffer information. The course is 75 acres, the property is 437 acres. The proposed buffer is, "at least 25 feet high by 70 feet wide.." that is around the course area. "A perimeter vegetated buffer area with an average width of 1,000 feet and minimum width of 500 feet..." That appears to be for the actual perimeter of the property. (See attached proposal from Snohomish County and lawsuit article re motorcyclist)

Now we get to the actual COA's:

COA #1: The staff report states they are in compliance. We disagree. County states they are in compliance but they have to remove two unapproved tracks to conform to original site plan dated October 21, 1996. The county also states, "In order to get the site into better conformance with the approved site plan, the applicants were required to submit new site plans that better reflect the original approval." How do they know what the original approval is supposed to reflect, where they involved in the original? It appears from the lawsuit between Davis and Anderson the original approval reflected concerns of the neighbors. "Because of concerns of

Plaintiff and her neighbors expressed to the county, and in compromise of the conditions sought in the original applications of Anderson and Smith, certain limiting conditions were imposed..." We do not believe the intent of the permit was to expose neighbors to even more noise from the motocross tracks. (See attached lawsuit of Davis and Anderson)

COA#1: This COA also talks about the new owner/applicants applying for a grading permit to move the oval track, which was never in compliance with the 1996 site plan. There is no permit for the track which is a condition of COA#4. These new owner/applicants have already done significant grading, tree removal, course modification, retaining wall construction and building remodeling without a permit. All of these issues have been reported and/or asked about. (See attached Req for Public Doc's, emails and citizen access documents)

COA#2: The staff report says they are in compliance. They are not in compliance. Talks about reconstruction of (unpermitted) oval track and notification to Community Development 30 days prior to any racing event. The track is not permitted, the track never conformed to October 21, 1996 site plan and had this process occurred 16 years ago or been investigated at any of the compliance reviews we would not be bringing it up at this time. (Refer to attachments from COA#1)

COA#3: Staff report states they are in compliance. We agree that they were in compliance as of 2012. After two requests for public documents we received satisfactory documentation.

COA#4: Staff report states they are in compliance. They are not in compliance. States the applicants shall have permits for all structures related to motorcycle activities. On the permit it specifically states "the racetrack." A request for public documents resulted in nothing on file. (attachment on COA#1) This racetrack has never been permitted and never been in compliance. There is also no pond indicated on the original site plan. The applicant/owner did a huge amount of grading, fencing and construction to build the current very large pond. There is no permit for the pond we are aware of.

COA#5: Staff report states they are in compliance. They are not in compliance. They have never been in compliance. If they were in compliance why is there a need for a new site plan? The new site plan includes things that were not on the original site plan such as the pond. The new site plan shows the track much closer to the Harrison property line. COA #5 states that minor changes are to be approved by the Zoning Administrator. This is a major change(s).

COA#6: Staff report states they are in compliance. They are not in compliance. Our public document requests specifically asked for the original application, site plan and any changes or addendum's. We were never given what they identify here as Exhibit 4. This is also the only document that is not date stamped as to when it was received and/or approved by the county. We specifically asked for a 1998 map but were told the 1996 map was the site map. On the county staff report under COA#5 it specifically states, "conform to the approved October 21, 1996 site plan..." Exhibit 4 also states hours start at 7am. COA#1 states "Any expansion or CHANGE in hours of operation, additional types of racing or other uses WILL require the approval of a new Land Use Permit." The hours on the approved permit start at 8am. (See emails.)

COA#7: Staff report states they are in compliance. We state they are not in compliance and have not been for 16 years. Again there is NO timeliness to this, again a violation of COA#1. (See

request for public document.)

COA#8: Staff report states they are in compliance. We can agree to this although we have asked about a designated helo landing area to minimize sound, dust and debris as medical helicopters land on a routine basis. We have been told by fire department staff that when Sand Hill was up and running it was their number one response location.

COA#9: Staff report states they are in compliance. Not in compliance, have not been in compliance for 16 years. Again there is NO timeliness to this, again a violation of COA#1. There has never been a permit for lights on the racetrack, should have been addressed 16 years ago.

COA#10: Staff report states they are in compliance. They do not have any signs up, how could they be in compliance? They did put up signs without approval and had to take them down. If they had met with the county as directed on COA #18 perhaps they would not have again violated the permit.

COA#11: Staff report states they are in compliance/ongoing. However on the staff report it states dust control for parking area. On the permit it states when there are 25 or more present the dust control will include the entire site to avoid dust impacts on nearby properties. We want to ensure proper dust control.

COA#12: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#13: Staff report states they are in compliance. As this has to do with safety helmets releases, minors accompanied by adult, etc they cannot be in compliance until they are open. We have had historic problems with motorcycles from Sand Hill riding on Camino Diablo and Walnut Blvd. The applicant was told of those concerns and said that would not be a problem. Since that time on more then one occasion unlicensed bikes from Sand Hill/Diablo MX have been seen on Camino Diablo and Walnut Blvd.

COA#14: Staff report states they are in compliance. This is regarding Contra Costa County Water (CCW) easement access. We can only assume they would have access.

COA#15: Staff report states they are in compliance. As this has to do with fee's to Contra Costa County we are fairly confident the county has made certain of their compliance.

COA#16: Staff report states they are in compliance. This is a historical problem as it relates to musical concerts and dances. There used to be Rave parties held at Sand Hill. Traffic on Camino Diablo would be completely blocked by these parties which would also impact traffic on Vasco Rd. While they may not allow concerts or dancing, the loud music played by customers was/is not enjoyed by the neighbors.

COA#17: Staff report states they are in compliance. They are not in compliance and have never been in compliance. THIS IS A HUGE ISSUE. There is no evidence a sound study was ever done. How are we supposed to know what is an acceptable noise level? When we are in our homes with double paned windows with all windows and doors closed we still have to turn up the volume on whatever we are listening to try and drown out the dirt bikes. That to us is

UNACCEPTABLE. We cannot enjoy being outside with friends and family when the motocross is running. Where are our rights to peace and quiet? We believe Sand Hill/Diablo MX is a "Nuisance" property. There is also case law supporting our position. (See attached letter to Supervisor Piepho for details on Nuisance Property and previous case law.)

COA#18: Staff report states they are in compliance. They are not in compliance, the previous owners (attorneys) were not in compliance and according to the county Tom Anderson was not in compliance. The staff report says they are in compliance because they "notified" the county in a timely manner. Nowhere is COA#18 does it say "notify" it specifically states the new owner is to "meet" with the Zoning Administrator(ZA). This same violation was brought up when the attorneys owned the property as they did not meet with the ZA either. We were told at that time the condition was met through a letter. What is the point of having COA's when things like this happen repeatedly? The "disclosure of deed restrictions," COA #18 also states," You are purchasing a property with a permit for a motocross trails park. This permit carries with it certain conditions that must be met by the owner of the property. The permit (LP95202) is available from the current owner or from Contra Costa County Community Development Department. A new owner is required to meet with the Zoning Administrator within 30 days of purchasing the property to discuss the terms of the permit and County requirements and expectations." If the attorney's did not disclose this then the current owners should follow-up with them. If it was disclosed it appears that the current owners decided they did not need to follow the Conditions of Approval as they did not meet with the county and did significant work, grading, construction of a pond, concrete work, signage, fencing, tree removal, retaining walls and remodeling without obtaining permits. If there is a concern of detrimental reliance on the part of the county we believe that is not the case. Previous potential buyers were well aware of the conditions attached to this property. They talked to the neighbors and the county prior to attempting to buy the property and as a result did not buy the property. (John Taylor)

COA#19: Staff report states they are in compliance. We do not believe they are in compliance. As a result of unpermitted grading there are drainage problems on adjoining parcels, specifically the Harrison & Alamillo properties.

COA#20: Staff report states they are in compliance. They are not in compliance. The driveway into the motocross is not in compliance. This was brought up previously and nothing was done. The driveway is not 20 foot wide paved with tapers and flares....in accordance with Caltrans Highway Design....(See Coa#20)

COA's 20 through 29: Staff report states they are in compliance. Without consulting with a specialist in this area we are in general agreement. We still have questions as to which driveway is for the development, if it meets criteria and how many driveways there are supposed to be for that property.

We have attached copies of several letters of concerns:

Letter to Supervisor Piepho delivered in person during meeting on May 7, 2014

Letter to Chief of Staff Tomi Riley, dated Oct 6, 2014

Letter to neighbors at 50 Camino Diablo, dated November 20, 2014

In closing we would like to reiterate that our concerns have not changed. We have stated since 2012 that we do not believe this property has ever been in compliance with the Conditions of Approval on

the Land Use Permit. As stated in COA#1, failure to comply in a timely manner may lead to revocation. Any change in hours will require a new land use permit. It has been closed for over two years. That is a significant change in hours.

(R1)

Record ID: CDLP13-02095

A notice was added to this record on 2011-04-28.
 Condition: USE PERMIT STATUS Severity: Notice
 Total conditions: 3 (Notice: 3)

[View notice](#)

Menu Help

Description of Work: 5-year COA Review of LP95-2020 and public Zoning Administrator hearing, as required by COA #1 for review of motorcross land use.

File Date: 08/07/2013

Parcel No: 003020048

Application Status: Under Appeal

Application Detail: Detail

Application Type: Planning/Land Use Permit/History/NA

Address: 50 CAMINO DIABLO, BRENTWOOD, CA 94513

Owner Name: GLYNN & FINLEY LLP

Owner Address: 100 PRINGLE AVE STE 500, WALNUT CREEK, CA 94596-7328

	Condition Name	Status	Apply Date	Severity	Action By
Condition Status:	<u>USE PERMIT STATUS</u>	Applied	04/28/2011	Notice	
	<u>MOTO CROSS USE PERMIT</u>	Applied	02/02/2012	Notice	
	<u>NTC fees due</u>	Applied	05/21/2014	Notice	
	<u>Work without Permits</u>	Complied	05/22/2014		

Contact Info:	Name	Organization Name	Contact Type	Relationship	Address
	<u>John & Lori Ramirez</u>	<u>Diablo MX Ranch</u>	Applicant	Business Owner	50 Camino Diablo Road, Brentwood, CA 94513
	<u>Diablo MX Ranch</u>		Payer	Business Owner	50 Camino Diablo Road, Brentwood, CA 94513
	<u>James & Dorothy Schmidt</u>		Owner	Property Owner	5387 Milo Hae Place, Koloa, HI 96756
	<u>Bowles & Verna LLP</u>		Payer		2121 N. California Blvd., STE 875, Walnut Creek, CA 94596

Workflow Status:	Task	Status	Status Date	Action By
	<u>Assignment</u>	Assigned to Planner	08/09/2013	Will Nelson

Application Distribution	Complete	09/25/2013	Gary Kupp
30-Day Review	Complete	04/29/2014	Gary Kupp
CEQA Determination	Exempt	04/29/2014	Gary Kupp
Staff Report	Complete	11/18/2014	Gary Kupp
Hearing Notice	Public Notice Sent	11/18/2014	Gary Kupp
Hearing Process	Approved with Modifications	12/15/2014	Gary Kupp
Appeal - Reconsideration	Appealed	12/24/2014	Gary Kupp
Entitlement Decision			
COA Review			
Vesting Map			
PW COA Review			
Mit. Monitoring Program			

Application Comments:	View Comment	Date
ID		
<hr/>		
Application Spec Info.:	Total Parcel Size:	<u>0</u>
	Proposed Number of Units:	<u>0</u>
	Proposed Building Square Footage:	<u>0</u>
	Acres:	<u>0</u>
	Estimated Project Value:	
	Is a Notification Fee required?:	<u>Yes</u>
	Is a Fish & Game Posting/Admin Fee required?:	<u>No</u>
	Is the Environmental Health Fee required?:	<u>No</u>
	Is a Late Filing Fee required?:	<u>No</u>
	Project Description:	<u>5-year COA Review of LP95-2020 and public Zoning Administrator hearing, as required by COA #1.</u>
	Area:	<u>Byron</u>
	Substandard Lot:	<u>No</u>
	X-Ref Files:	<u>-</u>
	X-Ref Files 2:	<u>-</u>
	X-Ref Files 3:	<u>-</u>
	X-Ref Files 4:	<u>-</u>
	X-Ref Files 5:	<u>-</u>
	Account Balance:	<u>-5281.43</u>
	Account Percent:	<u>128</u>
	Billing Account Number:	<u>45480</u>

Total Fee Assessed: \$7,169.00

Total Fee Invoiced: \$7,169.00

Balance: \$0.00

Initiated by Product: AV360

Department of
Conservation and
Development

30 Muir Road
Martinez, CA 94553-4601

Phone: 855-323-2626

Contra
Costa
County



John Kopchik
Director

Aruna Bhat
Deputy Director

Jason Crapo
Deputy Director, Chief Building Official

Robert T. Calkins
Deputy Director

PAYER: Bowles & Verna LLP
2121 N. California Blvd., STE 875
Walnut Creek CA 94596

APPLICATION #: CDLP13-02095

TYPE: Land Use Permit

Payment Type: Check
Check Nbr: 98401

ACCOUNT ITEM LIST:

Item #	Description	Total Fees	Current Paid	Total Paid
0047	Appeal (\$125)	\$125.00	\$125.00	\$125.00
0047	Appeal (\$125)	\$125.00	\$0.00	\$125.00
052B	Notification Fee (\$30)	\$30.00	\$0.00	\$30.00
ADJ0029	Fee Adjustment	\$1,000.00	\$0.00	\$1,000.00
ADJ0029	Fee Adjustment	\$1,359.00	\$0.00	\$1,359.00
CTRT	Consultant Contract	\$4,530.00	\$0.00	\$4,530.00
Total Fees:		\$7,169.00	Paid:	\$7,169.00
			Balance:	\$0.00

ISSUED BY: SMURAOKA

DATE: 05-22-2015

APPLICATION DESC: 5-year COA Review of LP95-2020 and public Zoning Administrator hearing, as required by COA #1 for review of motorcross land use.

SITE ADDRESS: 50 CAMINO DIABLO, BRENTWOOD, CA 94513

PARCEL: 003-020-048

NOTES:

Receipt Number: 150005922

EXHIBIT 25

Hours of Operation (Existing vs. Proposed)

ORIGINAL CONDITION #5 LP95-2020	MODIFIED COAs for LP15-2040
<p>COA #5 All activities approved by this permit shall be restricted to the existing track and motocross area as indicated on the plan submitted with the application except for minor changes subject to Zoning Administrator review and approval. Motorcycle activity is permitted 7 days a week but limited to the hours of 8:00 A.M. to 7:00 P.M. or sundown whichever comes first, except that the lighted racetrack may be used on Friday or Saturday nights from 7:00 P.M. to 11:00 P.M. Motorcycle racing shall be limited to Saturday and Sunday and holidays except that no racing or motorcycle activity shall be allowed on Thanksgiving or Christmas. Motorcycle activity shall be confined to the tracks.</p>	<p>COA #6 <u>Recreational and Practice Riding Activities</u> [<i>Friday or Saturday Night Under The Lights</i>] is considered a recreational riding activity.] Recreational and practice riding activities on the main track and the lighted oval track is permitted 5 days a week (Thursday through Monday) and shall be limited to the hours of 8:00 A.M. to 7:00 P.M. or sundown, whichever comes first.</p> <p>The lighted oval track may be used for late night recreational riding until 10:00 P.M., but not more than two (2) days per each calendar month on a Friday or Saturday if no racing events are scheduled in the same month, and the park shall be emptied by 11:00 P.M.</p> <p>Tuesdays and Wednesdays shall be "quiet days" with no riding activities allowed by customers, or for the property owners' private use or otherwise.</p> <p>COA #7 <u>Formalized Racing Events</u> [<i>A racing event is one that has registered contestants who have paid entry fees to compete in official competitive races on the site.</i>] All motorcycle racing events on the main track and the lighted oval track shall be allowed on one night per weekend (Saturday or Sunday) and on holidays, but not to exceed two (2) racing events per calendar month. No motorcycle activity or racing shall be allowed on Thanksgiving or Christmas. Racing hours shall be limited from 8:00 A.M. to 7:00 P.M. or sundown, whichever comes first, except that the lighted oval track may be used until 10:00 P.M., and the site shall be emptied by 11:00 P.M. There shall be no late night recreational riding on the lighted oval track allowed during any month with a scheduled racing event.</p>

DIABLO MX RANCH MOTOCROSS
PARK

APPEAL OF COUNTY FILES

LP13-2095

LP15-2040

Applicants: JOHN & LORI RAMIREZ

Owners: JAMES & DOROTHY SCHMIDT

Appellant: Law Office of David Trotter

November 15, 2016

DIABLO MX RANCH



APN: 003-020-048

Camino Diablo

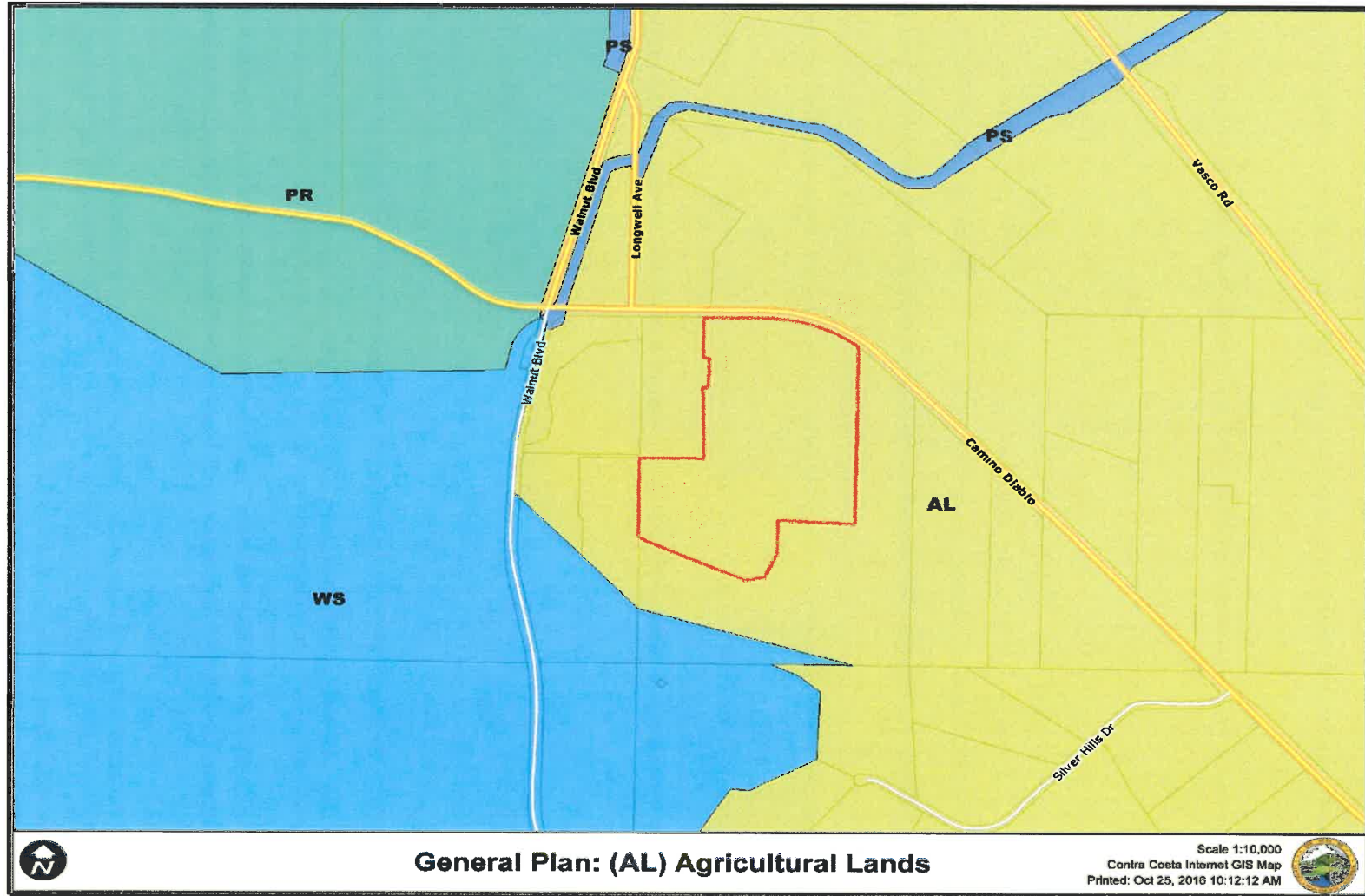


Map Created 10/25/2018
by Contra Costa County Department of
Conservation and Development, GIS Group
30 Muir Road, Martinez, CA 94553
37.59 41.791N 122.07.03 756W

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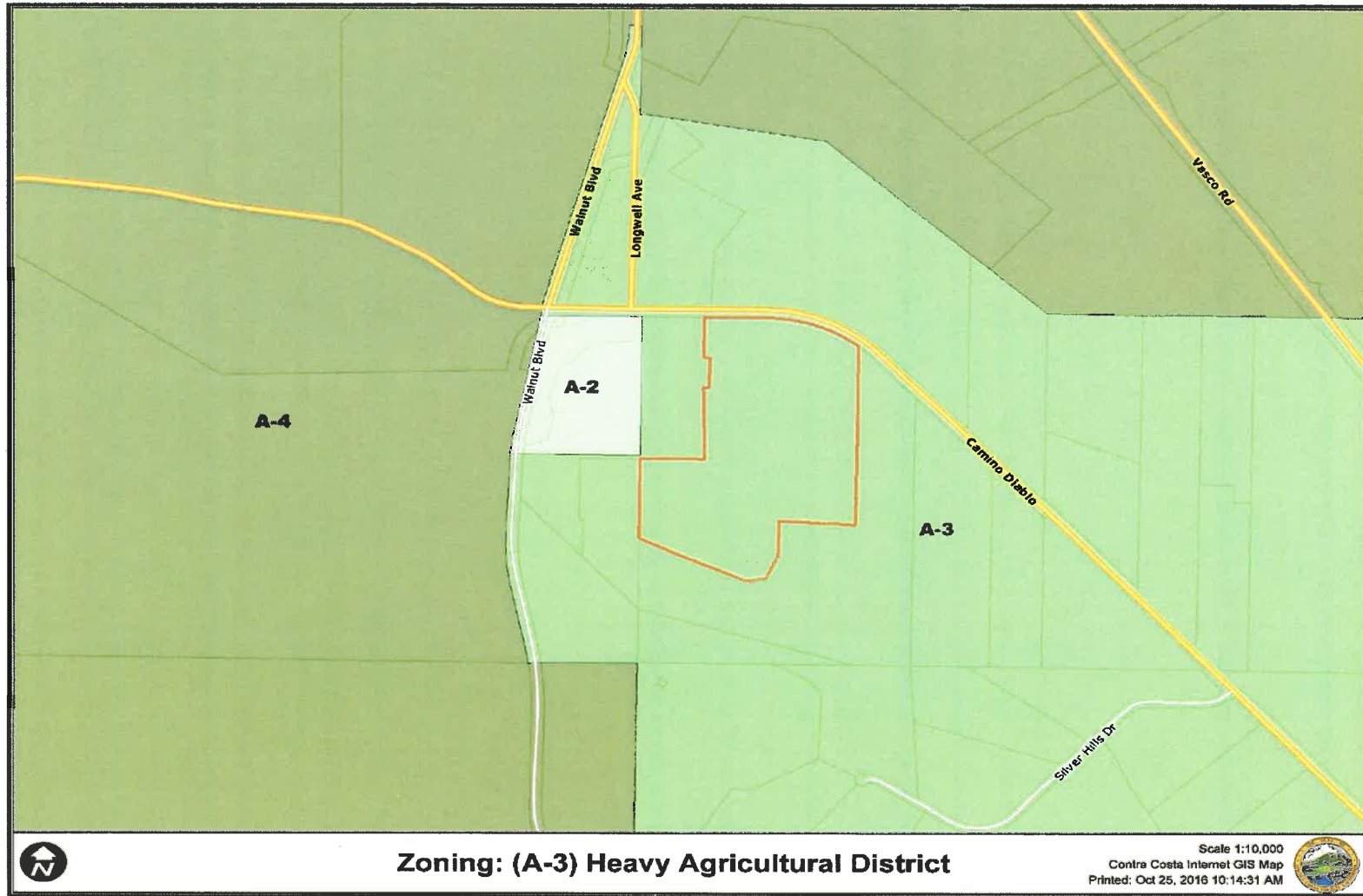


GENERAL PLAN Agricultural Lands (AL)



ZONING

Heavy Agricultural District (A-3)



THE REASON FOR THIS HEARING:

- The most recent 5-year compliance review was applied for on August 7, 2013 and was approved by the Zoning Administrator on December 15, 2014. (DECISION APPEALED to CPC)
- The appeal of Compliance Review #LP13-2095 was heard by the Planning Commission on May 12, 2015. The Commission upheld the Zoning Administrator's decision and approved the compliance review. (DECISION APPEALED to Board of Supervisors)
- Prior to an appeal hearing before the Board, the applicants submitted an application to modify the conditions of approval, which requires a new application.
- LP15-2040 was approved by the Planning Commission on July 26, 2015. (DECISION APPEALED to Board of Supervisors)

50 CAMINO DIABLO ROAD, BRENTWOOD

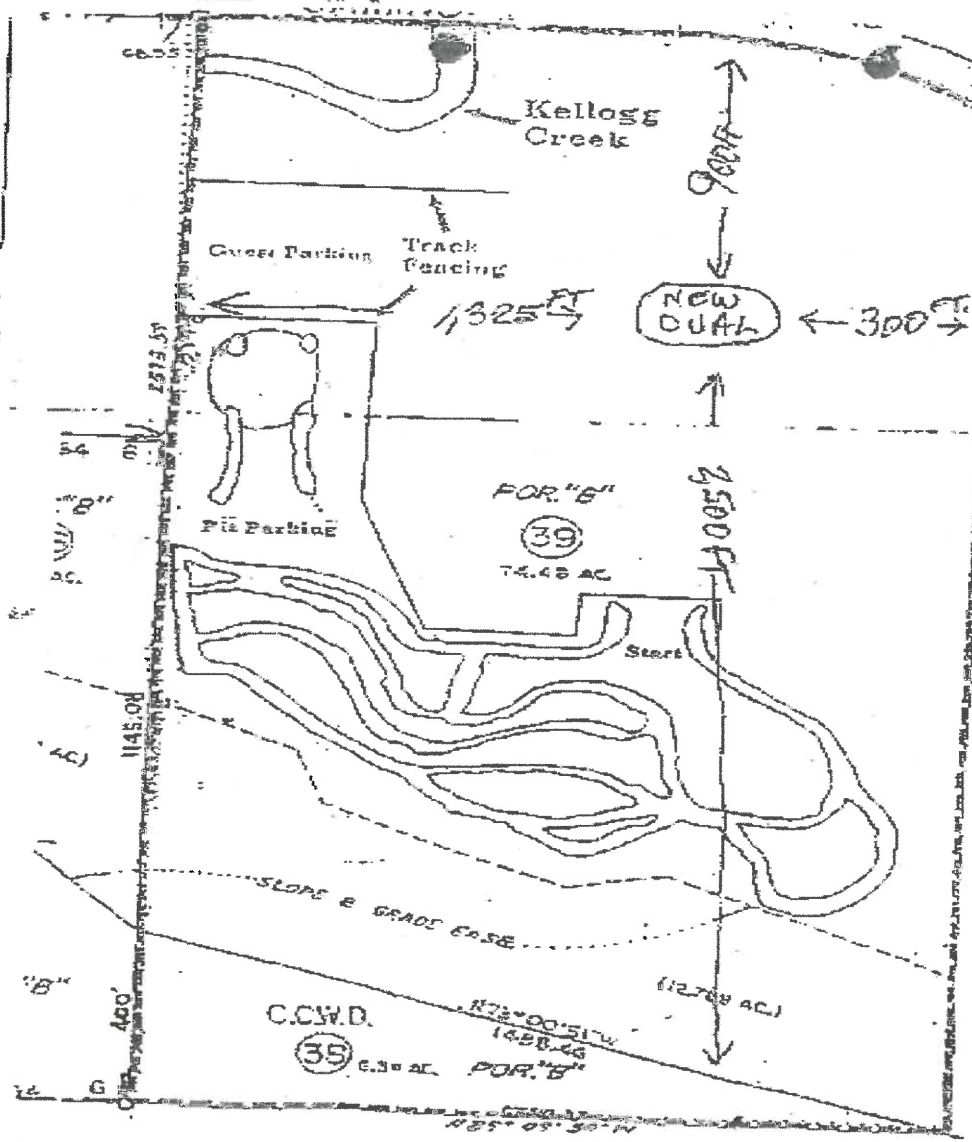


0 250 500 1,000 Feet

Map Created 10/25/2016
by Contra Costa County Department of
Conservation and Development, GIS Group
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37.59 41.791N 122.07.03 756W

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Detailed
 Plan
 LP 951010
 36 OCT 21 PM 12:34
 DEVELOPMENT DEPT
 VISOR YONGHO

Kellogg
Creek

Guest Parking
Track Fencing

NEW
DUAL

FOR "B"

(39)

74.48 AC

Wild Parking

Start

SLOPE & GRADE CASE

C.C.V.D.

(35)

6.30 AC

FOR "B"

(12.78 AC)

"B"

400'

1145.00'

150'

150'

150'

150'

150'

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150'

150'

150'

150'

150'

150'

150'

150'



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Consider accepting report and recommendation from Health Service Department on the LAFCO Special Study of Governance Options (Study) for the WCCHD

RECOMMENDATION(S):

Consider accepting a report and recommendation from Health Service Department and providing direction on the LAFCO Special Study of Governance Options (Study), for the West Contra Costa Healthcare District (WCCHD), as recommended by the County Health Services Director, William B. Walker, MD.

FISCAL IMPACT:

No fiscal impact, information report only.

BACKGROUND:

West County Health Care District operated Doctor’s Medical Center (DMC) San Pablo, which suffered long standing fiscal difficulties beginning in the mid 1990’s, and after numerous efforts to save the hospital, closed on April 21, 2015. DMC was the largest of two hospitals in West County, leaving only Kaiser Richmond Medical Center to serve a community of over 250,000. The closure not only eliminated 154 hospital medical surgical beds, 25 emergency department beds and 35 ICU beds, it also impacted the community by reducing the availability of essential outpatient and urgent care medical and surgical services associated with the treatment of cancer, renal disease, diabetes and heart disease.

In 2016, because the WCCHD no longer operated a hospital, and does not provide any other health-related services, LAFCO undertook a special study to evaluate district dissolution, consolidation or reorganization. The special study evaluated a range of alternatives which might allow the continued use of the ad valorem property tax proceeds for healthcare purposes in West Contra Costa County.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: William Walker,
925-957-5403

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

By: , Deputy

cc: Tasha Scott, Marcy Wilhelm, Pat Frost

The LAFCO study reiterated that:

BACKGROUND: (CONT'D)

“Residents of West Contra Costa are faced with numerous challenges in achieving levels of health care that are more common in other parts of the County. The closure of Doctor’s Medical Center (DMC) eliminated an important community resource.”

On September 14, 2016 the Contra Costa Local Agency Formation Commission (LAFCO) received the Public Review Draft of the “Special Study of Governance Options for the West Contra Costa Healthcare District (WCCHD).” The Commission expressed the desire to preserve existing healthcare funding to meet the needs of West County residents.

Several options were put forth in the report (see attached WCCHD Study Report), along with public comment provided by representatives from West County Health Care District, cities of Richmond and San Pablo, County Health Services, along with the West County Supervisory District I (Supervisor Gioia) who expressed strong support for continuing funding to address the health disparities in West County. Such funding could not be preserved with dissolution of the WCCHD.

On September 27, 2016 LAFCO submitted a letter to County Health Services Director requesting to know which of the options presented in the study County Health Services might be interested in pursuing, along with any preliminary ideas the County may have for providing enhanced health services should the County wish to supersede the WCCHD.

Contra Costa Health Services agrees with sentiments expressed by the Cities of San Pablo and Richmond and Supervisor Gioia that the County Service Area Governance Option: LAFCO Process: Reorganization with Creation of New County Service Area (CSA), would preserve funding of health care services for the residents of West County that they would be interested in. This critical funding should promote and optimize access to all levels including primary care, urgent and emergent care. Please see attached WCCHD Study Report, for more information on this option, as well as the other governance options proposed by the study.

CONSEQUENCE OF NEGATIVE ACTION:

The community of West Contra Costa County known for significant disparities in emergency department beds as compared to Central and West County, would no longer benefit from enhanced healthcare funding to maintain and expand vital healthcare services. Access to health care services including primary care, urgent and emergency care would not be optimized.

ATTACHMENTS

WCCHD Study Report



**Berkson
Associates**

Urban Economics
Policy Forensics & Forecasting
Planning & Policy Analysis

PUBLIC REVIEW DRAFT REPORT

**SPECIAL STUDY OF GOVERNANCE OPTIONS
WEST CONTRA COSTA HEALTHCARE
DISTRICT**

Prepared for the Contra Costa Local Agency Formation Commission

Prepared by Berkson Associates

August 26, 2016



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- A. Healthcare Facilities within WCCHD Boundaries
- B. Timeline of Key Events
- C. Annotated References



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1. INTRODUCTION

The West Contra Costa Healthcare District (the "District", or WCCHD) struggled financially beginning in the mid-1990's,¹ experiencing increasing costs, declining reimbursements, and growing service demand from low-income populations, the uninsured and underinsured. Although the District emerged from a 2006 bankruptcy, it never managed to regain financial solvency and fell further into debt. Eventually, in 2015, the District shut its hospital, a full-service acute care facility. The closure resulted in a significant loss of hospital beds and emergency department facilities, as well as the elimination of other specialized services, in an underserved community with significant healthcare needs.

The District's Board continues to function with limited staff as it sells its building, equipment, and other property, and arranges for ongoing resolution of its outstanding debts and obligations. With limited available resources, significant debts and other ongoing costs, the District has no funds available for health-related programs; it faces potential future financial shortfalls and increases in debt, or even bankruptcy, particularly if its properties don't sell as anticipated. This adverse financial situation is likely to continue until the District's debt to the County and other outstanding financial obligations are repaid over the next 10-12 years. After the District extinguishes its debts, more than \$9 million annually could be available, after administrative expenses, for healthcare-related services and facilities for residents of west Contra Costa County.

PURPOSE OF THE STUDY

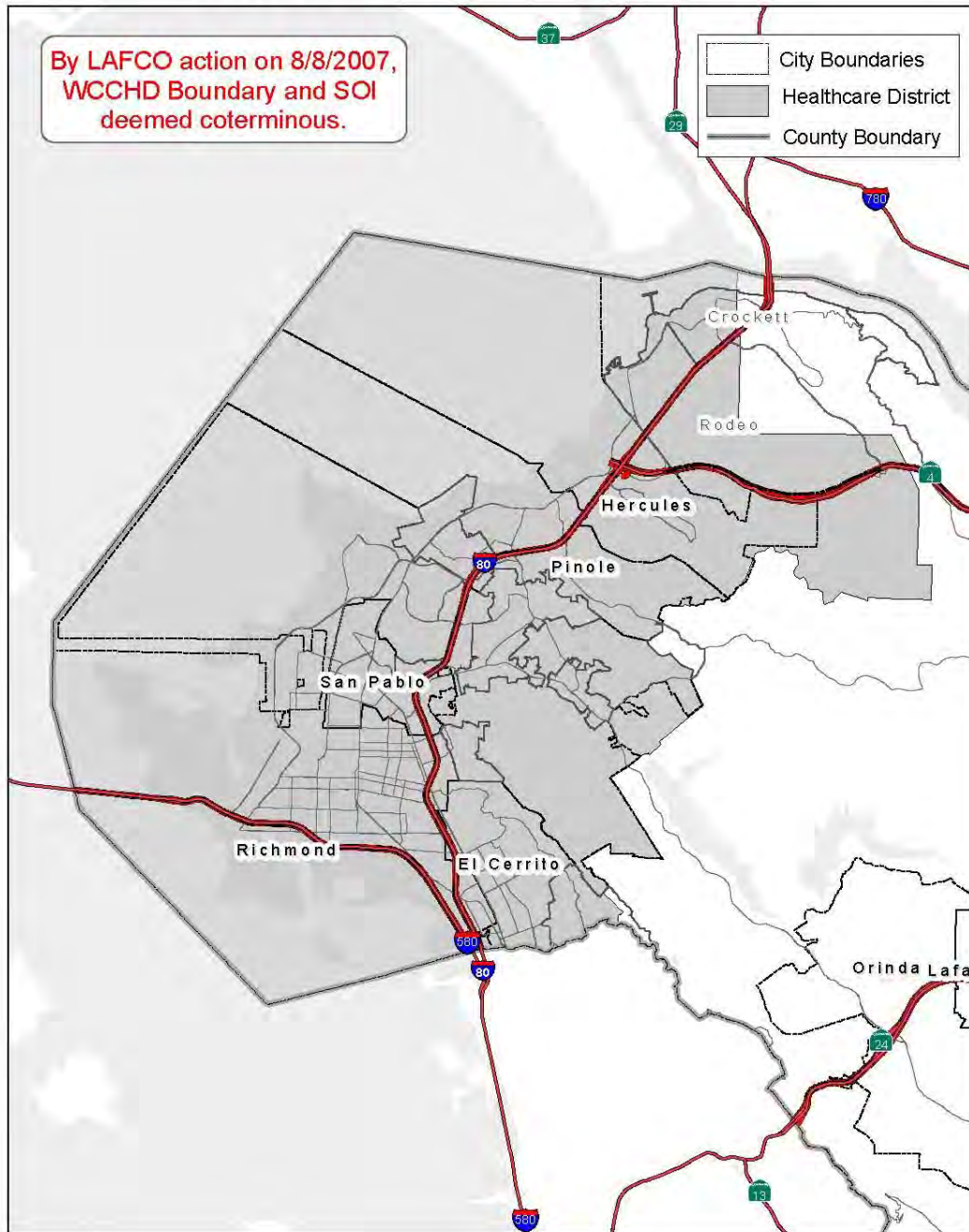
Because the District no longer operates a hospital, the primary purpose for which it was formed, and it does not provide any other health-related services, it is a candidate for dissolution, consolidation or reorganization. Dissolving the District would re-distribute its share of the ad valorem property taxes to other taxing entities. At this point, it is unclear whether any successor to the District would continue to collect the Measure D (2004) special tax proceeds after all existing debt is satisfied.

State law authorizes LAFCO to undertake special studies to evaluate district dissolution, and options to dissolution. This special study of the WCCHD evaluates a range of alternatives, some of which might allow the continued use of the ad valorem property tax proceeds for healthcare purposes in west Contra Costa County. LAFCO will consider the findings of this Special Study,

¹ Impact Evaluation Report: Doctors Medical Center San Pablo Potential Closure of Emergency Services, Prepared by the Contra Costa Emergency Medical Services Agency, June 13, 2014

take public input at a public hearing, and may initiate actions to facilitate one of the options. Other affected local agencies may also consider the findings of this report to initiate actions.

Figure 1: WCCHD Boundaries



Map created 2/11/2008
by Contra Costa County Community Development GIS Group
601 Pine Street 4th Floor North Wing, Martinez, CA 94553-3205
37.6545 45.6N 122.2625 35.6W

This map was created by the Contra Costa County Community Development Department using data from the Contra Costa County GIS Program. Some base data is provided by the City of San Pablo. The City of San Pablo is not responsible for the accuracy of the data. The City of San Pablo is not responsible for the accuracy of the data. The map is provided as a service to the community and is not intended to be used for legal purposes. The City of San Pablo is not responsible for the accuracy of the data. The map is provided as a service to the community and is not intended to be used for legal purposes.

0 0.5 1 2 Miles



2. SUMMARY OF FINDINGS

This report documents current and potential future conditions of the WCCHD, and describes governance options, including dissolution, along with options that can help to address current healthcare needs.

The various governance options and related findings are further explained in subsequent sections of the report.

1. SIGNIFICANT HEALTHCARE NEEDS EXIST IN WEST CONTRA COSTA COUNTY

Residents of West Contra Costa are faced with numerous challenges in achieving levels of health care that are more common in other parts of the County. The closure of Doctor's Medical Center (DMC) eliminated an important community resource and reduced the number of emergency room beds in West County (already underserved compared to other parts of the County) from 40 to 15. The existing urgent care and primary care services are not utilized to their capacity, and relatively low income levels reduce healthcare options and increase certain health risks.

2. JUSTIFICATION EXISTS TO DISSOLVE THE WCCHD DUE TO THE LOSS OF THE HOSPITAL, LACK OF SERVICE, AND OVERWHELMING DEBT

The WCCHD no longer owns and operates a hospital, which was its primary function. Over the next 10 years, no significant amount of revenue will be available for healthcare services, and the District is at risk of financial shortfalls and potential future bankruptcy.

However, dissolution with no service continuity would eliminate millions of dollars in funding for healthcare in the community.

3. ORGANIZATIONAL OPTIONS EXIST THAT ARE LESS COSTLY THAN STATUS QUO

The elimination of governing board elections would save the District \$450,000 every two years, or several million dollars over 10 years in election costs. The options described in this report are intended to create economies of scale by combining administrative functions with other existing agencies.

Some options could preserve the District's share of the ad valorem property tax revenues for healthcare purposes. The two most promising options in this regard are special legislation that would allow the Board of Supervisors (BOS) to appoint the District's governing body, and the creation of a new CSA to provide additional healthcare services in the same geographic area as the District. Whether either option would allow the successor to continue to collect the

Measure D (2004) special tax proceeds indefinitely into the future would likely depend on the nature of the future service and would require further legal analysis at that time.

4. SPECIAL LEGISLATION

The District or the County could seek special legislation that would allow the BOS to appoint the District's governing body. The BOS could decide to appoint themselves or members of the community. The appointed board could be either permanent or temporary (e.g., during ten year debt repayment period). This option would keep the District intact while eliminating election costs, and enable County oversight during the next ten-year period of relative inactivity by the District. This District could remain County-dependent, or return to independence in the future. This option would require the County's cooperation but would not require voter approval.

5. THE COUNTY COULD CONSIDER CREATING A NEW COUNTY SERVICE AREA TO PROVIDE ADDITIONAL HEALTHCARE SERVICES IN THE SAME GEOGRAPHIC AREA AS THE WCCHD

County service areas (CSAs) are formed to fund "miscellaneous extended services" that a county is authorized by law to perform and does not perform to the same extent countywide (Gov. Code, § 25213). The County could consider creating a new CSA, with the approval of the cities within the WCCHD service area and, essentially, annex the District into the new CSA. It is worth considering whether this option could be used to pay off existing debt while preserving future revenues for healthcare. This option would likely eliminate or significantly reduce administrative costs and the cost of elections. The Contra Costa County Health Services Department, which would manage the reorganized district, provides a broad range of programs, including programs and facilities within WCCCD boundaries; and existing staff have the experience and expertise to augment needed service in West Contra Costa when revenues are available.

This option requires concurrence by the Board of Supervisors, and will require approval by voters within the WCCHD (Gov. Code §25211.4(f)).

.

3. HEALTHCARE DISTRICTS IN CALIFORNIA AND CONTRA COSTA COUNTY

Since Contra Costa LAFCO prepared its Municipal Service Review (MSR) of healthcare services in 2008, financial conditions have become even more challenging for health providers, including healthcare districts. From 1996 to 2014, 12 healthcare districts have filed for chapter 9 bankruptcy, including WCCHD.²

As described in the 2008 MSR, the healthcare industry “in general is going through changes, many of which are financially driven...Hospitals and their medical staffs are experiencing declining public financing through Medi-Cal and Medicare. Costs for construction and personnel are rising, and the overall emphasis by consumers and their medical providers for expensive technologies are driving costs up. In addition, human resources gaps at all health provider levels threaten the stability of providers in the provision of services, especially hospitals, when attempting to staff beds. Other unique legislative parameters also face California hospital providers. California remains the only state with required nurse staffing ratios, and hospitals are continuing to grapple with the State-mandated seismic retrofit requirements...”³

These changes in healthcare have dramatically altered the type and availability of healthcare facilities and services, including facilities and services provided by healthcare districts.

HEALTHCARE DISTRICTS IN CALIFORNIA

California at the end of World War II faced a shortage of hospital beds and acute care facilities, especially in rural areas. In 1945, the Legislature enacted the Local Hospital District Law to establish local agencies to provide and operate community hospitals and other healthcare facilities in underserved areas, and to recruit and support physicians. In 1993, the State Legislature amended the enabling legislation renaming hospital districts to healthcare districts. The definition of healthcare facilities was expanded to reflect the increased use and scope of outpatient services.

² California Healthcare Districts in Crisis, Marc Joffe, January 22, 2015.

³ Final Public Healthcare Services Municipal Services Review, Prepared for Contra Costa Local Agency Formation Commission, Dudek and The Abaris Group, Approved August 8, 2007.

Healthcare districts are authorized to provide a broad range of services, in addition to the operation of a hospital.⁴ Under the Health and Safety Code, healthcare districts may provide the following services:

1. Health facilities, diagnostic and testing centers, and free clinics
2. Outpatient programs, services, and facilities
3. Retirement programs services and facilities
4. Chemical dependency services, and facilities
5. Other healthcare programs, services, and facilities
6. Health education programs
7. Wellness and prevention programs
8. Support other healthcare service providers, groups, and organizations
9. Ambulance or ambulance services
10. Participate in or manage health insurance programs

As reported by the California Policy Center, 78 healthcare districts in California provide a variety of services authorized by State statutes.⁵ Of the 78 districts, 30 do not operate hospitals, and instead have diversified into other medical services.

Healthcare districts are commonly funded through a share of property taxes and by grants from public and private sources. Healthcare districts are special districts with the typical powers of a district such as the authority to enter into contracts, purchase property, issue debt and hire staff.

HEALTHCARE DISTRICTS IN CONTRA COSTA COUNTY

In addition to the WCCHD, two other healthcare districts exist in the County. Each district is distinctly different from the WCCHD, but both provide examples of healthcare districts that no longer own and operate hospitals.

The Los Medanos Community Healthcare District (LMCHD) represents one option for consolidation with the WCCHD, as described in **Chapter 6**.

⁴ Local Health Care District Law (California Health and Safety Code Section 32000 et seq.)

⁵ California Health Care Districts in Crisis, Marc Joffe, January 22, 2015.

CONCORD/PLEASANT HILL HEALTH CARE DISTRICT

The Mt. Diablo Healthcare District (MDHCD) was reorganized in 2012 to become a subsidiary district to the City of Concord, and subsequently renamed the Concord/Pleasant Hill Health Care District.⁶

The MDHCD transferred its hospital to John Muir Health in 1996, but continued to use its property tax, which averaged about \$200,000 per year, for grants to local organizations and for a variety of educational and other health-related programs. The MDHCD also occupied seats on the John Muir Community Health Foundation board that distributes \$1 million a year for health services grants. Over the years, the MDHCD had been the object of several Grand Jury reports calling for it to be disbanded, and eventually MDHCD was reorganized as the smaller subsidiary district by LAFCO. Staff, board, election and other administrative costs were eliminated, but many of the healthcare functions continued, including ongoing membership on the Health Foundation board, and distribution of grants.

LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT

The Los Medanos Community Healthcare District (LMCHD) serves the Pittsburg and Bay Point areas in eastern Contra Costa County, an area with a population of approximately 82,000.⁷ LMCHD operated the Los Medanos Community Hospital up until 1994, when the hospital closed due to financial difficulties and the District was forced to declare bankruptcy. The District has recovered from that condition and retired the remaining bankruptcy debt in 2007, five years ahead of schedule.

The LMCHD is actively involved in organizing and sponsoring programs and events which provide wellness and prevention services as well as raise the community's awareness about important health issues. The LMCHD partners with Contra Costa Health Services (CCHS) by leasing its former hospital facilities to CCHS for use as the Pittsburg Health Center, which includes a CCHS clinic and other public health services.⁸

The dissolution of the LMCHD was considered in 1999, but never completed.

⁶ Resolution No. 13-007, September 2013.

⁷ Contra Costa LAFCO Directory of Local Agencies, August 2015.

⁸ Public Healthcare Services Municipal Service Review, prepared by Dudek and The Abaris Group for Contra Costa LAFCO, approved August 8, 2007

4. HEALTH CARE IN WEST CONTRA COSTA

Residents of West Contra Costa are faced with numerous challenges in achieving levels of healthcare that are more common in other parts of the County. The closure of DMC eliminated an important community resource, existing urgent care and primary care services are not utilized to their capacity, relatively lower income levels reduce healthcare options and increase certain health risks. The continued use of WCCHD property taxes and parcel taxes, after its obligations are repaid, represent an opportunity to maintain and enhance levels of care to the community.

COMMUNITY OVERVIEW

A large portion of West County households, home to 246,000 residents, fall below the Federal Poverty line. **Table 1** summarizes key demographic characteristics of the service area population.

Table 1: Key Factors Influencing Health Status

Area	Percent in Poverty	Percent without Health Insurance	Percent without High School Diploma
California	13.71%	17.92%	19.32%
Contra Costa County	8.99%	11.86%	11.58%
West Contra Costa (1)	12.82%	16.15%	17.76%

(1) West Contra Costa area data from Kaiser service area, which approximately corresponds to the boundaries of WCCHD.

Source: 2013 Community Health Needs Assessment, Kaiser Foundation Hospital - Richmond

The area is geographically isolated from the rest of the County, and major traffic corridors can become heavily congested, making access to healthcare facilities and alternatives to the closed DMC more difficult.

HEALTHCARE NEEDS

As described by the Contra Costa EMS Agency, citing the Contra Costa 2013 Risk-Based Initiative Pilot Project,⁹ individuals below the Federal poverty line are more at risk than others for increased mortality and morbidity during disaster. West County residents are at increased risk based on those criteria and have fewer resources for community resiliency. The groups most likely to be affected are the elderly, children, diabetics and individuals with respiratory diseases and special needs.

The Community Health Needs Assessment (CHNA) prepared by Kaiser for the Richmond area prioritized community health needs, as listed below.¹⁰ The assessment was based on a range of data sources, key informant interviews, and included community input from focus groups consisting of low-income and vulnerable populations in west Contra Costa County.

1. Violence prevention
2. Local, comprehensive and coordinated primary care, including peri-natal care
3. Economic security
4. Asthma prevention and management
5. Affordable community-based mental health services
6. Healthy eating
7. Safe outdoor spaces
8. Exercise and activity
9. Local specialty care for low-income populations
10. Affordable community-based substance abuse services

The 2013 CHNA will be updated in 2016. While the demographic characteristics and health needs of the community probably have not changed significantly, the loss of DMC is likely to influence facility and service gaps.

SERVICES, FACILITIES AND PROVIDERS

A range of services, facilities and healthcare providers, briefly summarized below, serve and help to address needs of residents of West Contra Costa. Most of the options considered in this

⁹ Impact Evaluation Report: Doctors Medical Center San Pablo Potential Closure of Emergency Services, Prepared by the Contra Costa Emergency Medical Services Agency, June 13, 2014.

¹⁰ 2013 Community Health Needs Assessment, Kaiser Foundation Hospital – Richmond

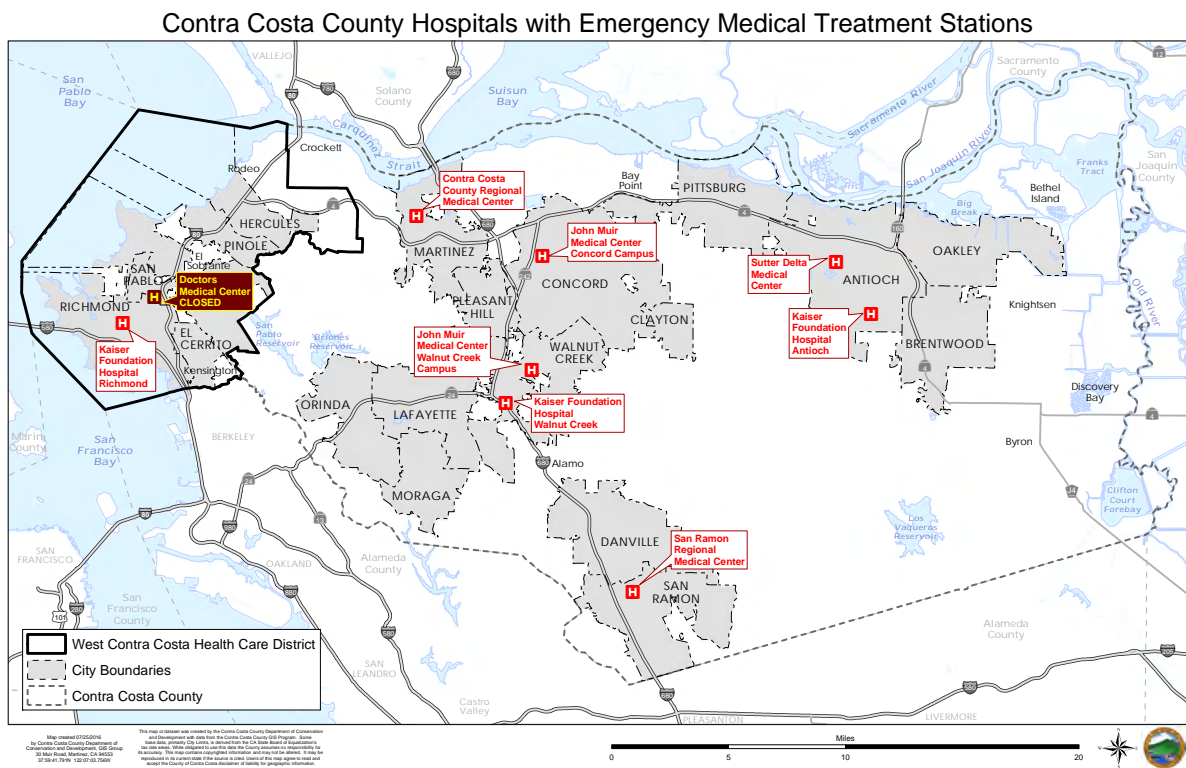
report will have significant financial resources in the longer term after obligations are repaid (i.e., post-10 years) in excess of \$9 million annually (after administrative expenses) to apply towards needed services, facilities and programs.

HOSPITALS

DMC was one of nine acute care hospitals providing emergency services serving Contra Costa County, as shown in **Figure 2**. The closure of DMC left one remaining hospital within WCCHD boundaries, Kaiser Richmond.

The loss of DMC eliminated (per 2013 activity records) 124 general acute care beds, including 102 medical surgical, 22 ICU beds and 25 Emergency Department (ED) stations. In 2013, The DMC ED served 32,347 individuals with 18% meeting criteria for severe or critical conditions.¹¹

Figure 2: Hospitals within the Region



Sutter Health, owner of Alta Bates Hospital in Berkeley, which absorbed some of the patients following the closure of DMC, said it will close the inpatient hospital and its emergency department sometime in advance of 2030; the closure reportedly is due to Alta Bates inability to

¹¹ ALIRTS Utilization Report, Report Year 2014.

comply with state seismic standards triggered in 2030. This closure will compound the difficulty in providing emergency medical services to West County residents.

SPECIALTY MEDICAL SERVICES

Prior to its closure, DMC served as the only designated ST Elevation Myocardial Infarction (STEMI) high-risk heart attack center. In 2013, DMC received 78 high-risk heart attack patients via EMS with another 500 patients who were either self-transported or transferred from other area emergency departments for urgent and/or elective cardiac intervention.¹²

Up until 2006, DMC operated a burn center to treat patients suffering from severe burns, which was an important resource in the County. The burn center closed just prior to the 2006 bankruptcy in February 2006.

DMC was a Primary Stroke Receiving Center for West County residents, serving 50% of West County stroke patients; in 2013, DMC received 127 suspected stroke patients from the field via EMS, 87 of whom met EMS stroke alert criteria (critical stroke suspected).¹³

Residents of the service area now have to travel to the Oakland Children's Hospital and Research Institute for pediatric specialty and inpatient needs, and to the Contra Costa Medical Center in Martinez for public inpatient and outpatient services.¹⁴

TRAUMA SERVICES

DMC was not a Contra Costa designated trauma receiving center; however, the emergency department frequently dealt with trauma associated with the high incidence of violence in the community. In 2013, DMC transferred 17 trauma patients to a designated trauma center. It was not unusual for the facility to be the "drop point" for patients who arrived by private vehicle, requiring stabilization and transfer to a higher level of care if needed. The closure of DMC was anticipated to have a significant adverse impact on the community, with a likely increase in mortality.¹⁵

¹² Impact Evaluation Report, 2014.

¹³ Impact Evaluation Report, 2014.

¹⁴ 2013 Community Health Needs Assessment, Kaiser Foundation Hospital – Richmond

¹⁵ Impact Evaluation Report, 2014.

EMERGENCY SERVICES

Prior to closure of DMC, West County hospitals experienced more emergency patient visits per emergency treatment station than the County as a whole. The loss of DMC was anticipated to result in prolonged ER wait times at Kaiser and other hospitals in the region.¹⁶

With the closure of DMC, which reduced the number of emergency room beds in West County (already underserved compared to other parts of the County) from 40 down to 15, West County has the fewest emergency medical treatment stations compared to other regions within the County. **Table 2** shows emergency facilities by hospital within Contra Costa County. The number of ER stations in West County has increased to 27, but still provides less than half the County average relative to its population. This reduction in ER stations increases the number and length of transport of ambulance patients, increasing by 20% the transports that must now be diverted out of County.

Table 2: Emergency Medical Treatment Stations by Contra Costa Region

General Acute Care Facility	City	County Area		
		West	Central	East
CONTRA COSTA REGIONAL MEDICAL CENTER	Martinez		20	
SUTTER DELTA MEDICAL CENTER	Antioch			32
JOHN MUIR MEDICAL CENTER-WALNUT CREEK CAMPUS	Walnut Creek		44	
KAISER FOUNDATION HOSPITAL - WALNUT CREEK	Walnut Creek		52	
JOHN MUIR MEDICAL CENTER-CONCORD CAMPUS	Concord		32	
SAN RAMON REGIONAL MEDICAL CENTER SOUTH BUILDING	San Ramon		-	
SAN RAMON REGIONAL MEDICAL CENTER	San Ramon		12	
KAISER FOUNDATION HOSPITAL - RICHMOND CAMPUS (1)	Richmond	27		
KAISER FOUNDATION HOSPITAL - ANTIOCH	Antioch			37
TOTAL STATIONS	256	27	160	69
Population	1,072,000	254,800	513,300	303,900
Stations/10,000 Population	2.4	1.1	3.1	2.3

Source: ALIRTS Utilization Report, Report Year 2015; population from American Community Survey, 2014

(1) Kaiser Richmond had 15 emergency stations in 2015 when DMC closed.

¹⁶ Impact Evaluation Report, 2014.

DMC also served as a resource for dialysis patients who received their care at San Pablo Dialysis or El Cerrito Dialysis. During 2013, some 88 dialysis patients were transported to DMC for emergency services.

OTHER HEALTHCARE FACILITIES

A number of other healthcare facilities are available to residents within WCCHD boundaries, as listed in **Appendix A**, including new and expanded urgent care facilities near the former DMC site, which opened to help fill the gap left by the DMC closure. Kaiser Richmond also expanded its emergency department facilities following the closure. Other non-profit organizations providing health services to the community are described in Kaiser's 2013 CHNA for West Contra Costa County.

5. WEST CONTRA COSTA HEALTHCARE DISTRICT

West Contra Costa Healthcare District (the "District") is a public agency organized under Local Hospital District Law as set forth in the Health and Safety Code of the State of California [citation]. The District was formed in 1948 for the purpose of building and operating a hospital to benefit the residents of West Contra Costa County. A Board of Directors elected from within the District boundaries governs for specified terms as shown in **Table 2**. The District operated a full-service acute care facility until its closure in 2015, providing services to both inpatients and outpatients. The District provided healthcare services primarily to individuals who reside in the local geographic area.

Table 3: WCCHD Board Members

Position	Name	Term Expires
Chairperson	Eric Zell	Dec. 2016
Vice Chair	Deborah Campbell, RN	Dec. 2016
Treasurer	Irma Anderson, RN	Dec. 2018
Secretary	Nancy Casazza, RN	Dec. 2018
Assistant Secretary	Beverly Wallace	Dec. 2018

The District's Board continues to function with limited staff as it sells its building, equipment, and other property, and arranges for ongoing resolution of its outstanding debts and obligations.

ASSESSED VALUE AND POPULATION

The WCCHD is comprised of five cities, in their entirety, and portions of unincorporated Contra Costa County. Property taxes and parcel taxes are collected from within these boundaries.

Table 3 describes key characteristics of the District.

Table 4: Summary of Assessed Value, Population and Area within the WCCHD Boundaries

Area	Secured A.V. (1)		Population (2)(3)		Area	
	\$Billions's	% of Total	Amount	% of Total	Sq. Miles (3)	% of Total
Richmond	\$11.85	43.4%	110,378	44.8%	30.0	44.0%
El Cerrito	\$3.55	13.0%	24,378	9.9%	3.9	5.7%
Hercules	\$3.01	11.0%	24,791	10.1%	8.1	11.9%
Pinole	\$2.05	7.5%	18,739	7.6%	11.6	17.0%
San Pablo	\$1.48	5.4%	30,829	12.5%	2.5	3.7%
Total, Cities	\$21.94	80.4%	209,115	84.9%	56.1	82.4%
Unincorporated	\$5.34	19.6%	37,284	15.1%		
TOTAL, WCCHCD	\$27.28	100.0%	246,399	100.0%	68.1	100.0%

(1) Contra Costa County Assessor's Office

(2) Source: E-1: City/County Population Estimates with Annual Percent Change, estimated population 1/1/16

(3) Contra Costa LAFCO, Directory of Agencies, August 2015.

Note: Richmond excludes 22.6 acres underwater.

7/23/16

WCCHD FINANCIAL RESOURCES

Although WCCHD’s annual revenues currently exceed \$8 million annually and it no longer operates a hospital, those revenues are largely dedicated to repayment of WCCHD debt obligations and basic administrative costs, leaving virtually no funds available for discretionary purposes. The District is relying on the sale of its hospital building to help fund operations in the near-term and over the next 10 years; delays in the sale will compound the risk of financial shortfalls.

Table 5 shows the District’s 10-year annual forecast of revenues and expenditures, extended through the year 2030. The forecast assumes the “Status Quo” with continued Board elections, repayment of existing obligations, and minimal staffing and contract services for ongoing financial reporting and related services.

The forecast projects annual shortfalls ranging from about \$700,000 to \$1.5 million every year through 2025, funded by the \$13.6 million of property sale proceeds anticipated by the fourth quarter of 2016. The sales proceeds may be fully spent by 2024, resulting in potential deficits of up to \$1.1 million cumulatively by 2025.



After WCCHD debts are repaid, some of the revenues previously dedicated to debt repayment should be available to fund programs. The County cash advance should be repaid by 2026, resulting in an additional \$2.3 million to WCCHD that could be utilized for health-related programs. After the District's Certificates of Participation (COPs) are repaid in full by 2029, the \$5.6 million in parcel tax revenues will no longer be needed for that purpose. Assuming property taxes increase by at least 2.5% annually, and assuming that the Measure D parcel tax revenues are available for other purposes after the COPs are repaid, it is conceivable that available revenues, after expenses, could grow to more than \$9 million per year in 14 years, or by the year 2030.



Table 5: Long-term WCCHD Budget Forecast

Item	1 2017	2 2018	3 2019	4 2020	5 2021	6 2022	7 2023	8 2024	9 2025	10 2026	11 2027	12 2028	13 2029	14 2030
Beginning Balance	9,362,448	7,969,717	6,411,607	5,319,729	3,798,923	2,751,677	1,559,538	834,046	(342,687)	(1,077,023)	954,271	4,693,318	8,077,391	16,267,675
Revenues														
Property Tax (1)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	4,224,279	4,329,886	4,438,133	4,549,086	4,662,814
Special Tax (2)													<u>4,258,808</u>	<u>5,600,000</u>
Total Revenues	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	4,224,279	4,329,886	4,438,133	8,807,894	10,262,814
Expenditures (3)														
Payroll/Administration	253,567	259,906	266,404	273,064	279,891	286,888	294,060	301,411	308,947	316,670	324,587	332,702	341,019	349,545
Bookkeeping Services	39,000	18,000	18,450	18,911	19,384	19,869	20,365	20,874	21,396	21,931	22,480	23,042	23,618	24,208
Cost Rpt Audits, Stlmt	30,000	30,750	31,519	32,307	33,114	-	-	-	-	-	-	-	-	-
Annual Financial Audit	30,000	30,750	31,519	32,307	33,114	33,942	34,791	35,661	36,552	37,466	38,403	39,363	40,347	41,355
Pension Audit/Actuarial	60,000	61,500	63,038	64,613	66,229	67,884	69,582	71,321	73,104	74,932	76,805	78,725	80,693	82,711
IT Costs	12,000	12,300	12,608	12,923	13,246	13,577	13,916	14,264	14,621	14,986	15,361	15,745	16,139	16,542
Other	10,000	10,250	10,506	10,769	11,038	11,314	11,597	11,887	12,184	12,489	12,801	13,121	13,449	13,785
Total Personnel/Consul	434,567	423,456	434,043	444,894	456,016	433,474	444,311	455,419	466,804	478,474	490,436	502,697	515,265	528,146
Office Expenses														
Total Facilities Costs	30,000	30,750	31,519	32,307	33,114	33,942	34,791	35,661	36,552	37,466	38,403	39,363	40,347	41,355
Worker Comp	500,000	250,000	250,000	250,000	250,000	-	-	-	-	-	-	-	-	-
Legal	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Lincoln	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000	27,000
Records Storage	216,164	191,904	164,316	131,606	96,116	62,722	34,391	23,653	18,980	15,045	-	-	-	-
Fees and other	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Election Costs		450,000		450,000		450,000		450,000		450,000		450,000		450,000
Medical Pension Plan	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000				
Pension Plan Payments	900,000	900,000	900,000	900,000	900,000	900,000	900,000	900,000	900,000	900,000				
Total Other Costs	1,928,164	2,103,904	1,626,316	2,043,606	1,558,116	1,724,722	1,246,391	1,685,653	1,230,980	1,677,045	62,000	512,000	62,000	512,000
Total Expenditures	2,392,731	2,558,110	2,091,877	2,520,806	2,047,246	2,192,138	1,725,493	2,176,732	1,734,336	2,192,985	590,839	1,054,060	617,611	1,081,501
Net	(1,392,731)	(1,558,110)	(1,091,877)	(1,520,806)	(1,047,246)	(1,192,138)	(725,493)	(1,176,732)	(734,336)	2,031,294	3,739,047	3,384,073	8,190,283	9,181,312
Ending Balance	7,969,717	6,411,607	5,319,729	3,798,923	2,751,677	1,559,538	834,046	(342,687)	(1,077,023)	954,271	4,693,318	8,077,391	16,267,675	25,448,987

(1) Property taxes assumed to grow 2.5% annually. Prior to repayment of County loan, WCCHD receives \$1 million (fixed).
 (2) Special taxes currently are handled by WCCHD's fiscal agent and transferred directly to pay outstanding Certificates of Participation, until repaid.
 (3) Except where noted, expenditures assumed to grow 2.5% annually.

PROPERTY TAXES

WCCHD's \$27.3 billion assessed value generated approximately a \$3.3 million share of ad valorem property tax revenues in FY15-16.¹⁷ According to WCCHD's agreement with the County, WCCHD receives a fixed \$1 million annually from the taxes; the remainder accrues to the County until WCCHD's \$22.1 million debt to the County is repaid.¹⁸ At current property tax collection rates, the debt would be repaid in approximately 10 years, or 2026; growth in property taxes could reduce this time frame, depending on the rate and timing of property tax increases. By 2026 after the County debt is repaid, District share of the ad valorem property taxes could total \$4.2 million annually.¹⁹

PARCEL TAXES

The District collects parcel taxes. Measure D, which passed by 84% voter approval in 2004 for a \$52 annual single-family tax, currently repays WCCHD debt obligations. The debt includes COPs issued in 2004 and 2011 that were used for hospital improvements and to fund operating costs. The COPs are further described below under "WCCHD Liabilities."

The voters approved the Measure D tax pursuant to the following ballot measure: *"To prevent the life threatening shut-down of the West Contra Costa Healthcare District's only full service emergency room, which serves all West County residents, and prevent the closure of this community's local hospital so that victims of heart attacks, strokes, car accidents, burns, toxic chemical releases and other medical emergencies receive rapid response medical care, shall an annual special property tax be authorized with all revenue staying in our community for local emergency and healthcare services and facilities?"* By law, the revenues from any special tax may be used only for the purpose or service for which it was imposed. Gov. Code, § 53724.

District voters had passed a second parcel tax in November 2011 that is no longer being collected. Measure J (\$47/year parcel tax) passed in November 2011 with 74% support and raised approximately \$5.1 million annually. It contained a "sunset clause" providing that the tax would no longer be collected if the hospital and emergency room closed. After closure in April 2015, the tax was no longer collected as of the 2015-16 fiscal year.

¹⁷ Board Order from John Gioia, District I Supervisor, to Board of Supervisors, April 12, 2016.

¹⁸ Board Order from John Gioia, District I Supervisor, to Board of Supervisors, April 12, 2016; amount shown includes final payment of \$645,000 in consideration of County's foregoing \$1 million/year per Resolution No. 2016/318.

¹⁹ Estimated property taxes in 2026 assume 2.5% annual growth of current \$3.3 million.

CASH AND OTHER LIQUID ASSETS

The District projected that on June 10, 2016, it would have a cash balance of approximately \$1.1 million. These funds include the District's \$1 million share of property taxes received from the County in May, and \$470,000 in AB 915 revenue²⁰ in May, less expenses due in May. The District projects it will draw down this balance, and incur potential negative balances, until property sale receipts of about \$13.3 million for the hospital are received in December 2016.²¹ The District hopes to avoid the interim shortfalls by re-negotiating vendor contracts and implementing other cost reduction measures, and may tap its limited financial reserves.

FIXED ASSETS

Since the closure of its hospital, the District has been disposing of its real estate and other property, including hospital equipment. The District contracted with a firm to handle disposition of its equipment, which has been completed.

At the Board meeting of May 18, 2016, the District approved an agreement for the sale of the District's 1.25-acre lot with a metal building on the corner of 34th and Moran Avenue in the City of Richmond for \$301,000.

The District is under contract to sell its hospital building. The sale is anticipated to close in December 2016 for a price of \$13.3 million, following completion of a due diligence period. The District has moved its offices into separate rented space in Pinole, 2200 San Pablo Avenue, Suite 201.

WCCHD EXPENDITURES

Over the five-month period of May through September 2016, the District's monthly cash expenditures were estimated to average about \$525,000 per month.²² Over the next 10 years, these expenditures are anticipated to decline, averaging about \$140,000 per month, or \$1.7 million annually, as staff, facilities and other financial responsibilities are reduced.

Expenditures include:

²⁰ AB 915 established the Medi-Cal Inpatient Payment Adjustment Fund in 2002, funded by contributions from public, district and university hospitals, counties, which draw down matching federal funds, to provide supplemental compensation to private and public hospitals that serve a disproportionate share of the state's low-income population.

²¹ DMC Financial Update, Report to the Board at its meeting May 3, 2016.

²² DMC Financial Update, Report to the Board at its meeting May 3, 2016.

- **Personnel/Consulting Services** – The District anticipates ongoing administrative costs, including payroll, of \$260,000 annually. Another \$160,000 is budgeted largely for ongoing bookkeeping, annual financial reports and audits, and computer-related costs.
- **Legal** – The District requires ongoing annual legal services to handle board meetings and legal documents.
- **Records Storage** – As noted above under “Liabilities”, the District has an ongoing obligation to maintain its records and to handle requests for those records. Over time this annual contract cost with a service provider will decline.
- **Fees and Other** – The District pays various fees for banking and other financial services related to collection and reporting of parcel taxes.
- **Election Costs** – The District is required to elect directors at general elections every two years, at a current cost of about \$450,000 per election.
- **CNA Medical Pension Plan** – The District has budgeted annual payments of \$250,000 over the next 10 years towards this liability, assuming that the total liability of \$5.2 million is successfully negotiated downwards.
- **Successor Pension Plan Payments** – Approximately \$900,000 is shown each year towards paying off the District’s unfunded liability in its pension plan.
- **Workers Compensation** – The District’s budget includes payment of pending workers compensation claims that will be the District’s responsibility.

Debt payments towards the District’s COPs are not shown in the District’s budget; a fiscal agent handles parcel tax payments for COP obligations on behalf of the District. Parcel taxes are collected by the County Auditor and directed to the fiscal agent.

WCCHD LIABILITIES

Most of the WCCHD use of revenue is related to the repayment of its long-term liabilities.

2004 AND 2011 CERTIFICATES OF PARTICIPATION

The WCCHD issued Certificates of Participation (COPs), which are essentially a form of debt, secured and repaid by parcel taxes paid by property owners with the district. The parcel taxes were approved by 84% of voters voting in favor of Measure D in 2004. A single-family property pays a fixed \$52 per year; other rates apply to other types of property.

As of June 30, 2016, WCCHD owed approximately \$17.2 million for its 2004 COP, and \$37.2 million for its 2011 COP, for a total of \$54.4 million. Amortization worksheets prepared by the

District estimate that the 2004 COP will be repaid by 9/1/22, and the remaining 2011 debt will be fully repaid by 1/1/29. These repayment schedules show all parcel tax revenues applied towards COP debt repayment.²³ The District is in the process of refinancing its COPs to reduce its interest rate and interest costs; this would accelerate the repayment of the COPs.

COUNTY TAX SHARING AGREEMENT

The County and WCCHD entered into multiple agreements whereby the County advanced funds to WCCHD in exchange for District property tax as repayments. The most recent agreement acknowledged the amounts outstanding as of April 2016 totaling \$21,477,804.²⁴ That agreement provided for WCCHD to retain \$1 million of its property tax each year, rather than transferring 100% of its property tax to the County pursuant to prior agreements. The annual \$1 million is required by the WCCHD to avoid budget shortfalls. WCCHD agreed to a final transfer of \$645,000 to the County in consideration of the County deferring repayment by virtue of the revised tax sharing agreement. The total outstanding debt increased to approximately \$22.1 million, which is anticipated to be repaid by about 2026 (or sooner depending on the rate of assessed value growth in the District).

WORKERS COMPENSATION

The District is self-insured for workers' compensation claims, with a self-insured retention of \$500,000 per occurrence, and has excess insurance coverage for the portion of each occurrence in excess of \$1,000,000.²⁵ As of July 2016, the District anticipates costs of approximately \$3 million in workers comp claims pending from claims filed in recent years prior to, and following, closure of the hospital.²⁶ A portion of those claims will be paid in 2016, and the District has budgeted \$1.5 million in expenditures from 2017 forward to cover claims over the next five-year period. The actual timing and amounts will depend upon final disposition of claims by the State's Division of Workers Compensation.

RECORDS STORAGE AND MANAGEMENT

The District is required to maintain medical records for up to 10 years (e.g., through 2026) to respond to records requests. The District has contracted with a private vendor to handle all of

²³ File: "Cops amortization and restructured county advance.xlsx" provided by WCCHD, 5/23/16.

²⁴ Resolution No. 2016/318, Board of Supervisors of Contra Costa County, California.

²⁵ WCCHD Notes to Financial Statements, TCA Partners, LLP, December 31, 2013.

²⁶ Correspondence from Vickie Sharr, Associate Administrator, WCCHD, 7/11/16.

their records requirements, and budgeted approximately \$1 million total through 2026. The annual cost is expected to decline as records are transferred.

CALIFORNIA NURSES ASSOCIATION (CNA) MEDICAL PENSION PLAN

District staff reports a \$5.2 million obligation for retiree medical expenses.²⁷ The District's 10-year budget forecast allocates \$250,000 annually to fully fund this obligation, which assumes that the District successfully negotiates the reduction.

SUCCESSOR PENSION PLAN

The District provides a non-contributory single employer defined benefit pension plan. The plan covers all eligible employees of the previous Brookside Hospital. Brookside Hospital was the previous name of DMC. The plan provides retirement and death benefits to plan members and beneficiaries based on each employee's years of service and annual compensation. No new employees have been enrolled in the plan since 1996. The Actuarial Accrued Unfunded Liability (AAUL) as of the 2013 report was \$5,934,000 at the end of 2013.²⁸ District staff indicates that the AAUL has grown to about \$12.8 million.²⁹

The District's 10-year budget forecast allocates \$900,000 annually to fully fund the AAUL. The District will prepare a financial audit by the end of 2016 that should document current liabilities.

ELECTIONS COST

The WCCHD spends approximately \$450,000 every two years for election costs. Staff reports that the District did not compensate the County for this cost in 2014, and repayment remains an obligation of the District.

²⁷ Interview with WCCHD staff, 2016-05-23.

²⁸ Audited Financial Statements, WCCHD, December 31, 2013, TCA Partners, LLP (see page 26).

²⁹ Correspondence with WCCHD staff, 2016-08-18, based on actuarial analysis August 2016.

6. GOVERNANCE OPTIONS

This report evaluates governance options for the WCCHD, including maintaining the status quo. Each option presents a different set of legal and policy choices. The following sections describe each option, and the required LAFCO process to implement the option. Advantages and disadvantages are summarized for each option including policy, service and financial implications.

While clearly there are significant needs for new services and facilities, as well as programs to better take advantage of those that exist, the governance option selected ultimately will need to include a plan, program and strategy to focus on addressing community needs in a cost-effective manner.

Each option, except dissolution without services continuity, generally offers similar opportunities to address needs in the longer-term, when fiscal resources become available; however, the various options' organizational and political structures differ and will influence future programs. As noted below, the subsidiary district option will significantly reduce future revenues.

Most of the governance options below can be initiated by an affected local agency (i.e., County, city, district) or by a petition of affected landowners or registered voters. Some of the governance options listed below can also be initiated by LAFCO.

In addition to the governance options discussed below, there is an option to pursue special legislation to change the directly elected governing board of the WCCHD to an appointed board (either temporarily or permanently). This option is discussed in the Summary of Findings.

SERVICES

All of the options described below (except dissolution with no continuing service), could augment existing facilities and services currently provided within the District, contingent on available financing; and could include the following services as allowed by law for healthcare districts. Creation of a CSA, which allows the CSA to provide any service a County provides, also could provide some combination of the following:

- Urgent care services
- Health facilities, diagnostic and testing centers, and free clinics
- Outpatient programs, services, and facilities

- Retirement programs services and facilities (i.e., senior care, continuing care, and skilled nursing programs)
- Chemical dependency services, and facilities
- Other healthcare programs, services, and facilities
- Health education programs
- Wellness and prevention programs
- Support other healthcare service providers, groups, and organizations
- Ambulance or ambulance services
- Participate in or manage health insurance programs

As described in **Chapter 4**, significant needs exist in West Contra Costa County for a range of healthcare services and facilities. Depending on the option pursued, implementation should include creation of a detailed plan for services and facilities.

OTHER ISSUES

Taking no action regarding the future of WCCHD does not appear to be an option preferred by either WCCHD or County representatives. However, if no action is taken, WCCHD will continue to incur election costs as well as significant administrative costs with no clear ability to provide services in the near future.

The first three options – maintaining the status quo, consolidating WCCHD with Los Medanos Community Healthcare District (LMCHD), and establishing a subsidiary district, are the least viable options, as explained below.

The next two options – consolidation with CSA EM-1 and reorganization/creation of a new CSA to continue services - require County participation. These options will likely depend on whether the County determines that the financial challenges in taking over the assets and obligations of the WCCHD are balanced by the opportunity to preserve some or all of the current revenues for the provision of healthcare in West County. The formation of a new CSA would require support from the five West County cities to be part of a CSA. Further, the County would need to apply to LAFCO to form the new CSA, and would be required to provide a plan for providing services which includes identification of revenue sources to fund services. It is likely that the property tax currently being allocated to WCCHD would be allocated to the new CSA; however, it is unclear whether the parcel tax would automatically be transferred to the new CSA, or whether voter approval would be required in order to continue the parcel tax. The CSA options would result in replacing the current directly elected WCCHD board with the County BOS. Two of the five members of the BOS are elected by residents in West Contra Costa County (one

supervisory district is wholly within West County and one is partially in West County). Any concern regarding local (i.e., West County) representation could be partially mitigated by creation of an advisory body.

The last option involves dissolving the WCCHD and naming a successor agency to wind up the affairs of the District.

Finally, current law provides that dissolution of healthcare district is subject to an election. There is pending legislation (AB 2910) that would modify this requirement, and allow for dissolution of a healthcare district without an election under certain conditions. As of August 15th, AB 2910 is awaiting the Governor's action.

MAINTAIN THE STATUS QUO

The current district would remain intact in the Status Quo option, and the Board of Directors would continue to be elected and conduct district business.

The District's mission would shift from hospital ownership and oversight to other forms of provision of healthcare service, following payment of debts.

ADVANTAGES AND DISADVANTAGES OF MAINTAINING THE STATUS QUO

Advantages

- Property taxes and parcel taxes collected within the District will continue to be spent for healthcare services within the district once debts are paid off
- No reorganization proceedings or special elections required

Disadvantages

- Limited resources are available until obligations are repaid, and there is a risk that revenues will be insufficient to meet those financial obligations during the next ten years
- The District may have no revenues available to provide services for a period of ten years, and the Board's primary role will be one of management and oversight of repayment of existing debts and obligations. Consequently, there is some risk that the District may have difficulty retaining active directors.
- The District will continue to incur substantial election costs

LAFCO PROCESS – STATUS QUO

No LAFCO action necessary. LAFCO could request periodic updates and status reports to alert LAFCO as to any significant changes in WCCHD's financial condition and/or services.

CONSOLIDATION WITH LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT

According to a letter submitted by the LMCHD Board of Directors, the Board “does not want the LMCHD to consolidate with the West Contra Costa Healthcare District.”³⁰

This option would consolidate the WCCHD with the LMCHD, which are “like” districts formed under the same statutes. The boundaries of the consolidated entity would correspond to the combined boundaries of the two existing districts (non-contiguous). The current share of WCCHD property taxes would be collected by the consolidated entity, subject to existing obligations to the County; these revenues would be available for use throughout the consolidated entity unless a zone is created to geographically restrict use of the revenues. An advisory board could be established to oversee and guide the use of funds collected and expended within the prior WCCHD boundaries. Existing LMCHD staff would be responsible for staff support, with direction from the Board of the consolidated entity. LAFCO could establish terms and conditions related to the initial and ultimate composition of the consolidated Board.

ADVANTAGES AND DISADVANTAGES OF CONSOLIDATION WITH LMCHD

Advantages

- Property taxes and parcel taxes collected within the district will continue to be spent for healthcare services
- No WCCHD dissolution election required
- Enhances revenue base of LMCHD to be used for community healthcare needs, subject to requirements that the existing WCCHD parcel taxes be used within the boundaries of the former WCCHD
- Reduces/eliminates existing WCCHD administrative costs, including elections for WCCHD board (although elections still required for board of the consolidated district)
- Continues mission and goals of the WCCHD (subject to decisions of consolidated board)

Disadvantages

- Reduces WCCHD residents’ proportionate vote in any district-wide elections over tax measures, board members, or other issues, unless the vote is limited to a WCCHD zone of the consolidated district.
- Revenues for services within prior WCCHD boundaries could be reduced if property tax revenues are shifted to other areas and services, unless a zone is created within LMCHD

³⁰ Letter from D. Pete Longmire, Interim Executive Director, LMCHD, to Lou Ann Texeira, July 29, 2016.

corresponding to the prior WCCHD (this does not apply to parcel taxes, required by law to be spent within boundaries of the prior district)

- Consolidated district would incur all financial liabilities of current WCCHD and potential risks of shortfalls
- LMCHD represents a different community of interest, with different healthcare needs, and there is a possibility that consolidation would be met with community opposition

LAFCO PROCESS

A consolidation would follow the LAFCO process involving a public hearing, reconsideration period, protest hearing, and possible election. A consolidation typically would be initiated by resolution of the affected agencies or by voter/landowner petition, although LAFCO may also initiate the process.

REORGANIZE WCCHD AS SUBSIDIARY DISTRICT

A subsidiary district to the City of Richmond could be created to continue providing healthcare services. In accordance with State law (Gov. Code, §57105), the City would have to comprise at least 70% of land area and at least 70% of the registered voters within the subsidiary district. Under this scenario the WCCHD is not dissolved, and becomes a subsidiary district of the City with the Richmond City Council serving as the governing board of the subsidiary district.

Under the current configuration of the WCCHD, the City of Richmond could not be named the successor agency for the purpose of continuation of WCCHD services because neither the City's land area is (44%) nor number of registered voters (39%) meet the required 70%, as the current WCCHD boundaries overlap other cities and various unincorporated communities.

In order for the City of Richmond to meet the 70% thresholds, the boundary of the WCCHD would need to be reduced to about 63%, resulting in a significant reduction in total revenues (property tax and parcel tax). The parcel taxes represent a lien on secured property, and it is not expected that this lien could be reduced by a reorganization and boundary change.

ADVANTAGES AND DISADVANTAGES OF REORGANIZING AS A SUBSIDIARY DISTRICT

Advantages

- Property taxes and parcel taxes collected within the district will continue to be spent for healthcare services, although tax revenues will be significantly reduced as the boundary of the former WCCHD is reduced per State law
- Absent the requisite protest, no election required

- Existing municipality would provide overhead and administration services, potentially improving operational and cost effectiveness
- Reduction in current expenditures, including district board elections
- Property taxes and, potentially, parcel taxes collected within the district will continue to be spent for healthcare services within the district, although these revenues will be significantly reduced due to reduced boundaries necessary to form a subsidiary district

Disadvantages

- Current service area would be significantly reduced as the district boundary is scaled back to comply with State law (70% rules), effectively reducing current district boundary by over one-third
- Annual revenues would be reduced as boundary is scaled (note: continued collection of parcel taxes from the current WCCHD required until COPs are repaid; County repayment would also continue and/or require extended repayment period)
- Subsidiary district would incur all financial liabilities of current WCCHD and potential risks of shortfalls

LAFCO PROCESS

The process to reorganize the WCCHD (i.e., detachment and establishment of the district as a subsidiary district of a city) typically involves an application to LAFCO by the affected city, although LAFCO could initiate the process. The process would require a map and legal description, financial plan, and plan for service, a reconsideration period, a protest hearing, and possibly an election (with the requisite protest).

CONSOLIDATION WITH COUNTY SERVICE AREA EM-1

Consolidation with County Service Area EM-1 (CSA EM-1) would combine two districts with healthcare-related services, but which are “unlike” districts formed under different State statutes. The resulting district would be a CSA encompassing the entire county, although a separate zone could be created to correspond to the prior WCCHD boundaries in order to segregate specific revenues and services. The current share of WCCHD property taxes would be collected by the consolidated entity, subject to existing obligations to the County; these revenues would be available for use throughout the consolidated entity unless a zone is created to geographically restrict use of the revenues. Existing County staff would be responsible for staff support, with direction from the Board of Supervisors. An advisory board could be established to oversee and guide the use of funds collected and expended within the prior WCCHD boundaries.

COUNTY SERVICE AREA EM-1

In 1989, CSA EM-1 was established to provide funding for enhancement of countywide emergency medical services including expansion of paramedic services, upgrades to the EMS communications system, and additional medical training and equipment for fire first responders. EM-1 is authorized to provide emergency medical services (EMS) and “miscellaneous extended services”, which includes services the County is authorized by law to perform, and which the County does not also perform to the same extent on a county-wide basis.

The EMS system includes communities, hospitals, clinics, senior nursing facilities, dispatch, pre-hospital first responders and transport providers who work in concert to support an integrated system of response in emergencies and disasters. According to the EMS Agency, EMS is evolving to play an increasingly important role supporting healthcare programs and community healthcare initiatives that reduce as well as treat illness and injuries.

In addition to serving as the EMS Agency overseeing CSA EM-1, CCHS provides a broad range of community health services spanning the range of services also authorized for healthcare districts. Numerous advisory groups exist which provide input and direction on specific issues and services. CCHS operates health facilities, clinics, outpatient programs and services, senior services, other healthcare programs and services, wellness and prevention programs, provides health insurance programs, and disseminates health information.

Initial discussions with County staff and officials indicate a lack of interest in this option.

ADVANTAGES AND DISADVANTAGES OF CONSOLIDATION WITH CSA EM-1

Advantages

- Property taxes and, potentially, parcel taxes collected within the district could continue to be spent for healthcare services within the boundaries of the former WCCHD, assuming a zone is implemented for that purpose
- No WCCHD dissolution election required
- Reduces/eliminates existing WCCHD administrative costs, including elections for WCCHD board
- The County would have the ability to adapt the current WCCHD property tax repayment obligation as necessary to mitigate potential negative cash flows, and would be motivated to take actions to assure financial feasibility and repayment
- CCHS, which would manage the district, provides a broad range of programs, including programs and facilities within WCCHD boundaries, and existing staff have the experience and expertise to augment needed service in West Contra Costa when revenues are available

Disadvantages

- Revenues for services within prior WCCHD boundary could be reduced if property tax revenues are shifted to other areas and services, unless a zone is created within EM-1 corresponding to WCCHD (this does not apply to parcel taxes, required by law to be spent within boundaries of the prior district)
- Consolidation could blur the distinction between the services and resources of EM-1 with the other health-related expenditures and goals of the WCCHD and its revenues. Currently EM-1 focuses on funding emergency services and prioritizes the use of benefit assessments for this purpose; consolidation could undercut the benefits the benefit assessments prioritized for EMS.
- Loss of representation by the currently locally-elected board, although this could be partially mitigated by creation of an advisory body to oversee and direct district activities. The Board of Supervisors, which is the board of CSA EM-1, includes one member elected solely by West County residents, and one member elected by West County and other areas in the County.

LAFCO PROCESS – CONSOLIDATION WITH CSA EM-1

A consolidation would be initiated by the County and follow the LAFCO process as described above for consolidation with LMCHD.

REORGANIZATION WITH CREATION OF NEW DISTRICT (CSA) FOR CONTINUING SERVICE

County service areas (CSAs) are formed by counties to fund “miscellaneous extended services” that a county is authorized by law to perform and does not perform to the same extent countywide. Gov. Code, § 25213. The County could consider creating a new CSA, with the approval of the cities within the WCCHD service area and, essentially, annex the WCCHD into the new CSA. Under this option, the County would apply to LAFCO to form a new CSA to function as successor to the WCCHD; and any assets and liabilities would be transferred to the new CSA. The CCHS, under the direction of the County Board of Supervisors, would administer the CSA.

ADVANTAGES AND DISADVANTAGES OF A NEW CSA

Advantages

- Property taxes and, potentially, parcel taxes collected within the district will continue to be spent to augment and expand healthcare services for West County residents, including urgent care, primary care, prevention programs, nurse advice lines, and other health programs.
- Reduces existing administrative costs, including elections, to help avoid currently projected potential negative cash flows
- The County would have the ability to adapt the current WCCHD property tax repayment obligation as necessary to mitigate potential negative cash flows, and would be motivated to take actions to assure financial feasibility and repayment
- CCHS, which would manage the district, provides a broad range of programs, including programs and facilities within WCCHD boundaries, and existing staff have the experience and expertise to augment needed services in West Contra Costa when revenues are available

Disadvantages

- Loss of representation by the currently locally-elected board, although this could be partially mitigated by creation of an advisory body to oversee and direct district activities. The Board of Supervisors, which is the board for all CSAs, includes one member elected solely by West County residents, and one member elected by West County and other areas in the County.
- Dissolution of WCCHD and formation of a new CSA requires an election

LAFCO PROCESS – REORGANIZATION WITH CREATION OF NEW CSA

A CSA may be initiated by resolution of the County Board of Supervisors,³¹ or by a petition signed by no less than 25% of registered voters living within the proposed district boundaries.³² Voter approval is required for the CSA formation. The board may appoint one or more advisory committees to give advice to the board of supervisors regarding a CSA's services and facilities.³³

Assuming the reorganization and formation of a new CSA is initiated by the County, a number of issues will need to be addressed by the County as part of its application to LAFCO:

- **Services** – Gov. Code section 25213 specifies the conditions under which the County is authorized to form a CSA. The proposed service must be a service that the County does not perform to the same extent on a countywide basis. The County provides healthcare through the Health Services Department on a countywide basis and emergency services through EM1 on a countywide basis. The County's application to LAFCO would need to clarify the nature of the "extended" services not currently performed by the County.
- **Funding** – Gov. Code §§25211.4 and 25211.5 prohibit LAFCO from approving a proposal that includes formation of a CSA unless the commission determines that the CSA will have sufficient revenues to carry out its purposes. LAFCO could condition the formation of the CSA on consolidation/reorganization with WCCHD and future revenue received thru WCCHD.
- **City Consent Required** – WCCHD contain five cities. Gov. Code §25211.4(c) prohibits LAFCO from approving a proposal that includes formation of a CSA that would include territory within a city unless, before the close of the commission's hearing, the city council has filed and not withdrawn a resolution that consents to the inclusion of that incorporated territory. Thus, LAFCO would need a resolution from each of the five cities consenting to the formation of the CSA.
- **Election Required** – As required by Gov. Code §25211.4(f), LAFCO must call an election on the formation of a proposed CSA.
- **Plan of Reorganization** – As part of as part of a dual application for CSA formation and consolidation of the new CSA with the WCCHD, the County would need to clarify the form of reorganization, i.e., whether it is a "consolidation of unlike districts" under Gov. Code §56826.5(b).
- **Continued Use of Parcel Tax** – A legal opinion would be required to establish the validity of the new agency continuing to use existing Measure D (2004) parcel tax proceeds after

³¹ Gov. Code Sec. 25211.3.

³² Gov. Code Sec. 25211.1.

³³ Gov. Code Sec. 25212.4.

the existing COPs have been repaid and the nature and extent of the future service has been established.

DISSOLUTION WITH APPOINTMENT OF SUCCESSOR FOR WINDING-UP AFFAIRS

Dissolution would eliminate the WCCHD. After the obligations of the WCCHD have been paid, the 2004 parcel tax would cease and reallocation of the District's share of the ad valorem property taxes would be subject to a property tax transfer agreement per the County's approval. The tax transfer agreement could potentially allocate the remaining ad valorem property tax to the County for healthcare purposes, at the discretion of the Board of Supervisors. LAFCO would appoint a successor agency to wind up the affairs of the WCCHD; see further discussion of successor agencies below.

SUCCESSOR AGENCY

Government Code (GC) §57451 addresses the determination of a successor for the purpose of winding up the affairs of a dissolved district. Subsection (c) indicates that the City of Richmond qualifies as the successor because the WCCHD boundaries overlap multiple cities and unincorporated area, and the City of Richmond contains the greater assessed value relative to other cities and the included unincorporated territory as shown in **Table 3**.

There are other possible options regarding designation of the successor agency [GC §§ 57451(d), 56886]. These options are complex and would require further research.

Potential successor agencies include:

1. **City of Richmond** – The City currently does not provide healthcare services. The City of Richmond could be designated as successor agency to wind up the affairs of the District pursuant to GC §57451(c).

Preliminary discussions with City staff indicate that the City has the capability to undertake actions to wind up the affairs of the WCCHD, assuming that all financial obligations and administrative costs are funded by resources of the WCCHD.

2. **CSA EM-1** – The CSA EM-1 could be designated as successor pursuant to GC §57451(d), which allows a district to be designated successor if all the remaining assets will be transferred to the district, e.g., CSA EM-1. CCHS, which manages EM-1, is under the direction of the County Board of Supervisors, and would have the ability and capacity to undertake actions to wind up the affairs of the WCCHD. See further discussion of CSA EM-1 in the section above, "Consolidation with County Service Area EM-1".

SUCCESSOR AGENCY RESPONSIBILITIES AND OBLIGATIONS

The successor agency will have a number of obligations, including the following:

- **Disposition of Property** – If current sales agreements close by the fourth quarter of 2016 as anticipated, the successor agency will have no further responsibilities for property disposition. If the sales don't close, it is possible that the successor would be responsible for continuing the marketing of the property, including limited maintenance costs prior to sale.
- **Debt and Long-Term Financial Obligations** – The obligation to repay the County is handled by the County Auditor's transfer of WCCHD property tax to the County. Repayment of the COPs is handled by the Trustee; the District has agreed to direct, and has directed, the County to transfer to the Trustee all parcel tax revenues collected by the County on behalf of the District so long as the COPs are outstanding.³⁴
- **Litigation and Claims** – The successor agency will be responsible for settling claims, for example, workers comp claims, which the WCCHD projects to total \$1.5 million over the next five years. There is no other litigation pending against the WCCHD.
- **Other** – The successor agency will oversee contracts entered into by the WCCHD, for example, to assure records management as required by law.
- **Pension Plan** – The successor will need to administer payments towards its obligations to fund the CNA Medical Pension Plan (estimated at \$250,000 per year, contingent on the outcome of pending negotiations), and its successor pension plan (estimated at \$900,000 per year).

These obligations and responsibilities will be funded by WCCHD revenues; the successor agency can retain funds to help pay for its administrative costs (GC §57463). There is a risk of annual financial shortfalls; however, current WCCHD costs will be reduced under this option. For example, anticipated election costs of \$450,000 every two years will no longer be required, thereby eliminating anticipated cumulative shortfalls.

ADVANTAGES AND DISADVANTAGES OF DISSOLUTION/WIND-UP OF AFFAIRS

Advantages

- Elimination of administrative expenses, including staff, legal, and election costs. Some staff costs may be necessary to wind up the affairs of the WCCHD. Any savings could help to repay existing obligations.
- Avoids duplication of services that can be provided by other public and private agencies, assuming that those other agencies have the resources to provide the same services at

³⁴ See the Official Statements for the Certificates of Participation, which designate U.S. Bank National Association, San Francisco, California, as trustee (the "Trustee").

the same level, and that the District's services duplicated those of another agency. As noted in this report, there exist many unmet needs in West County not being addressed by existing agencies, towards which the District could direct future available resources if it weren't dissolved.

- Existing parcel taxes would be eliminated after District debt is repaid, reducing taxpayers' annual tax burden.
- Returns tax dollars currently utilized by the WCCHD to one or more existing public entities serving the area, after payment of all WCCHD liabilities and obligations. In the event of a change of organization (e.g., dissolution) involving one or more special districts, the County, on behalf of the district or districts, negotiates the exchange of property tax revenues. It is possible that the County could assign the property tax currently going to WCCHD to Contra Costa County; and the County could agree to earmark these funds for healthcare services in the WCCHD service area. This would provide an opportunity to preserve some of the funding currently going to WCCHD to meet healthcare needs in West County.

Disadvantages

- Loss of WCCHD allocation of annual property taxes and parcel taxes to help address health needs in West County such as urgent care, primary care, and prevention programs.

LAFCO PROCESS – DISSOLUTION

The process will follow the basic steps identified in GC §57077 and described below. In addition, it will be necessary for LAFCO to identify a successor for the purpose of winding up the affairs of the WCCHD. It may also be necessary for LAFCO to specify a Gann limit applicable to the successor agency that will allow for an increased collection and use of property taxes for the purpose of winding up the affairs of the WCCHD.

- At a noticed public hearing, the Commission accepts the special study, considers adopting a zero SOI to signal proposed dissolution and for consistency with SOI (GC §56375.5), considers making findings in accordance with the conclusions and recommendations of the special study, and considers adopting a resolution initiating dissolution.
- LAFCO notifies State agencies per GC §56131.5 and allows a 60-day comment period.
- At a noticed public hearing, LAFCO considers approving the dissolution.
- Following 30-day reconsideration period (GC §56895), LAFCO staff holds a protest hearing in the affected territory (GC §57008). The protest hearing is a ministerial action. While the Commission is the conducting authority, it often designates the Executive Officer to conduct the protest hearing.

- Absent the requisite protest, and possible election, the Commission orders dissolution. As noted above, there is pending legislation that would allow dissolution of a healthcare district without an election under certain conditions.
- Following approval by LAFCO (and voters if required), LAFCO staff records dissolution paperwork and files with the State Board of Equalization making dissolution effective.

The steps described above may also apply to other options in this chapter that include dissolution of the current district.



APPENDIX A

HEALTHCARE FACILITIES WITHIN WCCHD BOUNDARIES

Table A-1: Healthcare Facilities within WCCHD Boundaries

Facility	Address, Maplink	Website	Ownership Type	Services
Kaiser Permanente Richmond Medical Center	901 Nevin Ave., Richmond, CA 94801	Website for Kaiser Permanente Richmond Medical Center	Nonprofit, public-benefit corporation	Emergency services (25 beds), urgent care services, pharmacy services. Not designated for high-risk heart attacks. It is a Primary Stroke Center.
West County Health Center	13601 San Pablo Ave., San Pablo, CA 94806	Website for West County Health Center	Contra Costa Health Services	Routine and preventive health care service; women's health; prenatal care; other services
North Richmond Center for Health	1501 Fred Jackson Way, Richmond, CA 94805	Website for North Richmond Center for Health	Contra Costa Health Services	Routine and preventive health care service; women's health; prenatal care; pediatrics; other services
LifeLong Urgent Care	2023 Vale Road, San Pablo, CA 94806	Website for LifeLong Urgent Care	Nonprofit	Illnesses and injuries that require immediate medical attention (usually within 24 hours), but are not life-threatening or serious enough to require emergency room care or hospitalization.
LifeLong Brookside San Pablo	2023 Vale Road, San Pablo, CA 94806	Website for LifeLong Brookside San Pablo	Nonprofit	Integrated medical, dental and social services including primary health care for adults; pre/post natal care; pediatrics; case management; multi-disciplined care coordination; health education; social services resources; patient advocacy
LifeLong Brookside Richmond	1030 Nevin Avenue, Richmond, CA 94804	Website for LifeLong Brookside Richmond	Nonprofit	Integrated medical, dental and social services including primary health care for adults; pre/post natal care; pediatrics; case management; multi-disciplined care coordination; health education; social services resources; patient advocacy
LifeLong Richmond	2600 Macdonald Ave., Ste B, Richmond, CA 94804	Website for LifeLong Richmond	Nonprofit	Primary health care for adults; prenatal care; patient advocacy; immunizations; patient assistance; health education

**Table A-1: Healthcare Facilities within WCCHD Boundaries (cont'd)**

Facility	Address, Maplink	Website	Ownership Type	Services
Brighter Beginnings Family Health	2727 Macdonald Ave., Richmond, CA 94804	Website for Brighter Beginnings Family Health		Primary health care for pediatric, teen, and adult patients
RotaCare Free Medical Clinic at Brighter Beginnings	2727 Macdonald Ave., Richmond, CA 94804	Website for RotaCare Free Medical Clinic at Brighter Beginnings		
BAART Community HealthCare	1313 Cutting Blvd., Richmond, CA 94804	Website for BAART Community HealthCare		Low cost primary care services to indigent populations
Concentra Urgent Care	2970 Hilltop Mall Rd., Ste. 307, Richmond, CA 94806	Website for Concentra Urgent Care		Occupational and urgent medical care, as well as physical therapy and wellness services
Planned Parenthood El Cerrito, Richmond (2)	Multiple locations and websites			Abortion services; birth control; HIV testing and services; LGBT services; men's health care; pregnancy testing and services; STD testing, treatment and vaccines; women's health care

8/7/16



APPENDIX B

TIMELINE OF KEY EVENTS



DOCTORS MEDICAL CENTER CHRONOLOGY

1948 Hospital District formed by West County voters

1954 Brookside Hospital opens

DMC HAS BEEN FINANCIALLY CHALLENGED SINCE THE 1990'S

1994 Hospital District converts to West Contra Costa Healthcare District (WCCHD)

1997 Brookside Hospital affiliates with for-profit Tenet Health Systems to operate the hospital and renames it Doctors Medical Center (DMC)

2004 **Tenet sustains financial losses** and is unable to profitably operate the hospital after making substantial investments, including attempts to improve the payor mix, **and terminates affiliation** and returns operation of the hospital back to the Healthcare District (with hospital losing money, no cash and without a management team)

Nov 2004 **Voters pass Measure D** by 84% margin to assess a parcel tax of \$52/year to raise approximately **\$5.6 million/year**.

- Proceeds of new tax used to secure **\$26 million in long-term financing/debt** to support hospital operations and make necessary investments in the hospital and its equipment.

2005 DMC sustains \$23 million in operating losses in 2005 and consumes much of the cash reserves created by the 2004 financing.

Feb 2006 DMC closes Inpatient Burn Unit to stem losses.

Sept-Nov 06 Emergency Department goes on ambulance diversion for 6 weeks.

Oct 2006 DMC sustains \$35 million in operating losses in 2006 and WCCHD files for Chapter 9 bankruptcy protection.

Oct 2006 DMC closes Obstetrics Department to stem losses and closes Pinole campus.

Oct 2006 At Supervisor John Gioia's urging, the **Contra Costa Board of Supervisors approves a Recovery Plan** for the hospital that includes the establishment of a Joint Management Agreement between WCCHD/DMC and the County, and establishes a process to transfer **\$10 million from Contra Costa County** to the State which was **matched by the Federal Government (additional \$10 million)** to provide enhanced Medi-Cal payments to DMC resulting in **\$20 million cash infusion** to keep DMC open. Funds used to support payroll/operating expenses.





- Dec 2006 WCCHD Board approves Wellspring Management Services (hospital turnaround consultants) contract to assess DMC's financial situation and develop a sustainable business plan.
- Feb 2007 First meeting of the new DMC Management Authority JPA Board occurs
- March 2007 JPA Board approves amendment to Wellspring Contract to provide assistance to implement "quick-fix" **initiatives relating to billing and collections, which improved cash flow by more than \$2.5 million.**
- Spring 2007 Replace DMC management with interim management team through Wellspring (CEO, CFO, Chief Nursing Officer/Chief Operating Officer, Controller, HR)
- During 2007 DMC negotiates **improved reimbursement contracts** with managed care payors (health insurance companies) for an **annual benefit of \$2.9 million.**
- July 2007 WCCHD and JPA Boards approve business plan presented by Wellspring. JPA Board approves amendment to Wellspring contract to begin the 90-day first phase of implementation of the initiatives in the new business plan.
- Aug 2007 Wellspring begins implementing following **initiatives to yield savings of \$9.7 mil.**
- Revenue Cycle – improve billing/collections by redesigning revenue cycle process and implementing new denial management process
 - Labor – right size staff with hospital volume and need, including improving staffing productivity, implementing control and productivity systems, and redesigning staffing approach
 - Non-Labor – renegotiate pricing arrangements with health insurance companies to bring in line with industry standards and current DMC cost structure and renegotiate vendor contracts to get better pricing on products and services.
- Aug 2007 County Health Officials, Supervisor John Gioia, DMC CEO, and local legislators work to get California Medical Assistance Commission (**CMAC**) to **award \$5 million Distressed Hospital Funding** to DMC.
- Nov 2007 JPA members Supervisor John Gioia and Pat Godley (CFO of Contra Costa Health Services) make presentation to CMAC in Sacramento regarding need for additional state funding to compensate DMC for unreimbursed indigent care costs and unreimbursed Medi-Cal costs.
- Dec 2007 **California Medical Assistance Commission (CMAC) votes to provide DMC with \$36 million** in funding (\$12 million per year for 3 years)
- Jan 2008 JPA Board approves DMC operating budget, which **reduced deficit from over \$30 million to \$18 million per year.**



March 2008 Hospital leadership, Supervisor John Gioia, WCCHD Director Eric Zell, and Congressman George Miller **work with Bankruptcy Court Creditors' Committee to reach a settlement of the \$18 million in creditor debt.**

WITHOUT OUTSIDE FUNDING, DMC DOES NOT EMERGE FROM BANKRUPTCY

April 2008 County Health officials Dr. Bill Walker and Pat Godley, Supervisor John Gioia, WCCHD Director Eric Zell, and Hospital Leadership work with Kaiser and John Muir Health Systems for multi-year funding commitment.

- **Kaiser announces \$12 million grant** (\$4 million/year for 3 years)
- **John Muir announces \$3 million grant** (\$1 million/year for 3 years)

April 2008 DMC files plan with U.S. Bankruptcy Court to emerge from bankruptcy with Creditors' Committee recommending approval of the plan by the Court

Aug 2008 U.S. Bankruptcy Court approves plan for DMC to emerge from bankruptcy and calling for payments to creditors over a 3-year time period of \$12 million.

January 2011 DMC CEO Joe Stewart resigns and interim management brought back.

Spring 2011 Change in state rules governing allocation of inter-governmental transfers by California Medical Assistance Commission (CMAC) results in **decreased funding from CMAC to DMC from \$12 million/annually to \$1.2 million.**

March 2011 DMC unable to meet payroll and **County Board of Supervisors approves \$10 million cash advance** to DMC for operations. Advance requires repayment from WCCHD's ad valorem tax.

July 2011 **Regional Planning Initiative is established to explore options**

- Participants – DMC, Contra Costa Health Services, Kaiser, John Muir Health
- Scope of study - Explored options for: (1) outside funding to close operating deficit on a permanent basis; (2) changes in structure and nature of services provided to find a more sustainable service delivery model; (3) potential lease/sale of the hospital; (4) development of a "legacy plan" in the event DMC is unable to remain open as a full-service hospital.
- Conclusions: Other health care models including freestanding emergency department, downsized 50 bed hospital, urgent care, and partnering with long-term care provider to lease excess capacity all continued to have substantial losses.
- Outcomes: Identified immediate initiatives to secure time to implement a longer term strategy which included: (1) Additional expense reductions; (2) new parcel tax; (3) additional debt financing; (4) multiple proposals to the State.



- Fall 2011 DMC management **negotiates reduction of \$1.2 million in past due amounts with vendors.**
- Oct 2011 **SB 644** (sponsored by Senator Loni Hancock) signed by Governor Brown. SB 644 provides certainty to a future lender and enables DMC to borrow \$20 million to continue operating while continuing to develop a sustainable model. SB 644 creates a statutory lien against the Healthcare District's 2004 parcel tax revenue so that the terms of a future loan to DMC cannot be modified by a bankruptcy court.
- Nov 2011 Supervisor John Gioia and WCCHD Director Eric Zell co-chair Measure J Parcel Tax campaign. **Measure J (\$47/year parcel tax) passes** with 74% support raising approximately **\$5.1 million/year**. Measure J contains "sunset clause" providing that the tax is no longer collected if the hospital and emergency room close.
- Nov 2011 Governing Board approves budget with additional **\$6 million in cost reductions** recommended by hospital management.
- Dec 2011 Hospital management finalizes **additional debt financing of \$40 million** to support operations.
- 2011 DMC management puts in place a line-of-credit with a healthcare finance lender.
- 2011 **Kaiser provides an additional one year funding grant of \$4 million** and DMC develops a line-of-credit to provide ongoing operational funding support.
- 2011 DMC officials **meet with state elected officials and state health officials seeking support to increase Medi-Cal reimbursement rate.** Efforts are unsuccessful.
- Jan 2012 **Hospital management launches national effort to find a strategic partner.**
- Spring 2012 DMC hires national healthcare consultant, Camden Group, which makes contact with over 2 dozen organizations (including UCSF, Stanford, Dignity Health, Sutter, Kaiser and many more) to pursue health care partnerships with the hospital. Only one entity (Avanti Hospitals) expresses serious interest. After due diligence and discussions, Avanti decides, in early 2013, not to move forward with DMC.
- Spring 2013 **Contra Costa County starts discussions with UCSF Medical Center** about possible affiliation between UCSF, Contra Costa Health Services and DMC. Discussions end in early 2014 with no affiliation agreement.
- 2012-2013 DMC works with Camden Group (retained in Spring 2012) to develop strategic plan for hospital sustainability and to assist in finding a partner with whom DMC could either merge or affiliate with in order to gain economies of scale and to develop a sustainable business model. Plan identified immediate savings measures but concluded that DMC was not sustainable as a freestanding hospital and needed a partner for long-term sustainability.
- April 2013 **Medicare payments cut by more than \$3 million/annually** as part of the Federal Budget sequestration.



- 2012-2013 **DMC works to find a skilled nursing/rehabilitation service provider to rent excess unused inpatient hospital space.** Effort unsuccessful.
- 2012-2013 **DMC continues to institute strategies to save money and increase revenue:**
- Renegotiates better reimbursement rates with insurance companies
 - Improves billing and collection practices
 - Reduces management staffing by 19%, saving nearly **\$600,000 annually**
 - Streamlined staffing, making DMC one of the most efficient hospitals in the Bay Area
 - Renegotiates physician contracts, saving **\$1 million annually**
 - Renegotiates vendor supply costs to save money
 - Makes significant changes in health benefits structure for unrepresented employees to save money
 - Eliminated the self-insured employee benefit program, which reduced costs and eliminated financial risk.
- July 2013 **Contra Costa Board of Supervisors approves \$9 million cash advance** to DMC to support operations. Advance requires repayment from District's ad valorem tax.
- Nov 2013 **Hospital Governing Board declares fiscal emergency** because of projections it will run out of cash in May 2014. Factors leading to emergency: Since 2010 -- DMC lost \$17 million/year in outside state and hospital support, DMC experienced 14% decline in operating revenues and 22% decline in inpatient volume through loss of commercially insured patients to privately owned medical facilities, and DMC used up its \$40 million in debt financing obtained in 2011. DMC's average reimbursement per patient per day is 57% lower than average for East Bay hospitals.
- Nov 2013 DMC submits written funding request to Kaiser
- 2014 **Affordable Care Act results in \$2.8 million per year net decrease in revenues** for DMC (lower Medicare reimbursement rate under ACA more than offsets slight increase in revenue due to lower number of uninsured patients)
- 2014 **DMC makes funding appeals to Hospital Council** of Northern and Central California including Kaiser, Sutter and John Muir Health System. Efforts unsuccessful.
- 2014 **DMC makes funding appeals to corporations** (including Chevron, Republic Services, Mechanics Bank), **foundations** (including California Endowment, San Francisco Foundation, and Gates Foundation Global Health Initiative), and **local governments** to support hospital. Efforts unsuccessful.
- 2014 Throughout 2014, DMC officials continued to reach out to potential investors and hospital operating firms in search of a potential partner. None were willing to pursue discussions beyond an introductory meeting.



- 2014 **DMC management and CEO work with Touro University** to establish a partnership/affiliation that would bring in revenue to DMC. Effort unsuccessful.
- Spring 2014 Supervisor John Gioia and WCHD Director Eric Zell co-chair June **Measure C Parcel Tax campaign to fully fund DMC's \$20 million operating deficit**. Measure receives 52% support and **does not achieve 2/3 vote required to pass**.
- Spring 2014 **DMC officials work with Congressman George Miller's office to develop potential partnership with the Veterans Administration**. Efforts unsuccessful after VA indicated that their need for inpatient beds was not significant enough to require additional beds for their system. Also, this VA region does not qualify for VA reimbursement to be paid to non-VA hospital providers.
- Spring 2014 After attempting to receive a charitable contribution from the Lytton Tribe, DMC is successful negotiating a **lease agreement with the Lytton Tribe to receive upfront payment of \$4.6 million** for the long term use of DMC parking lot. Approved by Healthcare District Board in May 2014.
- June 2014 Contra Costa Board of Supervisors approves Supervisor Gioia's proposal to conduct a public opinion poll to gauge voter support for a one-quarter or one-half cent countywide sales tax for public safety and health services (including funding for DMC). **Poll results show it would be very difficult to pass a countywide sales tax**. Proposal does not move forward.
- June 2014 **Contra Costa Board of Supervisors approves \$6 million cash advance** to DMC to support operations and provide more time for DMC to explore options for sustainability. Advance requires repayment from District's ad valorem tax.
- June 2014 **Regional Planning Initiative** (stakeholder group led by County Health Director Dr. Walker) established to explore previously studied options (in 2011) for future health-care service options: smaller full-service hospital, freestanding ER, and urgent care center. Participants include Hospital Council of Northern and Central California (including Kaiser, Sutter, John Muir Health Systems), DMC, Contra Costa Health Services, Alameda/Contra Costa Medical Association, Life Long Medical Care, with participation of California Department of Public Health official.
- Summer '14 **DMC works with state legislators and California Department of Public Health (DPH) officials seeking authorization for operating a freestanding emergency room** (satellite emergency room to Contra Costa County Hospital). DPH concludes that existing state law does not authorize freestanding emergency rooms in California and that new statutory authority is required to do so.
- Aug 2014 **DMC Emergency Room closes to 911 ambulances**. Stays open to walk in patients.
- Sept 2014 **Regional Planning Initiative Stakeholder Group issues interim report which concludes that the following health care models are unsustainable** -- (1) a smaller full service hospital under either the County license or DMC license; (2) 24-hour satellite emergency department (while incurring a smaller operating loss than existing hospital) was not allowed under state law. Report also found that seismic costs for a new hospital to meet state standards would cost nearly \$200 million.



- Fall 2014 **DMC officials work with state legislators to achieve “public hospital” designation in order to potentially qualify DMC to receive higher Medi-Cal reimbursement rates.** The Center for Medicaid Services of the U.S. Department of Health and Human Services would still need to approve any reimbursement rate changes. Assemblymember Nancy Skinner and Senator Loni Hancock carry AB 39 to designate DMC a “public hospital” under state law and provide \$3 million in one time state funding to DMC. **Only one time allocation of \$3 million to DMC passes in SB 883** (the budget bill).
- 2014 **DMC continues to implement strategies to reduce expenses:**
- Closes San Pablo Towne Center facility
 - Reduces staff
 - Terminates Sodexo Contract for management of housekeeping, dietary and maintenance services.
 - Eliminates self-insured employee health plan
 - Successfully negotiates with Local One union for benefit changes
- Oct 2014 **Richmond City Council conditionally approves providing \$5 million** in funding to DMC for 3 years, totaling **\$15 million**, from the Chevron Community Benefit fund contingent on other funding/savings to the hospital of approximately \$13 million/year. Matching funds from other sources have not materialized and no money is available from Chevron until all legal challenges to their modernization project are resolved.
- Nov 2014 **DMC Governing Board supports 5 X 8 Shared Commitment Plan** developed by Healthcare District Boardmembers Eric Zell and Irma Anderson to retain full service hospital, with the following eight funding goals to keep hospital open for five years:
- New parcel tax (\$5 to \$8 million/year)
 - County debt repayment forgiveness (\$3 million/year)
 - Debt support from other local hospitals (Kaiser, Sutter, John Muir) (\$3 to \$4.3 million/year)
 - Continuing operating efficiencies (\$1 to 2 mil/year)
 - Employee savings (\$4.5 to \$7 mil/year)
 - City of Richmond Chevron Community Benefit fund (\$15 mil over 3 years)
 - Training program/residency partnership (\$500,000)
 - Reinvigorated DMC Foundation (\$500,000 to \$1.5 million)
- Dec 2014 **DMC loses its accounts receivable financing** with Gemino Healthcare Finance due to concern for future risk of repayment.
- Dec 2014 **Contra Costa Board of Supervisors approves** proposal by Supervisor Gioia to: (1) **permanently waive DMC’s repayment to the County of \$3 million/year** for 3 years (**\$9 million total**) conditioned upon DMC receiving \$15 million/year (for 3 years) in other funding pursuant to the 5 X 8 Plan for a full-service





hospital; and (2) temporarily suspend DMC's December 2014 and April 2015 repayments to the County totaling **\$3 million**.

- Dec 2014 **Regional Planning Initiative Stakeholder Group issues final report** confirming conclusions of the September 2014 Interim Report with additional conclusions on urgent care. Report noted that about 11% of DMC emergency room patients require hospital admission. The report concluded that an urgent care facility would incur a much smaller operating loss than the existing hospital or a freestanding emergency department. Losses would be further reduced if the center qualified as a Federally Qualified Health Center (FQHC). The report concluded that while none of the alternatives evaluated by the Stakeholder Group break even financially, "an urgent center with FQHC status offers the best long-term opportunity to become self-supporting." Report also concluded that "connecting patients to more appropriate primary care services and providing assistance to manage their health would reduce the demand on regional emergency rooms."
- Jan 2015 **DMC Governing Board hears 4 proposals** (3 private proposals and one from City of San Pablo) to provide funding to DMC. 3 private proposers fail to deposit good faith money demonstrating financial capacity.
- Feb 2015 DMC commissions public opinion poll to measure West County voter support for a parcel tax to partially fund DMC's operating loss. **Results show that support at \$50, \$100 or \$150 per parcel remain well below the required 2/3 vote needed to pass.**
- Feb 2015 DMC issues WARN letter announcing that it "will be closing and/or reducing certain of its services" on or after April 14, 2015.
- March 2015 **Healthcare District Board negotiates and approves real estate transaction to sell the District's Vale Rd. medical office buildings and condominium**, and part of its hospital parking lot (the part subject to the long term lease to the Lytton Tribe) to the City of San Pablo for \$7.5 million in cash and \$4.4 million in debt reduction for a total value of **\$11.9 million**. Infusion of cash avoids immediate closure by end of February 2015.
- March 2015 Healthcare District Board votes to close DMC on April 21, 2015 due to lack of future sources of funding to sustain hospital operations and to use \$7.5 million in proceeds from sale of property to San Pablo to pay employee, physician and vendor liabilities.





APPENDIX C

ANNOTATED REFERENCES

REFERENCES

WEST CONTRA COSTA HEALTHCARE DISTRICT SPECIAL STUDY

HEALTH CARE NEEDS AND CLOSURE IMPACTS

2013 Community Health Needs Assessment, Kaiser Foundation Hospital – Richmond

The Patient Protection and Affordable Care Act (ACA), enacted on March 23, 2010, added new requirements, which nonprofit hospital organizations must satisfy to maintain their tax exempt status under section 501(c)3 of the Internal Revenue Code. One such requirement added by ACA, Section 501(r) of the Code, requires nonprofit hospitals to conduct a community health needs assessment (CHNA) at least once every three years. The CHNA includes data on population characteristics and prioritized needs, and prioritized community health needs.

File: [Kaiser]Richmond-CHNA-2013.pdf

Study of West County Emergency Medical Services, Emergency Department, and Critical Care Access, Final Report, The Abaris Group, July 2011

Analysis of the potential impact of a change of service or closure of the hospital on the provision of emergency care in the West County area.

File: [Abaris2011]ACF17D.pdf

***Potential Impact of DMC closure, prepared by Abaris Group, 2004**

Document cited by Initial Agreement for Property Tax Transfer.

Impact Evaluation Report: Doctors Medical Center San Pablo Potential Closure of Emergency Services, Prepared by the Contra Costa Emergency Medical Services Agency, June 13, 2014

The purpose of this report is to assess the impact of the Emergency Department closure upon the community, including the impact on access to emergency care and the impact on emergency services provided by other entities such as ambulance, police, fire, and other area hospitals.

file: Impact-Evaluation-Report.pdf

Final Report: Doctors Medical Center Regional Planning Group, December 2014

Includes an analysis of urgent care, which would provide the most financially sustainable option for meeting the health-care needs of the 89 percent of patients who use the DMC emergency department but do not require hospital admission.

File: final_dmc_regional_planning_group_report_12-2014_for_web.pdf

Freestanding ED Feasibility Assessment, Prepared for Contra Costa Health Services, December 2012, by The Abaris Group Martinez, CA

Assesses the feasibility of establishing a freestanding emergency department (FED) in the western area of the county due to the possible closure of Doctors Medical Center, San Pablo. The report concluded that FEDs remain a viable and growing product in the US for providing emergent and urgent services that are distant from a hospital based ED. There are challenges to establishing an FED in California from a statutory and regulatory standpoint, but the possibility exists.

File: [FreeStand ED]FED-Feasibility-Report.pdf

PROPERTY TAX AGREEMENTS

The West Contra Costa Healthcare District Agreement for Property Tax Transfer to Contra Costa County, October 31, 2006

Also referred to as the “Initial Agreement” by subsequent District/County agreements, provides for the transfer of \$10 million to the State to leverage an additional \$10 million in Federal funds to be used by the DMC for non-bankruptcy related operations. The WCCHD would repay the \$10 million to the County by transferring the entirety of WCCHD property tax revenues until \$11.5 million had been transferred. A County staff report accompanies the Agreement, describing the need for the funds and importance of DMC, as well as potential impacts of its closure. A court document approves the agreement and acknowledges that the funds are to be used for operating expenses “post-petition”.

File: WCCHCD Tax Sharing Agrmt with CCC.pdf

Amended and Restated Second Agreement for Property Tax Transfer Transfer to Contra Costa County, July 16, 2013

Amended and Restated 2nd Agreement transfers add'l \$9 mill. to be repaid \$11.6 mill. tax transfer (\$6,003,776.82/\$11.5 mill. transferred per 2nd Agree. to-date; total owed is \$17,096,223.18).

File: WCCHCD 7-16-13 BO 2nd Agt.pdf

Third Agreement for Property Tax Transfer from West Contra Costa Healthcare District to Contra Costa County, July 1, 2014

Provides for the transfer up to an additional \$6 million from the County to the WCCHD to be repaid from 100% of WCCHD property tax revenues in an amount up to \$8.2 million. At the time of the Third Agreement, \$17,096,223 remained to be transferred pursuant to the Amended and Restated Second Agreement.

File: WCCHSD Third Agreement.pdf

Memorandum from Dr. Walker to BOS, June 17, 2014 re: Third Agreement

Provides background on sequence of events since Initial Agreement in 2006.

File: WCCHCD 6-17-2014 BO.pdf

Memorandum from Dr. Walker to BOS, Hearing on Transfer of Property Taxes from WCCHD and Approval of Appropriation Adjustment, July 16, 2013.

Request that BOS acknowledge property tax transfer pursuant to the Second Agreement for Property Tax Transfer, and transfer \$9 million to WCCHD in exchange for \$11.6 million of property tax. Anticipated improved likelihood of finding an operating partner for the hospital as a result of ACA delivery system reforms but recognized 2013 budget loss of \$11 million. Amended and Restated Second Agreement was attached.

File: WCCHCD 7-16-13 BO 2nd Agt.pdf

Memorandum from Sup. John Gioia and Federal D. Glover to BOS regarding WCCHD Tax Allocation Waiver, December 2, 2014

Acknowledges total remaining tax to be transferred under Second Agreement is \$17,096,233.18 and \$8,200,000 under the Third Agreement, at a rate of approximately \$3 mill. per fiscal year. Proposes a resolution No. 2014/450 providing for a one-time suspension of Second Agreement allowing for a transfer in fy 2014/2015 of up to \$3 million. Also proposes a Reso. No. 2014/451 to conditionally approve a permanent waiver of up to \$9 million due under the Second Agreement, in FY 2015/16, and subsequent two fiscal years. The permanent waiver was conditioned on the District securing at least \$15 million in alternate funding for those three years no later than 10/30/2015. Note: condition was not met.

File: WCCHCD 12-2-2014 BO.pdf

Memorandum from Sup. John Gioia to BOS regarding Resolution No. 2016/318 authorizing amendments to property tax transfers from WCCHD to Contra Costa County, April 12, 2016

Revises current property tax transfer agreements to shift \$1 million of property tax annually back to the WCCHD instead of to the County until repayment is complete. The revision would also increase the total amount to be repaid to the County by \$645,000. The revision would increase the term of repayment by about 2 to 3 years.

File: [2016-04-12_TaxModification]agMemo_25257.pdf

LITIGATION

Declaration of William Walker, M.D. in Opposition to Motion for Preliminary Injunction, filed 8/19/14

Includes statements regarding the County's role in support of health services in Contra Costa in a legal action by the DMC Closure Aversion Committee against the County. Plaintiffs seek a mandatory injunction against the County. Plaintiffs request that the County be prohibited from closing the hospital's STEMI Cardiac Unit, diverting ambulances from the Emergency Department, and capping inpatient beds to a maximum of 50 beds.

File: WCCHCD W Walker Dec.pdf

Declaration of Patrick Godley in Opposition to Motion for Preliminary Injunction, filed 8/19/14

Includes statements regarding the formation of a Joint Powers Agreement between the County and the WCCHD (attached County Board order dated Feb. 6, 2007 forming DMC Authority). The JPA was a separate entity from the WCCHD. The DMC Authority would provide guidance to the DMC in supporting a special tax and helping the DMC emerge from bankruptcy. The Declaration also describes events including the County loans, and the replacement of the Authority by a District Governing Board. It also describes the 2013 County loan that was used to WCCHD debt service. It also describes subsequent loans including a 2014 loan of \$6 million while options were explored such as replacing the acute care hospital with a free standing emergency room. Total transferred by the County was \$35 million. The WCCHD annual deficit averaged \$18 million since 2006. The WCCHD also received grants from Kaiser Permanente (\$12 million) and John Muir Medical Center (\$3 million), and \$36 million in a Medi-Cal contract increase. Eight more years of reimbursement to the County were anticipated.

File: WCCHCD Godley Dec.pdf

BANKRUPTCY PROCEEDINGS

Staff Report on West Contra Costa Healthcare District Asset Disposition Plan, [date? 2015-]

Described a plan for marketing the DMC in two ways: as operating hospital, and as a real estate asset. The plan anticipated a transaction by the end of the year. It notes that there was a Right of First Refusal held by "San Pablo". It also noted that sale as an operating hospital would also require notes regarding the closure of DMC and sale of the back parking lot and the sale of the "MOBs".

File: WCCHCD Asset Disposition Plan.pdf

***Disclosure Statement Plan for the adjustment of debt, June 3, 2008**

Filed by the WCCHD in bankruptcy court and approved August 14, 2008 and the WCCHD emerged from bankruptcy. Required payments to creditors of \$12 million over a three-year time frame. (referenced by memo from Dr. Walker to County BOS, July 16, 2013).

County Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction, filed 8/19/14

County response to motion in a legal action by the DMC Closure Aversion Committee against the County.

***Declaration of Pat Frost in Opposition to Motion for Preliminary Injunction, [date?]**

Referenced by County Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction, includes information related to diversion of ambulances from DMC.

WCCHD BOARD PACKETS

WCCHD Doctors Medical Center Board of Directors Packet, Meeting Thursday, March 17, 2016

Includes financial update and 10-year annual cash forecast projecting annual operating shortfalls 2020-2024 totaling about \$11 million. Proposes to restructure County agreement to provide for an advance plus reduction of County tax retention to 2/3's, extending the years required to repay the loan about 4 to 5 years.

File: 3.17.2016 WCCHCD Agenda Packet1.pdf

WCCHD Doctors Medical Center Board of Directors Packet, Meeting Monday, January 11, 2016

Includes letter (1/4/16) from attorney Edward Shaffer regarding status of property disposition.

File: WCCHCD BOD Packet-01-11-16-1.pdf

FINANCIAL

Audited Financial Statements, WCCHD, December 31, 2013, TCA Partners, LLP

Reports an operating loss by the WCCHD for the year ended Dec. 31, 2013, of \$28.3 million.

File: 2013-Audit.pdf

LAFCO

Public Healthcare Services Municipal Service Review, prepared by Dudek and The Abaris Group for Contra Costa LAFCO, approved August 8, 2007

Provides background information and determinations related to the WCCHD.

File: HealthCare MSR Approved 8-8-07.pdf

Special Study: Mt. Diablo Health Care District Governance Options, Accepted by LAFCO 1/11/12

Includes background information on CSA EM-1 and issues and options for consolidation with a healthcare district.

File: Final Special Study Report 01-12-11.pdf

PRESS

San Pablo: County issues information on care alternatives in wake of pending hospital closure, ContraCostaTimes.com, Updated: 04/16/2015

Provides information about treatment and care alternatives to DMC in West County.

http://www.contracostatimes.com/breaking-news/ci_27922820/san-pablo-county-issues-information-care-alternatives-wake

file: [2015-04-16_Closing_Care Alts]CCTimes.pdf

San Pablo: Doctors Medical Center closes doors to patients, 4/21/2015

Provides historical background as it describes the events on the last day, and experiences of patients. Notes prior ER levels of activity, and options for doctors and patients.

http://www.mercurynews.com/my-town/ci_27957896/san-pablo-doctors-medical-center-closes-doors-patients

file: [Press_2015-04-21_Closure]BayAreaNewsGroup.pdf

Patients struggle, doctors worry in aftermath of hospital shutdown, Richmond Confidential, Trinity Joseph, 12/13/15

Quotes patients and doctors on their experiences after closure.

<http://richmondconfidential.org/2015/12/13/the-aftermath-of-doctors-medical-centers-closure/>

file: [Press_2015-12-13]Patients struggle, doctors worry in aftermath of hospital shutdown _ Richmond Confidential.pdf

Shuttered East Bay hospital could become boutique hotel, 3/15/16, San Francisco Business Times, Chris Rauber

Describes pending deal to sell the 62-year old structure to Davis-based Royal Guest Hotels for \$13.5 million.

<http://www.bizjournals.com/sanfrancisco/blog/realestate/2016/03/doctors-medical-center-san-pablo-royal-guest-hotel.html>

file: [Press_2016-03-15]Boutique hotel company Royal Guest Hotels seeks to buy San Pablo's shuttered Doctors Medical Center safety net hospital - San Francisco Business Times.pdf

San Pablo: West Contra Costa tries to fill health care void after hospital closure, 4/8/16, San Jose Mercury News, Tom Lochner

Describes adjustments made to service provision and ambulance responses to mitigate impacts of DMC closure.

http://www.mercurynews.com/ci_29743186/san-pablo-west-contra-costa-tries-fill-health

File: [Press_2016-04-08]DMC Closure Follow-up East Bay Times 4-9-16.pdf

Doctors Medical Center San Pablo Impacts of Potential Downgrade or Closure of Hospital Emergency Services at Doctors Medical Center, Press Release, 4/10/15, Contra Costa Health Services

Provides background and links to related information regarding the impending closure of DMC.

File: Doctors Medical Center San Pablo __ Press Releases __ Contra Costa Health Services.pdf

Doctors Medical Center's legacy of service remembered as closure nears, 4/18/15, Contra Costa Times

Provides background and history on DMC.

File: Doctors Medical Center's legacy of service remembered as closure nears - ContraCostaTimes.pdf

West Contra Costa hospital faces likely closure following failure of tax measure, 5/7/14, Contra Costa Times, Robert Rogers

Background on tax measure and speculation on the causes of the closure.

<http://www.hospitalcouncil.org/article/west-contra-costa-hospital-faces-likely-closure-following-failure-tax-measure>

file: West Contra Costa hospital faces likely closure following failure of tax measure - ContraCostaTimes.pdf

BALLOT MEASURES

West Contra Costa Healthcare District Parcel Tax Question, Measure C (May 2014)

A West Contra Costa Healthcare District Parcel Tax, Measure C ballot question was on the May 6, 2014 election ballot for voters in the West Contra Costa Healthcare District in

Contra Costa County, California, where it was **defeated**. The tax would have provided an estimated \$20 million in revenue per year for the hospital,
[https://ballotpedia.org/West_Contra_Costa_Healthcare_District_Parcel_Tax_Question,_Measure_C_\(May_2014\)](https://ballotpedia.org/West_Contra_Costa_Healthcare_District_Parcel_Tax_Question,_Measure_C_(May_2014))

file: WCCHD Parcel Tax Question, Measure C (May 2014) - Ballotpedia.pdf

East Bay hospital may close after voters reject tax measure, 5/7/14, Bay City News
Story about implications to DMC after tax measure lost.

<http://a.abclocal.go.com/story?section=news/health&id=9530929>

file: http://a.abclocal.go.com/story?section=news/health&id=9530929



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 15, 2016

Subject: APPOINTMENTS TO THE WEST CONTRA COSTA HEALTHCARE DISTRICT BOARD OF DIRECTORS

RECOMMENDATION(S):

1. ACKNOWLEDGE receipt of the certification of facts and request to fill two seats on the West Contra Costa Healthcare District Board of Directors, attached, provided by the County Registrar of Voters for the November 8, 2016 election.
2. APPOINT Deborah Campbell to the West Contra Costa Healthcare District Board of Directors to a four-year term commencing December 2, 2016.
3. CONSIDER appointing Dr. Bill Van Dyk to fill the remaining seat on the West Contra Costa Healthcare District Board, as recommended by District Board Chair Eric Zell.

FISCAL IMPACT:

No fiscal impact to Contra Costa County.

BACKGROUND:

Two seats on the West Contra Costa Healthcare District Board of Directors were scheduled to be filled via the November 8, 2016 election. Only one person, Deborah Campbell, filed a declaration of candidacy for this elective office. Under Elections Code section 10515 and based on the facts that have been certified by the County Elections

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Julie DiMaggio Enea
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Asst. County Registrar

BACKGROUND: (CONT'D)

Department, the Board of Supervisors is required to appoint Deborah Campbell to one of the open seats. The Board of Supervisors may appoint any other qualified registered voter in the district to the other seat. Both appointments are to be made "prior to the Monday before the first Friday in December in which the election is held", which is this year would be on or before November 23, 2016.

By letter dated September 8, 2016, the West Contra Costa Healthcare District was advised that only one candidate had filed for candidacy for the two seats, and the District's governing body was asked to make a recommendation for filling the second seat by October 7, 2016. To our knowledge, the District governing body declined to do so. Consequently, the Board, today, should appoint Ms. Campbell to fill one of the seats and should consider appointing another qualified registered voter in the District to the other seat, as required by statute.

With regard to the other seat, attached is a letter from Eric Zell, chair of the West Contra Costa Healthcare District board of directors, transmitting his personal recommendation that Dr. Bill Van Dyk be appointed to the seat. Mr. Van Dyk is a registered voter in the West Contra Costa Healthcare District.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not make these appointments, it would not be following the requirements of the Elections Code.

ATTACHMENTS

Elections Certification of Facts of WCCHD Election

Letter from Eric Zell Recommending Dr. Bill Van Dyk to the WCCHD Board of Directors

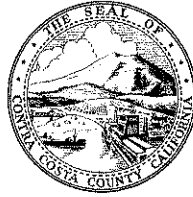
Administration
925.335.7899
925.335.7893 fax

Elections Division
925.335.7800
925.335.7836 fax

Contra Costa County
Clerk-Recorder-Elections Department
555 Escobar Street
Martinez, CA 94553

Joseph E. Canciamilla
County Clerk-Recorder
and Registrar of Voters

Scott O. Konopasek
Assistant County Registrar



November 8, 2016

David Twa, County Administrator
Clerk of the Board of Supervisors
Contra Costa County
651 Pine Street, Room 107
Martinez, CA 94553

Re: November 8, 2016 General Election - Certificate of Facts and Request to Appoint Two Directors to the Governing Body of the West Contra Costa Healthcare District

Dear Mr. Twa,

Two seats on the governing body of the West Contra Costa Healthcare District were scheduled to be filled at the November 8, 2016 election.

Deborah Campbell is the only person who submitted a declaration of candidacy for one of the seats. No one filed a declaration of candidacy for the second seat.

Pursuant to Election Code sections 10500 and 10515, if only one person files a declaration of candidacy for an elected seat on district board by the statutory deadline, the Board of Supervisors, as the supervising authority, is required to appoint that person to the office. Section 10515 also provides that if no one has filed a declaration of candidacy for an elected seat by the statutory deadline, the Board of Supervisors shall appoint any person who would have been qualified to take that office on the election date.

In accordance with Elections Code section 10515, this Office certifies the foregoing facts and requests that the Board of Supervisors appoint Deborah Campbell and one other qualified person to the two vacant seats at its November 15, 2016, meeting.

Respectfully,

JOSEPH E. CANCIAMILLA, County Clerk-Recorder and Registrar of Voters

A handwritten signature in cursive script that reads "Rosa Mena".

Rosa Mena
Election Processing Supervisor



November 7, 2016

David Twa, County Administrator
651 Pine Street, 11th Floor
Martinez, CA 94553

Dear Mr. Twa:

I am writing as the chair of the West Contra Costa Healthcare District Board of Directors and as a nine-year member of the Board. As I did not run for re-election this November, I will be termed out of office on December 2nd, 2016.

As I believe you know, I have played a key role in the affairs of the healthcare district during my tenure on the Board and am very interested in a smooth transition in Board governance. In that regard, it is my understanding that the Board of Supervisors will have the opportunity before my term ends to appoint a replacement for my seat, with the opportunity to serve a full four-year term. With that in mind, I am writing to highly recommend for appointment, Dr. Bill Van Dyk.

Dr. Van Dyk is a very active member of the West County community, serving on many boards and commissions. Specifically, he has a history of involvements supporting the health care district, including serving on the Brookside Hospital Foundation (which later became the Doctors Medical Center Foundation) as well as sitting on the advisory board that served during the period that Tenet operated the hospital. In addition, I have served over 13 years with Dr. Van Dyk on the Contra Costa College Foundation, where he has served with distinction and great leadership.

Dr. Van Dyk is uniquely qualified to step into the role required to complete the affairs of the District, now that the hospital has been closed for over a year. Specifically, the completion of the sale of the remaining district assets and participating in the ultimate disposition of the health care district through LAFCO is of extreme importance to assure the cost effective and timely completion of District affairs.

Dr. Van Dyk lives in Richmond and operates a long-time dental practice in San Pablo, directly across the street from the now closed hospital. Bill is a fully capable replacement for my seat on the Board, and has expressed a strong interest in assisting in winding down the affairs of the District in a manner that will serve the best interests of West County residents.

Thank you very much for your consideration of my comments and please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Eric Zell". The signature is written in a cursive style with a large, stylized "Z" and "L".

ERIC ZELL, Chair
West Contra Costa Healthcare District



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 15, 2016

Subject: Contra Costa County Sustainability Commission

RECOMMENDATION(S):

CREATE a Sustainability Commission to advise the Board on issues related to the County’s Climate Action Plan and opportunities to realize equity and fairness across the diverse communities of Contra Costa County in sustainability programs that support the Climate Action Plan, and provide suggestions to staff and the Board on how to better engage Contra Costa County residents and businesses on sustainability issues and implementation of the Climate Action Plan, as recommended by the Ad Hoc Sustainability Committee.

FISCAL IMPACT:

The fiscal impact of establishing a Sustainability Commission will consist of in-kind time and resources from the County to staff the Sustainability Commission. These services will be provided by the Sustainability Coordinator, who is based in the Department of Conservation and Development (DCD). Costs for the Sustainability Coordinator are covered by General Fund revenues approved for this purpose in the County's FY 2016-17 Budget.

BACKGROUND:

In December 2015, the Board of Supervisors adopted the County’s Climate Action Plan (CAP). The CAP establishes goals for reducing greenhouse gas emissions in Contra Costa County by 2020 and 2035. These emission reduction goals are in six sectors: energy efficiency, renewable energy, land use and transportation, waste, water, and government operations. The goals encompass the unincorporated areas of the County and County government operations.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Jody London,
925-674-7871

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

>

Contra Costa County residents, community groups, and businesses have deep interest, expertise, and experience in sustainability issues. Some gravitate more to specific aspects of sustainability and the CAP, and/or work on these issues in a region of the County. As the County deepens its work on sustainability, it can take advantage of the human resources within the County to advise the Board on successful implementation of the CAP, including suggestions on how that work can be performed more efficiently and effectively and engage more of the County's residents.

The Board's Ad Hoc Sustainability Committee approved this recommendation on October 24, 2016. Supervisor Glover was not in attendance.

Below are details on the Sustainability Commission's recommended function, composition, and other operating protocols.

Function: The function of the Sustainability Commission will be to:

- Provide advice to staff and the Board on successful implementation of the Climate Action Plan, including suggestions on how that work can be performed more efficiently and effectively.
- Advise the Board on opportunities to realize equity and fairness across the diverse communities of Contra Costa County in sustainability programs that support the Climate Action Plan.
- Provide suggestions to staff and the Board on how to better engage Contra Costa County residents and businesses on sustainability issues and implementation of the Climate Action Plan.

Sunset Date: None.

Reports To: Board of Supervisors.

Membership: Ten members, selected as follows:

- Five members- one member from each Supervisorial district (must be a resident of that district), nominated by the Supervisor for that district, and approved by the Board of Supervisors;
- Two members representing community groups whose mission includes sustainability and/or environmental issues;
- Two members representing commercial groups or organizations whose business focuses on sustainability and/or environmental issues; and
- One member representing environmental justice issues and who lives in a disadvantaged community.

Committee meetings operate under the County's Better Government Ordinance and are open to the public.

Office Term: Two years, with initial terms being staggered in order to maintain continuity of committee deliberations.

Term Limits: None.

Meeting Time: To be determined.

Compensation: None.

Process for Selecting Members: The five Members from each Supervisorial district will be nominated directly by each Supervisor and approved by the Board of Supervisors. The five Members representing community groups, commercial groups or organizations, and environmental justice issues will apply through the Clerk of the Board's Office and then be interviewed by the Ad Hoc Sustainability Committee or other Committee designated by the Board. The Ad Hoc Sustainability Committee will forward to the Board for approval the recommended candidates for those five seats.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board does not create a Sustainability Commission, the Board will not benefit from such community engagement in the County's sustainability policies.

CHILDREN'S IMPACT STATEMENT:

While this is not a direct service program for children and youth up to the age of 18, the goals of the Climate Action Plan have a direct impact on outcome 5 in the Children Report Card: Communities that are Safe and Provide a High Quality of Life for Children and Families. The Sustainability Commission will provide advice to the Board that can improve environmental conditions for children and their parents and caregivers in Contra Costa County.



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 15, 2016

Subject: Resolution No. 2016/643 - Physicians' and Dentists' Organization of Contra Costa Side Letter Extending Duration of Agreement

RECOMMENDATION(S):

ADOPT Resolution No. 2016/643 approving the Side Letter between Contra Costa County and the Physicians' and Dentists' Organization of Contra Costa (PDOCC) modifying the Preamble and Section 35.4 Duration of Agreement of the Memorandum of Understanding to extend the contract from October 31, 2016 through February 28, 2017.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

This Side Letter extends the current memorandum of understanding from October 31, 2016 to February 28, 2017, to allow both parties to work together to negotiate an agreement.

CONSEQUENCE OF NEGATIVE ACTION:

Members will continue working under an expired contract.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

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

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

By: , Deputy

cc: Robert Campbell, Auditor-Controller, Dianne Dinsmore, Human Resources Director, Jeffrey Bailey, Labor Relations Manager

ATTACHMENTS

Resolution No. 2016/643

PDOCC Side Letter dated
11/3/16

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution No. 2016/643

In the Matter of: The Side Letter Agreement between the County of Contra Costa and the Physicians' and Dentists' Organization of Contra Costa, extending the Duration of Agreement

The Contra Costa County Board of Supervisors acting solely in its capacity as the governing board of the County of Contra Costa **RESOLVES THAT:**

Effective October 31, 2016, the attached Side Letter of Agreement dated November 3, 2016, between the County of Contra Costa and the Physicians' and Dentists' Organization of Contra Costa, be **ADOPTED**.

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 15, 2016

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

By: , Deputy

cc: Robert Campbell, Auditor-Controller, Dianne Dinsmore, Human Resources Director, Jeffrey Bailey, Labor Relations Manager

SIDE LETTER AGREEMENT
Duration of Agreement

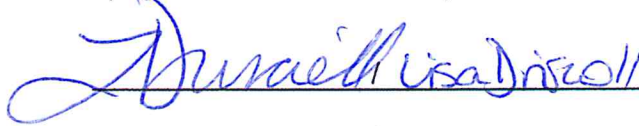
This Side Letter is by and between the County of Contra Costa ("County") and the Physicians' and Dentists' of Contra Costa ("PDOCC") and is effective October 31, 2016, subject to approval by the Board of Supervisors.

This Side Letter modifies the Preamble and Section 35.4 Duration of Agreement of the Memorandum of Understanding (MOU) (October 1, 2008-October 31, 2016) between the County and PDOCC by extending the current MOU from October 31, 2016 to February 28, 2017. The parties acknowledge that proper written notice was provided to commence negotiations for a successor MOU as required by Section 35.4.

The effect of this Side Letter is that all other terms and conditions of the MOU are extended accordingly for the new term of the MOU between the County and PDOCC (October 1, 2008 – February 28, 2017).

Date: November 3, 2016

Contra Costa County:
(Signature / Printed Name)



_____ / _____

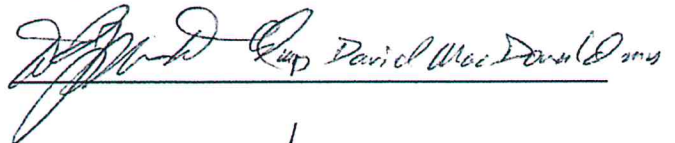
_____ / _____

_____ / _____

_____ / _____

_____ / _____

PDOCC:
(Signature / Printed Name)



_____ / _____

_____ / _____

_____ / _____

_____ / _____

_____ / _____



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Approve Contract with Contra Costa Transportation Authority for its I-680 North Express Lanes Project

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Chair, Board of Supervisors, to execute, on behalf of Contra Costa County (County), the Real Property Services Agreement (Agreement), to provide right of way services, and the Cooperative Agreement for the Exercise of the Power of Eminent Domain, with the Contra Costa Transportation Authority (CCTA), a public agency, for the I-680 North Express Lanes Project (“Project”), effective April 1, 2016, I-680 Corridor area. (Project No: 4660-6X4172)

ADOPT the previously approved Initial Study Negative Declaration/Environmental Assessment with Finding of No Significant Impact, prepared by the State of California Department of Transportation (Caltrans) and the Contra Costa Transportation Authority (CCTA) (CEQA Lead Agency), to address necessary real property transactions associated with the I-680 Southbound Express Lanes Project in compliance with the California Environmental Quality Act (CEQA).

DIRECT the Director of the Department of Conservation and Development (DCD), or his designee, to file a CEQA Notice of Determination with the County Clerk; and

AUTHORIZE the Public Works Director to arrange payment of a \$25 fee to DCD for processing, and a \$50 fee to the County Clerk for filing the Notice of Determination. (DCD-CP#16-47,

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Carmen Pina-Delgado,
(925) 313-2012

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

By: , Deputy

cc: Auditor-Controller, M. Estacio, Finance (w/enc), Susan Miller, CCTA (w/enc)

RECOMMENDATION(S): (CONT'D)

State Clearinghouse Number 2013102020)

DIRECT the Real Estate staff of the Public Works Department to deliver fully executed copies of the Real Property Services Agreement and the Cooperative Agreement to CCTA.

FISCAL IMPACT:

100% Contra Costa Transportation Authority

BACKGROUND:

Contra Costa Transportation Authority (“CCTA”) requires a variety of right-of-way services for its I-680 North Express Lanes Project (“Project”), but has no right of way staff. CCTA desires to contract with the County for these right of way services. Under the Real Property Services Agreement, Public Works Department, Real Estate Division staff will perform various right-of-way services, including but not limited to right of way appraisal, negotiations, and supervision of independent consultants. CCTA will pay the County for those services based on County’s labor costs. The Real Property Services agreement is attached.

CCTA also desires to designate the County as the agency that will exercise the power of eminent domain for the Project. The purpose of the Cooperative Agreement is to allocate responsibilities for the acquisition of property for the Project by eminent domain. The cooperative agreement is attached.

CCTA will pay all costs and expenses associated with the County’s participation in the matters covered by the Real Property Services Agreement and Cooperative Agreement, including but not limited to County Counsel and Public Works staff time.

CCTA is the Project’s California Environmental Quality Act (“CEQA”) lead agency. The County is a CEQA responsible agency. As the lead agency, CCTA adopted the CEQA Negative Declaration for the Project. As a responsible agency, the County has independently considered the environmental effects of the Project as shown in the Negative Declaration and is adopting the document for the purpose of addressing real property transactions.

CONSEQUENCE OF NEGATIVE ACTION:

CCTA will not be able to contract for the County’s right-of-way services and the County will not be able to move forward with the real property transactions necessary for the project.

ATTACHMENTS

CCTA I-680 Express Lane Project - Real Property Service Agreement

CCTA I-680 Express Lane Project - Coop Agreement

CEQA I-680 Express Lane Project

REAL PROPERTY SERVICES AGREEMENT

1. **Effective Date and Parties.** Effective on _____, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("County"), and the CONTRA COSTA TRANSPORTATION AUTHORITY, a public agency, ("CCTA"), hereby mutually promise and agree as follows:
2. **Purpose.** CCTA has no right of way staff and desires to contract with the County for various real estate services to acquire property for CCTA's I-680 North Express Lanes Project ("Project").
3. **Services by County.** County will provide CCTA the following services, as directed by CCTA, to acquire property interests required for the Project: appraisal and appraisal review; negotiations, land rights document preparation; right of way acquisition; right of way project management; title and escrow support; right of way certification and/or supervision of independent contractors providing such services, all as more particularly described in the "I-680 Express Lanes Project Scope of Services" attached hereto and incorporated herein by reference (all of which constitute "Services").

The County warrants that it will perform these Services in accordance with accepted professional standards and procedures.

4. **Payment for Services.** CCTA shall reimburse the County, at the hourly charge out rates in Appendix "A", attached hereto, for all time that County real property agents perform Services for CCTA under this Agreement. CCTA shall reimburse County for the reasonable costs of experts and contractors retained by County in the performance of the Services. CCTA shall reimburse County for all other expenses County incurs in the performance of the Services, including but not limited to all acquisition settlements and any other costs of acquisition such as title fees, recording fees, and escrow costs that the County actually incurs to perform the Services, or payment directly into escrow, the agreed upon purchase price and other related costs such as title policies and outside counsel legal fees. Payments by CCTA shall be made within 60 calendar days of billing by County. CCTA's total payments to County under this Agreement shall not exceed the Total Project Budget listed in Appendix "A" attached hereto.
5. **Indemnification.** The County shall defend, indemnify, and hold harmless CCTA, its officers, and its employees for any claims, liabilities, damage, injury, or death of or to any person, or the property of any person, including attorney's and expert fees, (collectively, "Liabilities") that arise out of the willful misconduct or the negligent acts, errors, or omissions of the County, its officers, employees, agents, and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, County shall not be obligated to indemnify CCTA, its officers, and employees for any portion of Liabilities that arise out of CCTA's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

CCTA shall defend, indemnify, and hold harmless County its officers, and its employees for any Liabilities that arise out of the willful misconduct or the negligent acts, errors, or omissions of CCTA, its officers, employees, agents and volunteers, in performing any of its

or their obligations under this Agreement. Notwithstanding anything to the contrary, CCTA shall not be obligated to indemnify County, its officers, and its employees for any portion of Liabilities that arise out of County's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

6. **Independent Status.** Nothing herein shall be construed to imply that any County employee providing services hereunder is a CCTA employee.
7. **Term.** The term of this Agreement shall commence on the effective date hereof and shall end upon termination by either party upon 30 calendar days' written notice. The rights and obligations of Paragraph 5 "Indemnification" shall survive any such termination. Within 30 calendar days after the termination of this Agreement, CCTA shall pay the County for all unpaid charges and costs for Services the County provided, and for all expenses that it incurred during the performance of those Services, under this Agreement through the termination of the Agreement.
8. **Notices.** Any notice required to be given to County and CCTA hereunder will be sufficient if delivered in writing as designated below, or to such other addresses as County and CCTA may respectively designate by written notice to the other:

To County: Contra Costa County Public Works Department
c/o Real Estate Division
255 Glacier Drive
Martinez, CA 94553
925-313-2220

To CCTA: Contra Costa Transportation Authority
c/o Susan Miller
2999 Oak Road, Suite 100
Walnut Creek, CA 94597
925-256-4736

Notice given by personal delivery shall be deemed complete upon delivery. Notice given by Overnight Carrier shall be deemed complete on the day after it is postmarked. Notice given by U.S. Mail shall be deemed complete on the third day after it is postmarked.

9. **Entire Agreement.** This Agreement contains the entire agreement between the County and CCTA and supersedes any and all other prior agreements and all negotiations leading up to the execution of this Agreement, whether oral or in writing, between the County and CCTA. The County and CCTA acknowledge that no representations, inducements, promises, or statements, oral or otherwise, have been made by either of them or by anyone acting on behalf of them that are not embodied or incorporated by reference herein, and further agree that no other covenant, representation, inducement, promise, or statement not set forth in this Agreement shall be valid or binding.
10. **Amendments and Modifications.** This Agreement may not be modified or amended except in a writing that is approved by the County and CCTA.
11. **Governing Law.** This Agreement shall be governed by and construed in accordance with California law. Venue shall be in a court of competent jurisdiction situated in Contra Costa County.

- 12. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.
- 13. **Severability.** If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.
- 14. **No Third-Party Beneficiaries.** Nothing in this Agreement creates, nor shall it be interpreted to create, any third-party beneficiaries.

COUNTY OF CONTRA COSTA

**CONTRA COSTA
TRANSPORTATION AUTHORITY**

By _____
Chair, Board of Supervisors

By _____
David E. Hudson
Chair

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

Recommended to the County
Board of Supervisors for Approval:

By _____
Randell H. Iwasaki
Executive Director

By _____
Karen A. Laws
Principal Real Property Agent

By _____
Julia R. Bueren
Public Works Director

Approved as to Form:
Sharon L. Anderson, County Counsel

Approved as to Form:
Legal Counsel for CCTA

By _____
Stephen M. Siptroth
Deputy County Counsel

By _____
Malathy Subramanian
Legal Counsel

I-680 EXPRESS LANES PROJECT SCOPE OF SERVICES

1. **Administration (RAD)** – The County will perform duties that cover general Project management for right of way acquisition. These services include but are not necessarily limited to:
 - a) Developing and monitoring right of way project schedule;
 - b) Obtaining and reviewing title reports;
 - c) Working with design team to develop property rights needs;
 - d) Attending regularly scheduled trend/staff meetings;
 - e) Attending and making presentations at public meetings, if necessary;
 - f) Soliciting COUNTYs for appraisal and relocation services;
 - g) Selecting COUNTYs, administer contracts and process payments.
 - h) Setting up individual acquisition files for each parcel;
 - i) Investigating ownerships, easements and title concerns;
 - j) Preparing & coordinating with Caltrans to secure approved R/W Certifications;
and
 - k) Assist in reviewing documents for determining utility rights.

2. **Valuation (RVL)** – The County will prepare and review appraisals. The appraisals will be in conformance with state standards. The County’s Real Estate Division shall have sole discretion to determine whether County's Real Estate Division staff or outside MAI designated appraisers will complete each appraisal. Valuation services provided by the County will include, but may not be limited to:
 - a) Preparing and mailing Letters of Invitation to appraise;
 - b) Providing technical information to appraisers;
 - c) Acting as liaison between outside appraisers and design/engineering team; and
 - d) Reviewing and approving appraisals.

3. **Negotiations (RNG)** – The County will provide negotiation services required to acquire property for the Project. County's Principal Real Property Agent will assign County's Real Estate agents to parcels according to the agent's ability and the complexity of the appraisal and any acquisition issues. Negotiation services provided by the County will include, but may not be limited to:
 - a) Review of title reports, appraisals, legal descriptions, maps and other documents in sufficient detail in preparation for negotiations;
 - b) Maintaining a complete acquisition file on each property assigned; Preparing deeds, easements and right of way contracts;
 - c) Initiating contact with property owner(s) or their representative to present written offer. Conducting negotiations and following up with property owners as necessary to arrive at a mutually agreeable settlement;
 - d) Acting as a liaison with appraisers, COUNTYs staff, and CCTA staff;
 - e) Utilizing legal counsel where necessary in development of final agreements; and
 - f) Advising Principal as to necessity of eminent domain action.

4. **Condemnation (RED)** – In cases where an eminent domain action is necessary in order to secure the right of way for project construction, County’s Real Estate Division will lead the process to obtain orders of possession. Real Estate staff will work closely with County Counsel to expedite this process and proceed with a Resolution of Necessity and obtain Orders of Possession so that certification and construction schedules can be met. Services outlined here do not include costs and work required after the Order of Possession where County Counsel will prosecute each eminent domain action to a final judgment in condemnation. Services will include:

- a) Identifying and locating all parties to the action;
- b) Adoption of Resolution of Necessity by County Board of Supervisors;
- c) Preparing condemnation packages and exhibits for County Counsel; and
- d) Service of Order for Immediate Possession to all parties

APPENDIX "A"
Pay Rate Schedule

CCTA shall reimburse the COUNTY for labor costs as detailed below:

1. COUNTY direct labor rates shall include the base salary wages paid to personnel plus fringe benefits. Total labor rate shall include direct labor rate multiplied by County's overhead rate. The total labor rate shall not exceed the range of labor rates by classification, included as Attachment 1.
2. COUNTY's overhead rate shall be a summation of division and department overhead rates. Appropriate overhead rates for COUNTY shall be developed based on procedure previously approved as described below:

In general, the division overhead rates are determined by identifying each division's total expenditures after adjustments less any non-labor generated revenue. The division expenditures are then divided by the productive hours for the division establishing the overhead rate needed to cover the remaining net cost of division expenditures. The department overhead rates are determined similar to the division rate by dividing the total department expenditures by the total billable hours. Each year overhead rates will be evaluated and adjusted to reflect the actual costs from the previous fiscal year.

3. COUNTY may adjust both labor rates and overhead rates periodically due to contracted salary increases and overhead rate changes. COUNTY shall submit any changes to rates to CCTA prior to invoicing.

ATTACHMENT 1

Contra Costa Transportation Authority: I-680 North Express Lanes Project

One Permanent Easement, Two Temporary Construction Easements (TCE)

ADMINISTRATION	\$ 13,000.00
APPRAISAL	\$ 6,000.00
NEGOTIATIONS/ACQUISITION	\$ 5,000.00
RIGHT OF WAY CERTIFICATION	\$ 5,000.00
CONDEMNATION	\$ 5,000.00
LEGAL COUNSEL-CONTRACT REVIEW	\$ 1,500.00
ENVIRONMENTAL/CEQA	<u>\$ 2,500.00</u>

TOTAL ESTIMATED PROJECT BUDGET: \$38,000.00

REAL PROPERTY AGENT

HOURLY CHARGE OUT RATE

Hourly Rate

Principal Real Property Agent	\$208/hr to \$220/hr
Supervising Real Property Agent	\$163/hr to \$182/hr
Senior Real Property Agent	\$153/hr to \$166/hr
Assistant Real Property Agent	\$110/hr to \$130/hr
Senior Real Property Technical Assistant	\$103/hr to \$117/hr
Real Property Technical Assistant	\$ 77/hr to \$109/hr

**COOPERATIVE AGREEMENT BETWEEN
CONTRA COSTA COUNTY AND
THE CONTRA COSTA TRANSPORTATION AUTHORITY
FOR THE EXERCISE OF THE POWER OF EMINENT DOMAIN
FOR THE I-680 NORTH EXPRESS LANES PROJECT**

This Cooperative Agreement ("AGREEMENT") is entered into effective this day of _____, 2016, by and between the CONTRA COSTA COUNTY, a political subdivision of the State of California (referred to herein as "COUNTY") and the CONTRA COSTA TRANSPORTATION AUTHORITY, a public entity (referred to herein as "CCTA"), pursuant to the provisions of Streets and Highways Code sections 114 and 130 and Code of Civil Procedure section 1240.140. COUNTY and AUTHORITY are sometimes referred to together as the "PARTIES," and each as a "PARTY."

RECITALS

- A. On September 17, 2014 CCTA approved the I-680 North Express Lanes Project ("PROJECT") and issued an Initial Study with Mitigated Negative Declaration pursuant to the California Environmental Quality Act.
- B. On _____, 2016, CCTA issued a Categorical Exemption/Categorical Exclusion for Conversion of the HOV Lanes to Tolloed Express Lanes pursuant to the California Environmental Quality Act and National Environmental Policy Act.
- C. To construct the PROJECT as planned, certain Pacific Gas and Electric Company ("PG&E") facilities will need to be relocated. Property rights will need to be acquired to complete that relocation.
- C. On April 1, 2016, COUNTY and CCTA entered into a Real Property Services Agreement under which COUNTY will provide, and CCTA will pay for, PROJECT-related right-of-way services, including appraisal, appraisal review, negotiation, land rights documentation preparation, right-of-way acquisition, and/or supervision of independent contractors providing those services. The original Real Property Services Agreement is maintained on file by COUNTY and by CCTA.
- D. The purpose of this AGREEMENT is to document COUNTY's authority to exercise the power of eminent domain for the acquisition of property for PROJECT on behalf of CCTA pursuant to Code of Civil Procedure section 1240.140. This AGREEMENT is, and at all times remains, relevant to the PROJECT, and it will continue to constitute the authorization for an exercise of the power of eminent domain as the work is processed by the COUNTY with respect to the acquisition of any real property or interest therein required (i) for the PROJECT; (ii) to protect and preserve the safety and usefulness of the PROJECT, or mitigate the effect of the PROJECT; or (iii) to be acquired as a condition of any permit for the PROJECT.

AGREEMENT

1. **Term:** The term of this AGREEMENT shall remain in effect until the COUNTY'S authorization to perform eminent domain and other services relating to PROJECT-related property acquisition is completed, unless it is earlier terminated by either party upon 30 days' written notice.

2. **Lead Agency:** COUNTY and CCTA hereby agree that, pursuant to the terms of this AGREEMENT, and notwithstanding anything to the contrary in the AGREEMENT, COUNTY is designated as the Agency to administer the portion of the AGREEMENT relating to the acquisition of real property for the PROJECT, through eminent domain or otherwise, by and through its Board of Supervisors, COUNTY officials and departments, and COUNTY attorneys.

3. **Powers:** COUNTY and CCTA hereby agree, at all relevant times, COUNTY has, and shall continue to have, the authority relating to the PROJECT, to:
 - A. Conduct all public hearings necessary to adopt a Resolution of Necessity;

 - B. Take whatever steps are necessary to initiate, conduct, and resolve or conclude such eminent domain proceedings as are necessary to obtain title to any and all real property interests that are required for the construction of PROJECT, or otherwise necessary to protect or preserve the safety and usefulness of the PROJECT, or to mitigate the effects of the PROJECT, or otherwise required to be acquired as a condition of any permit for the PROJECT; and

 - C. In connection therewith, to enter into any and all contracts to obtain performance of all legal, engineering, appraisal, right-of-way acquisition, relocation assistance and related services.

4. **Costs:** CCTA will reimburse the COUNTY for reasonable costs to acquire property interests required for the PROJECT as set forth in the Real Property Services Agreement. In addition to those costs, CCTA shall reimburse the COUNTY for all reasonable legal expenses by County Counsel and outside counsel, court costs, engineering costs, appraisal costs, and other costs that the COUNTY incurs to condemn property interests required for the PROJECT. CCTA shall also be responsible for issuing payment to property owners of just compensation for any and all property rights acquired by negotiation, settlement, condemnation award, or otherwise as required for the PROJECT. When reasonably requested by COUNTY, CCTA shall issue checks to make deposits required to obtain possession of property rights before judgment in eminent

domain actions for the purposes set forth in this Agreement. Notwithstanding anything to the contrary, in this Agreement, CCTA's total payments to COUNTY under this Agreement shall not exceed the Total Project Budget listed in Appendix "A" attached to the Real Property Services Agreement between CCTA and COUNTY, effective April 1, 2016, pertaining to the PROJECT, as may be amended in the future.

5. **Indemnification:** The COUNTY shall defend, indemnify, and hold harmless CCTA, its officers, and its employees for any claims, liabilities, damage, injury, or death of or to any person, or the property of any person, including attorney's and expert fees, (collectively, "Liabilities") that arise out of the willful misconduct or the negligent acts, errors, or omissions of the COUNTY, its officers, employees, agents, and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, COUNTY shall not be obligated to indemnify CCTA, its officers, and employees for any portion of Liabilities that arise out of CCTA's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

CCTA shall defend, indemnify, and hold harmless COUNTY its officers, and its employees for any Liabilities that arise out of the willful misconduct or the negligent acts, errors, or omissions of CCTA, its officers, employees, agents and volunteers, in performing any of its or their obligations under this Agreement. Notwithstanding anything to the contrary, CCTA shall not be obligated to indemnify COUNTY, its officers, and its employees for any portion of Liabilities that arise out of COUNTY's, or its officers' or employees' willful misconduct or negligent acts, errors, or omissions.

6. **Subject Property; Title:** COUNTY and CCTA hereby agree that COUNTY has the right to exercise the powers granted by eminent domain law to acquire any real property, any interest therein, and any appurtenance thereto, required for the PROJECT, or otherwise necessary to protect or preserve the safety and usefulness of the PROJECT, or otherwise required to be acquired as a condition of any permit for the PROJECT; and COUNTY shall transfer title to said properties to PG&E, unless otherwise directed by CCTA.
7. **Counterparts:** This AGREEMENT may be signed in counterparts and shall become effective upon its execution by the COUNTY and CCTA, each copy having the same force and effect as an original.

[SIGNATURES ON NEXT PAGE]

CONTRA COSTA COUNTY

Approved as to Legal Form:
Sharon L. Anderson, County Counsel

By: _____
Name: _____
Chair, Board of Supervisors

By: _____
Stephen M. Siptroth
Deputy County Counsel

**CONTRA COSTA TRANSPORTATION
AUTHORITY**

Approved as to Legal Form:
Legal Counsel for CCTA

By: _____
David E. Hudson
Chair

By: _____
Malathy Subramanian
Legal Counsel

Attest:

By: _____
Randall H. Iwasaki
Executive Director

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF DETERMINATION

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: Contra Costa County
Dept. of Conservation & Development
30 Muir Road
Martinez, CA 94553

County Clerk
County of: Contra Costa

State Clearinghouse Number: SCH# 2013102020

Project Title: Interstate 680 Southbound HOV Gap Closure/Express Lanes Project
Project No. 4660-6X4172, CP# 16-47

Project Applicant: Contra Costa County

Project Location: Interstate 680 from 0.6 mile north of Livorna Road in Alamo to 0.2 mile north of Geary Road in Walnut Creek

Project Description: The California Department of Transportation (Caltrans) and the Contra Costa Transportation Authority (CCTA) prepared an Initial Study Negative Declaration/Environmental Assessment with Finding of No Significant Impact for the Interstate 680 Southbound HOV Gap Closure/Express Lanes Project in June 2014. Caltrans approved the Negative Declaration on July 7, 2014. The purpose of the project is to improve traffic operations and relieve congestion by closing the current 5.4-mile high-occupancy vehicle (HOV) gap on southbound Interstate 680 through the city of Walnut Creek. The Contra Costa County Board of Supervisors needs to adopt Caltrans' previously approved Negative Declaration to address necessary real property transactions in support of the I-680 Southbound HOV Gap Closure/Express Lanes Project. The Real Estate Division of the Public Works Department will go before the Chair Board of Supervisors to have the right-of-way services approved to provide real property transactions in Contra Costa County in cooperation with CCTA and Caltrans. The project is included in the Metropolitan Transportation Commission's (MTC) most recent Regional Transportation Plans, the *Plan Bay Area* MTC 2013; Regional Transportation Plan ID No. 22353. Contra Costa County is adopting the Negative Declaration in support of the necessary real property transactions only. Caltrans and CCTA have analyzed all environmental impacts of the project and will obtain any necessary regulatory permits and environmental clearances prior to project implementation.

The project was approved on: July 7, 2014

1. The project will will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan was was not] adopted for this project.
5. A statement of Overriding Considerations was was not] adopted for this project.
6. Findings were were not] made pursuant to the provisions of CEQA.

Notice of Determination for SCH# 2013102020 was sent to Office of Planning and Research.*

This is to certify that the final EIR with comments and responses and record of project approval, or the Negative Declaration, is available to the General Public at:

Contra Costa County Public Works Department
255 Glacier Drive, Martinez, CA 94553

Signature (Contra Costa County): _____ Title: _____

Date: _____ Date Received for filing at OPR: _____

AFFIDAVIT OF FILING AND POSTING	
I declare that on _____ I received and posted this notice as required by California Public Resources Code Section 21152(c). Said notice will remain posted for 30 days from the filing date.	
Signature _____	Title: _____

Applicant: Public Works Department 255 Glacier Drive Martinez, CA 94553 Attn: Alex Nattkemper Environmental Services Division Phone: (925) 313-2364	Department of Fish and Game Fees Due <input type="checkbox"/> EIR - \$3,070. ⁰⁰ <input type="checkbox"/> Neg. Dec. - \$2,210. ²⁵ <input type="checkbox"/> DeMinimis Findings - \$0 <input checked="" type="checkbox"/> County Clerk - \$50 <input checked="" type="checkbox"/> Conservation & Development - \$25	Total Due: \$ _____ Total Paid \$ _____ Receipt #: _____
---	--	--

*Notice of Determination may be sent by fax to (916) 323-3018, if followed up with a duplicate mailed copy.

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.

Interstate 680 Southbound HOV Gap Closure Project

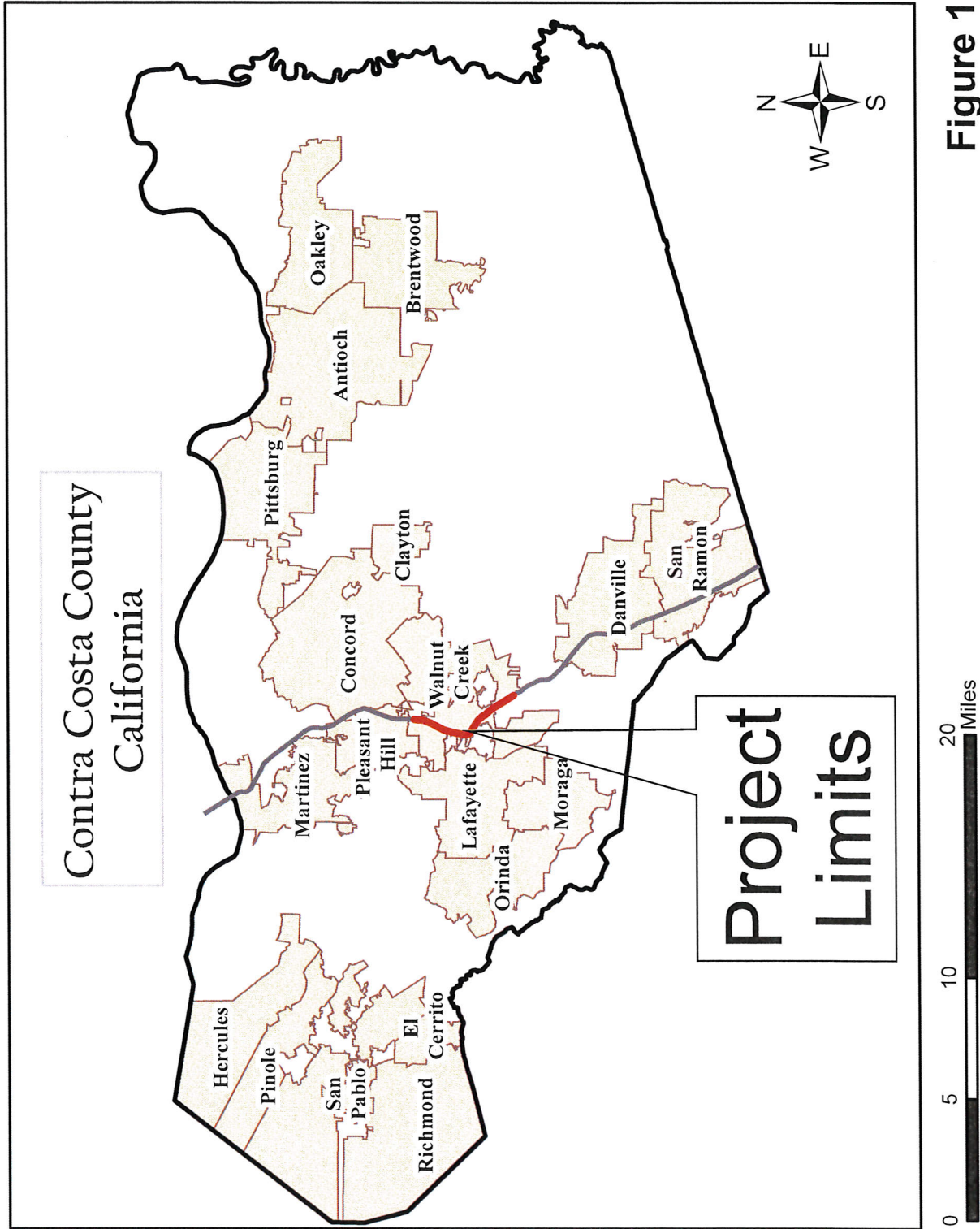
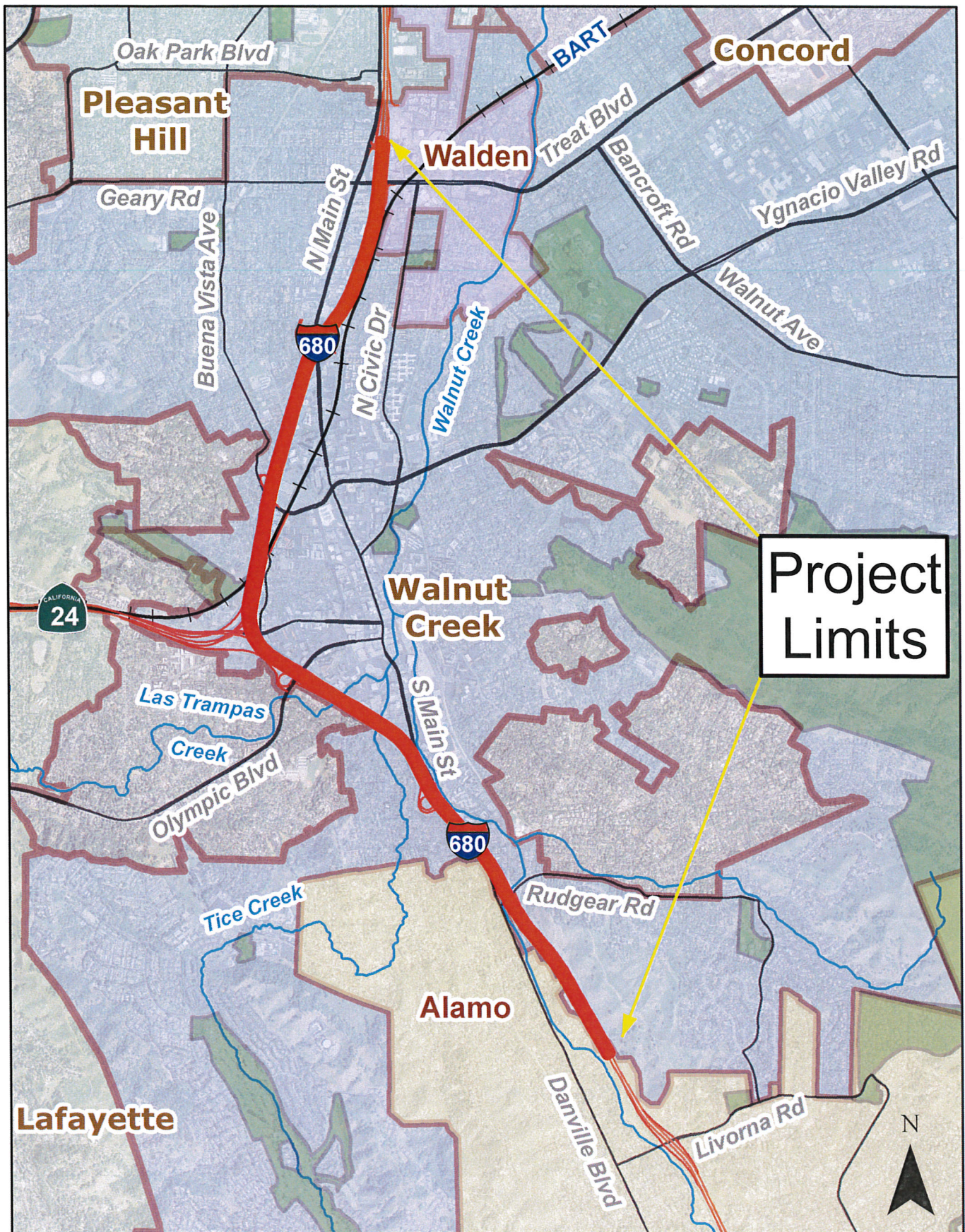


Figure 1

Interstate 680 Southbound HOV Gap Closure Project



0 0.5 1 2 Miles

Figure 2



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Accepting completion of public and private improvements for road acceptance RA12-01250, San Ramon (DoughertyValley) area.

RECOMMENDATION(S):

ADOPT Resolution No. 2016/599 accepting completion of improvements for road acceptance RA12-01250 (cross-reference subdivision SD14-09341) for a project developed by Shapell Homes, a Division of Shapell Industries, Inc., a Delaware Corporation, as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (District II)

FISCAL IMPACT:

100% Developer Fees

BACKGROUND:

The developer has completed the public improvements in accordance with the Title 9 of the County Ordinance Code.

CONSEQUENCE OF NEGATIVE ACTION:

The completion of improvements will not be accepted.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Jocelyn LaRocque, (925)
313-2315

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

By: , Deputy

cc: Renee Hutchins, Records, Sherri Reed, Design and Construction, Chris Lau, Maintenance, Chris Hallford, Mapping, Lori Leontini, Engineering Services, Jorge Hernandez, Engineering Services, Lori Brown, Finance, C. Low, City of San Ramon

ATTACHMENTS

Resolution No. 2016/599

Offer of Dedication RA12-01250

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution No. 2016/599

IN THE MATTER OF: Accepting completion of improvements for road acceptance RA12-01250 (cross-reference subdivision SD14-09341) for a project developed by Shapell Homes, a Division of Shapell Industries, Inc., a Delaware Corporation, as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (District II)

The Public Works Director has notified this Board that the improvements in road acceptance RA12-01250 (cross-reference subdivision SD14-09431) have been completed.

WHEREAS, these improvements are located near the south intersection of "new" Dougherty Road and Bollinger Canyon Road.

NOW, THEREFORE, BE IT RESOLVED that the road improvements have been COMPLETED as of November 1, 2016, thereby establishing the six-month terminal period for the filing of liens in case of action under the Road Improvement Agreement:

DATE OF AGREEMENT: October 13, 2015

NAME OF SURETY: North American Specialty Insurance Company

BE IT FURTHER RESOLVED the payment (labor and materials) surety for \$1,314,000 Bond No. 2177749 issued by the above surety be RETAINED for the six month lien guarantee period until May 1, 2017, at which time the Board AUTHORIZES the release of said surety less the amount of any claims on file.

BE IT FURTHER RESOLVED that Hibiscus Road, Trumpet Vine Lane, Trefoil Vine Lane, Trefoil Road and Zinnia Court for the hereinafter described public improvements are ACCEPTED AS COMPLETE.

BE IT FURTHER RESOLVED that improvements, dedicated for public use and conveyed by separate instrument, recorded on October 28, 2016, recording series number DOC-2016-0231667-00, Official Records of Contra Costa County, State of California, are ACCEPTED AS COMPLETE.

Road Name: Hibiscus Road Length (miles): 0.06 Road/ROW Width: 70' System: Collector

Road Name: Trumpet Vine Lane Length (miles): 0.31 Road/ROW Width: 49' System: Collector

Road Name: Trefoil Road Length (miles): 0.16 Road/ROW Width: Varies 64'/46' System: Collector

Road Name: Zinnia Court Length (miles): 0.56 Road/ROW Width: 46' System: Collector

BE IT FURTHER RESOLVED that upon acceptance by the Board of Supervisors, the San Ramon City Council shall accept the improvements for maintenance and ownership in accordance with the Dougherty Valley Memorandum of Understanding.

BE IT FURTHER RESOLVED that the beginning of the warranty period is hereby established, and the \$27,000 cash deposit (Auditor's Deposit Permit No. DP694126, dated September 17, 2015) made by Toll Brothers, Inc., and the performance/maintenance surety bond for \$621,000 Bond No. 217749 issued by North American Specialty Insurance Company be RETAINED pursuant to the requirements of Section 94-4.406 of the Ordinance Code until release by this Board.

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: Jocelyn LaRocque, (925) 313-2315

ATTESTED: November 15, 2016

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

By: , Deputy

cc: Renee Hutchins, Records, Sherri Reed, Design and Construction, Chris Lau, Maintenance, Chris Hallford, Mapping, Lori Leontini, Engineering Services, Jorge Hernandez, Engineering Services, Lori Brown, Finance, C. Low, City of San Ramon



CONTRA COSTA Co Recorder Office

JOSEPH CANCIAMILLA, Clerk - Recorder

DOC - 2016 - 0231667 - 00

Friday, OCT 28, 2016 09:59:10

FRE \$0.00

Ttl Pd \$0.00

Nbr - 0002754677

kat / R6 / 1-7



Recorded at the request of:
Contra Costa County
Public Works Department
Return to:
Public Works Department
Engineering Services Division
Records Section

Area: San Ramon
Roads: Dougherty Road
Co. Road No.: n/a
Development: RA 12-1250
APN: 222-270-038

OFFER OF DEDICATION - DRAINAGE PURPOSES

Shapell Industries Inc., a Delaware Corporation, the undersigned, being the present title owner of record of the herein described parcel of land, does hereby make an irrevocable offer of dedication to **CONTRA COSTA COUNTY**, a political subdivision of the State of California, and its successors or assigns, of an easement for storm, flood, and surface water drainage, including construction, access or maintenance of work, improvements and structures, whether covered or open, or the clearing of obstructions and vegetation, upon the real property situated in the County of Contra Costa, State of California, described in Exhibit "A" (written description) and shown on Exhibit "B" (plat map), attached hereto.

It is understood and agreed that **CONTRA COSTA COUNTY** and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein until such offer has been accepted by appropriate action of the Board of Supervisors, or of the local governing bodies of its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

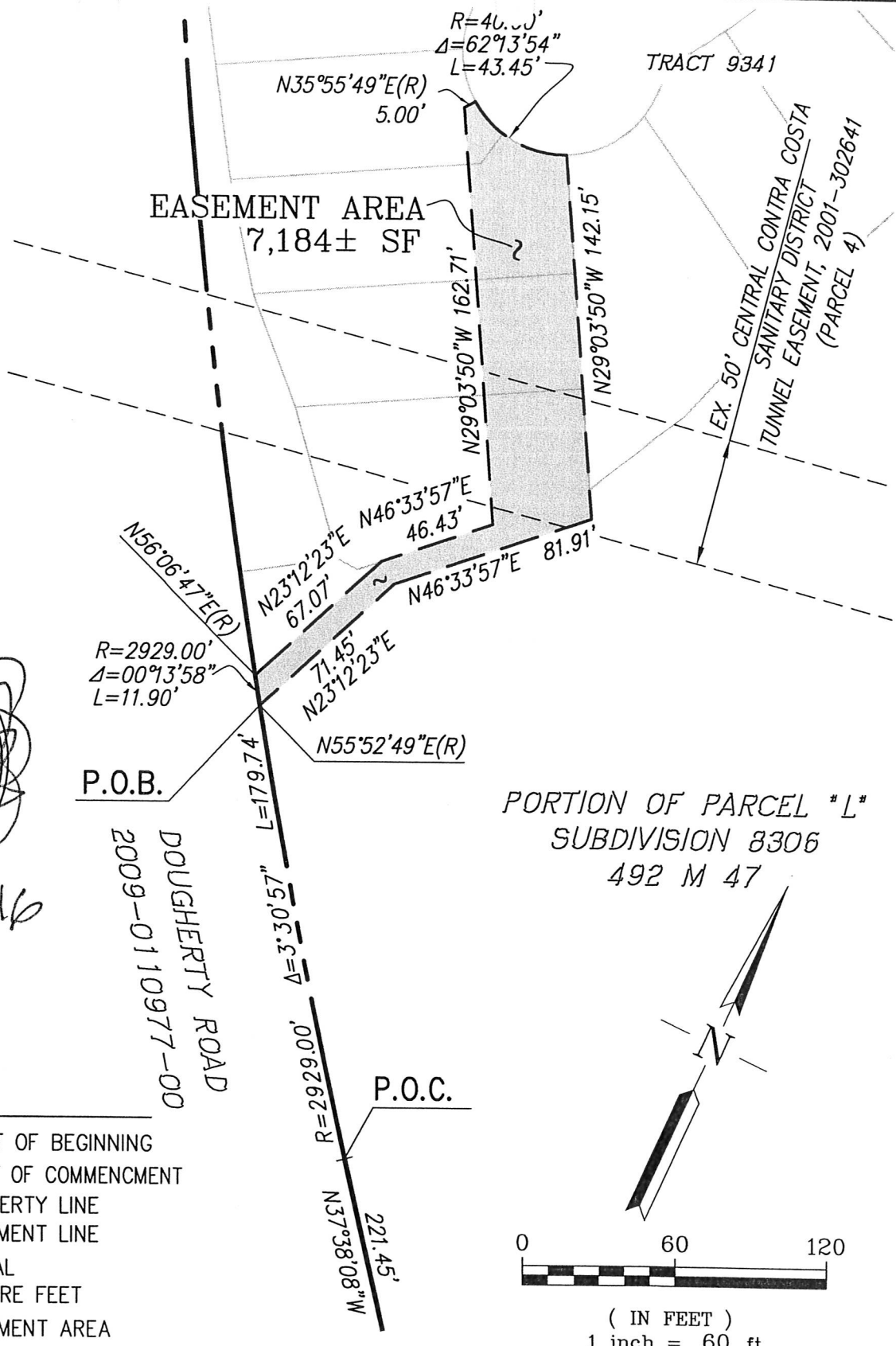
The undersigned executed this instrument on _____.

Shapell Industries Inc., a Delaware Corporation

(Signature)

(Signature)

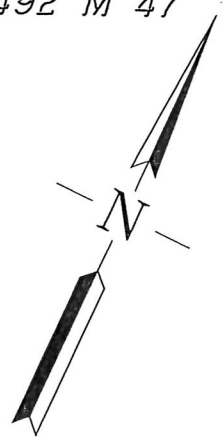
(see attached notary)



10-16-2016

P.O.B.
DOUGHERTY ROAD
2009-0110977-00

PORTION OF PARCEL "L"
SUBDIVISION 8306
492 M 47



(IN FEET)
1 inch = 60 ft.

LEGEND

- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- PROPERTY LINE
- EASEMENT LINE
- (R) RADIAL
- SF SQUARE FEET
- EASEMENT AREA

EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL DESCRIPTION
FOR
STORM DRAIN EASEMENT

CONTRA COSTA COUNTY, CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
 ENGINEERS ■ PLANNERS ■ SURVEYORS
 4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
 PHONE: (925) 227-9100 FAX: (925) 227-9300

SCALE: 1"=60'	DATE: 10-16-2014	JOB NO.: 125010
------------------	---------------------	--------------------

G:\GALLETTE\ORIGINALMAPS\PLANS\JOB PARCEL L 9381.DWG 9/23/2014 12:02:11 PM

EXHIBIT "A"

Storm Drain Easement

Land Description of a parcel of land situate in the County of Contra Costa, State of California, same being a portion of "Parcel L" as shown on that certain map entitled "SUBDIVISION 8306 – GALE RANCH", filed on August 1, 2006, in Book 492 of Maps, at Pages 47 - 94, Official Records of Contra Costa County, and being more particularly described as follows:

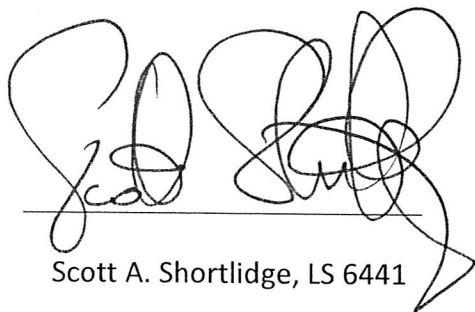
Commencing at a point on the east line of the 6.24 acre Dougherty Road Easement described in the Offer of Dedication for Road Purposes to Contra Costa County recorded on December 20, 2007 under document number 2007-343148, and accepted by the City of San Ramon per Resolution 2009-074 recorded on May 15, 2009 under document number 2009-110977 Official Records of Contra Costa County, same corner being at the northerly terminus of the course described as "North 37° 38' 08" West – 221.45 feet" and at the beginning of a curve to the right; Thence with said east line in a northwesterly direction 179.74 feet along the arc of said curve to the right, having a radius of 2929.00 feet and through a central angle of 03° 30' 57" for the **Point of Beginning** hereof; Thence continuing with said east line in a northwesterly direction 11.90 feet along said curve to the right, having a radius of 2929.00 feet and through a central angle of 00° 13' 58"; Thence crossing through the "Designated Remainder" for the following eight (8) courses: (1) North 23° 12' 23" East – 67.07 feet, (2) North 46° 33' 57" East – 46.43 feet, (3) North 29° 03' 50" West – 162.71 feet, (4) North 35° 55' 49" East – 5.00 feet for the beginning of a curve to the left, from which the center bears North 35° 55' 49" East, (5) in a

southeasterly direction 43.45 feet along the arc of said curve to the left, having a radius of 40.00 feet and through a central angle of 62° 13' 54", (6) South 29° 03' 50" East – 142.15 feet, (7) South 46° 33' 57" West – 81.91 feet, and (8) South 23° 12' 23" West – 71.45 feet for the **Point of Beginning.**

Containing 7,184 sq.ft. of land area, more or less.

End of Description

Prepared by:


Scott A. Shortlidge, LS 6441



10-16-2014

Date

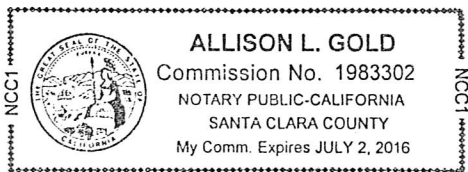
CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California

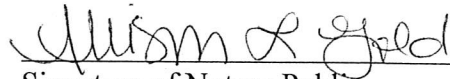
County of Alameda

On **December 18, 2014**, before me, **Allison L. Gold**, Notary Public personally appeared **Robert D. Moore** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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

Title or Type of Document: Offer of Dedication

Effective 1/1/08

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

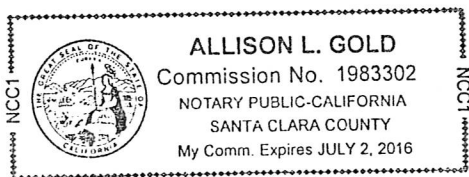
State of California

County of Alameda

On **December 22, 2014**, before me, **Allison L. Gold**, Notary Public personally appeared **Richard M. Nelson** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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.



Allison L. Gold
Signature of Notary Public

Title or Type of Document: Offer of Dedication

Effective 1/1/08

COPY



CONTRA COSTA Co Recorder Office

JOSEPH CANCIAMILLA, Clerk-Recorder

DOC- 2015-0038222-00

Wednesday, MAR 04, 2015 14:34:23

FRE \$0.00

Ttl Pd \$0.00

Nbr-0002204535

rrc / R9 / 1-1



Recorded at the request of: BOARD OF SUPERVISORS

Return To: PUBLIC WORKS DEPARTMENT, ENGINEERING SERVICES

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 03/03/2015 by the following vote:

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

NO:

ABSENT: Federal D. Glover, District V Supervisor

ABSTAIN:

RECUSE:

Resolution No. 2015/61

IN THE MATTER OF accepting an Offer of Dedication for Drainage Purposes for road acceptance RA12-01250 (cross-reference SD04-08856), for a project being developed by Shapell Industries, Inc., a Delaware Corporation, as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (District II)

NOW, THEREFORE, BE IT RESOLVED that the following instrument is hereby ACCEPTED FOR RECORDING ONLY:

INSTRUMENT: an Offer of Dedication for Drainage Purposes REFERENCE: RA12-01250 (cross-reference SD04-08856) APN 222-270-038

GRANTOR: Shapell Industries Inc., a Delaware Corporation

AREA: San Ramon (Dougherty Valley)

DISTRICT: II

Contact: Jocelyn 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: March 3, 2015

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

By: Stacey M. Boyd, Deputy

cc: Engineering Services, Originator, J. A.B. LaRocque, Engineering Services, W. Lai, Engineering Services, J. Hernandez, Department of Conservation and Development, Shapell Homes, 6800 Koll Ctr. Pkwy. Ste 320, Pton, 94588, First American Title Company, 6683 Owens Drive, Pleasanton, CA 94588 Attn: B Sal, City of San Ramon, C. Low



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Approving the fourth extension of the Subdivision Agreement for subdivision SD06-08993, Discovery Bay area.

RECOMMENDATION(S):

ADOPT Resolution No. 2016/620 approving the fourth extension of the Subdivision Agreement for subdivision SD06-08993, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The terminal date of the Subdivision Agreement needs to be extended. (Approximately 100% of the work has been completed to date.) The development is in the six month guarantee period and the bond needs to be kept up to date.

CONSEQUENCE OF NEGATIVE ACTION:

The terminal date of the Subdivision Agreement will not be extended and the developer will be in default of the agreement, requiring the County to take legal action against the developer and surety complete the improvements.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Jocelyn LaRocque, (925)
313-2315

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

By: , Deputy

cc: Jocelyn LaRocque, Engineering Services, Sherri Reed, Design and Construction, Hoffman Land Development Company Attn: Dave Martin, Liberty Mutual Insurance Company Attn: Kathleen Beck

ATTACHMENTS

Resolution No. 2016/620

Subdivision Agreement Extension

SD06-08993

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution No. 2016/620

IN THE MATTER OF approving the fourth extension of the Subdivision Agreement for subdivision SD06-08993, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

WHEREAS the Public Works Director having recommended that she be authorized to execute the fourth extension which extends the Subdivision Agreement between Hofmann Land Development Company and the County for construction of certain improvements in SD06-08993, Discovery Bay area, through December 19, 2017.

APPROXIMATE PERCENTAGE OF WORK COMPLETE: 100%

ANTICIPATED DATE OF COMPLETION: September 13, 2016

BOND NO.: 070004755 Date: December 19, 2006

REASON FOR EXTENSION: The development is in the six month guarantee period and the bond needs to be kept up to date.

NOW, THEREFORE, BE IT RESOLVED that the recommendation of the Public Works Director is APPROVED.

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: Jocelyn LaRocque, (925) 313-2315

ATTESTED: November 15, 2016

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

By: , Deputy

cc: Jocelyn LaRocque, Engineering Services, Sherri Reed, Design and Construction, Hoffman Land Development Company Attn: Dave Martin, Liberty Mutual Insurance Company Attn: Kathleen Beck

CONTRA COSTA COUNTY
SUBDIVISION AGREEMENT EXTENSION

Development Number: SD06-08993
Developer: **Hofmann Land Development Co.**
Original Agreement Date: December 19, 2006
Fourth Extension New Termination Date: December 19, 2017

Improvement Security

SURETY :	<u>Liberty Mutual Insurance Company</u>	
BOND No.	<u>070004755</u>	Date: <u>December 19, 2006</u>
Security Type		Security Amount
Cash:		\$ <u>39,555.00</u> (1% cash, \$1,000 Min.)
SURETY BOND:		\$ <u>3,915,945.00</u> (Performance)
		\$ <u>1,977,750.00</u> (Labor& Material)

The Developer and the Surety desire this Agreement to be extended through the above date; and Contra Costa County and said Surety hereby agree thereto and acknowledge same.

Dated: _____

FOR CONTRA COSTA COUNTY
Julia R. Bueren, Public Works Director

By: _____

RECOMMENDED FOR APPROVAL:

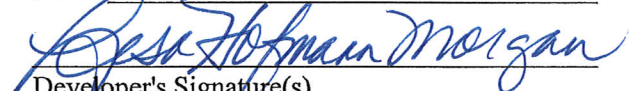
By: _____
(Engineering Services Division)

(NOTE: Developer's, Surety's and Financial Institution's Signatures must be Notarized.)

FORM APPROVED: Victor J. Westman, County Counsel

After Approval Return to Clerk of the Board

Dated: October 17, 2106



Developer's Signature(s)

Lisa Hofmann Morgan

Printed



Developer's Signature(s)

DENNIS M. DREW

Printed

PO Box 907, Concord CA, 94522

Address

Liberty Mutual Insurance Company

Surety or Financial Institution
71 Stevenson Street, Suite 600, San Francisco, CA 94105

Address



Attorney in Facts Signature

Kathleen Beck, Attorney-in-Fact

Printed

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 7268179

American Fire and Casualty Company
The Ohio Casualty Insurance Company

Liberty Mutual Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Kathleen Beck; Susan J. Peragallo

all of the city of Concord, state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 12th day of February, 2016.



American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 12th day of February, 2016, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires March 28, 2017
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, – the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Gregory W. Davenport, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 17th day of October, 2016.



By: Gregory W. Davenport
Gregory W. Davenport, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

CALIFORNIA ALL-PURPOSE 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 October 17, 2016 before me, Jane Arrundal Walker, Notary Public,
Date Insert Name of Notary exactly as it appears on the official seal

personally appeared Kathleen Beck

Name(s) of Signer(s)

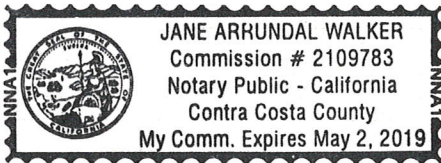
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of the form to another document.

Description of Attached Document

Title or Type of Document: Subdivision Agreement Extension

Document Date: October 17, 2016

Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Kathleen Beck

- Individual
 Corporate Officer — Title(s): _____
 Partner Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:
Liberty Mutual Insurance
Company

Signer's Name: _____

- Individual
 Corporate Officer — Title(s): _____
 Partner Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:

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 Contra Costa)

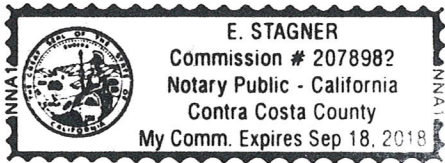
On 10/18/16 before me, E. Stagner, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Usa Hofmann Morgan ; Dennis M. Drew
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. Stagner
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: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 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: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Approving the fifth extension of the Subdivision Agreement for subdivision SD05-08992, Discovery Bay area.

RECOMMENDATION(S):

ADOPT Resolution No. 2016/622 approving the fifth extension of the Subdivision Agreement for subdivision SD05-08992, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The terminal date of the Subdivision Agreement needs to be extended. (Approximately 100% of the work has been completed to date.) The development is in the six month guarantee period and the bond needs to be kept up to date.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Jocelyn LaRocque, (925) 313-2315

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

By: , Deputy

cc: Jocelyn LaRocque, Engineering Services, Sherri Reed, Design and Construction, Hoffman Land Development Company Attn: Dave Martin, Liberty Mutual Insurance Company Attn: Kathleen Beck

CONSEQUENCE OF NEGATIVE ACTION:

The terminal date of the Subdivision Agreement will not be extended and the developer will be in default of the agreement, requiring the County to take legal action against the developer and surety to the improvements installed, or revert the development to acreage.

ATTACHMENTS

Resolution No. 2016/622

Subdivision Agreement Extension SD05-08992

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:

NO:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2016/622

IN THE MATTER OF approving the fifth extension of the Subdivision Agreement for subdivision SD05-08992, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

WHEREAS the Public Works Director having recommended that she be authorized to execute the fifth extension which extends the subdivision agreement between Hofmann Land Development Company and the County for construction of certain improvements in SD05-08992, Discovery Bay area, through July 8, 2017.

APPROXIMATE PERCENTAGE OF WORK COMPLETE: 100%

ANTICIPATED DATE OF COMPLETION: September 13, 2016

BOND NO.: 070003060 Date: August 8, 2006

REASON FOR EXTENSION: The development is in the six month guarantee period and the bond needs to be kept up to date.

NOW, THEREFORE, BE IT RESOLVED that the recommendation of the Public Works Director is APPROVED.

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: Jocelyn LaRocque, (925) 313-2315

ATTESTED: November 15, 2016

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

By: , Deputy

cc: Jocelyn LaRocque, Engineering Services, Sherri Reed, Design and Construction, Hoffman Land Development Company Attn: Dave Martin, Liberty Mutual Insurance Company Attn: Kathleen Beck

CONTRA COSTA COUNTY
SUBDIVISION AGREEMENT EXTENSION

Development Number: SD05-08992
Developer: Hofmann Land Development Company
Original Agreement Date: September 19, 2006
Fifth Extension New Termination Date: September 19, 2017

Improvement Security

SURETY : Liberty Mutual Insurance Company

BOND No. 070003060

Date: August 8, 2006

Security Type

Security Amount

Cash:

\$ 28,870.00 (1% cash, \$1,000 Min.)

SURETY BOND:

\$ 2,857,730.00 (Performance)

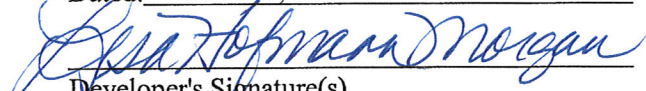
\$ 1,443,300.00(Labor& Material)

The Developer and the Surety desire this Agreement to be extended through the above date; and Contra Costa County and said Surety hereby agree thereto and acknowledge same.

Dated: _____

Dated: October 17, 2016

FOR CONTRA COSTA COUNTY
Julia R. Bueren, Public Works Director



Developer's Signature(s)

Lisa Hofmann Morgan

Printed

By: _____



Developer's Signature(s)

DENNIS M. DREW

Printed

RECOMMENDED FOR APPROVAL:

By: _____
(Engineering Services Division)

PO Box 907, Concord CA. 94522

Address

Liberty Mutual Insurance Company

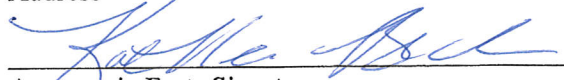
Surety or Financial Institution

71 Stevenson Street, Suite 600, San Francisco, CA 94105

Address

FORM APPROVED: Victor J. Westman, County Counsel

After Approval Return to Clerk of the Board



Attorney in Facts Signature

Kathleen Beck, Attorney-in-Fact

Printed

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 7268180

American Fire and Casualty Company
The Ohio Casualty Insurance Company

Liberty Mutual Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Kathleen Beck; Susan J. Peragallo

all of the city of Concord, state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 12th day of February, 2016.



American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 12th day of February, 2016, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires March 28, 2017
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Gregory W. Davenport, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 17th day of October, 2016.



By: Gregory W. Davenport
Gregory W. Davenport, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

CALIFORNIA ALL-PURPOSE 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 October 17, 2016 before me, Jane Arrundal Walker, Notary Public,
Date Insert Name of Notary exactly as it appears on the official seal

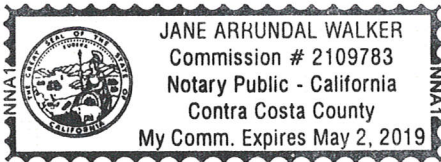
personally appeared Kathleen Beck
Name(s) of Signer(s)

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 Jane Arrundal Walker
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of the form to another document.

Description of Attached Document

Title or Type of Document: Subdivision Agreement Extension

Document Date: October 17, 2016 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Kathleen Beck

- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:
Liberty Mutual Insurance
Company

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:

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 Contra Costa)

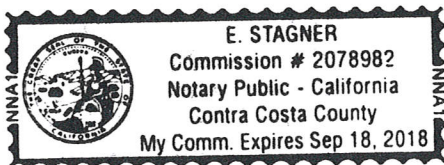
On 10/18/16 before me, E. Stagner, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Lisa Hofmann Morgan & Dennis M. Drew
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. Stagner
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: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 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: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Accepting completion of private improvements for subdivision SD05-08992, Discovery Bay area.

RECOMMENDATION(S):

ADOPT Resolution No. 2016/624 accepting completion of private improvements for subdivision SD05-08992 for a project developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

FISCAL IMPACT:

100% Developer Fees.

BACKGROUND:

The developer has completed the private improvements per the Subdivision Agreement, and in accordance with the Title 9 of the County Ordinance Code.

CONSEQUENCE OF NEGATIVE ACTION:

The completion of private improvements will not be accepted.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Jocelyn LaRocque, (925)
313-2315

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

By: , Deputy

cc: Renee Hutchins, Records, Sherri Reed, Design and Construction, C. Hallford, Mapping Division, Lori Leontini, Engineering Services, Lori Brown, Hofmann Land Development Company, Liberty Mutual Insurance Company Attn: Kathleen Beck

ATTACHMENTS

Resolution No.

2016/624

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution No. 2016/624

IN THE MATTER OF accepting completion of private improvements for subdivision SD05-08992 for a project developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

The Public Works Director has notified this Board that the private improvements in subdivision SD05-08992 have been completed as provided in the Subdivision Agreement with Hofmann Land Development Company, heretofore approved by this Board in conjunction with the filing of the Subdivision Map.

WHEREAS these improvements are approximately located near Fallman Boulevard.

NOW, THEREFORE, BE IT RESOLVED that the private improvements have been COMPLETED as of November 15, 2016, thereby establishing the six month terminal period for the filing of liens in case of action under said Subdivision Agreement:

DATE OF AGREEMENT: September 19, 2006

NAME OF SURETY: Liberty Mutual Insurance Company

BE IT FURTHER RESOLVED the payment (labor and materials) surety for \$1,443,300, Bond No. 070003060 issued by the above surety be RETAINED for the six month lien guarantee period until May 15, 2017, at which time the Board AUTHORIZES the release of said surety less the amount of any claims on file.

BE IT FURTHER RESOLVED that Fallman Boulevard, North Lakefront Loop, Harborhaven Way, Bay Harbor Way, Keyesport Way, Lakehead Way, Harbor Cove Circle and Lakehead Court for the hereinafter described private roads, as shown and dedicated for private use on the Final Map of Subdivision SD05-08992 filed September 25, 2006, in Book 495 of final maps at Page 29, Official Records of Contra Costa County, State of California, have been COMPLETED and are NOT ACCEPTED.

BE IT FURTHER RESOLVED that there is no warranty period required, and the Public Works Director is AUTHORIZED to refund the \$28,870 cash security for performance (Auditor's Deposit Permit No. 466458, dated June 29, 2006) plus interest in accordance with Government Code Section 53079, if appropriate, to Hofmann Land Development Company, pursuant to the requirements of the Ordinance Code; and the Subdivision Agreement and surety bond, Bond No. 070003060, dated August 8, 2006 are EXONERATED (after the six month lien guarantee period).

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: Jocelyn LaRocque, (925) 313-2315

ATTESTED: November 15, 2016

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

By: , Deputy

cc: Renee Hutchins, Records, Sherri Reed, Design and Construction, C. Hallford, Mapping Division, Lori Leontini, Engineering Services, Lori Brown, Hofmann Land Development Company, Liberty Mutual Insurance Company Attn: Kathleen Beck



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Approving the sixth extension of the Subdivision Agreement for subdivision SD06-09067, Discovery Bay area.

RECOMMENDATION(S):

ADOPT Resolution No. 2016/625 approving the sixth extension of the Subdivision Agreement for subdivision SD06-09067, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The terminal date of the Subdivision Agreement needs to be extended. (Approximately 100% of the work has been completed to date.) The development is in the six month guarantee period and the bond needs to be kept up to date.

CONSEQUENCE OF NEGATIVE ACTION:

The terminal date of the Subdivision Agreement will not be extended and the developer will be in default of the agreement, requiring the County to take legal action against the developer and surety to get the improvements installed, or revert the development to acreage.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Jocelyn LaRocque, (925)
313-2315

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

By: , Deputy

cc: Jocelyn LaRocque, Engineering Services, Sherri Reed, Design and Construction, Hofmann Land Development Company, Liberty Mutual Insurance Company Attn: Kathleen Beck

ATTACHMENTS

Resolution No. 2016/625

Subdivision Agreement Extension

SD06-09067

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution No. 2016/625

IN THE MATTER OF approving sixth extension of the Subdivision Agreement for subdivision SD06-09067, for a project being developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

WHEREAS the Public Works Director having recommended that she be authorized to execute the sixth extension which extends the subdivision agreement between Hofmann Land Development Company and the County for construction of certain improvements in SD06-09067, Discovery Bay area, through July 8, 2017.

APPROXIMATE PERCENTAGE OF WORK COMPLETE: 100%

ANTICIPATED DATE OF COMPLETION: September 13, 2016

BOND NO.: 070006341 Date: May 28, 2008

REASON FOR EXTENSION: The development is in the six month guarantee period and the bond needs to be kept up to date.

NOW, THEREFORE, BE IT RESOLVED that the recommendation of the Public Works Director is APPROVED.

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: Jocelyn LaRocque, (925) 313-2315

ATTESTED: November 15, 2016

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

By: , Deputy

cc: Jocelyn LaRocque, Engineering Services, Sherri Reed, Design and Construction, Hofmann Land Development Company, Liberty Mutual Insurance Company Attn: Kathleen Beck

CONTRA COSTA COUNTY
SUBDIVISION AGREEMENT EXTENSION

Development Number: SD06-09067
Developer: Hofmann Land Development Company
Original Agreement Date: July 8, 2008
Sixth Extension New Termination Date: July 8, 2017

Improvement Security

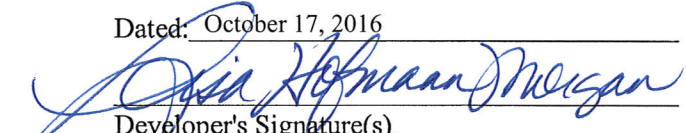
SURETY :	<u>The Continental Insurance Company</u>		
BOND No.	<u>070006341</u>	Date:	<u>May 28, 2008</u>
Security Type		Security Amount	
Cash:		\$	<u>11,693.00</u> (1% cash, \$1,000 Min.)
SURETY BOND:		\$	<u>1,157,607.00</u> (Performance)
		\$	<u>584,650.00</u> (Labor & Material)

The Developer and the Surety desire this Agreement to be extended through the above date; and Contra Costa County and said Surety hereby agree thereto and acknowledge same.

Dated: _____

Dated: October 17, 2016

FOR CONTRA COSTA COUNTY
Julia R. Bueren, Public Works Director


Developer's Signature(s)

By: _____

Lisa Hofmann Morgan

Printed



Developer's Signature(s)

RECOMMENDED FOR APPROVAL:

DENNIS M. DREW

Printed

By: _____
(Engineering Services Division)

PO Box 907, Concord CA. 94522

Address

Liberty Mutual Insurance Company

Surety or Financial Institution

(NOTE: Developer's, Surety's and Financial Institution's Signatures must be Notarized.)

71 Stevenson Street, Suite 600, San Francisco, CA 94105

Address

FORM APPROVED: Victor J. Westman, County Counsel



Attorney in Facts Signature

After Approval Return to Clerk of the Board

Kathleen Beck, Attorney-in-Fact

Printed

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 7268181

American Fire and Casualty Company
The Ohio Casualty Insurance Company

Liberty Mutual Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Kathleen Beck; Susan J. Peragallo

all of the city of Concord, state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 12th day of February, 2016.



American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 12th day of February, 2016, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires March 28, 2017
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Gregory W. Davenport, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 17th day of October, 2016.



By: Gregory W. Davenport
Gregory W. Davenport, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

CALIFORNIA ALL-PURPOSE 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 October 17, 2016 before me, Jane Arrundal Walker, Notary Public,
Date Insert Name of Notary exactly as it appears on the official seal

personally appeared Kathleen Beck

Name(s) of Signer(s)

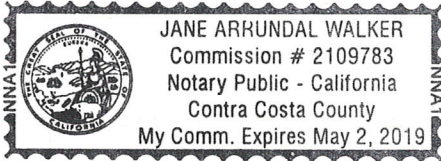
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of the form to another document.

Description of Attached Document

Title or Type of Document: Subdivision Agreement Extension

Document Date: October 17, 2016

Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Kathleen Beck

- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:
Liberty Mutual Insurance
Company

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:

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 Contra Costa)

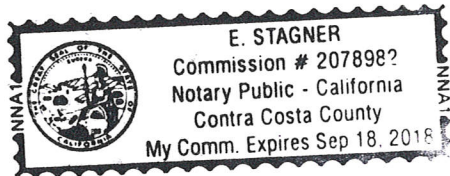
On 10/18/16 before me, E. Stagner, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Lisa Hofmann Morgan & Dennis M. Drew
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. Stagner
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: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 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: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Accepting completion of private improvements for subdivision SD06-09067, Discovery Bay area.

RECOMMENDATION(S):

ADOPT Resolution No. 2016/626 accepting completion of private improvements for subdivision SD06-09067, for a project developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III)

FISCAL IMPACT:

100% Developer Fees.

BACKGROUND:

The developer has completed the private improvements per the Subdivision Agreement, and in accordance with the Title 9 of the County Ordinance Code.

CONSEQUENCE OF NEGATIVE ACTION:

The completion of private improvements will not be accepted.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Jocelyn LaRocque, (925)
313-2315

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

By: , Deputy

ATTACHMENTS

Resolution No.

2016/626

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution No. 2016/626

IN THE MATTER OF accepting completion of private improvements for subdivision SD06-09067 for a project developed by Hofmann Land Development Company, as recommended by the Public Works Director, Discovery Bay area. (District III) The Public Works Director has notified this Board that the private improvements in subdivision SD06-09067 have been completed as provided in the Subdivision Agreement with Hofmann Land Development Company, heretofore approved by this Board in conjunction with the filing of the Subdivision Map

WHEREAS these improvements are approximately located near Fallman Boulevard.

NOW, THEREFORE, BE IT RESOLVED that the private improvements have been COMPLETED as of November 15, 2016, thereby establishing the six month terminal period for the filing of liens in case of action under said Subdivision Agreement:

DATE OF AGREEMENT: July 8, 2008

NAME OF SURETY: Liberty Mutual Insurance Company

BE IT FURTHER RESOLVED the payment (labor and materials) surety for \$584,650, Bond No. 070006341 issued by the above surety be RETAINED for the six month lien guarantee period until May 15, 2017, at which time the Board AUTHORIZES the release of said surety less the amount of any claims on file.

BE IT FURTHER RESOLVED that Calypso Court, Tradewinds Circle and Headwater Way for the hereinafter described private roads, as shown and dedicated for private use on the Final Map of Subdivision SD06-09067 filed July 18, 2008, in Book 507 of final maps at Page 01, Official Records of Contra Costa County, State of California, have been COMPLETED and are NOT ACCEPTED.

BE IT FURTHER RESOLVED that there is no warranty period required, and the Public Works Director is AUTHORIZED to refund the \$11,693 cash security for performance (Auditor's Deposit Permit No. 504612, dated June 12, 2008) plus interest in accordance with Government Code Section 53079, if appropriate, to Hofmann Land Development Company, pursuant to the requirements of the Ordinance Code; and the Subdivision Agreement and surety bond, Bond No. 070006341, dated May 28, 2008 are EXONERATED (after the six month lien guarantee period).

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: Jocelyn LaRocque, (925) 313-2315

ATTESTED: November 15, 2016

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

By: , Deputy

cc: Renee Hutchins, Records, S. Reed, Design/Construction, C. Hallford, Mapping Division, Lori Leontini, Engineering Services, Lori Brown, Hofmann Land Development Company, Liberty Mutual Insurance Company Attn: Kathleen Beck



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Ratify the prior decision of the Public Works Director, or designee, to close a portion of Pomona Street on November 11, 2016 from 9 a.m. thru 12 p.m.

RECOMMENDATION(S):

ADOPT Resolution No. 2016/634 ratifying the prior decision of the Public Works Director, or designee, to fully close a portion of Pomona Street between Alexander Avenue and Rolph Park Avenue, on November 11, 2016 from 9:00 a.m. through 12:00 p.m., for the purpose of John Swett Band Boosters Veterans Day parade, Crockett area. (District V)

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

Applicant shall follow guidelines set forth by the Public Works Department.

CONSEQUENCE OF NEGATIVE ACTION:

Applicant will not have Board approval for completed road closure.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Bob Hendry, (925) 674-7744

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/634

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:

NO:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2016/634

IN THE MATTER OF ratifying the prior decision of the Public Works Director, or designee, to fully close a portion of Pomona Street between Alexander Avenue and Rolph Park Avenue, on November 11, 2016 from 9:00 a.m. through 12:00 p.m., for the purpose of John Swett Band Boosters Veterans Day parade, Crockett area. (District V)

RC16-13

IT IS BY THE BOARD RESOLVED that permission is granted to John Swett Band Boosters to fully close Pomona Street between Alexander Avenue and Rolph Park Avenue, except for emergency traffic, on November 11, 2016 for the period of 9:00 a.m. through 12:00 p.m., subject to the following conditions:

1. Traffic will be detoured via neighboring streets per plan reviewed by Public Works.
2. All signing to be in accordance with the California Manual on Uniform Traffic Control Devices.
3. John Swett Band Boosters shall comply with the requirements of the Ordinance Code of Contra Costa County.
4. Provide the County with a Certificate of Insurance in the amount of \$1,000,000 for Comprehensive General Public Liability which names the County as an additional insured prior to permit issuance.
5. Obtain approval for the closure from the Sheriff's Department, the California Highway Patrol and the Fire District.

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 15, 2016

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

Contact: Bob Hendry, (925) 674-7744

By: , Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: Keith Freitas, Airports Director
Date: November 15, 2016

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 Charles Luther for a T-hangar at Buchanan Field Airport effective November 8, 2016 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

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Beth Lee, (925)
681-4200

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

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

Charles Luther Hangar Agreement

CONTRA COSTA COUNTY - BUCHANAN FIELD AIRPORT

T-HANGAR AND SHADE HANGAR RENTAL AGREEMENT

1. **PARTIES:** November 8, 2016 ("Effective Date"), the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("Airport"), Charles Luther ("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-14 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 8, 2016**, 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: Wiedemann Ranch GHAD Board of Directors
From: Patricia E. Curtin, GHAD Attorney and General Manager
Date: November 15, 2016

Subject: Declare GHAD intent to order assessment for PODVA Development and set public hearing

RECOMMENDATION(S):

ADOPT Resolution No. 2016/03 declaring the GHAD's intent to order the assessment set forth in the attached Engineers Report and set a public hearing for January 17, 2017, to consider the proposed assessment and any objections thereto. (NOTE: This Resolution directs the GHAD Clerk to mail notice of public hearing and to mail the assessment ballots.)

FISCAL IMPACT:

The developer of the Podva (now known as Red Hawk) development is responsible for funding all activities relating to that development undertaken by the GHAD up and until the GHAD Improvements, as defined in the Podva Plan of Control, are accepted by the GHAD. Thereafter, it is anticipated that the GHAD, as it relates to the Podva development, will be funded 100% through assessments levied on properties within that development.

BACKGROUND:

On September 1, 1998, the Contra Costa County Board of Supervisors adopted Resolution No. 98/438 approving the formation of the Wiedemann Ranch GHAD and appointed itself to serve as the

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Eric Harrell
925-866-9000

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

GHAD Board of Directors. Three developments have been annexed into the GHAD - the Henry Ranch (April 11, 2000), Elworthy Ranch (July 29, 2014) and Podva (March 29, 2016).

The Podva development was approved for 20 single family homes.

Funding sources have been secured for the first two annexations and it is now appropriate to secure a funding source for the Podva annexation. Like all the projects in the GHAD, the funding source is through a real property assessment. The assessment for the Podva development is proposed to be imposed as building permits are issued for the homes. The assessment will allow the GHAD to perform services as outlined in the Podva Plan of Control approved by the GHAD Board on March 29, 2016 (Resolution No. 2016/02).

017579.000 I\4475291.1 1

The proposed assessment is supported by the Engineer's Report dated November 1, 2016 prepared by a Registered Professional Engineer certified by the State of California, in accordance with Proposition 218 (attached as Attachment B to Resolution No. 2016/03).

The Engineer's Report recommends an assessment limit of \$2,395.00 per single family residential unit (fiscal year 2016/2017 dollars). The annual assessment limit would be adjusted annually based on the San Francisco-Oakland-San Jose Consumer Price Index (CPI).

ENVIRONMENTAL REVIEW:

Under State law, GHAD formation is exempt from review under the California Environmental Quality Act (CEQA) (Pub. Res. Code § 26559). Also, improvements caused to be undertaken under the GHAD Law and all activities in furtherance or in connection therewith are exempt from review under CEQA (Pub. Res. Code § 26601).

CONTACT PERSON:

Inquiries regarding the hearing and requests for materials and documents to be considered at the hearing may be made to the GHAD Manager, ENGEIO Incorporated, Attn: Eric Harrell, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583 by phone at (925) 866-9000, or by e-mail at eharrell@engeio .com.

CONSEQUENCE OF NEGATIVE ACTION:

The Podva portion of the GHAD would have no secured funding source so GHAD services could not be provided to this area of the GHAD.

ATTACHMENTS

Wiedemann Ranch Staff Report

Wiedemann Ranch Resolution No. 2016/03

**WIEDEMANN RANCH
GEOLOGIC HAZARD ABATEMENT DISTRICT**

TO: Wiedemann Ranch GHAD Board of Directors

FROM: GHAD Manager and GHAD Clerk/Attorney

MEETING DATE: November 15, 2016

SUBJECT: RESOLUTION TO DECLARE THE GHAD' S INTENT TO ORDER AN ASSESSMENT FOR THE PODVA DEVELOPMENT AND SET A PUBLIC HEARING FOR JANUARY 17, 2017 TO CONSIDER THE PROPOSED ASSESSMENT AND ANY PROTESTS THERETO (NO. 2016/03).

RECOMMENDATION(S):

ADOPT Resolution No. 2016/03 declaring the GHAD' s intent to order the assessment set forth in the attached Engineer's Report and set a public hearing for January 17, 2017 to consider the proposed assessment and any objections thereto. (Note: This Resolution directs the GHAD Clerk to mail notice of the public hearing and to mail the assessment ballots.)

FISCAL IMPACT:

The developer of the Podva (now known as Red Hawk) development is responsible for funding all activities relating to that development undertaken by the GHAD up and until the GHAD Improvements, as defined in the Podva Plan of Control, are accepted by the GHAD. Thereafter, it is anticipated that the GHAD, as it relates to the Podva development, will be funded 100% through assessments levied on properties within that development.

BACKGROUND:

On September 1, 1998, the Contra Costa County Board of Supervisors adopted Resolution No. 98/438 approving the formation of the Wiedemann Ranch GHAD and appointed itself to serve as the GHAD Board of Directors. Three developments have been annexed into the GHAD - the Henry Ranch (April 11, 2000), Elworthy Ranch (July 29, 2014) and Podva (March 29, 2016). The Podva development was approved for 20 single family homes.

Funding sources have been secured for the first two annexations and it is now appropriate to secure a funding source for the Podva annexation. Like all the projects in the GHAD, the funding source is through a real property assessment. The assessment for the Podva development is proposed to be imposed as building permits are issued for the homes. The assessment will allow the GHAD to perform services as outlined in the Podva Plan of Control approved by the GHAD Board on March 29, 2016 (Resolution No. 2016/02).

The proposed assessment is supported by the Engineer's Report dated November 1, 2016 prepared by a Registered Professional Engineer certified by the State of California, in accordance with Proposition 218 (attached as Attachment B to Resolution No. 2016/03).

The Engineer's Report recommends an assessment limit of \$2,395.00 per single family residential unit (fiscal year 2016/2017 dollars). The annual assessment limit would be adjusted annually based on the San Francisco-Oakland-San Jose Consumer Price Index (CPI).

ENVIRONMENTAL REVIEW:

Under State law, GHAD formation is exempt from review under the California Environmental Quality Act (CEQA) (Pub. Res. Code § 26559). Also, improvements caused to be undertaken under the GHAD Law and all activities in furtherance or in connection therewith are exempt from review under CEQA (Pub. Res. Code § 26601).

CONSEQUENCE OF NEGATIVE ACTION:

The Podva portion of the GHAD would have no secured funding source so GHAD services could not be provided to this area of the GHAD.

CONTACT PERSON:

Inquiries regarding the hearing and requests for materials and documents to be considered at the hearing may be made to the GHAD Manager, ENGEEO Incorporated, Attn: Eric Harrell, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583 by phone at (925) 866-9000, or by e-mail at eharrell@engeo.com.

**THE BOARD OF DIRECTORS OF WIEDEMANN RANCH
GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)**

Adopted this Resolution on November 15, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RESOLUTION NO. 2016/03(WIEDEMANN RANCH GHAD)

SUBJECT: Resolution 2016/03 declaring the GHAD' s intent to order the assessment set forth in the attached Engineer's Report and set a public hearing for January 17, 2017 to consider the proposed assessment and any objections thereto. (Note: This Resolution directs the GHAD Clerk to mail notice of the public hearing and to mail the assessment ballots.)

WHEREAS, on September 1, 1998, the Contra Costa County Board of Supervisors adopted Resolution 98/438 approving the formation of the Wiedemann Ranch ("GHAD") and appointed itself to serve as the GHAD Board of Directors;

WHEREAS, on January 19, 2016, the GHAD Board accepted a petition from Ponderosa Homes II, Inc. requesting annexation of the Podva (also known as Red Hawk) development into the GHAD;

WHEREAS, on March 29, 2016, the GHAD Board held a public hearing on the proposed annexation and Podva Property Development Annexation Plan of Control ("Plan of Control") and thereafter approved the annexation and Plan of Control;

WHEREAS, in order to pay for costs and expenses of maintaining and operating the GHAD improvements as set forth in the Plan of Control, a funding source must be established;

WHEREAS, an Engineer's Report has been prepared to support a real property assessment against the 20 homes at a FY 2016/17 level of \$2,395.00 per single-residential unit for GHAD services and is attached as Exhibit A;

WHEREAS, Public Resources Code sections 26650 *et seq.* authorize, after a noticed public hearing, the levy and collection of an assessment upon specially benefited property within the GHAD to pay for the maintenance and operation of GHAD improvements. Article XIII(D) of the California Constitution imposes additional requirements for the levy and collection of said assessment;

WHEREAS, the Engineer's Report was prepared by the GHAD Manager to reflect the Plan of Control adopted by the GHAD Board on March 29, 2016. The GHAD Manager is a Registered Professional Engineer, certified in the State of California, in compliance with Public Resources Code section 26651(a) and section 4(b) of Article XIII (D) of the California Constitution; the Engineer's Report sets forth the estimated budget, the total assessment that will be chargeable to the Podva portion of the GHAD, the proposed estimated assessment to be levied against each parcel of property within the Podva portion of the GHAD, and a description of the method used in formulating the estimated assessments; and

WHEREAS, the property within the Podva portion of the GHAD is identified on the map attached as Exhibit B and each parcel is proposed to be assessed.

NOW THEREFORE, the GHAD Board of Directors resolves and orders that:

1. The GHAD Board declares its intention, consistent with the requirements of Article XIII (D) of the California Constitution, Public Resources Code sections 26650 *et seq.*, Government Code section 53750, and Elections Code section 4000, to order that the cost and expenses of maintaining and operating any GHAD improvements in the Podva development acquired or constructed pursuant to Public Resources Code sections 26500 *et seq.* shall be assessed against the property within the Podva portion of the GHAD, which is benefited by the these properties in this portion of the GHAD.

2. The GHAD Board shall not order this assessment if a majority protest exists within the Podva portion of the GHAD as defined in Section 4(e) of Article XIII(D) of the California Constitution.

3. Each of the parcels identified in Exhibit B will receive a particular and distinct special benefit in the form of GHAD facilities and services that are over and above the general benefits received by the general public. Specifically, the GHAD's maintenance responsibilities include prevention and abatement of geologic hazards such as landslides and slope erosion within the Podva portion of the GHAD. The GHAD will have responsibilities that include (a) maintenance of retaining walls, water detention basin facility and access road, bio retention facility, trash rack, debris benches, drainage ditches, storm drain systems and trails, (b) vegetation control for fire suppression, and (c) establishment of a reserve to fund, prevent, mitigate, abate or control geologic hazards within this area. These special benefits are described in detail in the already approved Plan of Control.

4. Whenever a residential building permit is issued on the 20 parcels identified in Exhibit B, that lot will be assessed on an equal basis with each single family lot in the development. The annual assessment amount for each residential unit will be calculated by dividing the annual Podva portion of the GHAD budget by the number of residential units then existing within the Podva portion of the GHAD boundaries.

5. The GHAD Board has reviewed and considered the attached Engineer's Report. The special benefit derived from the GHAD by each parcel is proportionate to the entire costs of the Podva portion of the GHAD, and the amount of the assessment is proportional to, and no greater than, the benefits conferred on each parcel. The assessment does not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

6. The GHAD Board directs the GHAD Clerk cause to be mailed, no later than three (3) days after adoption of this Resolution, the "Notice of Adoption of Resolution and Notice of Assessment" of the Public Hearing, in substantially the same form as in Exhibit C ("Notice") to the record owners of each parcel upon which the assessment will be imposed. The sealable Ballot, attached hereto as Exhibit D, and the Engineer's Report, shall be attached to the Notice.

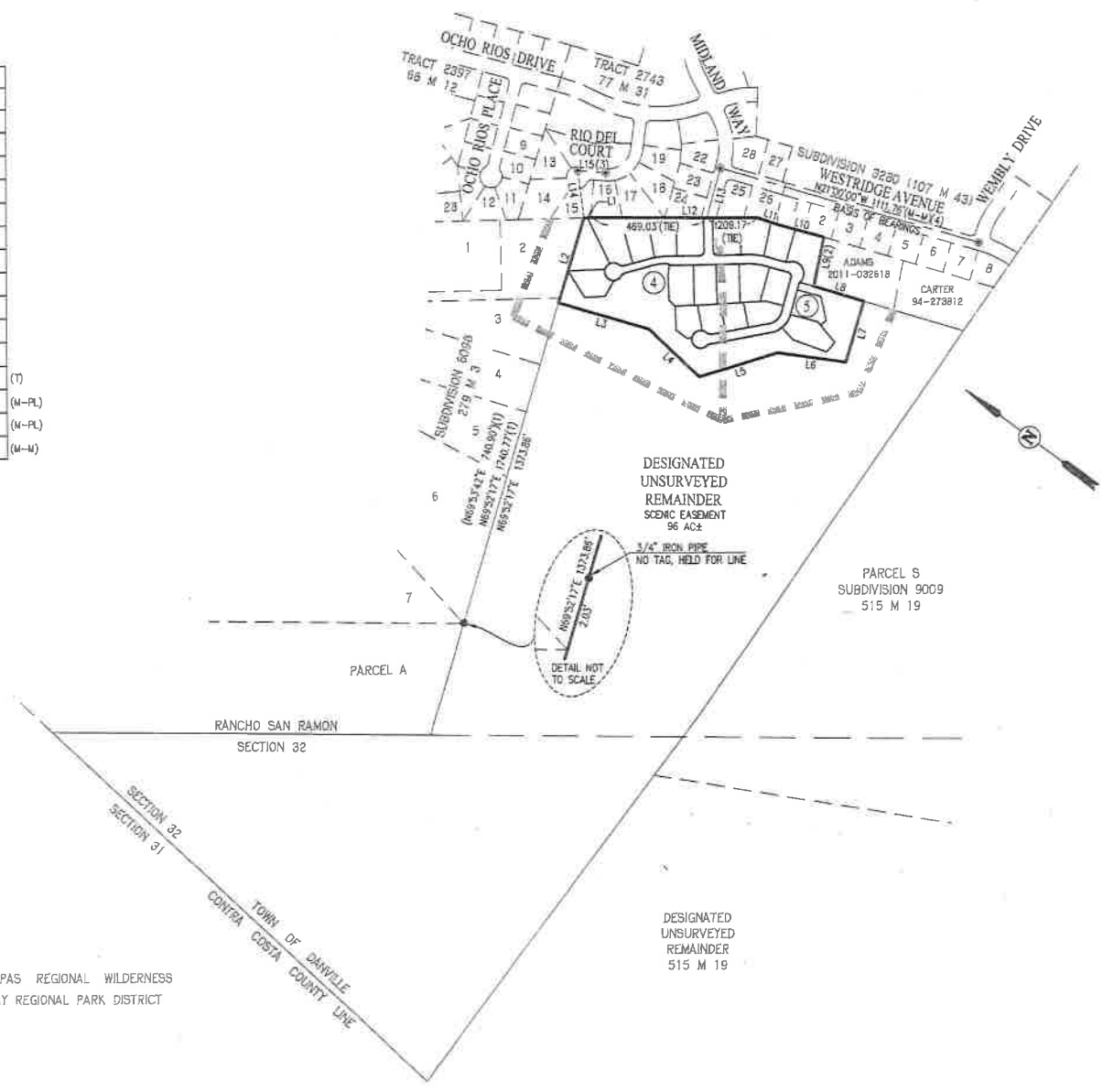
7. The GHAD Board will conduct a public hearing on January 17, 2017 in the chambers of the Contra Costa County Board of Supervisors at 651 Pine Street, Martinez, CA at 9:00 am or thereafter. The Clerk of the GHAD shall deliver all sealed ballots received from record owners of parcels within the Podva portion of the GHAD to the GHAD hearing. The ballots shall remain sealed until they are tabulated. The GHAD Board shall permit a change, withdrawal, or submittal of a ballot at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing. The GHAD Board shall consider all protests against the proposed assessment. At the GHAD Board hearing, the Clerk of the GHAD, or some other impartial person not having a vested interest in the outcome of the proposed assessment, shall tabulate the ballots, and shall weight the ballots according to the proportional financial obligation of the affected property. The GHAD Board shall not impose the assessment if there is a majority protest as that term is defined by Section 4(e) of Article XIII (D) of the California Constitution. If there is no majority protest, the GHAD Board shall authorize the assessment and adopt the canvas of votes.

8. Upon authorization of the assessment, the GHAD Board shall levy the authorized assessment on the 20 parcels the first fiscal year following issuance of a residential building permit for each of those parcels.

9. This Resolution shall become effective immediately upon its passage and adoption.

Attachments: Exhibit A (Map of Podva portion of the GHAD Boundaries)
Exhibit B (Engineer's Report)
Exhibit C (Notice of Adoption of Resolution and Notice of Assessment)
Exhibit D (Ballot)

NO	BEARING	LENGTH
L1	N38°23'06"W	38.56'
L2	N69°52'17"E	366.91'
L3	N20°45'48"W	389.46'
L4	N06°25'59"E	285.81'
L5	N53°56'03"W	339.68'
L6	N29°13'22"W	284.65'
L7	N69°39'40"E	261.49'
L8	N20°20'20"W	215.97'
L9	N64°27'40"E	208.30'
L10	N21°34'57"W	199.21'
L11	N18°20'58"W	87.21'
L12	N37°02'05"W	678.20' (T)
L13	N69°00'00"E	209.85' (M-PL)
L14	N45°35'15"E	194.43' (M-PL)
L15	N32°30'00"W	117.00' (M-M)



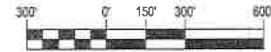
SUBDIVISION 9309 RED HAWK

CONSISTING OF 5 SHEETS
BEING A PORTION OF RANCHO SAN RAMON AND
A PORTION OF SECTION 32, T.1S, R.1W., MDM
TOWN OF DANVILLE, CONTRA COSTA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

SCALE: 1" = 300' JUNE 2015



BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS DETERMINED BY FOUND MONUMENTS SHOWN ON WESTRIDGE AVENUE, THE BEARING BEING N21°00'00"W PER TRACT NO. 3280 (107 M 43).

REFERENCES:

- (#) INDICATES REFERENCE NUMBER
- (1) SUBDIVISION 6088 (279 M 3)
- (2) GRANT DEED, DOC NO. 2011-32618
- (3) TRACT 2743 (77 M 31)
- (4) SUBDIVISION 3280 (107 M 43)

NOTE:

1. A CHISELED MARK SHALL BE CUT INTO THE TOP OF CURB AT THE PROLONGATION OF LOT LINES, AND A REBAR AND CAP, LS 7960, SHALL BE SET AT ALL NON-FRONTAGE CORNERS AND ANGLE POINTS

LEGEND

	GHAD AND SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	ADJONER LINE
	RANCHO AND SECTION LINE
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
⊙	FOUND STANDARD STREET MONUMENT
⊙	SET STANDARD STREET MONUMENT
⊙	FOUND MONUMENT AS NOTED
LME	LANDSCAPE MAINTENANCE EASEMENT
PUE	PUBLIC UTILITY EASEMENT
TMAE	TRAIL MAINTENANCE ACCESS EASEMENT
	SHEET LIMIT
	SHEET NUMBER

ENGINEER'S REPORT

for

**WIEDEMANN RANCH GEOLOGIC HAZARD ABATEMENT DISTRICT
RED HAWK (PODVA) DEVELOPMENT ANNEXATION
CONTRA COSTA COUNTY, CALIFORNIA**

November 1, 2016

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EXHIBIT A - LEGAL DESCRIPTION AND PLATS

EXHIBIT B - WIEDEMANN RANCH GHAD BUDGET – RED HAWK (PODVA)

ANNEXATION

ENGINEER'S REPORT

**WIEDEMANN RANCH
GEOLOGIC HAZARD ABATEMENT DISTRICT
RED HAWK (PODVA) DEVELOPMENT ANNEXATION**
(Pursuant to the Public Resources Code of the State of California, Section 26500 et seq.)

CERTIFICATION OF FILING

The Geologic Hazard Abatement District ("GHAD") provides monitoring and maintenance of improvements related to geologic hazard management and other responsibilities as a landowner, within the Red Hawk (Podva) Residential Development portion of the Wiedemann Ranch GHAD and levies and collects assessments in order to perform its activities.

The GHAD responsibilities, which are the subject of this report, are defined as any activity that is necessary or incidental to the prevention, mitigation, abatement, or control of a geologic hazard, construction, maintenance, repair, or operation of improvement; or the issuance and servicing of bonds issued to finance any of the foregoing (Section 26505).

This report consists of seven parts, as follows:

- I. INTRODUCTION**
- II. BACKGROUND**
- III. GEOLOGIC HAZARD ABATEMENT DISTRICT DIAGRAM**
- IV. SERVICE LEVELS**
- V. DESCRIPTION OF GHAD MAINTAINED IMPROVEMENTS**
- VI. ASSESSMENT METHOD**
- VII. ASSESSMENT LIMIT - BUDGET PROJECTION**

The undersigned respectfully submits the enclosed Engineer's Report.

Date: November 1, 2016

By: ENGEO Incorporated



Paul C Guerin, GE
Paul C. Guerin

I HEREBY CERTIFY that the enclosed Engineer's Report was filed on the 1th day of November 2016.

Patricia Curtin
Attorney and Acting Clerk of the Board
Wiedemann Ranch Geologic Hazard Abatement District
Contra Costa County, California

I HEREBY CERTIFY that the enclosed Engineer's Report was approved and confirmed by the GHAD Board on the 15th day of November 2016.

Eric Harrell
GHAD Manager
Wiedemann Ranch Geologic Hazard Abatement District
Contra Costa County, California

ENGINEER'S REPORT

for

**WIEDEMANN RANCH GEOLOGIC HAZARD ABATEMENT DISTRICT
RED HAWK (PODVA) DEVELOPMENT ANNEXATION
CONTRA COSTA COUNTY, CALIFORNIA
for the
ESTABLISHMENT OF AN ASSESSMENT LIMIT**

I. INTRODUCTION

The Contra Costa County Board of Supervisors formed the Wiedemann Ranch Geologic Hazard Abatement District (“GHAD” or “District”) on September 1, 1998 (Resolution No. 98/438), under the authority of the California Public Resources Code, Division 17, Section 26500 et seq. The GHAD Board of Directors approved the annexation of the Red Hawk (Podva) Property into the GHAD on March 29, 2016 with the approval of Resolution No. 2016/02 (“GHAD Annexation Area”). The members of the Contra Costa County Board of Supervisors act as the Board of Directors of the GHAD.

II. BACKGROUND

The Wiedemann Ranch Board of Directors approved the Plan of Control for the Podva Property Development Annexation (“Plan of Control”) with the approval of Resolution No. 2016/02 on March 29, 2016. The Plan of Control describes the GHAD’s responsibilities to permanently monitor and maintain GHAD improvements within the GHAD Annexation Area. This Engineer’s Report describes the establishment of an assessment level to fund GHAD activities necessary or incidental to geologic hazard mitigation, abatement and control.

III. GEOLOGIC HAZARD ABATEMENT DISTRICT BOUNDARIES

The boundaries for the GHAD Annexation Area are shown in the legal description and plats attached hereto as Exhibit A.

IV. SERVICE LEVELS

The GHAD’s activities are those that are necessary or incidental to the prevention, mitigation, abatement, or control of geologic hazards including construction, maintenance, repair, or operation of any improvement; and the issuance and servicing of bonds issued to finance any of the foregoing.

The GHAD provides for the administration and review of facilities within the budgeted limits, including the following services:

1. Oversight of GHAD operations, including reporting to the GHAD Board of Directors.
2. In conjunction with the County Assessor's Office, setting the annual levying of assessments on the property tax rolls.
3. Engagement of technical professionals to perform the monitoring duties as described in the Plan of Control.
4. Performance of GHAD maintenance activities in accordance with the Plan of Control. These maintenance activities include:
 - Monitoring of developer- or GHAD-constructed retaining walls and maintenance if structural integrity of a wall or adjacent structure(s) is threatened.
 - Maintenance of water detention basin facility and access road located on Parcel "B".
 - Maintenance of bioretention facility located on Parcel "A" between Midland Way and Lot 1.
 - Maintenance of existing trash rack on Parcel "B"
 - Maintenance of debris benches, lined and unlined drainage ditches in developed areas and open space.
 - Vegetation control for fire suppression within open space (Parcels "A" and "B").
 - Maintenance of storm drain system improvements, subdrains, and subdrain outlets in open space (Parcels "A" and "B").
 - Trail maintenance on Parcel "B".
5. The GHAD will also have maintenance, monitoring and repair responsibilities for slopes, which include natural, reconstructed or partially reconstructed landslides.
6. Preparation of annual GHAD budgets for approval by the GHAD Board of Directors.

V. DESCRIPTION OF THE IMPROVEMENTS MAINTAINED BY THE GHAD

The GHAD-maintained improvements are described in the Plan of Control. In general, these improvements include water quality facilities; drainage systems, including lined ditches in developed areas and open space; open-space storm drain inlets and outlets; subdrains and outlets; retaining walls; and access roadways.

VI. ASSESSMENT METHOD

The improvements and GHAD responsibilities described in Section V are distributed within the GHAD Annexation Area. The improvements described in this document will confer the following special benefits to the assessed parcels:

1. Protection from slope instability
2. Protection from erosion due to uncontrolled surface water
3. Protection of water quality
4. Protection from wild land fires due to unmanaged vegetation

The GHAD assessment is distributed among all residential property owners within the GHAD Annexation Area. The improvements and responsibilities listed in Section V provide specific benefits to the properties within the GHAD Annexation Area and the improvements are constructed for the benefit of those assessed and not the general public.

The GHAD Annexation Area consists of 20 single-family residences. Single-family residential lots are assessed as one unit and are assessed equally. The total number of residential units within the GHAD Annexation Area was considered in light of the annual GHAD Annexation Area budget in developing the annual assessment amount.

The Engineer hereby finds that the residential properties within the GHAD Annexation Area receive approximately equal special benefit from the work and improvements within the GHAD. As a result, the GHAD assessment for the GHAD Annexation Area is distributed among all owners of parcels.

A financial analysis was performed to provide a framework for an operating budget for the ongoing abatement, mitigation, prevention and control of geologic hazards within the GHAD Annexation Area. In preparation of the budget, several factors were considered including:

1. Site geology
2. Remedial grading
3. Proximity of geologic hazards to proposed residences
4. Improvements and structures
5. Site access considerations
6. Elements requiring routine maintenance, including:
 - Surface drainage facilities
 - Graded slopes
 - Retaining walls
 - Bioretention and detention basin facilities
 - Trails and fire breaks

VII. ASSESSMENT - BUDGET

The purpose of this Engineer's Report is to establish the assessment level and the apportionment of the assessment within the GHAD Annexation Area as required under Proposition 218. The annual budget in each subsequent fiscal year will apprise the GHAD Board of Directors of the estimated budget for the upcoming year.

Based on the estimated expenses for on-going operations, and allowing for larger (approximately \$150,000) geologic events at 10-year intervals, a budget was prepared for the purpose of estimating initial assessment levels (Exhibit B).

The Engineer recommends an annual assessment limit for the GHAD Annexation Area of \$2,395.00 per single-residential unit (Fiscal Year 2016/17 dollars). The proposed initial assessment level will be automatically adjusted annually on June 30 to reflect the percentage change in the San Francisco-Oakland-San Jose Consumers Price Index for All Urban Consumers.

While the assumptions and estimated expenses listed in Exhibit B were used to determine the assessment levels for the GHAD Annexation Area, they do not represent the actual budget for any one year of the GHAD's operation, since assessment of the individual parcels will be based on the issuance of building permits, which will occur over a number of years. In addition, the Engineer anticipates that the projected expense amounts will be reached over time and that these amounts will be inflation-adjusted in the year that the expenses occur.

Pursuant to the schedule set forth in Exhibit B of the Plan of Control for the Red Hawk Project, the GHAD reserve at the time of transfer will be a minimum \$149,000. The minimum reserve amount represents the estimated total assessments that will be collected from within the Red Hawk Project during the period the developer is responsible for all GHAD activities. The reserve amount requirement may be satisfied by including remaining cash and receivables from the Contra Costa County Tax Collector during the period that the developer of the Red Hawk Project is responsible for performing the GHAD activities. Additional funds contributed directly by the developer to satisfy the minimum reserve requirement, if any, shall be provided to the Wiedemann Ranch GHAD prior to its acceptance of the monitoring and maintenance responsibilities within the Red Hawk Project.

VIII. DEVELOPER RESPONSIBILITIES

The developer of the Site is responsible for managing and maintaining the GHAD Annexation Area until the GHAD accepts responsibility for the GHAD Improvements as set forth in the Plan of Control. In addition, the developer is responsible for funding any necessary GHAD functions or business undertaken for the GHAD Annexation Area that the GHAD Officers or Board of Directors determine are necessary before the GHAD accepts the GHAD Improvements. If the developer fails to fund all or a portion of these costs, the costs shall be covered by the funds generated by and for the GHAD Annexation Area (i.e., through the assessment) and the developer shall be required to reimburse the GHAD for such costs before the GHAD can accept monitoring and maintenance responsibilities for the GHAD Improvements.

The GHAD may utilize funds generated by or for the GHAD Annexation Area to conduct any necessary GHAD functions or business for the GHAD Annexation Area required before the GHAD accepts the GHAD improvements. Such functions and business can include periodic reporting to the GHAD Board of Directors and work performed by GHAD Officers to verify the GHAD is implemented in accordance with the Plan of Control and GHAD Law.

EXHIBIT A

Legal Description and Plats

SUBDIVISION 9309 RED HAWK

CONSISTING OF 5 SHEETS
BEING A PORTION OF RANCHO SAN RAMON AND
A PORTION OF SECTION 32, T.1S., R.1W., MDM
TOWN OF DANVILLE, CONTRA COSTA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2015

OWNER'S STATEMENT

THE UNDERSIGNED, BEING THE PARTIES HAVING RECORD TITLE INTEREST IN THE LANDS DELINEATED AND EMBRACED WITHIN THE SUBDIVISION BOUNDARY OF THIS MAP ENTITLED "SUBDIVISION 9309 RED HAWK", TOWN OF DANVILLE, CONTRA COSTA COUNTY, CALIFORNIA, DO HEREBY CONSENT TO THE MAKING AND RECORDEATION OF THE SAME.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES:
THOSE PORTION OF SAID LANDS DESIGNATED ON THIS MAP AS RED TAIL COURT, WINGFIELD COURT AND MIDLAND WAY FOR PUBLIC STREET AND UTILITY PURPOSES.

THE REAL PROPERTY BELOW IS OFFERED FOR DEDICATION AS AN EASEMENT FOR PUBLIC PURPOSES:
THE AREAS DESIGNATED AS "PUBLIC UTILITY EASEMENT" OR "PUE" ARE FOR PUBLIC PURPOSES INCLUDING POLES, WIRES, CONDUITS, STORM DRAINS, FLOOD AND SURFACE WATER DRAINAGE, GAS LINES, ELECTRIC, TELEPHONE, AND CABLE TELEVISION UTILITIES, INCLUDING THE RIGHTS OF INGRESS, EGRESS, CONSTRUCTION, RECONSTRUCTION, ACCESS FOR MAINTENANCE OF WORKS, IMPROVEMENTS, AND STRUCTURES, AND THE CLEARING OF OBSTRUCTIONS AND VEGETATION.

THE REAL PROPERTY BELOW IS OFFERED FOR DEDICATION AS AN EASEMENT FOR PUBLIC PURPOSES:
THE AREAS SHOWN AS "SCENIC EASEMENT" OVER PARCEL "B" AND UNSURVEYED DESIGNATED REMAINDER ARE FOR THE PURPOSE OF OPEN SPACE AND ARE SPECIFICALLY EXCLUDED FROM FUTURE DEVELOPMENT. THE SCENIC EASEMENT ACROSS THE UNSURVEYED DESIGNATED REMAINDER SHALL AUTOMATICALLY EXTINGUISH UPON E.B.R.P.D. ACCEPTANCE OF THE LAND DEDICATION.

THE REAL PROPERTY DESIGNATED AS PARCEL "A" IS FOR THE PURPOSE OF PRIVATE STORM DRAINAGE, LANDSCAPE FEATURES, AND WATER QUALITY USE AND ANY IMPROVEMENTS AND AFFURTANCES INSTALLED. THE REAL PROPERTY DESIGNATED AS PARCEL "B" IS FOR THE PURPOSE OF OPEN SPACE. MAINTENANCE OF SAID PARCELS SHALL BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION OF THIS SUBDIVISION. PARCEL "A" AND PARCEL "B" WILL BE OFFERED TO, AND ACCEPTED BY, THE GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD) BY SEPARATE INSTRUMENT SUBSEQUENT TO THE FILING OF THIS MAP.

THE AREAS SHOWN AS "LANDSCAPE MAINTENANCE EASEMENT" OR "LME" ARE SPECIFICALLY EXCLUDED FROM PUBLIC DEDICATION AND ARE FOR THE USE OF AND MAINTENANCE BY THE HOMEOWNERS ASSOCIATION OF SUBDIVISION 9309 RED HAWK, FOR ACCESS, STORM DRAINAGE, CONSTRUCTION, AND MAINTENANCE OF STORM DRAIN AND LANDSCAPE FEATURES.

THE AREA MARKED EBMDU IS DEDICATED TO EAST BAY MUNICIPAL UTILITY DISTRICT AS A PERPETUAL EASEMENT FOR THE PURPOSE OF CONSTRUCTING, REPLACING, MAINTAINING, OPERATING AND USING FOR THE TRANSMISSION AND DISTRIBUTION OF WATER, A PIPE OR PIPELINES AND ALL NECESSARY UTILITIES INCLUDING UNDERGROUND TELEMETRY AND ELECTRICAL CABLES OR APPURTANCES THEREOF, IN, UNDER, ALONG AND ACROSS SAID EASEMENT, TOGETHER WITH THE RIGHT OF INGRESS TO AND EGRESS FROM SAID EASEMENT AND THE RIGHT AT ALL TIMES TO ENTER IN, OVER AND UPON SAID EASEMENT AND EVERY PART THEREOF.

THE EASEMENT AREA MAY BE LANDSCAPED IN A MANNER CONSISTENT WITH EAST BAY MUNICIPAL UTILITY DISTRICT'S USE; HOWEVER, NO BUILDING OR STRUCTURE MAY BE PLACED ON SAID EASEMENT, NO TREES MAY BE PLANTED WITHIN THE EASEMENT AREA AND NO CHANGES MAY BE MADE TO THE EXISTING SURFACE ELEVATION (GRADE) OF THE EASEMENT AREA BY MORE THAN ONE (1) FOOT, NOR SHALL ANYTHING BE DONE THEREON WHICH MAY INTERFERE WITH EAST BAY MUNICIPAL UTILITY DISTRICT'S FULL ENJOYMENT OF SAID EASEMENT.

THE REAL PROPERTY DESIGNATED AS "DESIGNATED UNSURVEYED REMAINDER" SHALL BE DEDICATED TO THE EAST BAY REGIONAL PARK DISTRICT BY SEPARATE INSTRUMENT SUBSEQUENT TO THE FILING OF THIS MAP.

THE AREA SHOWN AS TRAIL MAINTENANCE ACCESS EASEMENT OR "TMAE" IS IRREVOCABLY OFFERED FOR DEDICATION TO THE EAST BAY REGIONAL PARK DISTRICT FOR INGRESS AND EGRESS, MAINTENANCE PURPOSES, AND PUBLIC ACCESS. THIS EASEMENT WILL BE ACCEPTED BY THE EAST BAY REGIONAL PARK DISTRICT BY SEPARATE INSTRUMENT SUBSEQUENT TO THE FILING OF THIS MAP.

THIS MAP SHOWS ALL EASEMENTS OF RECORD ON THE PROPERTY BEING SUBDIVIDED.

AS OWNER:

PONDEROSA HOMES II, INC., A CALIFORNIA CORPORATION

BY: _____ BY: _____
NAME: _____ NAME: _____
TITLE: _____ TITLE: _____

OWNER'S 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 _____
COUNTY OF _____

ON _____, BEFORE ME, _____, A NOTARY PUBLIC,
PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF
SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN
INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR
AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE
PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE
FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL:

SIGNATURE: _____

NAME (PRINT): _____

PRINCIPAL COUNTY OF BUSINESS: _____

MY COMMISSION NUMBER: _____

MY COMMISSION EXPIRES: _____

OWNER'S 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 _____
COUNTY OF _____

ON _____, BEFORE ME, _____, A NOTARY PUBLIC,
PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF
SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN
INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR
AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE
PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE
FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL:

SIGNATURE: _____

NAME (PRINT): _____

PRINCIPAL COUNTY OF BUSINESS: _____

MY COMMISSION NUMBER: _____

MY COMMISSION EXPIRES: _____

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF PONDEROSA HOMES II, INC., A CALIFORNIA CORPORATION, IN SEPTEMBER 2014, AND IS TRUE AND COMPLETE AS SHOWN. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. I HEREBY STATE THAT THE MONUMENTS WILL BE SET IN THE POSITIONS INDICATED AFTER THE IMPROVEMENTS ARE COMPLETED AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. THE AREA OF THE SUBDIVISION IS 13.22 ACRES, MORE OR LESS.

DATE _____



MARK H. WEBER, P.L.S.
L.S. NO. 7960

RECORDER'S STATEMENT

THIS MAP, ENTITLED "SUBDIVISION 9309 RED HAWK", IS HEREBY ACCEPTED FOR RECORDEATION, SHOWING A CLEAR TITLE AS PER LETTER OF TITLE WRITTEN BY FIRST AMERICAN TITLE COMPANY, DATED _____, AND AFTER EXAMINING THE SAME, I DEEM THAT SAID MAP COMPLES IN ALL RESPECTS WITH THE PROVISIONS OF STATE LAWS AND LOCAL ORDINANCES GOVERNING THE FILING OF SUBDIVISION MAPS.

RECORDED AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY AT _____ M., ON THE
DAY OF _____, 2015, IN BOOK _____ OF MAPS, AT PAGE
_____, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA.

DOCUMENT NO: _____

JOSEPH E. CANGAMILLA
COUNTY RECORDER
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

BY: _____
DEPUTY COUNTY RECORDER

PRELIMINARY

**SUBDIVISION 9309
RED HAWK**

CONSISTING OF 5 SHEETS
BEING A PORTION OF RANCHO SAN RAMON AND
A PORTION OF SECTION 32, T.1S., R.1W., MDM
TOWN OF DANVILLE, CONTRA COSTA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

JUNE 2015

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE WITHIN TRACT MAP ENTITLED " SUBDIVISION 9309 RED HAWK", THAT THE SUBDIVISION IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF, AS APPROVED BY THE TOWN COUNCIL OF THE TOWN OF DANVILLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON _____, THAT ALL OF THE PROVISIONS OF STATE LAW AND LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH, AND THAT I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT.

DATE: _____

STEVEN C. LAKE
DEVELOPMENT SERVICES DIRECTOR/CITY ENGINEER
TOWN OF DANVILLE
R.C.E. 31870

CITY CLERK'S STATEMENT

I HEREBY STATE THIS MAP, ENTITLED " SUBDIVISION 9309 RED HAWK ", WAS PRESENTED TO THE TOWN COUNCIL OF THE TOWN OF DANVILLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AS PROVIDED BY LAW, AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 20____ AND THAT SAID COUNCIL DID THEREUPON APPROVE SAID MAP BY A RESOLUTION WHICH WAS DULY PASSED AND ADOPTED AT SAID MEETING.

I FURTHER STATE THAT SAID TOWN COUNCIL DID HEREBY ACCEPT, SUBJECT TO IMPROVEMENTS, ON BEHALF OF THE PUBLIC, THE FOLLOWING OFFERS OF DEDICATION SHOWN ON THIS MAP, SAID AREAS ARE CALLED OUT AS: RED TAIL COURT, WINGFIELD COURT, PUBLIC UTILITY EASEMENT (PUE), SCENIC EASEMENT AND MIDLAND WAY.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HANDS THIS _____ DAY OF _____, 2015.

MARIE SLINSEK
CITY CLERK AND EX-OFFICIO CLERK OF THE
TOWN COUNCIL OF THE TOWN OF DANVILLE,
COUNTY OF CONTRA COSTA, STATE OF
CALIFORNIA

PLANNING STATEMENT

I HEREBY STATE THAT THE PLANNING COMMISSION OF THE TOWN OF DANVILLE, CONTRA COSTA COUNTY, STATE OF CALIFORNIA, HAS APPROVED THE TENTATIVE MAP ENTITLED "SUBDIVISION 9309 RED HAWK" UPON WHICH THE FINAL MAP IS BASED.

DATE _____

KEVIN J. GAILEY
CHIEF OF PLANNING
TOWN OF DANVILLE
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

BUILDING OFFICIAL'S STATEMENT

A GEOTECHNICAL EXPLORATION REPORT, PREPARED BY ENGEO, DATED AUGUST 6, 2014, PROJECT NO. 916.000.001, SIGNED BY PHILIP STUECHELL, HAS BEEN RECEIVED AND APPROVED FOR AREAS INCLUDED IN THIS SUBDIVISION AND IS KEPT ON FILE FOR PUBLIC INSPECTION AT THE TOWN OF DANVILLE BUILDING INSPECTION DIVISION, DANVILLE, CALIFORNIA.

MIKE LEONTRADES
CHIEF BUILDING OFFICIAL
TOWN OF DANVILLE
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

BY _____ DATE _____

CLERK OF THE BOARD OF SUPERVISORS STATEMENT

I HEREBY STATE AS CHECKED BELOW THAT:

A TAX BOND ASSURING PAYMENT OF ALL TAXES WHICH ARE NOW A LIEN, BUT ARE NOT YET PAYABLE, HAVE BEEN RECEIVED AND FILED WITH THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA.

ALL TAXES DUE HAVE BEEN PAID, AS CERTIFIED BY THE COUNTY REDEMPTION OFFICER

DATED _____

DAVID TWA
CLERK OF THE BOARD OF SUPERVISORS
AND COUNTY ADMINISTRATOR
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

BY _____
DEPUTY CLERK

PRELIMINARY

SUBDIVISION 9309 RED HAWK

CONSISTING OF 5 SHEETS
BEING A PORTION OF RANCHO SAN RAMON AND
A PORTION OF SECTION 32, T. 1S., R. 1W., MDM
TOWN OF DANVILLE, CONTRA COSTA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.

LAND SURVEYORS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

SCALE: 1" = 200' JUNE 2015

300 0 150 300 450

GRAPHIC SCALE

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS DETERMINED BY FOUND MONUMENTS SHOWN ON WESTRIDGE AVENUE. THE BEARING BEING N27°00'00"W PER TRACT NO. 2745 (107 M 3).

REFERENCES:

- (A) INDICATES REFERENCE NUMBER
- (1) SUBDIVISION 8096 (279 M 3)
- (2) GRANT DEED, DCC NO. 2811-32818
- (3) TRACT 2745 (107 M 3)
- (4) SUBDIVISION 3260 (107 M 4)

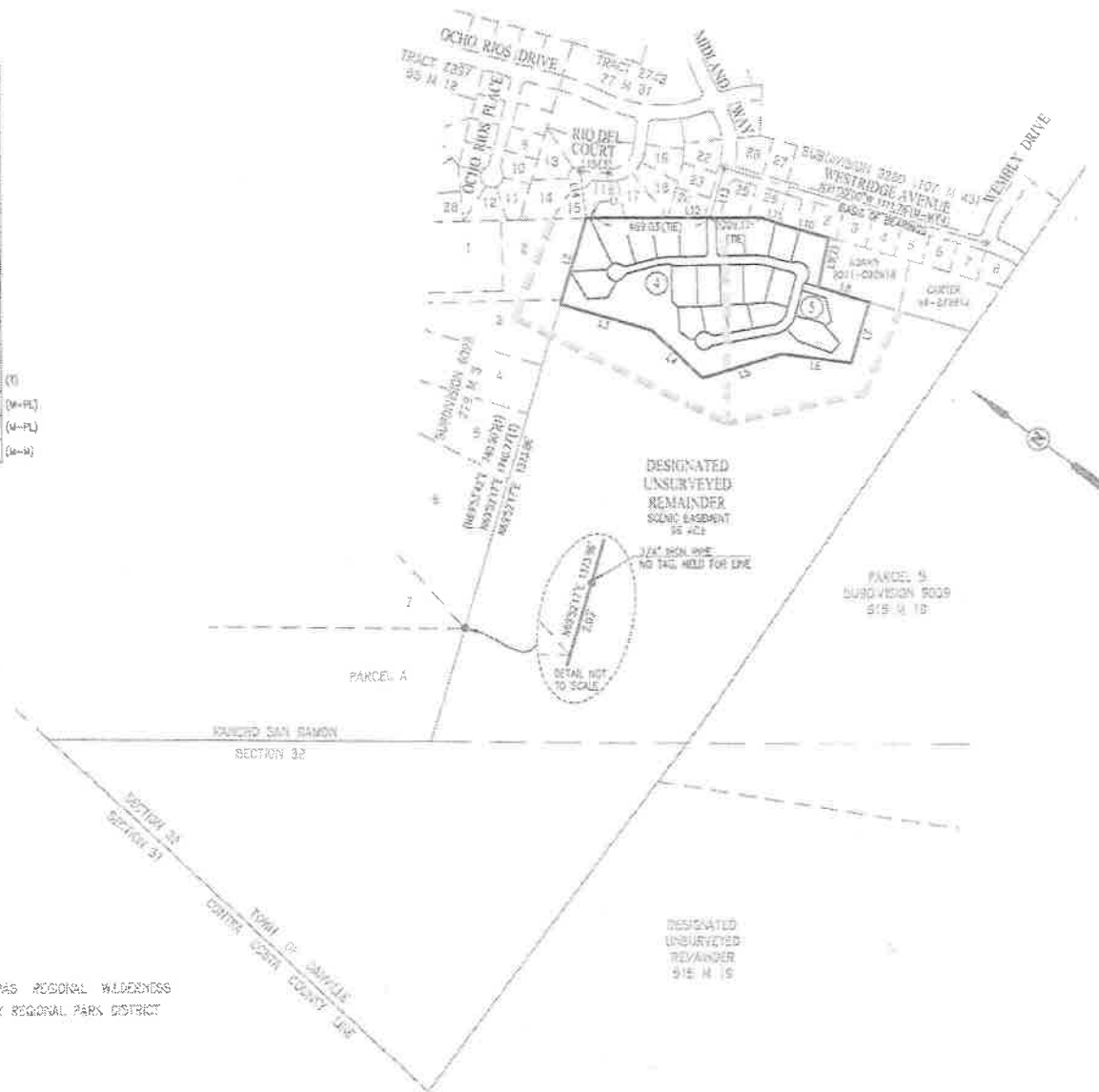
NOTE:

- 1. A CHISELED MARK SHALL BE CUT INTO THE TOP OF CURB AT THE PROLONGATION OF LOT LINES, AND A REBAR AND CAP, IS 2560, SHALL BE SET AT ALL NON-FRONTAGE CORNERS AND ANGLE POINTS

LEGEND

	GRAD AND SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	ADJACENT LINE
	RANCHO AND SECTION LINE
(1)	TOTAL
(R)	RADIAL
(M-U)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
*	FOUND STANDARD STREET MONUMENT
+	SET STANDARD STREET MONUMENT
•	FOUND MONUMENT AS NOTED
LME	LANDSCAPE MAINTENANCE EASEMENT
PLU	PUBLIC UTILITY EASEMENT
TMAE	TRAIL MAINTENANCE ACCESS EASEMENT
	SHEET LIMIT
	SHEET NUMBER

NO.	BEARING	LENGTH
L1	N38°23'06"W	38.56'
L2	N69°21'17"E	366.31'
L3	N27°45'48"W	369.46'
L4	N06°25'59"E	285.81'
L5	N03°56'53"W	539.68'
L6	N29°13'22"W	264.65'
L7	N60°39'40"E	287.49'
L8	N03°20'30"W	215.97'
L9	N64°27'40"E	208.30'
L10	N21°34'53"W	199.21'
L11	N16°23'58"W	87.21'
L12	N17°02'06"W	678.20'
L13	N6°50'00"E	205.85'
L14	N45°35'15"E	194.43'
L15	N32°30'00"W	177.60'



LAS TRAMPAS REGIONAL WILDERNESS
EAST BAY REGIONAL PARK DISTRICT

SUBDIVISION 9309 RED HAWK

CONSISTING OF 5 SHEETS
BEING A PORTION OF RANCHO SAN RAMON AND
A PORTION OF SECTION 32, T.1S., R.1W., MDM
TOWN OF DANVILLE, CONTRA COSTA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

SCALE: 1" = 50' JUNE 2015



BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS DETERMINED BY FOUND MONUMENTS SHOWN ON WESTRIDGE AVENUE. THE BEARING BEING N21°00'00"W PER TRACT NO. 3280 (107 M 43).

REFERENCES:

- (#) INDICATES REFERENCE NUMBER
- (1) SUBDIVISION 6098 (279 M 3)
- (2) GRANT DEED, DOC NO. 2011-32618
- (3) TRACT 2743 (77 M 31)
- (4) SUBDIVISION 3260 (107 M 43)

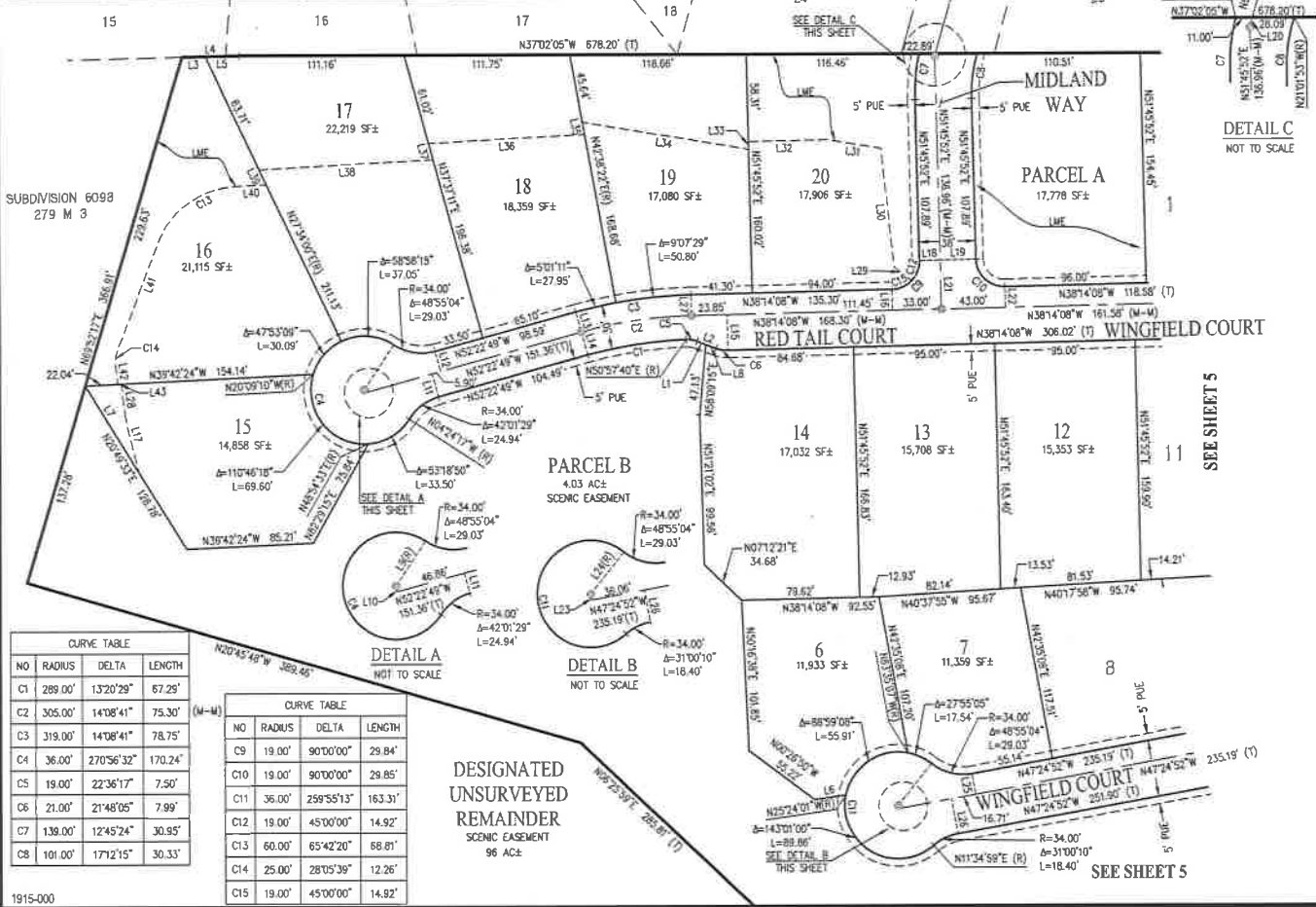
NOTE:

- 1. A CHEELED MARK SHALL BE CUT INTO THE TOP OF CURB AT THE PROLONGATION OF LOT LINES, AND A REBAR AND CAP, LS 7960, SHALL BE SET AT ALL NON-FRONTAGE CORNERS AND ANGLE POINTS

LEGEND

	SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	ADJONER LINE
	RANCHO AND SECTION LINE
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
⊙	FOUND STANDARD STREET MONUMENT
⊙	SET STANDARD STREET MONUMENT
⊙	FOUND MONUMENT AS NOTED
LME	LANDSCAPE MAINTENANCE EASEMENT
PUE	PUBLIC UTILITY EASEMENT
TMAE	TRAIL MAINTENANCE ACCESS EASEMENT

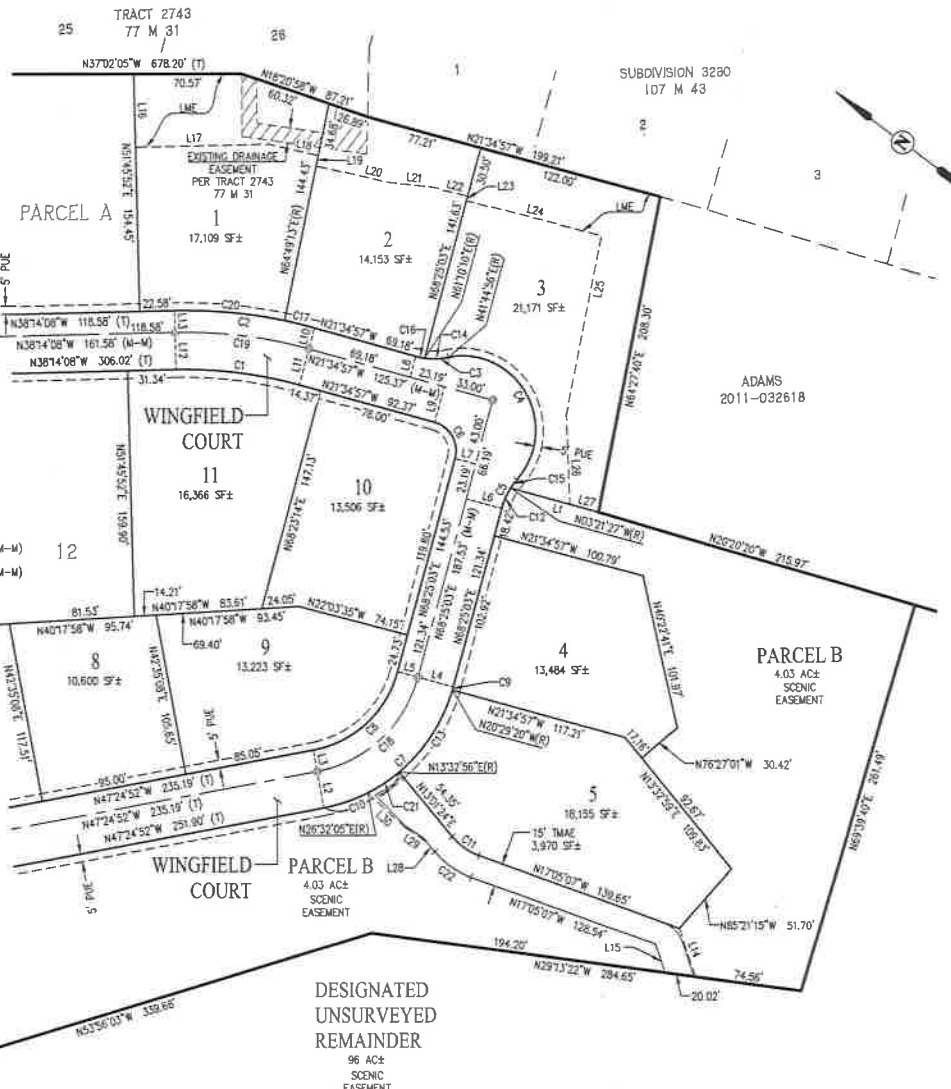
LINE TABLE			LINE TABLE			LINE TABLE			LINE TABLE			LINE TABLE		
NO	BEARING	LENGTH	NO	BEARING	LENGTH	NO	BEARING	LENGTH	NO	BEARING	LENGTH	NO	BEARING	LENGTH
L1	N16°26'03"W	6.28'	L10	N37°37'11"E	2.00'	L19	N38°14'08"W	24.00'	L28	S46°03'48"W	22.24'	L37	N37°37'11"E	11.36'
L2	N16°26'03"W	13.77'	L11	N37°37'11"E	16.00'	L20	N69°00'00"W	1.46'	L29	N01°02'36"E	14.90'	L38	N40°08'12"W	117.46'
L3	N38°23'06"W	15.68'	L12	N37°37'11"E	14.00'	L21	N51°45'52"E	33.00'	L30	N46°50'45"E	80.46'	L39	N27°34'00"E	10.70'
L4	N38°23'06"W	38.56'	L13	N37°37'11"E	14.00'	L22	N51°45'52"E	14.00'	L31	N28°00'17"W	36.86'	L40	N40°08'12"W	20.34'
L5	N38°23'06"W	22.86'	L14	N37°37'11"E	16.00'	L23	N42°35'08"E	2.00'	L32	N38°14'08"W	52.72'	L41	N74°08'28"E	76.73'
L6	N45°17'35"W	21.05'	L15	N51°45'52"E	24.00'	L24	N88°29'48"W	36.00'	L33	N51°45'52"E	5.06'	L42	N46°03'48"E	10.93'
L7	N20°49'33"E	68.32'	L16	N51°45'52"E	14.00'	L25	N42°35'08"E	14.00'	L34	N27°39'51"W	113.32'	L43	N39°42'24"W	2.41'
L8	N16°26'03"W	7.48'	L17	S38°53'39"W	38.05'	L26	N42°35'08"E	24.00'	L35	N42°38'22"E	8.37'			
L9	N86°32'15"E	36.00'	L18	N38°14'08"W	14.00'	L27	N51°45'52"E	14.00'	L36	N40°08'12"W	105.44'			



CURVE TABLE			CURVE TABLE				
NO	RADIUS	DELTA	LENGTH	NO	RADIUS	DELTA	LENGTH
C1	289.00'	132°0'29"	67.29'	C9	19.00'	90°00'00"	29.84'
C2	305.00'	14°08'41"	75.30'	C10	19.00'	90°00'00"	29.85'
C3	319.00'	14°08'41"	78.75'	C11	36.00'	259°55'13"	163.31'
C4	36.00'	27°0'36'32"	170.24'	C12	19.00'	45°00'00"	14.92'
C5	19.00'	22°36'17"	7.50'	C13	60.00'	65°42'20"	68.81'
C6	21.00'	21°48'05"	7.99'	C14	25.00'	28°05'39"	12.26'
C7	138.00'	12°45'24"	30.95'	C15	19.00'	45°00'00"	14.92'
C8	101.00'	17°12'15"	30.33'				

LINE TABLE			LINE TABLE		
NO	BEARING	LENGTH	NO	BEARING	LENGTH
L1	N21°34'57"W	59.88'	L16	N51°45'52"E	47.43'
L2	N42°35'08"E	24.00'	L17	N38°14'08"W	87.00'
L3	N42°35'08"E	14.00'	L18	N23°48'21"W	33.49'
L4	N21°34'57"W	24.00'	L19	N64°48'13"E	5.39'
L5	N21°34'57"W	14.00'	L20	N23°42'38"W	48.91'
L6	N21°34'57"W	24.00'	L21	N30°48'02"W	29.49'
L7	N21°34'57"W	14.00'	L22	N22°37'30"W	23.46'
L8	N68°25'03"E	14.00'	L23	N68°25'03"E	3.30'
L9	N68°25'03"E	24.00'	L24	N22°37'30"W	91.45'
L10	N68°25'03"E	14.00'	L25	N64°30'37"E	118.00'
L11	N68°25'03"E	24.00'	L26	N50°59'50"E	58.07'
L12	N51°45'52"E	24.00'	L27	N21°34'57"W	19.52'
L13	N51°45'52"E	14.00'	L28	N13°01'24"E	7.71'
L14	N34°48'26"E	33.66'	L29	N03°42'15"W	17.77'
L15	N34°48'26"E	19.95'	L30	N05°25'35"E	32.92'

CURVE TABLE				CURVE TABLE			
NO	RADIUS	DELTA	LENGTH	NO	RADIUS	DELTA	LENGTH
C1	281.00'	16°39'11"	81.67'	C17	319.00'	3°35'49"	20.03'
C2	319.00'	16°39'11"	92.72'	C18	85.00'	64°10'05"	95.20'
C3	46.00'	26°40'07"	21.41'	C19	305.00'	16°38'11"	88.65'
C4	48.00'	143°20'14"	120.08'	C20	319.00'	13°03'21"	72.69'
C5	46.00'	26°40'07"	21.41'	C21	109.00'	12°59'09"	24.70'
C6	19.00'	90°00'00"	29.85'	C22	56.00'	30°06'31"	29.43'
C7	109.00'	64°10'05"	122.07'				
C8	71.00'	64°10'06"	79.52'				
C9	109.00'	1°05'31"	2.08'				
C10	109.00'	29°02'12"	55.24'				
C11	41.00'	30°06'31"	21.55'				
C12	46.00'	18°13'30"	14.63'				
C13	109.00'	34°02'16"	64.75'				
C14	46.00'	19°25'14"	15.59'				
C15	46.00'	8°26'37"	6.78'				
C16	46.00'	7°14'53"	5.82'				



SUBDIVISION 9309 RED HAWK

CONSISTING OF 5 SHEETS
BEING A PORTION OF RANCHO SAN RAMON AND
A PORTION OF SECTION 32, T.1S., R.1W., MDM
TOWN OF DANVILLE, CONTRA COSTA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

SCALE: 1" = 50'
JUNE 2015



BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS DETERMINED BY FOUND MONUMENTS SHOWN ON WESTRIDGE AVENUE. THE BEARING BEING N21°00'00"W PER TRACT NO. 3280 (107 M 43).

REFERENCES:

- (f) INDICATES REFERENCE NUMBER
 (1) SUBDIVISION 6098 (279 M 3)
 (2) GRANT DEED, DOC NO. 2011-32618
 (3) TRACT 2743 (77 M 31)
 (4) SUBDIVISION 3280 (107 M 43)

NOTE:

- A CHISELED MARK SHALL BE CUT INTO THE TOP OF CURB AT THE PROLONGATION OF LOT LINES, AND A REBAR AND CAP, LS 7960, SHALL BE SET AT ALL NON-FRONTAGE CORNERS AND ANGLE POINTS

LEGEND

- SUBDIVISION BOUNDARY LINE
- RIGHT OF WAY LINE
- LOT LINE
- EASEMENT LINE
- MONUMENT LINE
- ADJOINER LINE
- RANCHO AND SECTION LINE
- (T) TOTAL
- (R) RADIAL
- (M-M) MONUMENT TO MONUMENT
- (M-PL) MONUMENT TO PROPERTY LINE
- ⊙ FOUND STANDARD STREET MONUMENT
- ⊙ SET STANDARD STREET MONUMENT
- ⊙ FOUND MONUMENT AS NOTED
- LME LANDSCAPE MAINTENANCE EASEMENT
- PUE PUBLIC UTILITY EASEMENT
- TMAE TRAIL MAINTENANCE ACCESS EASEMENT

EXHIBIT B
Wiedemann Ranch Geologic Hazard Abatement District – Red Hawk Property
Annexation

Budget – November 1, 2016

ASSUMPTIONS

Total No. of Single Family Residential Units	20
Annual Assessment per Unit (FY 2016/2017)	\$2,395
Annual Adjustment in Assessment (estimated)	3.0%
Inflation (estimated)	3.0%
Investment Earnings (estimated)	4.5%
Frequency of Large-Scale Repair (years)	10
Cost of Large-Scale Repair (current \$)	\$150,000

ESTIMATED ANNUAL EXPENSES IN 2016/2017 DOLLARS

Administration (Manager, Treasurer, Clerk, and Legal Counsel)	\$ 7,715
Outside Administration Services, Membership, and Insurance	\$ 424
Monitoring Activities	\$ 4,750
Maintenance and Operation	\$ 9,821
Capital Improvements	\$ 6,097
Major Repair (Annualized)	\$ 15,000
Miscellaneous & Contingency (10%)	<u>\$ 2,881</u>
TOTAL	<u>\$46,688</u>

**NOTICE OF 1) ADOPTION OF RESOLUTION NO. 2016/03 BY THE BOARD
OF DIRECTORS OF THE WIEDEMANN RANCH GEOLOGIC HAZARD
ABATEMENT DISTRICT, 2) PROPOSED ASSESSMENT AND, 3) PUBLIC HEARING
FOR JANUARY 17, 2017**

On September 1, 1998, the County Board of Supervisors adopted Resolution No. 98/438 approving the formation of the Wiedemann Ranch Geologic Hazard Abatement District (“GHAD”) and appointing itself to act as the Board of Directors of the GHAD (“GHAD Board”). Several properties have been annexed into the GHAD over the years and the GHAD Board imposed assessments on those properties to fund monitoring and maintenance of the GHAD improvements as explained in the corresponding Plans of Control for those properties. On March 29, 2016, the GHAD Board adopted Resolution No. 2016/02 annexing the Podva development into the GHAD and approving its corresponding Plan of Control.

NOTICE IS HEREBY GIVEN that:

On November 15, 2016, the GHAD Board adopted Resolution No. 2016/03 declaring its intention to impose an assessment on the Podva property (also known as Red Hawk) and directed that a public hearing be scheduled for January 17, 2017 to consider adoption of this assessment to secure services from the GHAD. The total yearly estimated budget for the Podva portion of the GHAD as set forth in the attached Engineer’s Report is \$46,688.00. If the assessment is adopted, each detached single-family parcel will be assessed \$2,395.00 per year (Fiscal Year 2016/17), plus an annual adjustment to reflect the percentage change in the San Francisco-Oakland-San Jose Consumers Price Index (CPI) for All Urban Consumers. The assessment for any new residential unit will be levied beginning the first fiscal year after issuance of the building permit for that parcel. The assessment will continue to be levied in perpetuity.

The attached Engineer’s Report was prepared by a Registered Professional Engineer, certified in the State of California, and describes in detail the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated. The Engineer’s Report specifically sets forth the yearly estimated budget, the total assessment, the proposed estimated assessments to be levied each year against each parcel of property, and a description of the method used in formulating the estimated assessment.

A copy of this Notice, a sealable ballot, and the Engineer’s Report is hereby being provided to each of the property owners within the Podva portion of the GHAD.

The GHAD Board will conduct a public hearing on January 17, 2017, at 9:00 a.m., in the Contra Costa County Board of Supervisors Chambers, 651 Pine Street, Martinez, California, on the proposed assessment.

PROCEDURES FOR RETURNING AND TABULATING BALLOTS

The enclosed ballot may be completed and mailed or hand delivered to the GHAD Manager, c/o ENGEO Incorporated, Attn: Eric Harrell, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583 or may be submitted at the public hearing. Each ballot may be submitted, withdrawn, or changed at any time prior to the conclusion of the testimony on the proposed assessment at the public hearing. At the hearing, the GHAD Board shall consider any objections or protests to the assessment, the GHAD Clerk shall tabulate the ballots, and the GHAD Board shall certify the tabulation of the ballots.

The GHAD Board shall not impose the assessment if there is a majority protest. A majority protest exists if, upon conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property. In the event that the assessment described in this Notice is not approved by vote of the property owners within the Podva portion of the GHAD, no assessment can be imposed and no service will be provided to the Podva portion of the GHAD.

Inquiries regarding the proposed assessment may be made by mail to the GHAD Manager c/o ENGEO Incorporated, Attn: Eric Harrell, 2010 Crow Canyon Place, Suite 250, San Ramon, CA 94583, by phone at (925) 866-9000, or by e-mail at eharrell@engeo.com.

Enclosures: Engineer's Report November 1, 2016
Sealable Ballot

Ballot
Wiedemann Ranch Geologic Hazard Abatement District
(Podva Project Annexation)

Identification of Parcel: _____

Record Owner: _____

_____ Yes, I approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

_____ No, I do not approve the proposed annual benefit assessment described in the attached Notice on the property described by the parcel numbers identified in this Ballot.

Signature of Record Owner or
Authorized Representative of the
above identified parcel(s)

Dated: _____

Mail or deliver sealed Ballot to:

GHAD General Manager
Wiedemann Ranch Geologic Hazard Abatement District
c/o ENGEO Incorporated
Attention: Eric Harrell
2010 Crow Canyon Place, St 250
San Ramon, CA 94583

**THE BOARD OF DIRECTORS OF WIEDEMANN RANCH
GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)**

Adopted this Resolution on November 15, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RESOLUTION NO. 2016/03(WIEDEMANN RANCH GHAD)

SUBJECT: Resolution 2016/03 declaring the GHAD' s intent to order the assessment set forth in the attached Engineer's Report and set a public hearing for January 17, 2017 to consider the proposed assessment and any objections thereto. (Note: This Resolution directs the GHAD Clerk to mail notice of the public hearing and to mail the assessment ballots.)

WHEREAS, on September 1, 1998, the Contra Costa County Board of Supervisors adopted Resolution 98/438 approving the formation of the Wiedemann Ranch ("GHAD") and appointed itself to serve as the GHAD Board of Directors;

WHEREAS, on January 19, 2016, the GHAD Board accepted a petition from Ponderosa Homes II, Inc. requesting annexation of the Podva (also known as Red Hawk) development into the GHAD;

WHEREAS, on March 29, 2016, the GHAD Board held a public hearing on the proposed annexation and Podva Property Development Annexation Plan of Control ("Plan of Control") and thereafter approved the annexation and Plan of Control;

WHEREAS, in order to pay for costs and expenses of maintaining and operating the GHAD improvements as set forth in the Plan of Control, a funding source must be established;

WHEREAS, an Engineer's Report has been prepared to support a real property assessment against the 20 homes at a FY 2016/17 level of \$2,395.00 per single-residential unit for GHAD services and is attached as bibi1A;

WHEREAS, Public Resources Code sections 26650 *et seq.* authorize, after a noticed public hearing, the levy and collection of an assessment upon specially benefited property within the GHAD to pay for the maintenance and operation of GHAD improvements. Article XIII (D) of the California Constitution imposes additional requirements for the levy and collection of said assessment;

WHEREAS, the Engineer's Report was prepared by the GHAD Manager to reflect the Plan of Control adopted by the GHAD Board on March 29, 2016. The GHAD Manager is a Registered Professional Engineer, certified in the State of California, in compliance with Public Resources Code section 26651(a) and section 4(b) of Article XIII (D) of the California Constitution; the Engineer's Report sets forth the estimated budget, the total assessment that will be chargeable to the Podva portion of the GHAD, the proposed estimated assessment to be levied against each parcel of property within the Podva portion of the GHAD, and a description of the method used in formulating the estimated assessments; and

WHEREAS, the property within the Podva portion of the GHAD is identified on the map attached as Exhibit B and each parcel is proposed to be assessed.

NOW THEREFORE, the GHAD Board of Directors resolves and orders that:

1. The GHAD Board declares its intention, consistent with the requirements of Article XIII (D) of the California Constitution, Public Resources Code sections 26650 et seq., Government Code section 53750, and Elections Code section 4000, to order that the cost and expenses of maintaining and operating any GHAD improvements in the Podva development acquired or constructed pursuant to Public Resources Code sections 26500 *et seq.* shall be assessed against the property within the Podva portion of the GHAD, which is benefited by the these properties in this portion of the GHAD.

2. The GHAD Board shall not order this assessment if a majority protest exists within the Podva portion of the GHAD as defined in Section 4(e) of Article XIII (D) of the California Constitution.

3. Each of the parcels identified in Exhibit B will receive a particular and distinct special benefit in the form of GHAD facilities and services that are over and above the general benefits received by the general public. Specifically, the GHAD's maintenance responsibilities include prevention and abatement of geologic hazards such as landslides and slope erosion within the Podva portion of the GHAD. The GHAD will have responsibilities that include (a) maintenance of retaining walls, water detention basin facility and access road, bio retention facility, trash rack, debris benches, drainage ditches, storm drain systems and trails, (b) vegetation control for fire suppression, and (c) establishment of a reserve to fund, prevent, mitigate, abate or control geologic hazards within this area. These special benefits are described in detail in the already approved Plan of Control.

4. Whenever a residential building permit is issued on the 20 parcels identified in Exhibit B, that lot will be assessed on an equal basis with each single family lot in the development. The annual assessment amount for each residential unit will be calculated by dividing the annual Podva portion of the GHAD budget by the number of residential units then existing within the Podva portion of the GHAD boundaries.

The GHAD Board has reviewed and considered the attached Engineer's Report. The special benefit derived from the GHAD by each parcel is proportionate to the entire costs of the Podva portion of the GHAD, and the amount of the assessment is proportional to, and no greater than, the benefits conferred on each parcel. The assessment does not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

5. The GHAD Board directs the GHAD Clerk cause to be mailed, no later than three (3) days after adoption of this Resolution, the "Notice of Adoption of Resolution and Notice of Assessment" of the Public Hearing, in substantially the same form as in Exhibit ("Notice") to the record owners of each parcel upon which the assessment will be imposed. The sealable Ballot, attached hereto as Exhibit D, and the Engineer's Report, shall be attached to the Notice.

6. The GHAD Board will conduct a public hearing on January 17, 2017 in the chambers of the Contra Costa County Board of Supervisors at 651 Pine Street, Martinez, CA at 9:00 am or thereafter. The Clerk of the GHAD shall deliver all sealed ballots received from record owners of parcels within the Podva portion of the GHAD to the GHAD hearing. The ballots shall remain sealed until they are tabulated. The GHAD Board shall permit a change, withdrawal, or submittal of a ballot at any time prior to the conclusion of the public testimony on the proposed assessment at the public hearing. The GHAD Board shall consider all protests against the proposed assessment. At the GHAD Board hearing, the Clerk of the GHAD, or some other impartial person not having a vested interest in the outcome of the proposed assessment, shall tabulate the ballots, and shall weight the ballots according to the proportional financial obligation of the affected property. The GHAD Board shall not impose the assessment if there is a majority protest as that term is defined by Section 4(e) of Article XIII (D) of the California Constitution. If there is no majority protest, the GHAD Board shall authorize the assessment and adopt the canvas of votes.

7. Upon authorization of the assessment, the GHAD Board shall levy the authorized assessment on the 20 parcels the first fiscal year following issuance of a residential building permit for each of those parcels.

8. This Resolution shall become effective immediately upon its passage and adoption.

Attachments: Exhibit A (Map of Podva portion of the GHAD Boundaries)
Exhibit B (Engineer's Report)
Exhibit C (Notice of Adoption of Resolution and Notice of Assessment)
Exhibit D (Ballot)



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 15, 2016

Subject: Claims

RECOMMENDATION(S):

DENY claims filed by Alano Anderson, Jessy DeLima, Christina Fasse, Dominique McInnis, Bryan Smith, The Estate of Norma Supapo (Deceased). DENY late claim filed by Michael Geary Wilson.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

*

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

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: Sharon L. Anderson, County Counsel
Date: November 15, 2016

Subject: Public report of litigation settlement agreements that became final during the period of October 1, 2016, through October 31, 2016.

RECOMMENDATION(S):

RECEIVE public report of litigation settlement agreements that became final during the period of October 1, 2016, through October 31, 2016, as recommended by County Counsel.

FISCAL IMPACT:

Settlement amounts are listed below.

BACKGROUND:

One agreement to settle pending litigation, as defined in Government Code section 54956.9, became final during the period of October 1, 2016, through October 31, 2016.

Contra Costa County v. Geraldine Stanton, et al., CCC Sup. Ct. Case No. C14-01374. This was an action to acquire certain property by eminent domain in the Brentwood area for the Orwood Road Bridge Replacement Project. It was agreed that the defendant would convey all necessary property interests to the County for \$158,000, plus statutory interests and costs. The Board of Supervisors authorized the settlement on September 13, 2016, in closed session, by a 5-0 vote. Judgment pursuant to the parties' stipulation was entered on October 25, 2016. The settlement amount will be paid from a combination of federal project funds (25%) and county road funds (75%).

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.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Thomas Geiger,
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

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 15, 2016

Subject: ACCEPT Board Members meeting reports for October 2016

RECOMMENDATION(S):

ACCEPT Board members meeting reports for October 2016.

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. District V had nothing to report for the month of October 2016.

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: **11/15/2016** 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 15, 2016

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 2016 Report

District I October 2016 Report

District III October 2016 Report

District IV October 2016
Report

Supervisor Candace Andersen – Monthly Meeting Report *October 2016*

Date	Meeting	Location
5	County Connection A & F	Walnut Creek
5	Mental Health Commission	Concord
6	STAND! Event	Concord
10	Alamo Liaison	Danville
12	CCCERA	Concord
12	LAFCO	Martinez
12	WC Watershed	Walnut Creek
13	East Bay EDA	Walnut Creek
13	TWIC	Martinez
14	Citizens Corp Council	San Ramon
16	Culture to Culture	Danville
17	Medical Event	Pleasant Hill
17	TriValley Heroes	Pleasanton
18	BOS Meeting	Martinez
20	CCCERA	Concord
20	CSAC	Martinez
24	Public Protection	Martinez
24	Internal Ops	Martinez
24	JPA Meeting	Walnut Creek
25	BOS Meeting	Martinez
26	CCCERA	Concord
26	CCCSWA Rate setting	Walnut Creek
27	CCCSWA Board	Walnut Creek
31	Iron Horse Corridor Meeting	Sacramento

Supervisor John Gioia

October – 2016 Monthly Meeting Statement

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.).

Supervisor did not seek reimbursement from the County for any meetings that he attended in his capacity as a County Supervisor during the month of October, 2016.

Supervisor Mary Nejedly Piepho - October 2016 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
1-Oct	Diablo Regional Art Association Event	Walnut Creek	Community Outreach
4-Oct	Phone Interview with KQED	Brentwood	Business Meeting
11-Oct	Discovery Bay Sir's Event	Discovery Bay	Community Outreach
12-Oct	* Phone Meeting with Delta Stewardship Council Staff	Brentwood	Business Meeting
12-Oct	Constituent Meeting	Martinez	Business Meeting
12-Oct	LAFCO Meeting	Martinez	Business Meeting
13-Oct	Finance Committee Meeting	Martinez	Business Meeting
13-Oct	Meeting with Michael Sands, Executive Director for GHAD	Martinez	Business Meeting
13-Oct	Transportation, Water & Infrastructure Committee Meeting	Martinez	Business Meeting
13-Oct	Meeting with County Administrator David Twa	Martinez	Business Meeting
14-Oct	Phone Meeting with Delta Counties Coalition	Brentwood	Business Meeting
18-Oct	Board of Supervisors Meeting	Martinez	Business Meeting
19-Oct	Speaking Engagement at the Brentwood Small Business Seminar	Brentwood	Community Outreach
20-Oct	Phone Meeting with Erik Vink, Executive Director of the Delta Protection Commission	Brentwood	Business Meeting
20-Oct	Constituent Meeting	Martinez	Business Meeting
20-Oct	Delta Protection Commission Meeting	West Sacramento	Business Meeting
25-Oct	* Phone Meeting with Delta Protection Commission and County Staff re: Delta Stewardship Council	Brentwood	Business Meeting
25-Oct	Board of Supervisors Meeting	Martinez	Business Meeting
25-Oct	Contra Costa County Fire Protection District Board Meeting	Martinez	Business Meeting

26-Oct	* CALAFCO Conference	Santa Barbara	Business Meeting
26-Oct	Phone Meeting with Constituent	Brentwood	Business Meeting
27-Oct	* CALAFCO Conference	Santa Barbara	Business Meeting
28-Oct	* CALAFCO Conference	Santa Barbara	Business Meeting

* Reimbursement may come from an agency other than Contra Costa County

**Supervisor Karen Mitchoff
October 2016**

DATE	MEETING NAME	LOCATION	PURPOSE
10/1/2016	Library Office Hours - Concord	Concord	Community Outreach
10/2/2016	Meals on Wheels Fall Prevention Event	Pleasant Hill	Community Outreach
10/5/2016	ABAG Regional Planning Committee	San Francisco	Decisions on agenda items
10/5/2016	CCTA Planning Committee	Walnut Creek	Decisions on agenda items
10/11/2016	Concord Oversight	Concord	Decisions on agenda items
10/11/2016	Family Justice Alliance Board	Richmond	Decisions on agenda items
10/11/2016	ABAG Regional Planning Committee - Infrastructure Subcommittee	San Francisco	Decisions on agenda items
10/13/2016	TRANSPAC	Pleasant Hill	Decisions on agenda items
10/17/2016	Medi-Cal 50th Anniversary Celebration	Pleasant Hill	Community Outreach
10/18/2016	Board of Supervisors Meeting	Martinez	Decisions on agenda items
10/19/2016	BAAQMD Meeting	San Francisco	Decisions on agenda items
10/19/2016	CCTA Board Meeting	Walnut Creek	Decisions on agenda items
10/20/2016	Meeting with Bruce Babbitt	Sacramento	Water Advocacy
10/20/2016	ABAG Special Executive Board Meeting	San Francisco	Decisions on agenda items
10/24/2016	BART JPA Meeting	Walnut Creek	Decisions on agenda items
10/25/2016	Board of Supervisors Meeting	Martinez	Decisions on agenda items
10/25/2016	Legislation Committee	Martinez	Decisions on agenda items
10/27/2016	BAAQMD Mobile Source Meeting	San Francisco	Decisions on agenda items
10/27/2016	CCCSWA Board Meeting	Walnut Creek	Decisions on agenda items
10/28/16	Santa Clara Valley Water District VIP Delta Tour	Rio Vista	Water Advocacy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 15, 2016

Subject: Recognizing Helen Benjamin Upon Retirement as Chancellor of the Contra Costa Community College District

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Gayle Israel -
957-8860

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/644

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/644

Recognizing Helen Benjamin Upon Her Retirement from Chancellor of the Contra Costa Community College District

Whereas, Helen Benjamin has dedicated 12 years as Chancellor to the Contra Costa Community College District and 27 years as an employee of the District; and

Whereas, Dr. Benjamin began her career in 1990 when she joined Los Medanos College as Dean of Language Arts and Humanistic Studies and Related Occupations, and has held progressively higher level positions including District Vice Chancellor, Educational Programs and Services, interim President of Los Medanos College and President of Contra Costa College; and

Whereas, Dr. Benjamin has a B.S. degree in English and Spanish from Bishop College in Texas and earned her master's and doctoral degrees from Texas Woman's University; and

Whereas, Dr. Benjamin has always been passionate about maintaining an active role in a wide variety of professional and community organizations; at the local level, she is a board member of the Kennedy-King Scholarship Memorial College Scholarship Fund, a county-wide effort to provide District students financial support to continue their educational goals at a four-year or graduate institution; and

Whereas, Dr. Benjamin has served on the State level, as Chair of the Community College League of California Board of Directors, Chair of the CEO board, CEO Chair of the California College Promise Leadership Team, and on numerous accreditation visiting teams; at the national level, she has served on the American Association of Community Colleges Board of Directors, as the convener of the Presidents' Round Table, an affiliate organization of the National Council on Black American Affairs, and currently serves on the board of Excelsior College, located in Albany, New York.

Now, therefore be it resolved, the Contra Costa County Board of Supervisors does hereby honor and thank Dr. Helen Benjamin for her many years of dedicated service to the Contra Costa Community College District and its students.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 15, 2016

Subject: Resolution Recognizing Michael McDonald of the Alamo Municipal Advisory Council

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Jennifer Quallick (925)
957-8860

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/552

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/552

Recognizing Michael McDonald of the Alamo Municipal Advisory Council

Whereas, Michael McDonald was appointed to the Alamo Municipal Advisory Council in August of 2009, where he served as Chair from 2012 through 2013; and

Whereas, Council Member McDonald advised the District II Supervisor on matters that included, but not limited to, public health, safety, welfare, public works and land use planning; and

Whereas, during his term on the Alamo MAC, Council Member McDonald worked tirelessly to support the community of Alamo demonstrating leadership with his review of several land use planning matters that included the acquisition and development of Hemme Station Park, the Bocce Ball courts at Livorna Park and the Alamo Fire Station No. 32 review; and

Whereas, Council Member McDonald was instrumental with the development of the YMCA Recreation Program for the community of Alamo, including several meetings with the YMCA and Public Works regarding program offerings, user fees, and the financial subsidy for R7 park funds for such a program; and

Whereas, Council Member McDonald served as the Alamo MAC liaison for Hap Magee Ranch Park between the Town of Danville and the community of Alamo; and

Whereas, Council Member McDonald has been an instrumental part of the Alamo downtown revitalization efforts, including the development of the downtown roundabout and the phased sidewalk improvement and tree protection program on Danville Boulevard.

Now, Therefore, Be It Resolved that the Contra Costa County Board of Supervisor's does hereby honor and thank Michael McDonald for his dedication, hard work and loyalty to Alamo and its residents.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 15, 2016

Subject: Resolution Recognizing Ed Best Of the Alamo Municipal Advisory Council

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Jennifer Quallick (925)
957-8860

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.
2016/553

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/553

Resolution Recognizing Ed Best of the Alamo Municipal Advisory Council

Whereas, Ed Best was appointed to the Alamo Municipal Advisory Council in August of 2009, where he served until December 2016; and

Whereas, Council Member Best advised the District II Supervisor on matters that included, but not limited to, public health, safety, welfare, public works and land use planning; and

Whereas, during his term on the Alamo MAC, Council Member Best worked tirelessly to support the community of Alamo demonstrating leadership with his review of several land use planning matters that included the acquisition and development of Hemme Station Park, the Bocce Ball courts at Livorna Park and the Alamo Fire Station No. 32 review; and

Whereas, Council Member Best was instrumental with the development of the YMCA Recreation Program for the community of Alamo, including several meetings with the YMCA and Public Works regarding program offerings, user fees, and the financial subsidy for R7 park funds for such a program; and

Whereas, Council Member Best has been an instrumental part of the Alamo downtown revitalization efforts, including the development of the downtown roundabout and the phased sidewalk improvement and tree protection program on Danville Boulevard.

Now, Therefore, Be It Resolved that the Contra Costa County Board of Supervisors does hereby honor and recognize Ed Best for his dedication, hard work and loyalty to Alamo and its residents.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 15, 2016

Subject: Resolution declaring November 17 as "World Pancreatic Cancer Day" in Contra Costa County.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

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

Contact: Lauri
957-8860

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/608

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/608

recognizing November 17, 2016, as "World Pancreatic Cancer Day" in Contra Costa County.

WHEREAS, in 2016, an estimated 53,070 people in the United States will be diagnosed with pancreatic cancer, one of the deadliest cancers, and 41,780 will die from the disease; and

WHEREAS, pancreatic cancer surpassed breast cancer this year to become the third leading cause of cancer death in the United States, and it is projected to become the second leading cause by 2020; and

WHEREAS, pancreatic cancer is the only major cancer with a five-year relative survival rate in the single digits at just eight percent; and

WHEREAS, when symptoms of pancreatic cancer present themselves, it is generally in later stages, and 71 percent of pancreatic cancer patients die within the first year of their diagnosis; and

WHEREAS, approximately 4,390 deaths will occur in California in 2016; and

WHEREAS, pancreatic cancer is the seventh most common cause of cancer-related death in men and women across the world; and

WHEREAS, there will be an estimated 418,451 new pancreatic cancer cases diagnosed worldwide in 2020; and

WHEREAS, the good health and well-being of the residents of Contra Costa County are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes and effective treatments.

Now, Therefore, Be It Resolved that the Contra Costa County Board of Supervisors designate November 17, 2016 as "World Pancreatic Cancer Day" in the County of Contra Costa.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 15, 2016

Subject: Resolution recognizing Fred Weil of the Moraga Orinda Fire District Board

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Lauri Byers (925)
957-8860

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/609

*The Board of Supervisors of
Contra Costa County, California*

**In the matter of:
recognizing Fred Weil of the Moraga Orinda Fire District Board.**

Resolution No. 2016/609

Whereas, Fred Weil has represented Moraga Orinda Fire District's Division 2 as a Director since 2003, serving as President of the Board of Directors in 2008 and 2012; and

Whereas, Fred and his wife Joan have been Moraga residents since 1972 and have raised three children, all of whom attended Moraga schools; and

Whereas, Fred earned his B.S. degree in 1964 from the Illinois Institute of Technology and a J.D. degree in 1967 from the University of Chicago Law School. He is a partner at Hanson Bridgett LLP in San Francisco, where he practices corporate, tax and general commercial law and is a member of the firm's management committee; and

Whereas, shortly after moving to Moraga, Fred became a homeowner's association board member and served on two Town of Moraga committees and a Moraga School District committee, he was also a founder of the Moraga School District committee and of the Moraga Education Foundation; and

Whereas, Fred has been a community volunteer for over 39 years, serving on public boards for nearly 30 years and served nine years on the Moraga-Orinda Fire District Board.

Now, Therefore, Be It Resolved that the Contra Costa County Board of Supervisors does hereby recognize and honor Fred Weil for his continued support to the community of Moraga and Contra Costa County.

CANDACE ANDERSEN
Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 15, 2016

Subject: Resolution recognizing Alex Evans of the Moraga Orinda Fire District's Division Five.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Lauri Byers (925)
957-8860

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/611

*The Board of Supervisors of
Contra Costa County, California*

**In the matter of:
recognizing Alex Evans of the Moraga-Orinda Fire District's Division 5.**

Resolution No. 2016/611

Whereas, Alex Evans represents the Moraga-Orinda Fire District's Division 5, and has been a director since 2012 and served as Board President in 2015; and

Whereas, Alex Evans is the President and co-founder of EMC Research, Inc, a full-service research firm, specializing in polling, focus groups, and public opinion research consulting with clients that include private companies as well as government agencies; and

Whereas, Alex has been a resident of Orinda since 2001, he and his wife Kitty live in Division 5, North Orinda, with their two children who have both attended local schools; and

Whereas, Alex is a frequent community and school volunteer, serving in a variety of roles that have included scoreboard operator, Citizens' Infrastructure Oversight Committee and its predecessor the Infrastructure Commission; and

Whereas, Alex has a Bachelor of Arts from the University of California, Berkeley, and a Master of Public Policy Degree from the University of Michigan.

Now, Therefore, Be It Resolved that the Board of Supervisors of Contra Costa County do hereby recognize and honor Alex Evans for his dedication to his community and it's residents.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Recognizing Linda Weder on her 25 years of service to Contra Costa County

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Carrie Ricci,
925-313-2235

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/629

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/629

IN THE MATTER OF RECOGNIZING the contributions of Linda Weder on the occasion of her 25 years of service to Contra Costa County.

WHEREAS in 1991 Linda Weder began her career with Contra Costa County in the Probation Department as a Data Entry Operator II; and

WHEREAS in March 1995 Linda was hired by the Office of Revenue Collection as an Account Clerk-Experienced Level; and

WHEREAS in April 2003 Linda received a Certificate of Appreciation for providing excellent support to staff in the Office of Revenue Collection; and

WHEREAS in June 2010 Linda was promoted to Account Clerk-Advanced Level in the Public Works Department; and

WHEREAS in October 2016 Linda was recognized for her excellent team work in her day to day duties in the Finance Division of the Public Works Department; and

NOW, THEREFORE, BE IT RESOLVED that the Contra Costa County Board of Supervisors hereby recognize and honor Linda Weder for her 25 years of service and gives it's full appreciation for her high quality of work and dedicated service to the Public Works Department and the people of this County.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Recognizing Roland Hindsman on the occasion of his retirement from Contra Costa County.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Joe Yee (925)
313-2104

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/637

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/637

Recognizing Roland Hindsman on the occasion of his Retirement from Contra Costa County.

WHEREAS, Roland Hindsman began his career with Contra Costa County on December 17, 1984, working as an Electrician in the Building Services Division of the Public Works Department providing technical and working expertise in the maintenance, troubleshooting, and repair of electrical and electronic systems in the County's many buildings and traffic signals.

WHEREAS, Roland promoted to Lead Electrician on July 1, 1991, in the General Services Department Signal Shop responsible for leading a team of electricians in the inspection, maintenance, and repair, of over 400 signalized intersections within the County and contracted cities.

WHEREAS, Roland promoted to Assistant Building Maintenance Manager on March 2, 1998, to continue his career with the County as a mid-level manager in assisting the day to day operations of Building Services and project management of various activities.

WHEREAS, Roland promoted to Facilities Maintenance Manager on October 1, 2004, responsible for management of all units of the Facilities Maintenance Division including all building trades, electronic systems specialists, traffic signal electricians, and stationary engineers.

WHEREAS, under Roland's excellent leadership, his Facilities Maintenance team provides exceptional service maintaining approximately 3.2 million square feet of building space so the County can serve the citizens of Contra Costa County.

WHEREAS, Roland have received numerous commendations for his excellent attendance and performance of work provided to customer departments.

WHEREAS, Roland's dedication and support of Facilities Services led to receipt of the 2010 California Counties Facilities Services Association Award of Excellence by demonstrating exceptional dedication and leadership in facilities operations and management through best practices, process innovation, staff development, department automation, and cost saving measures.

NOW, THEREFORE, BE IT RESOLVED that the Contra Costa County Board of Supervisors does hereby recognize and honor Roland Hindsman for his 32 years of service on the occasion of his retirement, and thanks him for his dedicated service to the Public Works Department and the people of this County.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 15, 2016

Subject: 2016 Holiday Food Fight Kick Off

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Kate Sibley, (925)
335-1032

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/646

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/646

Launching the 2016 "Contra Costa County Cares" Holiday Food Fight

WHEREAS, one in eight people still turn to the Food Bank for food assistance in this County; and
WHEREAS, the Food Bank of Contra Costa and Solano, which originated as a Contra Costa County project, works heroically on the front line of the daily effort to address this issue, providing food to 125,000 residents of Contra Costa County, a stubbornly consistent number over the past three years despite the so called "healing" economy; and
WHEREAS, the current drought is creating extra demands on the Food Bank's budget due to higher produce costs; and
WHEREAS, hunger exists in every corner of our community and affects people of all ages, ethnicities, education levels and employment status; and
WHEREAS, approximately 7,000 employees of Contra Costa County, in virtually every department, have since 2002 been holding this annual drive to serve the residents of Contra Costa County who are in need of a helping hand, and have themselves in that time span raised over \$1,000,000 in this effort; and
WHEREAS, the 2016 Contra Costa County funds for food drive will take place between November 21 and December 31, 2016; and
WHEREAS, County employees encourage the public to participate in the 2016 "Counties Care: Peace, Love, and Veggies III Holiday Food Fight" between the employees of Contra Costa and Solano counties by donating generously and often to the Food Bank of Contra Costa and Solano online in a corresponding "people-to-people" challenge between the counties.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of Contra Costa County hereby recognizes this great and growing need in the community, and commends, encourages, and challenges employees and residents of Contra Costa and Solano counties to open their hearts and wallets to assist the Food Bank of Contra Costa and Solano and its client organizations during the coming holiday season; and **BE IT FURTHER RESOLVED** that the Board of Supervisors of Contra Costa County hereby officially continues the annual challenge with Solano County and kicks off the 2016 "Counties Care: Peace, Love, and Veggies III Holiday Food Fight"; and **BE IT FURTHER RESOLVED** that the Board of Supervisors of Contra Costa County hereby encourages all citizens of Contra Costa and Solano counties to extend the generous holiday spirit throughout the year to help those less fortunate.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: Candace Andersen, District II Supervisor
Date: November 15, 2016

Subject: Resolution recognizing Carla Young Garrett, President of the Center for Economic and Civic Education

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Lauri Byers, (925)
957-8860

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

By: , Deputy

cc:

ATTACHMENTS

Resolution No.

2016/650

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2016/650

recognizing Carla Young Garrett, President of the Center for Economic and Civic education.

Whereas, Carla Young Garrett stopped teaching government/economics in 1999, and formed a nonprofit corporation in 2001 through which she would sell the simulations she had written as a teacher, specifically designed for teachers to create a political campaign, including Congress and all three levels of the court system in their classrooms; Moot Court grew out of those initial simulations; and

Whereas, for the past twelve years, Carla has written the materials and hosted the “Moot Court Competition”; to host the competition there are a multitude of details that must be handled and Carla has done most of these duties on her own; and

Whereas, Carla both solicited food donations as well as paid for them on her own, she has recruited attorneys and judges to volunteer for the competitions, since there are multiple teams from different schools, each match up is different, it takes a lot of time to create the proper match up, along with the large amount of clerical work that must be done before and after each competition; and

Whereas, on competition day, meals are organized for the students and attorneys, score sheets are kept and certificates are created for the participants; and

Whereas, Carla Young Garrett has spent countless volunteers hours and much of her personal funding to continuously create, organize and run the Mock Trials, instructing students and teachers in proper courtroom techniques and etiquette, her instruction has enlightened and inspired scores of students, teachers and attorneys in the county competition.

Now, Therefore, Be It Resolved that the Board of Supervisors of Contra Costa County does hereby honor and thank **Carla Young Garrett** for her energy and inspiration to many students, teachers and attorneys.

CANDACE ANDERSEN

Chair,
District II Supervisor

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: November 15, 2016

David J. Twa,

By: _____, Deputy



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Appointments & Re-Appointments to the Emergency Medical Care Committee

RECOMMENDATION(S):

APPOINT the following individuals to seats on the Emergency Medical Care Committee (EMCC) for a two-year term with an expiration date of September 30, 2018:

Communications Center Managers' Association Representative: Denise Pangelinan, San Ramon, CA 94583

Contra Costa Police Chiefs' Association Representative: Jon King, Moraga, CA 94556

Contra Costa Office of the Sheriff Representative: Jason Vorhauer, Martinez, CA 94553

Contra Costa Health Services - Behavioral Health Representative: Cynthia Belon, Martinez, CA 94553

Ambulance Providers (Contra Costa 9-1-1 Service Contract) Representative: Terence Carey, Pleasant Hill, CA 94523

REAPPOINT the following individuals to seats on the Emergency Medical Care Committee (EMCC) for a two-year term with an expiration date of September 30, 2018:

District IV Representative: Allan Tobias, Walnut Creek, CA 94598

Alameda-Contra Costa Medical Association Representative: Ellen

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Pat Frost,
646-4690

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

By: , Deputy

cc: Leticia Andreas, Tasha Scott, Marcy Wilhelm

RECOMMENDATION(S): (CONT'D)

Leng, Walnut Creek, CA 94598

American Heart Association Representative: Elaina Petrucci Gunn, Oakland, CA 94612

Contra Costa Fire Chiefs' Association Representative: Derek Krause, San Ramon, CA 94583

Emergency Nurses Association East Bay Chapter (from a Contra Costa County Receiving Hospital) Representative: David Samuelson, Walnut Creek, CA 94597

Hospital Council East Bay Representative: Florence Raskin, Oakland, CA 94611

Public Managers' Association Representative: Gary Napper, Clayton, CA 94517

Trauma Center (Contra Costa Contract) Representative: Kacey Hansen, Walnut Creek, CA 94598

Air Medical Transportation Provider Representative: Ross Fay, Concord, CA 94520

Private Provider Field Paramedic Representative: Ross Wilson, Concord, CA 94520

Public Provider Field Paramedic Representative: Jon Michaelson, Oakley, CA 94561

Ex Officio Representative: Pat Frost, Martinez, CA 94553

Ex Officio Representative: David Goldstein, Martinez, CA 94553

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The EMCC is a multidisciplinary committee appointed by the County Board of Supervisors, to provide advice and recommendations on EMS-related matters to the Board, Health Services Director and its EMS Agency. Membership consists of consumer representatives, and representatives of EMS-related organizations and groups.

CONSEQUENCE OF NEGATIVE ACTION:

If this Board Order is not approved, none of the requested positions on the EMCC will be filled.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 15, 2016

Subject: Appropriation Adjustment for replacement of one vehicle in EHSD

RECOMMENDATION(S):

APPROVE Appropriation and Revenue Adjustment No.5023 and AUTHORIZE the transfer of appropriations from Employment and Human Services Department (EHSD Admin), Fund 100300 and appropriate it to Fleet Internal Service Fund (ISF), Autos and Trucks (Fleet), Fund 150100 in the amount of \$31,187 for the purchase of one replacement vehicle (Ford E250 Asset #4596).

FISCAL IMPACT:

The replacement of one non-ISF vehicle will be funded 100% through EHSD Administration's budgeted funds (100% County). The replacement of a vehicle not in the ISF is initially funded with 100% county general funds. The vehicle is then placed in the ISF and usage charges (routine maintenance, mileage, fuel) are transferred from the ISF to EHSD. EHSD will claim these costs as general operating costs; they will be spread across all programs and funded with 45% federal, 45% state, and 10% county funds. Vehicles in the ISF in need of replacement are purchased with ISF funds.

BACKGROUND:

The Employment and Human Services Department (EHSD) Administration is retiring one vehicle and needs to replace this vehicle. The vehicle being retired is in need of costly repairs that would exceed the value of the vehicle. The vehicle to be retired is a non-ISF vehicle. EHSD Admin will replace this vehicle with an ISF vehicle purchase through the Public Works Department. This board order authorizes the transfer of appropriations from EHSD to the appropriate Public Works account.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Erik Brown
925-313-1561

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

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

The Employment and Human Services Department would not be able to purchase the vehicle to replace the retired vehicle for the Information Technology Department (IT). The IT department's ability to maintain the technology needs of the county would be restricted.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

TC24/27 No. 5023

CONTRA COSTA COUNTY APPROPRIATION ADJUSTMENT T/C 27	AUDITOR-CONTROLLER USE ONLY FINAL APPROVAL NEEDED BY: <input checked="" type="checkbox"/> BOARD OF SUPERVISORS <input checked="" type="checkbox"/> COUNTY ADMINISTRATOR <input checked="" type="checkbox"/> AUDITOR CONTROLLER
---	---

ACCOUNT CODING		DEPARTMENT : DEPT. 0502, EHSD - CHILDREN & FAMILY SERVICES					
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE		
5216	5011	REIMBURSEMENTS-GOV/GOV			31,187	00	
5216	1011	PERMANENT SALARIES					
TOTALS					31,187	00	
					31,187	00	

APPROVED

AUDITOR-CONTROLLER:
 BY: *[Signature]* DATE 11/4/16

COUNTY ADMINISTRATOR:
 BY: *[Signature]* DATE 11/9/16

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST

To adjust appropriated expenditures to ISF Fleet Services for FY 16/17 for the replacement by EHSD - Children and Family Services Bureau of vehicle #4596 with one Ford Cargo Van E250. Vehicle 4596 is currently not operable and repair cost exceeds blue book value.

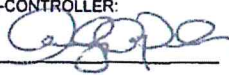
[Signature]

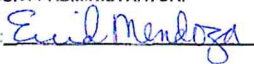
Emilia Gabriele	EHSD, Admin CFO	11/2/2016
SIGNATURE	TITLE	DATE
APPROPRIATION APOO		<u>5023</u>
ADJ. JOURNAL NO.		

CONTRA COSTA COUNTY APPROPRIATION ADJUSTMENT T/C 27	AUDITOR-CONTROLLER USE ONLY FINAL APPROVAL NEEDED BY: <input checked="" type="checkbox"/> BOARD OF SUPERVISORS <input checked="" type="checkbox"/> COUNTY ADMINISTRATOR <input checked="" type="checkbox"/> AUDITOR CONTROLLER
---	---

ACCOUNT CODING		DEPARTMENT : DEPT. 0064, ISF Fleet Services				
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE	
4284	4953	AUTOS & TRUCKS			31,187	00
TOTALS			0		31,187	00

APPROVED

AUDITOR-CONTROLLER:
 BY:  DATE 11/4/16

COUNTY ADMINISTRATOR:
 BY:  DATE 11/9/16

BOARD OF SUPERVISORS:

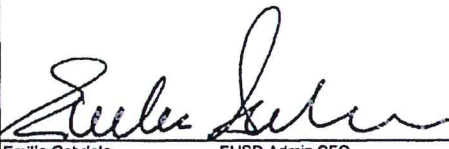
YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST

To adjust appropriated expenditures for ISF Fleet Services for FY 16/17 for the replacement by EHSD of vehicle #4596 with one Ford Cargo Van E250. Vehicle 4596 is currently not operable and repair cost exceeds blue book value.



Emilia Gabriele	EHSD Admin CFO	11/2/2016
SIGNATURE	TITLE	DATE
APPROPRIATION	APOO	<u>5073</u>
ADJ. JOURNAL NO.		

CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT/
ALLOCATION ADJUSTMENT
T/C 24

AUDITOR-CONTROLLER USE ONLY
FINAL APPROVAL NEEDED BY:

- BOARD OF SUPERVISORS
 COUNTY ADMINISTRATOR
 AUDITOR-CONTROLLER

ACCOUNT CODING		DEPARTMENT : DEPT. 0064, ISF Fleet Services		
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE	<DECREASE>
4284	9951	REIMBURSEMENTS-GOV/GOV	31,187	00
TOTALS			31,187	00

APPROVED

AUDITOR-CONTROLLER:

BY: [Signature] DATE 11/4/16

COUNTY ADMINISTRATOR:

BY: [Signature] DATE 11/9/16

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST:

To adjust estimated revenue for ISF Fleet Services for FY 16/17 for the replacement by EHSD of vehicle #4596 with one Ford Cargo Van E250. Vehicle 4596 is currently not operable and repair cost exceeds blue book value.

[Signature]

Emilia Gabriele EHSD Admin CFO 11/2/2016
SIGNATURE TITLE DATE

REVENUE ADJ RAOO 5023
JOURNAL NO.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Appropriation Adjustment for Behavioral Health Services Administration

RECOMMENDATION(S):

Approve Appropriation and Revenue Adjustment No. 5025 authorizing the transfer of appropriations in the amount of \$27,387 from Behavioral Health Services Division – Mental Health Services Act Innovation (0467/5899) to General Services – ISF Fleet Services (0064) for the purchase of one (1) vehicle for the implementation of the Partners in Aging program.

FISCAL IMPACT:

This action increases appropriations in General Services – Fleet Services (0064) and reduces appropriations in Behavioral Health Services (5899) by \$27,387. This purchase is funded 100% by Mental Health Services Act funds.

BACKGROUND:

The Partners in Aging project seeks to provide more effective treatment for individuals who are frail, homebound, and suffer from multiple physical and mental impairments, especially those with co-occurring substance use disorders. Additionally, this project will utilize a home-based peer component to engage older adults who have been identified by Psychiatric Emergency Services (PES) as those in need of additional care. Peer support workers will link individuals discharged

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Cynthia Belon,
925-957-5201

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

By: , Deputy

cc: Tasha Scott, Marcy Wilhelm, Miu Tam

BACKGROUND: (CONT'D)

from PES to appropriate services and also provide in-home peer support services including efforts to increase clients' skills in daily living activities as well as engagement with appropriate resources and social networks. Purchase of a vehicle will allow County to implement the Partners in Aging project.

CONSEQUENCE OF NEGATIVE ACTION:

If this appropriation adjustment is not approved, the Division will not be able to purchase a vehicle to implement the Partners in Aging project.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

TC24/27 No. 5025

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 : Health Services - Behavioral Health			
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE
5899	1011	Permanent Salaries	27,387	00	
5899	6011	Reimbursement Gov/Gov			27,387 00
4284	4953	Autos & Trucks			27,387 00
TOTALS			27,387	00	54,774 00

APPROVED

AUDITOR-CONTROLLER:

BY: [Signature] DATE 11/8/16

COUNTY ADMINISTRATOR:

BY: [Signature] DATE 11/9/16

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST:

Appropriation adjustment for vehicle purchase authorized by the Board in the MHSA Innovation project.

[Signature]

Health Services COO/ CFO

11/7/2016

SIGNATURE

TITLE

DATE

APPROPRIATION APOD 5025

ADJ. JOURNAL NO.

**CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT/
ALLOCATION ADJUSTMENT
T/C 24**

AUDITOR-CONTROLLER USE ONLY

FINAL APPROVAL NEEDED BY:

- BOARD OF SUPERVISORS
- COUNTY ADMINISTRATOR
- AUDITOR-CONTROLLER

ACCOUNT CODING		DEPARTMENT : Health Services - Behavioral Health		
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE	<DECREASE>
4284	9951	Reimbursement Gov/Gov	27,387 00	
TOTALS			27,387 00	0 00

APPROVED

AUDITOR-CONTROLLER:

BY:  DATE 11/8/16

COUNTY ADMINISTRATOR:

BY:  DATE 11/9/16

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST:

Appropriation adjustment for vehicle purchase authorized by the Board in the MHSA Innovation project.



SIGNATURE Health Services COO/CFO 11/7/2016
TITLE DATE

REVENUE ADJ. RA00 5025
JOURNAL NO.



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 15, 2016

Subject: FY 2016/17 AB109 PUBLIC SAFETY REALIGNMENT BUDGET

RECOMMENDATION(S):

APPROVE Appropriations and Revenue Adjustment No. 5026 increasing expenditure appropriations and estimated revenue by \$2,215,167 from the State of California related to continued implementation of AB109 Public Safety Realignment for fiscal year 2016/17.

FISCAL IMPACT:

No additional fiscal impact. This action recognizes revenue allocations from the State of California at the FY 2016/17 budget level approved by the Community Corrections Executive Committee and the Board of Supervisors for AB 109 Public Safety Realignment. The expenditure appropriations were approved by the Board of Supervisors in May 2016 as part of the FY 2016/17 County Budget process. Today's action is necessary to update appropriations and revenue formally within the County budget.

BACKGROUND:

In 2011, the California Legislature passed and the Governor signed into law the Public Safety Realignment Act (Assembly Bill 109), which transfers responsibility for supervising specific low-level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to counties. Assembly Bill 109 (AB 109) took

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Timothy Ewell,
925-335-1036

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

By: , Deputy

cc: Laura Strobel, Senior Deputy County Administrator

BACKGROUND: (CONT'D)

>

effect on October 1, 2011 and realigns three major areas of the criminal justice system. On a prospective basis, the legislation:

- Transfers the location of incarceration for lower-level offenders (specified non-violent, 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;
- Transfers 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);
- Transfers the housing responsibility for parole and PRCS revocations to local jail custody

AB 109 also tasked the local Community Corrections Partnership (CCP) with recommending to the County Board of Supervisors a plan for implementing criminal justice realignment. The Board of Supervisors adopted the Contra Costa County Realignment Plan on October 4, 2011 (Agenda Item No. D.5), as recommended by the Executive Committee of the CCP. The Executive Committee of the CCP is composed of the County Probation Officer (Chair), Sheriff-Coroner, a Chief of Police (represented by the Richmond Police Chief), District Attorney, Public Defender, Presiding Judge of the Superior Court or designee (represented by the Court Director of Business Planning, Information and Programs), and County Behavioral Health Director.

For fiscal year 2016/17, the Board of Supervisors approved a budget of \$25,484,570, which is composed of \$23,684,570 in various ongoing AB 109 implementation efforts and programming, \$1,800,000 in one-time funding, and \$2,215,167 in one-time funding carried forward from FY 2013/14 and 2014/15. Ongoing expenditures are primarily made up of salary and benefit costs for permanent employees and service contract expenditures while one-time expenditures include capital acquisition and/or fixed asset costs.

For fiscal year 2016/17, Contra Costa County anticipates the receipt of \$22,651,678 from the community corrections allocation of AB 109 Public Safety Realignment revenue.

The CCP-Executive Committee approved the 2016/17 AB 109 Public Safety Realignment budget at the January 22, 2016 regular meeting and submitted to the Public Protection Committee for review and approval. On February 8, 2016, the Public Protection Committee accepted the CCP-Executive Committee's recommendations with an additional \$500,000 to the Community Advisory Board and an additional \$110,000 to the District Attorney's Office.

On May 10, 2016, the Board of Supervisors formally approved the 2016/17 County Budget, including the AB 109 budget as recommended by the Public Protection Committee. Today's action adjusts revenue and expenditure appropriations based on funding from the State and the Approved AB 109 budget and keeps the 2016/17 County budget balanced.

CONSEQUENCE OF NEGATIVE ACTION:

Appropriations currently in the FY 2016/17 County budget will not accurately reflect allocations of the AB 109 Public Safety Realignment Program.

ATTACHMENTS

TC24/27_5026

**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 : 0300, 0308, 0242, 0003, 115300-0295			
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE
		Sheriff's Office			
2588	4274	390-WCDF-UPGR ELCTRNC SYS	145,761	00	
2588	4275	390-WCDF-RMDL VISIT CTR	8,930	00	
		Probation			
3085	2310	NON CNTY PROF SPCLZD SVCS	69,250	00	
		District Attorney			
2839	2310	NON CNTY PROF SPCLZD SVCS	110,000	00	
		CAO			
1215	1081	LABOR RECEIVED/PROVIDED	85,990	00	
1215	2328	ADMINISTRATIVE SERVICE	53,021	00	
1215	2479	OTHER SPECIAL DPMTAL EXP	345,000	00	
1216	1011	PERMANENT SALARIES			166,661 00
1216	2310	NON CNTY PROF SPCLZD SVCS			589,182 00
1216	2100	OFFICE EXPENSE			26,600 00
		115300 Law Enforcement Svcs			
2982	5011	REIMBURSEMENTS-GOV/GOV			2,215,167 00
2986	5011	REIMBURSEMENTS-GOV/GOV			119,182 00
TOTALS			817,952	0	3,116,792 0

APPROVED

AUDITOR-CONTROLLER:

BY:  DATE 11/8/16

COUNTY ADMINISTRATOR:

BY: _____ DATE _____

BOARD OF SUPERVISORS:

YES:


NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST:

To appropriate expenditures approved by the Community Corrections Partnership and the Board of Supervisors for the CCP 16-17 Fiscal Year budget.

Amounts appropriated will bring each department to the approved funding level for 16-17 for AB109 Criminal Justice Realignment.

 (Van Tran)
 Sr. Mgmt Analyst DATE 11/7/16

APPROPRIATION APOO 5026
 ADJ. JOURNAL NO.

CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT/
ALLOCATION ADJUSTMENT
T/C 24

AUDITOR-CONTROLLER USE ONLY

FINAL APPROVAL NEEDED BY:

- BOARD OF SUPERVISORS
- COUNTY ADMINISTRATOR
- AUDITOR-CONTROLLER

ACCOUNT CODING		DEPARTMENT : 0300, 0308, 0242, 0003, 115300-0295			
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE		<DECREASE>
2588	9951	Sheriff's Office REIMBURSEMENTS - GOV/GOV			154,691 00
3085	9951	Probation REIMBURSEMENTS - GOV/GOV			69,250 00
2839	9951	District Attorney REIMBURSEMENTS - GOV/GOV			110,000 00
1215	9951	CAO REIMBURSEMENTS - GOV/GOV			364,011 00
1216	9951	REIMBURSEMENTS - GOV/GOV	662,443	00	
		115300 Law Enforcement SVCs			
2982	8981	FUND BALANCE AVAILABLE	2,215,167	00	
2986	9263	ST AID RELGNMENT-SALES TAX	119,182	00	
TOTALS			2,996,792	00	697,952 00

APPROVED

AUDITOR-CONTROLLER:

BY:  DATE 11/8/14

COUNTY ADMINISTRATOR:

BY: _____ DATE _____

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____


EXPLANATION OF REQUEST:

AB 109-CCP

To appropriate AB 109 revenue to departments to the 16-17 Budget level approved by the Community Corrections Executive Committee and Board of Supervisors.

115300 Law Enforcement SVCs

Increase 115300-2982 Fund Balance Available to fund Sheriff's West County Detention renovation, approved by the Community Corrections Executive Committee and Board of Supervisors for FY 13-14, and to fund Sheriff's West County Detention visit center, approved by the Community Corrections Executive Committee and Board of Supervisors for FY 14-15

Vana Tran
 Sr. Mgmt Analyst 11/7/14
SIGNATURE TITLE DATE

REVENUE ADJ. RA00 5026
JOURNAL NO. _____



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 15, 2016

Subject: Appropriation Adjustments for CalWORKS and General Assistance

RECOMMENDATION(S):

Employment and Human Services (0504 and 0503): APPROVE Appropriation and Revenue Adjustment No. 5024 authorizing an adjustment to the Federal, State and County expenditure and revenue budgets based on revised caseload projections for CalWORKS (0504) and General Assistance (0503).

FISCAL IMPACT:

This action will adjust both the expenditure and revenue budgets of CalWORKS and General Assistance to more accurately reflect a reduction in caseload projections for FY 16/17. The net effect is a reduction to both expenditures and revenues of \$4,381,232. There is no impact to the net county cost.

BACKGROUND:

Budget projections for recipient cash aid expenditures, which are based on caseload, are required to be prepared six months in advance of the current budget year. Consequently, the current CalWORKS cash aid expenditures were projected in January 2016 based on prior and projected caseloads. This budget adjustment will bring into alignment the current CalWORKS assistance expenditures to reflect actual recipient cash aid payments, which are lower than previously projected.

CONSEQUENCE OF NEGATIVE ACTION:

Appropriations will not be properly allocated.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Erik Brown,
925-313-1561

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

By: , Deputy

cc:

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

TC24/27 No. 5024

**CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT/
ALLOCATION ADJUSTMENT
T/C 24**

AUDITOR-CONTROLLER USE ONLY

FINAL APPROVAL NEEDED BY:

- BOARD OF SUPERVISORS
- COUNTY ADMINISTRATOR
- AUDITOR-CONTROLLER

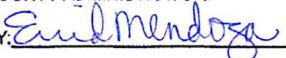
ACCOUNT CODING		DEPARTMENT : 0504 Employment & Human Services			
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE		<DECREASE>
5421	9259	ST AID REALIGNMENT-VLF			369,727 00
5421	9261	STATE AID FAMILY INC MTCE	4,604,091	00	
5421	9263	ST AID RELGNMT-SALES TAX			2,048,957 00
5421	9471	FED AID FAMILY INC MTCE			5,178,850 00
5421	9951	REIMBURSEMENTS - GOV/GOV			1,387,789 00
TOTALS			4,604,091	00	8,985,323 00

APPROVED

AUDITOR-CONTROLLER:

BY:  DATE 11/3/16

COUNTY ADMINISTRATOR:

BY:  DATE 11/9/16

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST:

To revise State and Federal revenue accounts for EHS
Dept. 0504 to reflect revised caseload forecast for
CalWORKs



11/3/16

Emilia Gabriele, EHSD Chief Financial Officer
SIGNATURE TITLE DATE

REVENUE ADJ. RAOO 5024

JOURNAL NO.

**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 : 0503 & 0504 Employment & Human Services			
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE
5421	3311	FEDERAL AID	5,178,850	00	
5421	3313	COUNTY AID BASIC			39,493 00
5421	3314	STATE AID			1,229,335 00
5421	3321	AB85 STATE MAP AID	431,717	00	
5274	3313	COUNTY AID BASIC	39,493	00	
TOTALS			5,650,060	00	1,268,828 00

APPROVED

AUDITOR-CONTROLLER:

BY:  DATE 11/3/16

COUNTY ADMINISTRATOR:

BY:  DATE 11/9/16

BOARD OF SUPERVISORS:


YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST:

To revise County, State and Federal expenditure accounts for EHS Depts. 0503 & 0504 to reflect revised caseload forecast for CalWORKs & General Assistance

 11/3/16
Emilia Gabriele, EHSD Chief Financial Officer
SIGNATURE TITLE DATE

APPROPRIATION APOO 5024
ADJ. JOURNAL NO.



Contra
Costa
County

To: Board of Supervisors
From: David O. Livingston, Sheriff-Coroner
Date: November 15, 2016

Subject: Appropriation Adjustment - Office of the Sheriff Community Service Officer FOB

RECOMMENDATION(S):

APPROVE Appropriations and Revenue Adjustment No. 5020 authorizing new revenue in the amount of \$126,941 from CSA P-6 Zone funding and appropriating it in the Sheriff's Office (0255) to add one Sheriff's Community Service Officer position to the Field Operations Bureau - Discovery Bay community.

FISCAL IMPACT:

This action increases revenues and appropriations by \$126,941. There is no impact on the County General Fund.

BACKGROUND:

The Discovery Bay P6 Citizens Advisory Committee recommends the expenditure of P-6 funds to provide additional assistance related to speed enforcement in the Discovery Bay area. Adding a Sheriff's Community Service Officer would provide an enhanced level of public safety for the community and come at a reduced cost to the taxpayer compared to that of a sworn deputy. The CAC has determined that if approved, the addition of a Sheriff's Community Service Officer would help address the increase in requests for the Office of the Sheriff to assist in speed related enforcement for the Discovery Bay area.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Liz Arbuckle,
925-335-1529

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

By: , Deputy

cc: Heike Anderson, Liz Arbuckle, Tim Ewell

CONSEQUENCE OF NEGATIVE ACTION:

Failure to approve the addition of a Sheriff's Community Services Officer will impact the safety and well-being of the Discovery Bay citizenry.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

Appropriation and Revenue Adjustment No. 5020

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: (0255) Office of the Sheriff			
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>		INCREASE
2505	1011	PERMANENT SALARIES			74,956 00
2505	1014	PERMANENT OVERTIME			5,018 00
2505	1044	RETIREMENT EXPENSE			17,507 00
2505	1060	EMPLOYEE GROUP INSURANCE			21,708 00
2505	1061	RETIREE HEALTH INSURANCE			4,014 00
2505	1063	UNEMPLOYMENT INSURANCE			192 00
2505	1070	WORKERS COMPENSATION INS			2,381 00
2505	2160	CLOTHING & PERSONAL SUPPL			1,165 00
7629	5016	TRANSFERS - GOV/GOV			126,941 00
7629	2479	OTHER SPECIAL DPMTAL EXP	126,941	00	
TOTALS			126,941	00	253,882 00

APPROVED

AUDITOR-CONTROLLER:

BY: [Signature] DATE 10/31/16

COUNTY ADMINISTRATOR:

BY: [Signature] DATE 11/8/16

BOARD OF SUPERVISORS:

YES:

NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST

To appropriate new revenue for position of Community Services Officer.


[Signature] Chief of Mgmt Services 10/25/2016
 SIGNATURE TITLE DATE
 APPROPRIATION APOO 5020
 ADJ. JOURNAL NO.

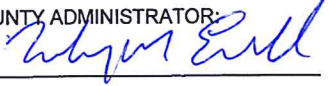
CONTRA COSTA COUNTY
ESTIMATED REVENUE ADJUSTMENT
T/C 24



ACCOUNT CODING		AUDITOR-CONTROLLER-		
		BUDGET UNIT: (0255) Office of the Sheriff		
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE	2016 OCT 25 P 2:18 <DECREASE>
2505	9956	TRANSFERS - GOV/GOV	126,941	00
TOTALS			126,941	00

APPROVED

AUDITOR-CONTROLLER:
 BY:  DATE 10/31/16


COUNTY ADMINISTRATOR:
 BY:  DATE 11/8/16

BOARD OF SUPERVISORS:
 YES:
 NO:

BY: _____ DATE _____

EXPLANATION OF REQUEST

To appropriate new revenue for position of Community Service Officer

 Chief of Mgmt Services 10/25/2016
 SIGNATURE TITLE DATE

REVENUE ADJ. JOURNAL NO. RAOO 5020



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 15, 2016

Subject: County Memberships in Sustainability Organizations

RECOMMENDATION(S):

AUTHORIZE the Conservation and Development Director, or designee, to apply for membership and pay associated annual membership dues totaling \$2,900 to the Local Government Sustainable Energy Coalition and the Urban Sustainability Directors Network, as recommended by the Ad Hoc Sustainability Committee.

FISCAL IMPACT:

Annual membership dues of \$2,900 will be paid with General Fund revenues approved for DCD's use for sustainability programs in the County's FY 2016-17 Budget.

BACKGROUND:

As the County expands its work on sustainability and implementing the Climate Action Plan, it is important for the County to have access to the most current information about what is working at the local level for other government entities, and be able to advise the Board of Supervisors of activities by State agencies that may impact County policies and programs.

Urban Sustainability Directors Network. The Urban Sustainability Directors Network (USDN) brings together sustainability directors from local governments in the U.S. and Canada. USDN provides a peer-to-peer information sharing network, with emphasis on what has worked for other jurisdictions, and what has not worked. The focus is on fostering collaboration. USDN provides weekly e-news updates, and hosts 20 user groups that meet every other month by phone for an hour. Members can participate in as many user groups as they wish. USDN was initially designed for cities, so counties are included as associate members and pay reduced dues of \$400/year. Membership in

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Jody London,
925-674-7871

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

>

USDN may increase our chances of receiving a Partners for Places grant, which is designed to foster collaboration between local governments and place-based foundations on sustainability issues. USDN has been cited by local government sustainability coordinators as one of the best resources for their jobs.

Local Government Sustainable Energy Coalition. The Local Government Sustainable Energy Coalition (LGSEC) is a statewide group for local governments, with a focus on advocacy before State energy regulators and peer-to-peer networking. The LGSEC is the only statewide group representing local governments at the point where implementation decisions are made about State energy programs. Two key energy efficiency programs for Contra Costa County funded by PG&E, the East Bay Energy Watch and the Bay Area Regional Energy Network, can trace their origins to advocacy by the LGSEC before the California Public Utilities Commission. The LGSEC hosts quarterly networking meetings that are always informative and allow us to learn what our peers are doing in other parts of the State. The LGSEC also puts out a newsletter every 5-8 weeks. Annual dues are \$2,500 for a basic membership. The organization historically has covered funding for one person from a member entity to travel to the quarterly meetings if they are in a part of the State that requires air travel (i.e., they would reimburse us for one of our staff to travel to a meeting in LA or San Diego). The Board's Ad Hoc Sustainability Committee approved this recommendation on October 24, 2016. Supervisor Glover was not in attendance.

CONSEQUENCE OF NEGATIVE ACTION:

If the memberships are not authorized, staff will be less prepared to perform their duties related to sustainability and implementation of the Climate Action Plan, and the County will be less well-positioned to take advantage of opportunities in these issue areas.



Contra
Costa
County

To: Board of Supervisors
From: Beth Ward, Animal Services Director
Date: November 15, 2016

Subject: Establish and add one Animal Center Operations Manager position and cancel one Animal Center Technician position

RECOMMENDATION(S):

ADOPT Position Adjustment Resolution No. 21913 to establish the classification of Animal Center Operations Manager (BCGA) (represented) at salary plan and grade ZA5 1665 (\$6,019-\$7,316), and add one (1) Animal Center Operations Manager (BCGA) position; and cancel one (1) Animal Center Technician (BJWC) (represented) vacant position No. 16807 at salary plan and grade QA5 1041 (\$3,120-\$3,792) in the Animal Services Department.

FISCAL IMPACT:

The Department will cancel one Animal Center Technician position, which was budgeted for Fiscal Year 2016/17. These funds will be used to offset the funding needed for the New Animal Center Operations Manager position. The Animal Services Department is prepared to absorb the additional estimated personnel cost of \$60,754, which includes approximately \$12,804 in pension costs. All costs will be funded by 32% User fee, 31% City Revenues, 37% County.

BACKGROUND:

The demand for the Animal Services Department's shelter services has increased significantly since the beginning of 2016. The Animal Center Operations Supervisor is currently responsible for supervision of the shelter staff and their day-to-day activities;

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Beth Ward (925)
335-8370

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

By: , Deputy

cc: Arturo Castillo

BACKGROUND: (CONT'D)

however, with the increase in both the number of staff and volume of work being performed in the shelter, there is an urgent need for a position to provide management of the overall operations of the Animal Care Programs. The incumbent will work under the supervision of the Animal Clinic Veterinarian-Exempt, who is in charge of the Department's Medical Division. The Animal Center Operations Manager will be integral in establishing and managing husbandry policies and procedures within the Animal Care Unit and ensuring management duties as needed by shelter operations are fulfilled.

CONSEQUENCE OF NEGATIVE ACTION:

If this classification is not established, the appropriate staffing levels will not be in place to support the work performed by the Animal Center Operations Supervisor and the Animal Clinic Veterinarian-Exempt, which impacts the overall quality of day-to-day services provided and the welfare of sheltered animals at the shelter.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

P300 No. 21913 ASD

POSITION ADJUSTMENT REQUEST

NO. 21913
DATE 11/02/2016

Department Animal Services

Department No./
Budget Unit No. 0366 Org No. 0344 Agency No. 36

Action Requested: Establish the classification of Animal Center Operations Manager (represented), and add one Animal Center Operations Manager position; cancel one Animal Center Technician (represented) vacant position.

Proposed Effective Date: 11/2/2016

Classification Questionnaire attached: Yes [] No [x] / Cost is within Department's budget: Yes [x] No []

Total One-Time Costs (non-salary) associated with request: \$0.00

Estimated total cost adjustment (salary / benefits / one time):

Total annual cost \$60,754.00 Net County Cost \$22,478.98
Total this FY \$40,502.66 N.C.C. this FY \$14,985.98

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 32% User Fees, 31% City Revenues, 37% County General Fund

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.

Arturo Castillo

(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT

Deputy County Administrator

Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE 11/4/2016

Establish the classification of Animal Center Operations Manager (BCGA) (represented) at salary plan and grade ZA5 1665 (\$6,019-\$7,316), and add one (1) Animal Center Operations Manager (BCGA) position; cancel one (1) Animal Center Technician (BJWC) (represented) vacant position No. 16807 at salary plan and grade QA5 1041 (\$3,120-\$3,792)

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: [x] Day following Board Action.
[] (Date)

Gladys Scott Reid

11/4/2016

(for) Director of Human Resources

Date

COUNTY ADMINISTRATOR RECOMMENDATION:

DATE

11/9/2016

- [x] Approve Recommendation of Director of Human Resources
[] Disapprove Recommendation of Director of Human Resources
[] Other:

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 11/9/2016

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: David O. Livingston, Sheriff-Coroner
Date: November 15, 2016

Subject: Cancel one (1) Clerk-Beginning Level (T) vacant position and reclassify a Clerk-Senior level position and its incumbent to Secretary Advance level

RECOMMENDATION(S):

ADOPT Personnel Adjustment Resolution No. 21976 to cancel one (1) Clerk-Beginning Level (T) (JWXA)(represented) vacant position #2919 at salary plan and grade 3R5 0743 (\$2,415-\$2,936) and reclassify Clerk-Senior level (JWXC)(represented) position #2738 and its incumbent at salary plan and grade 3RX 1033 (\$3,210-\$4,100) to Secretary-Advanced Level (J3TG) (represented) position at salary plan and grade 3R2 1163 (\$3,772-\$4,828) in the Office of the Sheriff's Department, Custody Services Bureau - Martinez Detention Facility.

FISCAL IMPACT:

An annual cost savings of \$68,212 to the Office of the Sheriff General Fund, and \$7,745 retirement annual savings.

BACKGROUND:

The incumbent of position #2738, a Clerk Senior level, is performing duties that reflect those of the classification of Secretary Advanced Level. These duties include managing

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Lori Brown (925)
335-1552

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

By: , Deputy

cc: Robyn Hanson

BACKGROUND: (CONT'D)

email, phone and calendar for an Assistant Sheriff; taking and transcribing minutes for the Custody Services Bureau Managers biweekly meetings and the Bay Area Jail Managers Association quarterly meetings. Duties also include policy and procedure review, travel arrangements for staff training, and scheduling new employee orientation. These responsibilities were previously assigned to a Secretary Level employee within the Custody Services Bureau before the position was unfunded and abolished in 2011 due to budgetary reductions.

CONSEQUENCE OF NEGATIVE ACTION:

If this action is not approved, the employee will continue performing higher level duties without being properly classified and compensated.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

P300 No. 21976

POSITION ADJUSTMENT REQUEST

NO. 21976
DATE 8/10/2016

Department Office of the Sheriff

Department No./
Budget Unit No. 0300 Org No. 2590 Agency No. 25

Action Requested: Position adjustment to reclassify Clerk-Senior level (JWXC) position (2738) and it's incumbent to Secretary Advanced level (J3TG) position (2738) in the Custody Services Bureau - Martinez Detention Facility and CANCEL one (1) Clerk-Beginning level (JWXA) position (2919) in the Custody Services Bureau - Martinez Detention Facility.

Proposed Effective Date: 10/1/2016

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 (\$68,212.00) Net County Cost (\$68,212.00)
Total this FY (\$51,156.00) N.C.C. this FY (\$51,156.00)

SOURCE OF FUNDING TO OFFSET ADJUSTMENT Savings to the Office of the Sheriff general fund

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.

Mary Jane Robb

(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT

Timothy M. Ewell

10/17/2016

Deputy County Administrator

Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE _____

Cancel one Clerk-Beginning Level vacant position (2919), reclassify a Clerk-Senior Level (2738) and its incumbent to Secretary Advanced Level.

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: Day following Board Action.

10/1/2016(Date)

Tanya Williams

11/1/2016

(for) Director of Human Resources

Date

COUNTY ADMINISTRATOR RECOMMENDATION:

DATE

11/8/16

Approve Recommendation of Director of Human Resources

Disapprove Recommendation of Director of Human Resources

Other: _____

Timothy M. Ewell

(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 11/8/2016

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: David O. Livingston, Sheriff-Coroner
Date: November 15, 2016

Subject: Position adjustment to reclassify Accountant III (SATA) position # 13522 and its incumbent to Supervising Accountant (SAHJ) position.

RECOMMENDATION(S):

ADOPT Personnel Adjustment Resolution No.21949 to reclassify an Accountant III (SATA) (represented) position #13522 and its incumbent at salary plan and grade ZB5 1576 (\$5,511-\$6,699) to Supervising Accountant (SAHJ)(represented) position at salary plan and grade ZA5 1703 (\$6,249-\$7,596) in the Office of the Sheriff.

FISCAL IMPACT:

Annual increase to the Office of the Sheriff General Fund is \$17,174.90. Retirement costs will increase by \$3,665.64 annually.

BACKGROUND:

Over the past three years, the Office of the Sheriff's Personnel and Finance units underwent a reorganization to streamline operations and provide a more comprehensive staffing model to meet the needs of the Office. A Supervising Accountant is needed to oversee the Accounts Payable and Billing processes within the unit. This request to upgrade the position is justified due to the increase in responsibility, and the additional supervision of seven (7) subordinate staff members.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Marcie Clark
925-335-1500

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

By: , Deputy

cc: Robyn Hanson

CONSEQUENCE OF NEGATIVE ACTION:

Failure to approve this request would impede the organizational structure of the Office of the Sheriff's Personnel and Finance units. This may result in inaccurate accounts payable and billing processes that would impact every division within the Office of the Sheriff.

CHILDREN'S IMPACT STATEMENT:

No Impact

ATTACHMENTS

P300 No. 21949

POSITION ADJUSTMENT REQUEST

NO. 21949
DATE 9/1/2016

Department Office of the Sheriff Department No./
Budget Unit No. 0255 Org No. 2500 Agency No. 25
Action Requested: Position adjustment to reclassify Accountant III (SATA) position # 13522 and its incumbent to Supervising Accountant (SAHJ) position.

Proposed Effective Date: 10/1/2016

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 \$17,174.00 Net County Cost \$17,174.00
Total this FY \$12,881.00 N.C.C. this FY \$12,881.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 100% General Fund

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.

Mary Jane Robb

(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT

Timothy M. Ewell

9/13/2016

Deputy County Administrator

Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE 11/1/2016

Reclassify one (1) Accountant III (SATA) position # 13522 and its incumbent to Supervising Accountant (SAHJ)

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: Day following Board Action.

11/1/2016(Date)

Tanya Williams

11/1/2016

(for) Director of Human Resources

Date

COUNTY ADMINISTRATOR RECOMMENDATION:

DATE

11/8/2016

Approve Recommendation of Director of Human Resources

Disapprove Recommendation of Director of Human Resources

Other: _____

Timothy M. Ewell

(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 11/8/2016

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: David O. Livingston, Sheriff-Coroner
Date: November 15, 2016

Subject: Add one (1) Sheriff's Community Service Officer (64VI) position to Patrol Division - Field Operations Bureau

RECOMMENDATION(S):

ADOPT Position Adjustment Resolution No. 21993 to add one (1) Sheriff's Community Service Officer (64VI) (represented) position at salary plan and grade VN5 1336 (\$4,472 - \$5,436) in the Sheriff's Office - Patrol Division to serve the Discovery Bay community.

FISCAL IMPACT:

There is no fiscal impact to the Office of the Sheriff General Fund. The position is 100% funded through CSA P-6 Zone funding from Discovery Bay zones. The annual salary of a Sheriff's Community Service Officer is \$126,941.11 with annual retirement cost of \$17,508.12.

BACKGROUND:

The Discovery Bay P6 Citizens Advisory Committee (CAC) recommends the expenditure of P6 funds to provide additional assistance related to speed enforcement in the Discovery Bay area. Adding a Sheriff's Community Service Officer would provide an enhanced level of public safety for the community and come at a reduced cost to the taxpayers compared to that of a sworn deputy. The CAC has determined that if approved, the addition of a Sheriff's Community Service Officer would help address the increase in requests for the Office of the Sheriff to assist in speed related enforcement for the Discovery Bay area.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Lori Brown (925)
335-1552

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

By: , Deputy

cc: Mary Jane Robb, Robyn Hanson

CONSEQUENCE OF NEGATIVE ACTION:

Failure to approve the utilization of Discovery Bay P-6 funds to provide the addition of a Sheriff's Community Service Officer will result in a continual increase in un-addressed calls for assistance into the Office of the Sheriff. As the cost of a Sheriff's Community Service Officer is substantially less than a sworn officer, this is a cost-effective use of P-6 monies. Failure to approve will impact the safety and well-being of the Discovery Bay citizenry.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

P300 No. 21993

POSITION ADJUSTMENT REQUEST

NO. 21993
DATE 9/20/2016

Department Office of the Sheriff Department No./
Budget Unit No. 0255 Org No. 2505 Agency No. 25
Action Requested: Add one (1) Sheriff's Community Service Officer (64VI) position to Patrol Division - Field Operations Bureau

Proposed Effective Date: 10/1/2016

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 \$126,941.11 Net County Cost \$0.00
Total this FY \$74,048.98 N.C.C. this FY \$0.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 100% Discovery Bay P-6 Zone funds

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.

Mary Jane Robb

(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT

Timothy M. Ewell

11/7/2016

Deputy County Administrator

Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE 11/8/2016

Add one (1) Sheriff's Community Service Officer (64VI) (represented) position at salary plan and grade VN5 1336 (\$4,472 - \$5,436)

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: Day following Board Action.
 _____(Date)

Gladys Scott Reid

11/8/2016

(for) Director of Human Resources

Date

COUNTY ADMINISTRATOR RECOMMENDATION:

DATE

11/9/2016

Approve Recommendation of Director of Human Resources
 Disapprove Recommendation of Director of Human Resources
 Other: _____

Timothy M. Ewell

(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 11/9/2016

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 15, 2016

Subject: Add twenty-three (23) permanent full-time positions in the Health Services Department

RECOMMENDATION(S):

ADOPT Position Adjustment Resolution No. 21994 to add the following twenty-three (23) represented positions in the Health Services Department:

- one (1) 40/40 Director of Safety and Performance Improvement (VWFA) at salary plan and grade level ZA5-2180 (\$10,022 - \$12,182);
- one (1) 40/40 Director of Ambulatory Care Nursing Services (VWDC) at salary plan and grade level ZL5-2126 (\$10,073 - \$12,244);
- one (1) 40/40 Infection Prevention and Control Manager (VWSF) at salary plan and grade level ZL5-2084 (\$9,249 - \$11,242);
- one (1) 40/40 Clinical Laboratory Scientist II (VHVD) at salary plan and grade level TC5-1809 (\$6,941 - \$8,437);
- two (2) 40/40 Assistant Clinical Laboratory Manager (VHGF) at salary plan and grade level ZA5-1829 (\$7,080 - \$8,606);
- two (2) 40/40 Health Services Education and Training Specialist (VWSM) at salary plan and grade level L35-1873 (\$9,249 - \$11,242);
- seven (7) 40/40 Occupational Therapist II (V5VH) at salary plan and grade level TC5-1746 (\$6,521 - \$7,027);
- six (6) 40/40 Physical Therapist (V5VF) at salary plan and grade level TC5-1746 (\$6,521 - \$7,027);
- two (2) 40/40 Speech Pathologist (VSVD) at salary plan and grade level TC5-1775 (\$6,711 - \$8,157)

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Jo-Anne Linares, (925)
957-5240

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

By: , Deputy

cc:

FISCAL IMPACT:

Upon approval, this action has an annual cost of approximately \$3,953,665, with estimated pension costs of \$865,503 already included. These costs will be 100% offset with third party revenues.

BACKGROUND:

The Joint Commission accredits and certifies nearly 21,000 health care organizations across the Country. On October, 28, 2016, the commission completed its survey of the Contra Costa Regional Medical Center and its health centers and a plan of correction was issued. Areas of concern included the need for higher level oversight of quality control related to infection control and ancillary services including rehabilitation therapy and laboratory services. The plan of correction must be addressed by the end of November 2016. These positions are necessary to provide high level oversight and management of programs focused on prevention and control of infectious diseases, quality management and safety performance improvement, inpatient and outpatient clinical laboratory services, rehabilitation therapy services and health education and training of clinical staff.

Failure to address these issues may result in the loss of our accreditation status, which will lead to the decline of Federal and State funding to our health care system.

CONSEQUENCE OF NEGATIVE ACTION:

If this action is not approved, Contra Costa Regional Medical Center and its health centers may lose their accreditation from the Joint Commission, which can result in loss of federal and state funds.

CHILDREN'S IMPACT STATEMENT:

ATTACHMENTS

P300 No. 21994 HSD

P300 No. 21994 Attachment 1

POSITION ADJUSTMENT REQUEST

NO. 21994
DATE 11/2/2016

Department Health Services

Department No./
Budget Unit No. 0540 Org No. 6544 Agency No. A18

Action Requested: Add twenty-three (23) permanent full-time positions in the Health Services Department, as specified in Attachment 1.

Proposed Effective Date: 11/16/2016

Classification Questionnaire attached: Yes [] No [x] / Cost is within Department's budget: Yes [] No [x]

Total One-Time Costs (non-salary) associated with request: \$0.00

Estimated total cost adjustment (salary / benefits / one time):

Total annual cost \$3,953,665.80 Net County Cost \$0.00
Total this FY \$1,976,832.90 N.C.C. this FY \$0.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 100% third party revenue offset

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

11/9/2016

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

11/9/2016

- [] Approve Recommendation of Director of Human Resources
[] Disapprove Recommendation of Director of Human Resources
[x] Other: Approve as recommended 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 11/9/2016

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

P300 No. 21994 - ATTACHMENT #1

ADD the following twenty-three (23) positions in the Health Services Department:

- . One (1) 40/40 – Director of Safety and Performance Improvement (VWFA)
Salary level ZA5-2180 (\$10,022 - \$12,182)
- . One (1) 40/40 – Director of Ambulatory Care Nursing Services (VWDC)
Salary level ZL5-2126 (\$10,073 - \$12,244)
- . One (1) 40/40 – Infection Prevention and Control Manager (VWSF)
Salary level ZL5-2084 (\$9,249 - \$11,242)
- . One (1) 40/40 – Clinical Laboratory Scientist II (VHVD)
Salary level TC5-1809 (\$6,941 - \$8,437)
- . Two (2) 40/40 – Health Services Education and Training Specialist (VWSM)
Salary level L35-1873 (\$9,249 - \$11,242)
- . Two (2) 40/40 – Assistant Clinical Laboratory Manager (VHGF)
Salary level ZA5-1829 (\$7,080 - \$8,606)
- . Seven (7) 40/40 – Occupational Therapist II (V5VH)
Salary level TC5-1746 (\$6,521 - \$7,027)
- . Six (6) 40/40 – Physical Therapist II (V5VF)
Salary level TC5-1746 (\$6,521 - \$7,027)
- . Two (2) 40/40 – Speech Pathologist (VSVD)
Salary level TC5-1775 (\$6,711 - \$8,157)



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services
Date: November 15, 2016

Subject: Add 98 permanent positions in the Health Services Department

RECOMMENDATION(S):

ADOPT Position Adjustment Resolution No. 21995 to add the following represented classifications in the Health Services Department:

- one (1) 40/40 - Administrative Analyst (APWA) at salary plan and grade level ZB5-1277 (\$4,099 - \$4,982);
- one (1) 40/40 - Charge Nurse (VWTF) at salary plan and grade level L35-1883 (\$9,341 - \$10,298);
- twenty-seven (27) 40/40 - Public Health Nurse (VVXA) at salary plan and grade level LT2-1832 (\$7,663 - \$10,306);
- three (3) 40/40 - Registered Nurse - Experienced Level (VWXD) at salary plan and grade level L3H-0400 (\$8,049 - \$8,972);
- fifteen (15) 40/40 - Substance Abuse Counselor (VHVC) at salary plan and grade level TC5-1436 (\$4,797 - \$5,831);
- three (3) 40/40 - Clerk Senior Level (JWXC) at salary plan and grade level 3RX-1033 (\$3,210 - \$4,100);
- one (1) 40/40 - Public Health Program Specialist I (VBSD) at salary plan and grade level ZA5-1602 (\$5,655 - \$6,873);
- nine (9) 40/40 - Mental Health Clinical Specialist (VQSB) at salary plan and grade level TC2-1384 (\$4,694 - \$6,969);
- twenty-seven (27) 40/40 - Community Health Worker II (VKVB) at salary plan and grade level TC5-1043 (\$3,251 - \$3,951);

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Jo-Anne Linares, (925)
957-5240

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

By: , Deputy

cc: Jo-Anne Linares

RECOMMENDATION(S): (CONT'D)

>

- five (5) 40/40 - Community Health Worker Specialist (VKTA) at salary plan and grade level TC5-1103 (\$3,450 - \$4,193);
- one (1) 40/40 - Medical Social Worker II (X4VH) at salary plan and grade level 255-1590 (\$5,373 - \$6,531);
- one (1) 32/40 - Health Services Planner/Evaluator - Level B (VCXD) at salary plan and grade level ZB2-1323 (\$4,419 - \$7,242); and
- four (4) 40/40 - Mental Health Community Support Worker I (VQWE) at salary plan and grade level TC5-0875 (\$2,753 - \$3,346)

FISCAL IMPACT:

Upon approval, this action has an approximate annual cost of \$12,801,986 with estimated pension costs of \$2,739,937 already included. This cost is 100% offset by the Whole Person Care Pilot Program funds.

BACKGROUND:

Contra Costa Health Services received funding for a Whole Person Care (WPC) Pilot Program from the California Department of Health Care Services (DHCS). The program provides an integrated physical health, behavioral health, and social services in a patient-centered manner with the goals of improved health and well-being of a vulnerable population. It targets Medi-Cal patients who are high risk, high utilizers of high acuity medical services and/or across multiple delivery systems.

The program provides coordination of services through a three-pronged approach: 1) Integrated and Coordinated Data Systems, 2) Enhanced and Coordinated Case Management, and 3) a Sobering Center. It requires a robust staffing profile to meet the deliverables set forth by DHCS and to deliver the team-based case management and care coordination services to the County's highest utilizing Medi-Cal population. This is the second phase to add 98 positions in varied classifications including administrative, clinical, technical and management staff to address underlying social determinants of health that are leading to poor health outcomes.

CONSEQUENCE OF NEGATIVE ACTION:

If this action is not approved, Health Services will not have the appropriate staff for this program and risk losing \$20 million annual funds from DHCS.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

P300 No. 21995 HSD

P300 No. 21995 Attachment 1

POSITION ADJUSTMENT REQUEST

NO. 21995
DATE 11/1/2016

Department Health Services

Department No./

Budget Unit No. 0450 Org No. 5747 Agency No. A18

Action Requested: Add 98 represented positions in the Health Services Department, as specified in Attachment 1.

Proposed Effective Date: 11/16/2016

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 \$12,801,986.00 Net County Cost \$0.00

Total this FY \$2,739,936.00 N.C.C. this FY \$0.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 100% Whole Person Care Pilot Program 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

11/9/2016

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

11/9/2016

Approve Recommendation of Director of Human Resources

Disapprove Recommendation of Director of Human Resources

Other: Approved as recommended 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 11/9/2016

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

**P300 No. 21995 - ATTACHMENT #1
WHOLE PERSON CARE PROGRAM PHASE 2**

ADD the following 98 represented positions in the Health Services Department:

- . One (1) 40/40 – Administrative Analyst (APWA)
Salary level ZB5-1277 (\$4,099 - \$4,982)
- . One (1) 40/40 – Charge Nurse (VWTF)
Salary level L35-1883 (\$9,341 - \$10,298)
- . Twenty-seven (27) 40/40 – Public Health Nurse (VVXA)
Salary level LT2-1832 (\$7,663 - \$10,306)
- . Three (3) 40/40 – Registered Nurse - Experienced Level (VWXD)
Salary level L3H-0400 (\$8,049 - \$8,972)
- . Fifteen (15) 40/40 – Substance Abuse Counselor (VHVC)
Salary level TC5-1436 (\$4,797 - \$5,831)
- . Three (3) 40/40 – Clerk – Senior Level (JWXC)
Salary level 3RX-1033 (\$3,210 – \$4,100)
- . One (1) 40/40 – Public Health Program Specialist I (VBSD)
Salary level ZA5-1602 (\$5,655 - \$6,873)
- . Nine (9) 40/40 – Mental Health Clinical Specialist (VQSB)
Salary level TC2-1384 (\$4,694 - \$6,969)
- . Twenty-seven (27) 40/40 – Community Health Worker II (VKVB)
Salary level TC5-1043 (\$3,251 - \$3,951)
- . Five (5) 40/40 – Community Health Worker Specialist (VKTA)
Salary level TC5-1103 (\$3,450 - \$4,193)
- . One (1) 40/40 – Medical Social Worker II (X4VH)
Salary level 255-1590 (\$5,373 - \$6,531)
- . One (1) 32/40 – Health Services Planner/Evaluator – Level B (VCXD)
Salary level ZB2-1323 (\$4,419 - \$7,242)
- . Four (4) 40/40 – Mental Health Community Support Worker I (VQWE)
Salary level TC5-0875 (\$2,753 - \$3,346)



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 15, 2016

Subject: Establish Quality Assurance Monitor classification, add (1) position and cancel (1) Clerk-Experience Level in Workforce Services Bureau in EHSD

RECOMMENDATION(S):

ADOPT Position Adjustment Resolution No. 21981 to establish the classification of Quality Assurance Monitor (XQSP) (represented), add one position at salary plan and grade 255 1409 (\$4,491-\$5,459) and cancel one (1) vacant Clerk-Experienced Level (JWXB) (represented) position #6343 at salary plan and grade 3RH 0750 (\$2,905-\$3,605) in Employment and Human Services Department, Workforce Services Bureau.

FISCAL IMPACT:

Upon approval, this action will result in an approximate annual cost increase of \$45,142, which includes estimated pension costs of \$15,799. The new position will be funded by 76% Federal revenue, 14% State revenue, and 10% County cost.

BACKGROUND:

Employment and Human Services has two operating call centers, the Health Care Access Center (HCAC) and Medi-Cal CalFresh Service Center (MCSC). The call centers provide enrollment information pertaining to health care insurance associated with the Affordable Care Act (ACA), and promote Cal-Fresh benefits. In addition, the MCSC call center maintains ongoing Medi-Cal and CalFresh cases. For the month of October 2016, the Medi-Cal CalFresh Service Center (MCSC) received a total of 24,314 calls and the Health Care Access Center (HCAC) received 288 calls from the general public.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Holly Trieu
925-313-1560

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

By: , Deputy

cc: Holly Trieu

BACKGROUND: (CONT'D)

The department is requesting a Quality Assurance Monitor to oversee the day-to-day operations for both call centers to ensure centers are meeting the department's quality assurance performance standards and adhering to the department's established procedures. The Quality Assurance Monitor will be responsible for monitoring performance data, evaluating client satisfaction, service levels, staffing levels and staff performance. Additional responsibilities will include: developing surveys and evaluation tools to evaluate and analyze service levels, performance indicators, staff performance levels, quality of interaction with customers, including accuracy of information provided to consumers, and the accuracy of data entry based on an average of data attributes and customer relations skills.

CONSEQUENCE OF NEGATIVE ACTION:

If this position is not approved, EHSD will not have the appropriate staff to monitor and maintain the quality assurance performance standards for the department's operating call centers.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

P300 No. 21981 EHSD

POSITION ADJUSTMENT REQUEST

NO. 21981
DATE 10/18/2016

Department Employment and Human Services
Department No./ Budget Unit No. 0504 Org No. 5455 Agency No. A19

Action Requested: Establish the classification of Quality Assurance Monitor (XQSP) (represented), add one position and cancel one Clerk-Experienced Level (JWXB) (represented) vacant position #6343 in the Workforce Services Bureau at EHSD.

Proposed Effective Date: 11/1/2016

Classification Questionnaire attached: Yes [] No [x] / Cost is within Department's budget: Yes [x] No []

Total One-Time Costs (non-salary) associated with request: \$0.00

Estimated total cost adjustment (salary / benefits / one time):

Total annual cost \$45,142.00 Net County Cost \$4,514.00
Total this FY \$26,333.00 N.C.C. this FY \$2,633.30

SOURCE OF FUNDING TO OFFSET ADJUSTMENT 76% Federal, 14% State, 10% County

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.

Holly Trieu 313-1560

(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT

Kevin J. Corrigan

10/20/2016

Deputy County Administrator

Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE 10/25/2016

Establish the classification of Quality Assurance Monitor (XQSP) (represented), add one position at salary plan and grade 255 1409 (\$4491-\$5459) and cancel one (1) vacant Clerk-Experienced Level (JWXB) (represented) position #6343 at salary plan and grade 3RH 0750 (\$2905-\$3605) in Employment and Human Services Department/Workforce Services Bureau.

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: [x] Day following Board Action.

[] (Date)

OParra

11/7/2016

(for) Director of Human Resources

Date

COUNTY ADMINISTRATOR RECOMMENDATION:

DATE

11/9/2016

[x] Approve Recommendation of Director of Human Resources

[] Disapprove Recommendation of Director of Human Resources

[] Other:

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 11/9/2016

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 15, 2016

Subject: California Department of Aging, Medicare Improvements for Patients and Providers Act (MIPPA) funding

RECOMMENDATION(S):

ADOPT Resolution No. 2016/632 to approve and authorize the Employment and Human Services Director, or designee, to execute a contract amendment with California Department of Aging, effective October 12, 2016, to increase the payment limit by \$34,789 to a new payment limit of \$60,945 for Medicare Improvements for Patients and Providers Act services with no change in term September 30, 2015 through September 29, 2017.

FISCAL IMPACT:

County to receive an amount not to exceed \$60,945 (includes amendment amount of \$34,789) per Agreement MI-1617-07 Amendment 1. (100% Federal) (No additional match)

BACKGROUND:

The California Department of Aging, Medicare Improvements for Patients and Providers Act (MIPPA) funding will continue to provide outreach and enrollment assistance to individuals who may be eligible for Medicare Part D low income subsidies and the Medicare Savings Program administered by Medi-Cal. These services will be performed by the Contra Costa County Health Insurance Counseling and Advocacy Program (HICAP).

-
- APPROVE OTHER
 - RECOMMENDATION OF CNTY ADMINISTRATOR RECOMMENDATION OF BOARD COMMITTEE
-

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Elaine Burres,
925-313-1717

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

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

Without funding, Employment and Human Services, Area Agency on Aging, could not provide enhanced Medicare Improvements for Patients and Providers Act services.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Resolution No. 2016/632

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:
NO:
ABSENT:
ABSTAIN:
RECUSE:



Resolution No. 2016/632

In The Matter Of: California Department of Aging, Medicare Improvements for Patients and Providers Act funding.

WHEREAS, the Contra Costa County Employment and Human Services Department provides Medicare Improvements for Patients and Providers Act services, and,

WHEREAS, the California Department of Aging has made additional funds available to County in an amount not to exceed \$34,789 (Agreement MI-1617-07, Amendment 1).

Now, Therefore, Be It Resolved: The Contra Costa County Board of Supervisors approve and authorize the Employment and Human Services Director, or designee, to execute a contract amendment with California Department of Aging to execute a contract amendment in an amount not to exceed \$60,945 which includes the amendment amount \$34,789 (Agreement MI-1617-07, Amendment 1) for Medicare Improvements for Patients and Providers Act services with no change in term September 30, 2015 through September 29, 2017.

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: Elaine Burres, 925-313-1717

ATTESTED: November 15, 2016

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

By: , Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: Melinda Cervantes, County Librarian
Date: November 15, 2016

Subject: Grant in the Amount of \$5,000 from The San Pablo Koshland Civic Unity Fellows

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Librarian, or designee, to apply for and accept a grant in the amount of \$5,000 from The San Pablo Koshland Civic Unity Fellows to provide materials and services to the San Pablo Library for the period January 1 through December 31, 2017.

FISCAL IMPACT:

No Library Fund match.

BACKGROUND:

The San Pablo Koshland Civic Unity Fellows are part of The San Francisco Foundation's Koshland Civic Unity program that recognizes local leaders who work collaboratively to strengthen the assets in their community and address community concerns and needs. The Daniel E. Koshland Civic Unity Program was established in 1982 by The San Francisco Foundation as a memorial to one of its founders and major benefactors, Daniel E. Koshland, a businessman and philanthropist who committed himself to making the Bay Area a better place in which to live.

The receipt of this grant will support work that increases positive connections among parents/guardians and youth (aged 13-18) in San Pablo. This emphasis is based on the belief that investing resources towards youth and their parents will support the community as a whole. The funds for this grant will be used to provide workshops and materials for a Maker technology series serving youth in San Pablo ages 13-18 and their parent/guardians.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

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 San Pablo Maker series for youth in San Pablo and their parents and guardians will not happen.

CHILDREN'S IMPACT STATEMENT:

The Maker program will give youth in San Pablo ages 13-18 and their parents the opportunity to work side by side, applying their creativity both to the use of existing tools and the invention of new ones through the use of Maker community mentors. Positive engagement with parents and adult mentors decreases teenagers' risk for poor decision-making and creates opportunities for them to positively engage with their communities. Research has shown that when teens are given more opportunities to participate in STEM/STEAM programs, they are more likely to pursue a post-secondary education. For these reasons, this program supports the following Children's Impact Statements:

- Children Ready for and Succeeding in School
- Children and Youth Healthy and Preparing for Productive Adulthood
- Communities that are Safe and Provide a High Quality of Life for Children and Families



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 15, 2016

Subject: Contract with Energy Council to Support East Bay Energy Watch Activities

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute a contract with the Energy Council, a joint powers agency, to accept funding in an amount not to exceed \$45,000 to assist Pacific Gas and Electric Company (PG&E) with its East Bay Energy Watch (EBEW) Local Government Partnership Program for the period May 10 through December 31, 2016.

FISCAL IMPACT:

There will be no impact to the General Fund. The cost of Department of Conservation and Development (DCD) staff time spent assisting PG&E and the Energy Council with its EBEW Local Government Partnership Program for calendar year 2016 will be funded through this contract.

BACKGROUND:

East Bay Energy Watch (EBEW) is a Local Government Partnership (LGP) collaboration between PG&E, local governments, non-profit and for-profit service providers in the East Bay providing energy efficiency solutions for residents and businesses in communities throughout Alameda and Contra Costa Counties. EBEW is one of twenty-one (21) Energy Watch LGPs administered by PG&E and funded by California utility ratepayers under the auspices of the California Public Utilities Commission (CPUC). EBEW consists of city and county staff members of both Alameda and Contra Costa Counties that work together to support energy efficiency programs to meet the needs of local customers and communities.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Demian Hardman (925)
674-7826

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

Since 2010, the County has been actively participating in EBEW and receiving funding to assist with marketing and outreach on the various energy efficiency incentive (rebate) programs being offered to businesses throughout Contra Costa. (EBEW primarily focuses on programs for businesses but it does have one relatively small program for residents. The County has not participated in this aspect because it would require start-up funding from the County, is not seen as cost-effective, and the County is able to provide rebates to residents through a different program called the Bay Area Regional Energy Network (BayREN)).

In early 2016, the County was allocated funding to act as Co-Administrator in partnership with the Energy Council joint powers agency formed by Alameda County and its cities) to (1), support EBEW administrative functions on behalf of EBEW programs in Contra Costa County and (2), implement a marketing and outreach campaign targeting small/medium businesses within the incorporated and unincorporated areas of the County.

Due to the new Co-Administrator partnership role and the unique nature of the required contract language and funding source, both agencies needed a substantial amount of time to craft mutually agreeable contract provisions. Under the contract, the County will indemnify, defend, and hold harmless Energy Council only to the extent that a claim arises from the County's negligence and willful misconduct while performing its obligations under the contract. The proposed effective date of this contract will provide for cost reimbursement for eligible work completed by DCD staff, in accordance with the contract requirements.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, the County would not be eligible to receive up to \$45,000 in funding to offset the cost of DCD staff time dedicated to supporting EBEW activities on behalf of the incorporated and unincorporated areas of the County for 2016.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Approval of Grant Award #28-888 with the California Department of Public Health

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Grant Award #28-888 (State #16 10711) with the California Department of Public Health, to pay County an amount not to exceed \$106,843, for the Core Sexually Transmitted Disease (STD) Management Project, for the period from July 1, 2016 through June 30, 2019.

FISCAL IMPACT:

Approval of this Agreement will result in an amount not to exceed \$106,843 for the Core STD Management Project. (No County match required)

BACKGROUND:

The purpose of this project is to implement evidence-based public health activities to proactively address sexually transmitted diseases within Contra Costa County, including prevention and control.

Approval of Grant Award #28-888 will allow the County to participate in the Core STD Management Project through June 30, 2019. This agreement includes agreeing to indemnify and hold harmless the State from any claims arising out of the performance of this Agreement.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Dan Peddycord,
925-313-6712

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

By: , Deputy

cc: Tasha Scott, M Wihelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, the County will not receive funds to provide additional prevention and control of STDs.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: Linda Dippel, Child Support Services Director
Date: November 15, 2016

Subject: Interagency Agreement with Merced County Department of Child Support Services

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Director of Child Support Services, or designee, to execute an Interagency Agreement with Merced County Department of Child Support Services, a government agency, to pay the County an amount not to exceed \$120,000, to provide Early Intervention Services for the period of October 1, 2016 through September 30, 2017.

FISCAL IMPACT:

Approval of this Interagency Agreement will result in a total payment to the County, not to exceed \$120,000 during the term of the agreement. No County matching funds required.

BACKGROUND:

The California State Department of Child Support Services has issued a statewide mandate for local child support agencies to focus on early intervention efforts to prevent payment delinquency and increase collections. The Department of Child Support Services has a contract with Maximus Human Services, Inc. to provide early intervention services. The pricing structure in the County's contract with Maximus includes discounts based on the volume of cases. Merced County Department of Child Support Services has requested to submit their cases with Contra Costa County to increase the volume of cases submitted and thereby reduce the per case cost. This is a collaborative effort to address the State mandate and to accomplish this task in a cost efficient manner by leveraging the buying power of multiple agencies.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Sarah Bunnell,
925-313-4433

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

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

Merced County would not be able pay Contra Costa County to act as an intermediary and as a result, neither county could benefit from the discount offered.

CHILDREN'S IMPACT STATEMENT:

Approval of this action will help the Department of Child Support Services collect child support payments, and pass these collections on to the home for the benefit of the children associated with cases within this Department.



Contra
Costa
County

To: Board of Supervisors
From: David O. Livingston, Sheriff-Coroner
Date: November 15, 2016

Subject: APPLICATION FOR FY 2016 STATE HOMELAND SECURITY GRANT PROGRAM FUNDS

RECOMMENDATION(S):

ADOPT Resolution No. 2016/649 authorizing the Sheriff-Coroner, or designee to apply for and accept State Homeland Security Grant Program (SHSGP) funds in an initial amount of \$1,200,036 from the California Governor’s Office of Emergency Services, make required grant assurances and authorize specified Sheriff’s Office officials to act on behalf of the County to obtain funding for the period of September 1, 2016 through the end of grant fund availability.

FISCAL IMPACT:

\$1,200,036, 100% Federal. No County match.

BACKGROUND:

The California Governor’s Office of Emergency Services (Cal OES) is responsible for designing and implementing homeland security initiatives and ensuring that the state is ready to protect lives and property by effectively preparing for, preventing, responding to, and recovering from all threats, crimes, hazards, and emergencies. To help fulfill this mission, Cal OES administers a pass-through program of federal homeland security grant funds to local public agencies through California. This program is critical to maintaining the quality and quantity of homeland security

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Mary Jane Robb,
925-335-1557

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

initiative programs provided within the County. The funding will allow for enhanced coordination and communication among the disciplines to maximize protective actions, emergency preparedness, and the effective response to emergencies and disasters. The initial total grant program allocation provided to the County by the U.S. Department of Homeland Security and sub-granted through the State of California is \$1,200,036. The grant application requires the County to adopt a resolution (attached) appointing an authorized agent to act on behalf of the Board of Supervisors by executing any actions necessary for each application and sub-grant. The application also requires the applicants to make certain grant assurances prescribing requirements to which the County will be held accountable.

CONSEQUENCE OF NEGATIVE ACTION:

The Office of the Sheriff would not be able to accept this grant funding thus denying the acquisition of critical public safety equipment intended for the County Hospital, County Fire Departments, local Police Departments and the Office of the Sheriff.

CHILDREN'S IMPACT STATEMENT:

No impact.

ATTACHMENTS

Resolution No. 2016/649

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

Adopted this Resolution on 11/15/2016 by the following vote:

AYE:

NO:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2016/649

IN THE MATTER OF: Applying for and Accepting 2016 State Homeland Security Grant Program funds.

WHEREAS, the County of Contra Costa is seeking funds available through the California Homeland Security Grant Program administered by the California Governor's Office of Emergency Services;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors authorizes the Sheriff-Coroner or the Undersheriff or the Sheriffs Chief of Management Services, to execute for and on behalf of the County of Contra Costa, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining Federal financial assistance provided by the U.S. Department of Homeland Security and sub-granted through the State of California related to the State Homeland Security Grant Program. Also, that the Board of Supervisors override the Authorized Body of 5 Committee so the Office of the Sheriff can acquire the grant funding;

BE IT FURTHER RESOLVED, that this Resolution supersedes Resolution No. 2016/443 adopted previously by the Board 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.

Contact: Mary Jane Robb, 925-335-1557

ATTESTED: November 15, 2016

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

By: , Deputy

cc:



Contra
Costa
County

To: Contra Costa County Fire Protection District Board of Directors
From: Jeff Carman, Chief, Contra Costa County Fire Protection District
Date: November 15, 2016

Subject: FY 2016 Assistance to Firefighters (AFG) Grant

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Fire Chief, or designee, to apply for and accept grant funding from the U.S. Department of Homeland Security, Federal Emergency Management Agency, Assistance to Firefighters Grant Program in an amount not to exceed \$350,000 for the purchase and installation of a Phase 5 live fire training unit.

FISCAL IMPACT:

90% Federal funds. There is a 10% local agency cost sharing requirement. The grant award(s) may be lower than the amount requested and will be for a period of one year from the effective date of award(s).

BACKGROUND:

The purpose of the Assistance to Firefighters Grant (AFG) Program is to enhance the safety of the public and firefighters with respect to fire and fire-related hazards by providing direct financial assistance to eligible fire departments for critically needed resources to equip and train emergency personnel to recognized standards, enhance operational efficiencies, foster interoperability, and support community resilience. The AFG Program supports the basic mission to strengthen national preparedness and resilience. The AFG Program also addresses the following "Core Capabilities" of the National Preparedness Goal:

-

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Aaron McAlister, Asst Chief
(925) 941-35013

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

Fire Management and Suppression

- Environmental Response/Health and Safety
- Threats and Hazards Identification
- Public Health, Healthcare, and Emergency Medical Services
- Operational Coordination
- Operational Communications
- Mass Search and Rescue Operations
- Community Resilience
- Long-term Vulnerability Reduction

This grant will request funding for the acquisition and installation of a Phase 5 live fire training system. This system enables firefighters to incrementally develop knowledge of fire behavior and skills for fire control and suppression as they advance through five available skill centers. The system includes a purpose-built training unit that replicates real-world scenarios. This enables instructors to deliver extremely realistic, hands-on training.

CONSEQUENCE OF NEGATIVE ACTION:

Contra Costa County is home to major industry, railroads, local and state roadways, and dense population and commercial centers built on four major earthquake faults. It is imperative that District personnel are trained to the highest standards to provide the best possible emergency response to its residents. Failure to approve this grant request would cause the District to forego the purchase of the specialized live fire training unit until additional fiscal resources are available.



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: Execute a contract amendment with Francisco & Associates, Inc., for pipeline franchise administration services, Countywide

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract amendment with Francisco & Associates, Inc., to extend the term from December 31, 2016 to December 31, 2017 and increase the payment limit by \$25,000, to a new payment limit of \$125,000, to continue providing pipeline franchise administration services, Countywide. Project No.: Various

FISCAL IMPACT:

100% Pipeline Franchise Fees.

BACKGROUND:

The Public Works Department administers the countywide pipeline franchise agreements. Francisco & Associates will assist with the administration of the County's pipeline franchise agreements. Francisco & Associates is a local SBE vendor and is registered on the Purchasing Portal and BidSync.

On January 1, 2014, the Purchasing Agent approved a contract with Francisco & Associates, Inc., with a payment limit not to exceed \$50,000, to provide pipeline franchise administration services.

On May 1, 2015, the Purchasing

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Carrie Ricci, (925) 313-2235

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

Agent approved contract Amendment No. 1 to increase the payment limit from \$50,000 to \$100,000, with no change to the original term to provide pipeline franchise administration services.

CONSEQUENCE OF NEGATIVE ACTION:

Without the approval of the Board of Supervisors, this amendment will not be executed and the Department will not have the assistance that is needed to administer pipeline franchises.



Contra
Costa
County

To: Board of Supervisors
From: Todd Billeci, County Probation Officer
Date: November 15, 2016

Subject: Contract Extension with National Council on Crime and Delinquency (NCCD)

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Probation Officer, or designee, to execute a contract amendment with the National Council on Crime and Delinquency (NCCD) to extend the term from September 30, 2016 to March 31, 2017 with no change in the payment limit to provide evaluation and assessment of the County's Smart Probation program.

FISCAL IMPACT:

100% Federal Grant Funded. Funds for evaluation services are received from the "Smart Probation: Reducing Prison Populations, Saving Money, and Creating Safer Communities" grant awarded by the Department of Justice. No General Funds will be used.

BACKGROUND:

Effective October 1, 2013, the Contra Costa County Probation was awarded the FY2013 "Smart Probation: Reducing Prison Populations, Saving Money, and Creating Safer Communities" grant. The budget included funds for NCCD to provide evaluation and performance assessment. The goal of this grant is to increase effective evidenced-based probation programs that address offender's needs and reduce recidivism. Funds will increase capacity within the Probation Department to implement evidence-based practices that target high-risk probationers by developing and promoting

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Danielle Fokkema,
925-313-4195

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

the integration of probation supervision strategies and tools to facilitate effective reentry, expand options for access to health care upon re-entry, and evaluate the results of new strategies and tools tested through this initiative.

Additionally, data gathered will be used to evaluate and validate delivery of probation services and improve customer service. The evaluation of the Probation Department's "Smart Probation" program has taken longer than originally expected. As a result the Probation Department submitted a Grant Adjustment Notice (GAN) to extended the grant period through March 31, 2017. The contract is being extended to align with the new grant termination date.

CONSEQUENCE OF NEGATIVE ACTION:

Contra Costa County Probation will not be able to evaluate the effectiveness of the Smart Probation grant program.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: Ed Woo, Chief Information Officer
Date: November 15, 2016

Subject: Blanket Purchase Order with Graybar Electric Company for Supplies

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Purchasing Agent or designee to execute, on behalf of the Chief Information Officer, a blanket purchase order with Graybar Electric Company in an amount not to exceed \$2,500,000 for the procurement of radio, telecommunications equipment and parts, as needed, for the period November 15, 2016 through December 31, 2017.

FISCAL IMPACT:

\$2,500,000 (100% User Fees); all costs are charged to the ordering departments through DoIT's billing process.

BACKGROUND:

The Department of Information Technology's Telecommunications and Radio divisions need to be able to readily purchase parts and supplies, in order to complete Work Order requests and other jobs submitted by their customers. The pricing is pursuant to U.S. Communities Contract Master Agreement NO. MA-IS-1-040223 solicited by the County of Los Angeles, California, 3 year initial term, January 1, 2015 - December 31, 2017 with an option to renew for (2) additional (1) year periods.

In accordance with Administrative Bulletin No. 611.0, blanket purchase orders in excess of \$100,000 require Board of Supervisors approval. The County Administrator's Office has reviewed this request and recommends approval.

CONSEQUENCE OF NEGATIVE ACTION:

If the action is not approved, DoIT will not have the necessary means to process and pay anticipated expenses through the Blanket Purchase Order.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Ed Woo
925-383-2688

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

By: , Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 15, 2016

Subject: Amend Contract with Planet Technologies, Inc.

RECOMMENDATION(S):

Approve and authorize the Employment and Human Services Director, or designee, to execute a contract amendment with Planet Technologies, Inc., effective December 1, 2016, to increase the payment limit by \$50,000 to a new payment limit of \$140,795 for additional professional information technology (IT) services, to upgrade and enhance the department's Intranet and Shared Text Automated Retrieval System (STARS) and to extend the term end date from June 30, 2017 to December 31, 2017. (45% Federal, 45% State, 10% County)

FISCAL IMPACT:

\$140,795: 100% Administrative Overhead (45% Federal, 45% State, 10% County)

BACKGROUND:

Planet Technologies, Inc. (PT) has provided professional IT services to enhance EHSD's On-Line Court Report System and assist in building the department's Intranet. The successful enhancements to the On-Line Court Report System has improved how attorneys and the courts access documents relevant to their cases. The Intranet upgrade has improved departmental communications and has provided a resource to address regulations, procedures and policies for programs and computer

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: V. Kaplan,
925-313-1514

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

systems in support of those programs.

This amendment will upgrade EHSD's Intranet to SharePoint 2013 and migrate the Shared Text Automated Retrieval System (STARS) to SharePoint 2013.

CONSEQUENCE OF NEGATIVE ACTION:

EHSD will be unable to implement Phase II of the Intranet design and STARS upgrade.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Contract #26-741-6 with Martha D. Newman

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract #26-741-6 with Martha D. Newman, an individual, in an amount not to exceed \$300,000, to provide consultation and technical assistance to Contra Costa Regional Medical Center and Contra Costa Health Centers (CCRMC) related to Public Hospital Redesign and Incentives in Medi-Cal (PRIME) program, quality improvement, and strategic methodology, for the period from December 1, 2016 through November 30, 2017.

FISCAL IMPACT:

This Contract is funded 100% Hospital Enterprise Fund I. (Rate increase)

BACKGROUND:

On December 8, 2015, the Board of Supervisors approved Contract #26-741-4 (as amended by Amendment Agreement #26-741-5) with Martha D. Newman for the provision of consultation and technical assistance to CCRMC for the development of quality metrics, leadership strategies and educational goals for Delivery System Reform Incentive Payment (DSRIP) Program, for the period from December 1, 2015 through November 30, 2016. Approval of Contract #26-741-4 will allow the Contractor to continue to provide consultation and technical assistance to CCRMC for PRIME program, quality improvement, and strategic planning and methodology through November 30, 2017.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Anna Roth,
925-370-5101

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

By: , Deputy

cc: K Cyr, M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, the County will not have access to Contractor's expertise in quality improvement projects, including the PRIME program.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 15, 2016

Subject: Amend Contract with Contra Costa Economic Partnership Inc.

RECOMMENDATION(S):

Approve and authorize the Employment and Human Services Director, or designee, to execute a contract amendment with Contra Costa Economic Partnership Inc., effective October 31, 2016, to increase the payment limit by \$140,000 to a new payment limit of \$225,000, to extend the term to April 1, 2016 through to June 30, 2017, and to expand the scope of work to include: support of the transportation and logistics sector in addition to continued communications, public relations, and outreach services, to raise the profile of key industry sectors in Contra Costa County and the East Bay region by promoting the East Bay Slingshot Initiative. (100% Federal)

FISCAL IMPACT:

\$225,000: 100% Federal (Workforce Innovation and Opportunity Act) (CFDA #17.258)

BACKGROUND:

The goal of the East Bay Slingshot initiative is to enable Employment and Human Services Department's (EHSD) Workforce Development Board (WDB) and its network of partners to be better positioned to provide high-quality services and value to key industry sectors and

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: V. Kaplan,
925-313-1514

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

businesses, while helping this same network be more responsive to and engaged in, regional strategic priorities. California Workforce Development Board (CWDB) provides funds for these partnerships. Contra Costa Economic Partnership will work with EHSD's WDB in providing communications, public relations, and outreach services to raise the profile of key industry sectors in Contra Costa County and the East Bay region, by promoting the East Bay Slingshot initiative.

This amendment expands the scope of work to include activities specifically related to support the transportation and logistics sector: business engagement, environmental scans, and providing assistance to transportation/logistic employers around identified areas of need, including documentation of issues/needs, organization and coordination of meetings, assembling and distribution of information, and other sector-related strategies.

CONSEQUENCE OF NEGATIVE ACTION:

EHSD WDB will not receive valuable assistance to support coordination between regional economic development organizations, educational systems, and workforce development boards to support the needs of business and job seeker customers in the region.

CHILDREN'S IMPACT STATEMENT:

This contract supports all of the community outcomes established in the Children's Report Card: (1) "Children Ready for and Succeeding in School;" (2) "Children and Youth Healthy and Preparing for Productive Adulthood;" (3) "Families that are Economically Self Sufficient;" (4) "Families that are Safe, Stable and Nurturing;" and (5) "Communities that are Safe and Provide a High Quality of Life for Children and Families" by training and providing employment opportunities for job seeker customers.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Contract #24-991-17 with Alexander Gorodetsky, M.D.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or designee, to execute, on behalf of the County, Contract #24-991-17 with Alexander Gorodetsky, M.D., an individual, in an amount not to exceed \$116,480, to provide outpatient psychiatric services at the West County Adult Mental Health Clinic for the period from January 1, 2017 through December 31, 2017.

FISCAL IMPACT:

This Contract is funded 100% Mental Health Realignment. (No rate increase)

BACKGROUND:

On December 8, 2015, the Board of Supervisors approved Contract #24-991-16 with Alexander Gorodetsky, M.D., for the provision of outpatient psychiatric services, including, but not limited to; diagnosing, counseling, evaluating, and providing medical and therapeutic treatment to County patients, for the period from January 1, 2016 through December 31, 2016.

Approval of Contract #24-991-17 will allow Contractor to continue providing outpatient psychiatric services at the West County Adult Mental Health Clinic, through December 31, 2017.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Cynthia Belon,
925-957-5201

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

By: , Deputy

cc: D Morgan, M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, County's clients 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 15, 2016

Subject: Contract #26-692-11 with Applied Remedial Services, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract #26-692-11 with Applied Remedial Services, Inc., a corporation, in an amount not to exceed \$350,000, for removal and disposal of hazardous waste materials at the Contra Costa Regional Medical Center and Health Centers (CCRMC), for the period from January 1, 2017 through December 31, 2017.

FISCAL IMPACT:

This contract is 100% Hospital Enterprise Fund I. (No rate increase)

BACKGROUND:

On January 5, 2016, the Board of Supervisors approved Contract #26-692-9 Applied Remedial Services, Inc., for the period from January 1, 2016 through December 31, 2016, for the provision of removal and disposal of hazardous waste and chemicals for CCRMC. Approval of Contract #26-692-11 will allow the Contractor to continue to provide removal and disposal of hazardous waste and chemicals to comply with state and federal regulations, through December 31, 2017.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Anna Roth,
925-370-5101

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

By: , Deputy

cc: K Cyr, M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, CCRMC will not have access to Contractor's services, and will not be in compliance with mandatory State and Federal Regulations.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Contract #26-595-13 with Bay Area Executive Search, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute on behalf of the County, Contract #26-595-13 with Bay Area Executive Search, Inc., a corporation, in an amount not to exceed \$170,000, to provide recruitment for pharmacist candidates, and specialized registered nurses for the Safety and Performance Improvement Department for the period from November 1, 2016 through October 31, 2017.

FISCAL IMPACT:

This Contract is funded 100% Hospital Enterprise Fund I. (No rate increase)

BACKGROUND:

On December 15, 2015, the Board of Supervisors approved Contract #26-595-12 with Bay Area Executive Search, Inc., for the provision of recruitment for pharmacist candidates, and specialized registered nurses for the Safety and Performance Improvement Department, for the period from November 1, 2015 through October 31, 2016. Approval of Contract #26-595-13 will allow Contractor to continue providing recruitment for pharmacist candidates, and specialized registered nurses for the Safety and Performance Improvement Department through October 31, 2017.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Anna Roth,
925-370-5101

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

By: , Deputy

cc: K Cyr, M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, recruitment services will not be provided by the Contractor.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Amendment to Purchase Order for Food Service Partners, Inc.

RECOMMENDATION(S):

Approve and authorize the Purchasing Agent, on behalf of the Health Services Department, to execute a Purchase Order Amendment with Food Service Partners, Inc. to add \$500,000 for a new total amount not to exceed \$1,574,003, to purchase meals for patients and staff at the Contra Costa Regional Medical Center (CCRMC) while the cafeteria and kitchen are being renovated, with no change in the term from April 1, 2016 through December 31, 2016.

FISCAL IMPACT:

100% funding is included in Hospital Enterprises Fund I Budget.

BACKGROUND:

Due to the closure of the kitchen, the cafeteria does not have the ability to prepare meals for patients, staff and patrons. During this closure the hospital has partnered with Food Service Partners, Inc. to provide this essential service.

The completion of this project has been delayed waiting for the Office of Statewide Health Planning and Development to approve it.

-
- APPROVE OTHER
 - RECOMMENDATION OF CNTY ADMINISTRATOR RECOMMENDATION OF BOARD COMMITTEE
-

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Anna Roth,
925-370-5101

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

By: , Deputy

cc: Tasha Scott, Marcy Wilhelm, Margaret Harris

CONSEQUENCE OF NEGATIVE ACTION:

If this Purchase Order is not approved, the CCRMC will not be able to meet the nutritional needs of patients and staff.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Novation Contract #74-190-17 with Mental Health Management I, Inc. (dba Canyon Manor)

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute on behalf of the County, Novation Contract #74-190-17 with Mental Health Management I, Inc. (dba Canyon Manor), a corporation, in an amount not to exceed \$222,753, to provide mental health subacute care and treatment services, for the period from July 1, 2016 through June 30, 2017.

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 long-term care for adults with serious mental illness who require skilled nursing inpatient psychiatric care. On November 3, 2015, the Board of Supervisors approved Novation Contract #74-190-16 with Mental Health Management I, Inc. (dba Canyon Manor), for the period from July 1, 2015 through June 30, 2016, which included a six-month automatic extension through December 31, 2016, for the provision of mental health subacute care and treatment services. Approval of Novation Contract #74-190-17 replaces the automatic extension under the prior Contract and allows the Contractor to continue providing services through June 30, 2017.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Cynthia Belon,
925-957-5201

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

By: , Deputy

cc: A Floyd , M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, County residents will not receive any mental health subacute care and treatment services provided by this Contractor.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Contract #27-986-1 with Sonja Robinson, R.N. (dba Healthcare Solutions USA)

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute on behalf of the County, Contract #27-986-1 with Sonja Robinson, R.N. (dba Healthcare Solutions USA), an individual, in an amount not to exceed \$384,000, to provide consultation on utilization review, authorization and referral processes for Contra Costa Health Plan for the period from December 1, 2016 through November 30, 2017.

FISCAL IMPACT:

This Contract is funded 100% Contra Costa Health Plan Enterprise Fund II.

BACKGROUND:

On December 8, 2015 the Board of Supervisors approved Contract #27-986 with Sonja Robinson, R.N. (dba Healthcare Solutions USA), for the provision of consultation on utilization review, authorization and referral processes for Contra Costa Health Plan for the period from December 1, 2015 through November 30, 2016. Approval of Contract #27-986-1 will allow Sonja Robinson, R.N. (dba Healthcare Solutions USA) to continue providing consultation on utilization review, authorization and referral processes for Contra Costa Health Plan through November 30, 2017.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Patricia Tanquary
925-313-6004

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

By: , Deputy

cc: A Floyd , M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, the Contra Costa Health Plan Management Team will not receive the benefits of consultation and technical assistance from this contractor.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Acknowledge Termination of Contract #27-865-3 with Walnut Creek Surgical Associates, Inc.

RECOMMENDATION(S):

Acknowledge receipt of notice from Walnut Creek Surgical Associates, Inc., a corporation, requesting termination of Contract #27-865-2, effective at the close of business on October 31, 2016.

APPROVE and AUTHORIZE the Health Services Director, or designee, to terminate this contract effective close of business on October 31, 2016, as agreed upon by both parties

FISCAL IMPACT:

This Contract is funded 100% Contra Costa Health Plan Enterprise Fund II.

BACKGROUND:

On December 8, 2015, the Board of Supervisors approved Contract #27-865-2 with Walnut Creek Surgical Associates, Inc., for the provision of general surgery services for Contra Costa Health Plan members, for the period from February 1, 2016 through January 31, 2018. The purpose of this Board Order is to advise the Board of Supervisors that the Department and the Contractor have agreed to terminate Contract #27-865-2, effective at the close of business on October 31, 2016.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Patricia Tanquary
313-6004

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

By: , Deputy

cc: A Floyd, M Wilhelm

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Amendment #27-809-4 with Diablo Valley Oncology and Hematology Medical Group

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute on behalf of the County, Contract Amendment Agreement #27-809-4 with Diablo Valley Oncology and Hematology Medical Group, a corporation, effective January 1, 2017, to amend Contract #27-809-3, to increase the payment limit by \$350,000, from \$2,000,000 to a new payment limit of \$2,350,000, with no change in the original term of August 1, 2016 through July 31, 2018.

FISCAL IMPACT:

This amendment is funded 100% Contra Costa Health Plan Enterprise Fund II. (No rate increase)

BACKGROUND:

On August 9, 2016, the Board of Supervisors approved Contract #27-809-3 with Diablo Valley Oncology and Hematology Medical Group, for the provision of hematology, oncology and urology, for the period from August 1, 2016 through July 31, 2018. Approval of Contract Amendment Agreement #27-809-4 will allow the Contractor to provide general surgery services in addition to hematology/oncology and urology services, through July 31, 2018.

CONSEQUENCE OF NEGATIVE ACTION:

If this amendment is not approved, certain specialized professional health care services for its members under the terms of their Individual and Group Health Plan membership contracts with the County will not be provided.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Patricia Tanquary
925-313-6004

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

By: , Deputy

cc: A Floyd, M Wilhelm

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Purchase Food and Gift Cards for the Health Care for the Homeless Project

RECOMMENDATION(S):

Authorize the Purchasing Agent on behalf of the Health Services Department, to purchase food for Program Governance Meetings and Safeway supermarket gift cards totaling \$4,190, to use for incentives for the Health Care for the Homeless Program for the period from November 1, 2016 through October 31, 2017.

FISCAL IMPACT:

Funded 100% by the Human Resources and Services Administration Grant #H80CS00050 funds. No County funds required.

BACKGROUND:

The Health Care for the Homeless Program received a grant from Health Resources and Services Administration (HRSA) to provide health care for the homeless population in Contra Costa County. A requirement of the grant is to establish and maintain Program Governance through a Co-Applicant Governing Board for Health Care for the Homeless program evaluation and CEO/Program Director evaluation. Additionally, another component of the grant is to conduct monthly focus groups with participants in the program and to offer incentives to those who participate. Included in the approved grant budget is a line item for Incentives/Food at an annual amount of \$4,190. The department anticipates purchasing up to 200 \$5 Safeway gifts cards as incentives and providing food at the Program Governance meetings.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Dan Peddycord,
925-313-6712

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

By: , Deputy

cc: Tasha Scott, Marcy Wilhelm, Linae Young

CONSEQUENCE OF NEGATIVE ACTION:

If not approved, the Health Care for the Homeless Project would not be fulfilling the goals outlined in the HRSA Grant.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: Kathy Gallagher, Employment & Human Services Director
Date: November 15, 2016

Subject: Amend Contract with Julia Dyckman Andrus Memorial, Inc.

RECOMMENDATION(S):

Approve and authorize the Employment and Human Services Director, or designee, to execute a contract amendment with Julia Dyckman Andrus Memorial, Inc., effective October 30, 2016, to increase the payment limit by \$37,290 for a new payment limit of \$170,460, and extend the term from October 31, 2016 to December 31, 2016, for additional trauma awareness training services to Youth Justice Initiative partners and EHSD California Work Opportunity and Responsibility and Welfare-to-Work staff. (58% State, 42% Federal)

FISCAL IMPACT:

\$170,460.00: 58% State, 42% Federal (CFDA # 93.558, 16.738M)

BACKGROUND:

Contra Costa County, through its Contra Costa County Employment and Human Services Department (County, Zero Tolerance for Domestic Violence Initiative (ZTDVI)), was awarded a three-year Justice Assistance Grant (JAG) in order to implement the Youth Justice initiative (YJI) in Contra Costa County. County has engaged Julia Dyckman Andrus Memorial, Inc., to assist in carrying out activities consistent with the funding application. The YJI applies innovative evidence-based

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Gina Chenoweth
925-313-1648

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

practices to improve outcomes and to create a model for improved school engagement, successful prevention of juvenile justice involvement by youth, and recidivism reduction.

Contractor will provide technical assistance, on-going training, and other tools in order to implement a trauma-informed violence prevention model pilot in the Antioch Unified School District, as well as provide trauma-informed practices and tools overall to YJI partners. YJI partners include Contra Costa County Probation, Contra Costa County District Attorney, Contra Costa County Public Defender, EHSD bureaus, and community-based agencies.

This amendment provides funding and time for additional trauma awareness training services to YJI partners, EHSD California Work Opportunity and Responsibility and Welfare-to-Work staff and supervisors.

CONSEQUENCE OF NEGATIVE ACTION:

EHSD California Work Opportunity and Responsibility and Welfare-to-Work staff and supervisors will not be able to provide improved service delivery that results from increase trauma awareness practices.

CHILDREN'S IMPACT STATEMENT:

The services provided under this contract support all five of Contra Costa County's community outcomes: (1) "Children Ready for and Succeeding in School"; (2) "Children and Youth Healthy and Preparing for Productive Adulthood"; (3) "Families that are Economically Self-Sufficient"; (4) "Families that are Safe, Stable and Nurturing"; and (5) "Communities that are Safe and Provide a High Quality of Life for Children and Families" by providing trauma awareness training to EHSD staff as well as Youth Justice Initiative partners.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Amendment #74-037-24 with Contra Costa ARC

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute on behalf of the County, Contract Amendment Agreement #74-037-24 with Contra Costa ARC, a non-profit corporation, effective November 1, 2016, to amend Contract #74-037-23, to increase the payment limit by \$17,700, from \$180,000 to a new payment limit of \$197,700, with no change in the original term of January 1, 2016 through December 31, 2016.

FISCAL IMPACT:

This amendment is funded 100% CalWORKs funds. (No rate increase)

BACKGROUND:

On March 1, 2016, the Board of Supervisors approved Contract #74-037-23 with Contra Costa ARC for the provision of mental health services to recipients of the CalWORKs Program and their children, including individual, group and family collateral counseling, case management, and medication management services to reduce barriers to employment, for the period from January 1, 2016 through December 31, 2016.

At the time of negotiations, the payment limit was based on target levels of utilization. However, the utilization and service units during the term of the Contract were higher than originally anticipated.

Approval of Contract Amendment Agreement #74-037-24 will allow the Contractor to provide additional service units through December 31, 2016.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Cynthia Belon,
925-957-5201

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

By: , Deputy

CONSEQUENCE OF NEGATIVE ACTION:

If this amendment is not approved, CalWORKs recipients will not have sufficient access to mental health services.

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Families that are safe, stable and Nurturing." Expected program outcome is increased number of CalWORKs participants ready to return to the labor force and earn income after they and their families receive mental health services under this contract.



Contra
Costa
County

To: Board of Supervisors
From: David O. Livingston, Sheriff-Coroner
Date: November 15, 2016

Subject: Purchase Order - Good Source Solutions, Inc.

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Sheriff-Coroner, a purchase order amendment with Good Source Solutions, Inc., to increase the payment limit by \$150,000 to a new payment limit of \$330,000 in order to provide packed food meals for MDF in addition to food products for the preparation of inmate meals in all three County adult detention facilities for the period April 01, 2016 through March 31, 2017.

FISCAL IMPACT:

\$150,000. 100% County General Fund; Budgeted.

BACKGROUND:

Good Source Solutions, Inc. specializes in purchasing food product end runs and "seconds" on the market for distribution to schools and correctional facilities, which in turn provides increased purchasing power to client agencies. Good Source Solutions, Inc. is the distributor for Sysco Food Services. At times, the County is able to purchase food products

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Liz Arbuckle,
925-335-1529

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

By: , Deputy

cc: Heike Anderson, Liz Arbuckle, Tim Ewell

BACKGROUND: (CONT'D)

from Good Source Solutions, Inc. directly at a better rate than Sysco Food Services.

The Martinez Detention Facility kitchen is scheduled for closure by Public Works for some maintenance/renovation work. After several samplings, Good Source Solutions, Inc. was selected as they are the only vendor who can meet the required individual packed food meals needed to service the Inmate population. They have the ability to design specific breakfast and lunch items in meal boxes that meet the necessary California Title XV nutritional requirements for inmates.

CONSEQUENCE OF NEGATIVE ACTION:

The Sheriff's Office will not be able to provide inmates with prepackaged meal items during the renovation of the MDF kitchen.

CHILDREN'S IMPACT STATEMENT:

No impact.



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: November 15, 2016

Subject: Park Impact & Park Dedication Fee Annual Report

RECOMMENDATION(S):

ACCEPT the FY2015/16 Park Impact & Park Dedication Fee Annual Report.

FISCAL IMPACT:

No General Fund impact.

BACKGROUND:

The Park Impact Fee Ordinance (Ordinance No 2007-17) requires an annual report within 180 days after the last day of each fiscal year be made available to the public and reviewed by the Board of Supervisors at a regularly scheduled meeting. The report shall contain the following information for the fiscal year:

1. A brief description of the type of fee in the account or fund,
2. The amount of the fee,
3. The beginning and ending balance of the account or fund,
4. The amount of the fees collected and the interest earned,
5. An identification of each public improvement on which fees were expended and the amount of the expenditure

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Kristine Solseng
(925)674-7809

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

on each improvement, including the total percentage of the cost of the public improvement that was funded with the fees,

6. An identification of an approximate date by which the construction of the public improvement will commence if the Board determines that sufficient funds have been collected to complete financing on an incomplete public improvement, and the public improvement remains incomplete,

7. A description of each interfund transfer or loan from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan, and

8. The amount of refunds made pursuant to Government Code section 66001€ and any allocations pursuant to Government Code section 66001 (f).

The Annual Report is only required for Park Impact fees. However, given Park Impact fees and Park Dedication fees both originate as developer fees and are spent on park facilities, the Annual Report includes both types of fees.

Park Impact Fees are required for any new residential project including new subdivisions. Subdivisions may also be required to pay Park Dedication Fee. However, if a project is required to pay Park Dedication Fees, it will be credited towards the required Park Impact Fee. The fees are not additive.

CONSEQUENCE OF NEGATIVE ACTION:

If the action is not approved, there will be no Park Impact/Park Dedication Annual Report for FY 15/16

CHILDREN'S IMPACT STATEMENT:

Park Impact and Park Dedication fee projects support the following outcomes established in the Children's Report Card:

1) Children and youth are healthy and preparing for a production adulthood; 2) Families are safe, stable and nurturing; 3) Communities are safe and provide a high quality of life for children and families

ATTACHMENTS

2015-2016 Annual Report

Park Dedication/Park Impact Fee Annual Report FY 2015/2016

Park Impact Fee Account Summary

Description of Fees

The purpose of the Park Impact Fees is to generate funds to acquire parkland and develop parks and recreation facilities to serve new residential development. Residential projects are required to pay a Park Impact Fee. Second units, affordable units, and inclusionary housing units may be eligible for waivers or exemptions. An overview of funded parks are included in this report and a detail of all Park Impact accounts are attached.

Amount of Fee

The FY 2015/2016 Park Impact Fees are based on both dwelling type and location

Dwelling Unit Type	West/Central County	East County
Single Family Unit	\$7,238	\$5,891
Townhome Unit	\$5,757	\$4,686
Multi-Family Unit	\$5,213	\$4,243
Mobile Home Unit	\$4,859	\$3,955

* Park Dedication Fees collected may be credited towards total Park Impact fee

Account Summary

Beginning Balance	Fees Collected	Interest Earned	Admin Transfer	Expended - Projects	Encumbered	Ending/Available Balance
\$1,391,829.03	\$166,460.00	\$9,837.63	\$ (1,479.34)	\$ (13,679.18)	\$ (20,333.87)	\$1,532,616.43

No Loans nor Refunds were made from the Park Impact Fund.

Park Dedication Fee Account Summary

Description of Fees

The purpose of the Park Dedication Fees is to generate funds to acquire parkland and develop or rehabilitate parks and recreation facilities to serve residential development. Residential subdivision projects may require Park Dedication Fees. If a project requires Park Dedication Fee, the amount collected is credited towards the Total Park Impact Fee. The fees are not additive. An overview of funded parks are included in this report and a detail of all Park Dedication accounts are attached.

Amount of Fee

The FY 2015/2016 Park Dedication Fees are based on both dwelling type and location.

Dwelling Unit Type	West/Central County	East County	Parkland Dedication
Single Family Unit	\$4,489	\$3,142	391 sq ft/unit
Townhome Unit	\$3,571	\$2,499	311 sq ft/unit
Multi-Family Unit	\$3,233	\$2,263	282 sq ft/unit
Mobile Home Unit	\$3,014	\$2,109	263 sq ft/unit

Note: Developer may dedicate land, pay in-lieu fee, or a combination of the two with approval from Zoning Administrator

Account Summary

Beginning Balance	Fees	Interest Earned	Admin Transfer	Expended - Projects	Encumbered	Ending/Available Balance
\$4,252,903.67	\$97,714	\$27,976.53	\$ (4,194.34)	\$ (595,382.43)	\$(1,532,138.62)	\$2,246,878.81

No Loans nor Refunds were made from the Park Dedication Fee Account.

Current Park Projects for which Funds have been Spent or Committed by Board Action

El Sobrante Library Park

The El Sobrante Library Park project will renovate existing landscape, parking lot and recreational facilities on the County land adjacent to the El Sobrante Library. The existing recreational facilities include gardens (reading, demonstration, and memorial), landscaped walkways along Appian Way and Garden Road, and landscaped pathways leading to a riparian interpretive trail along San Pablo Creek. The work will renovate the existing landscaping along all the above-mentioned landscaped walkways and improve landscaping around the reading garden. An existing open space located at the rear of the library will be converted to a shaded plaza with a raised podium for events. New tables, chairs, and landscaping will be placed throughout the plaza. An existing path, tile benches, and flagpole located at the intersection of Garden Road and Appian Way will also be renovated with new native landscaping, rain garden, interpretive panel, and new signage.

Anticipated Construction Commencement Date: Under Construction

Anticipated Completion Date: December 31, 2016

Total Project Costs: \$941,396

Total Contra Costa County Park Funds: \$269,656 (28.6%)

Park Impact: \$ - (0%)

Park Dedication: \$ 269,656 (28.6%)

Total Contra Costa County Park Funds Expended to date: \$104,595.55

FY 2015/16 Expenditures: \$7,619.21

Forest Home Farms

The Forest Home Farms project includes the rehabilitation of Building 12, the oldest building at the Forest Home Farms Park located at 19953 San Ramon Valley Road in San Ramon. The project includes structural work to the building, installing new concrete footings, installing new lighting, and improving accessibility to the building. Forest Home Farms Historic Park is a 16-acre farm located at the base of the East Bay Hills. The site is divided into two equal parts – the northern portion of the site contains all of the structures including Building 12 or the "Barn" originally built in the period from 1850 to 1860. The barn was placed on the National Register of Historic Places and the California Register of Historical Resources in June 2002. The barn has needed several repairs over the years. It is slipping off its foundation and is in need of other structural improvements. Accessibility improvements to the building and grounds will be made to the barn to ensure it is compliant with the Americans with Disabilities Act (ADA). The barn is an integral part of tours for school age children that take place during the school year when students are taught about farm life, farming, and farm tools/equipment. Guided and self-guided tours are also available to the general public with constantly changing displays and interpretive programs.

Anticipated Construction Commencement Date: Under Construction

Anticipated Completion Date: December 2016

Total Project Costs: \$757,000
Total Contra Costa County Park Funds: \$485,000 (60.1%)
Park Impact Fees: \$ - (0%)
Park Dedication: \$485,000 (60.1%)
Total Contra Costa County Park Funds Expended to date: \$ -
FY 2015/16 Expenditures: \$ -

Iron Horse Corridor – 230 Hookston

The goal of the 230 Hookston project is to installation of landscaping on the County-owned property to improve the visual aesthetics and recreational opportunities adjacent to the Iron Horse Corridor. The project include soil testing and remediation, project design and engineering, and installation of a landscaped buffer between the users of the trail and the industrial businesses just west of the trail. Specifically, the proposed project includes constructing a six foot wide 1,500 feet long paved pedestrians-only trail on the subject property from Mayhew Way to Hookston Road to help separate pedestrians from cyclists using the IHC, planting additional landscaping and irrigation, and installing appropriate signage.

Anticipated Construction Commencement Date: Under Construction

Anticipated Completion Date: December 31, 2017

Total Project Costs: \$810,000

Total Contra Costa County Park Funds: Allocated*: \$481,575 (59.5%); Anticipated* - \$206,190 (25.5%)

Park Impact Fees: \$ - (0%)

Park Dedication*: \$481,575 (59.5%); Anticipated* - \$206,190 (25.5%)

* \$481,575 has been allocated to the 230 Hookston Project. However, an additional \$600,000 in grant funding has been awarded from East Bay Regional Park Measure WW Bond Funds. The amount of Park Dedication funds not anticipated to exceed amount expended to date (\$206,190.95).

Total Contra Costa County Park Funds Expended to date: \$ 206,190

FY 2015/16 Expenditures: \$ 185,154.82

Iron Horse Corridor – Environmental Testing

The Iron Horse Corridor Environmental Testing project will fund the environmental testing and development of a remediation plan on 13 parcels owned by the Contra Costa County Successor Agency. All 13 of the parcels were once part of the abandoned Southern Pacific Railroad San Ramon valley Branch Line. When the railroad right-of-way was abandoned, a public walkway/bikeway was created in its place.

Anticipated Project Commencement Date: Project in process

Anticipated Completion Date: June 1, 2017

Total Project Costs: \$40,000

Total Contra Costa County Park Funds: \$40,000 (100 %)

Park Impact Fees: \$ - (0%)

Park Dedication: \$40,000 (100%)

Total Contra Costa County Park Funds Expended to date: \$ 32,155.09

FY 2015/16 Expenditures: \$ 32,155.09

Larkey Park Swim Center

The Larkey Park Swim Center project includes renovating the 40-year old pool to meet the current health and safety code standards so that it may serve the community's aquatic needs for many years. In addition to renovating the pool, the City has approved the construction of a splash pad. The splash pad will replace the existing "baby pool."

Anticipated Construction Commencement Date: Under Construction

Anticipated Completion Date: Winter 2016

Total Project Costs: \$4,830,000

Total Contra Costa County Park Funds: \$67,000 (< 1%)

Park Impact Fees: \$ - (0%)

Park Dedication: \$67,000 (< 1%)

Total Contra Costa County Park Funds Expended to date: \$ -

FY 2015/16 Expenditures: \$ -

Lefty Gomez Field

The Lefty Gomez Field project includes the planning, design, and installation of improvements at Lefty Gomez Park including installation of new seating in the ball field, installation of new amenities such as barbeques and picnic tables, addition shade trees to the picnic area, and construction of a concession building including storage, a restroom, and an announcer's stand.

Anticipated Construction Commencement Date: Under Construction

Anticipated Completion Date: December 31, 2016

Total Project Costs: \$729,305

Total Contra Costa County Park Funds: \$273,000 (36.6%)

Park Impact Fees: \$ 6,790.87 (<1%)

Park Dedication: \$266,513.13 (36.6%)

Total Contra Costa County Park Funds Expended to date: \$ 21,683.72

FY 2015/16 Expenditures: \$ 21,683,72

Leigh Creekside Park

The Leigh Creekside Park include expanding the existing park facilities by construction and permanent pathway around the perimeter of the park and installing a new entrance gate.

Anticipated Construction Commencement Date: Late 2017

Anticipated Completion Date: Summer 2018, earlier if additional grant funding is awarded

Total Project Costs: \$489,000

Total Contra Costa County Park Funds: \$51,000 (10.4%)

Park Impact Fees: \$13,543 (2.8%)

Park Dedication: \$37,457 (7.7%)

Total Contra Costa County Park Funds Expended to date: \$ -

FY 2015/16 Expenditures: \$ -

Moraga Town Plaza

The Moraga Park Plaza is a new park facility which includes a pedestrian plaza for the public to congregate, a series of seat walls, an ADA compliant pathway, shading trellis, new plantings (grass and native plants), accent lighting, a functional and educational storm water bio-retention facility, bicycle racks, and a number of other park-like features for the public to use in conjunction with the various uses envisioned for the new community meeting room.

Anticipated Construction Commencement Date: Project is complete

Anticipated Completion Date: Project is Complete

Total Project Costs: \$374,000

Total Contra Costa County Park Funds: \$80,900 (21.6%)

Park Impact Fees: \$13,679.18 (3.7%)

Park Dedication: \$67,220.82 (18%)

Total Contra Costa County Park Funds Expended to date: \$ 80,900

FY 2015/16 Expenditures: \$ 80,900

San Ramon Iron Horse Trail

The San Ramon Iron Horse Trail project includes installing park benches, a low-flow irrigation system and native landscaping, and cooling stations along the Iron Horse Corridor in the San Ramon area.

Anticipated Construction Commencement Date: Project is Complete

Anticipated Completion Date: Project is Complete

Total Project Costs: \$ \$515,315.88

Total Contra Costa County Park Funds: \$105,000 (13.8%)

Park Impact Fees: \$ - (0%)

Park Dedication: \$105,000 (18%)

Total Contra Costa County Park Funds Expended to date: \$ 105,000

FY 2015/16 Expenditures: \$ 105,000

Urban Tilth

The Urban Tilth Project includes the development of a new park in the North Richmond community in the form of an agricultural park and riparian restoration education center. Once fully developed, the Root and Restoration farm will include "You Pick It" learning gardens, an outdoor community kitchen, an amphitheater, garden and creek classrooms, and a youth-run farmer's market – all while training young people in the community.

Anticipated Construction Commencement Date: Temporary Farm Construction begins Fall 2016

Anticipated Completion Date: December, 2018

Total Project Costs: \$3,900,000

Total Contra Costa County Park Funds: \$457,000 (11.7%)

Park Impact Fees: \$- (0%)

Park Dedication: \$457,000 (11.7%)

Total Contra Costa County Park Funds Expended to date: \$ 233,739.15

FY 2015/16 Expenditures: \$ 176,548.77

Walden Green I

The Walden Green I Project will be used to paint the existing wrought iron fence, install new trees, shrubs, and native grasses, and improve existing drinking fountains along the trail. The project is on hold until the drought is over and landscaping can be installed with minimal impact.

Anticipated Construction Commencement Date: TBD (project on hold until drought is over)

Anticipated Completion Date: TBD (depends on drought conditions)

Total Project Costs: \$51,301

Total Contra Costa County Park Funds: \$26,301 (51.3%)

Park Impact Fees: \$- (0%)

Park Dedication: \$26,301 (51.3%)

Total Contra Costa County Park Funds Expended to date: \$ -

FY 2015/16 Expenditures: \$ -

Account Number	Adjusted Beginning	Fees Collected	Interest	Admin	Expended	Ending Balance	Extentidure Description
PI0031411	\$ 7,138.33	\$ -	\$ 48.22	\$ (7.24)	\$ -	\$ 7,179.31	
PI0031413	\$ 18,179.63	\$ -	\$ 122.73	\$ (18.42)	\$ -	\$ 18,283.94	
PI0031420	\$ 5,562.41	\$ 5,891.00	\$ 45.95	\$ (6.89)	\$ -	\$ 11,492.47	
PI0135536	\$ 215.52	\$ -	\$ 1.46	\$ (0.21)	\$ -	\$ 216.77	
PI0203040	\$ 365.04	\$ -	\$ 2.48	\$ (0.36)	\$ -	\$ 367.16	
PI0230402	\$ 5,529.27	\$ -	\$ 37.36	\$ (5.61)	\$ -	\$ 5,561.02	
PI0230403	\$ 5,902.26	\$ 5,891.00	\$ 39.86	\$ (5.99)	\$ -	\$ 11,827.13	
PI0231504	\$ 8,136.20	\$ -	\$ 54.96	\$ (8.25)	\$ -	\$ 8,182.91	
PI0234512	\$ 5,829.54	\$ -	\$ 39.36	\$ (5.89)	\$ -	\$ 5,863.01	
PI0235512	\$ 5,936.19	\$ -	\$ 40.06	\$ (6.00)	\$ -	\$ 5,970.25	
PI0235517	\$ (3.55)	\$ 11,782.00	\$ 16.37	\$ (3.01)	\$ -	\$ 11,791.81	
PI0235531	\$ (1.04)	\$ 7,238.00	\$ -	\$ (1.55)	\$ -	\$ 7,235.41	
PI0314104	\$ 23,671.61	\$ -	\$ 159.83	\$ (23.99)	\$ -	\$ 23,807.45	
PI0352102	\$ 6,880.93	\$ -	\$ 32.00	\$ (4.80)	\$ (6,874.82)	\$ 33.31	Moraga Town Plaza
PI0403690	\$ 7,112.57	\$ -	\$ 48.07	\$ (7.20)	\$ -	\$ 7,153.44	
PI0830323	\$ 7,237.25	\$ -	\$ 48.90	\$ (7.34)	\$ -	\$ 7,278.81	
PI0831900	\$ 123,658.10	\$ 7,238.00	\$ 850.20	\$ (127.53)	\$ -	\$ 131,618.77	
PI0832002	\$ 38,497.39	\$ -	\$ 259.91	\$ (38.99)	\$ -	\$ 38,718.31	
PI0832004	\$ 35,285.24	\$ 2,000.00	\$ 247.37	\$ (37.10)	\$ -	\$ 37,495.51	
PI0832700	\$ (2.18)	\$ -	\$ -	\$ -	\$ -	\$ (2.18)	
PI0835602	\$ 13,817.53	\$ -	\$ 93.29	\$ (13.99)	\$ -	\$ 13,896.83	
PI0835922	\$ 14,525.84	\$ -	\$ 98.08	\$ (14.70)	\$ -	\$ 14,609.22	
PI0837100	\$ 3,999.17	\$ -	\$ 27.01	\$ (4.06)	\$ -	\$ 4,022.12	
PI1103031	\$ 5,851.89	\$ -	\$ 39.51	\$ (5.93)	\$ -	\$ 5,885.47	
PI1130202	\$ 5,534.00	\$ -	\$ 37.36	\$ (5.61)	\$ -	\$ 5,565.75	
PI1134522	\$ 5,528.39	\$ -	\$ 37.36	\$ (5.61)	\$ -	\$ 5,560.14	
PI1336200	\$ 7,240.58	\$ -	\$ 48.90	\$ (7.34)	\$ -	\$ 7,282.14	
PI1434700	\$ 14,050.75	\$ 14,476.00	\$ 176.57	\$ (26.48)	\$ -	\$ 28,676.84	
PI1730200	\$ (1.09)	\$ 7,238.00	\$ 42.36	\$ (6.36)	\$ -	\$ 7,272.91	
PI1730209	\$ 7,259.83	\$ -	\$ 49.02	\$ (7.35)	\$ -	\$ 7,301.50	
PI1732112	\$ 7,253.64	\$ -	\$ 48.98	\$ (7.35)	\$ -	\$ 7,295.27	
PI1733100	\$ 7,247.03	\$ -	\$ 48.92	\$ (7.34)	\$ -	\$ 7,288.61	
PI1733320	\$ 7,253.64	\$ -	\$ 48.98	\$ (7.35)	\$ -	\$ 7,295.27	
PI1733500	\$ 14,035.38	\$ -	\$ 94.86	\$ (14.23)	\$ -	\$ 14,116.01	
PI1733611	\$ 7,235.65	\$ -	\$ 49.06	\$ (7.36)	\$ -	\$ 7,277.35	
PI1734510	\$ 96,071.06	\$ -	\$ 648.78	\$ (97.31)	\$ -	\$ 96,622.53	
PI1734511	\$ 226,090.47	\$ -	\$ 1,526.46	\$ (229.19)	\$ -	\$ 227,387.74	
PI1734515	\$ 175,012.00	\$ 14,476.00	\$ 1,204.93	\$ (180.84)	\$ -	\$ 190,512.09	
PI1734700	\$ 7,251.91	\$ -	\$ 48.98	\$ (7.35)	\$ -	\$ 7,293.54	
PI1735510	\$ 21,745.95	\$ -	\$ 143.56	\$ (21.55)	\$ -	\$ 21,867.96	
PI1735512	\$ 14,040.78	\$ -	\$ 94.81	\$ (14.23)	\$ -	\$ 14,121.36	
PI1735514	\$ 27,622.36	\$ -	\$ 186.51	\$ (27.98)	\$ -	\$ 27,780.89	
PI1735519	\$ 7,265.14	\$ -	\$ 51.28	\$ (7.36)	\$ -	\$ 7,309.06	
PI1735602	\$ 7,259.83	\$ -	\$ 49.02	\$ (7.35)	\$ -	\$ 7,301.50	
PI1736100	\$ 14,517.62	\$ -	\$ 98.02	\$ (14.69)	\$ -	\$ 14,600.95	
PI1736720	\$ 7,261.96	\$ -	\$ 49.95	\$ (8.27)	\$ -	\$ 7,303.64	
PI3503260	\$ 7,046.09	\$ -	\$ 47.57	\$ (7.16)	\$ -	\$ 7,086.50	
PI3135211	\$ 6,808.07	\$ -	\$ 31.67	\$ (4.73)	\$ (6,804.36)	\$ 30.65	Moraga Town Plaza
PI5135800	\$ -	\$ 7,238.00	\$ 45.60	\$ (6.85)	\$ -	\$ 7,276.75	
PI5434611	\$ 20,614.33	\$ 7,238.00	\$ 144.47	\$ (21.68)	\$ -	\$ 27,975.12	
PI5503410	\$ (3.08)	\$ 7,238.00	\$ 15.21	\$ (2.28)	\$ -	\$ 7,247.85	
PI5503420	\$ 6,806.52	\$ -	\$ 45.96	\$ (6.88)	\$ -	\$ 6,845.60	
PI15503920	\$ 20,598.51	\$ -	\$ 139.07	\$ (20.87)	\$ -	\$ 20,716.71	
PI5530312	\$ 7,244.14	\$ -	\$ 48.91	\$ (7.34)	\$ -	\$ 7,285.71	
PI5543500	\$ 7,267.34	\$ -	\$ 49.06	\$ (7.36)	\$ -	\$ 7,309.04	
PI5533420	\$ 7,267.88	\$ -	\$ 49.06	\$ (7.36)	\$ -	\$ 7,309.58	
PI5533823	\$ 14,537.72	\$ -	\$ 98.18	\$ (14.73)	\$ -	\$ 14,621.17	
PI5534302	\$ (2.07)	\$ 7,238.00	\$ 36.12	\$ (5.42)	\$ -	\$ 7,266.63	
PI5534303	\$ 8,694.27	\$ -	\$ 58.71	\$ (8.81)	\$ -	\$ 8,744.17	
PI5703620	\$ 13,756.28	\$ -	\$ 92.89	\$ (13.94)	\$ -	\$ 13,835.23	
PI5703630	\$ 24,384.86	\$ -	\$ 164.65	\$ (24.71)	\$ -	\$ 24,524.80	
PI5803420	\$ 7,078.42	\$ -	\$ 47.79	\$ (7.16)	\$ -	\$ 7,119.05	
PI5803440	\$ 13,957.72	\$ -	\$ 94.25	\$ (14.16)	\$ -	\$ 14,037.81	
PI5833420	\$ (3.17)	\$ 7,238.00	\$ 20.10	\$ (3.01)	\$ -	\$ 7,251.92	
PI5833621	\$ 7,253.71	\$ -	\$ 48.98	\$ (7.35)	\$ -	\$ 7,295.34	
PI5834521	\$ 21,198.40	\$ -	\$ 143.14	\$ (21.47)	\$ -	\$ 21,320.07	
PI5834524	\$ 6,824.46	\$ 14,476.00	\$ 66.59	\$ (9.99)	\$ -	\$ 21,357.06	
PI5834611	\$ 14,073.46	\$ -	\$ 95.03	\$ (14.24)	\$ -	\$ 14,154.25	
PI5834612	\$ 14,491.36	\$ 7,238.00	\$ 122.42	\$ (18.36)	\$ -	\$ 21,833.42	
PI5834621	\$ 30,754.93	\$ 2,880.00	\$ 225.79	\$ (33.87)	\$ -	\$ 33,826.85	
PI5836020	\$ 7,249.63	\$ -	\$ 48.98	\$ (7.35)	\$ -	\$ 7,291.26	

Account Number	Adjusted Beginning	Fees Collected	Interest	Admin	Expended	Ending Balance	Extentidure Description
PI6034624	\$ 7,246.91	\$ -	\$ 48.96	\$ (7.34)	\$ -	\$ 7,288.53	
PI6035514	\$ 34,035.59	\$ -	\$ 229.81	\$ (34.47)	\$ -	\$ 34,230.93	
PI6513570	\$ 27,989.17	\$ -	\$ 188.97	\$ (28.36)	\$ -	\$ 28,149.78	
PI7113010	\$ 17,290.65	\$ 11,782.00	\$ 116.73	\$ (17.52)	\$ -	\$ 29,171.86	
PI9103580	\$ (0.40)	\$ 10,426.00	\$ 61.02	\$ (9.15)	\$ -	\$ 10,477.47	
PI9203580	\$ 7,265.31	\$ 7,238.00	\$ 74.29	\$ (11.71)	\$ -	\$ 14,565.89	
100303015	\$ 2,694.24	\$ -	\$ 18.18	\$ (2.73)	\$ -	\$ 2,709.69	
100303029	\$ 28,156.31	\$ -	\$ 190.11	\$ (28.53)	\$ -	\$ 28,317.89	
100307330	\$ 18.79	\$ -	\$ -	\$ -	\$ -	\$ 18.79	
100334021	\$ 20,692.10	\$ -	\$ 139.71	\$ (20.94)	\$ -	\$ 20,810.87	
100335514	\$ 3,925.17	\$ -	\$ 26.51	\$ (3.98)	\$ -	\$ 3,947.70	
102391000	\$ 7,665.56	\$ -	\$ 51.78	\$ (7.77)	\$ -	\$ 7,709.57	
248803150	\$ 504.41	\$ -	\$ 3.40	\$ (0.50)	\$ -	\$ 507.31	
248936402	\$ 346.51	\$ -	\$ 2.60	\$ (0.41)	\$ -	\$ 348.70	
249203560	\$ 36.60	\$ -	\$ -	\$ -	\$ -	\$ 36.60	
249203580	\$ 261,734.98	\$ -	\$ 1,721.54	\$ (258.23)	\$ (21,683.72)	\$ 241,514.57	Lefty Gomez Field
249235601	\$ 2,301.23	\$ -	\$ 15.56	\$ (2.32)	\$ -	\$ 2,314.47	
249235602	\$ 2,268.50	\$ -	\$ 15.31	\$ (2.30)	\$ -	\$ 2,281.51	
265103570	\$ 18,590.05	\$ -	\$ 125.60	\$ (18.83)	\$ -	\$ 18,696.82	
271036402	\$ 2,277.70	\$ -	\$ 15.36	\$ (2.30)	\$ -	\$ 2,290.76	
271103010	\$ 92,918.30	\$ -	\$ 627.36	\$ (94.12)	\$ -	\$ 93,451.54	
271103031	\$ 54.90	\$ -	\$ -	\$ -	\$ -	\$ 54.90	
271130201	\$ 3,261.86	\$ -	\$ 22.04	\$ (3.30)	\$ -	\$ 3,280.60	
271130202	\$ 935.31	\$ -	\$ 6.37	\$ (0.96)	\$ -	\$ 940.72	
275135211	\$ 4,877.83	\$ -	\$ 22.71	\$ (3.40)	\$ (4,874.59)	\$ 22.55	Moraga Town Plaza
275135212	\$ 48,580.44	\$ -	\$ 226.03	\$ (33.90)	\$ (48,532.38)	\$ 240.19	Moraga Town Plaza
275135221	\$ 10,883.98	\$ -	\$ 50.66	\$ (7.62)	\$ (10,873.50)	\$ 53.52	Moraga Town Plaza
275135222	\$ 3,089.90	\$ -	\$ 14.69	\$ (2.22)	\$ (2,940.35)	\$ 162.02	Moraga Town Plaza
275303540	\$ 2,510.14	\$ -	\$ 16.94	\$ (2.55)	\$ -	\$ 2,524.53	
275335302	\$ 13.24	\$ -	\$ -	\$ -	\$ -	\$ 13.24	
275434611	\$ 3,800.56	\$ -	\$ 25.66	\$ (3.86)	\$ -	\$ 3,822.36	
275503381	\$ 39,937.56	\$ -	\$ 269.64	\$ (40.45)	\$ -	\$ 40,166.75	
275503385	\$ 5,522.87	\$ -	\$ 37.46	\$ (5.61)	\$ -	\$ 5,554.72	
275503400	\$ 2,350.04	\$ -	\$ 15.96	\$ (2.40)	\$ -	\$ 2,363.60	
275503410	\$ 167,055.18	\$ 2,000.00	\$ 1,138.71	\$ (170.82)	\$ -	\$ 170,023.07	
275503420	\$ 73,502.34	\$ -	\$ 496.37	\$ (74.46)	\$ -	\$ 73,924.25	
275503430	\$ 8,954.99	\$ -	\$ 60.47	\$ (9.09)	\$ -	\$ 9,006.37	
275533822	\$ 122,582.06	\$ -	\$ 827.61	\$ (124.15)	\$ -	\$ 123,285.52	
275533832	\$ 2,688.21	\$ -	\$ 18.21	\$ (2.73)	\$ -	\$ 2,703.69	
275534001	\$ 16.08	\$ -	\$ -	\$ -	\$ -	\$ 16.08	
275534002	\$ 67,331.69	\$ 7,238.00	\$ 454.60	\$ (68.19)	\$ -	\$ 74,956.10	
275534301	\$ 238.74	\$ -	\$ 1.62	\$ (0.26)	\$ -	\$ 240.10	
275534302	\$ 250.72	\$ -	\$ 1.68	\$ (0.28)	\$ -	\$ 252.12	
275534303	\$ 3,005.40	\$ -	\$ 20.29	\$ (3.04)	\$ -	\$ 3,022.65	
275534611	\$ 26.23	\$ -	\$ -	\$ -	\$ -	\$ 26.23	
275535532	\$ 2,256.20	\$ -	\$ 15.25	\$ (2.30)	\$ -	\$ 2,269.15	
275703601	\$ (30.84)	\$ -	\$ -	\$ -	\$ -	\$ (30.84)	
275703602	\$ (1.34)	\$ -	\$ -	\$ -	\$ -	\$ (1.34)	
275703610	\$ 215,482.18	\$ -	\$ 1,406.85	\$ (211.02)	\$ (7,619.21)	\$ 209,058.80	El Sobrante Library Park
275703620	\$ 76,670.33	\$ -	\$ 517.65	\$ (77.64)	\$ -	\$ 77,110.34	
275703630	\$ 15.50	\$ -	\$ -	\$ -	\$ -	\$ 15.50	
275803420	\$ 13,685.34	\$ -	\$ 92.39	\$ (13.86)	\$ -	\$ 13,763.87	
275803440	\$ 15,819.87	\$ -	\$ 106.82	\$ (16.03)	\$ -	\$ 15,910.66	
275803461	\$ 3,464.61	\$ -	\$ 23.41	\$ (3.51)	\$ -	\$ 3,484.51	
275803462	\$ 1,879.05	\$ -	\$ 12.69	\$ (1.90)	\$ -	\$ 1,889.84	
275803999	\$ 186.43	\$ -	\$ 1.26	\$ (0.19)	\$ -	\$ 187.50	
275832002	\$ 2,774.43	\$ -	\$ 18.73	\$ (2.81)	\$ -	\$ 2,790.35	
275834521	\$ 3,289.67	\$ -	\$ 22.23	\$ (3.31)	\$ -	\$ 3,308.59	
275834524	\$ 2,012.53	\$ -	\$ 13.61	\$ (2.05)	\$ -	\$ 2,024.09	
275834611	\$ 24,108.71	\$ -	\$ 162.79	\$ (24.41)	\$ -	\$ 24,247.09	
275834612	\$ 37,360.58	\$ 2,000.00	\$ 252.26	\$ (37.85)	\$ -	\$ 39,574.99	
275834621	\$ 16,676.82	\$ -	\$ 112.60	\$ (16.89)	\$ -	\$ 16,772.53	
275834622	\$ 153.38	\$ -	\$ 1.04	\$ (0.16)	\$ -	\$ 154.26	
275834627	\$ 2,362.56	\$ -	\$ 15.97	\$ (2.40)	\$ -	\$ 2,376.13	
275836801	\$ 1,940.95	\$ -	\$ 13.51	\$ (2.02)	\$ -	\$ 1,952.44	
276034522	\$ 6,070.48	\$ -	\$ 40.99	\$ (6.17)	\$ -	\$ 6,105.30	
276035513	\$ 407,333.22	\$ -	\$ 2,750.13	\$ (412.53)	\$ -	\$ 409,670.82	
325503910	\$ 13,780.76	\$ -	\$ 93.06	\$ (13.97)	\$ -	\$ 13,859.85	
325503920	\$ 8,884.42	\$ -	\$ 59.98	\$ (8.98)	\$ -	\$ 8,935.42	
370031414	\$ 10,835.18	\$ -	\$ 73.17	\$ (10.98)	\$ -	\$ 10,897.37	
370031500	\$ 1,347.06	\$ -	\$ 9.16	\$ (1.38)	\$ -	\$ 1,354.84	

Account Number	Adjusted Beginning	Fees Collected	Interest	Admin	Expended	Ending Balance	Expenditure Description
370035100	\$ 13,573.06	\$ -	\$ 91.65	\$ (13.75)	\$ -	\$ 13,650.96	
370203031	\$ 63,020.52	\$ -	\$ 425.49	\$ (63.82)	\$ -	\$ 63,382.19	
370203032	\$ 9,350.96	\$ -	\$ 63.18	\$ (9.47)	\$ -	\$ 9,404.67	
370203040	\$ 31.69	\$ -	\$ (0.02)	\$ -	\$ -	\$ 31.67	
370235512	\$ 43,082.99	\$ -	\$ 290.88	\$ (43.65)	\$ -	\$ 43,330.22	
370235516	\$ 1,523.65	\$ -	\$ 10.65	\$ (1.60)	\$ -	\$ 1,532.70	
373503220	\$ 140.05	\$ -	\$ 0.94	\$ (0.14)	\$ -	\$ 140.85	
373503240	\$ 346,937.52	\$ -	\$ 2,243.24	\$ (336.50)	\$ (217,309.91)	\$ 131,534.35	Iron Horse Corridor Project
373503260	\$ 92.04	\$ -	\$ -	\$ -	\$ -	\$ 92.04	
373503381	\$ 233.04	\$ -	\$ 1.57	\$ (0.25)	\$ -	\$ 234.36	
373503470	\$ 3,158.14	\$ -	\$ 21.33	\$ (3.19)	\$ -	\$ 3,176.28	
374003672	\$ 1,199.54	\$ -	\$ 8.09	\$ (1.22)	\$ -	\$ 1,206.41	
377003010	\$ 1.17	\$ -	\$ -	\$ -	\$ -	\$ 1.17	
420103553	\$ 785.32	\$ -	\$ 5.30	\$ (0.79)	\$ -	\$ 789.83	
420135512	\$ 401.38	\$ -	\$ 2.70	\$ (0.43)	\$ -	\$ 403.65	
420135533	\$ (0.22)	\$ -	\$ -	\$ -	\$ -	\$ (0.22)	
420135534	\$ 2.56	\$ -	\$ -	\$ -	\$ -	\$ 2.56	
420135534	\$ 28,080.31	\$ -	\$ -	\$ -	\$ -	\$ 28,080.31	
420203331	\$ -	\$ 4,000.00	\$ 201.41	\$ (30.11)	\$ -	\$ 4,171.30	
420233821	\$ (0.06)	\$ 2,000.00	\$ 5.56	\$ (0.83)	\$ -	\$ 2,004.67	
420234001	\$ -	\$ 2,000.00	\$ 5.56	\$ -	\$ -	\$ 2,005.56	
420235532	\$ 358.37	\$ -	\$ 2.49	\$ (0.36)	\$ -	\$ 360.50	
420283270	\$ (4.93)	\$ -	\$ -	\$ -	\$ -	\$ (4.93)	
420403690	\$ 53,993.77	\$ -	\$ 364.52	\$ (54.68)	\$ -	\$ 54,303.61	
420803190	\$ 32,903.78	\$ -	\$ 222.16	\$ (33.32)	\$ -	\$ 33,092.62	
420803200	\$ 28.06	\$ -	\$ -	\$ -	\$ -	\$ 28.06	
420831900	\$ 22,454.75	\$ -	\$ 151.81	\$ (22.77)	\$ -	\$ 22,583.79	
420832001	\$ 41,155.82	\$ -	\$ 278.03	\$ (41.72)	\$ -	\$ 41,392.13	
420832002	\$ 195,362.38	\$ -	\$ 1,319.01	\$ (197.85)	\$ -	\$ 196,483.54	
420832004	\$ 178,586.20	\$ 18,000.00	\$ 1,287.68	\$ (193.17)	\$ -	\$ 197,680.71	
420832112	\$ 12,362.02	\$ -	\$ 83.44	\$ (12.50)	\$ -	\$ 12,432.96	
420832113	\$ 30.21	\$ -	\$ -	\$ -	\$ -	\$ 30.21	
420832700	\$ (9.02)	\$ 38,000.00	\$ 207.23	\$ (31.08)	\$ -	\$ 38,167.13	
420835602	\$ 40,273.36	\$ 8,000.00	\$ 285.98	\$ (42.91)	\$ -	\$ 48,516.43	
420836502	\$ 60,155.08	\$ -	\$ 405.49	\$ (60.82)	\$ (910.00)	\$ 59,589.75	Urban Tilth
420837100	\$ 30,103.95	\$ -	\$ 203.25	\$ (30.49)	\$ -	\$ 30,276.71	
420903060	\$ 9,024.94	\$ -	\$ 60.94	\$ (9.15)	\$ -	\$ 9,076.73	
420903080	\$ 74.98	\$ -	\$ -	\$ -	\$ -	\$ 74.98	
420930601	\$ 1,807.83	\$ -	\$ 12.22	\$ (1.84)	\$ -	\$ 1,818.21	
420930602	\$ 561.07	\$ -	\$ 4.15	\$ (0.62)	\$ -	\$ 564.60	
421303780	\$ 9,357.70	\$ -	\$ 29.43	\$ (4.40)	\$ (9,000.00)	\$ 382.73	Urban Tilth
421336502	\$ 331,590.43	\$ -	\$ 1,562.26	\$ (234.43)	\$ (166,638.77)	\$ 166,279.49	Urban Tilth
421403260	\$ 4,916.84	\$ -	\$ 33.21	\$ (4.97)	\$ -	\$ 4,945.08	
421403480	\$ 3,597.32	\$ -	\$ 24.30	\$ (3.65)	\$ -	\$ 3,617.97	
421403490	\$ 33,928.44	\$ -	\$ 229.07	\$ (34.36)	\$ -	\$ 34,123.15	
421434700	\$ (1.09)	\$ 14,476.00	\$ 46.45	\$ (5.37)	\$ -	\$ 14,515.99	
421703451	\$ 2,345.58	\$ -	\$ 15.84	\$ (2.39)	\$ -	\$ 2,359.03	
421730200	\$ 7,224.07	\$ -	\$ 49.02	\$ (7.35)	\$ -	\$ 7,265.74	
421733500	\$ 2,007.91	\$ -	\$ 13.57	\$ (2.03)	\$ -	\$ 2,019.45	
421734511	\$ 232,042.59	\$ -	\$ 1,566.63	\$ (235.01)	\$ -	\$ 233,374.21	
421734514	\$ 2,326.93	\$ -	\$ 15.80	\$ (2.38)	\$ -	\$ 2,340.35	
421734516	\$ 9,606.41	\$ -	\$ 65.28	\$ (9.79)	\$ -	\$ 9,661.90	
421734518	\$ 89,859.27	\$ -	\$ 606.72	\$ (91.02)	\$ -	\$ 90,374.97	
421734519	\$ 396,209.89	\$ -	\$ 2,598.24	\$ (389.76)	\$ (105,000.00)	\$ 293,418.37	San Ramon Iron Horse Corridor
421733514	\$ 25,408.78	\$ -	\$ 171.55	\$ (25.73)	\$ -	\$ 25,554.60	
421733519	\$ 18,792.74	\$ -	\$ 126.89	\$ (19.04)	\$ -	\$ 18,900.59	
467103212	\$ 1,572.23	\$ -	\$ 10.62	\$ (1.60)	\$ -	\$ 1,581.25	
510135301	\$ 4,995.59	\$ -	\$ 33.73	\$ (5.07)	\$ -	\$ 5,024.25	
610136401	\$ 2,326.96	\$ -	\$ 15.70	\$ (2.35)	\$ -	\$ 2,340.31	
AD0001314	\$ 142.08	\$ -	\$ -	\$ -	\$ (142.08)	\$ -	Administration
AD0001415	\$ 3,205.11	\$ 2,826.44	\$ -	\$ 1.50	\$ (5,206.00)	\$ 827.05	Administration
AD001516	\$ (2.72)	\$ 1,129.52	\$ -	\$ 4,544.01	\$ -	\$ 5,670.81	
Total	\$ 5,648,077.17	\$ 268,129.96	\$ 37,814.16	\$ (1,128.01)	\$ (614,409.69)	\$ 5,338,483.58	



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: November 15, 2016

Subject: Conflict of Interest Code for the Moraga Elementary School District

RECOMMENDATION(S):

APPROVE amended Conflict of Interest Code for the Moraga Elementary School District (“District”), including the list of designated positions.

FISCAL IMPACT:

None.

BACKGROUND:

The District has amended its Conflict of Interest Code and submitted the revised code, attached as Exhibit A, to the Board for approval pursuant to Government Code section 87306 and 87306.5.

The changes include the elimination of positions designated to file conflict of interest statements. These changes will ensure that the Conflict of Interest Code accurately reflects the current positions and organizational structure in use by the District. A strike-out version of the Conflict of Interest Code is attached as Exhibit B.

CONSEQUENCE OF NEGATIVE ACTION:

None.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Cynthia Schwerin, Deputy County
Counsel, (925) 335-1800

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

By: , Deputy

cc: David Twa, Clerk of the Board of Supervisors, Cynthia Schwerin, Deputy County Counsel, Bruce Burns, Superintendent, MESD

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Ex. A - Moraga ESD COI Code

Ex. B - Moraga ESD COI Code

STRIKEOUT

BOARD BYLAWS

CONFLICT OF INTEREST CODE

**Conflict of Interest Code of the
Moraga Elementary School District**

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

BOARD BYLAWS

CONFLICT OF INTEREST CODE

APPENDIX

Disclosure Categories

- 1) **Category 1:** A person designated Category 1 shall disclose:
 - a) Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
 - b) Investments or business positions in or income from sources that are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors who are or have been within the past two years engaged in work or services of the type used by the district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the district.
- 2) **Category 2:** A person designated Category 2 shall disclose:
 - a) Investments or business positions in or income from sources that are contractors or subcontractors engaged in work or services of the type used by the department that the designated person manages or directs.
 - b) Investments or business positions in or income from sources that manufacture or sell supplies, books, machinery, or equipment of the type used by the department that the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

Designated Positions and Disclosure Category

Governing Board Members 1
Superintendent of Schools 1
Chief Business Official 1
Purchasing Agent 1
Payroll Accountant 1
Director 2
Principal 2
Assistant Principal 2
Maintenance and Operations Director 2

Disclosures for Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon

BOARD BYLAWS

CONFLICT OF INTEREST CODE

APPENDIX

Disclosures for Consultants continued

that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18701)

Moraga ESD | E 9270 Board Bylaws

Conflict Of Interest

RESOLUTION ADOPTING A

CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the Governing Board of the Moraga Elementary School District has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the district's conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the Moraga Elementary School District has recently reviewed its positions, and the duties of each position, and has determined that (changes/no changes) to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the district's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the Moraga Elementary School District Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES: _____ NOES: _____ ABSENT: _____

Attest:

Secretary/President

Conflict of Interest Code of the

Moraga Elementary School District

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

APPENDIX

Disclosure Categories

1. Category 1: A person designated Category 1 shall disclose:

- a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
- b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the district.

2. Category 2: A person designated Category 2 shall disclose:

- a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.
- b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

Designated Positions

Designated Position Disclosure Category

Governing Board Members 1

Superintendent of Schools 1

~~Assistant/Associate Superintendent 1~~

Chief Business Official 1

Purchasing Agent 1

Payroll Accountant 1

Director 2

Principal 2

Assistant Principal 2

Maintenance and Operations Director 2

~~Program Coordinator 2~~

~~Project Specialist 2~~

~~Supervisor 2~~

~~Dean of Students 2~~

Disclosures for Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a

description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18701)

Exhibit MORAGA ELEMENTARY SCHOOL DISTRICT

version: October 14, 2014 Moraga, California



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: November 15, 2016

Subject: Conflict of Interest Code for the Lafayette School District

RECOMMENDATION(S):

APPROVE amended Conflict of Interest Code for the Lafayette School District (“District”), including the list of designated positions.

FISCAL IMPACT:

None.

BACKGROUND:

The District has amended its Conflict of Interest Code and submitted the revised code, attached as Exhibit A, to the Board for approval pursuant to Government Code section 87306 and 87306.5.

The changes include the addition of positions designated to file conflict of interest statements. These changes will ensure that the Conflict of Interest Code accurately reflects the current positions and organizational structure in use by the District. A strike-out version of the Conflict of Interest Code is attached as Exhibit B.

CONSEQUENCE OF NEGATIVE ACTION:

None.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Cynthia Schwerin, Deputy County
Counsel, (925) 335-1800

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

By: , Deputy

cc: David Twa, Clerk of the Board of Supervisors, Cynthia Schwerin, Deputy County Counsel, Rachel Zinn, Superintendent, LSD

ATTACHMENTS

Ex. A - Lafayette SD COI Code

Ex. B - Lafayette SD COI Code

STRIKEOUT

**Conflict of Interest Code of the
Lafayette School District**

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

APPENDIX
DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

1. Persons occupying the following positions are designated employees in Category 1:

Governing Board members
Superintendent
Assistant Superintendent

Designated persons in this category must report:

- a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
 - (1) Are engaged in the acquisition or disposal of real property within the district
 - (2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district or
 - (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district

2. Persons occupying the following positions are designated employees in Category 2:

Director
Principal
Assistant Principal
Operations Manager
Supervisor of Network Services
Technology Coordinator
Human Resources Manager

Designated persons in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
- b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

3. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code. (2 CCR 18701)

**Conflict of Interest Code of the
Lafayette School District**

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

APPENDIX
DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

1. Persons occupying the following positions are designated employees in Category 1:

Governing Board members
Superintendent
Assistant Superintendent

Designated persons in this category must report:

- a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
 - (1) Are engaged in the acquisition or disposal of real property within the district
 - (2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district or
 - (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district

2. Persons occupying the following positions are designated employees in Category 2:

Director
Principal
Assistant Principal
Operations Manager
Supervisor of Network Services
Technology Coordinator
Human Resources Manager

Designated persons in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
- b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

3. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code. (2 CCR 18701)



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: November 15, 2016

Subject: Conflict of Interest Code for the Liberty Union High School District

RECOMMENDATION(S):

APPROVE amended Conflict of Interest Code for the Liberty Union High School District ("District"), including the list of designated positions.

FISCAL IMPACT:

None.

BACKGROUND:

The District has amended its Conflict of Interest Code and submitted the revised code, attached as Exhibit A, to the Board for approval pursuant to Government Code section 87306 and 87306.5.

The changes include legal updates and the addition and elimination of positions designated to file conflict of interest statements. These changes will ensure that the Conflict of Interest Code accurately reflects the current positions and organizational structure in use by the District. A strike-out version of the Conflict of Interest Code is attached as Exhibit B.

CONSEQUENCE OF NEGATIVE ACTION:

None.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Cynthia Schwerin, Deputy County
Counsel, (925) 335-1800

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

By: , Deputy

cc: David Twa, Clerk of the Board of Supervisors, Cynthia Schwerin, Deputy County Counsel, Eric Volta, Superintendent, LUHSD

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Ex. A - Liberty UHSD COI Code

Ex. B - Liberty UHSD COI Code

STRIKEOUT

Liberty Union High School District
20 Oak Street
Brentwood, Ca 94513

September 28, 2016: Resolution # 2016-20

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the Governing Board of the Liberty Union High School District has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the district's conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the Liberty Union High School District has recently reviewed its positions, and the duties of each position, and has determined that changes to the current conflict of interest code are necessary; and

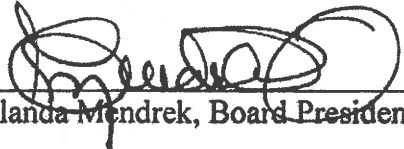
WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the district's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the Liberty Union High School District Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS 28th day of September 2016 at a meeting, by the following vote:

AYES: 4
NOES: 0
ABSENT: 1

Attest:


Yolanda Mendrek, Board President

Conflict of Interest Code of the Liberty Union High School District

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

Liberty Union High School District

Board Policy with Appendix

Classification: Bylaws of the Board

Policy No. **BP9270**

Page 1 of 6

Effective: 9/21/96

Subject: Conflict of Interest

Revised: 09/28/16

Conflict Of Interest

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

(cf. 9005 - Governance Standards)

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the district's conflict of interest code, the Superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

(cf. 9320 - Meetings and Notices)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

Liberty Union High School District

Board Policy with Appendix

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Policy No. **BP9270**

Page 2 of 6

Effective: 9/21/96

Subject: Conflict of Interest

Revised: 09/28/16

Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest in a contract made by the Board, the contract is void. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract in which he/she has only a "remote interest," as specified in Government Code 1091, if the interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member or district official to enter into the contract. (Government Code 1091)

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other applicable circumstance specified in Government Code 1091.5.

Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

Incompatible Offices and Activities

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 - Nonschool Employment)

Gifts

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

Liberty Union High School District

Board Policy with Appendix

Classification: Bylaws of the Board

Policy No. **BP9270**

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Effective: 9/21/96

Subject: Conflict of Interest

Revised: 09/28/16

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.

2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession, unless the sole or predominant activity of the business, trade, or profession is making speeches

2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices, especially:

35233 Prohibitions applicable to members of governing boards

41000-41003 Moneys received by school districts

41015 Investments

FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91014 Political Reform Act of 1974, especially:

82011 Code reviewing body

Liberty Union High School District

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82019 Definition, designated employee

82028 Definition, gift

82030 Definition, income

82033 Definition, interest in real property

82034 Definition, investment

87100-87103.6 General prohibitions

87200-87210 Disclosure

87300-87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and gifts

89506 Ethics; travel

91000-91014 Enforcement

PENAL CODE

85-88 Bribes

REVENUE AND TAXATION CODE

203 Taxable and exempt property – colleges

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:

18700-18707 General prohibitions

18722-18740 Disclosure of interests

18750.1-18756 Conflict of interest codes

COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)

Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655

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89 Ops.Cal.Atty.Gen. 217 (2006)

86 Ops.Cal.Atty.Gen. 138(2003)

85 Ops.Cal.Atty.Gen. 60 (2002)

82 Ops.Cal.Atty.Gen. 83 (1999)

81 Ops.Cal.Atty.Gen. 327 (1998)

80 Ops.Cal.Atty.Gen. 320 (1997)

69 Ops.Cal.Atty.Gen. 255 (1986)

68 Ops.Cal.Atty.Gen. 171 (1985)

65 Ops.Cal.Atty.Gen. 606 (1982)

63 Ops.Cal.Atty.Gen. 868 (1980)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

CSBA: <http://www.csba.org>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute of Local Government: <http://www.ca-ilg.org>

(7/10) 5/16

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Board Policy with Appendix

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APPENDIX

Disclosure Categories

1. Category 1: A person designated Category 1 shall disclose:

a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.

b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the district.

2. Category 2: A person designated Category 2 shall disclose:

a. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.

b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

Designated Positions

Designated Position and Disclosure Category

Governing Board Members 1
Superintendent of Schools 1
Assistant/Associate Superintendent 1
Chief Business Officer 1

Director 2
Principal 2
Assistant Principal 2
Facilities Director 2
Program Coordinator 2
Project Specialist 2
Supervisor 2

Liberty Union High School District

Board Policy with Appendix

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Disclosures for Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18700.3)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement .
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18700.3)

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Subject: Conflict of Interest

Revised: 10/20/10

Conflict Of Interest

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

(cf. 9005 - Governance Standards)

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the district's conflict of interest code, the Superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

(cf. 9320 - Meetings and Notices)

Board members and designated employees shall annually file a Statement of

Liberty Union High School District

Board Policy

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Effective: 9/21/96

Revised: 10/20/10

Subject: Conflict of Interest

Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

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Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest in a contract made by the Board, the contract is void. (Government Code 1090)

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Liberty Union High School District

Board Policy

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Policy No. **BP9270**

Page 3 of 11

Effective: 9/21/96

Subject: Conflict of Interest

Revised: 10/20/10

Incompatible Offices and Activities

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 - Nonschool Employment)

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The limitation on gifts does not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

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Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.

2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

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Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession, unless the sole or predominant activity of

Liberty Union High School District

Board Policy

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the business, trade, or profession is making speeches

2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

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87200-87210 Disclosure

87300-87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and gifts

89506 Ethics; travel

91000-91014 Enforcement

PENAL CODE

85-88 Bribes

REVENUE AND TAXATION CODE

203 Taxable and exempt property – colleges

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:

18700-18707 General prohibitions

18722-18740 Disclosure of interests

18750.1-18756 Conflict of interest codes

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Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

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92 Ops.Cal.Atty.Gen. 19 (2009)

89 Ops.Cal.Atty.Gen. 217 (2006)

86 Ops.Cal.Atty.Gen. 138(2003)

85 Ops.Cal.Atty.Gen. 60 (2002)

Liberty Union High School District

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82 Ops.Cal.Atty.Gen. 83 (1999)
81 Ops.Cal.Atty.Gen. 327 (1998)
80 Ops.Cal.Atty.Gen. 320 (1997)
69 Ops.Cal.Atty.Gen. 255 (1986)
68 Ops.Cal.Atty.Gen. 171 (1985)
65 Ops.Cal.Atty.Gen. 606 (1982)
63 Ops.Cal.Atty.Gen. 868 (1980)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

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WEB SITES

CSBA: <http://www.csba.org>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute of Local Government: <http://www.ca-ilg.org>

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Incompatible Activities and Offices

~~Governing Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district.~~

~~Governing Board members shall not simultaneously hold another public office that is incompatible with Board membership. Offices generally are incompatible when any of the following circumstances are present: (1) either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body; (2) based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices; or (3) public policy considerations make it improper for one person to hold both offices.~~

~~If a Governing Board member holds another public office that is incompatible with Board membership, then the Board member will be deemed to have forfeited the first office upon taking the second office.~~

Conflict of Interest Code

~~Designated employees of the district, including Board members, shall adhere to the district's conflict of interest code adopted pursuant to the provisions of Government Code 87300.~~

~~The district's conflict of interest code shall comprise the terms of the California Code of Regulations, Title 2, Section 18730, and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.~~

Liberty Union High School District

Board Policy

Classification: Bylaws of the Board

Policy No. **BP9270**

Page 6 of 11

Effective: 9/21/96

Revised: 10/20/10

Subject: Conflict of Interest

~~When a change in the district's conflict of interest code is necessitated by changed circumstances such as the creation of new positions, amendments or revisions shall be submitted to the code reviewing body within 90 days.~~

~~Upon receiving the statements of employees designated in Category 1, the district shall make and retain copies and shall forward the originals to the code reviewing body. Statements for all other designated employees shall be retained by the district.~~

~~The Board shall review the district's conflict of interest code in even-numbered years and send the code reviewing body either an amended code or, by October 1 of that year, a statement to the effect that no change is necessary.~~

~~When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views.~~

~~Statements of economic interests submitted to the district by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction.~~

Financial Interest

~~Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees.~~

~~A Board member shall not be considered to be financially interested in a contract if any of the exceptions set forth in Government Code 1091.5 apply.~~

~~A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract. Remote interests are specified in Government Code 1091(b); they include the interest of a parent in the earnings of his/her minor child.~~

~~If a Board member or designated employee determines that he/she has a financial interest in a decision, this determination shall be disclosed and made part of the Board's official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board.~~

~~A Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs.~~

Gifts

~~Board members and designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law.~~

~~The above limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.~~

Liberty Union High School District

Board Policy

Classification: Bylaws of the Board

Policy No. **BP9270**

Page 7 of 11

Effective: 9/21/96

Subject: Conflict of Interest

Revised: 10/20/10

~~Gifts of travel and related lodging and subsistence shall be subject to the above limitations except as described in Government Code 89506.~~

~~A gift of travel does not include travel provided by the district for Board members and designated employees.~~

Honoraria

~~Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering.~~

The term "honorarium" does not include:

- ~~1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession unless the sole or predominant activity of the business, trade, or profession is making speeches~~
- ~~2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes.~~

Legal Reference:

EDUCATION CODE

~~1006 Qualifications for holding office~~

~~35107 School district employees~~

~~35230-35240 Corrupt practices~~

~~35233 Prohibitions applicable to members of governing boards~~

GOVERNMENT CODE

~~1090-1099 Prohibitions applicable to specified officers; incompatible offices~~

~~1125-1129 Incompatible activities~~

~~81000-91015 Political Reform Act of 1974, especially:~~

~~82011 Code reviewing body~~

~~82019 Definition of "Designated Employee"~~

~~82028 Definition of "Gifts"~~

~~82030 Definition of "Income"~~

~~82033 Definition of "Interest in real property"~~

~~82034 Definition of "Investment"~~

~~87100-87103.6 General prohibitions~~

~~87200-87210 Disclosure~~

~~87300-87313 Conflict of interest code~~

~~87500 Statements of economic interests~~

~~89501-89503 Honoraria and gifts~~

~~89506 Travel payments, advances, and reimbursements~~

~~91000-91015 Enforcement~~

PENAL CODE

~~85-88 Bribes~~

CODE OF REGULATIONS, TITLE 2

~~18100 et seq. Regulations of the Fair Political Practices Commission~~

COURT DECISIONS

~~Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469~~

~~Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655~~

~~Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511~~

ATTORNEY GENERAL OPINIONS

~~92 Ops. Cal. Atty. Gen. 26 (2009)~~

~~92 Ops. Cal. Atty. Gen. 19 (2009)~~

~~89 Ops. Cal. Atty. Gen. 217 (2006)~~

Liberty Union High School District

Board Policy

Classification: Bylaws of the Board

Policy No. **BP9270**

Page 8 of 11

Effective: 9/21/96

Revised: 10/20/10

Subject: Conflict of Interest

86 Ops. Cal. Atty. Gen. 138 (2003)
85 Ops. Cal. Atty. Gen. 60 (2002)
82 Ops. Cal. Atty. Gen. 83 (1999)
81 Ops. Cal. Atty. Gen. 327 (1998)
80 Ops. Cal. Atty. Gen. 320 (1997)
69 Ops. Cal. Atty. Gen. 255 (1986)
68 Ops. Cal. Atty. Gen. 171 (1985)
65 Ops. Cal. Atty. Gen. 606 (1982)
63 Ops. Cal. Atty. Gen. 868 (1980)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal; Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

CSBA: <http://www.csba.org>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute for Local Government: <http://www.ca-ilg.org>

(10/95 6/96 2/97 9/98 9/08) 10/10

APPENDIX - Revised 8/8/12

Disclosure Categories

1. Category 1: A person designated Category 1 shall disclose:

a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.

b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the district.

2. Category 2: A person designated Category 2 shall disclose:

a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.

b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

Liberty Union High School District

Board Policy

Classification: Bylaws of the Board

Policy No. **BP9270**

Page 9 of 11

Effective: 9/21/96

Subject: Conflict of Interest

Revised: 10/20/10

Designated Positions

Designated Position and Disclosure Category

Governing Board Members 1
Superintendent of Schools 1
Assistant/Associate Superintendent 1
Chief Business Officer 1

Director 2
Principal 2
Assistant Principal 2
Facilities Director 2
Program Coordinator 2
Project Specialist 2
Supervisor 2

Disclosures for Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18700.3)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18700.3)

Liberty Union High School District

Board Policy

Classification: Bylaws of the Board

Policy No. **BP9270**

Page 10 of 11

Effective: 9/21/96

Subject: Conflict of Interest

Revised: 10/20/10

(7/10) 5/16

Designated Positions and Disclosure Requirements

1. ~~Persons occupying the following positions are designated employees in Category 1:~~

~~Governing Board Members
Superintendent of Schools
Assistant/Associate Superintendent
Chief Business Officer~~

~~Designated persons in this category must report:~~

~~a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.~~

~~b. Investments or business positions in or income from sources which:~~

~~(1) Are engaged in the acquisition or disposal of real property within the district;~~

~~(2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district, or~~

~~(3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district.~~

2. ~~Persons occupying the following positions are designated employees in Category 2:~~

~~Director
Principal
Assistant Principal
Maintenance and Operations Director~~

~~Designated persons in this category must report investments or business positions in or income from sources which:~~

~~a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or~~

~~b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.~~

3. ~~Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.~~

Liberty Union High School District

Board Policy

Classification: Bylaws of the Board

Policy No. **BP9270**

Page 11 of 11

Effective: 9/21/96

Subject: Conflict of Interest

Revised: 10/20/10

~~A consultant is an individual who, pursuant to a contract with the district, makes any of several specified governmental decisions or serves in a staff capacity with the district, performing the same or substantially the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. Consultants are individuals who decide whether to: (Code of Regulations, Title 2, Section 18700)~~

- ~~a. Approve a rate, rule or regulation;~~
- ~~b. Adopt or enforce a law;~~
- ~~c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement;~~
- ~~d. Authorize the district to enter into, modify or renew a contract that requires district approval;~~
- ~~e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party;~~
- ~~f. Grant district approval to a plan, design, report, study or similar item; or~~
- ~~g. Adopt or grant district approval of district policies, standards or guidelines.~~

~~A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code. (2 CCR 18701)~~

~~(10/94 6/95 2/97 9/98)~~



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: November 15, 2016

Subject: Conflict of Interest Code for the Contra Costa Transportation Authority

RECOMMENDATION(S):

APPROVE amended Conflict of Interest Code for the Contra Costa Transportation Authority (“Authority”).

FISCAL IMPACT:

None.

BACKGROUND:

The Authority has amended its Conflict of Interest Code and submitted the revised code, attached as Exhibit A, to the Board for approval pursuant to Government Code section 87306 and 87306.5.

The changes include updated legal references, designated position titles, and disclosure category descriptions. These changes will ensure that the Conflict of Interest Code accurately reflects the current FPPC Regulations, positions and organizational structure in use by the Authority. A strike-out version of the Conflict of Interest Code is attached as Exhibit B.

CONSEQUENCE OF NEGATIVE ACTION:

None.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 11/15/2016 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 15, 2016

Contact: Cynthia Schwerin, Deputy County
Counsel, (925) 335-1800

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

By: , Deputy

cc: David Twa, Clerk of the Board of Supervisors, Cynthia Schwerin, Deputy County Counsel, Randell Iwasaki, P.E., Executive Director, CCTA

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Ex. A - CCTA COI Code

Ex. B - CCTA COI Code

STRIKEOUT

**CONFLICT OF INTEREST CODE
OF THE
CONTRA COSTA TRANSPORTATION AUTHORITY**

(Adopted November 19, 2014)¹

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730 and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **Contra Costa Transportation Authority (the "Authority")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **Authority's Clerk of the Board** as the Authority's Filing Officer. The **Authority's Clerk of the Board** shall make and retain a copy of all statements filed by the Members of the Authority and Executive Director and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of Contra Costa. The **Authority's Clerk of the Board** shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

¹ Updated October 6, 2016, to revise title of filing officer.

APPENDIX
CONFLICT OF INTEREST CODE
OF THE
CONTRA COSTA TRANSPORTATION AUTHORITY

(Adopted November 19, 2014)²

PART "A"

Authority Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3, are NOT subject to the Authority's Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Authority Officials who manage public investments³. These positions are listed here for informational purposes only.

Commissioners and Alternates, including Ex Officios
Chief Financial Officer
Financial Consultant

² Updated September 29, 2016, to include FPPC Regulation revision, revise titles, and clarify disclosure language.

³ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS
GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>Designated Positions</u> <u>Title or Function</u>	<u>Disclosure Category</u> <u>Assigned</u>
Associate Engineer	2, 3, 5
Associate Transportation Analyst	2, 3, 5
Associate Transportation Planner	2, 3, 5
Deputy Executive Director, Planning	1, 2
Deputy Executive Director, Projects	1, 2
Director, External Affairs	1, 2
Director, Projects	2, 3, 5
Director of Programs	2, 5, 6
Engineering Manager	2, 3, 5
Executive Director	1, 2
Finance Manager	4
General Counsel	1, 2
Senior Engineer	2, 3, 5
Senior Transportation Planner	2, 3, 5

Designated Positions'
Title or Function

Disclosure Category
Assigned

Members of Boards, Committees &
Commissions

Citizen Advisory Committee	1, 2
Countywide Bicycle and Pedestrian Advisory Committee	2, 5, 7
Paratransit Coordinating Council	5, 7
Regional Transportation Planning Committee	1, 2
Technical Coordinating Committee	1, 2

Consultants and New Positions⁴

⁴ Individuals serving as a consultant as defined in FPPC Reg 18700.3 or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Executive Director may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.⁵ "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of the Authority.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that do business or own real property within the jurisdiction of the Authority.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the Authority.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the Authority.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit or other organization, if the source is of the type to receive grants or other monies from or through the Authority or its subdivisions.

Category 7: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, of the type to receive program funds from the Authority or its subdivisions, or participate in any Authority programs or projects.

⁵ This Conflict of Interest Codes does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

Category 8: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against the Authority in the past 2 years, or have a claim pending before the Authority.

LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

CONFLICT OF INTEREST CODE
OF THE
CONTRA COSTA TRANSPORTATION AUTHORITY

(Adopted November 19, 2014)¹

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This [incorporation page](#), ~~#~~Regulation ~~(attached)~~18730 and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **Contra Costa Transportation Authority (the "Authority")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the ~~Executive Secretary~~Authority's Clerk of the Board as the Authority's Filing Officer. The ~~Executive Secretary~~Authority's Clerk of the Board shall make and retain a copy of all statements filed by the Members of the Authority and Executive Director and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of Contra Costa. The ~~Executive Secretary~~Authority's Clerk of the Board shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

¹ [Updated October 6, 2016, to revise title of filing officer.](#)

APPENDIX
CONFLICT OF INTEREST CODE
OF THE
CONTRA COSTA TRANSPORTATION AUTHORITY

(Adopted November 19, 2014)²

PART "A"

Authority Officials who manage public investments, as defined by 2 Cal. Code of Regs. §~~18720~~18700.3, are NOT subject to the Authority's Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Authority Officials who manage public investments³. These positions are listed here for informational purposes only.

Commissioners and Alternates, including Ex Officios
Chief Financial Officer
Financial Consultant

² Updated September 29, 2016, to include FPPC Regulation revision, revise titles, and clarify disclosure language.

³ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS
GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>Designated Positions</u> <u>Title or Function</u>	<u>Disclosure Category</u> <u>Assigned</u>
Associate Engineer	2, 3, 5
Associate Transportation Analyst	2, 3, 5
Associate Transportation Planner	2, 3, 5
Executive Director	1, 2
Deputy Executive Director, Projects	1, 2
Director, Projects	2, 3, 5
Deputy Executive Director, Planning	1, 2
Director, External Affairs	1, 2
Engineering Manager	2, 3, 5
Finance Manager	4
General Counsel	1, 2
Director of Programs Manager	2, 5, 6
Senior Engineer	2, 3, 5
Senior Transportation Planner	2, 3, 5

**Designated Positions’
Title or Function**

**Disclosure Category
Assigned**

**Members of Boards, Committees &
Commissions**

Citizen Advisory Committee	1, 2
Countywide Bicycle and Pedestrian Advisory Committee	2, 5, 7
Paratransit Coordinating Council	5, 7
Regional Transportation Planning Committee	1, 2
Technical Coordinating Committee	1, 2

Consultants and New Positions⁴

⁴ Individuals serving as a consultant as defined in FPPC Reg ~~18701-18700.3~~ or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Executive Director may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.). The Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.⁵ ~~Such economic interests~~ "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of the Authority.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that do business or own real property within the jurisdiction of the Authority.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the Authority.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the Authority.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit or other organization, if the source is of the type to receive grants or other monies from or through the Authority or its subdivisions.

Category 7: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, of the type to receive program funds from the Authority or its subdivisions, or participate in any Authority programs or projects.

⁵ This Conflict of Interest Codes does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

Category 8: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against the Authority in the past 2 years, or have a claim pending before the Authority.



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: November 15, 2016

Subject: Conflict of Interest Code for the Contra Costa County Employees' Retirement Association

RECOMMENDATION(S):

APPROVE amended Conflict of Interest Code for the Contra Costa County Employees' Retirement Association ("CCCERA"), including the list of designated positions.

FISCAL IMPACT:

None.

BACKGROUND:

CCCERA has amended its Conflict of Interest Code and submitted the revised code, attached as Exhibit A, to the Board for approval pursuant to Government Code section 87306 and 87306.5.

The changes include incorporating FPPC Regulation 18730, and adding to and updating the titles of positions designated to file conflict of interest statements. These changes will ensure that the Conflict of Interest Code conforms to the Political Reform Act and accurately reflects the current positions and organizational structure in use by CCCERA. A strike-out version of the Conflict of Interest Code is attached as Exhibit B.

CONSEQUENCE OF NEGATIVE ACTION:

None.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Cynthia Schwerin, Deputy County
Counsel, (925) 335-1800

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

By: , Deputy

cc: David Twa, Clerk of the Board of Supervisors, Cynthia Schwerin, Deputy County Counsel, Gail Strohl, Chief Executive Officer, CCCERA

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Ex. A - CCCERA COI Code

Ex. B - CCCERA COI Code STRIKEOUT

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

CONFLICT OF INTEREST CODE

Adopted: 02/24/76

Amended: 11/06/02, 11/17/04, 4/8/09, 12/8/10, 09/10/14, 09/28/16

I. AUTHORITY

Pursuant to the provisions of Government Code Sections 87300, *et seq.*, the Board of Retirement of the Contra Costa County Employees' Retirement Association adopts this Conflict of Interest Code. This Conflict of Interest Code and any amendments thereto become effective upon approval by the Contra Costa County Board of Supervisors. (Government Code Sections 87303 and 82011(b).)

II. DESIGNATED POSITIONS AND EMPLOYEES

The positions listed in Appendix "A" attached hereto are "designated positions". Every person holding any designated position is deemed to make, or participate in the making of, decisions which could affect his or her personal economic interests. Designated positions are assigned the disclosure categories set forth in Appendix "A". Each person holding any designated position shall file an annual statement of economic interest disclosing that person's interest in investments, business positions, real property and income designated as reportable under the category to which the employee's position is assigned.

The positions listed in Appendix "B" attached hereto manage public investments for purposes of Section 87200 of the Government Code and are "Code filers." Each Code filer shall file an annual statement of economic interest.

III. INCORPORATION OF FPPC REGULATION 18730

The California Fair Political Practices Commission (FPPC) has adopted Regulation 18730, which contains the terms of a standard conflict of interest code. (2 Cal. Code of Regs. 18730.) Regulation 18730 may be amended from time to time. The terms of Regulation 18730, and any amendments to it duly adopted by the FPPC, are hereby incorporated by reference as Appendix "C".

IV. FPPC FORM 700 – STATEMENT OF ECONOMIC INTEREST

Disclosure statements shall be made on FPPC Form 700 – Statement of Economic Interest. The Form 700 is published annually by the FPPC, available on the FPPC website at fppc.ca.gov and supplied by the Contra Costa County Clerk of the Board of Supervisors. The place and time of filing shall be as follows:

- (a) Every person holding any designated position listed in Appendix "A" shall file the original of his or her statement of financial interests with the Contra Costa County Clerk of the Board of Supervisors.

- (b) Every person holding a position listed in Appendix "B" shall file the original of his or her statement of financial interests with the Contra Costa County Clerk - Elections Division.
- (c) All Form 700 filers must file the Form 700 at the times prescribed by law. Failure to file statements on time may result in penalties including but not limited to late fines.

APPENDIX A

<u>Designated Positions</u>	<u>Disclosure Category</u>
Deputy Chief Executive Officer	General
Accounting Manager	1
Administrative/Human Resources Manager	2
General Counsel and Deputy General Counsel	1
Investment Analyst and Investment Officer	1
Outside fiduciary counsel	1
Outside investment consultant and other consultants	1

- Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Chief Executive Officer may determine in writing that a particular consultant, although a “designated position”, is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this code. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Disclosure Categories

General:

Employees designated in Disclosure Category “General” above shall complete all schedules of Form 700. An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee’s position.

Designated Employees in Category 1:

Employees designated in Disclosure Category 1 above shall complete all schedules of Form 700 unless there are no reportable interests for that schedule. A “reportable interest” shall be any business entity or source of income of a type in which the Board is authorized to invest.

Designated Employees in Category 2:

Employees designated in Disclosure Category 2 above shall complete all schedules of Form 700 except those relating to interests in real property (Form 700, Schedules B and C), unless there are no reportable interests for a schedule. A “reportable interest” shall be any business entity or source of income which, within the filing period has contracted, or in the foreseeable future may contract with the Board to provide products or services, to the Retirement System or the Retirement Office.

APPENDIX B

Agency Positions that Manage Public Investments For Purposes of Section 87200 of the Government Code

Pursuant to Government Code Section 87314, the following is a list of each position with the Retirement Board and CCCERA for which an individual occupying the position is required to file a Form 700 - Statement of Economic Interests as a public official who manages public investments within the meaning of Government Code Section 87200:

- Members of the Board of Retirement, including Alternate Members
- Chief Executive Officer
- Chief Investment Officer

APPENDIX C

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq . The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq .

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories

are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code. ²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

officer has been elected or over which that elected officer's agency has direction and control.

This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

- a. The date the loan was made.
- b. The date the last payment of \$100 or more was made on the loan.
- c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$460 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be

made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

² See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and

dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).

Certificate of Compliance included.

2. Editorial correction (Register 80, No. 29).

3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).

4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).

5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).

6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).

7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).

16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).

17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).

18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

19. Editorial correction of subsection (a) (Register 98, No. 47).

20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third

Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate

District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C),

(b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014;

operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations.

Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v.*

Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate

District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974

Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

~~BOARD OF RETIREMENT~~
~~OF THE~~
CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
~~BOARD OF RETIREMENT~~

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CONFLICT OF INTEREST CODE

Adopted: 02/24/76
Amended: 11/06/02, 11/17/04, 4/8/09, 12/8/10, 09/10/14, 09/28/16

Section 100. Purpose
I. AUTHORITY

Pursuant to the provisions of Government Code Sections 87300, *et seq.*, the Board of Retirement of the Contra Costa County Employees' Retirement Association adopts this Conflict of Interest Code. ~~Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Secs. 81000 et seq.) The provisions of this Code are in addition to the laws pertaining to conflicts of interest, including but not limited to Government Code Section 87100 which provides that: "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." Except as otherwise indicated, the definitions of the Political Reform Act and regulations adopted pursuant thereto, including specifically but not limited to FPPC Regulation 18730, are incorporated herein, and this Code shall be interpreted consistently therewith. Pursuant to Government Code sections 87303 and 82011(b), this~~ This Conflict of Interest Code and any amendments thereto become effective upon approval by the Contra Costa County Board of Supervisors. (Government Code Sections 87303 and 82011(b).)

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Section 200. Designated Positions and Employees

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II. DESIGNATED POSITIONS AND EMPLOYEES

The positions listed in ~~Exhibit~~Appendix "A" (attached hereto) are "designated positions". Every ~~incumbent of these is a~~ "person holding any designated employee", and position is deemed to make, or participate in the making of, decisions which could affect his or her personal economic interests.

Section 300. Disclosure. Statements

Designated positions ~~shall be~~ assigned to one or more of the disclosure categories set forth in ~~Exhibit~~"Appendix "A". Each person holding any designated employee position shall file an annual statement of economic interest disclosing that employee-person's interest in investments, business positions, real property and income designated as reportable under the category to which the employee's position is assigned.

~~Agency~~The positions ~~that~~listed in Appendix "B" attached hereto manage public investments for purposes of Section 87200 of the Government Code ~~are listed in Exhibit~~

~~“C”, as required pursuant to Government and are “Code section 87314 filers.” Each Retirement Board member and CCCERA employee listed as a Section 87200 Code filer must shall file an annual statement of economic interest.~~

III. INCORPORATION OF FPPC REGULATION 18730

The California Fair Political Practices Commission (FPPC) has adopted Regulation 18730, which contains the terms of a standard conflict of interest code. (2 Cal. Code of Regs. 18730.) Regulation 18730 may be amended from time to time. The terms of Regulation 18730, and any amendments to it duly adopted by the FPPC, are hereby incorporated by reference as Appendix “C”.

IV. FPPC FORM 700 – STATEMENT OF ECONOMIC INTEREST

~~Disclosure statements with shall be made on FPPC Form 700 – Statement of Economic Interest. The Form 700 is published annually by the FPPC, available on the FPPC website at fppc.ca.gov and supplied by the Contra Costa County Clerk – Elections Division of the Board of Supervisors. The place and time of filing shall be as follows:~~

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~~Disclosure statements are public records pursuant to Government Code section 81008(a).~~

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Section 400. Place and Time of Filing

- (a) Every person holding any designated employee position listed in Appendix “A” shall file the original of his or her statement of financial interests with the Contra Costa County Clerk of the Board of Supervisors.
- (b) Every person holding a position listed in Exhibit “C Appendix “B” shall file the original of his or her statement of financial interests with the Contra Costa County Clerk ~~Recorder - Elections Division.~~
- (c) ~~Employees appointed, promoted or transferred to designated positions shall file initial statements within 30 days thereafter, and shall disclose any reportable investments, business positions and interests in real property held on, and income received during the 12 months before the effective date of the amendment, appointment, transfer or promotion.~~
- (d) ~~Every designated employee shall file annual statements during March covering the preceding calendar year.~~
- (e) ~~A designated employee required to file a statement of financial interest under any other agency’s conflict of interest code, or under Article 2 of Chapter 7 of the Political Reform Act for a jurisdiction contained within the territorial jurisdiction of this agency may comply with the provisions of this Code by filing a duplicate copy of that statement and an expanded statement which covers reportable interests in that portion of this agency’s jurisdiction which differs from the jurisdiction described in the other statement.~~

Section 500. Disclosure Statement, Form and Content

~~(a) Forms.~~ Disclosure statements shall be made on forms supplied by the Clerk of the Board of Supervisors or the Clerk-Recorder.

~~(b) Content.~~ The disclosure statement shall contain the following information:

- ~~(1) Investment or Interest in Real Property.~~ When an investment or an interest in real property is required to be reported, the statement shall contain: a statement of the nature of the investment or interest, the name of the business entity in which each investment is held, a general description of the business activity in which the business entity is engaged, and the address or other precise location of the real property. The statement shall also contain a statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000), whether it exceeds ten thousand dollars (\$10,000) but does not exceed one hundred thousand dollars (\$100,000), or whether it exceeds one hundred thousand dollars (\$100,000). This information need not be provided with respect to an interest in real property which is solely the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.
- ~~(2) Personal Income.~~ When income is required to be reported under this article, the statement shall contain: the name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source. The statement shall also contain a statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000; and a description of the consideration, if any, for which the income was received. In the case of a loan, the statement shall contain the annual interest rate and the security, if any, given for the loan.
- ~~(3) In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made, a description of the gift, the amount or value of the gift, and the date on which the gift was received.~~
- ~~(4) Business Entity.~~ When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain: the name, address, and a general description of the business activity of the business entity, and the name of every person from whom the business entity received payments if the filer's pro-rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).
- ~~(5) Business Position.~~ When business positions are required to be reported, a designated person shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated person's position with the business entity.

~~(6) Acquisition or Disposal During Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.~~

Section 600. Disqualifications.

~~Designated employees must disqualify themselves from making or participating in the making of any decisions or using their official position to influence the making of any decision in which they have a reportable financial interest, when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the employee, a member of his or her immediate family or on any other interest indicated in Government Code section 87103. No designated employee shall be required to disqualify him or herself with respect to any matter which could not be legally acted upon or decided without his or her participation, provided the "rule of necessity" appropriately applies to the circumstances.~~

All other provisions of this Code notwithstanding, the following provisions hereafter apply:

1. ~~No designated person shall accept any honorarium.~~

~~Government Code Section 89502 shall apply to the prohibitions in this section. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506 or other provision of law.~~

2. ~~No designated employee shall accept any gifts with a total value in a calendar year from any single source that exceeds the limitations set forth in Government Code section 89503.~~

EXHIBIT "A"

Position Categories

(c) All Form 700 filers must file the Form 700 at the times prescribed by law. Failure to file statements on time may result in penalties including but not limited to late fines.

APPENDIX A

<u>Designated Positions</u>	<u>Disclosure Category</u>
Retirement Deputy Chief Executive Officer	
General	
Retirement Accounting Manager	1
Retirement Administration Administrative/Human Resources Manager	2
Retirement General Counsel and Deputy General Counsel	1
Retirement Assistant General Counsel	1
Retirement Investment Analyst and Investment Officer	1
Outside fiduciary counsel	1
Outside investment consultant <u>and other consultants</u>	1

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- Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

- The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this code. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

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EXHIBIT "B"

Disclosure Categories

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General:

Employees designated in Disclosure Category "General" above shall complete all schedules of Form 700. An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Designated Employees in Category 1:

Employees designated in Disclosure Category 1 of Exhibit A above shall complete all schedules of Form 700 unless there are no reportable interests for that schedule. A "reportable interest" shall be any business entity or source of income of a type in which the Board is authorized to invest.

Designated Employees in Category 2:

Employees designated in Disclosure Category 2 of Exhibit A above shall complete all schedules of Form 700 except those relating to interests in real property (Form 700, Schedules B and C), unless there are no reportable interests for a schedule. A "reportable interest" shall be any business entity or source of income which, within the filing period has contracted, or in the foreseeable future may contract with the Board to provide products or services, to the Retirement System or the Retirement Office.

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EXHIBIT "C" APPENDIX B

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Agency Positions that Manage Public Investments
For Purposes of Section 87200 of the Government Code

~~The~~ Pursuant to Government Code Section 87314, the following is a list of each position with the Retirement Board and CCCERA for which an individual occupying the position is required to file a Form 700 - Statement of Economic Interests as a public official who manages public investments within the meaning of Government Code Section 87200:

Members of the Board of Retirement, including Alternate Members
~~Retirement~~ Chief Executive Officer
~~Retirement~~ Chief Investment Officer

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APPENDIX C

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Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: November 15, 2016

Subject: HVAC Upgrades Project at 40 Douglas Drive, Martinez, and Related CEQA Actions (WH105B)

RECOMMENDATION(S):

- (1) APPROVE the HVAC Upgrades Project at 40 Douglas Drive, Martinez, for the Employment and Human Services Department, and
- (2) DETERMINE that the Project is a California Environmental Quality Act (CEQA), Class 1(d) Categorical Exemption, pursuant to Section 15301(d) of the CEQA Guidelines, and
- (3) DIRECT the Director of the Conservation and Development Department to file a Notice of Exemption with the County Clerk, and
- (4) AUTHORIZE the Public Works Director to arrange for payment of a \$25 fee to the Department of Conservation and Development Department for processing and a \$50 fee to the County Clerk for filing the Notice of Exemption.

FISCAL IMPACT:

100% General Fund.

-
- APPROVE OTHER
 - RECOMMENDATION OF CNTY ADMINISTRATOR RECOMMENDATION OF BOARD COMMITTEE
-

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Ramesh Kanzaria, (925) 313-2000

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

By: , Deputy

cc:

BACKGROUND:

The purpose of the project is to upgrade the heating, ventilation, and air conditioning (HVAC) system. The project consists of replacing the existing unit with a new rooftop air conditioning unit, repairing existing HVAC curb and failed structural supports, new controls, replacing existing variable air volume boxes with new terminal boxes, and replacing existing reheat coil.

On November 10, 2015, the Board of Supervisors awarded a job order contract (JOC) for repair, remodeling, and other repetitive work to be performed pursuant to the Construction Task Catalog to each of Sea Pac Engineering, Inc., John F. Otto, Inc., and Mark Scott Construction, each in the amount of \$2,000,000. On September 20, 2016, the Board approved a change order to increase the contract amount to \$4,500,000 for both John F. Otto, Inc., and Mark Scott Construction. This project is expected to be performed by one of the three JOC contractors. A task order catalogue has been prepared for the JOC Contractor to perform the Project site work and building hook-ups. In the event that it is not performed by a JOC contractor, the Public Works Department will go to the Board for approval of plans and specifications and authorization to advertise and solicit bids.

CONSEQUENCE OF NEGATIVE ACTION:

If the project is not approved, it would result in continued maintenance expenses, inconsistent interior thermal comfort for building occupants and increasing operating costs for the units age based inefficiency as well as lost energy savings from the existing pneumatic controls.

ATTACHMENTS

CEQA Documents

PUBLIC WORKS DEPARTMENT
INITIAL STUDY OF
ENVIRONMENTAL SIGNIFICANCE

PROJECT NUMBER: 250-1501 / WH105A
CP# 16-31

PROJECT NAME: 40 Douglas Drive, Martinez - HVAC Upgrades

PREPARED BY: Trina R. Torres *TR*

DATE: July 5, 2016

APPROVED BY: _____

TR

DATE: _____

7-14-16

RECOMMENDATIONS:

Categorical Exemption: 15301 [Class 1(d)]

Negative Declaration

Environmental Impact Report Required

Conditional Negative Declaration

The project will not have a significant effect on the environment. The recommendation is based on the following: The project consists of the minor alteration of existing public structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination, pursuant to section 15301(d) of the CEQA guidelines; (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety.

What changes to the project would mitigate the identified impacts: N/A

USGS Quad Sheet: Walnut Creek	Base Map Sheet #: G-12	Parcel #: APN#376-210-045
-------------------------------	------------------------	---------------------------

GENERAL CONSIDERATIONS:

- Location:** The project is located at the County-owned offices at 40 Douglas Dr., Martinez [Figures 1&2].
- Project Description:** The purpose of the project is to upgrade the heating, ventilation, and air conditioning (HVAC) system to County-owned offices (APN#376-210-045).

The project consists of installing a new rooftop air conditioning unit, repairing existing rooftop HVAC curb and failed structural supports, retrofitting HVAC controls, replacing existing variable air volume boxes with new terminal boxes, and replacing existing reheat coil.

General Plan Conformance may be necessary from the City of Martinez.

- Does it appear that any feature of the project will generate significant public concern?**

Yes No maybe (Nature of concern):

- Will the project require approval or permits by other than a County agency?**

Yes No

- Is the project within the Sphere of Influence of any city?** Yes. City of Martinez

Contra Costa County

40 Douglas Dr., Martinez - HVAC Upgrades

Proj. No. 250-1501 / WH105A

CP#16-31

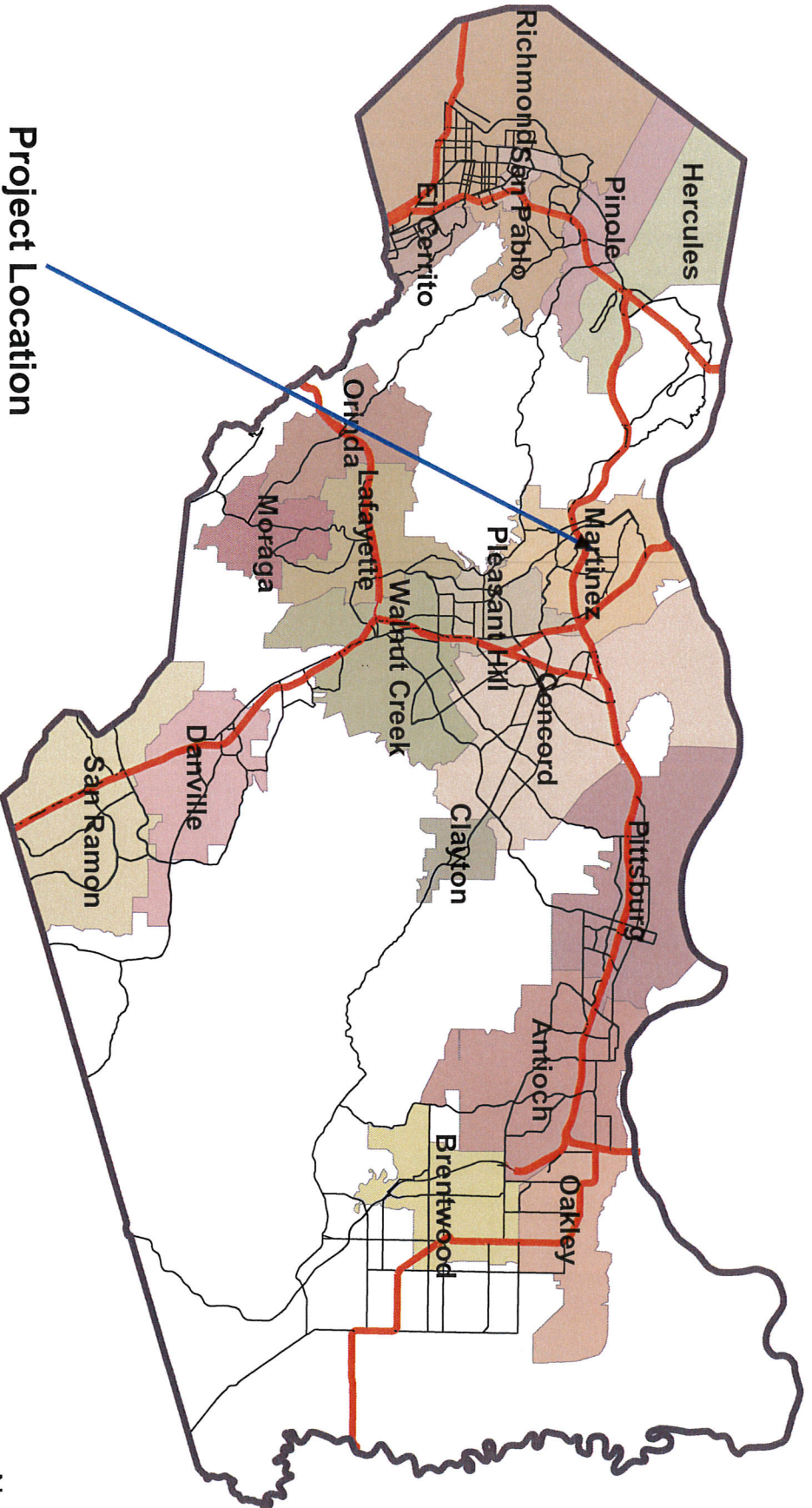


Figure 1

40 Douglas Dr., Martinez - HVAC Upgrades

Google Maps

40 Douglas Dr

250-1501/WH105A

CP#16-31



Figure 2

CALIFORNIA ENVIRONMENTAL QUALITY ACT
Notice of Exemption

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: Contra Costa County
Dept. of Conservation & Development
30 Muir Road
Martinez, CA 94553

County Clerk
County of: Contra Costa

Project Title: **40 Douglas Drive, Martinez – HVAC Upgrades**
Project No. 250-1501 / WH105A [CP# 16-31]

Project Applicant: **Contra Costa County Public Works Department**

Project Location – **Specific:** 40 Douglas Drive

Project Location: Martinez, California

Project Location – County: **Contra Costa**

Description of Nature, Purpose and Beneficiaries of Project: The purpose of the project is to upgrade the heating, ventilation, and air conditioning (HVAC) system at 40 Douglas Drive, Martinez (APN#376-210-045).

The project consists of installing a new rooftop air conditioning unit, repairing existing rooftop HVAC curb and failed structural supports, retrofitting HVAC controls, replacing existing variable air volume boxes with new terminal boxes, and replacing existing reheat coil. General Plan Conformance may be necessary from the City of Martinez.

Name of Public Agency Approving Project: **Contra Costa County**

Name of Person or Agency Carrying Out Project: **Contra Costa County Public Works Department**

Exempt Status:

- Ministerial Project (Sec. 21080(b) (1); 15268;
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption: Class 1(d)**
- Other Statutory Exemption, Code No.: _____
- General Rule of Applicability [Article 5, Section 15061 (b)(3)]

Reasons why project is exempt: The project consists of the minor alteration of existing public structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination, pursuant to section 15301(d) of the CEQA guidelines; (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety.

Lead Agency Contact Person: **Trina R. Torres - Public Works Dept.** Area Code/Telephone/Extension: **(925) 313-2176**

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

Signed by Lead Agency Signed by Applicant

AFFIDAVIT OF FILING AND POSTING

I declare that on _____ I received and posted this notice as required by California Public Resources Code Section 21152(c). Said notice will remain posted for 30 days from the filing date.

Signature

Title

Applicant:

Public Works Department
255 Glacier Drive
Martinez, CA 94553
Attn: **Trina R. Torres**
Environmental Services Division
Phone: (925) 313-2176

Department of Fish and Game Fees Due

- EIR - \$3,070.⁰⁰
- Neg. Dec. - \$2,210.²⁵
- DeMinimis Findings - \$0
- County Clerk - \$50**
- Conservation & Development - \$25**

Total Due: \$ **75.⁰⁰**
Total Paid \$ _____

Receipt #: _____



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Correct Board Order with San Ramon Valley Fire Protection District

RECOMMENDATION(S):

APPROVE clarification of Board action of December 15, 2016 (Item C.61), which approved and authorized the Health Services Director to execute a contract with San Ramon Valley Fire Protection District for providing fire services based education, training, patient safety and quality improvement services, to change the term from December 15, 2015 through December 14, 2016, with no change in the original amount not to exceed \$125,000.

FISCAL IMPACT:

This Contract is Funded 100% by Measure H Funding.

BACKGROUND:

On December 15, 2015, the Board of Supervisors approved Agreement #23-581 with SRVFPD for reimbursement for its payments to a Fire Services EMS Medical Director who provides fire services based education, training, patient safety and quality improvement for fire services providers within the Contra Costa EMS Systems.

The purpose of this Board Order is to correct the error in the term of the Agreement on the Board Order which read from July 1, 2015 through June 30, 2016. The correct term should be December 15, 2015 to December 14, 2016, as specified on the Agreement executed by the parties.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Patricia Frost,
925-646-4690

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

By: , Deputy

cc: Tasha Scott, M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this correction is not approved, the Contractor will not be able to be reimbursed for services provided for the months of July 1, 2016 through December 15, 2016 as was intended by the parities.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: November 15, 2016

Subject: Correct Board Order with San Ramon Valley Fire Protection District

RECOMMENDATION(S):

APPROVE clarification of Board action of December 15, 2015 (Item C.60), which approved and authorized the Health Services Director to execute a contract with San Ramon Valley Fire Protection District for providing electronic patient care records hosting and support services, to change the term from December 15, 2015 to December 14, 2016, with no change in the original amount not to exceed \$100,900.

FISCAL IMPACT:

This Contract is Funded 100% by Measure H Funding.

BACKGROUND:

On December 15, 2015, the Board of Supervisors approved Agreement #23-580 with SRVFPD for reimbursement for its payments to Definitive Networks, Inc. for providing electronic patient care records hosting and support services for the Contra Costa EMS System.

The purpose of this Board Order is to correct the error in the term of the Agreement on the Board Order which read from November 1, 2015 through October 31, 2016. The correct term should be December 15, 2015 to December 14, 2016 as specified on the Agreement executed by the parties.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Patricia Frost,
925-646-4690

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

By: , Deputy

cc: Tasha Scott, Marcy Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this correction is not approved, the Contractor will not be able to be reimbursed for services provided for the months of November 1, 2016 through December 15, 2016 as was intended by the parities.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra
Costa
County

To: Board of Supervisors
From: INTERNAL OPERATIONS COMMITTEE
Date: November 15, 2016

Subject: ABOLISHMENT OF THE PUBLIC AND ENVIRONMENTAL HEALTH ADVISORY BOARD

RECOMMENDATION(S):

1. ABOLISH the Public and Environmental Health Advisory Board.
2. Until such time that the Public Health Director and Health Services Director are prepared to make recommendations on an advisory body for public health issues, DIRECT the Clerk of the Board and the Health Services Department to remove references to PEHAB from the Board's Appointive List (the "Maddy Book") and the County's website, so as to minimize any confusion that might be caused by maintaining references to the obsolete advisory body.

BACKGROUND:

The Public and Environmental Health Advisory Board (PEHAB) was a 19-member community advisory body established by the Board of Supervisors in 1986 to:

1. Anticipate emerging health needs and initiate prevention programs.
2. Focus public health interventions in communities with greatest needs.
3. Balance available resources with growing needs; and
4. Advocate for increased County action to improve community health

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **11/15/2016** 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 15, 2016

Contact: Julie DiMaggio Enea
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Health Services Director, Public Health Director, Clerk of the Board (Maddy Book), IOC Staff

BACKGROUND: (CONT'D)

>

PEHAB, which when fully functioning met bi-monthly, has been inactive for several years. The last member appointment was made in May 2013 and the terms of office for all other seats have lapsed.

One year ago, as part of the Board's triennial review of its advisory bodies, the Internal Operations Committee recommended to the Board of Supervisors that strong consideration should be given to merging the PEHAB with the Hazardous Materials Commission (HMC). This recommendation was predicated on several pertinent facts: that the PEHAB had stopped meeting for an indefinite period, had no available staff support through the Health Services Department, had not maintained the roster of members (whose terms had expired), and did not submit a response to the triennial review survey.

In response to the merger suggestion, the Health Services Department later reported that the HMC and PEHAB missions were not compatible and recommended against a merger of the two bodies. The Department, last March, also requested time to examine with the newly appointed Public Health Director how best to modernize PEHAB to maintain its relevance; however, no further proposal was submitted to the IOC for consideration.

Until such time that the Public Health Director and Health Services Director are prepared to make recommendations on an advisory body for public health issues, the Internal Operations Committee recommends the dissolution of PEHAB and removal of references to it from the Board's Appointive List (the "Maddy Book") and the County's website, so as to minimize any confusion that might be caused by maintaining references to the obsolete advisory body.



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: November 15, 2016

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:

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.

Government Code Section 8630 requires 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 8, 2016 the Board of Supervisors reviewed and approved the emergency declaration.

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: 11/15/2016 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 15, 2016

Contact: Enid Mendoza, (925)
335-1039

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

By: , Deputy

cc: