

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**

**KAREN MITCHOFF**, *CHAIR*, 4TH DISTRICT  
**JOHN GIOIA**, *VICE CHAIR*, 1ST DISTRICT  
**CANDACE ANDERSEN**, 2ND DISTRICT  
**DIANE BURGIS**, 3RD 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.

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](http://www.co.contra-costa.ca.us).

**AGENDA**  
**March 20, 2018**

**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 Richard Bolanos.

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. *John Woolery v. City of Concord, et al.*, United States District Court, Northern District of California, Case No. C17-06786-SK
2. *Alireza Koochakhani, et al. v. Contra Costa County, et al.*, United States District Court,

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

Inspirational Thought- *"I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel."* ~ Maya Angelou

**CONSIDER CONSENT ITEMS** (Items listed as C.1 through C.46 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.**

**DISCUSSION ITEMS**

**D. 1** CONSIDER Consent Items previously removed.

**D. 2** PUBLIC COMMENT (2 Minutes/Speaker)

**D.3** CONSIDER accepting the Health Services Report on Implementation of Tobacco Control Ordinances to Protect Youth from Tobacco Influences. (Dan Peddycord, Public Health Director)

**D.4** CONSIDER AWARDING a Design Build-Contract to Hensel Phelps Construction Co., in an amount not to exceed \$95,813,000 for the construction of new Administration Building and a new Emergency Operations Center (EOC) and Public Safety Building. APPROVE and AUTHORIZE payment of a stipend of \$100,000 to Swinerton Builders, a California Corporation in accordance with the Request for Proposals dated October 2, 2017. (Eric Angstadt, Chief Assistant County Administrator)

**D. 5** CONSIDER reports of Board members.

**Closed Session**

***ADJOURN***

**CONSENT ITEMS**

**Road and Transportation**

**C. 1** APPROVE the Bailey Road/State Route 4 Interchange Non-Infrastructure Project and take related actions under California Environmental Quality Act, as recommended by the Public Works Director, Bay Point area. (100% Active Transportation Program Cycle 2 Funds)



- C. 2** APPROVE and AUTHORIZE the Chair, Board of Supervisors, to execute a contract amendment to Agreement No. 362 with the Contra Costa Transportation Authority, effective November 1, 2017, to increase the payment limit by \$47,500 to a new payment limit of \$802,900, for additional right of way services in connection to the I-80 San Pablo Dam Road Interchange Project, as recommended by the Public Works Director, San Pablo area. (100% Contra Costa Transportation Authority Funds)

### **Engineering Services**

- C. 3** ADOPT Resolution No. 2018/83 accepting completion of improvements for subdivision SD13-09352 for a project developed by Driftwood Community, LLC as recommended by the Public Works Director, Bay Point area. (No fiscal impact)
- C. 4** ADOPT Resolution No. 2018/88 approving the Road Improvement Agreement for development permit DP15-03040, for a project being developed by Nana Wall System, Inc., as recommended by the Public Works Director, North Richmond area. (No fiscal impact)
- C. 5** ADOPT Resolution No. 2018/89 approving the Subdivision Agreement (Right-of-Way Landscaping) for park acceptance PA14-00042 (cross-reference subdivision SD05-08971), for project being developed by Toll Brothers, Inc., as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (No fiscal impact)
- C. 6** ADOPT Resolution No. 2018/94 approving and authorizing the Public Works Director, or designee, to partially close a portion of Fred Jackson Way (northbound lanes only) between Chelsey Avenue and Grove Avenue, on March 21, 2018 through June 30, 2019 from 6:00 AM through 4:00 PM, for the purpose of construction logistics, North Richmond area. (No fiscal impact)

### **Special Districts & County Airports**

- C. 7** ADOPT Resolution No. 2018/99 to vacate three Contra Costa County Flood Control and Water Conservation District easements in connection to the Marsh Creek flood control channel to Griffith Lane, and take related actions under the California Environmental Quality Act, as recommended by the Chief Engineer, Brentwood area. (100% Applicant Fees)

### **Claims, Collections & Litigation**

- C. 8** DENY claims filed by Michael Dean, Farmers Insurance for John Rossi, Tyler Arron Gregory Revels, and Deborah Mei Rossi. DENY late claims filed by AAA Insurance for Nader Eghtesad and La'Shurn Ferrell.

### **Statutory Actions**

- C. 9** ACCEPT Board members meeting reports for February 2018.
- C. 10** APPROVE Board meeting minutes for February 2018, as on file with the Office of the Clerk of the Board.

### **Ordinances**

- C. 11** DIRECT the Conservation and Development Director to prepare updates to the County Tree Protection and Preservation Ordinance (Ch. 816-6) and the Heritage Tree Preservation District Ordinance (Ch. 816-4). (100% Land Development Fund)
- C. 12** ADOPT Ordinance No. 2018-9 amending the County Ordinance Code to exclude from the Merit System the new classification of Chief of Plant Operations-Exempt.

### **Appointments & Resignations**

- C. 13** ACCEPT the resignations of Kathryn Ames and Steve Birnbaum, DECLARE vacancies in the At Large #17 and #19 seats on the Advisory Council on Aging, and DIRECT the Clerk of the Board to post the vacancies as recommended by the Employment and Human Services Director.
- C. 14** APPOINT Jessica Thomas to the Walnut Creek Local Committee seat on the Advisory Council on Aging, as recommended by the Employment and Human Services Director.
- C. 15** REAPPOINT Larry Sweetser to the Technical Expert seat and Darryl Young to the At Large seat on the Local Enforcement Agency Independent Hearing Panel, as recommended by the Internal Operations Committee.
- C. 16** REAPPOINT Eric Brown to the East County City 1 seat on the Affordable Housing Finance Committee, as recommended by the Conservation and Development Director.

### **Appropriation Adjustments**

- C. 17** Emergency Services (0362): APPROVE Appropriation and Revenue Adjustment No. 5058 authorizing new revenue in the Sheriff's Office - Emergency Services (0362) in the amount of \$320,000 from the 2016 State Homeland Security Grant Program and appropriating it for the purchase of specialized forensic equipment in the Sheriff's Office. (100% State) (Consider with C.36)

### **Grants & Contracts**

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

- C. 18** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to apply for and accept grant funding from the California Employment Development Department in an amount not to exceed \$400,000 for the Supervised Population Workforce Training Program for the period May 1, 2018 through April 30, 2020. (50% Match - AB109 funding)
- C. 19** APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract amendment with Solano Transportation Authority, to increase the payment limit by \$50,000 to a new payment limit of \$938,505, to pay the County for additional right of way services for the I-80/I-680/SR-12 project, as recommended by the Public Works Director, Fairfield area. (100% Solano Transportation Authority)
- C. 20** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to apply for and accept Workforce Innovation and Opportunity Act Disability Employment Accelerator grant funding in an amount not to exceed \$350,000 from the California Employment Development Department to design, develop, and implement strategies that accelerate employment and re-employment for people with disabilities, for the period March 1, 2018 through February 29, 2020. (40% in-kind or cash match)
- C. 21** APPROVE and AUTHORIZE the Sheriff-Coroner, or designee, to execute a contract with the Oakley Police Department to reimburse the County for rendition and extradition services for the period May 1, 2018 through April 30, 2021. (100% Reimbursement revenue)

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

- C. 22** APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract with John K Takata Corp (dba Restoration Management Company) in an amount not to exceed \$2,500,000 to provide fire, water and mold mitigation services, for the period March 1, 2018 through February 28, 2021, Countywide. (100% General Fund)

- C. 23** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with Stephen Arnold, M.D., effective February 1, 2018, to increase the payment limit by \$127,000 to a new payment limit of \$1,602,000 to provide additional cardiology services at Contra Costa Regional Medical Center and Health Centers, for the period March 1, 2017 through February 29, 2020. (100% Hospital Enterprise Fund I)
- C. 24** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract with Metropolitan Van and Storage, Inc., in an amount not to exceed \$700,000 to provide archival records storage, and office furniture and equipment storage, for the period February 1, 2018 through January 31, 2020. (10% County, 48% State, 42% Federal)
- C. 25** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with Neogenomics Laboratories, Inc., effective February 1, 2017, to increase the payment limit by \$100,000 to a new payment limit of \$150,000 with no change to the term of September 1, 2016 through August 31, 2019, to provide additional outside laboratory testing services for Contra Costa Regional Medical Center and Health Centers. (100% Hospital Enterprise Fund I)
- C. 26** APPROVE and AUTHORIZE the Animal Services Director, or designee, to execute a contract with PetData, Inc., in an amount not to exceed \$750,000 for online processing of the County's animal licenses for the period April 1, 2018 through March 31, 2021. (100% License revenue)
- C. 27** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment effective April 1, 2018 with James Pak, M.D., Inc., to increase the payment limit by \$69,250 to a new payment limit of \$169,000 with no change to the term of September 1, 2015 through August 31, 2018, to provide additional anesthesiology services at Contra Costa Regional Medical Center and Health Centers. (100% Hospital Enterprise Fund I)
- C. 28** APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Ronald L. Leon, M.D., Inc., in an amount not to exceed \$174,720 to provide outpatient psychiatric services for County patients in East County for the period April 1, 2018 through March 31, 2019. (100% Mental Health Realignment)
- C. 29** APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Health Services Department, a purchase order with Interline Brands, Inc., in an amount not to exceed \$1,500,000 for janitorial supplies and minor equipment for Contra Costa Regional Medical Center and Health Centers for the period April 1, 2018 through March 31, 2020. (100% Hospital Enterprise Fund I)

- C. 30** APPROVE and AUTHORIZE the Director of Risk Management, or designee, to execute a contract including modified indemnification language with Desktop Alert, Inc., in an amount not to exceed \$210,000 to provide a desktop emergency alert notification for County staff for the period December 1, 2017 through December 31, 2021. (100% User Charges)
- C. 31** APPROVE and AUTHORIZE the County Administrator, or designee, to terminate the contract with PRI Management Group, Inc., which provided information technology project management and technical consultation services, effective at the close of business on March 21, 2018. (100% Restricted fines and forfeitures revenue)
- C. 32** APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract amendment with KinderCare Learning Centers, LLC, to increase the payment limit by \$183,999 to a new payment limit of \$254,999, to add 16 childcare slots for Early Head Start Childcare Partnership program services and 16 childcare slots for State General Childcare Development, with no change to the term of December 1, 2017 through June 30, 2018. (50.2% State, 49.8% Federal)
- C. 33** APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Employment and Human Services Director, a blanket purchase order amendment with Sysco Food Services, to extend the term to August 1, 2014 through December 31, 2020 and increase the payment limit by \$790,704 to a new payment limit of \$1,790,704, for food and non-food product items, equipment and supplies. (50% Federal, 50% State)

### **Other Actions**

- C. 34** CONSENT to the transfer of the limited partner interest in Danville Senior Housing Associates, L.P., from Union Bank of California, N. A., to BRIDGE Housing Ventures, Inc., and related actions to refinance Sycamore Place Apartments in Danville, as recommended by the Conservation and Development Director. (100% federal funds)
- C. 35** ACCEPT the 2017 annual Integrated Pest Management Program report, as recommended by the Transportation, Water and Infrastructure Committee.
- C. 36** APPROVE and AUTHORIZE the Purchasing Agent or designee to execute, on behalf of the Sheriff-Coroner, a purchase order with Trailerlogic in the amount of \$317,900 for specialized forensic equipment in the Sheriff's Office. (100% State) (Consider with C.17)

- C. 37** APPROVE the Autism Behavior Child Development Center Relocation Project and take related actions under the California Environmental Quality Act, as recommended by the Public Works Director, Concord area. (100% Hospital Enterprise Funds)
- C. 38** ACCEPT report on the Auditor-Controller's audit activities for 2017 and APPROVE the proposed schedule of financial audits for 2018, as recommended by the Internal Operations Committee.
- C. 39** ACCEPT the 2016/17 annual report from the Public Works Director on the Internal Services Fund for the County's Vehicle Fleet, as recommended by the Internal Operations Committee.
- C. 40** APPROVE the 2018-19 Head Start Recruitment and Enrollment Plan and the Community Services Bureau Admissions Priority Criteria for the early care and education programs, as recommended by the Employment and Human Services Director.
- C. 41** REFER to the Finance Committee a proposal by the Public Defender to participate in a regional undocumented immigration defense program with the San Francisco Public Defender's Office as the lead agency, as recommended by the County Administrator.
- C. 42** ADOPT Resolution No. 2018/108 updating and reaffirming the County Debt Management Policy, as recommended by the County Administrator. (No fiscal impact)
- C. 43** REFER the issue of Contra Costa County Mental Health Services Act/Proposition 63 Funding to the Family and Human Services Committee, as recommended by the County Administrator.
- C. 44** APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute legal documents to loan \$2,642,000 of HOME Investment Partnerships Act, and \$232,681 of Housing Opportunity for Persons with HIV/AIDs to SP Commons L.P., and grant \$1,000,000 in Community Development Block Grant funds to St. Paul's Episcopal Church and Resources for Community Development for the construction of St Paul's Commons in Walnut Creek, and ADOPT related findings under the California Environmental Quality Act. (100% Federal funds)
- C. 45** ADOPT Resolution No. 2018/106 authorizing the issuance of Multifamily Housing Revenue Bonds in an amount not to exceed \$12 million to financing the acquisition and rehabilitation of Antioch Renovations - Pinecrest Apartments and Terrace Glen Apartments, a 56-unit residential rental housing development, including 24 units located at 1945 and 1949 Cavallo Road and 32 units located at 104-106 West 20th Street and 35-107 West 20th Street in the City of Antioch, as

recommended by the Conservation and Development Director. (100% Special Revenue Funds)

- C. 46** ADOPT Resolution No. 2018/97 authorizing additional hours of operation at the El Cerrito Branch of the County Library, as recommended by the County Librarian. (100% City of El Cerrito funding)

### **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.

Subscribe to receive to the weekly Board Agenda by calling the Office of the Clerk of the Board, (925) 335-1900 or using the County's on line subscription feature at the County's Internet Web Page, where agendas and supporting information may also be viewed:

[www.co.contra-costa.ca.us](http://www.co.contra-costa.ca.us)



## STANDING COMMITTEES

The **Airport Committee** (Supervisors Diane Burgis and Karen Mitchoff) meets on the second Wednesday of the month at 11:00 a.m. at the Director of Airports Office, 550 Sally Ride Drive, Concord.

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

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

The **Internal Operations Committee** (Supervisors Diane Burgis and Candace Andersen) meets on the second Monday of the month at 1:00 p.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

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

The **Transportation, Water & Infrastructure Committee** (Supervisors Karen Mitchoff and Candace Andersen) meets on the second Monday of the month at 9:00 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

|  |                |            |           |
|--|----------------|------------|-----------|
| Airports Committee                               | April 11, 2018 | 11:00 a.m. | See above |
| Family & Human Services Committee                | March 26, 2018 | 10:30 a.m. | See above |
| Finance Committee                                | March 26, 2018 | 9:00 a.m.  | See above |
| Hiring Outreach Oversight Committee              | April 2, 2018  | 1:00 p.m.  | See above |
| Internal Operations Committee                    | April 9, 2018  | 1:00 p.m.  | See above |
| Legislation Committee                            | April 9, 2018  | 10:30 a.m. | See above |
| Public Protection Committee                      | April 2, 2018  | 10:30 a.m. | See above |
| Transportation, Water & Infrastructure Committee | April 9, 2018  | 9:00 a.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  
**CCE** Community Choice Energy  
**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  
**PACE** Property Assessed Clean Energy  
**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: Anna Roth, Health Services Director  
Date: March 20, 2018

Subject: Report on Implementation of Tobacco Control Ordinances to Protect Youth from Tobacco Influences adopted in July, 2017

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**RECOMMENDATION(S):**

CONSIDER accepting the Health Services Report on Implementation of Tobacco Control Ordinances to Protect Youth from Tobacco Influences.

**FISCAL IMPACT:**

A portion of the Prop 99 and Prop 56 funding Contra Costa Health Services receives for its Tobacco Prevention Program is allocated to coordinating and implementing the new ordinances. Tobacco Retailer licensing fees, currently \$287 per retailer, are also used to conduct outreach, education and compliance inspections with tobacco retailers on the ordinance amendments and new requirements.

**BACKGROUND:**

In July 2017, after a comprehensive review of youth tobacco influences in the retail environment and policy options to address those influences, the Board of Supervisors adopted two ordinances revising County Code to include 14 policy provisions that would serve to strengthen the County's ordinance to protect youth from tobacco influences and to help prevent youth from initiating tobacco use. Of particular concern were the marketing and availability of youth-friendly flavored tobacco products, small pack sizes of cigars and cigarillos, and density and location of tobacco retailers, since these contribute largely to youth exposure to tobacco influences and tobacco use. The Board of Supervisors directed that the new tobacco ordinances

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Daniel Peddycord,  
925-313-6712

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

By: , Deputy

cc: Denice Dennis, Tasha Scott, Marcy Wilhelm

## BACKGROUND: (CONT'D)

be implemented no later than January 1, 2018, and that staff report back on implementation of the new laws no later than March 2018.

The newly adopted tobacco control provisions are described below.

Under The Tobacco Product and Retail Sales Control Ordinance (incorporated into Chapter 445-2 of Health and Safety Code):

- a) A Tobacco Retailer License is required for all retailers selling traditional and/or emerging tobacco products, such as newer electronic smoking devices and “liquids” that were not included in the previous ordinance.
- b) The sale of flavored tobacco products, including menthol flavored cigarettes, is prohibited within 1,000 feet of schools, parks, playgrounds and libraries. (These areas are referred to as Youth Sensitive Areas).
- c) The sale of menthol flavored cigarettes is prohibited within 1,000 feet of schools, parks, playgrounds and libraries.
- d) A minimum pack size of ten is required for the sale of cigars, including little cigars and cigarillos. (Cigars priced at \$5 or more, including taxes and fees, are exempt from this provision).
- e) Pharmacies are not eligible for a Tobacco Retailer License, and hence, the sale of tobacco products is prohibited in pharmacies (as of 7/1/18).
- f) The number of retailers that can sell tobacco products is capped at the current number of licenses issued at the adoption of the ordinance.
- g) Tobacco retailers are required to check the ID of customers who appear younger than 27 prior to the sale of tobacco products.
- h) Tobacco retailers are required to comply with drug paraphernalia sales laws.
- i) Tobacco retailers are required to comply with storefront signage laws.
- j) Tobacco retailers who have their license suspended for violation of County, State or Federal law are required to remove tobacco advertising during the license suspension period.
- k) During a license suspension hearing, the time period that is reviewed for prior violations of the license is 60 months (5 years) when considering the length of a license suspension period under the law.

Under the Tobacco Retailing Businesses Ordinance (Chapter 88-26 of Zoning Code):

- l) New tobacco retailers are prohibited from operating within 1,000 feet of schools, parks, playgrounds and libraries.
- m) New tobacco retailers are prohibited from operating within 500 feet of new or existing tobacco retailers.
- n) New “Significant Tobacco Retailers”, including “vape” shops, hookah bars or smoke shops, are prohibited. (Significant Tobacco Retailers are retailers with 20% or more of floor or display area dedicated to tobacco products and/or tobacco paraphernalia).

Anticipated implementation activities for the new regulations were reported to the Board of Supervisors when the new regulations were under discussion. Most of proposed new regulations regarding sales of tobacco products are included in the Tobacco Retailer Licensing Ordinance, which is administered and enforced through the County’s Public Health Division. Implementation, including outreach and education activities, was expected to be integrated into ongoing Tobacco Retailer Licensing implementation activities conducted by the Tobacco Prevention Program staff. Specifically, implementation would include:

- Developing educational materials for direct mailing to all existing licensed tobacco retailers, including information on resources available to address business planning to comply with the new regulations.
- Working with the affected County departments to develop operational protocols and to assure that any intersecting ordinance requirements are addressed in communications to the public.

- Working with the Business License Office to review new license applications for approval and to provide educational materials through the Business License Office application and renewal mechanisms to both current and new retailers.
- Updating and maintaining the Tobacco Prevention Program webpages with the new regulations and educational materials, as well as both State and County information on Tobacco Retailer Licensing and requirements.
- Conducting site inspections, education and follow-up with owners if stores are not compliant with the new regulations.
- Collaborating with the Sheriff's Office to conduct youth decoy operations for compliance with PC308a, the 'no-sales of tobacco products under 21' law.
- Continuing to coordinate license suspension hearings for those retailers that have been found to be in violation of the law.

#### CHILDREN'S IMPACT STATEMENT:


Tobacco products are still being promoted to children through availability of youth-friendly flavored tobacco products and inexpensive small packs of these products; exposure to tobacco marketing in the retail environment; and the sale and marketing of tobacco products near schools and other youth sensitive areas. Implementation of the new County tobacco prevention ordinances discourage youth from tobacco use and promote healthier communities, which addresses the following children's outcome: Communities that are Safe and Provide a High Quality of Life for Children and Families.

#### ATTACHMENTS

Final Report





To: Contra Costa County Board of Supervisors  
From: Daniel Peddycord, RN, MPA/HA, Public Health Director, Contra Costa Health Services   
Re: Report on Implementation of Tobacco Control Ordinances to Protect Youth from Tobacco Influences adopted in July, 2017  
Date: March 20, 2018

### ***I. Background***

In July, 2017, after a comprehensive review of youth tobacco influences in the retail environment and policy options to address those influences, the Board of Supervisors adopted two ordinances revising County Code to include fourteen policy provisions that would serve to strengthen the County's ordinance to protect youth from tobacco influences and to help prevent youth from initiating tobacco use. Of particular concern were the marketing and availability of youth-friendly flavored tobacco products, small pack sizes of cigars and cigarillos, and density and location of tobacco retailers, since these contribute largely to youth exposure to tobacco influences and tobacco use. The Board of Supervisors directed that the new tobacco ordinances be implemented no later than January 1, 2018, and that staff report back on implementation of the new laws no later than March, 2018.

The newly adopted tobacco control provisions are described below.

Under The Tobacco Product and Retail Sales Control Ordinance (incorporated into Chapter 445-2 of Health and Safety Code):

- a) A Tobacco Retailer License is required for all retailers selling traditional and/or emerging tobacco products, such as newer electronic smoking devices and "liquids" that were not included in the previous ordinance.
- b) The sale of flavored tobacco products, including menthol flavored cigarettes, is prohibited within 1000 feet of schools, parks, playgrounds and libraries. *(These areas are referred to as Youth Sensitive Areas).*
- c) The sale of menthol flavored cigarettes is prohibited within 1000 feet of schools, parks, playgrounds and libraries.
- d) A minimum pack size of ten (10) is required for the sale of cigars, including little cigars and cigarillos. (Cigars priced at \$5 or more, including taxes and fees, are exempt from this provision.)
- e) Pharmacies are not eligible for a Tobacco Retailer License, and hence, the sale of tobacco products is prohibited in pharmacies *(as of 7/1/18)*.
- f) The number of retailers that can sell tobacco products is capped at the current number of licenses issued at the adoption of the ordinance.
- g) Tobacco retailers are required to check the ID of customers who appear younger than 27 prior to the sale of tobacco products.
- h) Tobacco retailers are required to comply with drug paraphernalia sales laws.
- i) Tobacco retailers are required to comply with storefront signage laws.
- j) Tobacco retailers who have their license suspended for violation of County, State or Federal law are required to remove tobacco advertising during the license suspension periods.
- k) During a license suspension hearing, the time period that is reviewed for prior violations of the license is 60 months (5 years) when considering the length of a license suspension period under the law.





Under the Tobacco Retailing Businesses Ordinance (Chapter 88-26 of Zoning Code):

- l) New tobacco retailers are prohibited from operating within 1000 feet of schools, parks, playgrounds and libraries.
- m) New tobacco retailers are prohibited from operating within 500 feet of new or existing tobacco retailers.
- n) New “Significant Tobacco Retailers”, including “vape” shops, hookah bars or smoke shops, are prohibited. (Significant Tobacco Retailers are retailers with 20% or more of floor or display area dedicated to tobacco products and/or tobacco paraphernalia.)

Anticipated implementation activities for the new regulations were reported to the Board of Supervisors when the new regulations were under discussion. Most of proposed new regulations regarding sales of tobacco products are included in the Tobacco Retailer Licensing Ordinance, which is administered and enforced through the County’s Public Health Division. Implementation, including outreach and education activities, was expected to be integrated into ongoing Tobacco Retailer Licensing implementation activities conducted by Tobacco Prevention Program staff. Specifically, implementation would include:

- developing educational materials for direct mailing to all existing licensed tobacco retailers, including information on resources available to address business planning to comply with the new regulations.
- working with the affected County departments to develop operational protocols and to assure that any intersecting ordinances requirements are addressed in communications to the public.
- work with the Business License Office to review new license applications for approval and to provide educational materials through the Business License Office application and renewal mechanisms to both current and new retailers.
- updating and maintaining the Tobacco Prevention Program webpages with the new regulations and educational materials, as well as both State and County information on Tobacco Retailer Licensing and requirements.
- conducting site inspections, education and follow-up with owners if stores are not compliant with the new regulations.
- collaborating with the Sheriff’s Office to conduct youth decoy operations for compliance with PC308a, the ‘no-sales of tobacco products under 21’ law.
- continuing to coordinate license suspension hearings for those retailers that have been found to be in violation of the law.

**II. Implementation of the Tobacco Product and Retail Sales Control and Tobacco Retailing Businesses Ordinances.**

A number of implementation activities have been conducted related to the new ordinance provisions. These are described below.

- A. Notification Letters.** Letters notifying retailers of the new tobacco retailer regulations were developed and mailed in September 2017 by Public Health Division Tobacco Prevention Program staff to all tobacco retailers in the unincorporated county listed with the County Business License Office (BLO) as of August 2017. Notification letters based on the four specific types of impacts of the new minimum pack size and flavored tobacco product regulations related to store type and proximity to specific Youth Sensitive Areas (YSAs) (i.e., schools, parks, playgrounds and libraries) were developed and tailored to each store (See grid of the four letter types below). The mailing also included a summary of the recently adopted ordinances including consequences of non-compliance and a handout on “Resources for Small Business Owners in Contra Costa County”.



| Store type & proximity to specific YSAs                   | Regulated products (i.e., no sales of the following)   |
|---|--|
| 1. <i>Pharmacy</i> within 1000ft of specific YSAs         | <ul style="list-style-type: none"> <li>• packs of less than 10 cigars (priced under \$5 per cigar, including taxes and fees) by 1/1/18</li> <li>• flavored tobacco products by 1/1/18</li> <li>• all tobacco products by 7/1/18</li> </ul> |
| 2. <i>Pharmacy</i> NOT within 1000ft of specific YSAs     | <ul style="list-style-type: none"> <li>• packs of less than 10 cigars (priced under \$5 per cigar, including taxes and fees) by 1/1/18</li> <li>• all tobacco products by 7/1/18</li> </ul>  |
| 3. <i>Other stores</i> within 1000ft of specific YSAs     | <ul style="list-style-type: none"> <li>• packs of less than 10 cigars (priced under \$5 per cigar, including taxes and fees) by 1/1/18</li> <li>• flavored tobacco products by 1/1/18</li> </ul>   |
| 4. <i>Other stores</i> NOT within 1000ft of specific YSAs | <ul style="list-style-type: none"> <li>• packs of less than 10 cigars (priced under \$5 per cigar, including taxes and fees) by 1/1/18</li> </ul>  |

**B. Retailer Calls.** Phone calls were made by Public Health's Tobacco Prevention Program staff in November 2017 to all 76 licensed retailers selling tobacco in the unincorporated county with an owner name and phone number listed with the Business License Office as of August, 2017 (i.e., 82% of all 93 licensed retailers selling tobacco jurisdiction-wide.) Owners and/or other designated representatives from 30 retailers (39% of those called) were reached by phone. Those reached by phone participated in a short survey to assess knowledge of the pack size and flavored tobacco product regulations as well as the compliance date and consequences of non-compliance with the new laws. At the end each call, Tobacco Prevention Program staff conducted brief education, and answered questions about, the regulations and provided staff contact information in case future questions arose.

Summary of Retailer Calls. The calls indicated limited retailer knowledge of the regulations, highlighting the need for information sent by mail about the new laws to be reinforced in person, both over the phone and through site visits. The calls also informed the development of user-friendly materials to describe the new regulations to retailers during subsequent site visits and to leave behind to educate owners, retail staff and customers. In addition, these calls also helped staff identify the appropriate person to contact about the new regulations, which in some cases were representatives overseeing regional and/or regulatory issues for the business rather than the owner. Lastly, the calls laid the foundation for future site visits by establishing a relationship and opening the lines of communication with those retailers reached by phone.

**C. Store Visits.** Store visits were conducted by Public Health staff in December 2017 and February 2018, before and after the 1/1/18 compliance date, with most of the 93 licensed tobacco retailers selling tobacco in the unincorporated county.<sup>1</sup> Close to half (46 of 93) of these stores were within 1000 feet of a Youth Sensitive Area.

| Visit Dates | Number of stores visited | % of all stores (n=93) | % of all stores near specific YSAs (n=46) |
|-------------|--------------------------|------------------------|---|
| Dec 2017    | 79 <sup>2</sup>          | 85%                    | 91%                                       |
| Feb 2018    | 86 <sup>3</sup>          | 92%                    | 98%                                       |

<sup>1</sup> Store list based on 8/24/17 BLO list and 10/10/17 Board of Equalization list.

<sup>2</sup> Of the 14 retailers not visited/observed in December 2017, seven were called and educated by phone and/or outside of the store. Two others were called but not reached. The remaining 5 retailers had unclear local license status at the time of the visits (3) or were determined to be closed/not selling tobacco products and/or paraphernalia at the time of the visits but subsequent information indicated they sell tobacco (2) and are included in the list of 93 licensed stores for ongoing implementation efforts. NOTE: Another seven retailers were determined to be closed/no longer selling tobacco and are no longer included on the list of licensed retailers.

<sup>3</sup> Of the 7 retailers not visited/observed in February 2018, one wasn't selling tobacco at the time of the visits and 6 weren't visited due to time constraints and/or perceived safety issues including 4 country clubs/resorts.



During these visits staff observed whether retailers sold packs of less than 10 cigars priced under \$5/cigar including taxes and fees, and/or flavored tobacco products and noted compliance with another state and local law prohibiting self-service displays of tobacco products. In order to create a list of current *Significant Tobacco Retailers*, it was also noted on the survey if the store had 20% or more of its floor or display area dedicated to the sale of tobacco products and/or tobacco paraphernalia. At the end of each store observation, staff provided retailers with a checklist indicating whether the store met the new regulations (i.e., no packs of less than 10 cigars priced under \$5/cigar including taxes and fees (all stores) and no flavored tobacco products (stores near specific YSAs)). The checklist was signed and dated by Tobacco Prevention Program staff and the retail “person in charge” during the visit to confirm receipt, and was left with other educational materials including fact sheets about the regulated products, an overview of the new tobacco retailer licensing laws, required STAKE Act signage and Tobacco Prevention Program staff business cards. If the “person in charge” was not the owner or manager, staff asked that the materials be shared with the owner/manager. The education materials were modified between the December 2017 and February 2018 visits to clarify issues that arose during earlier visits about the pack size regulations, including the allowable number of cigars per pack, the minimum price per cigar for packs of less than 10 cigars, and self-service display ban violations. During the February site visits, Tobacco Prevention Program staff also photographed examples of products for sale that violated the new regulations in order to document non-compliance with the new laws and to inform follow-up letters to retailers.

Summary of Site Visits. The findings indicated that BEFORE the compliance date MOST stores visited sold packs of less than 10 priced under \$5/cigar (76% of all stores visited) and flavored tobacco products (95% of stores visited near specific YSAs); FEWER did so AFTER this date (17% of all stores visited and 22% of stores visited near specific YSAs, respectively). The February 2018 compliance checks indicated that overall, 74% of stores visited were compliant with the pack size and flavored product regulations.

A greater percentage of stores visited sold flavored tobacco products before the compliance date versus after (97% vs 58%). This difference was driven by stores near specific YSAs (i.e., those required to cease sales of these products). Self-service displays were also found in more stores visited in December 2017 vs February 2018 (15% vs 9%).

The store site visits were essential to communicating the new regulations to retailers, as many retailers reported that they did not remember receiving the mailing on the new regulations, or that the corporate office contact on file did not communicate the new regulations to the local business.

**D. Tobacco Retailer Density and Location Regulations.** The new law prohibits new tobacco retailers from locating within 1000 feet of schools, parks, playgrounds and libraries, and within 500 feet of another tobacco retailer. While this law is in the Zoning Code, the Public Health Department coordinates all aspects of the license approval process to assure that all tobacco related regulations are complied with prior to annual licensing of tobacco retailers and over the annual licensing period. Public Health and Department of Conservation and Development staff developed a process for license approval that includes respective departmental responsibilities for mapping and determining applicant distance to schools, parks, playgrounds and libraries; assessing if the applicant is complying with the provisions prohibiting significant tobacco retailing, hookah lounges and smoking lounges; tracking the number of licensed tobacco retailers to ensure implementation of the “capping” provision; conducting a standard zoning check; and reviewing and approving the application for tobacco retailing licensure.



**E. Technical Assistance to Retailers.** In addition to the mailing, phone calls and site visits, Tobacco Prevention Project staff provided technical assistance to numerous tobacco retailers in response to the new tobacco sales laws. Staff responded to over 95 phone calls, office visits and emails from tobacco retailers to clarify what laws applied to their store. Callers typically asked for clarification on which products could and could not be sold (e.g., what was considered a flavored tobacco product, clarification of the minimum pack-size for cigars). Since the flavored tobacco products regulations are connected to tobacco retailer location, 27 calls resulted in requests to verify the tobacco retailer location with a verification map. Public Health's Epidemiology, Planning, and Evaluation (EPE) staff created the requested maps which were then provided to the store owners who made the request. Requests for information came from owners and employees of tobacco retailing businesses, tobacco company representatives, and a tobacco retailing association representatives. On two occasions, Tobacco Prevention Program staff provided a list of retailers that were affected by the new laws (with public information only) to those that requested it. Over the course of technical assistance and education to retailers during phone calls, site visits, and emails, several retailers expressed concern that the new flavored tobacco product regulations were "unfair" as they did not apply to all tobacco retailers across the unincorporated county, while other retailers expressed appreciation to staff for conducting extensive outreach and education.

### ***III. Update on Collaborations between Health Services and Sheriff's Office on Enforcement of the No-Sales to persons under 21 law.***

A Memorandum of Understanding between Public Health and the Sheriff's Department is underway to conduct regular young adult decoy operations to enforce the no-sales to persons under 21 law. Public Health and Sheriff's Office staff have met with staff from the District Attorney's office to develop a process for handling citations under the County's Tobacco Retailer Licensing Law (Chapter 445-2). The State Food and Drug Branch, CA Department of Public Health and other CA jurisdictions are being consulted to identify best practices for decoy operations since the minimum age of sale law has changed to 21, and to include emerging products as part of the attempted decoy purchases.

### ***IV. Technical Assistance to Cities.***

Members of the Board directed staff to communicate with the cities on these new tobacco control policies. A presentation has been scheduled for the Contra Costa Conference of Mayors for June. Since July, 2017, technical assistance has been provided to the City of Richmond, and the City Council there has directed city staff to write an ordinance that addresses youth tobacco influences, including prohibiting the sale of flavored tobacco products citywide and requiring a minimum pack size of 20 for cigars. Education and information has also been provided to individual city council members in San Pablo and Concord, and the City of San Pablo anticipates a presentation to the full City Council on March 19<sup>th</sup>. The Danville City Council has also discussed options for new youth tobacco protections similar to the County's, and technical assistance has been offered to staff there as well.

### ***V. Next Steps in Implementation and Increasing Compliance.***

Staff has identified a number of next steps to fully implement the new laws and increase compliance by the end of the year. These include:

- A. Letters to retailers are being developed and mailed to owners describing the compliance results of the February site visit at their store location and what needs to be done in order to come into compliance. Retailers who were fully in compliance at the February site visit will also be sent a letter thanking them for compliance with the law. A new brochure describing the new law and illustrating sample products that cannot be sold is in development and will be included in these mailings.



- B. Educational materials that have been developed, including the new brochure, list of new tobacco retailer regulations, and other resources will be posted to the Health Services website and the Business License Office website. Some materials will also be available at the Department of Conservation and Development.
- C. Resources are available to assist small businesses in revising their business plans in order to comply with any new regulations, and County staff will continue to identify additional resources to support small businesses in this transition.
- D. Pharmacies will be notified again about the new law prohibiting sale of any tobacco products in Pharmacies as of July 1, 2018. Site visits will be conducted in July to confirm compliance with this provision of the ordinance.
- E. Public Health staff will work with the Business License Office to include notice of the new tobacco retailing laws in the Business License Application and Renewal materials.
- F. Compliance Site Visits to all licensed tobacco retailers will be conducted again by the end of the year to check for ongoing compliance with the ordinance.
- G. Report back to the Family and Human Services Committee annually on implementation of the ordinance, including successes and challenges in implementation.



# Contra Costa County

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: Contract with Hensel Phelps Construction Company

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## **RECOMMENDATION(S):**

AWARD a Design-Build Contract to Hensel Phelps Construction Co., a Delaware General Partnership, in an amount not to exceed \$95,813,000, for the design and construction of a new County Administration Building and a new Emergency Operations Center (EOC) and Public Safety Building.

APPROVE and AUTHORIZE the County Administrator, or designee, to execute the Design-Build Contract after the Public Works Director has received the required insurance, bonds, and Guaranty from Hensel Phelps Construction Co.

AUTHORIZE the County Administrator, or designee, to approve final plans, specifications, and design documents necessary to implement and construct the Contra Costa County Administration Building and Emergency Operations Center/Public Safety Building Project described in Project Document 011110 (Summary of Work), Project Document 011114 (Summary of Work – Design Services and Deliverables), and the Project Bridging Documents.

APPROVE and AUTHORIZE payment of a stipend of \$100,000 to Swinerton Builders, a California Corporation in accordance with the Request for Proposals dated October 2, 2017.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Eric Angstadt  
925.335.1009

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

By: , Deputy

cc:



### FISCAL IMPACT:

100% General fund.

### BACKGROUND:

The County Administration Building at 651 Pine Street was built in the early 1960's and has exceeded its useful life. The current building, which houses the County Administrator's Office, County Counsel's Office, Human Resources, Labor Relations, Sheriff's Administration, Internal Affairs and Recruitment is out of date for a modern work environment. The floors in the tower portion of the building are small and cause departments to be broken up among two or three floors. The current EOC is housed in a former fleet maintenance building. The linear layout is not ideal for emergency operations. There is approximately \$25 million dollars in deferred maintenance on the two facilities.

The County has been looking to replace these two facilities off and on for the past 30 years. The project began in earnest in May, 2016 with an effort to identify sites and conceptual designs for the two buildings. On February 7, 2017, the Board approved a downtown Martinez site for the new Administration Building, and to site the new EOC/Public Safety building directly west of the existing EOC near the intersection of Glacier and Muir Drives in Martinez. At the same meeting, the Board authorized the Public Works Director to undertake a two-step Request for Qualifications (RFQ) and Request for Proposal (RFP) process to solicit design-build contractors to design and build the new Administration Building and new EOC.

County's design consultant, RossDrulisCusenbery Architecture, Inc. prepared conceptual design level documents for the new EOC, and design consultants KMD Architects prepared the same for the new Administration Building. The Design-Build procurement process began in October, 2017, and the prequalification process was completed in November, 2017. The project RFP was issued on December 8, 2017. Final proposals were received by the County on January 25, 2018 and the "best value" evaluation was completed as described below in the Requests for Proposal / Selection Process Section below.

### **Request for Qualifications (RFQ):**

The Public Works Department released the RFQ on October 2, 2017. The RFQ release was communicated to known contractors, including those in the Local Vendor Database, advertised in the Daily Builder and published in the Contra Costa Times. It was posted to the PWD Plan Room which is accessed via link on the Contra Costa County website under the Contracting Opportunities page. A Pre-RFQ conference for all interested vendors was held on October 12, 2017.

The RFQ required that a design-build team describe their outreach efforts to include minority business enterprises, woman-owned business enterprises, and small, local, disabled veterans, and other business enterprises as part of their subcontractors. The RFQ also required the design-build teams to provide references from past projects. Specific questions included: quality of personnel and supervision, adherence to project schedule and budget, timely payment to subcontractors and suppliers, and adequacy of equipment.

The County received responses from two Design-Build Entities, Hensel Phelps Construction Co. and Swinerton Builders. The County Administrator's Office, in coordination with Public Works Department staff and Vanir Construction Management, Inc. reviewed the information submitted and determined that both firms met or exceeded the RFQ qualifications requirements.

### **Request for Proposals / Selection Process:**

On January 25, 2018 the Public Works Department received proposals from Hensel Phelps Construction Co. and Swinerton Builders. A five person selection committee consisting of Chief Assistant County Administrators Eric Angstadt and Tim Ewell, Undersheriff Mike Casten, Capital Projects Division Manager Ramesh Kanzaria and Ron Mastalski, Project Manager with Vanir Construction Management. Both proposals were competitive and the selection committee met with each proposing group multiple times.

On February 2, 2018, the County issued a Request for Supplemental Information (RSI) to the two Design-Build entities. The purpose of the RSI was to obtain additional information necessary for the County to determine whether the proposals were responsive, balanced and without defect. Responses to the RSI were submitted on February 9, 2018.

Upon submission of the information requested in the RSI, the County completed the proposal evaluation process. The selection committee evaluated the two proposals based on several criteria as outlined in the RFP Bridging Manual for Design/Build Services, Document 002100 (Request for Proposals from Bidders), Section 20 (Evaluation Factors), attached to this board order.

In summary, the best value proposal evaluation process included two categories of factors: (1) the Evaluation Factor Categories evaluated on a “favorable / unfavorable” basis as follows:

- A. Green Building Criteria/LEED-NC Silver or Higher
- B. Skilled Labor and Safety Record
- C. Schedule Compliance - a realistic plan to achieve the Project completion date

and (2) points Evaluation Factor Categories with points assigned as follows:

- A. Subconsultant/Subcontractor Outreach – (10 available points)
- B. Bridging Documents Conformance – (20 available points)
- C. Design & Construction Qualifications – (25 available points)
- D. Best Value Enhancements – (20 available points)
- E. Interview / presentation questions – (25 available points)

An additional 10 points was available to bidders if all three “favorable / unfavorable” factors were scored as “favorable.” Each member of the selection team independently filled out a scoring sheet for each proposal with a maximum of 110 points available. The scores from each panel member were added together giving a total score for each proposal with a maximum of 550 points. As described in the RFP, “The qualifying Bidder with the maximum points will be recommended for the award of the Contract.”

The results of the scoring process were Hensel Phelps was the highest rated proposal with 487.25 points, and Swinerton was second with 457.25 points. Based on their highest scoring proposal, the selection committee recommends Hensel Phelps Construction Co. as the best value for Contra Costa County citizens.

The contractor will be required to enter into a Project Labor Agreement in connection with the services to be performed under the contract.

## **Project Features**

One of the advantages of using a Design Build method of procurement is that the designs can continue to evolve which allows additional improvements and value to the County as we move forward with the

project.

For the Administration Building the following major additions and improvements are part of the proposed contract:

LEED Gold rating

Building raised five feet to provide extra protection from flooding and sea level rise

Interior grand staircase

For the EOC/Public Safety Building the following major additions and improvements are part of the proposed contract:

LEED Gold rating

Revised lecture hall architecture to improve the entry of the facility

Increased landscape/hardscape to create an arrival plaza off Glacier Drive

Improvements to existing EOC to allow reuse by Sheriff's Department including an armory

Both buildings have many other smaller improvements and additions and we expect to improve the design as we move forward into construction. With the new solar arrays the Board of Supervisors approved for the parking lot behind 651 Pine Street, both buildings are close to being Zero Net Energy facilities. Zero Net Energy buildings generate as much energy as they consume in a given year. As we move forward with the project we will look for additional energy savings in the design, as well as additional generating opportunities, to see if we can close the remaining gap for each building.

#### CONSEQUENCE OF NEGATIVE ACTION:

Not approving the contract would the construction of two needed facilities potentially increasing the cost to construct them in the future.

#### ATTACHMENTS

Request for Proposals-Section 20 (Evaluation Factors)

2018 PP Presentation-New Buildings

as may be requested in this Document 002100 (Request for Proposals from Bidders), Bidder's interview, or any other information provided or discovered prior to the Notice of Award.

- 19.9 The County may conduct any investigations the County deems necessary to assist it in its evaluation of any Proposal and to establish the Bidder's responsibility, qualifications and financial ability (and that of its proposed subcontractors, suppliers, and other persons and organizations) to perform and furnish the Work in accordance with the Contract Documents and Bidder's Proposal, to County's satisfaction, and within the prescribed time. County shall have the right to communicate directly with Bidder's surety regarding Bidder's bonds.
- 19.10 County will determine at its sole discretion whether a Proposal is responsive and whether a Bidder is responsible.
- 19.11 The County will resolve any discrepancies between (a) the indicated sum of any column of figures and the correct sum of those figures in favor of the correct sum, and (b) written words and figures, or written words and numerals, in favor of the written words.

20. **EVALUATION FACTORS.**

- 20.1 The County will evaluate each Proposal based on two categories of "Factors," as described below. The first group of Factors, identified in paragraph 21.2 below, will be evaluated on a "favorable/unfavorable" basis, with a Bidder needing to achieve a "favorable" rating for a minimum of any two (2) evaluation factors. Any Bidder not achieving a favorable rating for a minimum of any two (2) Factors identified in paragraph 21.2 below shall be deemed nonresponsive, and may be ineligible for award of Contract. Any bidder achieving a "favorable" rating for all three (3) evaluation factors identified in paragraph 21.2 below, will receive a 10-point scoring bonus. (Points to be added to scoring outlined in paragraph 21.3 below) The second category of Factors, identified in paragraph 21.3 below, will all be evaluated on a "points" basis. The qualifying Bidder with the maximum points will be recommended for award of the Contract.

- 20.2 The Factors to be evaluated on a "favorable / unfavorable" basis are as follows:

Evaluation Factor Categories

Standing

- |   |                         |
|---|-------------------------|
| A. Green Building Criteria/LEED-NC Gold or Higher | favorable / unfavorable |
| B. Skilled Labor and Safety Record                | favorable / unfavorable |
| C. Schedule Compliance                            | favorable / unfavorable |

- A. **Green Building Criteria/LEED-NC Gold.** Each Bidder whose Proposal demonstrates that it will achieve all Project green building requirements, including a LEED-NC Rating System™ Version 4.0 Gold certification (or higher) from the U.S. Green Building Council shall be deemed favorable. Bidder shall submit its Plan to Achieve Green Building Criteria/LEED-NC Gold including, without limitation, completed copies of the "Proposed Green Building Criteria for LEED Rating" and "Proposed Best Value Enhancements" forms attached hereto, as part of the Bidder's Proposal.
- B. **Skilled Labor Availability & Safety Record.** Each Bidder who certifies truthfully in Document 004540 (Bidder Certifications) that (i) it is a party to an agreement with a registered apprenticeship program approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years (provided that this

graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of Public Contract Code § 20133), and provides a copy of that agreement along with a certification that it is true and correct and in full force and effect, and (ii) its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average Total Recordable Injury/Illness rate and average lost work rate for the most recent three-year period do not exceed the applicable statistical standards for its business category (or if the Bidder is a party to an alternative dispute resolution system as provided for in Labor Code § 3201.5) shall be deemed "favorable."

- C. Schedule Compliance.** Bidder shall provide County with a proposed Project CPM Schedule in accordance with Section 013216 (Schedules and Reports) showing a realistic plan to achieve the Project completion date in accordance with Document 005200 (Agreement). Bidders who fail to satisfy the County that it will meet the Project completion date will receive an unfavorable evaluation for schedule compliance.

20.3 The Factors to be evaluated based on numerical points are as follows:

| <b>(110 Points Available - Reference Paragraph 20.1)</b> |  | <b><u>Available</u></b> |
|--|--|-------------------------|
| <b><u>Number</u></b>                                     | <b><u>Evaluation Factor Categories</u></b> | <b><u>Points</u></b>    |
| 1  | Subconsultant/Subcontractor Outreach       | 10                      |
| 2  | Bridging Documents Conformance             | 20                      |
| 3  | Design & Construction Qualifications       | 25                      |
| 4  | Best Value Enhancements                    | 20                      |
| 5  | Interview/Presentation Questions           | <u>25</u>               |
|  | Subtotal                                   | 100                     |

1. **Subconsultant/Subcontractor Outreach (10 points)** Bidders whose Proposal demonstrates that the Project, if designed and constructed as proposed by the Bidder (including Bidder's proposed Subconsultant/Subcontractor Procurement Plan), would likely meet or exceed all of the goals expressed in Document 002219 (Construction Outreach Program) shall receive the Maximum Points indicated for this Category. Any Bidder whose Proposal demonstrates, as determined by the County, that the Project, if designed and constructed as proposed by the Bidder, would likely not meet all of the goals expressed in Document 002219 but, nevertheless contains good faith documentation as required by Document 002219, shall receive fewer points.
2. **Bridging Documents Conformance (20 points)** Bidders shall submit a Bridging Document Conformance Proposal, containing the elements specified below, for evaluation by the applicable Review Panel. The elements of that proposal shall be evaluated as follows:
  - a. **Program Review** - 20% of total Category points.
  - b. **Project Structural Systems performance for seismic safety** - 20% of total Category points.
  - c. **M/E/P Systems** - 20% of total Category points.
  - d. **Building Aesthetics** - 20% of total Category points.
  - e. **Sustainable Design/Life-Cycle Costing** - 20% of total Category points.

3. **Design & Construction Qualifications (25 points)** Bidders shall submit a separate proposal with their team qualifications (see paragraph 19.1 above). The elements of that proposal shall be evaluated as follows:
    - a. **Similar Project Experience** - 15% of total Category points.
    - b. **Bidder Financial Strength** - 15% of total Category points.
    - c. **Project Management Team** - 25% of total Category points.
    - d. **County Administration & EOC/PSB Experience** - 20% of total Category points.
    - e. **Integrated Team** - 25% of total Category points.
  4. **Best Value Enhancements (20 points)** Bidders shall complete one Best Value Enhancement Form for **each** proposed Enhancement and include it as part of its Proposal. Bidders shall include a listing of each Project enhancement measure they commit to include in the Contract Sum identified in Article 3. The enhancements shall provide measures and other items beyond the minimum requirements specified in the Bridging Documents. County shall evaluate each Bidder's Best Value Enhancement Forms to determine the points for this Category. Bidder's failure to submit Best Value Enhancement Forms or provide any Project enhancements will result in the Bidder's receipt of zero (0) points for this Category. County will determine the appropriate Bidder points based on the supplied information. Each measure shall be listed in one of the following subcategories. In addition, Bidder shall provide the full cost associated with each proposed measure and a short description of the measure's Project benefit(s) and value enhancement in the supplied Best Value Enhancement Form. The respective subcategory weighting is as follows:
    - a. **Sustainable Design/Life-Cycle Cost** - 20% of the total Category points. Specify Bidder's creative design approaches to improve upon the life-cycle costs.
    - b. **M/E/P Systems Upgrades** - 30% of total Category points. Specify the additional measures to be provided by Bidder beyond the Project requirements.
    - c. **Schedule** - 30% of total Category points. Specify Bidder's guaranteed completion date for the project and the number of calendar days in advance or beyond the Project's official completion date. Provide a short narrative on Bidder's plan and any associated cost for achieving the proposed accelerated completion date.
    - d. **Other** - 20% of total Category points. Specify Bidder's creative design or construction approaches to improve upon the overall character, quality, or functionality of the buildings that don't fall into the sub-categories listed above.
  5. **Interview/Presentation (25 points)** Following the County's technical review of each Proposal, Bidders will be invited to present their Proposals to the County. During that Interview/Presentation, the County may, at its discretion, award up to twenty-five (25) points based on its determination that a Proposal will provide the Best Value to the County for the design and construction of the Project.
21. **NOTICE OF INTENT TO AWARD; PROPOSAL PROTEST.** If County issues Document 005100 (Notice of Intent to Award), County will use reasonable effort to deliver by electronic mail a copy thereof to all Bidders who submitted satisfactory Proposals no later than the first Business Day after issuance, although any delay or failure to do so will not extend the Proposal protest deadline. Any Proposal protest must be submitted in writing to Ramesh Kanzaria at Contra Costa County Department of Public Works at the address in Article 2 (Contact Information) above, before 2:00 p.m. (with the time determined by the time-stamp procedure described in Article 1 (Receipt of Proposals from Bidders) above) of the fifth (5th) Business Day following issuance of Document 005100. Protests must conform to the following:
- 21.1 The initial protest document must contain a complete statement of the specific basis (or bases) for the protest.



# BOARD OF SUPERVISORS

## CONTRA COSTA COUNTY

New Administration Building and  
Emergency Operations Center / Public Safety Building  
March 20, 2018



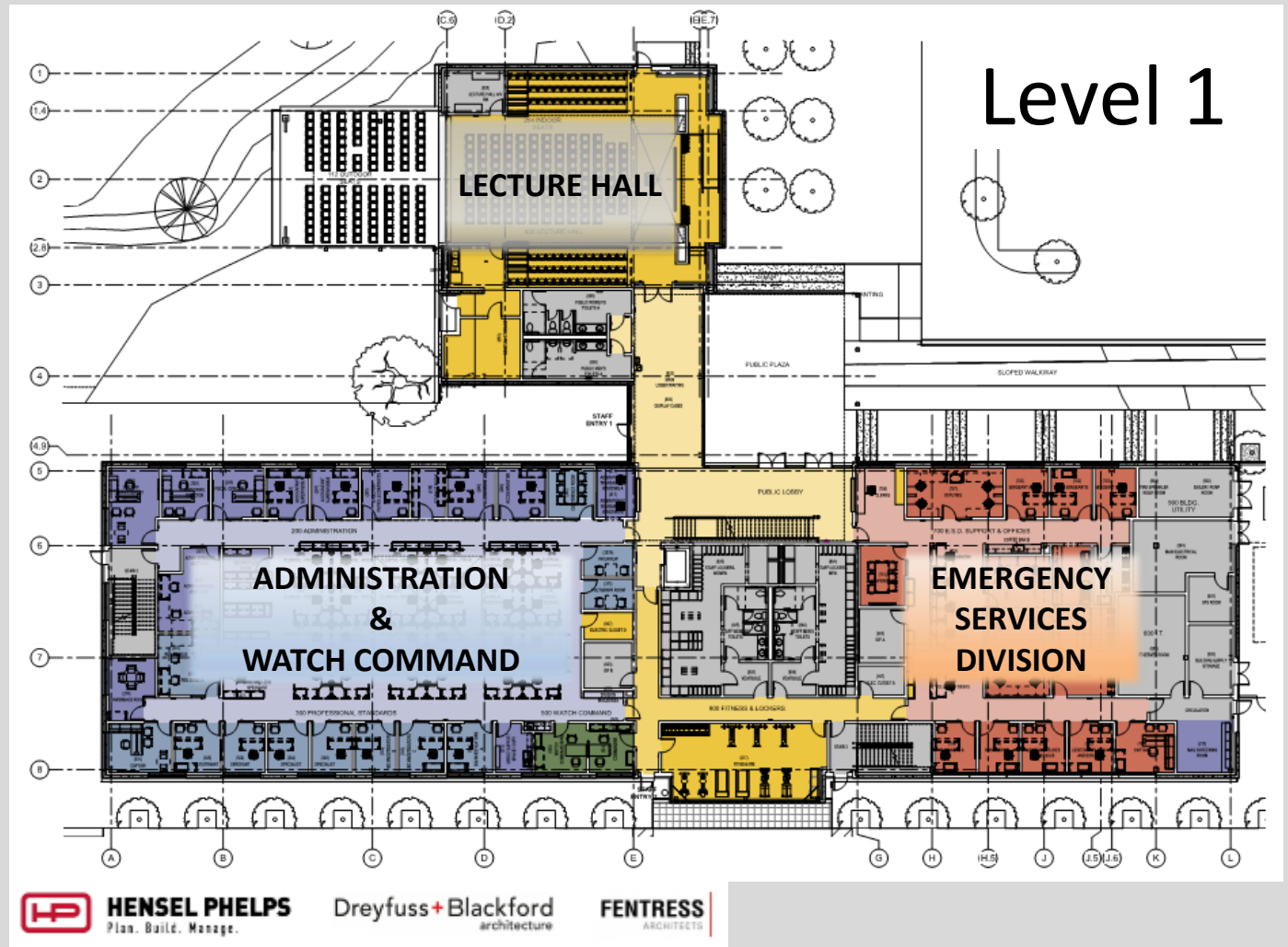
Contra Costa County  
Public Works  
Department





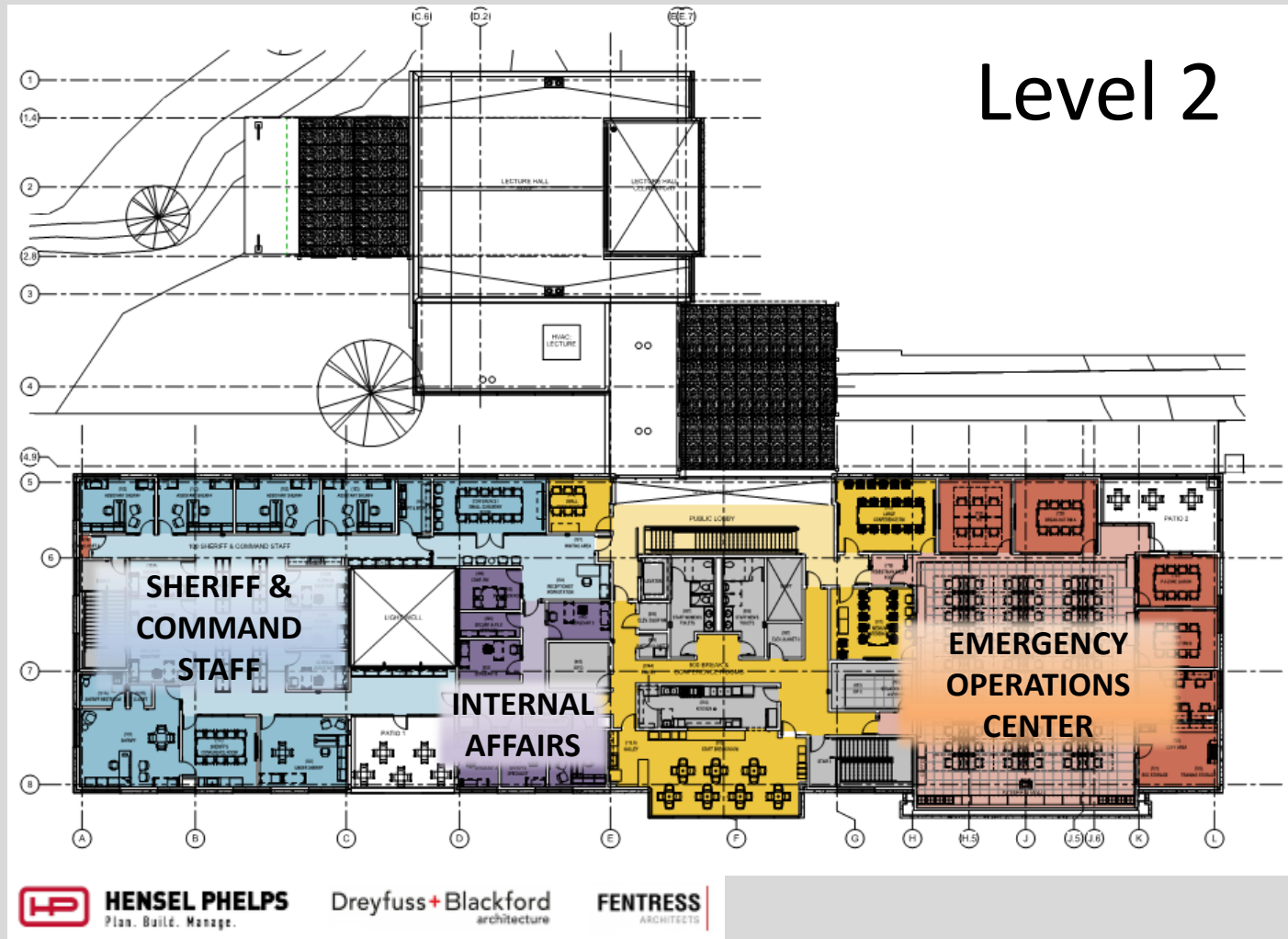
# Emergency Operations Center & Public Safety Building

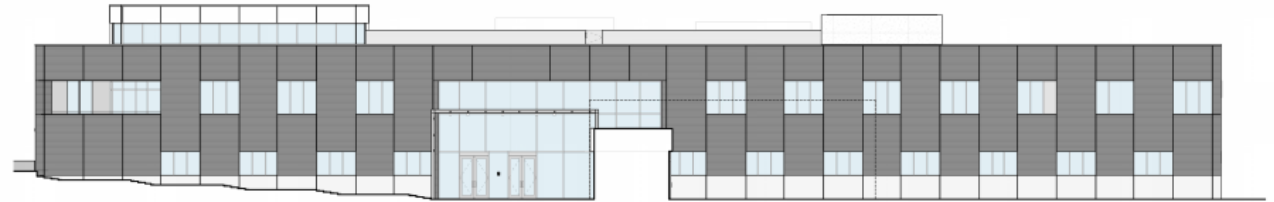




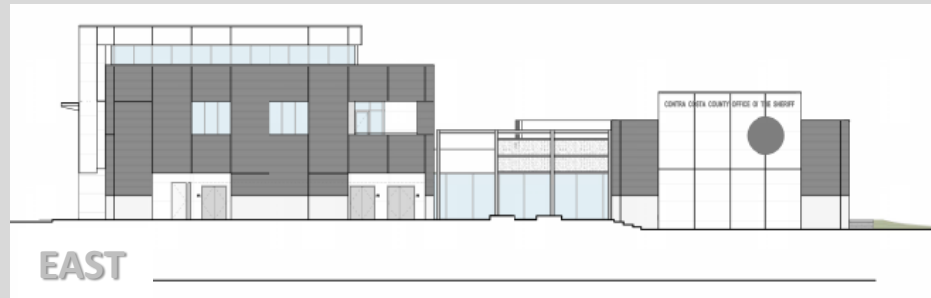


# Level 2





NORTH



EAST



SOUTH

## Elevations





# New Administration Building

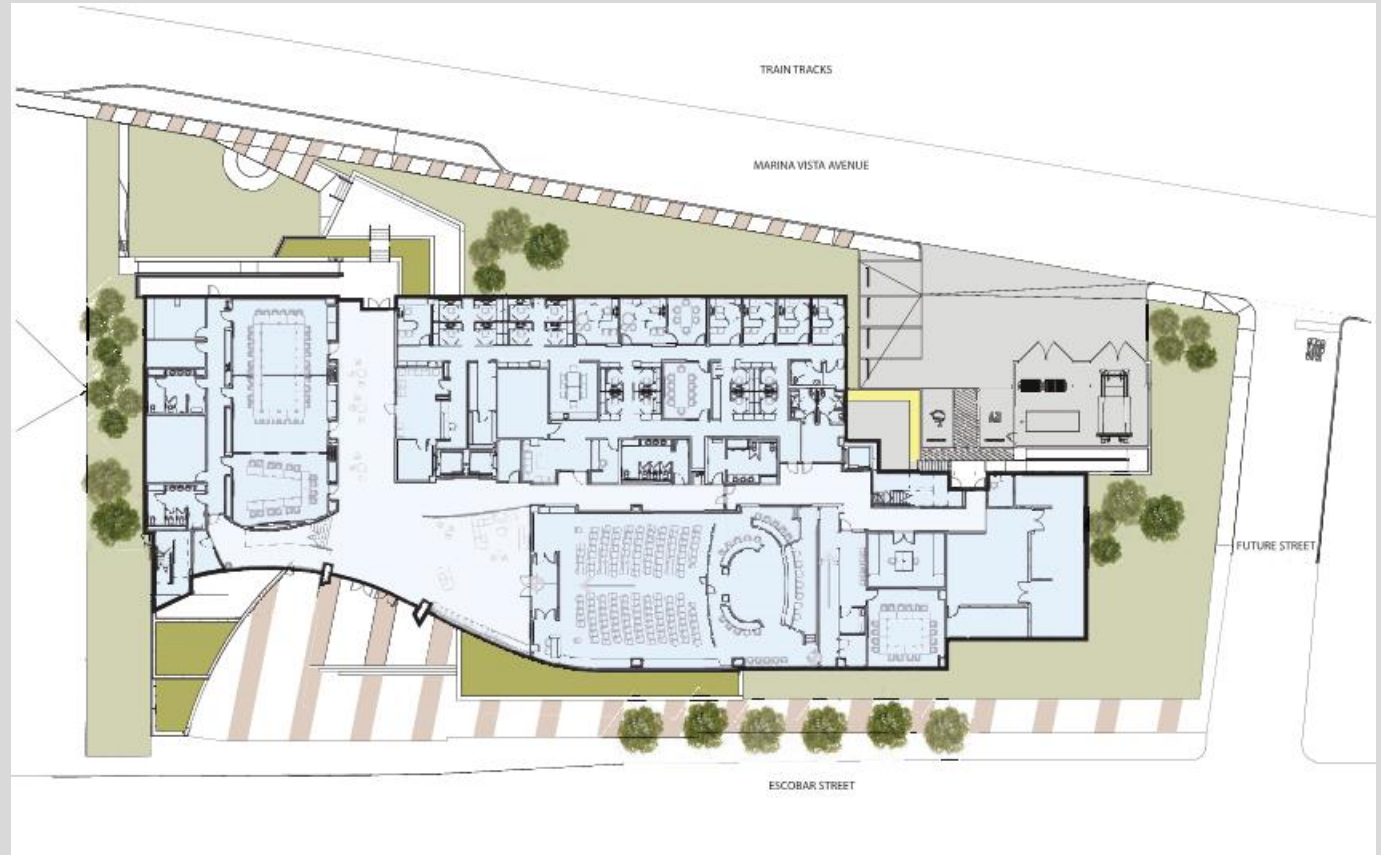








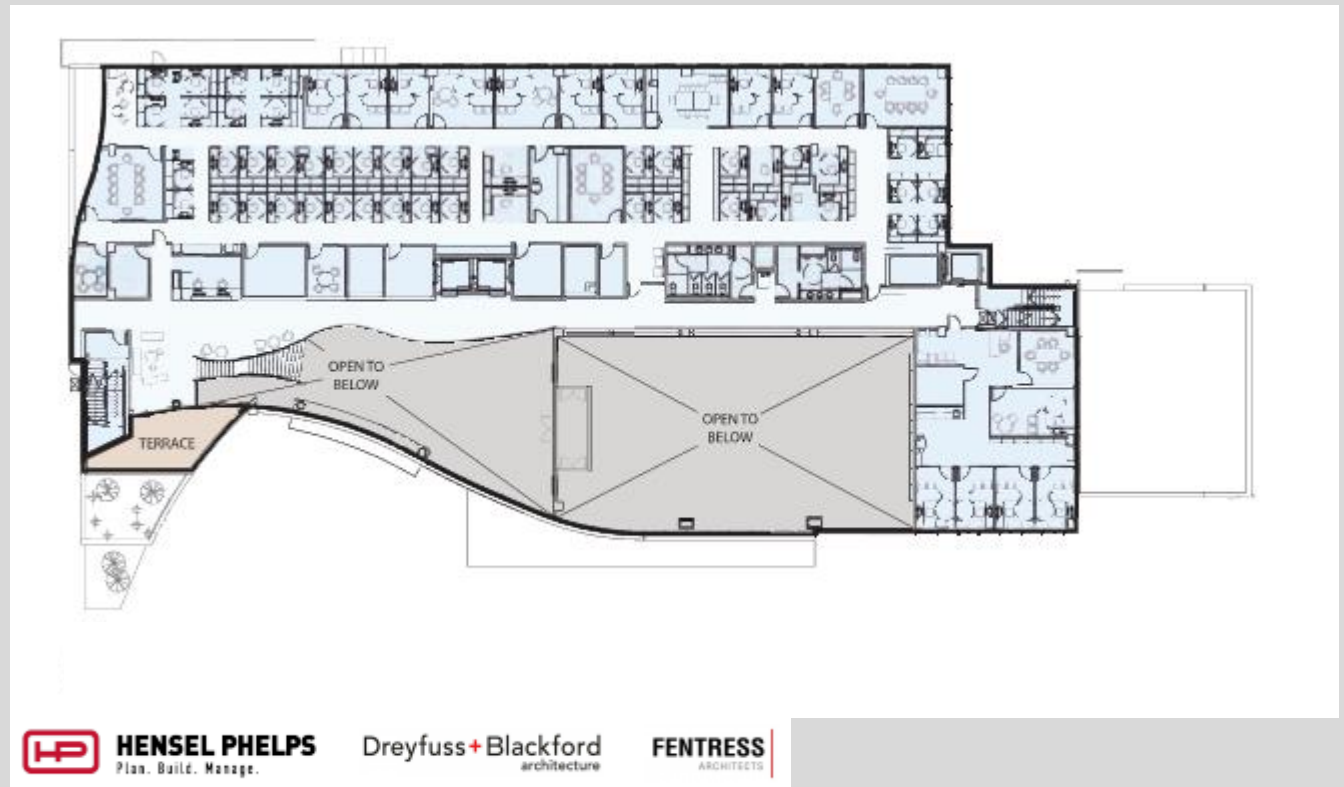
# Ground Floor Plan







# Second Floor Plan



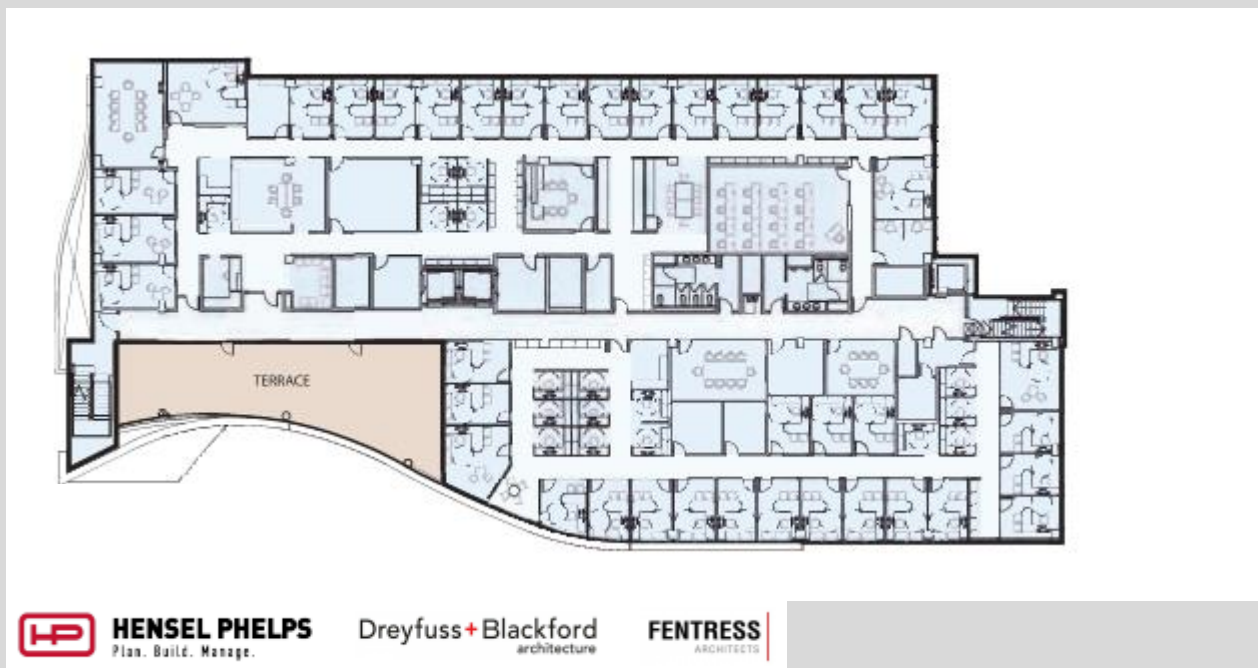
**HENSEL PHELPS**  
Plan. Build. Manage.

**Dreyfuss+Blackford**  
architecture

**FENTRESS**  
ARCHITECTS



# Third Floor Plan



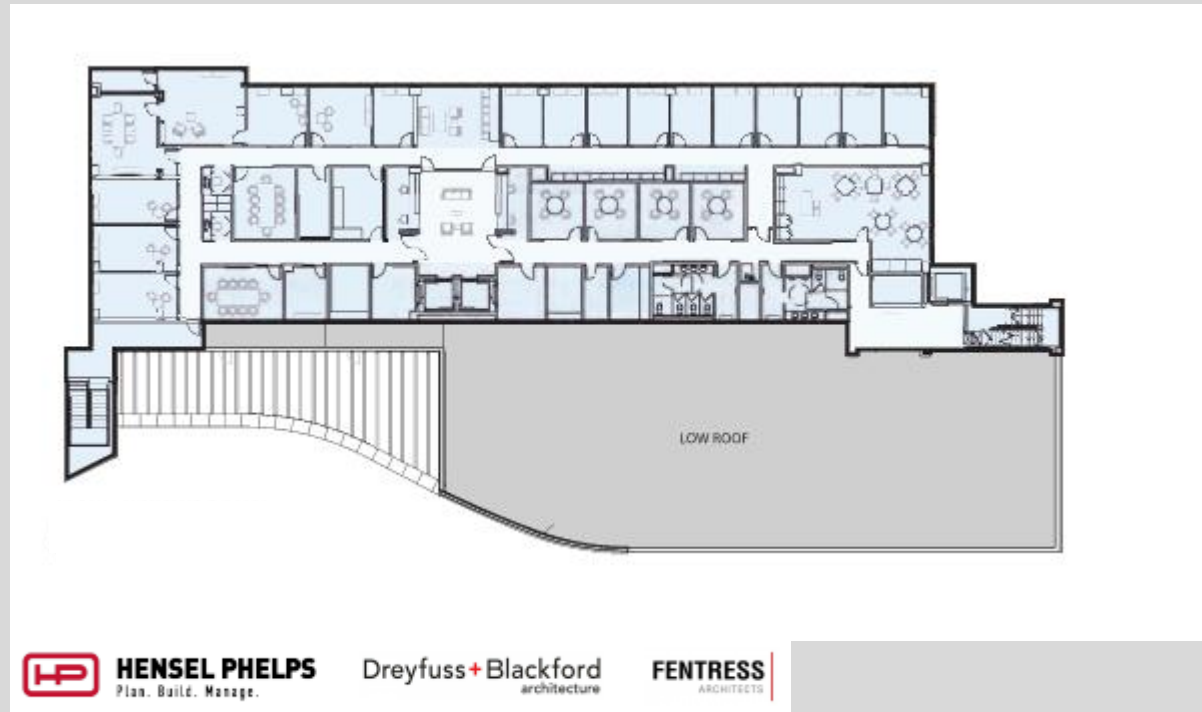
**HENSEL PHELPS**  
Plan. Build. Manage.

**Dreyfuss+Blackford**  
architecture

**FENTRESS**  
ARCHITECTS



# Fourth Floor Plan





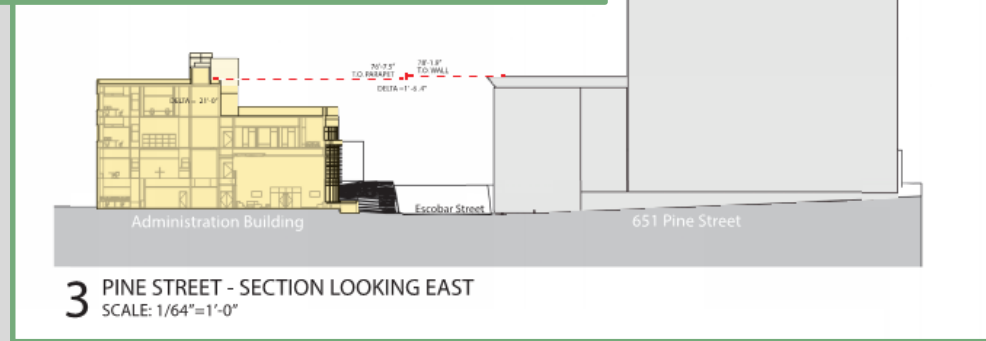
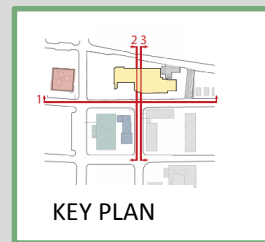
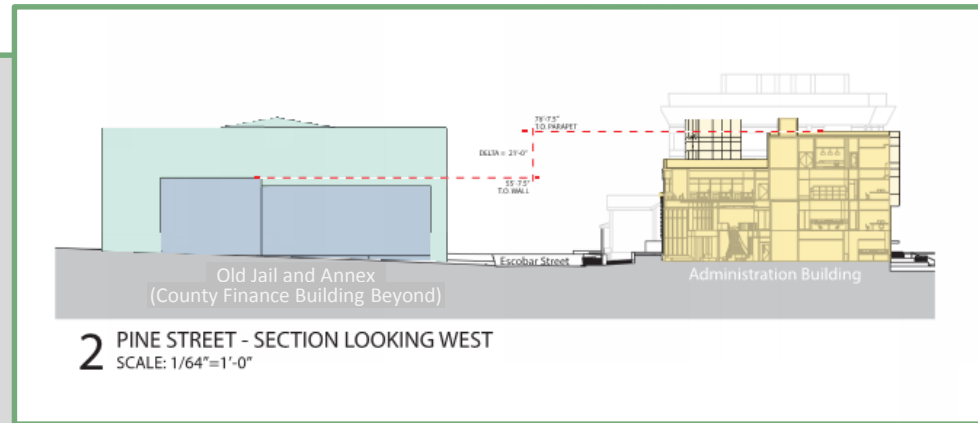
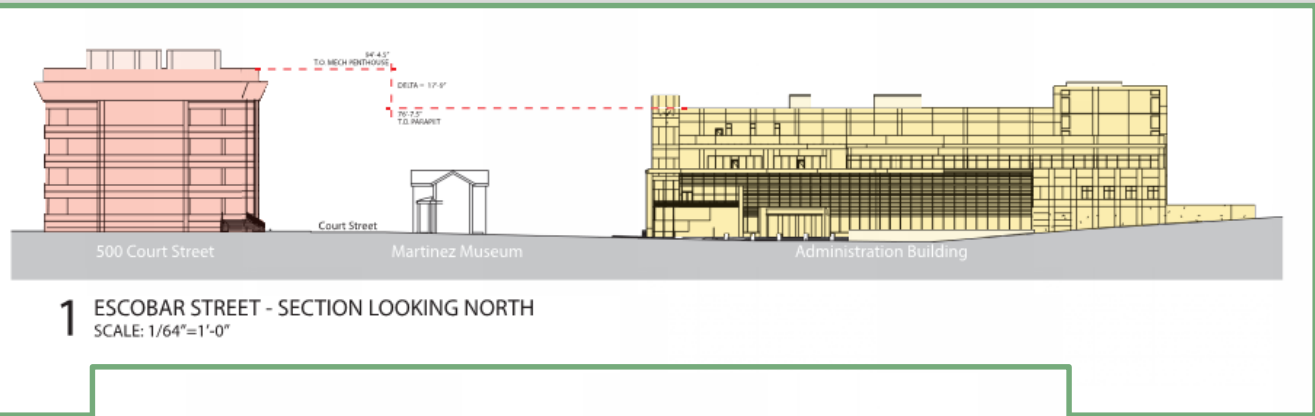
NORTH ELEVATION



SOUTH ELEVATION







## Height Comparison



# QUESTIONS?



**Contra  
Costa  
County**

To: Board of Supervisors

From: Brian M. Balbas, Public Works Director/Chief Engineer

Date: March 20, 2018

Subject: APPROVE the Bailey Road/State Route 4 Interchange Non-Infrastructure Project and take related actions under CEQA, Bay Point area.

---

**RECOMMENDATION(S):**

APPROVE the Bailey Road/State Route 4 Interchange Non-Infrastructure Project (Project), [County Project No.0662-6R4121/Federal Proj. No.ATPLNI-5928(147), DCD-CP#18-03] (District V).

DETERMINE that the activity is not subject to the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines, and

DIRECT the Director of Department of Conservation and Development to file a Notice of Exemption with the County Clerk, and

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Laura Cremin, (925)  
313-2015

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

By: , Deputy

cc:

#### RECOMMENDATION(S): (CONTD)

AUTHORIZE the Public Works Director or designee to arrange for payment of a \$25 fee to the Department of Conservation and Development for processing, and a \$50 fee to the County Clerk for filing the Notice of Exemption.

#### FISCAL IMPACT:

Estimated Project cost: \$60,000. 100% Active Transportation Program (ATP) Cycle 2 Funds.

#### BACKGROUND:

On December 5, 2017 the Contra Costa County Board of Supervisors approved the Bailey Road/State Route 4 Interchange Pedestrian and Bicycle Improvement Project. To further improve safety in the area, a marketing campaign is proposed (pedestrian and bicycle safety campaign) within the Community of Bay Point, and specifically at Bel Air Elementary School. The purpose is to provide education, encouragement, enforcement, and related activities in the community. An analysis of collision history and commuter behavior across Contra Costa County identified Bay Point as a target area because it had the highest pedestrian and bicycle collision rate.

Contra Costa Health Services (CCHS) will work with the Contra Costa Public Works Department, BART, and community members to develop a specific message on safe driving, walking, and cycling. CCHS will develop outreach materials (such as posters and promotional handouts) and run two community events (such as a bicycle rodeo and helmet giveaway). Bel Air Elementary School will be involved in a Safe Routes to School Program. The CCHS will continue to meet with the school principal and parents to promote active transportation and plan for International Walk to School Day. CCHS will perform walk audits with parents as well as develop parent volunteer programs such as a walking school bus (a group of children walking with one or more adult). Two in-class safe walking and bicycling presentations will be performed each year for students.

#### CONSEQUENCE OF NEGATIVE ACTION:

Delay in approving the project may jeopardize funding for the community pedestrian and bicycle safety campaign.

#### ATTACHMENTS

CEQA document



**DETERMINATION THAT AN ACTIVITY  
IS EXEMPT FROM THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

ACTIVITY NO.: 0662-R4121, CP# 18-03

ACTIVITY NAME: Bailey Road/State Route 4 Interchange Non-Infrastructure

PREPARED BY: Laura Cremin

DATE: January 25, 2018

**This activity is not subject to the California Environmental Quality Act (CEQA) pursuant to Article 5, Section 15061 (b) (3) of the CEQA Guidelines.**

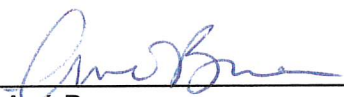
It can be seen with certainty that there is no possibility that the activity may have a significant adverse effect on the environment.

**DESCRIPTION OF THE ACTIVITY:**

On December 5, 2017 the Contra Costa County Board of Supervisors approved the Bailey Road/State Route 4 Interchange Pedestrian and Bicycle Improvement Project. To further improve safety in the area, a marketing campaign is proposed (pedestrian and bicycle safety campaign) within the Community of Bay Point, and specifically at Bel Air Elementary School. The purpose is to provide education, encouragement, enforcement, and related activities in the community. An analysis of collision history and commuter behavior across Contra Costa County identified Bay Point as a target area because it had the highest pedestrian and bicycle collision rate.

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**LOCATION:** The Project is located at Bel Air Elementary School, 633 Canal Road, Bay Point, CA. (Figures 1 – 2).

REVIEWED BY:  DATE: 1-25-18  
Ave Brown  
Principal Environmental Analyst  
Environmental Services  
Contra Costa County Public Works Department

APPROVED BY:  DATE: 2-5-18  
Department of Conservation and  
Development Representative

# CONTRA COSTA COUNTY CALIFORNIA

PROJECT LOCATION

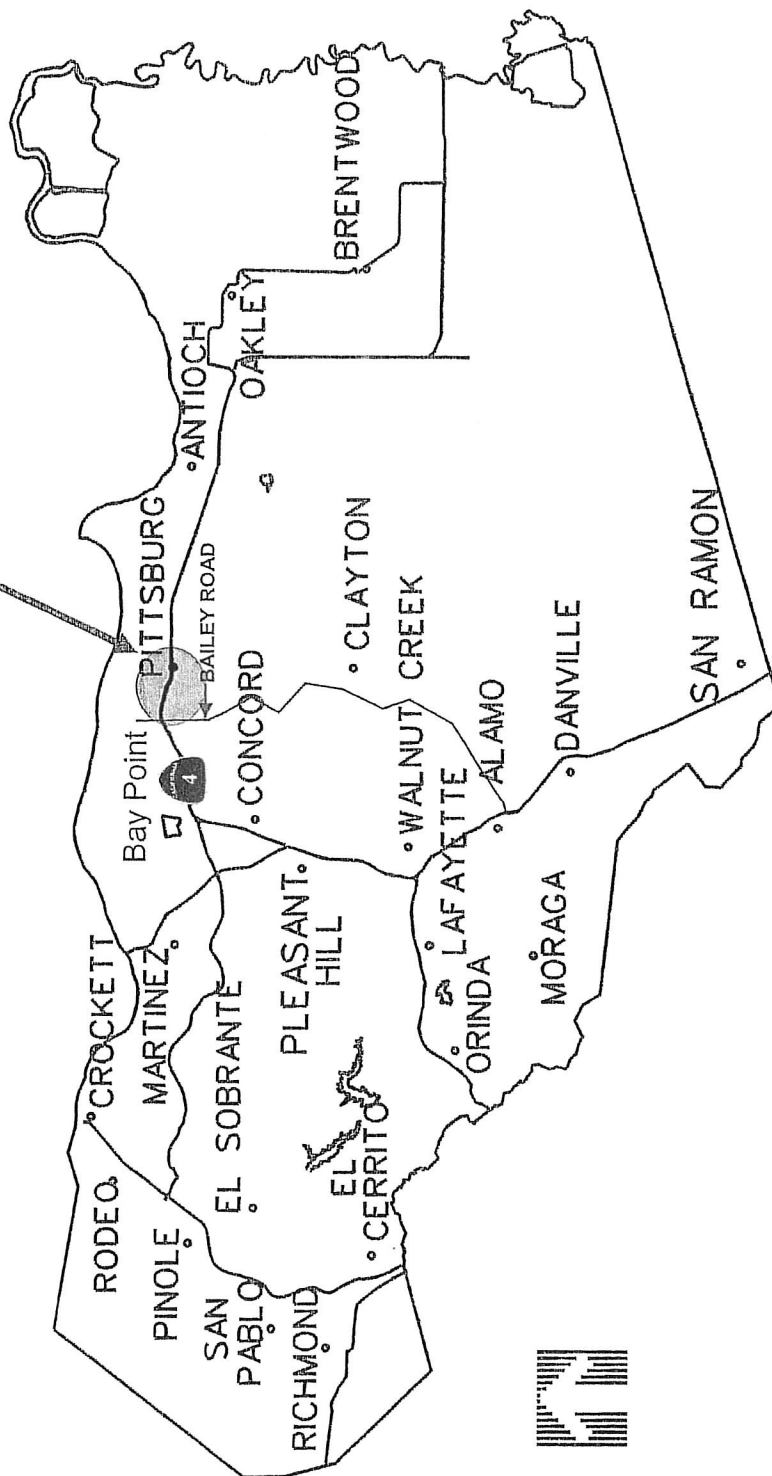


Figure 1. PROJECT LOCATION MAP

Bailey Road/State Route 4 Interchange Non-Infrastructure Project

Contra Costa County  
Public Works  
Department



DB: JV CB: DATE: JAN 18 SHEET 1 OF 1

255 GLACIER DRIVE, MARTINEZ, CA 94553 PH: (925) 313-2000 FAX: (925) 313-2333



# Contra Costa County Bay Point



Created by: Jeff Valeros

Date: 01/24/2018

Path: P:\GIS USERS - Projects\Transportation\Bailey Road\_SR4 Interchange N\Project Vicinity Map.mxd

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: Bailey Road/State Route 4 Interchange Non-Infrastructure  
Proj. No. 0662-R4121 CP#18-03

Project Applicant: **Contra Costa County Public Works Department**

Project Location – **Specific:** Bel Air Elementary School, 663 Canal Road, Bay Point, CA

Project Location: Bay Point, CA

Project Location – County: Central Contra Costa

**Description of Nature, Purpose and Beneficiaries of Project:** On December 5, 2017 the Contra Costa County Board of Supervisors approved the Bailey Road/State Route 4 Interchange Pedestrian and Bicycle Improvement Project. To further improve safety in the area, a marketing campaign is proposed (pedestrian and bicycle safety campaign) within the Community of Bay Point, and specifically at Bel Air Elementary School. The purpose is to provide education, encouragement, enforcement, and related activities in the community. An analysis of collision history and commuter behavior across Contra Costa County identified Bay Point as a target area because it had the highest pedestrian and bicycle collision rate.

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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:**

- |   |   |
|---|---|
| <input type="checkbox"/> Ministerial Project (Sec. 21080(b) (1); 15268;     | <input type="checkbox"/> Categorical Exemption: <u>Class</u> <u>( )</u>                             |
| <input type="checkbox"/> Declared Emergency (Sec. 21080(b)(3); 15269(a));   | <input type="checkbox"/> Other Statutory Exemption, Code No.: _____                                 |
| <input type="checkbox"/> Emergency Project (Sec. 21080(b)(4); 15269(b)(c)); | <input checked="" type="checkbox"/> General Rule of Applicability [Article 5, Section 15061 (b)(3)] |

**Reasons why project is exempt:** It can be seen with certainty that there is no possibility that the activity may have a significant adverse effect on the environment.

Lead Agency Contact Person: Laura Cremin - Public Works Dept. Area Code/Telephone/Extension: (925) 313-2015

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: Laura Cremin  
Environmental Services Division  
Phone: (925) 313-2015

**Department of Fish and Game Fees Due**

- |   |
|---|
| <input type="checkbox"/> EIR - \$3,168. <sup>00</sup>                 |
| <input type="checkbox"/> Neg. Dec. - \$2,280. <sup>75</sup>           |
| <input type="checkbox"/> DeMinimis Findings - \$0                     |
| <input checked="" type="checkbox"/> County Clerk - \$50               |
| <input checked="" type="checkbox"/> Conservation & Development - \$25 |

Total Due: \$75.<sup>00</sup>

Total Paid \$ \_\_\_\_\_

Receipt #: \_\_\_\_\_

CONTRA COSTA  
2018 JAN 25 PM 1:34  
APPLICATION & PERMIT CENTER





**Contra  
Costa  
County**

To: Board of Supervisors

From: Brian M. Balbas, Public Works Director/Chief Engineer

Date: March 20, 2018

Subject: APPROVE a contract amendment with CCTA in connection to the I80 San Pablo Dam Road Interchange Improvement Project, District I.

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Chair, Board of Supervisors, to execute Amendment No. 3 to Agreement No. 362 with Contra Costa Transportation Authority (CCTA) to increase the payment limit paid to Contra Costa County (County) by \$47,500 to a new total of \$802,900, effective November 1, 2017, in connection with the I-80 San Pablo Dam Road Interchange Project, San Pablo Area. Project No. 4660-6X4170

**FISCAL IMPACT:**

100% CCTA funds. CCTA will pay the actual costs of right way services performed by the Real Estate Division, up to the payment limit as amended.

**BACKGROUND:**

CCTA requires a variety of right of way services related to the I80 San Pablo Dam Road Interchange Improvement project but has no right of way staff and has contracted with the County for these services. On December 4, 2012, the Board approved the original agreement between the County and CCTA. The parties now wish to modify the scope of services to include additional

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Karen Laws, 925.  
313-2228

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

By: , Deputy

cc: Auditor-Contoller, Jeff Carlton, PW Finance (w/enc.), Susan Miller, CCTA (w/enc.)

BACKGROUND: (CONT'D)

right of way services required for the pedestrian overcrossing, the sale of surplus properties, property management and additional maintenance clean-up, processing property taxes, and file close out and transfer to Caltrans.

CONSEQUENCE OF NEGATIVE ACTION:

CCTA will not be able to contract for the County's right of way services.

ATTACHMENTS

CCTA Contract Amendment No. 3

**REAL PROPERTY SERVICES AGREEMENT  
AMENDMENT NO. 3**

Contract 362

1. **Effective Date and Parties.** Effective on November 1, 2017 the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (hereinafter referred to as "County"), and CONTRA COSTA TRANSPORTATION AUTHORITY, a public agency (hereinafter referred to as "CCTA"), hereby amend the Real Property Services Agreement entered into by the parties (effective November 14, 2012, amended December 1, 2013 and amended October 13, 2014), as follows:
2. **Amendment Specifications:** The Agreement identified above is hereby amended as set forth in the Real Property Services Agreement Amendment No. 3 Scope of Services attached hereto, which is incorporated herein by reference.
3. **Payment Limit Increase:** The payment limit of the above described Agreement is hereby increased by \$47,500 from \$755,400 to a new total payment limit of \$802,900.

**COUNTY OF CONTRA COSTA**

By \_\_\_\_\_  
Karen Mitchoff  
Chair, Board of Supervisors

**CONTRA COSTA  
TRANSPORTATION AUTHORITY**

By  \_\_\_\_\_  
Federal D. Glover, Chair

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

By  \_\_\_\_\_  
Randell H. Iwasaki  
Executive Director

Recommended to the County  
Board of Supervisors for Approval:

By  \_\_\_\_\_  
Karen A. Laws  
Principal Real Property Agent

Approved as to Form:  
Legal Counsel for CCTA

By  \_\_\_\_\_  
Malathy Subramanian  
Legal Counsel

By  \_\_\_\_\_  
Brian M. Balbas  
Interim Public Works Director

Approved as to Form:  
Sharon L. Anderson, County Counsel

By  \_\_\_\_\_  
Deputy

**CONTRA COSTA TRANSPORTATION AUTHORITY (CCTA)  
180 San Pablo Dam Road Interchange Improvement Project**

**(Amendment No. 3)**

1. The Payment Limit as set forth in Section 4 of the Agreement is increased by \$47,500 from \$755,400 to a new Payment Limit of \$802,900. This increase is based on the following estimated budget.

**Right of Way Services Cost Estimate**

|  |                 |
|--|-----------------|
| ADMINISTRATION                                 | \$10,000        |
| NEGOTIATIONS (PG&E & POC Easements)            | \$ 5,000        |
| SALE OF SUPRLUS                                | \$15,000        |
| PROPERTY MANAGEMENT/MAINTENANCE CLEAN-UP COSTS | \$15,000        |
| FILE CLOSE OUT                                 | \$ 2,500        |
| <hr/>  |                 |
| <b>TOTAL</b>                                   | <b>\$47,500</b> |





Contra  
Costa  
County

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: March 20, 2018

Subject: Accepting completion of public improvements for subdivision SD13-09352, Bay Point area.

---

**RECOMMENDATION(S):**

ADOPT Resolution No. 2018/83 accepting completion of improvements for subdivision SD13-09352 for a project developed by Driftwood Community, LLC as recommended by the Public Works Director, Bay Point area. (District V)

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

The developer has completed the improvements per the Subdivision Agreement, and 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: **03/20/2018** ☐ 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: March 20, 2018

Contact: Lori Leontini  
(925)313-2352

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

By: , Deputy

cc: Jocelyn LaRocque, Renee Hutchins, Records, Sherri Reed, chris.lau, Maintenance, Chris Hallford, Mapping, Cece Sellgren, Watershed Program, Flood Control, Lori Leontini, Michael Mann, Finance, T-03/13/2018, Driftwood Community, LLC, Developers Surety and Indemnity Company

## ATTACHMENTS

Resolution No.

2018/83

Bond Rider

Recorded at the request of: Lori Leontini (925)313-2352

Return To: Simone Saleh (925)313-2170

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

**Adopted this Resolution on 03/20/2018 by the following vote:**

AYE: ☐

NO: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐

---

Resolution No. 2018/83

IN THE MATTER OF accepting completion of improvements for subdivision SD13-09352 for a project developed by Driftwood Community, LLC as recommended by the Public Works Director, Bay Point area. (District V)

WHEREAS, the Public Works Director has notified this Board that the improvements in subdivision SD13-09352 have been completed as provided in the Subdivision Agreement with Driftwood Community, LLC, heretofore approved by this Board in conjunction with the filing of the Subdivision Map.

WHEREAS, these improvements are approximately located near Driftwood Drive.

NOW, THEREFORE, BE IT RESOLVED that the improvements have been COMPLETED as of March 13, 2018 thereby establishing the six-month terminal period for the filing of liens in case of action under said Subdivision Agreement:

DATE OF AGREEMENT: February 14, 2017

NAME OF SURETY: Developers Surety and Indemnity Company

BE IT FURTHER RESOLVED the payment (labor and materials) surety for \$866,500, Bond No. 651213S issued by the above surety be RETAINED for the six month lien guarantee period until September 13, 2018, at which time the Board AUTHORIZES the release of said surety less the amount of any claims on file.

BE IT FURTHER RESOLVED that the widening of Driftwood Drive is ACCEPTED and DECLARED to be a County road as shown and dedicated for public use on the map of subdivision SD13-09352 filed February 23, 2017, in Book 532 of FINAL Maps at page 01, Official Records of Contra Costa County, State of California.

BE IT FURTHER RESOLVED that the beginning of the warranty period is hereby established, and the \$18,000.00 cash deposit (Auditor's Deposit Permit No. 729170, dated January 31, 2017) made by Driftwood Community, LLC, and the performance/maintenance surety bond rider for \$1,715,000.00, Bond No. 651213S issued by Developers Surety and Indemnity 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: Lori Leontini (925)313-2352**

**ATTESTED: March 20, 2018**

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

By: , Deputy

**cc:** Jocelyn LaRocque, Renee Hutchins, Records, Sherri Reed, chris.lau, Maintenance, Chris Hallford, Mapping, Cece Sellgren, Watershed Program, Flood Control, Lori Leontini, Michael Mann, Finance, T-03/13/2018, Driftwood Community, LLC, Developers Surety and Indemnity Company



## BOND RIDER

### ATTACHED TO AND FORMING A PART OF:

**Bond No.:** 651213S

**Principal:** Driftwood Community, LLC

**Obligee:** the County of Contra Costa

**Surety:** Developers Surety and Indemnity Company

Effective February 27th, 2018, it is agreed that:

The performance bond penalty is reduced from \$1,715,000 to \$257,000

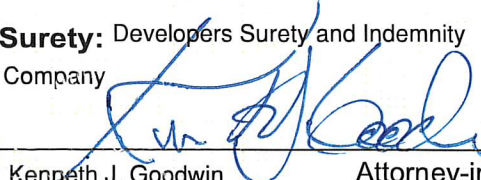
Nothing here in contained shall be held to vary, waive, alter, or extend any of the terms, conditions, agreements or warranties of the above mentioned bond, other than stated as above. Provided, however, that the liability of the company under the attached bond as changed by this order ~~shall not be cumulative~~.

Signed this 27th day of February, 2018.

**Principal:** Driftwood Community, LLC

  
By: Karen Montero, CFO

**Surety:** Developers Surety and Indemnity Company

  
Kenneth J. Goodwin Attorney-in-Fact

**PRODUCER:** Poms & Associates Insurance Brokers, Inc.

# CALIFORNIA CERTIFICATE OF 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 2/28/18 before me, Sara Winger,  
(here insert name and title of the officer)

personally appeared Karen Montero

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 Sara Winger

(Seal)

## Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of \_\_\_\_\_

containing \_\_\_\_\_ pages, and dated \_\_\_\_\_.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)  
☐ Attorney-in-Fact  
☐ Corporate Officer(s) \_\_\_\_\_ Title(s) \_\_\_\_\_  
☐ Guardian/Conservator  
☐ Partner - Limited/General  
☐ Trustee(s)  
☐ Other: \_\_\_\_\_

representing: \_\_\_\_\_  
Name(s) of Person(s) or Entity(ies) Signer is Representing

### Additional Information

#### Method of Signer Identification

Proved to me on the basis of satisfactory evidence:  
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:  
Page # \_\_\_\_\_ Entry # \_\_\_\_\_

Notary contact: \_\_\_\_\_

#### Other

- ☐ Additional Signer(s) ☐ Signer(s) Thumbprint(s)  
☐ \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

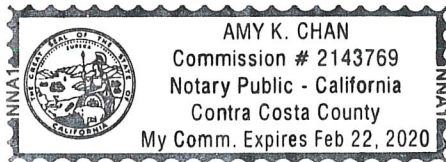
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

On February 27, 2018 before me, Amy K. Chan, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Kenneth J. Goodwin  
Name(s) or 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.

Place Notary Seal Above

Signature [Handwritten Signature]  
Signature of Notary Public

## 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 this form to another document*

### Description of Attached Document

Title or Type of Document Bond Number: 651213S

Document Date: February 27, 2018 Number of Pages: One(01)

Signer(s) Other Than Named Above! N/A

### Capacity(ies) Claimed by Signer(s)

Signer's Name: Kenneth J. Goodwin  
☐ 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: \_\_\_\_\_  
Developers Surety and  
Indemnity 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: \_\_\_\_\_



**POWER OF ATTORNEY FOR  
DEVELOPERS SURETY AND INDEMNITY COMPANY  
INDEMNITY COMPANY OF CALIFORNIA**  
PO Box 19725, IRVINE, CA 92623 (949) 263-3300

KNOW ALL BY THESE PRESENTS that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each hereby make, constitute and appoint:

\*\*\*John J. Daley, Kenneth J. Goodwin, Linda Byas-Barnett, jointly or severally\*\*\*

as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Boards of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of January 1st, 2008.

RESOLVED, that a combination of any two of the Chairman of the Board, the President, Executive Vice-President, Senior Vice-President or any Vice President of the corporations be, and that each of them hereby is, authorized to execute this Power of Attorney, qualifying the attorney(s) named in the Power of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of either of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporations when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective officers and attested by their respective Secretary or Assistant Secretary this 6th day of February, 2017.

By: *Daniel Young*  
Daniel Young, Senior Vice-President

By: *Mark Lansdon*  
Mark Lansdon, Vice-President



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 Orange

On February 6, 2017 before me, Lucille Raymond, Notary Public  
Date Here Insert Name and Title of the Officer

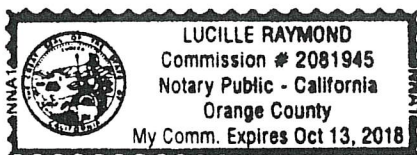
personally appeared Daniel Young and Mark Lansdon  
Name(s) of Signer(s)

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 *Lucille Raymond*  
Lucille Raymond, Notary Public



Place Notary Seal Above

**CERTIFICATE**

The undersigned, as Secretary or Assistant Secretary of DEVELOPERS SURETY AND INDEMNITY COMPANY or INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked and, furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, this 27<sup>th</sup> day of February, 2018

By: *Cassie J. Barrisford*  
Cassie J. Barrisford, Assistant Secretary





**Contra  
Costa  
County**

To: Board of Supervisors

From: Brian M. Balbas, Public Works Director/Chief Engineer

Date: March 20, 2018

Subject: Approve the Road Improvement Agreement for development permit DP15-03040, for a project developed by Nana Wall Systems, Inc., North Richmond area.

---

**RECOMMENDATION(S):**

ADOPT Resolution No. 2018/88 approving the a Road Improvement Agreement for development permit DP15-03040, for a project being developed by Nana Wall Systems, Inc., North Richmond area. (District I)

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

Development permit DP15-03040 has been reviewed and processed by Public Works staff and meets all applicable conditions of approval regarding roadway improvements.

**CONSEQUENCE OF NEGATIVE ACTION:**

The Road Improvement Agreement will not be approved.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Craig Standafer  
(925)313-2018

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

By: , Deputy

cc: Jocelyn LaRocque, Sherri Reed, Adrian Veliz -DCD , Craig Standafer, Engineering Services, T-12/20/18



ATTACHMENTS

Resolution No. 2018/88

Road Improvement Agreement

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

Adopted this Resolution on 03/20/2018 by the following vote:

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



**Resolution No. 2018/88**

IN THE MATTER OF approving the Road Improvement Agreement for development permit DP15-03040, for a project being developed by Nana Wall Systems, Inc., as recommended by the Public Works Director, North Richmond area. (District I)

WHERE AS, the following documents were presented for Board approval this date:

The Road Improvement Agreement with Nana Wall Systems, Inc., principal, whereby said principal agrees to complete all improvements as required in said Road Improvement Agreement within 2 years from the date of said agreement. Improvements generally consist of roadway improvements.

Said document was accompanied by the following:

Security to guarantee the completion of a Road Improvement Agreement as required by Titles 8 and 9 of the County Ordinance, as follows:

I. Cash Deposit Amount: \$1,500.00

Auditor's Deposit Permit No. 755881 Dated: February 16, 2018

Submitted by: Ahmad Nana

II. Cash Bond

Auditor's Deposit Permit No. 755881 Date: February 16, 2018

Performance Amount: \$135,500

Labor & Materials Amount: \$68,500

All deposit permits are on file with the Public Works Department.

NOW THEREFORE, BE IT RESOLVED that said Road Improvement Agreement 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: Craig Standafer (925)313-2018**

**ATTESTED: March 20, 2018**

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

By: , Deputy

**cc:** Jocelyn LaRocque, Sherri Reed, Adrian Veliz -DCD, Craig Standafer, Engineering Services, T-12/20/18

ROAD IMPROVEMENT AGREEMENT

Developer: Seaver Enterprises, LLC

Effective Date: 2/9/2018

Development: Nanawall, DP 15-3040

Completion Period: 2 years

Road: Brookside Drive (Road #0564D)

**THESE SIGNATURES ATTEST TO THE PARTIES' AGREEMENT HERETO:**

CONTRA COSTA COUNTY  
Brian M. Balbas, Public Works Director

DEVELOPER

By: \_\_\_\_\_

(signature) Ahmad Nana  
(print name & title) AHMAD NANA  
MANAGER

RECOMMENDED FOR APPROVAL

By: \_\_\_\_\_  
Engineering Services Division

(signature) \_\_\_\_\_  
(print name & title) \_\_\_\_\_

FORM APPROVED: Victor J. Westman, County Counsel

(NOTE: All signatures to be acknowledged. If Subdivider is incorporated, signatures must conform with the designated representative groups pursuant to Corporations Code S313.)

1. PARTIES & DATE. Effective on the above date, the County of Contra Costa, California, hereinafter called "County," and the above-mentioned Developer, mutually promise and agree as follows concerning this development:

2. IMPROVEMENTS. Developer agrees to install certain road improvements (both public and private), drainage improvements, signs, street lights, fire hydrants, landscaping, and such other improvements (including appurtenant equipment) as required in the improvement plans for this development as reviewed and on file with the Contra Costa County Public Works Department and in conformance with the Contra Costa County Ordinance Code (including future amendments thereto).

Developer shall complete said work and improvements (hereinafter called "work") within the above completion period from date hereof in a good workmanlike manner, in accordance with accepted construction practices and in a manner equal or superior to the requirements of the County Ordinance Code and rulings made thereunder; and where there is a conflict between the improvement plans and the County Ordinance Code, the stricter requirements shall govern.

3. IMPROVEMENT SECURITY. Upon executing this Agreement, the Developer shall, pursuant to the County Ordinance Code, provide as security to the County:

A. For Performance and Guarantee: \$ 1,500 cash, plus additional security, in the amount of \$ 135,500 which together total one hundred percent (100%) of the estimated cost of the work. Such additional security is presented in the form of:

an X Cash, certified check or cashiers check.  
\_\_\_\_ Acceptable corporate surety bond.  
\_\_\_\_ Acceptable irrevocable letter of credit.

With this security, the Developer guarantees performance under this Agreement and maintenance of the work for one year after its completion and acceptance against any defective workmanship or materials or any unsatisfactory performance.

B. For Payment: Security in the amount of \$ 68,500, which is fifty percent (50%) of the estimated cost of the work. Such security is presented in the form of:

an X Cash, certified check, or cashier's check  
\_\_\_\_ Acceptable corporate surety bond.  
\_\_\_\_ Acceptable irrevocable letter of credit.

With this security, the Developer guarantees payment to the contractor, to his subcontractors, and to persons renting equipment or furnishing labor or materials to them or to the Developer. Upon acceptance of the work as complete by the Board of Supervisors and upon request of the Developer, the amount securities may be reduced in accordance with S94-4.406 and S94-4.408 of the Ordinance Code.

4. GUARANTEE AND WARRANTY OF WORK. Developer guarantees that said work shall be free from defects in material or workmanship and shall perform satisfactorily for a period of one-year from and after the Board of Supervisors accepts the work as complete in accordance with Article 96-4.6, "Acceptance," of the Ordinance Code. Developer agrees to correct, repair, or replace, at his expense, any defects in said work.

The guarantee period does not apply to road improvements for private roads which are not to be accepted into the County road system.

5. PLANT ESTABLISHMENT WORK. Developer agrees to perform establishment work for landscaping installed under this agreement. Said plant establishment work shall consist of adequately watering plants, replacing unsuitable plants, doing weed, rodent and other pest control and other work determined by the Public Works Department to be necessary to insure establishment of plants. Said plant establishment work shall be performed for a period of one-year from and after the Board of Supervisors accepts the work as complete.

6. IMPROVEMENT PLAN WARRANTY. Developer warrants the improvement plans for the work are adequate to accomplish the work as promised in Section 2 and as required by the Conditions of Approval for the development. If, at any time before the Board of Supervisors accepts the work as complete or during the one-year guarantee period, said improvement plans prove to be inadequate in any respect, Developer shall make whatever changes are necessary to accomplish the work as promised.

7. NO WAIVER BY COUNTY. Inspection of the work and/or materials, or approval of work and/or materials or statement by any officer, agent or employee of the County indicating the work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said work and/or materials, or payments, therefor, or any combination or all of these acts, shall not relieve the Developer of his obligation to fulfill this agreement as prescribed; nor shall the County be thereby be stopped from bringing any action for damages arising from the failure to comply with any of the terms and conditions hereof.

8. INDEMNITY: Developer shall hold harmless and indemnify the indemnitees from the liabilities as defined in this section:

A. The indemnities benefitted and protected by this promise are the County, and its special district, elective and appointive boards, commissions, officers, agents, and employees.

B. The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, and including personal injury, death, property damage, inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before the County reviewed said improvement plans or accepted the work as complete, and including the defense of any suit(s), action(s), or other proceeding(s) concerning said liabilities and claims.

C. The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this Agreement and attributable to the Developer, contractor, subcontractor, or any officer, agent, or employee of one or more of them;

D. Non-Conditions: The promise and agreement in this section are not conditioned or dependent on whether or not any Indemnitee has prepared, supplied, or approved any plan(s) or specification(s) in connection with this work, or has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of any Indemnity.

9. COSTS: Developer shall pay when due, all the costs of the work, including inspections thereof and relocating existing utilities required thereby.

10. NON-PERFORMANCE AND COSTS: If Developer fails to complete the work within the time specified in this Agreement, and subsequent extensions, or fails to maintain the work, the County may proceed to complete and/or maintain the work by contract or otherwise, and Developer agrees to pay all costs and charges incurred by the County (including, but not limited to: engineering, inspection, surveys, contract, overhead, etc.) immediately upon demand.

Developer hereby consents to entry on the development property by the County and its forces, including contractors, in the event the County proceeds to complete and/or maintain the work.

Once action is taken by County to complete or maintain the work, Developer agrees to pay all costs incurred by the County, even if Developer subsequently completes the work.

Should County sue to compel performance under this Agreement or to recover costs incurred in completing or maintaining the work, Developer agrees to pay all attorney's fees, and all other expenses of litigation incurred by County in connection therewith, even if Developer subsequently proceeds to complete the work.

11. INCORPORATION/ANNEXATION. If, before the Board of Supervisors accepts the work as complete, the development is included in territory incorporated as a city or is annexed to an existing city, the County's rights under this agreement and/or any deposit, bond, or letter of credit securing said rights shall be transferred to the new or annexing city. Such city shall have all the rights of a third party beneficiary against Developer, who shall fulfill all the terms of this agreement as though Developer had contracted with the city originally.

12. CONSIDERATION. In consideration hereof:

(Check applicable section(s))

☒ County shall allow Developer to obtain building permits for said development, assuming it fully complies with other applicable regulations.  
☒ County agrees to accept the road(s) into the County-maintained road system, after the improvements are complete.  
☐ Other (requires County Counsel approval \_\_\_\_\_)

# California All-Purpose Certificate of 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 Marin

S.S.

On February 9, 2018

before me, Angela J. Haynes

Name of Notary Public, Title

personally appeared Ahmad Nana

Name of Signer (1)

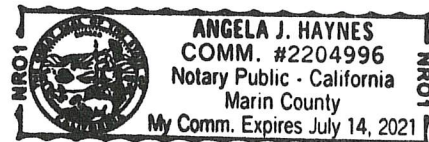
Name of Signer (2)

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.

Angela J. Haynes  
Signature of Notary Public



Seal

## OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

## Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Road Movement

Agreement

containing 2 pages, and dated 2/9/18

The signer(s) capacity or authority is/are as:

- ☒ Individual(s)  
☐ Attorney-in-fact  
☐ Corporate Officer(s)

Title(s)

- ☐ Guardian/Conservator  
☐ Partner - Limited/General  
☐ Trustee(s)  
☐ Other:

representing:

Name(s) of Person(s) Entity(ies) Signer is Representing

## Additional Information

### Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- ☒ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # 49 Entry # 1

Notary contact: 415-380-2870

Other angelaw@nanawall.com

☐ Additional Signer ☒ Signer(s) Thumbprints(s)

☐





**Contra  
Costa  
County**

To: Board of Supervisors

From: Brian M. Balbas, Public Works Director/Chief Engineer

Date: March 20, 2018

Subject: Approve the Subdivision Agreement (Right-of-Way Landscaping) for park acceptance PA14-00042, San Ramon (Dougherty Valley) area.

---

**RECOMMENDATION(S):**

ADOPT Resolution No. 2018/89 approving the Subdivision Agreement (Right-of-Way Landscaping) for park acceptance PA14-00042 (cross-reference subdivision SD05-08971), for a project being developed by Toll Brothers, Inc., as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (District II)

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

Park acceptance PA14-00042 (cross-reference subdivision SD05-08971) has been reviewed and processed by Public Works staff and meets all applicable conditions of approval regarding landscape improvements.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Lori Leontini  
(925)313-2352

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

By: , Deputy

cc: Jocelyn LaRocque, Dante Morabe- Design & Construction, Lori Leontini, T- 02/20/2020, Toll Brothers, Inc, Western Surety Company

CONSEQUENCE OF NEGATIVE ACTION:

The Subdivision Agreement (Right-of-Way Landscaping) will not be approved.

ATTACHMENTS

Resolution No. 2018/89

Subdivision Agreement & Bond Agreement

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

Adopted this Resolution on 03/20/2018 by the following vote:

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



**Resolution No. 2018/89**

IN THE MATTER OF approving the Subdivision Agreement (Right-of-Way Landscaping) for park acceptance PA14-00042 (cross-reference subdivision SD05-08971), for project being developed by Toll Brothers, Inc., as recommended by the Public Works Director, San Ramon (Dougherty Valley) area. (District II)

WHERE AS, the following documents were presented for board approval this date:

A Subdivision Agreement (Right-of-Way Landscaping) with Toll Brothers, Inc., principal, whereby said principal agrees to complete all improvements as required in said Subdivision Agreement (Right-of-Way Landscaping) within two years from the date of said agreement.

Said document was accompanied by the following:

Security to guarantee the completion of right-of-way landscaping as required by Titles 8 and 9 of the County Ordinance, as follows:

I. Cash Deposit Amount \$7,000.00

Auditor's Deposit Permit No. 695177 Date: October 6, 2015

Submitted by: Toll Brothers, Inc.

II. Surety Bond

Bond Company: Western Surety Company

Bond Number: 58727561 Date: August 11, 2015

Performance Amount: \$628,000.00

Labor & Materials Amount: \$318,000.00

Principal: Toll Brothers, Inc.

All deposit permits are on file with the Public Works Department.

NOW, THEREFORE, BE IT RESOLVED that said Subdivision Agreement (Right-of-Way Landscaping) 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: Lori Leontini (925)313-2352**

**ATTESTED: March 20, 2018**

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

By: , Deputy

**cc:** Jocelyn LaRocque, Dante Morabe- Design & Construction, Lori Leontini, T- 02/20/2020, Toll Brothers, Inc, Western Surety Company

SUBDIVISION AGREEMENT  
(Right of Way Landscaping)  
(Government Code §66462 and §66463)

Subdivision: PA14-0042 (x-ref SD8971)

Effective Date: \_\_\_\_\_

Subdivider: Toll Borthers, Inc.

Completion Period: 2 years

THESE SIGNATURES ATTEST TO THE PARTIES' AGREEMENT HERETO:

CONTRA COSTA COUNTY

Brian M. Balkas Public Works Director

SUBDIVIDER: (Name and Title)

Toll Brothers, Inc.

By: \_\_\_\_\_

(signature)

(print name & title)

Bob Moore - Division President/  
Regional Manager

RECOMMENDED FOR APPROVAL:

By: \_\_\_\_\_

Engineering Services Division

(signature)

(print name & title)

Richard Nelson - Division President

FORM APPROVED: Victor J. Westman, County Counsel

(NOTE: All signatures to be acknowledged. If Subdivider is incorporated, signatures must conform with the designated representative groups pursuant to Corporations Code §313.)

1. PARTIES & DATE. Effective on the above date, the County of Contra Costa, California, hereinafter called "County," and the above-mentioned Subdivider, mutually promise and agree as follows concerning this subdivision:

2. IMPROVEMENTS. Subdivider agrees to install certain road improvements (both public and private), drainage improvements, signs, street lights, fire hydrants, landscaping, and such other improvements (including appurtenant equipment) as required in the improvement plans for this subdivision as reviewed and on file with the Contra Costa County Public Works Department and in conformance with the Contra Costa County Ordinance Code (including future amendments thereto).

Subdivider shall complete said work and improvements (hereinafter called "work") within the above completion period from date hereof as required by the California Subdivision Map act (Government Code §§66410 and following), in a good workmanlike manner, in accordance with accepted construction practices and in a manner equal or superior to the requirements of the County Ordinance Code and rulings made thereunder; and where there is a conflict between the improvement plans and the County Ordinance Code, the stricter requirements shall govern.

3. IMPROVEMENT SECURITY. Upon executing this Agreement, the Subdivider shall, pursuant to Government Code §66499, and the County Ordinance Code, provide as security to the County:

A. For Performance and Guarantee: \$ 7,000 cash, plus additional security, in the amount of \$ 628,000 which together total one hundred percent (100%) of the estimated cost of the work. Such additional security is presented in the form of:

\_\_\_\_\_ Cash, certified check or cashiers check.

X Acceptable corporate surety bond.

\_\_\_\_\_ Acceptable irrevocable letter of credit.

With this security, the Subdivider guarantees performance under this Agreement and maintenance of the work for one year after its completion and acceptance against any defective workmanship or materials or any unsatisfactory performance.

B. For Payment: Security in the amount of \$ 318,000, which is fifty percent (50%) of the estimated cost of the work. Such security is presented in the form of:

\_\_\_\_\_ Cash, certified check, or cashier's check

X Acceptable corporate surety bond.

\_\_\_\_\_ Acceptable irrevocable letter of credit.

With this security, the Subdivider guarantees payment to the contractor, to his subcontractors, and to persons renting equipment or furnishing labor or materials to them or to the Subdivider.

C. Upon acceptance of the work as complete by the Board of Supervisors and upon request of the Subdivider, the amount securities may be reduced in accordance with §94-4.406 and §94-4.408 of the Ordinance Code.

4. **GARANTEE AND WARRANTY OF WORK.** Subdivider guarantees that said work shall be free from defects in material or workmanship and shall perform satisfactorily for a period of one-year from and after the Board of Supervisors accepts the work as complete in accordance with Article 96-4.6, "Acceptance", of the Ordinance Code. Subdivider agrees to correct, repair, or replace, at his expense, any defects in said work.

The guarantee period does not apply to road improvements for private roads which are not to be accepted into the County road system.

5. **PLANT ESTABLISHMENT WORK.** Subdivider agrees to perform establishment work for landscaping installed under this agreement. Said plant establishment work shall consist of adequately watering plants, replacing unsuitable plants, doing weed, rodent and other pest control and other work determined by the Public Works Department to be necessary to insure establishment of plants. Said plant establishment work shall be performed for a period of one-year from and after the Board of Supervisors accepts the work as complete. At the discretion of the County, bids may be released after final acceptance of landscaping improvements by the County.

6. **IMPROVEMENT PLAN WARRANTY.** Subdivider warrants the improvement plans for the work are adequate to accomplish the work as promised in Section 2 and as required by the Conditions of Approval for the Subdivision. If, at any time before the Board of Supervisors accepts the work as complete or during the one-year guarantee period, said improvement plans prove to be inadequate in any respect, Subdivider shall make whatever changes are necessary to accomplish the work as promised.

7. **NO WAIVER BY COUNTY.** Inspection of the work and/or materials, or approval of work and/or materials or statement by any officer, agent or employee of the County indicating the work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said work and/or materials, or payments, therefor, or any combination or all of these acts, shall not relieve the Subdivider of his obligation to fulfill this agreement as prescribed; nor shall the County be thereby be stopped from bringing any action for damages arising from the failure to comply with any of the terms and conditions hereof.

8. **INDEMNITY:** Subdivider shall hold harmless and indemnify the indemnitees from the liabilities as defined in this section:

A. The indemnities benefitted and protected by this promise are the County, and its special district, elective and appointive boards, commissions, officers, agents, and employees.

B. The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, and including personal injury, death, property damage, inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before the County reviewed said improvement plans or accepted the work as complete, and including the defense of any suit(s), action(s), or other proceeding(s) concerning said liabilities and claims.

C. The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this Agreement and attributable to the Subdivider, contractor, subcontractor, or any officer, agent, or employee of one or more of them;

D. Non-Conditions: The promise and agreement in this section are not conditioned or dependent on whether or not any Indemnitee has prepared, supplied, or approved any plan(s) or specification(s) in connection with this work or subdivision, or has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of any Indemnity.

9. **COSTS:** Subdivider shall pay when due, all the costs of the work, including inspections thereof and relocating existing utilities required thereby.

10. **SURVEYS.** Subdivider shall set and establish survey monuments in accordance with the filed map and to the satisfaction of the County Road Commissioner-Surveyor before acceptance of any work as complete by the Board of Supervisors.

11. **NON-PERFORMANCE AND COSTS:** If Subdivider fails to complete the work within the time specified in this Agreement, and subsequent extensions, or fails to maintain the work, the County may proceed to complete and/or maintain the work by contract or otherwise, and Subdivider agrees to pay all costs and charges incurred by the County (including, but not limited to: engineering, inspection, surveys, contract, overhead, etc.) immediately upon demand.

Subdivider hereby consents to entry on the subdivision property by the County and its forces, including contractors, in the event the County proceeds to complete and/or maintain the work.

Once action is taken by County to complete or maintain the work, Subdivider agrees to pay all costs incurred by the County, even if Subdivider subsequently completes the work.

Should County sue to compel performance under this Agreement or to recover costs incurred in completing or maintaining the work, Subdivider agrees to pay all attorney's fees, and all other expenses of litigation incurred by County in connection therewith, even if Subdivider subsequently proceeds to complete the work.

12. **INCORPORATION/ANNEXATION.** If, before the Board of Supervisors accepts the work as complete, the subdivision is included in territory incorporated as a city or is annexed to an existing city, the County's rights under this agreement and/or any deposit, bond, or letter of credit securing said rights shall be transferred to the new or annexing city. Such city shall have all the rights of a third party beneficiary against Subdivider, who shall fulfill all the terms of this agreement as though Subdivider had contracted with the city originally.

13. **RECORD MAP.** In consideration hereof, County shall allow Subdivider to file and record the Final Map or Parcel Map for said Subdivision.



## 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 Alameda)

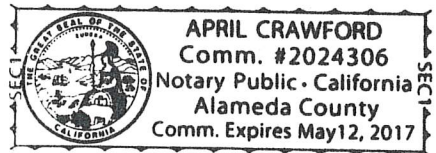
On July 23st, 2015 before me, April Crawford, Notary Public-----  
(insert name and title of the officer)

personally appeared Robert D. Moore and Richard M. Nelson, who 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 they executed the same in their authorized capacity(ies), and that by 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 April Crawford (Seal)



**Subdivision:** PA 14-0042 (x-ref. SD 8971)  
**Bond No.:** 58727561  
Premium: \$5,024.00

**IMPROVEMENT SECURITY BOND**  
**FOR PUBLIC RIGHT OF WAY LANDSCAPE AGREEMENT**  
(Performance, Guarantee, and Payment)  
(California Government Code Sections 66462 and 66463)

1. **RECITAL OF SUBDIVISION AGREEMENT:** The Principal has executed an agreement with the County to install and pay for public right of way landscaping, and other related improvements in Subdivision PA 14-0042 (x-ref. SD 8971) as specified in the Subdivision Agreement (Right of Way Landscaping), and to complete said work within the time specified for completion in the Subdivision Agreement (Right of Way Landscaping), all in accordance with State and local laws and rulings thereunder in order to satisfy conditions for filing of the Final Map or Parcel Map for said Subdivision.
  
2. **OBLIGATION:** Toll Brothers, Inc., as Principal, and Western Surety Company, a corporation organized existing under the laws of the State of SD, and authorized to transact surety business in California, as Surety, hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns to the County of Contra Costa, California to pay it:
  - A. **Performance and Guarantee:** Six Hundred Twenty Eight Thousand Dollars and 00/100 Dollars (\$ 628,000.00) for itself or any city assignee under the above County Subdivision Agreement, plus
  
  - B. **Payment:** Three Hundred Eighteen Thousand Dollars and 00/100 Dollars (\$ 318,000.00) to secure the claims to which reference is made in Title XV (commencing with Section 3082) of Part 4 of Division III of the Civil Code of the State of California.
  
3. **CONDITION:**
  - A. The Condition of this obligation as to Section 2.(A) above is such that if the above bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on is or its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the County of Contra Costa (or city assignee), its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by County (or city assignee) in successfully enforcing such obligation, all to be taxed as costs and included in any judgement rendered.

- B. The condition of this obligation as to Section 2.(B) above is such that said Principal and the undersigned as corporate surety are held firmly bound unto the County of Contra Costa and all contractors, subcontractors, laborers, material men and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay, in addition to the fact amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by County (or city assignee) in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgement therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

- C. No alteration of said subdivision agreement or any plan or specification of said work agreed to by the Principal and the County shall relieve any Surety from liability on this bond; and consent is hereby given to make such alteration without further notice to or consent by Surety; and the Surety hereby waives the provisions of California Civil Code Section 2819, and holds itself bound without regard to and independently of any action against Principal whenever taken.

**SIGNED AND SEALED** on August 11, 2015

**PRINCIPAL:** Toll Brothers, Inc.

Address: 250 Gibraltar Road

City: Herndon Zip: 19044

By: [Signature]

Print Name: Robert P. Moore

Title: Div. President

**SURETY:** Western Surety Company

Address: 100 Matsonford Road, Suite 200

City: Radnor Zip: 19087

By: [Signature]

Print Name: William F. Simkiss

Title: Attorney-in-Fact



# CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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 PA

County of Chester

On August 11, 2015 before me, Arlene Ostroff, Notary Public  
Date Name and Title of Notary

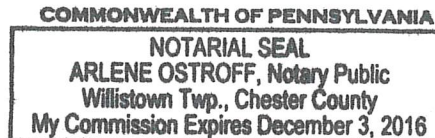
personally appeared William F. Simkiss  
Name and or Names of Signer(s)

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   
Arlene Ostroff Notary Public Signature



Place Notary Public Seal Above

OPTIONAL

*Though the information below is not required by law, it may prove valuable to the persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

## Description of Attached Document

Title or Type of Document \_\_\_\_\_

Document Date \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- ☐ Individual
- ☐ Corporate Officer – Title(s): \_\_\_\_\_
- ☐ Partner - ☐ Limited ☐ General
- ☐ Guardian or Conservator
- ☒ Attorney-in-Fact
- ☐ Trustee
- ☐ Other: \_\_\_\_\_

Signer is representing \_\_\_\_\_  
 Western Surety Company

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb

- ☐ Individual
- ☐ Corporate Officer – Title(s): \_\_\_\_\_
- ☐ Partner - ☐ Limited ☐ General
- ☐ Guardian or Conservator
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Other: \_\_\_\_\_

Signer is representing \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb



# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**William F Simkiss, Richard J Decker, Daniel P Dunigan, Joseph W Kolok Jr, Brian C Block, James L Hahn, Individually**

of Paoli, PA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

### - In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of June, 2015.



WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

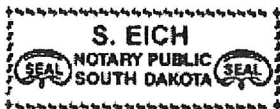
State of South Dakota  
County of Minnehaha

} ss

On this 15th day of June, 2015, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

February 12, 2021



S. Eich, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 11TH day of AUGUST, 2015.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

**Authorizing By-Law**

**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

## 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 Alameda)

On August 14, 2015 before me, April Crawford, Notary Public-----  
(insert name and title of the officer)

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.

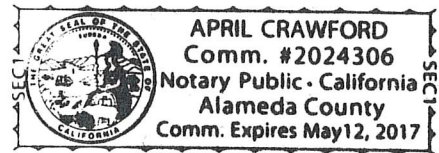
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

*April Crawford*

(Seal)





**Contra  
Costa  
County**

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: March 20, 2018

Subject: Close Fred Jackson Way (northbound lanes) between Chelsey Ave., and Grove Ave., on March 21, 2018 - June 30, 2019, 6 AM-4 PM, North Richmond area

**RECOMMENDATION(S):**

ADOPT Resolution No. 2018/94 approving and authorizing the Public Works Director, or designee, to partially close a portion of Fred Jackson Way (northbound lanes only) between Chelsey Avenue and Grove Avenue, on March 21, 2018 through June 30, 2019 from 6:00 AM through 4:00 PM, for the purpose of construction logistics (deliveries, concrete pump trucks, crane picks), North Richmond area. (District I)

**FISCAL IMPACT:**

No fiscal impact

**BACKGROUND:**

Applicant shall follow guidelines set forth by the Public Works Department

**CONSEQUENCE OF NEGATIVE ACTION:**

Applicant will be unable to close the road for planned activities.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Bob Hendry (925)  
674-7744

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

By: , Deputy

cc: Jocelyn LaRocque, Bob Hendry, CHP, Sheriff - Patrol Div. Commander



## ATTACHMENTS

Resolution No.  
2018/94

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

Adopted this Resolution on 03/20/2018 by the following vote:

**AYE:** ☐

**NO:** ☐

**ABSENT:** ☐

**ABSTAIN:** ☐

**RECUSE:** ☐



**Resolution No. 2018/94**

IN THE MATTER OF approving and authorizing the Public Works Director, or designee, to partially close a portion of Fred Jackson Way (northbound lanes only) between Chelsey Avenue and Grove Avenue, on March 21, 2018 through June 30, 2019 from 6:00 AM through 4:00 PM, for the purpose of construction logistics (deliveries, concrete pump trucks, crane picks), North Richmond area. (District I)

RC18-4

NOW, THEREFORE, BE IT RESOLVED IT IS BY THE BOARD RESOLVED that permission is granted to C. Overaa & Company to partially close Fred Jackson Way (northbound lanes only) between Chelsey Avenue and Grove Avenue, except for emergency traffic, on March 21, 2018 through June 30, 2019 for the period of 6:00 AM through 4:00 PM, subject to the following conditions:

1. Traffic will be detoured via per traffic control plan reviewed by Public Works.
2. All signs to be in accordance with the California Manual on Uniform Traffic Control Devices.
3. C. Overaa & Company 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 \$1,000,000.00 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.

**Contact: Bob Hendry (925) 674-7744**

**ATTESTED: March 20, 2018**

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

By: , Deputy

**cc:** Jocelyn LaRocque, Bob Hendry, CHP, Sheriff - Patrol Div. Commander



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: March 20, 2018

Subject: ADOPT Resolution to vacate three Flood Control & Water Conservation District easements in connection to Marsh Creek flood control channel.

**RECOMMENDATION(S):**

ADOPT Resolution 2018/99 to vacate three Contra Costa County Flood Control and Water Conservation District (District) easements in connection to the Marsh Creek flood control channel to Griffith Lane, pursuant to Section 31 of the Flood Control Act, Brentwood area. (Project No. FCP 617-17-WL083A) (CP#17-46)

DETERMINE that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to Article 5, Section 15061 (b)(3) of the CEQA guidelines.

DIRECT the Director of the Department of Conservation and Development (DCD) to file a Notice of Exemption with the County Clerk; and

AUTHORIZE the Chief Engineer, or designee, to arrange for payment of the \$50 fee to the County Clerk for filing the Notice of Exemption, and a \$25 fee to the DCD for processing of the Notice of Exemption; and

DIRECT the Real Estate Division of the Public Works Department to record a certified copy of the Resolution in the office of the County Clerk-Recorder.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Naila Thrower, 925.  
313-2245

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

By: , Deputy

cc:

## RECOMMENDATION(S): (CONT'D)

### FISCAL IMPACT:

100% Applicant Fees.

### BACKGROUND:

Between February and May of 1968, the District acquired easements for access to the Marsh Creek flood control channel to Griffith Lane identified on Flood Control Right-of-Way Drawing ED-467, and identified as easements 78, 84 and 85, as described, and shown on Exhibits “A-1” and “B-1” and Exhibits “A-2 and “B-2” attached to the Resolution. The three easements are located between Assessor’s Parcel Nos. (APNs): 017-680-077 and 017-131-019.

The City of Brentwood found that the applicant, Pulte Homes, had constructed a six-foot-tall wall inside of Easements 78, 84 and 85 which are owned by the District. The applicant then requested the District vacate the areas. District staff reviewed the request and determined that the easements are no longer needed, and intends to vacate any and all rights, title, interest, obligation and responsibility of the easements.

### CONSEQUENCE OF NEGATIVE ACTION:

The District may be responsible for the maintenance of areas that are no longer required for the purposes for which it was intended.

### ATTACHMENTS

Resolution No. 2018/99

Exhibits A1, B1, A2, B2, CEQA Exemption



Recorded at the request of: Naila Thrower, Public Works Real Estate Division

Return To: Daphne Wakefield, Public Works Real Estate

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

**Adopted this Resolution on 03/20/2018 by the following vote:**

AYE: ☐

NO: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐

Resolution No. 2018/99

IN THE MATTER OF: Vacating three Contra Costa County Flood Control and Water Conservation District Easements in connection to the Marsh Creek flood control channel to Griffith Lane, Brentwood area, District III. (Project No.: FCP 617-17-WL083A) (CP#17-46)

WHEREAS, In order to maintain access to the Marsh Creek flood control channel in the City of Brentwood, the District accepted easement Parcel No. 78 in the document recorded on May 8, 1968 in Book 5619 at Page 251, of the Contra Costa County Official Records and accepted easement Parcel Nos. 84 and 85 in the document recorded on February 1, 1968 in Book 5549 at Page 379, of the Contra Costa County Official Records. The three easements are located between Assessor's Parcel Nos.: 017-680-077 and 017-131-019.

WHEREAS, the applicant, Pulte Homes, constructed a six-foot-tall wall between Assessor's Parcel Nos. 017-680-077 and 017-131-019, inside of Easements 78, 84 and 85 described and shown in Exhibits "A-1", "B-1" and "A-2" and "B-2" attached hereto and incorporated herein by reference. The District has determined that the easements are no longer needed for access to the Marsh Creek flood control channel because there are other points of access available.

WHEREAS, there is no possibility that vacating the easements may have a significant adverse effect on the environment.

WHEREAS, this activity has been found to conform to the General Plan of the City of Brentwood.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors, as the Governing Body of the Contra Costa County Flood Control and Water Conservation District that: The easements described above, which the Board finds are no longer required for Flood Control purposes, are HEREBY ORDERED VACATED, pursuant to Section 31 of the Flood Control Act. The Board FINDS that this activity is not subject to the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061 (b)(3) of the CEQA Guidelines,

The Board DIRECTS the Real Estate Division of the Public Works Department to cause a certified copy of this Resolution to be recorded in the office of the County Clerk-Recorder.

From and after the date this Resolution is recorded, the easements described above, are vacated and no longer public service easements.

**Contact:** Naila Thrower, 925. 313-2245

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 20, 2018**

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

By: , Deputy

**cc:**

FCPID 5185, 5186 and 5187  
Vacation of CCCFC & WCD Easement  
Parcels No. 78 (FC Dwg. ED-467)  
APN 017-131-012 and 017-680-007  
Marsh Creek Channel to Griffith Lane

### Exhibit "A-1"

All the rights as set forth and described in the "Grant of Easement" from Abe and Phyllis Kaplan to the Contra Costa County Flood Control and Water Conservation District, and recorded as Exhibit A as part of Board Resolution 66-136 Authorizing Acceptance on May 8, 1968 in Book 5619 at Page 251, Official Records of said Contra Costa County, more particularly described as follows:

All of Parcels A, B and C as written in said Grant of Easement (5619 OR 251), at pages 254 to 257, inclusive.

**Exhibit "B-1"**, a plat is attached hereto and by this reference made a part hereof (drawing number FS-20102).

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.



Signature: \_\_\_\_\_

*Janine L. Hampton*

Licensed Land Surveyor  
Contra Costa County Public Works Department

Date: \_\_\_\_\_

*Feb. 21, 2018*

MARSH CREEK  
CHANNEL  
CCCFC&WCD

# EXHIBIT "B-1"

PLAT TO ACCOMPANY EXHIBIT "A-1"

APN 017-680-077

City of Brentwood

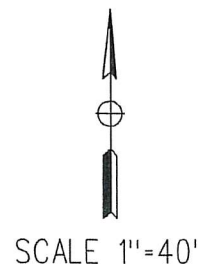
Per Dedication  
and Acceptance:

Parcel A

Sub 9420

529 M 1

08/22/16



SCALE 1"=40'

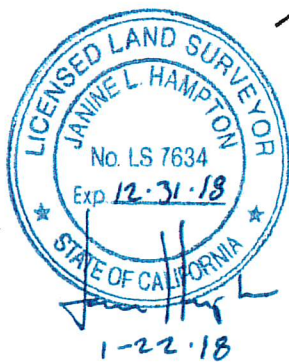
PARCEL "A"  
5619 OR 251  
24' WIDE

FCPID 5186  
PARCEL "B"  
5619 OR 251  
10.5' WIDE

FCPID 5185

APN 017-131-019

Marin County  
Exchange Corp.  
2016-0156560-00  
08/05/2016



FCPID 5187  
PARCEL "C"  
5619 OR 251  
15' WIDE

Griffith Lane

DWG. No: FA 20102

CCCFC&WCD Marsh Creek at Griffith Lane Easement Quitclaim: PCL 78

Instrument :

Series No.

Recorded

Scale 1"=40'

Drawn By JLH

Checked By JS

Date: JANUARY 16, 2018

Model: 5619 OR 251

Cad File: Vacation Griffith Lane.dgn



FCPID 5188 and 5189  
Vacation of CCCFC & WCD Easement  
Parcel No. 84 & 85 (FC Dwg. ED-467)  
APN 017-131-012 and 017-680-007  
Marsh Creek Channel to Griffith Lane

**Exhibit "A-2"**

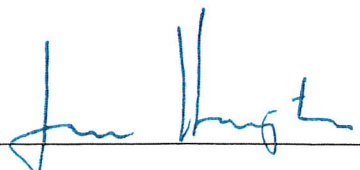
All the rights to Parcels 84 and 85 as particularly set forth and described, as an easement, at the end of the "Grant Deed" granted by Armando and Julia Dianda, and George Baldocchi, Jr. to the Contra Costa County Flood Control and Water Conservation District, and recorded as part of Board Resolution 67-131 Authorizing Acceptance from Armando Dianda, et al., February 1, 1968 in Book 5549 at Page 379, Official Records of said Contra Costa County.

Being all of Parcels 84 and 85 as written in said deed (5549 OR 379).

**Exhibit "B-2"**, a plat is attached hereto and by this reference made a part hereof (drawing number FA-20103).

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: \_\_\_\_\_

 LS 7634

Licensed Land Surveyor  
Contra Costa County Public Works Department



Date: \_\_\_\_\_

Jan. 22, 2018

MARSH CREEK  
CHANNEL  
CCCFC&WCD

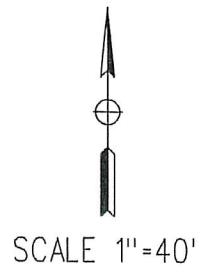
# EXHIBIT "B-2"

PLAT TO ACCOMPANY EXHIBIT "A-2"

FCPID 5188  
5549 OR 379  
05/08/1968  
PARCEL 84

APN 017-680-077  
City of Brentwood  
Per Dedication  
and Acceptance:

Parcel A  
Sub 9420  
529 M 1  
08/22/16



APN 017-131-019  
Marin County  
Exchange Corp.  
2016-0156560-00  
08/05/2016

FCPID 5189  
5549 OR 379  
05/08/1968  
PARCEL 85



DWG. No: FA 20103

Griffith Lane

CCCFC&WCD Marsh Creek at Griffith Lane Easement Quitclaim: FC Parcel 84 & 85

Instrument : Quitclaim

Series No.

Recorded

Scale 1"=40'

Drawn By JLH

Checked By JS

Date: JANUARY 16, 2018

Model: 5549 OR 379

Cad File: Vacation Griffith Lane.dgn

**DETERMINATION THAT AN ACTIVITY  
IS EXEMPT FROM THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

ACTIVITY NO.: **FCP#617-17 / EF1700617, CP# 17-46**

ACTIVITY NAME: **(FCP#617-17) Vacation of Flood Control Easements**

PREPARED BY: Laura Cremin      DATE: December 5, 2017

**This activity is not subject to the California Environmental Quality Act (CEQA) pursuant to Article 5, Section 15061 (b) (3) of the CEQA Guidelines.**

It can be seen with certainty that there is no possibility that the activity may have a significant adverse effect on the environment.

**DESCRIPTION OF THE ACTIVITY:**

The Contra Costa County Flood Control and Water Conservation District (FC District) intends to vacate Easements 78, 84, and 85 to the underlying property owners, as shown on Right-of-Way drawing ED-467. The easements are located on parcels APN 017-680-077 of subdivision 9420 and APN 017-131-019, a privately owned parcel.

The City of Brentwood found that the applicant, Pulte Homes, had constructed a six-foot-tall wall inside three easements owned by the FC District. The wall is between Parcels APN 017-680-077 and APN 017-131-019. The applicant then applied for a flood control permit.

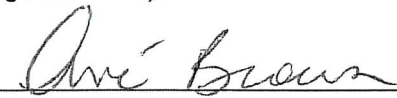
The FC District would like to vacate these Easements 78, 84, and 85 because they are no longer needed for access to the Marsh Creek flood control channel. Other points of access are available. The Maintenance Division confirmed that the easements are no longer needed. All other FC District easements and parcels as shown on ED-467 maintain their current status.

This activity will include a right-of-way transaction.

General Plan Conformance is necessary from the City of Brentwood.

**LOCATION:** The easements are located east of Marsh Creek, near 1171 Griffith Lane, Brentwood, CA (*Figures 1 – 5*).

REVIEWED BY: \_\_\_\_\_



DATE: \_\_\_\_\_

12-18-17

Ave Brown

Principal Environmental Analyst

Environmental Services

Contra Costa County Public Works Department

APPROVED BY: \_\_\_\_\_



Department of Conservation and  
Development Representative

DATE: \_\_\_\_\_

1-3-18



# Contra Costa County

To: Board of Supervisors  
 From: David Twa, County Administrator  
 Date: March 20, 2018

Subject: Claims

---

## **RECOMMENDATION(S):**

DENY claims filed by Michael Dean, Farmers Insurance for John Rossi, Tyler Aaron Gregory Revels, and Deborah Mei Rossi. DENY late claims filed by AAA Ins AAA Insurance for Nader Eghtesad and La'Shurn Ferrell.

## **FISCAL IMPACT:**

No fiscal impact.

## **BACKGROUND:**

Michael Dean: Claim for refund of late fee for animal licensing in the amount of \$120.  
 Farmers Insurance for John Rossi: Property claim for damage to vehicle in the amount of \$6,966.78  
 Tyler Arron Gregory Revels: Property claim for broken radio in the amount of \$40.  
 Deborah Mei Rossi: Property claim for damage to vehicle in the amount of \$455.42  
 AAA Insurance for Nader Eghtesad: Request that Board of Supervisors accept a late claim.  
 La'Shurn Ferrell: Request that Board of Supervisors accept a late claim.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Scott Selby  
 925.335.1400

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

By: , Deputy

cc:



**Contra  
Costa  
County**

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: ACCEPT Board members meeting reports for February 2018

---

**RECOMMENDATION(S):**

ACCEPT Board members meeting reports for February 2018.

**FISCAL IMPACT:**

No fiscal impact.

**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 has nothing to report.

**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: **03/20/2018** ☒ 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: March 20, 2018

Contact: Joellen Bergamini  
925.335.1906

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

By: , Deputy

cc:



## ATTACHMENTS

District II February 2018 Report

District III February 2018 Report

District IV February 2018 Report

District I February 2018 Report

## Supervisor Candace Andersen – Monthly Meeting Report *February 2018*

| Date | Meeting                    | Location     |
|------|----------------------------|--------------|
| 2    | Lafayette Chamber Ceremony | Lafayette    |
| 6    | Board of Supervisors       | Martinez     |
| 6    | Danville Town Council      | Danville     |
| 7    | John Muir Health           | Walnut Creek |
| 8    | MP&L                       | Lafayette    |
| 8    | East Bay EDA               | Concord      |
| 10   | Hansamo Awards Night       | Dublin       |
| 12   | Internal Operations        | Martinez     |
| 13   | Board of Supervisors       | Martinez     |
| 14   | CCCERA                     | Concord      |
| 14   | LAFCO                      | Concord      |
| 20   | Family & Human Services    | Martinez     |
| 20   | LAFCO Interviews           | Martinez     |
| 20   | Walnut Creek City Council  | Walnut Creek |
| 21   | San Ramon State of City    | San Ramon    |
| 21   | Moraga BP of Year          | Moraga       |
| 22   | CCCSWA                     | Walnut Creek |
| 23   | EBRCSA                     | Alameda      |
| 26   | Lafayette City Council     | Lafayette    |
| 27   | Board of Supervisors       | Martinez     |
| 28   | CCCERA                     | Concord      |
| 28   | Tri Valley Cities event    | Danville     |

**Supervisor Diane Burgis - February 2018 AB1234**

(Government Code Section 53232.3(d) requires that members legislative  
attended for which there has been expense reimbursement (mileage,

| Date   | Meeting Name  | Location      |
|--------|---|---------------|
| 1-Feb  | Intersect Power Conference                              | San Francisco |
| 2-Feb  | Intersect Power Conference                              | San Francisco |
| 3-Feb  | Intersect Power Conference                              | San Francisco |
| 5-Feb  | Meeting with East Bay Leadership Council                | Brentwood     |
| 5-Feb  | Meeting with BART Director, Joel Keller                 | Brentwood     |
| 5-Feb  | Meeting with Contra Costa Community College District    | Brentwood     |
| 5-Feb  | First 5 Commission Meeting                              | Concord       |
| 6-Feb  | Board of Supervisors Meeting                            | Martinez      |
| 6-Feb  | Meeting with Contra Costa RCD                           | Brentwood     |
| 7-Feb  | Constituent Meeting                                     | Brentwood     |
| 7-Feb  | Constituent Meeting                                     | Brentwood     |
| 7-Feb  | Meeting with Contra Costa Crisis Center                 | Brentwood     |
| 7-Feb  | Meeting with County Staff, Health Services Department   | Richmond      |
| 7-Feb  | Mental Health Commission Meeting                        | Richmond      |
| 8-Feb  | Tour of Oakley Delta Station                            | Oakley        |
| 8-Feb  | Constituent Meeting                                     | Brentwood     |
| 8-Feb  | Meeting with the Food Bank                              | Brentwood     |
| 8-Feb  | Meeting with Library Commissioner, Don McCormick        | Brentwood     |
| 9-Feb  | Phone Meeting with Delta Counties Coalition             | Brentwood     |
| 9-Feb  | Meeting with County Staff, Water Agency                 | Martinez      |
| 9-Feb  | Constituent Meeting                                     | Martinez      |
| 9-Feb  | Tour of Office of the Sheriff Crime Lab                 | Martinez      |
| 10-Feb | 2018 Wheelchair Foundation Charity Ball                 | Danville      |
| 12-Feb | Legislation Committee Meeting                           | Martinez      |
| 12-Feb | Internal Operations Committee Meeting                   | Martinez      |
| 12-Feb | Meeting with County Staff, Conservation and Development | Martinez      |
| 13-Feb | Board of Supervisors Meeting                            | Martinez      |
| 13-Feb | Housing Authority Meeting                               | Martinez      |
| 14-Feb | Contra Costa 2020 Learning Session                      | Pleasant Hill |
| 14-Feb | Friends of the Blackhawk Museum Event                   | Danville      |
| 15-Feb | Tour of West County Detention Facility                  | Richmond      |
| 15-Feb | Meeting with Richland Communities                       | Brentwood     |
| 15-Feb | Meeting with Brentwood City Manager, Gus Vina           | Brentwood     |
| 15-Feb | Constituent Meeting                                     | Brentwood     |

|        |   |           |
|--------|---|-----------|
| 20-Feb | Meeting with County Staff, Health Services Department           | Martinez  |
| 20-Feb | Meeting with County Administrator, David Twa                    | Martinez  |
| 21-Feb | Meeting with Sheriff Livingston                                 | Martinez  |
| 21-Feb | Constituent Meeting   | Brentwood |
| 21-Feb | Meeting with Alameda-Contra Costa Medical Association           | Brentwood |
| 21-Feb | Meeting with Discovery Counseling                               | Brentwood |
| 22-Feb | 2018 California Democrats State Convention                      | San Diego |
| 23-Feb | 2018 California Democrats State Convention                      | San Diego |
| 24-Feb | 2018 California Democrats State Convention                      | San Diego |
| 25-Feb | 2018 California Democrats State Convention                      | San Diego |
| 26-Feb | Community Services Bureau Self Assessment                       | Brentwood |
| 26-Feb | Meeting with Chevron  | Brentwood |
| 26-Feb | East Contra Costa County Habitat Conservancy                    | Oakley    |
| 26-Feb | Commander's Call  | Brentwood |
| 27-Feb | Board of Supervisors Meeting                                    | Martinez  |
| 28-Feb | Meeting with Budget Justice Coalition                           | Brentwood |
| 28-Feb | Meeting with National Coalition Against Prescription Drug Abuse | Brentwood |
| 28-Feb | Meeting with MHET   | Brentwood |
| 28-Feb | Constituent Meeting   | Brentwood |
| 28-Feb | Tri-Delta Transit   | Antioch   |

\* Reimbursement may come from an agency other than Contra Costa County

## Report

bodies report on meetings  
meals, lodging, etc).

### Purpose

Business Meeting

Business Meeting

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**Supervisor Karen Mitchoff**  
**February 2018**

| <b>DATE</b> | <b>MEETING NAME</b>                      | <b>LOCATION</b> | <b>PURPOSE</b>            |
|-------------|--|-----------------|---------------------------|
| 2/3/2018    | Ruby Slippers Awards Dinner              | Danville        | Community Outreach        |
| 2/5/2018    | Pasta Feed for Ryan Joseph               | Pleasant Hill   | Community Outreach        |
| 2/6/2018    | Board of Supervisors Meeting             | Martinez        | Decisions on agenda items |
| 2/7/2018    | ABAG Regional Planning Committee         | San Francisco   | Decisions on agenda items |
| 2/8/2018    | TRANSPAC                                 | Pleasant Hill   | Decisions on agenda items |
| 2/9/2018    | ABAG Administrative Committee<br>Special | San Francisco   | Decisions on agenda items |
| 2/12/2018   | Legislation Committee                    | Martinez        | Decisions on agenda items |
| 2/13/2018   | Board of Supervisors Meeting             | Martinez        | Decisions on agenda items |
| 2/15/2018   | EHSD Years of Service Celebration        | Pleasant Hill   | Community Outreach        |
| 2/20/2018   | Walnut Creek City Council                | Walnut Creek    | Community Outreach        |
| 2/21/2018   | DCC Meeting with Robert Greene           | Los Angeles     | Water Advocacy            |
| 2/21/2018   | CCTA Board Meeting                       | Walnut Creek    | Decisions on agenda items |
| 2/22/2018   | BAAQMD Mobile Source Committee           | San Francisco   | Decisions on agenda items |
| 2/22/2018   | BAAQMD Legislative Committee             | San Francisco   | Decisions on agenda items |
| 2/22/2018   | CCCSWA Board Meeting                     | Walnut Creek    | Decisions on agenda items |
| 2/26/2018   | CCCSWA Personnel Committee               | Walnut Creek    | Decisions on agenda items |
| 2/27/2018   | Board of Supervisors Meeting             | Martinez        | Decisions on agenda items |
| 2/28/2018   | BAAQMD Budget and Finance Committee      | San Francisco   | Decisions on agenda items |

## **Supervisor John Gioia**

### **February - 2018 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.).

#### **1. Meeting Date: February 2, 2018**

Meeting: San Francisco Restoration Authority

Location: Oakland, CA

Supervisor Gioia sought reimbursement from the County for meetings that he attended in his capacity as a County Supervisor during the month of February, 2018.



# Contra Costa County

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: APPROVE the Board meeting minutes for February 2018

---

## **RECOMMENDATION(S):**

APPROVE Board meeting minutes for February 2018, as on file with the Office of the Clerk of the Board.

## **FISCAL IMPACT:**

No fiscal impact.

## **BACKGROUND:**

Government Code Section 25101(b) requires the Clerk of the Board to keep and enter in the minute book of the Board a full and complete record of the proceedings of the Board at all regular and special meetings, including the entry in full of all resolutions and of all decisions on questions concerning the allowance of accounts. The vote of each member on every question shall be recorded.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: Joellen Bergamini  
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: John Kopchik, Director, Conservation & Development Department  
Date: March 20, 2018

Subject: Update of County Tree Protection Ordinance and Heritage Tree Ordinance

---

**RECOMMENDATION(S):**

DIRECT the Department of Conservation and Development (DCD) to 1) prepare updates to the County Tree Protection and Preservation Ordinance (Ch. 816-6) and the Heritage Tree Preservation District Ordinance (Ch. 816-4); 2) seek input on this matter from Municipal Advisory Committees and submit updates for consideration by the County Planning Commission and subsequently the Board of Supervisors.

**FISCAL IMPACT:**

Estimated staff cost of preparing an update of the County Tree Protection and Heritage Tree Ordinances is expected to be within the \$30,000 - \$50,000 range, but could be higher or lower depending on the amount of additional research required, the complexity of the regulatory approach chosen. These staff costs will be covered by the existing approved budget for Department of Conservation and Development (Land Development Fund).

**BACKGROUND:**

In response to concerns regarding the complexity of the current Tree Protection and Preservation Ordinance and the Heritage Tree Preservation (HTP) District Ordinance, the Department of Conservation and Development (DCD) seeks direction from the Board of Supervisors (Board) to initiate the process of preparing amendments to these ordinances.

---

☐ APPROVE

☒ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Daniel Barrios, (925)  
674-7788

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

By: , Deputy

cc:



## BACKGROUND: (CONT'D)

The County currently reviews and issues permits for projects proposing to trench, grade or fill within the drip line of any protected tree or remove any protected tree, as well as for the designation of heritage trees. However, the process of determining whether a tree is code-protected or not may be challenging due to the complexity of the current ordinance's language and the definitions of code-protected trees themselves. In addition, the process of establishing a heritage tree has also been a cause of concern among property owners, as anyone has the ability to nominate a tree over 72 inches in diameter, whether it is on their property or someone else's. DCD's proposal to update the existing ordinances will reassess these definitions of code-protected and heritage trees and revise the ordinances to provide greater clarity and more appropriate regulations.

Furthermore, revising the ordinances will provide the opportunity for DCD to reevaluate the tree permit and heritage tree permit processes. Currently, a tree permit is required for projects proposing to trench, grade or fill within the drip line of any protected tree or cut down, destroy, trim by topping or remove any protected tree. When not associated with a development plan, land use permit, subdivision, or another higher-tiered discretionary permit, a tree permit is taken in and reviewed by DCD staff for approval or denial based on the merits of the proposed project. Generally, a tree permit may take approximately two to four months in overall processing time when accounting for DCD staff's initial review, reviewing revised submittals if necessary, a 10-day noticing of the adjacent property owners, and drafting the permit, findings and conditions of approval. However, approvals may also be appealed by the community during the 10-day appeal period, which can extend the process further due to the staff time required to prepare staff reports and noticing deadlines for the County Planning Commission and County Board of Supervisors if appealed again. This timeline and overall process does not depend to a significant degree on the level of proposed impact to trees and has been a source of concern to both property owners and the Board, as it may cause significant delays and add significant financial burdens to projects. As such, the revision of the tree protection and heritage tree ordinances provides a unique opportunity to reevaluate these processes and modify them if appropriate.

Once a draft tree ordinance has been prepared, staff proposes to seek feedback from the County's local Municipal Advisory Councils and other interested groups prior presenting proposed amendments at a public hearing before the County Planning Commission (CPC). Staff will return to the Board of Supervisors for final review and adoption with a recommendation from the CPC.

## CONSEQUENCE OF NEGATIVE ACTION:

The County Tree Protection and Preservation Ordinance (Ch. 816-6) and the Heritage Tree Preservation District Ordinance (Ch. 816-4) will not be updated.

## ATTACHMENTS

Ch. 816-6 Tree Protection and Preservation Ordinance

Ch. 816-4 Heritage Tree Preservation (HTP) District Ordinance

## Chapter 816-6 - TREE PROTECTION AND PRESERVATION

### Sections:

#### **Article 816-6.2. Title and Purpose**

816-6.2002 - Title.

This chapter shall be known as the "tree protection and preservation ordinance" of Contra Costa County.

(Ords. 94-59, 94-22).

816-6.2004 - Purpose.

This chapter provides for the preservation of certain protected trees in the unincorporated area of this county. In addition, this chapter provides for the protection of trees on private property by controlling tree removal while allowing for reasonable enjoyment of private property rights and property development for the following reasons:

- (1) The county finds it necessary to preserve trees on private property in the interest of the public health, safety and welfare and to preserve scenic beauty.
- (2) Trees provide soil stability, improve drainage conditions, provide habitat for wildlife and provide aesthetic beauty and screening for privacy.
- (3) Trees are a vital part of a visually pleasing, healthy environment for the unincorporated area of this county.

(Ords. 94-59, 94-22).

816-6.2006 - Coordination.

This chapter's requirements are intended to be in addition to those otherwise required by this code. In the case of any conflicts, the director shall determine the requirements applicable and the director's decision shall be final in the absence of a timely filed appeal pursuant to Chapter 26-2.

(Ords. 94-59, 94-22).

#### **Article 816-6.4. Definitions**

816-6.4002 - Generally.

The definitions in this article govern the construction of this chapter, unless the context otherwise requires.

(Ords. 94-59, 94-22).

816-6.4004 - Arborist.

"Arborist" means a person currently certified by the Western Chapter of the International Society of Arboriculture, as an expert on the care of woody trees, shrubs and vines in the landscape, a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists or such other arborist who, after review by the director, is determined to meet the standards established for certified or consulting arborists hereinabove described.

(Ords. 94-59, 94-22).

816-6.4006 - Arborist report.

An arborist report is a report prepared by an arborist on:

- (1) The possible impact of development on trees or existing tree condition;
- (2) The impact of any alteration; and/or
- (3) Restorative or other remedial action that might be feasible to address tree alterations.

(Ords. 94-59, 94-22).

816-6.4008 - Department.

"Department" means the community development department.

(Ords. 94-59, 94-22).

816-6.4010 - Development.

"Development" means any modification of land for human use from its existing state which requires a discretionary entitlement for its establishment or a building and/or grading permit involving a protected tree or trees.

(Ords. 94-59, 94-22).

816-6.4012 - Development application.

A development application is an application for development (as defined in this article) requiring either ministerial or discretionary approvals including design review, use permits, subdivisions, rezoning applications, building and/or grading permits.

(Ords. 94-59, 94-22).

816-6.4014 - Director.

"Director" means the director of community development or his/her designee.

(Ords. 94-59, 94-22).

816-6.4015 - Riparian.

Riparian vegetation is found along creeks and streams. Runoff streams that only carry runoff during the rain seasons in this area are known to support significant riparian vegetation.

(Ords. 94-59, 94-22).

816-6.4016 - Routine pruning.

"Routine pruning" means the removal of dead or dying, diseased, weak or objectionable branches of a tree in a reasonable and scientific manner which does not structurally harm the tree.

(Ords. 94-59, 94-22).

816-6.4018 - Topping.

"Topping" is the removal of the upper twenty-five percent or more of a tree's trunk(s) or primary leader.

(Ords. 94-59, 94-22).

816-6.4020 - Tree.

"Tree" means a large woody perennial plant with one or more trunks, branches and leaves, not including shrubs shaped to tree forms.

(Ords. 94-59, 94-22).

816-6.4022 - Tree removal.

"Tree removal" means the destruction of any protected tree by cutting, regrading, girdling, interfering with water supply, applying chemicals or by other means.

(Ords. 94-59, 94-22).

816-6.4024 - Undeveloped property.

"Undeveloped property" is:

- (1) A parcel of private land which is vacant or a developed parcel which has remaining development potential;
- (2) A parcel of land which can be further divided in accordance with zoning regulations of the county;
- (3) A parcel of land on which the structures are proposed to be demolished or relocated.

(Ords. 94-59, 94-22).

## **Article 816-6.6. Protected Trees**

816-6.6002 - Prohibition.

No person shall trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree on private property within the county without a tree permit, except as provided for in Section 816-4.1002.

(Ords. 94-59, 94-22).

816-6.6004 - Protected trees.

A protected tree is any one of the following:

- (1) On all properties within the unincorporated area of the county:
  - (A) Where the tree to be cut down, destroyed or trimmed by topping is adjacent to or part of a riparian, foothill woodland or oak savanna area, or part of a stand of four or more trees, measures twenty inches or larger in circumference (approximately 6.5 inches in diameter) as measured four and one-half feet from ground level, and is included in the following list of indigenous trees: *Acer macrophyllum* (Bigleaf Maple), *Acer negundo* (Box Elder), *Aesculus californica* (California Buckeye), *Alnus Rhombifolia* (White Alder), *Arbutus menziesii* (Madrone), *Heteromeles arbutifolia* (Toyon), *Juglans Hindsii* (California Black Walnut), *Juniperus californica* (California Juniper), *Lithocarpus densiflora* (Tanoak or Tanbark Oak), *Pinus attenuata* (Knobcone Pine), *Pinus sabiniana* (Digger Pine), *Platanus Racemosa* (California Sycamore), *Populus fremontii* (Fremont Cottonwood), *Populus trichocarpa* (Black Cottonwood), *Quercus agrifolia* (California or Coast Live Oak), *Quercus chrysolepis* (Canyon Live Oak), *Quercus douglasii* (Blue Oak), *Quercus kelloggii* (California Black Oak), *Quercus lobata* (Valley Oak), *Quercus wislizenii* (Interior Live Oak), *Salix lasiandra* (Yellow Willow), *Salix laevigata* (Red Willow), *Salix lasiolepis* (Arroyo Willow), *Sambucus callicarpa* (Coast Red Elderberry), *Sequoia sempervirens* (Coast Redwood), *Umbellularia californica* (California Bay or Laurel);
  - (B) Any tree shown to be preserved on an approved tentative map, development or site plan or required to be retained as a condition of approval;
  - (C) Any tree required to be planted as a replacement for an unlawfully removed tree.
- (2) On any of the properties specified in subsection (3) of this section:
  - (A) Any tree measuring twenty inches or larger in circumference (approximately six and one-half inches diameter), measured four and one-half feet from ground level including the oak trees listed above;
  - (B) Any multistemmed tree with the sum of the circumferences measuring forty inches or larger, measured four and one-half feet from ground level;
  - (C) And any significant grouping of trees, including groves of four or more trees.
- (3) Specified properties referred to in subsection (2) of this section includes:
  - (A) Any developed property within any commercial, professional office or industrial district;
  - (B) Any undeveloped property within any district;
  - (C) Any area designated on the general plan for recreational purposes or open space;
  - (D) Any area designated in the county general plan open space element as visually significant riparian or ridge line vegetation and where the tree is adjacent to or part of a riparian, foothill woodland or oak savanna area.

(Ords. 94-59, 94-22).

## **Article 816-6.8. Applications**

### **816-6.8002 - Permit requirement.**

Any person proposing to trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree shall apply to the department for a tree permit, not less than ten days prior to the proposed tree removal or tree alterations.

Persons who would be eligible to apply for three or more individual tree permits under provisions of this chapter may apply for a collective tree permit for the site.



(Ords. 94-59, 94-22).

#### 816-6.8004 - Application.

In addition to any other applicable requirements of this code and county ordinances, the application shall include the following information and items:

- (1) The number, size (including height and diameter measured four and one-half feet above ground), species, location, dripline and condition of each tree proposed to be altered or removed;
- (2) The reason(s) for alteration or removal;
- (3) A plot plan showing the approximate location of all trees on the site, including those proposed to remain;
- (4) Proposed method of tree alteration or removal;
- (5) Information indicating the effect of tree alteration or removal on soil stability and erosion if located on a steep slope or near any creek;
- (6) The signature of the property owner or if the permit is requested by someone other than the owner, a written authorization from the owner;
- (7) Photographs of the tree/s to be affected by grading or trenching, topping or removal;
- (8) A list and set of stamped envelopes addressed to adjacent property owners and other individuals and organizations as may otherwise be indicated by the director of community development. Such envelopes, with no return address, shall be required for notification of the tentative decision to grant a tree permit;
- (9) Additional information as may be required by the county upon review of the above information;
- (10) Application and permit fees.

(Ords. 94-59, 94-22).

#### 816-6.8006 - Review and site inspection.

Prior to making a decision, the director or his designee shall review the application using the criteria and factors specified in this article. Application review may include a site visit.

(Ords. 94-59, 94-22).

#### 816-6.8008 - Arborist or forester report.

If the reasons for alteration or removal relate to the health of the tree or if grading, trenching or filling is proposed under the dripline of an existing tree, or the review is of a collective tree permit and the director determines that more technical expertise is necessary to make the decision, a report prepared by an arborist may be required, to be paid for by the applicant.

(Ords. 94-59, 94-22).

#### 816-6.8010 - Factors.

In granting or denying the tree permit the following factors shall be considered:

- (1) General.

- (A) The proximity and number of other trees in the vicinity;
  - (B) The relationship of the subject property to general plan open space or open space plans and policies.
- (2) For Approval.
- (A) The arborist report indicates that the tree is in poor health and cannot be saved;
  - (B) The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means (such as root barriers etc.);
  - (C) The tree is in danger of falling and cannot be saved by some other means (such as pruning);
  - (D) The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.;
  - (E) The tree is a species known to be highly combustible and is determined to be a fire hazard;
  - (F) The proposed tree species or the form of the tree does not merit saving (i.e., a tree stunted in growth, poorly formed, etc.);
  - (G) Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot;
  - (H) The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.
  - (I) Where the arborist or forester report has been required, and the director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.
- (3) For Denial.
- (A) The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for nondiscretionary permits);
  - (B) It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree;
  - (C) The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival;
  - (D) The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner;
  - (E) If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements;
  - (F) Any other reasonable and relevant factors specified by the director.

(Ords. 94-59, 94-22).

816-6.8012 - Decision.

The director shall grant or deny tree permits in accordance with this chapter and code. If a permit is granted, the director may attach conditions to insure compliance with this chapter and code. These

conditions may include a requirement to replace any or all trees on a comparable ratio of either size or quantity. Single tree permits shall be valid for a period of ninety days and may be renewed for additional periods by the director upon request by the applicant. Collective tree permits shall be valid for a period of time to be determined by the director based upon individual circumstances.

If a permit is denied, the director shall state the reason for denial. Notice of decision shall be mailed to the applicant.

(Ords. 94-59, 94-22).

816-6.8014 - Appeals.

Any person may appeal the director's decision within ten calendar days of the director's decision to the planning commission having jurisdiction in accordance with Chapter 26-2. Further appeals may be made as provided by Chapter 26-2. Appeals shall be made in writing and state the specific reasons why the decision does not meet the criteria and factors for granting or denial of a permit as stated in this chapter.

(Ords. 94-59, 94-22).

#### **Article 816-6.10. Permit Exceptions**

816-6.1002 - No permit.

A tree permit is not required for the following situations:

- (1) Hazardous Situation. Any tree whose condition creates a hazardous situation which requires immediate action as determined by the director, building inspector, sheriff, involved fire district or a utility company to protect its facilities. During off-hours, when officials described above are unavailable, the hazardous situation may be corrected and a report of the incident and description of the hazard shall be submitted to the director within ten days of the incident.
- (2) Prior Approval. Any tree whose removal was specifically approved as a part of an approved development plan, subdivision, other discretionary project or a building permit.
- (3) Routine pruning not involving topping or tree removal.
- (4) Commercial plantings. Planting, removal and harvesting in connection with Christmas tree farms, orchards and nurseries.
- (5) Rangeland Management. Normal activities associated with range management and the disposition of wood incidental to rangeland management on agriculturally zoned properties (with each parcel containing at least twenty acres but also including properties in adjacent common ownership interest of at least twenty acres), will not require a tree permit. "Rangeland management activities" are defined as including but not limited to the clearing and thinning of trees for purposes of reducing fire risk or enhancement of forage production, removing obstruction to stormwater runoff flow, maintaining adequate clearance on range roads and fire trails, fencing maintenance and protecting equipment and constructions.
- (6) Public Agencies/Utilities. Trimming and clearing within public agency or utility easements and rights-of-way for maintenance of easement or right-of-way will not require a tree permit. Lands owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this provision.

(Ords. 94-59, 94-22).

816-6.1004 - Proposed development.

- (a) On any property proposed for development approval, tree alterations or removal shall be considered as a part of the project application.
- (b) All trees proposed to be removed, altered or otherwise affected by development construction shall be clearly indicated on all grading, site and development plans. Except where the director otherwise provides, a tree survey shall be submitted as a part of the project application indicating the number, size, species and location of the dripline of all trees on the property. This survey shall be overlaid on the proposed grading and development plans. The plan shall include a tabulation of all trees proposed for removal.
- (c) The granting or denial of a tree removal program which is a part of a development proposal covered by this section shall be subject to Sections 816-6.8008 and 816-6.8014. A separate tree removal permit shall not be required.

(Ords. 94-59, 94-22).

#### **Article 816-6.12. Tree Protection**

##### **816-6.1202 - Tree protection.**

Except where otherwise provided by the involved development's conditions of approval or approved permit application, on all properties where trees are required to be saved during the course of development, the developer shall follow the following tree preservation standards:

- (1) Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on a site with trees to be preserved, the applicant shall install fencing at the dripline or other area as determined by an arborist report of all trees adjacent to or in the area to be altered. Prior to grading or issuance of any permits, the fences may be inspected and the location thereof approved by appropriate county staff.
- (2) No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the dripline unless indicated on the grading plans approved by the county and addressed in any required report prepared by an arborist. If grading or construction is approved within the dripline, an arborist may be required to be present during grading operations. The arborist shall have the authority to require protective measures to protect the roots. Upon completion of grading and construction, an involved arborist shall prepare a report outlining further methods required for tree protection if any are required. All arborist expense shall be borne by the developer and applicant unless otherwise provided by the development's conditions of approval.
- (3) No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the dripline of any tree to be saved.

(Ords. 94-59, 94-22).

##### **816-6.1204 - Deposit conditions.**

Prior to the issuance of any grading or building permit for a property where trees are required by this chapter to be saved, the owner or developer shall deposit cash or other acceptable security with the department on a per tree basis in the amount established by the involved development's conditions of approval or approved applications.

As required, the county may hold the deposit for a two-year period to guarantee the health of the trees for a two-year period upon completion of construction. In addition, the applicant or developer may be required to enter into a tree maintenance agreement secured by said deposit/bond by which they agree to maintain said trees in a living and viable condition throughout the term of the agreement. This

agreement may be transferred to any new owner of the property for the remaining length of the agreement.

(Ords. 94-59, 94-22).

#### 816-6.1206 - Construction tree damage.

A development's property owner or developer shall notify the department of any damage that occurs to any tree during the construction process. The owner or developer shall repair any damage as determined by an arborist designated by the director.

Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species as approved by the director to be reasonably appropriate for the particular situation.

(Ords. 94-59, 94-22).

#### 816-6.1208 - Violations.

Violations of this chapter are punishable and may be corrected in any manner provided by this code or as otherwise allowed by law. Each tree damaged or removed in violation of this chapter shall constitute a separate offense.

(Ords. 94-59, 94-22).



## Chapter 816-4 - HERITAGE TREE PRESERVATION (HTP) DISTRICT

### Sections:

#### Article 816-4.2. General

##### 816-4.202 - HTP district.

All land within Contra Costa County shall be subject to the provisions in this chapter.

(Ord. 88-83).

##### 816-4.204 - Intent and findings.

- (a) Among the features that contribute to the attractiveness and livability of the county are its heritage trees growing as single specimens, in clusters or in woodland situations. These trees have significant psychological and tangible benefits for both residents of and visitors to the county.
- (b) Heritage trees contribute to the visual framework of the county by providing scale, color, silhouette and mass. Heritage trees contribute to the climate of the county by providing shade, moisture and wind control. Heritage trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Heritage trees contribute to the economy of the county by sustaining property values and reducing the cost of drainage systems for surface water. Heritage trees provide landmarks of the county's history, and a critical element of nature in the midst of urban settlement.
- (c) For all these reasons, it is in the interest of the public health, safety and welfare of the county to regulate the removal of heritage trees, to require adequate protection of trees during construction, and to promote the appreciation and understanding of heritage trees.

(Ord. 88-83).

##### 816-4.206 - Regulations.

- (a) The community development department, after consulting with and considering the recommendations of the building inspection, public works and agriculture department, may from time to time propose to the board of supervisors regulations to establish procedures to implement this chapter and to make more specific the standards and guidelines prescribed in this chapter. Such regulations as are approved by resolution of the board of supervisors shall have the force and effect of law unless otherwise indicated.
- (b) Regulations may be promulgated to set forth criteria for granting and denying destruction permits and, among other things, to govern the marking of heritage trees and the prevention of excessive pruning.

(Ord. 88-83).

##### 816-4.208 - Arboricultural expertise.

All departments engaged in decisions regarding heritage trees may utilize such qualified arboricultural expertise as is required to implement this chapter in accordance with their current budget accounts.

(Ord. 88-83).

#### **Article 816-4.4. Definition and Designation**

##### **816-4.402 - Heritage tree definition.**

"Heritage tree" means:

- (1) A tree seventy-two inches or more in circumference measured four and one-half feet above the natural grade; or
- (2) Any tree or a group of trees particularly worthy of protection, and specifically designated as a heritage tree by the board of supervisors pursuant to the provisions of this chapter, because of:
  - (A) Having historical or ecological interest or significance, or
  - (B) Being dependent upon each other for health or survival, or
  - (C) Being considered an outstanding specimen of its species as to such factors as location, size, age, rarity, shape, or health.

(Ord. 88-83).

##### **816-4.404 - Designation.**

- (a) The county or regional planning commission for its territorial area of jurisdiction shall receive nominations through the county community development department from any person for the registration of heritage trees on any property. When any property's owner has not joined with or consented to a nomination, that owner shall be provided timely notice of the date and time at which the planning commission and/or board will consider the nomination.
- (b) If the planning commission approves the nominated trees, this decision shall be forwarded to the board for its consideration. If the board approves the heritage tree designation as recommended, then the tree shall be officially registered by resolution and thereafter a permit shall be required for its removal.
- (c) If the planning commission does not approve a heritage tree nomination, its decision is final unless appealed to the board pursuant to and otherwise regulated by the special permit provisions of Chapter 26-2.
- (d) The planning commission or board in designating a heritage tree shall consider the criteria of Section 816-4.402.
- (e) All designated heritage trees shall be appropriately marked with the permission of involved property owners so as to provide continuing notice to the public of heritage tree status.
- (f) A nomination fee of one hundred dollars shall be imposed per application. An appeal fee of fifty dollars per appeal shall be assessed.

(Ord. 88-83).

#### **Article 816-4.6. Destruction or Removal**

##### **816-4.602 - Prohibition.**

Except as provided in this chapter, no person shall destroy or remove any designated heritage tree unless a permit has been obtained therefor. This chapter does not require a permit for nor prevent trimming, pruning, or maintenance of a heritage tree where such does not result in destruction nor substantially change the tree's form or shape.

(Ord. 88-83).

#### 816-4.604 - Emergency destruction.

In case of an emergency caused by any designated heritage tree being in a hazardous or dangerous condition requiring immediate action for the safety of structures or human life, such tree may be removed with the permission of the zoning administrator or building inspector if designated by the zoning administrator, without formal application. The zoning administrator may request certification from a tree expert as to the immediate need for action if the need is not clearly apparent.

(Ord. 88-83).

### **Article 816-4.8. Preservation**

#### 816-4.802 - Encroachment, construction or excavation.

When proposed developments or construction encroach into the drip line or a radius of twelve feet from the trunk of any designated heritage tree, whichever is greater, special construction to allow the roots to breathe, obtain water and nutrients shall be required, as determined necessary by the building inspection department to minimize damage to such tree visible above ground level. Excavation, cuts, fills or compaction of the existing ground surface within the drip line or a radius of twelve feet from the trunk of a designated heritage tree, whichever is greater, shall minimize such damage to the root system so as to result in least damage to such tree. Permission is required prior to back filling. Tree wells may be used where approved by the building inspection department. The cost of required pruning or other treatment to compensate for root damage and/or cost of removal shall be at the expense of the involved developer and/or contractor but may be shared by the owner. Such pruning as is done shall not cause permanent injury or destroy any designated heritage tree.

(Ord. 88-83).

#### 816-4.804 - Storage and dumping.

No person shall store or dump any oil, gas, or chemicals that may be harmful to trees, nor place heavy construction machinery or construction materials in the open within the drip line of any designated heritage tree or within a radius of twelve feet from the trunk of such tree, whichever is greater.

(Ord. 88-83).

#### 816-4.806 - Burning.

Burning of any material within or near the drip line of any designated heritage tree shall not be done where such will injure the tree.

(Ord. 88-83).

#### 816-4.808 - Attachments.

No person shall attach any wire (except as needed for support) or sign (other than approved tree identification signs) to any heritage tree where such wire or sign may damage such designated heritage tree.

(Ord. 88-83).

#### 816-4.810 - Damage notification.

The contractor, developer or owner or any agent thereof shall notify the building inspection department without undue delay of any damage that occurs to any heritage tree during construction. The cost of repair of the damage or tree replacement shall be at the expense of the responsible party and the repair work done according to standards approved by the building inspection department.

(Ord. 88-83).

#### **Article 816-4.10. Permits**

##### **816-4.1002 - Application.**

- (a) Any application for a permit to destroy, cut down or remove a designated heritage tree shall be submitted to the community development department by the owner or his authorized agent (satisfactory evidence of such authorization to be submitted with the application) on the form provided by the community development department together with any specified fee.
- (b) The application shall contain the location, number, species, size, and heritage designation of the tree to be destroyed, cut down or removed and a statement of reasons for the proposed action, together with such other information as may be required by the community development department.

(Ord. 88-83).

##### **816-4.1004 - Procedure.**

Before issuing a permit, the zoning administrator shall have inspected or cause to be inspected, the property, the heritage tree that is the subject of the permit, and the surrounding area. A permit shall be granted, modified, conditioned, or denied based upon the following factors:

- (1) The health, damage, danger of falling of the designated heritage tree that is the subject of the permit and whether said heritage tree acts as a host for plants or animals parasitic to other trees which are endangered thereby.
- (2) The presence of public nuisance factors, and the proximity to or interference with utilities, or interference with existing buildings to the extent that a tree or trees cannot be trimmed or buttressed to fit the site.
- (3) The prevention of development as a result of heritage tree protection and preservation.
- (4) The pursuit of good professional practices of forestry or landscape design.

(Ord. 88-83).

##### **816-4.1006 - Appeal.**

The zoning administrator's decision on the permit application is final unless appealed to the planning commission having territorial jurisdiction pursuant to and otherwise regulated by the special permit provisions of Chapter 26-2.

(Ord. 88-83).

##### **816-4.1008 - Development coordination.**

- (a) An application for a permit to destroy, cut down or remove any designated heritage tree in connection with any development, shall be submitted and combined with the initial application for

approval of the development and shall be considered together with the review and decision on the development.

- (b) The proposed development shall indicate on its plan all trees designated as heritage trees. The heritage trees shall be evaluated and their individual treatment considered with respect to the land use and proposed development.
- (c) The involved planning agency division may grant, grant with modifications or conditions, or deny the requested heritage tree application.
- (d) Any appeal of a decision made by a planning agency division on the requested heritage tree application shall be made in the same manner and subject to the same procedure as a decision on the involved combined planning or subdivision entitlement for the development.

(Ord. 88-83).

816-4.1010 - Priority.

In the case of any conflict between the provisions of this chapter and those of Chapter 816-2, the provisions of this Chapter 816-4 shall prevail.

(Ord. 88-83).





**Contra  
Costa  
County**

To: Board of Supervisors  
From: Dianne Dinsmore, Human Resources Director  
Date: March 20, 2018

Subject: Adopt Ordinance 2018-09 amending the County Ordinance Code

---

**RECOMMENDATION(S):**

ADOPT Ordinance No. 2018-9 amending the County Ordinance Code to exclude from the merit system the new classification of Chief of Plant Operations-Exempt (VAD3).

**FISCAL IMPACT:**

There is no cost associated with this action.

**BACKGROUND:**

The request to establish the new classification of Chief of Plant Operations (VAD3) in the Health Services Department was presented at the 3/13/2018 BOS meeting. At the same time the Ordinance No. 2018-09 amending the County Ordinance Code to exclude from the merit system was introduced with a FIX date of March 20, 2018 for adoption.

**CONSEQUENCE OF NEGATIVE ACTION:**

If this action is not approved, the classification will not be appropriately titled.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Dianne Dinsmore  
925-335-1766

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

By: , Deputy

cc: Eric Suitos, Dorette McCollum, Anna Roth, Director of Health Services

## ATTACHMENTS

Ordinance 2018-9 amend

**ORDINANCE NO. 2018-09**

**(Exclude from the Merit System the new classification of Chief of  
Plant Operations-Exempt)**

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:** Section 33-5.313 of the County Ordinance Code is amended to exclude from the merit system the new classification of Chief of Plant Operations-Exempt:

**33-5.313 - Health-medical.**

- (a) Classifications appointed by the Board of Supervisors
  - (1) The director of health services is excluded and is appointed by the board.
  - (2) The county health officer (Health and Safety Code Section 101000) is excluded and is appointed by the board.
  - (3) The county physician (Health and Safety Code Section 1441) is excluded and is appointed by the board.
  - (4) The county (local) director of mental health services (Welfare and Institutions Code Section 5607, 9 Cal. Code of Regulations Sections 620 et seq.) is excluded and is appointed by the board.
- (b) General Executive and Administrative classifications
  - (1) The assistant to the health services director-exempt is excluded and is appointed by the director of health services.
  - (2) The assistant directors of health services are excluded and are appointed by the director of health services.
  - (3) The health services administrative officer is excluded and is appointed by the director of health services.
  - (4) The health services personnel officer-exempt is excluded and is appointed by the director of health services.
  - (5) The chief operations officer-exempt is excluded and is appointed by the director of health services.
  - (6) The emergency medical services director-exempt is excluded and is appointed by the director of health services.
  - (7) The medical directors are excluded and are appointed by the director of health services.
  - (8) The chief deputy public administrator-exempt is excluded and is appointed by the director of health services.
  - (9) The county compliance and HIPAA privacy officer-exempt is excluded and is appointed by the director of health services.
  - (10) The chief of plant operations-exempt is excluded and is appointed by the director of health services.

- (c) County Hospital and Clinics classifications
  - (1) The Contra Costa Regional Medical Center chief executive officer-exempt is excluded and is appointed by the director of health services.
  - (2) The chief medical officer-exempt is excluded and is appointed by the director of health services.
  - (3) The residency director-exempt is excluded and is appointed by the director of health services.
  - (4) The chief quality officer-exempt is excluded and is appointed by the director of health services.
  - (5) The director of patient financial services is excluded and is appointed by the director of health services.
  - (6) The chief nursing officer-exempt is excluded and is appointed by the director of health services.
  - (7) Physicians and dentists serving the county (except those in the classifications of assistant health officer, and chief of community health services) are excluded and are appointed by the director of health services.
- (d) Contra Costa Health Plan (CCHP) classifications
  - (1) The chief executive officer, Contra Costa Health Plan-exempt is excluded and is appointed by the director of health services.
  - (2) The deputy executive director, Contra Costa Health Plan-exempt is excluded and is appointed by the director of health services.
  - (3) The director of marketing, member services, and public relations-Contra Costa Health Plan is excluded and is appointed by the director of health services.
  - (4) The health plan services assistant-exempt is excluded and is appointed by the director of health services.
- (e) Information Technology classifications
  - (1) The health services information technology director-exempt is excluded and is appointed by the director of health services.
  - (2) The assistant health services information technology director-project management-exempt is excluded and is appointed by the director of health services.
  - (3) The assistant health services information technology director-application development-exempt is excluded and is appointed by the director of health services.
  - (4) The assistant health services information technology director-customer support-exempt is excluded and is appointed by the director of health services.
  - (5) The assistant health services information technology director-infrastructure-exempt is excluded and is appointed by the director of health services.

- (6) The assistant health services information technology director-information security-exempt is excluded and is appointed by the director of health services.
- (f) Environmental & Mental Health classifications
  - (1) The mental health education liaison-exempt is excluded and is appointed by the director of health services.
  - (2) The director of environmental health services is excluded and is appointed by the director of health services.
  - (3) The director of hazardous materials programs-exempt is excluded and is appointed by the director of health services.
  - (4) The executive assistant to the hazardous materials commission-exempt is excluded and is appointed by the director of health services.

(Ord. No. 2018-09 § 1, 03-20-18; Ord. No. 2018-02 § 1, 01-09-18; Ord. No. 2017-06 § 1, 6-6-17; Ord. No. 2016-20 § I, 11-8-16; Ord. No. 2016-09 § I, 4-12-16; Ord. No. 2013-04 § I, 3-19-13; Ord. No. 2011-14 § 1, 8-9-11; Ord. No. 2011-06 § 1, 3-22-11; Ord. No. 2010-13 § 1, 9-28-10; Ord. No. 2009-16 § 1, 8-25-09; Ord. No. 2009-09 § 1, 4-28-09; Ord. No. 2008-11 § I, 9-16-08; Ords. 2007-37 § 1; 2005-28 § 1; 2004-11 § 1; 2003-32 § 1; 99-23; 98-11 § 1; 98-5 § 1; 97-25 § 1; 97-13 § 1; 96-31 § 1; 93-3 § 1; 92-2 § 1; 90-124 § 1; 90-55; 86-97; 86-32; 85-50 § 2; 83-9; 1-70 § 2; 81-32 § I[5]; 80-69 § 1; 80-34 § 1; 80-6; 79-29; 79-9 § 3: § 32-2.602 (7, 13, 16); prior code § 2413 (g, n, r); Ords. 69-81, 2030, 471: Bd. Sups. Resol. # 79/201)

**SECTION II: EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days of passage shall be published once with the names of the supervisors voting for and against it in the \_\_\_\_\_, a newspaper published in this County.

PASSED ON \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



ATTEST: DAVID J. TWA, Clerk of the  
Board of Supervisors and County Administrator

By: \_\_\_\_\_  
Deputy

\_\_\_\_\_  
Board Chair

[SEAL]



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: March 20, 2018

Subject: Advisory Council on Aging Resignations

---

**RECOMMENDATION(S):**

ACCEPT the resignations of Kathryn Ames and Steve Birnbaum, DECLARE a vacancy in At Large #17 Seat held by Ms. Ames and At Large #19 Seat held by Mr. Birnbaum on the Advisory Council on Aging, and DIRECT the Clerk of the Board to post the vacancies as recommended by the Employment and Human Services Department Director.

**FISCAL IMPACT:**

None

**BACKGROUND:**

Ms. Ames was appointed to the Advisory Council on Aging At Large #17 Seat on August 2, 2016. The Seat expires September 30, 2018. Mr. Birnbaum was appointed to the Advisory Council on Aging At Large #19 Seat on November 7, 2017. The Seat expires September 30, 2019.

The Advisory Council on Aging (ACOA) provides a county-wide planning, cooperation, and coordination forum for individuals and groups interested in improving and developing services and opportunities for older residents of the County. The ACOA provides leadership and advocacy on behalf of older persons and serves as a channel of communication and information on aging.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Elaine Burres,  
608-4960

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

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

The Advisory Council on Aging may not be able to conduct routine business.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: March 20, 2018

Subject: Appointment to the Advisory Council on Aging

---

**RECOMMENDATION(S):**

APPOINT Ms. Jessica Thomas to the Local Committee Walnut Creek Seat on the Advisory Council on Aging, as recommended by the Employment and Human Services Department Director.

**FISCAL IMPACT:**

None

**BACKGROUND:**

Ms. Thomas resides in Walnut Creek and was recommended for appointment to the Advisory Council on Aging (ACOA) Local Committee Walnut Creek Seat by the Walnut Creek City Council for a term ending September 30, 2019. The seat was vacated on September 30, 2017 due to term completion.

The ACOA provides a means for county-wide planning, cooperation, and coordination of individuals and groups interested in improving and developing services and opportunities for older residents of the County. The ACOA provides leadership and advocacy on behalf of older persons and serves as a channel for communication and information on aging.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Elaine Burres,  
608-4960

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

By: , Deputy

cc:

CONSEQUENCE OF NEGATIVE ACTION:

The Advisory Council on Aging may be unable to conduct routine business.

ATTACHMENTS

Thomas Redacted Application

Thomas Walnut Creek Recommendation



Contra  
Costa  
County

RECEIVED

JAN 26 2018

CLERK BOARD OF SUPERVISORS  
CONTRA COSTA CO.

For Office Use Only  
Date Received:

For Reviewers Use Only:  
Accepted Rejected

## BOARDS, COMMITTEES, AND COMMISSIONS APPLICATION

**MAIL OR DELIVER TO:**

Contra Costa County  
CLERK OF THE BOARD  
651 Pine Street, Rm. 106  
Martinez, California 94553-1292  
**PLEASE TYPE OR PRINT IN INK**  
(Each Position Requires a Separate Application)

**BOARD, COMMITTEE OR COMMISSION NAME AND SEAT TITLE YOU ARE APPLYING FOR:**

Advisory Council on Aging

**PRINT EXACT NAME OF BOARD, COMMITTEE, OR COMMISSION**

**PRINT EXACT SEAT NAME (if applicable)**

1. **Name:** Thomas Jessica Beth  
(Last Name) (First Name) (Middle Name)

2. **Address:** Walnut Creek, CA 94598  
(No.) (Street) (Apt.) (City) (State) (Zip Code)

3. **Phones:** (Home No.) (Work No.) (Cell No.)

4. **Email Address:**

5. **EDUCATION:** Check appropriate box if you possess one of the following:

High School Diploma ☒ G.E.D. Certificate ☐ California High School Proficiency Certificate ☐

Give Highest Grade or Educational Level Achieved Bachelor of Science Degree

| Names of colleges / universities attended | Course of Study / Major | Degree Awarded  | Units Completed  |         | Degree Type | Date Degree Awarded |
|---|-------------------------|---|--|---------|-------------|---------------------|
|   |                         |   | Semester   | Quarter |             |                     |
| A) James Madison University               | Health Administration   | Yes No <input checked="" type="checkbox"/> <input type="checkbox"/> |  |         | BS          | 2002                |
| B)  |                         | Yes No <input type="checkbox"/> <input type="checkbox"/>            |  |         |             |                     |
| C)  |                         | Yes No <input type="checkbox"/> <input type="checkbox"/>            |  |         |             |                     |
| D) Other schools / training completed:    | Course Studied          | Hours Completed   | Certificate Awarded:<br>Yes No <input type="checkbox"/> <input type="checkbox"/> |         |             |                     |



6. PLEASE FILL OUT THE FOLLOWING SECTION COMPLETELY. List experience that relates to the qualifications needed to serve on the local appointive body. Begin with your most recent experience. A resume or other supporting documentation may be attached but it may not be used as a substitute for completing this section.

|  |  |  |
|--|--|--|
| <p>A) Dates (Month, Day, Year)</p> <p>From To</p> <p>11/16 present</p> <p>Total: Yrs. Mos.</p> <p>1 2</p> <p>Hrs. per week 30 . Volunteer <input type="checkbox"/></p>           | <p>Title</p> <p>Consultant</p> <p>Employer's Name and Address</p> <p>Comfort Keepers Sodexo PHS</p>                      | <p>Duties Performed</p> <ul style="list-style-type: none"> <li>- recruit, on-board and train employees</li> <li>- guide employees with vision, innovation, and personal development</li> <li>-create and implement procedures to deliver better outcomes</li> <li>-pilot new programs and technology to improve quality of care and operational efficiency</li> </ul>              |
| <p>B) Dates (Month, Day, Year)</p> <p>From To</p> <p>5/2005 11/16</p> <p>Total: Yrs. Mos.</p> <p>11 7</p> <p>Hrs. per week 40+ . Volunteer <input type="checkbox"/></p>          | <p>Title</p> <p>Business Owner</p> <p>Employer's Name and Address</p> <p>Comfort Keepers</p>                             | <p>Duties Performed</p> <p>Comfort Keepers supports the needs of seniors and their families while delivering exceptional customer service, care management and transparency of care to families. Introduced Comfort Keepers services into the community in 2005, listened to the needs of clients and employees, and grew to be an integral part of the health care continuum.</p> |
| <p>C) Dates (Month, Day, Year)</p> <p>From To</p> <p>1/ 2007 5/ 2010</p> <p>Total: Yrs. Mos.</p> <p>3 5</p> <p>Hrs. per week . Volunteer <input checked="" type="checkbox"/></p> | <p>Title</p> <p>Board Memeber</p> <p>Employer's Name and Address</p> <p>Central Contra Costa County Senior Coalition</p> | <p>Duties Performed</p> <p>Served as a Board Member to provide education to seniors, as well as honor the senior volunteers in the community</p>   |
| <p>D) Dates (Month, Day, Year)</p> <p>From To</p> <p>9/ 2010 9/2012</p> <p>Total: Yrs. Mos.</p> <p>2 1</p> <p>Hrs. per week . Volunteer <input checked="" type="checkbox"/></p>  | <p>Title</p> <p>Secretary</p> <p>Employer's Name and Address</p> <p>East Bay Case Management Association</p>             | <p>Duties Performed</p> <p>Volunteered as a Board Member of EBCMA- a organization dedicated to educating Case Managers and community partners about health care issues and solutions.</p>  |

7. How did you learn about this vacancy?

☒ CCC Homepage ☐ Walk-In ☐ Newspaper Advertisement ☐ District Supervisor ☐ Other

8. Do you have a Familial or Financial Relationship with a member of the Board of Supervisors? (Please see Board Resolution no. 2011/55, attached): No ☒ Yes ☐

If Yes, please identify the nature of the relationship:

9. Do you have any financial relationships with the County such as grants, contracts, or other economic relations? No ☒ Yes ☐

If Yes, please identify the nature of the relationship:

I CERTIFY that the statements made by me in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge and understand that all information in this application is publically accessible. I understand and agree that misstatements / omissions of material fact may cause forfeiture of my rights to serve on a Board, Committee, or Commission in Contra Costa County.

Sign Name



Date:

1/23/18

### Important Information

1. This application is a public document and is subject to the California Public Records Act (CA Gov. Code §6250-6270).
2. Send the completed paper application to the Office of the Clerk of the Board at: **651 Pine Street, Room 106, Martinez, CA 94553.**
3. A résumé or other relevant information may be submitted with this application.
4. All members are required to take the following training: 1) The Brown Act, 2) The Better Government Ordinance, and 3) Ethics Training.
5. Members of boards, commissions, and committees may be required to: 1) file a Statement of Economic Interest Form also known as a Form 700, and 2) complete the State Ethics Training Course as required by AB 1234.
6. Advisory body meetings may be held in various locations and some locations may not be accessible by public transportation.
7. Meeting dates and times are subject to change and may occur up to two days per month.
8. Some boards, committees, or commissions may assign members to subcommittees or work groups which may require an additional commitment of time.

100

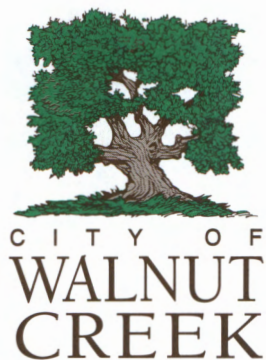
THE  
LIBRARY  
OF THE  
MUSEUM  
OF  
ART  
AND  
ARCHAEOLOGY  
OF THE  
UNIVERSITY OF  
CAMBRIDGE



JAN 26 2018

**RECEIVED**  
JAN 26 2018  
CLERK BOARD OF SUPERVISORS  
CONTRA COSTA CO.

[illegible][illegible]



February 15, 2018

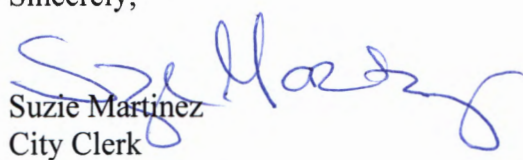
Jaime Ray  
Aging and Adult Services Bureau  
400 Ellinwood Way  
Pleasant Hill, CA 94523

Dear Jaime,

Please be informed that on February 13, 2018 the Walnut Creek City Council interviewed candidates for the Contra Costa County Advisory Council on Aging (ACOA) Walnut Creek representative. The City Council took formal action to appoint Jessica Thomas to the Contra Costa County Advisory Council on Aging Commission for a four year term effective March 6, 2018 contingent upon the approval of the Board of Supervisors. Attached is Jessica Thomas' completed application. Please let this letter serve as an official request for a Board Order to finalize the appointment.

Please let me know if any further information is needed.

Sincerely,

  
Suzie Martinez  
City Clerk



**Contra  
Costa  
County**

To: Board of Supervisors

From: INTERNAL OPERATIONS COMMITTEE

Date: March 20, 2018

Subject: RECOMMENDATION FOR APPOINTMENTS TO THE LOCAL ENFORCEMENT AGENCY INDEPENDENT HEARING PANEL

**RECOMMENDATION(S):**

REAPPOINT Larry Sweetser to the Technical Expert seat and Darryl Young to the At Large seat on the Local Enforcement Agency Independent Hearing Panel to new four-year terms ending on March 31, 2022.

**FISCAL IMPACT:**

None.

**BACKGROUND:**

In 1992, the Board of Supervisors, in its capacity as the governing body of the County Local Enforcement Agency, adopted Resolution No. 92/153, which, among other things, appointed the full Board to serve as the hearing panel, a body that implements enforcement and permitting activities at local solid waste facilities, pursuant to a statute that was later repealed. Under current law, hearings regarding the above matters may be conducted by either a hearing officer or by a hearing panel, which may be either (1) a panel of three members of the LEA governing body or (2) an independent three-member panel appointed. (Pub. Resources Code, § 44308.)

The California Code of Regulations requires the appointment of either an independent hearing panel or hearing officer when in the jurisdiction of the LEA there exists a publicly owned or operated solid waste facility or disposal site. In Contra Costa County, the following jurisdictions own solid waste facilities: City

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR ☒ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Julie DiMaggio Enea  
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Environmental Health Director, IOC Staff

## BACKGROUND: (CONT'D)

of El Cerrito (Registration Tier Permit Transfer Station), City of Brentwood (Brentwood Transfer Station), City of Martinez (Martinez City Rubbish-closed landfill), City of Richmond (Naval Fuel Depot Pt. Molate-closed landfill), the City of Antioch (Antioch City Landfill-closed landfill), and the California Department of Water Resources (Banks Delta Pumping-closed dump site in Byron). For this reason, CalRecycle has recommended that an independent hearing panel be established. CalRecycle has also advised that there can be only one LEA hearing panel.

On November 5, 2013, the Board of Supervisors adopted Resolution No. 2013/423, establishing the Contra Costa County Local Enforcement Agency Independent Hearing Panel. The Board, at that time, decided that it would not appoint one of its members to the LEA Hearing Panel and subsequently referred to the IOC the recruitment of three County resident nominees, for BOS consideration, to serve on the panel. As a result of the 2013 recruitment, the Board of Supervisors appointed the first Independent LEA Hearing Panel, composed by Daryl Young, Larry Sweetser (technical expert), and Ana Cortez. The terms of those appointments will expire on March 31, 2018.

Among the specific duties of the County LEA are the permitting of solid waste facilities. Solid waste facilities include solid waste transfer or processing stations, composting facilities, transformation facilities and disposal facilities. The permitting process includes the issuance of solid waste facilities permits as well as the denial, revision, modification, suspension and revocation of permits. The County LEA also performs regular inspections of solid waste facilities. A solid waste facility is required to comply with applicable laws and regulations and the terms and conditions of any solid waste facilities permit issued by the County LEA to the facility. Compliance is usually achieved through inspection reports and compliance schedules. Where violations are found, the County LEA works with affected parties on corrective measures as long as those parties make a good faith effort to comply with the requirements.

Public Resources Code section 44308 governs appointments to the Hearing Panel as follows:

1. No more than one member of the Board of Supervisors shall serve on the Hearing Panel.
2. Members of the Hearing Panel shall be selected for their legal, administrative, or technical abilities in areas relating to solid waste management.
3. At least one member shall be a technical expert with knowledge of solid waste management methods and technology.
4. At least one member shall be a representative of the public at large.
5. A member shall serve for a term of four years and may not serve more than two consecutive terms.

Since its establishment in 2014, the Hearing Panel has met twice in Concord (one hearing, split into two evening sessions).

On February 12, 2018, the IOC approved a recruitment plan and schedule prepared by the County Administrator's Office in consultation with Environmental Health, calling for interviews to be held by the Internal Operations Committee on March 12, 2018. In response to the call for applications, the County received two applications, from incumbents Larry Sweetser and Darryl Young, who are eligible to serve second terms. The Internal Operations Committee on March 12 decided to recommend the reappointment of incumbents Larry Sweetser and Darryl Young, and continue to recruit for a third



panelist.

ATTACHMENTS

LEA Hearing Panel Recruitment Announcement

Candidate Application\_Larry Sweetser\_LEA

Resume\_Larry Sweetser\_LEA

Candidate Application\_Darryl Young\_LEA



## Contra Costa County

County Administrator's Office • 651 Pine Street • Martinez, CA 94553 • [www.co.contra-costa.ca.us](http://www.co.contra-costa.ca.us)

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### Media Release

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**FOR IMMEDIATE RELEASE**

Thursday, February 1, 2018

Contact:

Phone:

Email:

Julie DiMaggio Enea

(925) 335-1077

[julie.enea@cao.cccounty.us](mailto:julie.enea@cao.cccounty.us)

### **Contra Costa County is Seeking Members for the Solid Waste Local Enforcement Agency Independent Hearing Panel**

In November 2013, the Contra Costa County Board of Supervisors established an Independent Hearing Panel for the Contra Costa Solid Waste Local Enforcement Agency (LEA). The three-member panel requires a general member of the public who resides in Contra Costa County and a technical expert with knowledge of solid waste management, technology, and laws. The Panel will hear matters related to solid waste enforcement, permits, and appeals.

County residents who have an interest in public policy and solid waste management are encouraged to apply for this non-paid volunteer opportunity. The County Board of Supervisors will appoint to fill three vacancies for a three-year term ending on March 31, 2021.

Application forms can be obtained from the Clerk of the Board of Supervisors by calling (925) 335-1900 or by visiting the County webpage at [www.co.contra-costa.ca.us](http://www.co.contra-costa.ca.us). Applications should be returned to the Clerk of the Board of Supervisors, Room 106, County Administration Building, 651 Pine Street, Martinez, CA 94553 no later than 5:00 p.m. on Friday, March 2, 2018. Applicants should plan to be available for public interviews in Martinez on Monday, March 12, 2018.

For more information about the LEA Independent Hearing Panel, contact Kristian Lucas, Contra Costa County Environmental Health, at (925) 692-2573 or [Kristian.Lucas@hsd.cccounty.us](mailto:Kristian.Lucas@hsd.cccounty.us).

###

## Application Form

---

### Profile

#### Which Boards would you like to apply for?

---

Local Enforcement Agency Independent Hearing Panel: Submitted

Solid Waste Technical Expert

Seat Name (if applicable)

#### Describe why you are interested in serving on this advisory board/commission (please limit your response to one paragraph).

---

I have spent over 30 years in the solid waste industry and have been involved in solid waste operations, regulatory compliance , and permitting. Properly operated solid waste facilities are essential for public health and safety. Unfortunately regulatory requirements do not always provide sufficient clarity and there is a need for an independent public body to assess the facts and provide recommendations on solid waste issues. I have spent most of my career working on realistic application of regulatory requirements and I appreciate the opportunity to work in my own community.

#### This application is used for all boards and commissions

Larry

First Name

Sweetser

Last Name

Middle Initial

Email Address

Home Address

Suite or Apt

Richmond

City

CA

State

94801

Postal Code

Primary Phone

Sweetser & Associates, Inc.

Employer

President

Job Title

Solid Waste Consultant

Occupation

**Do you, or a business in which you have a financial interest, have a contract with Contra Costa Co.?**

☐ Yes ☒ No

**Is a member of your family (or step-family) employed by Contra Costa Co.?**

☐ Yes ☒ No

---

## Education History

**Select the highest level of education you have received:**

☒ Other

Master of Science

If "Other" was Selected Give Highest Grade or  
Educational Level Achieved

---

## College/ University A

University of San Francisco

Name of College Attended

Environmental Management

Course of Study / Major

Units Completed

---

## Type of Units Completed

None Selected

---

## Degree Awarded?

☒ Yes ☐ No

MS

Degree Type

12/1987

Date Degree Awarded

---

## College/ University B

University of California, Berkeley

Name of College Attended

Environmental Science

Course of Study / Major

Units Completed

## Type of Units Completed

None Selected

## Degree Awarded?

☒ Yes ☐ No

Bachelor

Degree Type

1982

Date Degree Awarded

---

## College/ University C

Name of College Attended

Course of Study / Major

Units Completed

## Type of Units Completed

None Selected

## Degree Awarded?

☐ Yes ☐ No

---

Degree Type

---

Date Degree Awarded

---

## Other schools / training completed:

Manager of Landfill Operations

Course Studied

24

Hours Completed

## Certificate Awarded?

☒ Yes ☐ No

---

## Work History

Please provide information on your last three positions, including your current one if you are working.

### 1st (Most Recent)

6/1999 to present

Dates (Month, Day, Year) From - To

>60

Hours per Week Worked?

## Volunteer Work?

☐ Yes ☒ No

President

Position Title

## Employer's Name and Address

Sweetser & Associates, Inc. 2115 Rheem Avenue Richmond, CA 94801



## Duties Performed

---

Provide environmental regulatory assistance to public and private solid waste industry. Assist with solid waste and other permits and compliance programs for transfer stations and landfills. Advise clients on solid waste issues. Monitor CalRecycle and other agency regulatory developments. Contracted with 22 member Rural Counties ESJPA for regulatory issues.

---

2nd

1991 to 4/1999

---

Dates (Month, Day, Year) From - To

>40

---

Hours per Week Worked?

## Volunteer Work?

---

☐ Yes ☒ No

Director of Regulatory Affairs

---

Position Title

## Employer's Name and Address

---

Norcal Waste Systems (now Recology) 50 California Street 24th Floor San Francisco, CA 94111

## Duties Performed

---

Responsible for corporate regulatory and legislative affairs. Served as company liaison with regulatory agencies on regulatory developments, solid waste facility permits approvals, and integrated waste management plan assessment. Participated in numerous industry work groups. Managed corporate environmental compliance department.

---

3rd

1988 to 1991

---

Dates (Month, Day, Year) From - To

>40

---

Hours per Week Worked?

## Volunteer Work?

---

☐ Yes ☒ No

Environmental Compliance  
Manager

Position Title

## Employer's Name and Address

---

Sanitary Fill Company (now Recology San Francisco) 501 Tunnel Avenue San Francisco, CA 94134

## Duties Performed

---

Developed and implemented environmental compliance programs including: environmental audits of subsidiary solid waste operations, management of hazardous materials and waste, load checking programs, household hazardous waste collection, underground tank compliance, SPCC, and air permits.

[Sweetser\\_\\_Associates\\_\\_Inc\\_experience\\_\\_employment\\_\\_education\\_2016-07-18.pdf](#)

Upload a Resume

---

## Final Questions

### How did you learn about this vacancy?

---

☒ Newspaper Advertisement

If "Other" was selected please explain

### . Do you have a Familial or Financial Relationship with a member of the Board of Supervisors?

---

☐ Yes ☒ No

If Yes, please identify the nature of the relationship:

---

### Do you have any financial relationships with the County such as grants, contracts, or other economic relations?

---

☐ Yes ☒ No

**If Yes, please identify the nature of the relationship:**

---



Assisting you through the regulatory maze

SWEETSER & ASSOCIATES, INC.

**Larry D. Sweetser, Jr., M.S.**

#### **PROFESSIONAL EXPERIENCE**

##### **Principal/Owner, Sweetser & Associates, Inc. (1999 to present)**

Specializing in environmental regulatory assistance to local government and the solid waste industry. Services include: monitoring environmental regulatory agencies, assisting with solid waste facility permitting and compliance requirements, waste screening/load checking program development, training and program review, environmental assessment of solid waste operations, hazardous materials management assistance including development and review of household hazardous waste programs, occupational safety and health program development, and assistance with AB 939 Integrated Waste Management Plans. Mr. Sweetser has provided load checking training and occupational health and safety audits and training to local public and private solid waste operators. The CalRecycle has also contracted for load checking training services.

Currently Sweetser & Associates is contracted to assist the Rural Counties Environmental Services Joint Power Authority's (ESJPA) 22 member counties with solid and hazardous waste programs. Activities include monitoring the CalRecycle and other state agencies, assistance with AB 939 compliance and planning issues, Mandatory Commercial Recycling, Paint Product Stewardship, solid waste facility regulations, development and permitting of Household Hazardous Waste Collection Facilities and Agricultural Used Oil Centers. On behalf of the ESJPA, Mr. Sweetser has served on numerous agency advisory committees including the Illegal Dumping Task Force and ad-hoc groups such as the Air Resources Board landfill greenhouse gas inventory, and landfill postclosure financial assurance.

##### **Director of Regulatory Affairs, Norcal Waste Systems, Inc. (1991 to 1999)**

Responsible for corporate regulatory and legislative affairs and provided executive management with policy recommendations for this nearly \$338 million dollar employee-owned company. Served as company liaison with regulatory agencies on regulatory developments, solid waste facility permits approvals and integrated waste management plan assessment. Participated in numerous workgroups and advisory panels including: solid waste permitting regulatory development, Regulatory Structure Update, Metallic Discards Task Force, and AB 939 disposal reporting system workgroup. Typically, coordinated the solid waste industry response to regulatory proposals such as: SWRCB Phase II landfill regulations revision, transfer/processing tiered permitting regulations, and Regulatory Structure Update.

Managed corporate environmental compliance department with responsibility for assisting over 20 subsidiary operations with all aspects of hazardous materials and wastes management, development and permitting of household hazardous waste facilities and one-day collection events, underground tank compliance and removal, aboveground tank requirements, spill prevention control and countermeasure plans, and acceptance of special wastes. Designed and conducted operational manuals and training programs such as: waste screening, household hazardous waste programs, storm water sampling, respiratory protection, hearing conservation, and a variety of other trainings as required. Conducted annual environmental compliance audits of subsidiary solid waste facilities and maintenance operations. Compiled reports on company compliance for review by executive management.

**Environmental Compliance Manager, Norcal Waste Systems, Inc. (1988 to 1991)**

Developed and implemented environmental compliance programs including: conducting environmental audits of subsidiary solid waste operations, management of hazardous materials and waste, load checking program development and implementation, development of household hazardous waste collection facilities and events, underground tank compliance, supervised remediation activities for other company properties, spill prevention control and countermeasure plans for aboveground tanks, and air quality permits. Member of corporate Safety Committee and Facility Audit Team.

**Hazardous Waste Programs Manager, Sanitary Fill Company (1984 to 1988)**

Responsible for establishing and operating a management program to effectively identify and remove hazardous and other prohibited waste from San Francisco's solid waste transfer station. This program includes such components as: customer notification of policy, employee training program to identify hazardous wastes, screening procedures, reporting procedures, proper handling techniques, and emergency response procedures. Designed and implemented San Francisco's Household Hazardous Waste Collection Facility that accepts hazardous waste from San Francisco's residents on a three-day per week basis. This facility was the first household hazardous waste facility utilizing dedicated personnel.

**Safety Director/Chemist (Nuclear Science), TMA – Thermo Analytical Inc. (Formerly EAL Corporation) (1979 to 1984)** – Instituted safety and hazardous waste management program at environmental analysis laboratory. The safety program stressed employee awareness and involvement that resulted in a 60 % decrease in accident rates and a workman's compensation insurance premium refund of 85%. Hazardous waste management responsibilities included: insuring proper segregation and storage of hazardous waste, utilizing practical alternatives to hazardous material usage and disposal, insuring proper waste packaging, transportation and disposal arrangements, and preparation of management status reports. Low level radiochemical analysis utilizing: precipitation reaction, solvent extraction, ion exchange separation, electrodeposition, liquid scintillation, cryogenic and de-emanation methods.

**EDUCATION/CERTIFICATION**

- Registered Environmental Assessor I, Number REA-2082, State of California, Certification discontinued
- M.S. Environmental Management, University of San Francisco. Hazardous Waste Management Emphasis. Thesis: Household Hazardous Waste Collection Projects: Operational Analysis and Risk Reduction.
- A.B. Environmental Science, University of California, Berkeley Physical Science Emphasis, Thesis: San Pablo Bay: An Environmental Perspective.
- Solid Waste Association of North America (SWANA), Gold Rush Chapter, Corporate Board of Director 1999 to 2007/2015 to present, Special Waste Committee Chair, Legislative Task Force Member 1999 to present
- Solid Waste Association of North America (SWANA), Special Waste Management Division, Policy Committee Chair, Member of Training and Technical/Education/Communication Committee 2000 to 2002.
- North American Hazardous Materials Management Association, California Chapter 2005 to present.

**RECOGNITIONS**

- Outstanding Personal Service, Cal/EPA Used Oil/Household Hazardous Waste Conference. 2006, 2011
- SWANA California Gold Rush Chapter, Corporate Member of the Year, 2007-2008
- North American Hazardous Materials Management Association, Home Town Hero, 2007, Trainer Extraordinaire 2012
- SWANA California Gold Rush Chapter, Outstanding Corporate Award, 199-2000, 2001-2002, 2005-2006
- SWANA California Gold Rush Chapter, Outstanding Service Award, 2003-2004, 2011-2012

## Application Form

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### Profile

#### Which Boards would you like to apply for?

---

Local Enforcement Agency Independent Hearing Panel: Submitted

Reappointment for Darryl Young

Seat Name (if applicable)

**Describe why you are interested in serving on this advisory board/commission (please limit your response to one paragraph).**

---

I would like to continue to serve on this hearing panel

**This application is used for all boards and commissions**

Darryl

First Name

Young

Last Name

Middle Initial

Email Address

Home Address

Suite or Apt

San RAmon

City

CA

State

94583

Postal Code

Primary Phone

Employer

Job Title

Occupation

**Do you, or a business in which you have a financial interest, have a contract with Contra Costa Co.?**

---

☐ Yes ☒ No



Is a member of your family (or step-family) employed by Contra Costa Co.?

☐ Yes ☒ No

---

## Education History

Select the highest level of education you have received:

☒ Other

Bachelors

If "Other" was Selected Give Highest Grade or  
Educational Level Achieved

---

## College/ University A

University of California, San Diego

Name of College Attended

Bioengineering: Biotechnology

Course of Study / Major

292.5

Units Completed

---

## Type of Units Completed

☒ Quarter

---

## Degree Awarded?

☒ Yes ☐ No

BS

Degree Type

6/2012

Date Degree Awarded

---

## College/ University B

University of California, San Diego  
Extension

Name of College Attended

Financial Analysis

Course of Study / Major

18

Units Completed

Type of Units Completed

☒ Quarter

Degree Awarded?

☒ Yes ☐ No

Certificate

Degree Type

Date Degree Awarded

College/ University C

Name of College Attended

Course of Study / Major

Units Completed

Type of Units Completed

None Selected

Degree Awarded?

☐ Yes ☐ No

Degree Type

---

Date Degree Awarded

---

## Other schools / training completed:

---

Course Studied

---

Hours Completed

## Certificate Awarded?

☐ Yes ☐ No

---

## Work History

Please provide information on your last three positions, including your current one if you are working.

### 1st (Most Recent)

2/20/2018 - Present

---

Dates (Month, Day, Year) From - To

40

---

Hours per Week Worked?

## Volunteer Work?

☐ Yes ☒ No

Software Engineer

---

Position Title

## Employer's Name and Address

---

Twitch 225 Bush St, San Francisco, CA 94104

## Duties Performed

---

Develop Software for Twitch

---

## 2nd

06/02/2014 to 02-16-2018

Dates (Month, Day, Year) From - To

40

Hours per Week Worked?

### Volunteer Work?

☐ Yes ☒ No

Software Engineer

Position Title

### Employer's Name and Address

Gilead Sciences, Foster City, CA 333 Lakeside Drive Foster City, CA 94404

### Duties Performed

Software engineer and architect for the development, deployment, and customization of applications for various departments including Security, Project Management, Regulatory Compliance, and Vendor Management. Working individually or in a team of 2-3 developers, I develop web and desktop applications to fulfill business needs for a pharmaceutical company with over 15,000 employees. I design software architecture, develop front-end and back-end code, and perform design and code reviews. I am also the technical liaison to business system owners and technical teams to drive a system from conceptualization and requirements to development and deployment.

---

## 3rd

02-10-2013 to 05-30-2014

Dates (Month, Day, Year) From - To

40

Hours per Week Worked?

### Volunteer Work?

☐ Yes ☒ No

Quality Assurance Analyst

Position Title

## Employer's Name and Address

---

Bracket Global , San Francisco, CA 94107

## Duties Performed

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• Ensure compliance to federal and local regulations • Assist with root cause analysis and CAPA/audit findings resolution from internal/external audits. • Control QMS documentation/records to ensure quality and regulatory compliance.

---

Upload a Resume

---

## Final Questions

How did you learn about this vacancy?

---

☒ Other

Reappointment

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If "Other" was selected please explain

. Do you have a Familial or Financial Relationship with a member of the Board of Supervisors?

---

☐ Yes ☒ No

If Yes, please identify the nature of the relationship:

---

Do you have any financial relationships with the County such as grants, contracts, or other economic relations?

---

☐ Yes ☒ No

If Yes, please identify the nature of the relationship:

---



Contra  
Costa  
County

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: March 20, 2018

Subject: Appointment to the East County City 1 seat on the Affordable Housing Finance Committee

---

**RECOMMENDATION(S):**

RE-APPOINT Eric Brown to the East County City 1 seat on the Affordable Housing Finance Committee to a new three-year term expiring June 30, 2020.

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

The Affordable Housing Finance Committee (AHFC) advises the Board of Supervisors on the allocation of approximately \$3 million in HOME Investment Partnerships Act and Community Development Block Grant funds for affordable housing development in Contra Costa County. The Committee consists of nine members, including three Community Representatives, three County Representatives and three City Representatives. The three City Representatives are endorsed by the cities in each subregion of the County. All AHFC members are appointed by the Board of Supervisors to serve staggered three-year terms.

Applicants for the City Representative positions are considered by the appropriate cities and their recommendations are forwarded to the Board of Supervisors for approval.

Eric Brown, a resident of Brentwood, has served on the AHFC since 2008.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: Kara Douglas,  
925-674-7880

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

By: , Deputy

cc:



BACKGROUND: (CONT'D)

He is an active and engaged member of the committee. Conservation and Development staff surveyed the cities of Antioch, Brentwood, Oakley and Pittsburg to seek input on re-appointing Mr. Brown to the AHFC as the East County Representative. Staff from all four cities support this reappointment.

CONSEQUENCE OF NEGATIVE ACTION:

If this appointment is not made, the committee will have a vacancy and will continue to advertise for new members.



Contra  
Costa  
County

To: Board of Supervisors  
From: David O. Livingston, Sheriff-Coroner  
Date: March 20, 2018

Subject: Appropriation Adjustment - State Homeland Security Grant Program (SHSGP) 2016

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**RECOMMENDATION(S):**

APPROVE Appropriation Adjustment No.5058 authorizing new revenue in the Office of the Sheriff (0255) in the amount of \$320,000 from the 2016 State Homeland Security Grant Program (SHSGP) and appropriating it for the Sheriff-Coroner's purchase of an OFX /ForensicSCAN Dual View High Performance Forensic Digital X-ray Imaging Machine with trailer.

**FISCAL IMPACT:**

Zero Net County Cost. 100% SHSGP funded.

**BACKGROUND:**

The California Governor's Office of Emergency Service (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 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.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Liz Arbuckle,  
335-1529

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

By: , Deputy

cc: Liz Arbuckle, Heike Anderson, Tim Ewell

ATTACHMENTS

Appropriations and Revenue Adjustment No.  
5058

CONTRA COSTA COUNTY  
ESTIMATED REVENUE ADJUSTMENT  
T/C 24

| ACCOUNT CODING |                    | BUDGET UNIT: (0362) Sheriff's Office Emergency Services |          |    |            |
|----------------|--------------------|---|----------|----|------------|
| ORGANIZATION   | REVENUE<br>ACCOUNT | REVENUE ACCOUNT DESCRIPTION                             | INCREASE |    | <DECREASE> |
| 3623           | 9340               | ST AID FOR CIVIL DEFENSE                                | 320,000  | 00 |            |
| TOTALS         |                    |   | 320,000  | 00 | 0 00       |

APPROVED

AUDITOR-CONTROLLER:

BY:  DATE 3/6/18

COUNTY ADMINISTRATOR:

BY:  DATE 3/13/18

BOARD OF SUPERVISORS:

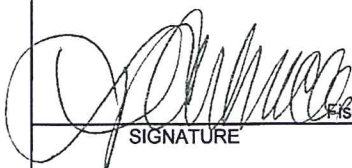
YES:

NO:

BY: \_\_\_\_\_ DATE \_\_\_\_\_

EXPLANATION OF REQUEST

To appropriate new revenue (SHSGP) for purchase of ForensicSCAN



SIGNATURE

Fiscal Officer

TITLE

3/5/2018

DATE

REVENUE ADJ.  
JOURNAL NO.

RAOO

5058

## T/C 27

☐ COUNTY ADMINISTRATOR(M129 Rev 2/86)



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: March 20, 2018

Subject: California Employment Development Department Supervised Population Workforce Training Grant

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, on behalf of the Workforce Development Board of Contra Costa, to apply for and accept grant funding from California Employment Development Department in an amount not to exceed \$400,000 for the Supervised Population Workforce Training Program for the period May 1, 2018 through April 30, 2020.

**FISCAL IMPACT:**

County to receive an amount not to exceed \$400,000 from California Employment Development Department (100% State) (50% match from AB 109 funding).

**BACKGROUND:**

The grant will fund programs to help develop workforce training programs for individuals on probation, mandatory supervision, and post release community supervision. The goal is to assist these populations in obtaining marketable industry or apprenticeship certificates, credentials, or degrees. The grant encourages collaboration among partners in the development of service delivery strategies and alignment of resources to better connect supervised populations with employment innovation that creates and adapts existing approaches or accelerates application of promising practices in workforce development; and, system change that utilizes the grant to encourage adoption of proven strategies and innovations that can be sustained beyond the grant period.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Elaine Burres,  
608-4960

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

By: , Deputy

cc:



#### BACKGROUND: (CONT'D)

Funding will allow programs to create new and expand existing regional partnerships that include Workforce Development Boards, community colleges, community-based organizations, labor organizations, industry associations, and coalitions of employers. Funds may be used to provide training, support services, and job placement assistance.

#### CONSEQUENCE OF NEGATIVE ACTION:

Programs designed to expand existing regional partnerships could be delayed or withdrawn due to lack of funding.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: March 20, 2018

Subject: APPROVE Amendment No. 4 to Real Property Services Agreement to provide Right of Way Services to the Solano Transportation Authority.

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute Amendment No. 4 to the Real Property Services Agreement between the County and Solano Transportation Authority (STA), to increase the payment limit by \$50,000, to a new payment limit of \$938,505, to provide additional right of way services to STA for the I-80/I-680/SR-12 project, as recommended by the Public Works Director, Fairfield area. (Project No. 4500-6X5800)

**FISCAL IMPACT:**

100% Solano Transportation Authority Funds.

**BACKGROUND:**

STA requires a variety of right of way services for its I-80/I-680/SR-12 Interchange Project, but STA has no right of way staff. On December 1, 2010, the County and STA entered into a Real Property Services Agreement. Under the Agreement, the County's Public Works Department, Real Estate Services Division has been

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Jewel Lopez, 925.  
313-2191

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

By: , Deputy

cc: Auditor-Contoller, PW Finance, Solano Transportation Authority

BACKGROUND: (CONT'D)

providing project-related right of way acquisition services to STA, and STA has been paying the County for its actual costs to provide those services.

The Agreement has been amended on three prior occasions, to increase the payment limit of the Agreement, and to specify additional right of way services to be provided to STA. This fourth amendment will increase the payment limit of the Agreement, to enable STA to pay the County for additional right of way services that will be provided to STA.

CONSEQUENCE OF NEGATIVE ACTION:

STA would not be able to contract for additional right of way services to be provided by the Public Works Real Estate staff.

ATTACHMENTS

ROW Services Agreement

**REAL PROPERTY SERVICES AGREEMENT**  
**AMENDMENT NO. 4**

1. **Effective Date and Parties.** Effective on December 13, 2017, the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (hereinafter referred to as "County"), and Solano Transportation Authority, a joint powers agency (hereinafter referred to as "Agency"), hereby amend the Real Property Services Agreement entered into by the parties (effective December 1, 2010), the Real Property Services Agreement No. 1 (effective March 12, 2012), the Real Property Services Agreement No. 2 (effective October 15, 2012), and the Real Property Services Agreement No. 3 (effective March 1, 2014) as follows:
2. **Amendment Specifications:** The Agreement identified above is hereby amended as set forth in the Real Property Services Agreement Amendment No. 4 for the County to provide R/W transfer activities for the transfer of property to Caltrans for the I-80/I-680/SR12 Interchange – Initial Construction Package.
3. **Payment Limit Increases.** The payment limit of the above described Agreement, as previously amended, is increased by \$50,000, from \$888,505 to a new total payment limit of \$938,505.

**COUNTY OF CONTRA COSTA**

By \_\_\_\_\_  
Brian M. Balbas  
Public Works Director

Recommended for Approval:

By \_\_\_\_\_  
Karen A. Laws  
Principal Real Property Agent

APPROVED AS TO FORM:  
Sharon L. Anderson, County Counsel

By \_\_\_\_\_  
Deputy County Counsel

**SOLANO TRANSPORTATION  
AUTHORITY**

By \_\_\_\_\_  
Daryl Halls, Executive Director

Approved as to Form:  
by STA Legal Counsel

By \_\_\_\_\_

**SOLANO TRANSPORTATION AUTHORITY (STA)**  
**WB I-80 to SR12 (West Connector and Green Valley Rd. Interchange**  
**Improvement Project)**  
**RIGHT OF WAY SCOPE OF SERVICES**  
**(AMENDMENT 4)**

1. The Payment Limit as set forth in Section 4 of the Agreement is increased by \$50,000 from \$888,505 to a new Payment Limit of \$938,505. This increase is based on the following budget of additional costs for services the County will provide under Section 3 of the Agreement.

**RIGHT OF WAY SERVICES \* - 23 OWNERSHIPS**

*\*See page 3 for detailed breakdown of estimate*

|                           |                    |
|---------------------------|--------------------|
| CLOSEOUT AND R/W TRANSFER | \$50,000           |
| <b>TOTAL</b>              | <b>\$50,000.00</b> |

2. The attached Right of Way Services Cost Estimate Table (Cost Estimate) indicates how it is anticipated that the above costs will be allocated by position and category of services.







**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: March 20, 2018

Subject: Workforce Innovation and Opportunity Act, Disability Employment Accelerator Grant

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, on behalf of the Workforce Development Board, to apply for and accept Workforce Innovation and Opportunity Act Disability Employment Accelerator grant funding in an amount not to exceed \$350,000 from the California Employment Development Department to design, develop, and implement strategies that accelerate employment and re-employment for people with disabilities, for the period March 1, 2018 through February 29, 2020.

**FISCAL IMPACT:**

If approved, the County may receive up to \$350,000 in federal funds through the California Employment Development Department. (40% in-kind or cash match required)

**BACKGROUND:**

Historically, people with disabilities (PWD) are employed at rates less than half of the general population. Developing workforce models and strategies that improve services for PWD remains a priority in the California Workforce Development system. The Disability Employment Accelerator (DEA) grant funds are available for seeking innovative ways to strengthen business partnerships around in-demand jobs for PWD. A major objective of DEA is to insure that PWD have the necessary work-based skills to obtain

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Elaine Burres,  
608-4960

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

and retain competitive, integrated employment that offers a career path to advancement.

CONSEQUENCE OF NEGATIVE ACTION:

Without funding, programs addressing employment and re-employment strategies for people with disabilities could be hindered.



# Contra Costa County

To: Board of Supervisors  
 From: David O. Livingston, Sheriff-Coroner  
 Date: March 20, 2018

Subject: Rendition Services

---

## **RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Office of the Sheriff Coroner, or designee to contract with the Oakley Police Department, as approved by County Counsel, for rendition services for the term of May 1, 2018 through April 30, 2021.

## **FISCAL IMPACT:**

No net County cost, 100% Participant Fees

## **BACKGROUND:**

The Office of the Sheriff Fugitive Unit has Deputy Sheriffs dedicated to handling fugitive cases who are experts in the field of extradition and rendition. The Fugitive Unit is often contacted for information and advice regarding fugitive cases being handled by individual law enforcement agencies. Contracting extradition and rendition services with the Office of the Sheriff Fugitive Unit is the best available alternative for police agencies within the county due to our specially trained staff. The benefits of this arrangement to both individual police agencies and the Office of the Sheriff are considerable. For a reasonable flat fee, municipalities can quickly turn over this complicated process to officers who are training and experienced in the rendition process. The establishment of such an agreement will also have the added benefit of implementing a more

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: Sandra Brown,  
925-335-1553

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

consistent and timely disposition of fugitive cases within Contra Costa County. This action would result in the Sheriff's Office entering into a contract with Oakley Police Department.

CONSEQUENCE OF NEGATIVE ACTION:

The Office of the Sheriff would be unable to provide this specialized service to the agency.

CHILDREN'S IMPACT STATEMENT:

Not applicable.



Contra  
Costa  
County

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: March 20, 2018

Subject: APPROVE a contract with John K Takata Corp d/b/a Restoration Management Company

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a contract with John K Takata Corp d/b/a Restoration Management Company in an amount not to exceed \$2,500,000.00 to provide fire, water and mold mitigation services, for the period March 1, 2018 through February 28, 2021, Countywide.

**FISCAL IMPACT:**

This cost is to be funded through Facilities Services maintenance budget. (100% General Fund)

**BACKGROUND:**

Public Works Facilities Services is responsible for emergency repair and mitigation of County facilities damaged by fire, water or mold. As bid on Bidsync # 1710-256, Restoration

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Stan Burton  
925-313-7078

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

By: , Deputy

cc:

**BACKGROUND: (CONT'D)**

Management is one of three vendors being awarded this type of work. Facilities Services is requesting this contract be approved for a period covering the next three years.

**CONSEQUENCE OF NEGATIVE ACTION:**

If this contract is not approved, fire, water and mold mitigation services will be discontinued.



# Contra Costa County

To: Board of Supervisors  
From: Anna Roth, Health Services Director  
Date: March 20, 2018

Subject: Amendment #26-777-4 with Stephen Arnold, M.D.

---

## **RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Health Services Director, or designee, to execute on behalf of the County Contract Amendment Agreement #26-777-4 with Stephen Arnold, M.D., an individual, effective February 1, 2018, to amend Contract #26-777-3, to increase the payment limit by \$127,000, from \$1,475,000, to a new payment limit of \$1,602,000, to provide additional hours of cardiology services at Contra Costa Regional Medical Center (CCRMC) and Health Centers, with no change in the term of March 1, 2017 through February 29, 2020.

## **FISCAL IMPACT:**

This amendment is funded 100% by Hospital Enterprise Fund I. (No rate increase)

## **BACKGROUND:**

On February 7, 2017, the Board of Supervisors approved Contract #26-777-3 with Stephen Arnold, M.D., to provide cardiology services including, clinic coverage, inpatient care, reading cardiology studies and on-call services at CCRMC and Health Centers for the period March 1, 2017 through February 29, 2020.

Approval of Contract Amendment Agreement #26-777-4 will allow the contractor to provide additional cardiology services due to an increase in workload, volume and utilization at CCRMC and Health Centers, through February 29, 2020.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Samir Shah, M.D.,  
925-370-5525

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

By: , Deputy

cc: K Cyr, M Wilhelm



**CONSEQUENCE OF NEGATIVE ACTION:**

If this amendment is not approved, patients requiring cardiology services at CCRMC and Health Centers will not have access to Contractor's services.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: March 20, 2018

Subject: Contract with Metropolitan Van and Storage

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract with Metropolitan Van and Storage, Inc., in an amount not to exceed \$700,000 to provide archival records storage, and office furniture and equipment storage, for the period February 1, 2018 through January 31, 2020.

**FISCAL IMPACT:**

This contract will increase expenditures by up to \$700,000, and will be paid out of Administrative Overhead (10% County, 48% State, 42% Federal).

**BACKGROUND:**

Contractor has been providing archival records storage and furniture storage services to the Employment and Human Services Department (EHSD) for a number of years. Contractor stores, retrieves, and maintains EHSD files. Contractor also provides storage space for office furniture and equipment. Contractor continues to provide services in an acceptable manner.

In 2009, EHSD issued a Request for Proposal (RFP) for archival records and furniture storage. At that time, the Contractor stored over 200,000 cartons of stored media (800,000 individual files). The department discovered, as a result of this RFP, that the cost to move files and furniture to another facility would be

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: V. Kaplan, (925)  
608-4963

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

cost prohibitive including such costs as a fee of \$3.00 per box to pull cartons (approximately \$600,000), stocking fees of new contract, and charges of new contractor to enter inventory into a computer system. EHSD determined that for the immediate future, it will be more cost effective to continue with the current contractor.

CONSEQUENCE OF NEGATIVE ACTION:

EHSD will be unable to maintain archival records.



Contra  
Costa  
County

To: Board of Supervisors  
From: Anna Roth, Health Services Director  
Date: March 20, 2018

Subject: Amendment #76-558-1 with Neogenomics Laboratories, Inc.

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Health Services Director or designee to execute, on behalf of the County, Contract Amendment Agreement #76-558-1 with Neogenomics Laboratories, Inc., a corporation, effective February 1, 2017, to amend Contract #76-558 to increase the payment limit by \$100,000, from \$50,000 to a new payment limit of \$150,000 with no change to the term of September 1, 2016 through August 31, 2019, to provide additional outside laboratory testing services

**FISCAL IMPACT:**

This contract is funded 100% by Hospital Enterprise Fund I.

**BACKGROUND:**

In January 2017, the County Administrator approved and Purchasing Services Manager executed Contract #76-558 to provide outside laboratory testing services including renal biopsies and various histology tests not provided at Contra Costa Regional Medical Center (CCRMC) and Health Centers for the period from September 1, 2016 through August 31, 2019.

CCRMC recently received corrected invoices dating back to February 2017 from the contractor. CCRMC's clinical laboratory uses this contractor for specialized testing that can only be done at this laboratory due to special equipment needed.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Jaspreet Benepal,  
925-370-5741

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

By: , Deputy

cc: L Walker , M Wilhelm

BACKGROUND: (CONT'D)

Approval of Amendment Agreement #76-558-1 will allow the contractor to provide additional outside laboratory testing services due to an increase in patients and patient testing through August 31, 2019.

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, patients requiring outside laboratory testing services will not have access to the contractor's services.



Contra  
Costa  
County

To: Board of Supervisors  
From: Beth Ward, Animal Services Director  
Date: March 20, 2018

Subject: Contract with PetData, Inc.

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Animal Services Director, or designee, to execute a contract with PetData, Inc., in an amount not to exceed \$750,000 for online processing of the County's animal licenses for the period April 1, 2018 to March 31, 2021.

**FISCAL IMPACT:**

This contract is funded 100% by Animal Services' licensing revenue.

**BACKGROUND:**

Since its existence, the Animal Services Department has managed and met the mandate of the County's animal licensing ordinance (416-6.002) using in-house resources. The department's clerical unit has supported the processing and managing of its licensing records and revenue system. However due to the complexity of licensing and staffing demands, the department is struggling to provide the licensing service and process revenues in a timely manner. The proposed contract with PetData for these services will both increase the department's service capacity for the public and its revenues beginning April 2018.

Under the contract, PetData will administer the payment and issuance of pet licensing

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Beth Ward,  
925-608-8470

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

By: , Deputy

cc:

BACKGROUND: (CONT'D)

through its online portal, which will be embedded on the department's website. County will pay PetData on a per license fee issued basis. Pet Data will issue renewal notices to owner's of licensed pets and provide telephone customer service to owners of licensed pets. PetData will maintain a database of pet licenses for the department's use.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to approve this contract will impact the department's capacity to process licenses for rabies control.

ATTACHMENTS





Contra  
Costa  
County

To: Board of Supervisors  
From: Anna Roth, Health Services Director  
Date: March 20, 2018

Subject: Amendment #76-580-3 with James Pak, M.D., Inc.

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Health Services Director or designee, to execute Contract Amendment Agreement #76-580-3 with James Pak, M.D., Incorporated, effective April 1, 2018, to amend Contract #76-580-2, to increase the payment limit by \$69,250, from \$99,750 to a new payment limit of \$169,000, with no change in the original term of September 1, 2015 through August 31, 2018, to provide additional hours of anesthesiology services at CCRMC and Health Centers.

**FISCAL IMPACT:**

This amendment is funded 100% by Hospital Enterprise Fund I. (No rate increase)

**BACKGROUND:**

In August 2017, the County Administrator approved and the Purchasing Services Manager executed Contract #76-580-2 with James Pak, M.D., Incorporated to provide anesthesiology services including consultation and medical procedures at Contra Costa Regional Medical Center (CCRMC) and Health Centers, for the period September 1, 2015 through August 31, 2018.

Approval of Contract Amendment Agreement #76-580-3 will allow the contractor to provide additional hours of anesthesiology services due to an increase in patient volume at CCRMC and Health Centers, through August 31, 2018.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Samir Shah, M.D.,  
925-370-5525

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

By: , Deputy

cc: K Cyr, M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this amendment is not approved, patients requiring anesthesiology services will not have access to the contractor's services.



Contra  
Costa  
County

To: Board of Supervisors  
From: Anna Roth, Health Services Director  
Date: March 20, 2018

Subject: Contract #74-394-9 with Ronald L. Leon, M.D., Inc.

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Health Services Director, or designee, to execute Contract #74-394-9 with Ronald L. Leon, M.D, Inc., a corporation, in an amount not to exceed \$174,720, to provide outpatient psychiatric services to patients in East Contra Costa County, for the period April 1, 2018 through March 31, 2019.

**FISCAL IMPACT:**

This contract is funded 100% by Mental Health Realignment. (No rate increase)

**BACKGROUND:**

On March 14, 2017, the Board of Supervisors approved Contract #74-394-8 with Ronald L. Leon, M.D., Inc., to provide outpatient psychiatric services including diagnosing, counseling, and evaluating, and providing medical and therapeutic treatment to patients in East Contra Costa County, for the period from April 1, 2017 through March 31, 2018.

Approval of Contract #74-394-9 will allow the contractor to continue providing outpatient psychiatric services through March 31, 2019.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Cynthia Belon,  
925-957-5201

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

By: , Deputy

cc: E Suisala , M Wilhelm

CONSEQUENCE OF NEGATIVE ACTION:

If this contract is not approved, adult patients in East Contra Costa County requiring outpatient psychiatric services will not have access to the contractor's services.



Contra  
Costa  
County

To: Board of Supervisors  
From: Anna Roth, Health Services Director  
Date: March 20, 2018

Subject: Purchase Order with Interline Brands, Inc.

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Health Services Department, a purchase order with Interline Brands, Inc. in an amount not to exceed \$1,500,000 for the purchase of janitorial supplies and minor equipment for Contra Costa Regional Medical Center (CCRMC) and Health Centers for the period from April 1, 2018 through March 31, 2020.

**FISCAL IMPACT:**

100% included in the Hospital Enterprise Fund I budget.

**BACKGROUND:**

Interline Brands, Inc. provides janitorial supplies, parts, gloves, clothing, minor equipment, vacuums, floor polishers, carts, air blowers, squeegees, non-medical supplies, cups and plates, silverware, mats, tissue and other paper products, liners, batteries, baskets, female hygiene products, soap containers, umbrella bags, towels, kits, and other products to ensure that CCRMC and Health Centers are sanitary.

**CONSEQUENCE OF NEGATIVE ACTION:**

If this purchase order is not approved, CCRMC and Health Centers will be unable to keep the facilities clean, which would impact patient care.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Jaspreet Benepal,  
925-370-5101

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

By: , Deputy

cc: Margaret Harris, Tasha Scott, Marcy Wilhelm



**Contra  
Costa  
County**

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: Agreement with Desktop Alert Inc.

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Director of Risk Management, or designee, to execute a contract with Desktop Alert Inc., including modified indemnification language, to provide a desktop emergency alert notification for County staff in the amount of \$210,000 for the period of December 1, 2017 through December 31, 2021.

**FISCAL IMPACT:**

Funded by charges to user departments.

**BACKGROUND:**

The Risk Management Division of the County Administrator's Office began implementing, in the Fall of 2017, a pilot mass notification software system through Desktop Alert Inc to be able to rapidly communicate to employees during potential emergencies. The system is designed to electronically alert users to disasters, hazardous situations/incidents, fires, active shooters, toxic chemical release, business interruptions, etc.. This system is currently being used by NATO, the US Air Force and National Guard and will be implemented as an additional tool for the enhancement of employee safety.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Sharon Hymes-Offord  
(925) 335-1442

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

By: , Deputy

cc: All County Departments (via County Administration)

BACKGROUND: (CONT'D)

The system will allow for the electronic notification of thousands of employees with critical information simultaneously and timely. The system will be managed by Risk Management, the County Administrator's Office (CCTV) and the Department of Information Technology.

Some of the departments that are involved in the initial pilot testing include the County Administrator's Office, Department of Information Technology, Risk Management, Child Support Services, Clerk of the Board, Human Resources, Employment & Human Services, and a division of the District Attorney's Office. The intention is to deploy the program to all County Departments over the course of the contract period which would involve approximately 9,000 users by December, 2021.

Under the contract, the County agrees to indemnify and hold harmless the contractor from third party claims asserted against the contractor based on County's negligence or willful misconduct in its performance of this Agreement.

CONSEQUENCE OF NEGATIVE ACTION:

The County will be without an effective method of communicating to employees during potential emergencies.





**Contra  
Costa  
County**

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: TERMINATION OF CONTRACT WITH PRI MANAGEMENT GROUP, INC.

---

**RECOMMENDATION(S):**

Acknowledge receipt of notice from PRI Management Group, Inc., requesting termination of Contract #45864, which provided for information technology project management and technical consultation services, and ratify the agreement reached between the contractor and the County Administrator to terminate the contractual obligations effective at the close of business on March 21, 2018.

**FISCAL IMPACT:**

This contract is funded through a penalty assessment on failure to appear/failure to pay on Vehicle Code violations.

**BACKGROUND:**

On July 11, 2017, the Board of Supervisors approved Contract #45864 with PRI Management Group, Inc., for the provision of project management and technical consultation for the project to replace the County's automated warrant system, for the period August 1, 2016 through June 30, 2018.

The Department received a letter from the Contractor dated March 7 requesting termination of this Contract. In accordance with General Conditions, paragraph 5 (Termination), the Contractor and the County Administrator's Office mutually agree to terminate the contract effective March 21, 2018.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Julie DiMaggio Enea  
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

## ATTACHMENTS

PRI Termination  
Letter



*Public Safety Records and  
Technology Compliance Solutions*

March 7, 2018

Julie Enea  
Contra Costa County  
Via email  
[Julie.Enea@cao.cccounty.us](mailto:Julie.Enea@cao.cccounty.us)

Re: JAWS Project

Dear Julie,

Per the terms of our contract for the JAWS project, section 5.a., "Termination and Cancellation", Standard Form L-5, PRI is terminating our contract with Contra Costa County. According to this paragraph, the contract may be "cancelled immediately" by either party, by written mutual consent.

Please confirm that PRI will be paid according to the last payment demand form submitted on March 2, 2018 for \$6277.00, prior to your written acknowledgement of this cancellation notice.

Thank you.

Regards,

*E. N. Claughton III*

Ed Claughton, President  
PRI Management Group



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: March 20, 2018

Subject: 2017-18 KinderCare Learning Centers LLC Childcare Services Contract, Amendment 1

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract amendment with KinderCare Learning Centers LLC to increase the payment limit by \$183,999 to a new payment limit of not to exceed \$254,999, to add 16 childcare slots for Early Head Start Childcare Partnership program services and 16 childcare slots for State General Childcare Development, with no change to the term of December 1, 2017 through June 30, 2018.

**FISCAL IMPACT:**

This contract is 49.8% funded by federal grant funds from the Administration for Children and Families (Head Start Program). The remaining 50.2% of the contract is State funded through the California Department of Education. There is no County match requirement.  
[CFDA 93.600]

**BACKGROUND:**

Contra Costa County receives funds from the U.S. Department of Health and Human Services, Administration for Children and Families (ACF) to provide Head Start and Early Head Start program services to program eligible County residents. The Employment and Human Services Department, in turn, contracts with a number of community-based organizations to provide a wider distribution of services.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: CSB (925)  
681-6334

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

By: , Deputy

cc: Nelly Ige, Haydee Ilan, Nasim Eghlima

**BACKGROUND: (CONT'D)**

The original contract with KinderCare Learning Center LLC was to provide Early Head Start Childcare Partnership program services by funding 16 childcare program slots for children ages 0 to 3 years. The original contract was for \$71,000 and did not require a board order. This board order is to approve adding \$183,999 to the contract for 16 additional childcare slots and start up funding for the Early Head Start Childcare Partnership program and to add funds for 16 childcare slots in the State General Childcare and Development program.

**CONSEQUENCE OF NEGATIVE ACTION:**

If not approved, the County will not be able to fund additional childcare slots and start up funds for it's community based agency partner, KinderCare Learning Centers LLC.

**CHILDREN'S IMPACT STATEMENT:**

The Employment and Human Services Department Community Services Bureau supports three of Contra Costa County's community outcomes - Outcome 1: Children Ready for and Succeeding in School, Outcome 3: Families that are Economically Self-sufficient, and Outcome 4: Families that are Safe, Stable, and Nurturing. These outcomes are achieved by offering comprehensive services, including high quality early childhood education, nutrition, and health services to low-income children throughout Contra Costa County.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Employment & Human Services Director  
Date: March 20, 2018

Subject: Renewal of Blanket Purchase Order with Sysco Food Services

---

**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Purchasing Agent, on behalf of the Employment and Human Services Director, to amend and extend the Blanket Purchase Order with Sysco Food Services to increase the payment limit by \$790,704 to a new amount not to exceed \$1,790,704, for food and non-food product items, equipment and supplies, and to extend the term to August 1, 2014 through December 31, 2020.

**FISCAL IMPACT:**

This purchase order is funded 50% (\$895,352) through the California Department of Education and 50% (\$895,352) through the Department of Health and Human Services Administration for Children and Families.

[CFDA # 93.600]

**BACKGROUND:**

The Department utilizes this company to furnish food service supplies and equipment to provide daily food service to the childcare centers operated by the Department. The original contract in the amount of \$1 million for the period August 1, 2014 through July 31, 2018 was approved by the Board of supervisors at it's July 29, 2014 meeting.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: CSB (925)  
681-6389

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

By: , Deputy

cc: Nasim Eghlima, Angela Winn

CONSEQUENCE OF NEGATIVE ACTION:

If not approved, the County will not be able to make necessary purchases to operate the childcare centers.

CHILDREN'S IMPACT STATEMENT:

The Employment & Human Services Department Community Services Bureau supports three of Contra Costa County's community outcomes - Outcome 1: "Children Ready for and Succeeding in School," Outcome 3: "Families that are Economically Self-sufficient," and Outcome 4: "Families that are Safe, Stable, and Nurturing." These outcomes are achieved by offering comprehensive services, including high quality early childhood education, nutrition, and health services to low-income children throughout Contra Costa County.

ATTACHMENTS

Sysco Purchase Order





Contra Costa County  
Employment and Human Services Department  
Community Services Bureau



Request for Purchase Order Requisition

|   |   |                                  |             |
|---|---|----------------------------------|-------------|
| <b>Vendor:</b><br><b>(Suggested)</b> Sysco Food Svcs / San Francisco<br>5900 Stewart Avenue | <b>Delivery Address:</b> 1470 Civic Ct. |                                  |             |
|   | <b>Address</b>                          |                                  |             |
|   | Concord                                 | CA                               | 94520       |
|   | <b>City</b>                             | <b>State</b>                     | <b>Zip</b>  |
| <b>Address</b>  |   | <b>Requested by</b>              | <b>Date</b> |
| Fremont   | CA                                      | 94538                            | SM 2/8/2018 |
| <b>City</b>   | <b>State</b>                            | <b>Zip</b>                       | <b>Date</b> |
| <b>Name and address of vendor must be completed.</b>  |   | <b>Accounting Approval</b>       | <b>Date</b> |
|   |   | <b>As Coded</b>                  |             |
|   |   | <b>Program Director Approval</b> | <b>Date</b> |
|   |   |                                  | 2/14        |

| Quantity                         | Detailed Description of Item(s) requested<br>Include Item #, Model #, Measurements, or Pictures of Item(s)  | Unit Price  | Total Price |
|----------------------------------|---|-------------|-------------|
| 1                                | Change order for Blanket Purchase Order # 53158 - Sysco Food Svcs is for the following:<br>Food and Non-food related products, supplies, items, and equipment as needed.<br>August 1, 2014 thru December 31, 2020. Vendor #11175.<br><br>Previous PO 53158 attached<br>Adding funds \$790,704<br>Original PO:<br>8/1/2014-7/31/2018<br>Original \$1,000,000 | \$1,790,704 | \$1,790,704 |
| <b>Subtotal:</b>                 |   |             | \$1,790,704 |
| <b>Sales Tax:</b>                |   |             |             |
| <b>Shipping/Delivery Charge:</b> |   |             |             |
| <b>Total:</b>                    |   |             | \$1,790,704 |

**CRITERIA FOR  
SOLE SOURCE / BRAND PROCUREMENT**

**“SOLE SOURCE JUSTIFICATION FORM”**

Please address by specific reference each question listed below ( 1 – 5 ) in your justification.

Failure to respond to any of the questions may result in the rejection of your request.

( When answering questions use separate sheets of paper as needed )

**1. Why was the particular product and / or vendor selected?**

Sysco Food Services offers a wide and unsurpassed selection of equipment and products of high quality standards, such as kitchen equipment, frozen and perishable foods items, staple grocery items, bakery products and refrigeration equipment and accessories. Furthermore, Sysco's suppliers are required to comply with the company's product standard and specifications to ensure the quality of Sysco's brand names.

**2. What are the unique performance factors of the selected product / service?  
Provide detailed specifications and descriptions.**

Sysco brand products offer quality and safety which comply with the California Adult and Child Food Program guidelines. They employ the most capable staff of Quality Assurance professionals to ensure that their products are safe. They have a Quality Assurance team that is responsible for screening suppliers and disapproving them if they fail to meet Sysco's high quality standard.

**3. Why are these specific factors required?**

Health and Safety is an important and crucial component in the Head Start and Child Development programs. We are also mandated to comply with the California Adult and Child Food Program guidelines. Thus, a company that ensures safety and quality in their products, such as Sysco Food Services is imperative in our program.

**4. What other products / services have been examined and rejected?**

We have tried purchasing from local grocery stores, but the quantity and quality did not meet our standard and the State guidelines.

**5. Why are other sources providing like goods or services unacceptable?  
Full explanation needed.**

They are unacceptable because our needs are too large to be spending time driving and shopping at local grocery stores.

**SUPPLEMENTAL APPROVAL FORM FOR ITEMS OVER \$25,000**

(if over \$100,000- Board of Supervisors Approval needed)

Department: EHSD-Community Services Bureau \_\_\_\_\_ Date: February 8, 2018 \_\_\_\_\_

Authorized Requestor: Sung Kim \_\_\_\_\_ Telephone: 925-681-6303 \_\_\_\_\_

Authorized Requestor Signature: \_\_\_\_\_

1. P.O. Requisition No. Change order to PO 53158

2. Item. Dairy Products /kitchen equipment/food

3. Single Item ☐ Multiple Like Items X Integrated System ☐

4. How does this purchase meet the Departments operational needs?

Sysco Food Service offers a wide selection of food and equipment supplies, such as kitchen equipment, paper and plastic products, refrigeration equipment and accessories, bakery products, frozen, and perishable food items. These are crucial in the operation of CSB's central kitchen that serves over 40,000 meals monthly to the children in the child care centers all throughout the county.

5. Estimated cost: \$1,790,704 from August 1, 2014 to December 31, 2020

5. Funding Source: State (50%) and Federal (50%) funds \_\_\_\_\_

6. Information Technology Approval (Needed for acquisition of computer hardware, services, software)  
Computer Hardware, Services, and Software meet minimum use guidelines.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

7. County Administrator Approval

Signature: \_\_\_\_\_ Date: . \_\_\_\_\_


I HEREBY CERTIFY THAT:

- 1) I am an approved County department representative. I understand the County's requirements for competitive bidding, as well as the criteria for justification for sole source.
- 2) I have gathered the required technical information and have made a good faith effort to review comparable and / or equal equipment / product / services.  
Copies are attached.

I certify to the best of my knowledge the validity of the information contained herein.

Department / Division / Office name Community Services

Department representative name Sung Kim  
( print name )

Department representative signature   
( sign name )

Date: 2.8.18

**GSD PURCHASING OFFICE USE ONLY:**

BUYER: \_\_\_\_\_ PURCHASING AGENT / DESIGNEE \_\_\_\_\_

APPROVED: \_\_\_\_\_ NOT APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_

COMMENTS:

SECTION I: TYPE OF REQUEST (Check & Complete Applicable Information)

- ☐ New Contract (Eff. \_\_\_\_ thru \_\_\_\_)
- ☐ New Inter Dept. Agreement (Eff. \_\_\_\_ thru \_\_\_\_)
- ☒ Change in Existing Contract / Agreement No. F5315801
- ☐ Renewal ☐ Amendment
- ☒ Extension ☐ Termination
- Effective: 08/01/2014 thru 12/31/2020
- ☒ Board Order/Resolution  
(If prior Board action relevant, indicate Ref. # or date: \_\_\_\_)
- ☐ Request for Proposal / IFB ☐ Legal Notice ☐ Application for Pre-Bid Survey

State / Federal Contract, Grant, Application, Project or Plan:

- ☐ New (Eff. \_\_\_\_ thru \_\_\_\_)
- ☐ Existing: County No. \_\_\_\_ State / Fed No. \_\_\_\_
- ☐ Amendment ☐ Renewal ☐ Termination

Date: 02/07/2018  
Requested by: A. Winn  
Phone: 1-4267  
Fund/Org#: 1482

Account #: 2150/2170  
Other #: \_\_\_\_  
Fiscal by: S. Mendoza

**For Contracts & Grants Use Only**

Number: \_\_\_\_  
Analyst: \_\_\_\_  
Date: \_\_\_\_

SECTION II: CONTRACTOR / AGREEMENT IDENTIFICATION

Contractor: SYSCO FOOD SVCS Contractor's Program Person: \_\_\_\_

Legal Capacity: For Profit Corporation Name: Garrick Mallory

MBE WBE Certified: \_\_\_\_ Title: Account Executive

Taxpayer ID No.: \_\_\_\_ Phone: \_\_\_\_

Address: 5900 Stewart Avenue Contractor's Admin / Fiscal Person:

Fremont, CA 94538 Name: Garrick Mallory Phone: 510-695-1950

SECTION III: SPECIFICATIONS:

A. BRIEF PROGRAM / PROJECT / SERVICE DESCRIPTION (If change in service, describe):

- ☐ Based on Attached Information ☐ Based on attached Service Plan
- ☐ Based on Previous document ☐ Other: \_\_\_\_

B. FUNDING

1. Budget: Total Payment Limit \$ 1,790,704 (attached budget)  
(If Amendment or Extension Amount of Increase / Decrease \$ 790,704)
2. Method of Payment
- ☐ a. \$ \_\_\_\_ monthly, or
- ☐ b. \$ \_\_\_\_ per unit, as defined in Service Plan, or
- ☐ c. An amount equal to Contractor's allowable costs that are actually incurred each month, but subject to the "Budget of Estimated Program Expenditures" included in the Service Plan, or
- ☐ d. To be set forth in the Service Plan
3. Funding Source: County \$ \_\_\_\_ State \$ 895,352 Federal \$ 895,352 Other \$ \_\_\_\_
- Comments: State=50%; Federal =50%

C. PROGRAM REGUALTIONS (if applicable): \_\_\_\_

D. ACTION DEADLINE (explain): \_\_\_\_

SECTION IV: SPECIAL DISTRIBUTION

SEND COPIES TO: ☐ Contractor ☐ CAO ☒ Other (specify) \_\_\_\_

STATE APPROVAL NEEDED ☐ YES ☐ NO Instruction Letter Attached ☐ YES ☐ NO



Contra  
Costa  
County

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: March 20, 2018

Subject: Approvals and Consents to Change of Partners, Ownership and Lender of Sycamore Place in Danville

---

**RECOMMENDATION(S):**

1. CONSENT to the transfer of the limited partner interest in Danville Senior Housing Associates, L.P. from Union Bank of California, N. A. to BRIDGE Housing Ventures, Inc.;
2. CONSENT to the refinancing of the first mortgage loan and agree to subordinate the County Deed of Trust and Regulatory Agreement to the new first mortgage lender;
3. APPROVE and AUTHORIZE the Director of Conservation and Development, or designee, to execute documents to carry out these actions.

**FISCAL IMPACT:**

No General Fund impact: one hundred percent federal funds. HOME and CDBG funds are provided to the County on a formula allocation basis by the U.S. Department of Housing and Urban Development.

**BACKGROUND:**

On February 11, 2002, the County loaned \$1,800,000 of Community Development Block Grant (CDBG) and \$400,000 of HOME Investment Partnerships Act (HOME) funds to BRIDGE Housing Corporation (BRIDGE or Borrower) for site acquisition and construction of Sycamore Place, a 73 unit affordable senior apartments complex located at 35 Laurel Drive in Danville (Development). The Development was financed with low income housing tax credits (LIHTC). BRIDGE formed a limited partnership, Danville Senior

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Kara Douglas,  
925-674-7880

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

By: , Deputy

cc:

## BACKGROUND: (CONT'D)

Housing Associates L.P., to own Sycamore Place. A BRIDGE affiliate, Danville Senior Housing Associates, Inc., is the general partner, and the tax credit investor, Union Bank of California N.A., is the current limited partner.

The development has reached the end of its 15-year tax credit partnership agreement. BRIDGE now wishes to replace Union Bank of California N.A., with a BRIDGE affiliate, BRIDGE Housing Ventures, Inc., as the new limited partner. The County and BRIDGE entered into a CDBG/HOME Loan Agreement which allows some transfers of limited partners, but does not include this specific situation. Staff recommends that the Board consent to this transfer of limited partner.

BRIDGE also wishes to refinance the first mortgage loan in order to finance some rehabilitation of the development. A new lender will require that the County subordinate its current loan to the new first mortgage loan (Senior Loan). The County is a junior lien position now to the Senior Loan and this would not change with the refinance and subordination. The lender has not been identified and there is not a subordination agreement to review yet. However, the County has previously established the following general terms for subordination agreements for this type of transaction:

- (i) All of the proceeds of the Senior Loan, less any transaction costs, are used to provide acquisition, construction and/or permanent financing for the Development.
- (ii) The lender of the Senior Loan is a state or federally chartered financial institution, a nonprofit corporation or a public entity that is not affiliated with Borrower or any of Borrower's affiliates, other than as a depositor or a lender.
- (iii) Borrower demonstrates to the County's satisfaction that subordination of the Deed of Trust and the Regulatory Agreements is necessary to secure adequate acquisition, construction, and/or permanent financing to ensure the viability of the Development, including the operation of the Development as affordable housing, as required by the Loan Documents. To satisfy this requirement, Borrower must provide to the County, in addition to any other information reasonably required by the County, evidence demonstrating that the proposed amount of the Senior Loan is necessary to provide adequate acquisition, construction, and/or permanent financing to ensure the viability of the Development, and adequate financing for the Development would not be available without the proposed subordination.
- (iv) The subordination agreement(s) is structured to minimize the risk that the Deed of Trust and the Regulatory Agreements will be extinguished as a result of a foreclosure by the holder of the Senior Loan. To satisfy this requirement, the subordination agreement must provide the County with adequate rights to cure any defaults by Borrower, including: (1) providing the County or its successor with copies of any notices of default at the same time and in the same manner as provided to Borrower; and (2) providing the County with a cure period of at least sixty (60) days to cure any default.
- (v) The subordination(s) of the Loan is effective only during the original term of the Senior Loan and any extension of its term that is approved in writing by the County.
- (vi) The subordination does not limit the effect of the Deed of Trust and the Regulatory Agreements before a foreclosure, nor require the consent of the holder(s) of the Senior Loan prior to the County exercising any remedies available to the County under the Loan Documents.
- (vii) Upon a determination by the County's Director – Department of Conservation and Development that the above conditions have been satisfied, the Director – Department of Conservation and Development or



his/her designee will be authorized to execute the approved subordination agreement without the necessity of any further action or approval.

CONSEQUENCE OF NEGATIVE ACTION:

If the County does not approve the transfer of the limited partner, and subsequent transactions, BRIDGE will not be able to refinance and complete the planned rehabilitation.



Contra  
Costa  
County

To: Board of Supervisors

From: TRANSPORTATION, WATER & INFRASTRUCTURE COMMITTEE

Date: March 20, 2018

Subject: RECEIVE Annual Report on the County's Integrated Pest Management Program

---

**RECOMMENDATION(S):**

ACCEPT the 2017 annual Integrated Pest Management Program report, as recommended by the Transportation, Water and Infrastructure Committee.

**FISCAL IMPACT:**

None.

**BACKGROUND:**

The Transportation, Water, and Infrastructure Committee (TWIC) has been referred the following item "Monitor the implementation of the Integrated Pest Management policy."

In fulfillment of that referral, TWIC has directed the County's Integrated Pest Management (IPM) Coordinator to present the Annual IPM Report to the Committee.

At TWIC's December 11, 2017 meeting, the Committee received the 2017 Annual IPM Report and directed staff to bring it to the full Board of Supervisors.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

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

Contact: Tanya Drlik, IPM  
Coordinator 925 335-3214

By: , Deputy

cc:

## ATTACHMENTS

2017 IPM Annual Report

11-16-17 2000-2017 CCCPest Use Chart

02-07-18 County Staff Responses to PfSE  
Concerns

# Contra Costa County Integrated Pest Management Advisory Committee

## 2017 Annual IPM Program Status Report

to the

Transportation, Water, and Infrastructure Committee of the Contra Costa Board of Supervisors

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# **Contra Costa County Integrated Pest Management Advisory Committee**

## **2017 Annual IPM Program Status Report**

**to the**

**Transportation, Water, and Infrastructure Committee of the Contra Costa Board of Supervisors**

### **Executive Summary**

#### **Work of the IPM Advisory Committee**

This year, the IPM Advisory Committee explored how vegetation in rights-of way is managed in Contra Costa and in other counties, and developed a pest management awareness training for County in-home visitors.

In 2012, the Committee developed a form for documenting pest management decisions. Since then, the Departments have been using this form to systematically document management decisions for the pests they work with. This year, Special Districts and the Grounds Division finalized a document (begun last year) for the management of gophers in Special Districts and in County landscaping. Decision documents for vegetation management along roadsides and flood control channels are under review.

This summer, the Committee developed a presentation to educate in-home visitors in various programs throughout the County about the health and other risks of having pests in the home. The presentation includes accompanying resource materials. Training sessions began in November and will continue in the new year.

#### **Pesticide Use Reduction by County Operations**

Since FY 00-01, County operations have reduced their pesticide use by 75%. During the same time period, they have reduced their use of “Bad Actor” pesticides by 86%.

#### **Departmental IPM Programs**

The Department of Agriculture continues to concentrate its invasive weed program on contracted work for parkland and municipalities within the County.

A new species, the three-lined cockroach, has been invading County buildings. Although this cockroach was identified from the County in 2009, it was only last year that it began causing problems in County buildings. Unlike other cockroaches, this species does not feed on human food and garbage. This makes controlling the three-lined cockroach with commercial baits very difficult because the insect is not interested in the food attractants in the currently available cockroach baits. This year the County IPM contractor thoroughly sealed Building 500 at 255 Glacier. No three-lined cockroaches have been found in monitoring traps inside the building since. Pest exclusion works because this insect lives outside in the mulch and leaf litter around the building.

The owl box installed last year in Livorna Park in Alamo housed its first tenants over the summer. The box has been cleaned and is ready for new occupants. The Public Works Department worked with Boy Scouts to install two owl boxes in the Kubicek Basin in Walnut Creek. The County also worked with the Peregrine Team of Pine Canyon to erect two nest boxes for American kestrels in Kubicek Basin. This is a project of Native Bird Connections to increase kestrel habitat in the Mt. Diablo region.

The Roadside and Flood Control Maintenance Division continues to incorporate grazing into its vegetation management program. This fiscal year the Division used goats to abate weeds on approximately 257 acres, mostly on flood control facilities. A record-breaking rainy season seriously damaged some roads and blocked others with downed trees. This tied up crews with repairs and tree removal. Heavy rains spurred the growth of a bumper crop of weeds in the County, although the County was spared the devastating fires that raged to the north in the fall fed by the heavy weed growth.





## History of the IPM Advisory Committee

From 2002 to 2009, an informal IPM Task Force met to coordinate implementation of the IPM Policy that was adopted by the Board of Supervisors in November 2002. The Integrated Pest Management (IPM) Advisory Committee, a formal body, was created by the Board of Supervisors in November 2009. This report is the eighth annual status report from the IPM Coordinator and the IPM Advisory Committee.

## Background on the IPM Advisory Committee

### Purpose of the IPM Advisory Committee

The purpose of the Committee is to:

1. Protect and enhance public health, County resources, and the environment
2. Minimize risks and maximize benefits to the general public, staff, and the environment as a result of pest control activities conducted by County staff and contractors
3. Promote a coordinated County-wide effort to implement IPM in the County in a manner that is consistent with the Board-adopted IPM Policy
4. Serve as a resource to help the Agriculture and Public Works Departments and the Board of Supervisors review and improve existing pest management programs and the processes for making pest management decisions
5. Make policy recommendations upon assessment of current pest issues and evaluation of possible IPM solutions
6. Provide a forum for communication and information exchange among members in an effort to identify, encourage, and stimulate the use of best or promising pest management practices

### Members of the IPM Advisory Committee

Currently the Committee has a total of 13 seats consisting of voting and non-voting members. Because the Public and Environmental Health Advisory Board was abolished in 2016, that seat was replaced by one for the County's Sustainability Commission.

The 8 voting members include:

- One representative from Contra Costa Health Services
- One representative from the County Storm Water Program
- One representative from the County Sustainability Commission
- One representative from the County Fish and Wildlife Committee
- One representative from an environmental organization
- Three at-large members of the public

The 4 non-voting members include

- A representative from the Agriculture Department
- Two representative from the Public Works Department (Facilities Division and Maintenance Division)
- One representative from the County's pest management contractor

The Committee also has one public member alternate who only votes if one or more of the three at-large public members, the Sustainability representative, or the Fish and Wildlife representative is absent from a meeting.

## IPM Advisory Committee Priorities for 2017

The IPM Advisory Committee focused on the following two IPM program features:

- A. IPM decision-making—documenting pest management decisions in County IPM programs
- B. Outreach and education—reviewing and/or creating educational pieces for the public and County staff

The Committee formed two subcommittees to work on these priorities, the Decision-Making subcommittee and the Outreach subcommittee.

## 2017 Accomplishments of the IPM Advisory Committee and the IPM Coordinator

### Accomplishments of the IPM Committee

The IPM Advisory Committee (the Committee) held six regular meetings in 2017. The two subcommittees held a total of 13 meetings to address the above priorities. The IPM Coordinator serves as staff to the Committee and any subcommittees. According to the wishes of the Committee, the IPM Coordinator arranged for speakers for three of the six regular Committee meetings held during 2017. The following were the topics and presenters:

1. *Pest Prevention by Design: Authoritative guidelines for designing pests out of structures*, presented by Chris Geiger, San Francisco IPM Coordinator
2. Carbon monoxide as a treatment for burrowing rodents, presented by Dr. Roger Baldwin, UC Cooperative Extension; carbon dioxide as a treatment for burrowing rodents, presented by Dr. Bill Donohue, Sierra Laboratories
3. Controversy surrounding the herbicide glyphosate, presented by Dr. Brad Hansen, UC Cooperative Extension

The accomplishments of the IPM Committee and its subcommittees are as follows:

#### **Priority A: IPM Decision-Making**

Through the work of the Decision-Making subcommittee, the IPM Advisory Committee

1. Reviewed and provided suggestions for changes to the County's Landscape Standards under the section on pest management. All the suggestions were accepted by Public Works staff and have been incorporated into the document (<http://www.contracosta.ca.gov/2147/Landscape-Standards>)
2. Gained a better understanding of the complexities involved in pest management along the County's road and flood control rights-of-way
3. Gained a better understanding of the challenges and complexities involved in the funding mechanisms for road maintenance
4. Reviewed and provided suggestions for improvement to three decision-making documents (the two vegetation management documents are still under review):
  - a. Gopher management in landscapes (Grounds Division and Special Districts)
  - b. Vegetation management along County roadsides and road rights-of-way (Public Works Roadside and Flood Control Channel Vegetation Management Division)
  - c. Vegetation management along flood control channels (Public Works Roadside and Flood Control Channel Vegetation Management Division)
5. Continued gathering information on vegetation management on rights-of-way in neighboring Bay Area Counties

The detailed decision-making documents follow a form devised by the IPM Coordinator and previous members of the Decision-Making subcommittee. Decision-making documents are considered current as of the date on the document and may be updated in the future.

See Attachment A for the Decision-Making subcommittee's final report and the gopher decision document.

#### **Priority B: Outreach and Education**

This year, the subcommittee chose to work with the County's most vulnerable populations through outreach to in-home visitors with the goals of

1. Informing County staff of the public health risks of having pests in the home
2. Helping staff to recognize pest problems in their clients' homes
3. Making staff aware of the resources available for their clients

Through the work of the Outreach subcommittee, the IPM Advisory Committee

1. Gained understanding of the capabilities and constraints of in-home visitors

2. Created a 20 to 30 minute PowerPoint presentation with an accompanying script and resource materials for training County in-home visitors
3. Provided training for County staff

See Attachment B for the Outreach subcommittee's final report.

### **Accomplishments of the IPM Coordinator**

In addition to staffing the IPM Advisory Committee and working on the two subcommittees, the IPM Coordinator worked on the issues listed below.

#### **Bed Bugs**

The common bed bug continues to be one of the most serious pests in the County, a pest that has provoked citizens to misuse pesticides to an alarming extent. Pesticides do not solve the problem, and in many cases make the problem worse. We increasingly see bed bugs affecting the citizens of Contra Costa who have the fewest resources to combat them.

##### **Answering calls from citizens**

The IPM Coordinator records each bed bug complaint, but it is unclear how many calls other staff in the County are receiving that are not forwarded to the IPM Coordinator. We also have no way of knowing how many calls city staff receive. In 2017, the IPM Coordinator investigated by telephone (sometimes with the help of the Bed Bug Task Force) 69 bed bug calls (compared to 75 last year) and provided assistance to the callers. The IPM Coordinator also met in person with a number of citizens to answer questions about bed bugs and provide information on prevention and management.

A substantial number of complaints continue to come from West County. There are increasing numbers of complaints from Pittsburg and Antioch, as well as Walnut Creek and Alamo, and it is generally acknowledged that there are numerous apartment complexes in Concord with severe infestations throughout the buildings. Some of these complexes have been infested for 7 or more years.

##### **Educating County staff and the public about bed bugs**

The IPM Coordinator

- Continued to organize and staff the County's Bed Bug Task Force—the Task Force meets every two months and advocates for increasing public awareness of bed bug problems and for developing sound bed bug management policy throughout the County
- Maintained the County's bed bug website and added more information specific to various audiences—from July 1, 2016 through June 30, 2017, there were 29,202 visits to the site from 20,255 unique visitors (County staff visits were excluded from this tally in order to obtain a closer approximation of the public use of the site).
- Provided bed bug awareness training for the following:
  - Contra Costa Interfaith Housing in Concord
  - Alive Program's Idaho apartment complex in El Cerrito (housing for HIV patients)
  - Summerfield Group Home in Antioch
  - CCC WIC staff in Concord
- With the assistance of Pestec, provided a bed bug awareness and prevention training for a group of managers at the Calli House Youth Shelter in Richmond.

#### **Healthy Schools Act compliance for County Head Starts**

In 2015, the IPM Coordinator worked with the County's Head Start program to come into compliance with California's Healthy Schools Act. The IPM Coordinator developed an IPM plan for the Head Start program which included identifying responsible parties for the provisions of the Act. The IPM Coordinator updates this plan each year. The IPM Coordinator provided staff with templates for pesticide application posting and for parent and staff notification of pesticide use.

The IPM Coordinator continues to oversee compliance with the Healthy Schools Act.

### **Advice and Outreach on IPM**

The IPM Coordinator

- Gave the IPM Presentation for the Bay Friendly certification training held in February
- Worked with Alameda County Healthy Homes program and IPM experts from the state and around the Bay to create a PowerPoint presentation on IPM for multi unit property owners
- Participated in the County's Sustainability Exchange
- Joined the County's Sustainability Exchange Steering Committee
- Attended quarterly meetings of the Head Start Health and Nutrition Services Advisory Committee to report on bed bug and pest management issues
- Worked with the County Facilities Division on a quality assurance review of the County's structural IPM provider, Pestec
- Responded to a number of requests for pest management information from County staff and citizens
- Worked with Pestec on managing three-lined cockroaches in Building 500 at 255 Glacier in Martinez, and joined Pestec and the County Facilities Division in a meeting with Public Works staff about the cockroach problem
- Provided the annual IPM update to the County's Fish and Wildlife Committee
- Provided regular IPM program updates to the Board of Supervisors through their Transportation, Water and Infrastructure Committee

### **Conferences and Trainings Attended**

- Santa Clara County Agriculture Department's Weed Symposium in San Jose
- EPA Webinar on bed bugs
- National Pesticide Information Center (Oregon State) webinar: Glyphosate and Communicating Risk
- National Pesticide Information Center (Oregon State) webinar: All about the Herbicide Properties Tool
- Contra Costa County Grounds Division annual pesticide safety and IPM training

# 2017 Department IPM Program Highlights and Challenges

## General Information about the Departments

Each Department maintains an IPM Plan that covers their pest management goals, sites under management, decision making processes, key pests and best management practices, environmental stewardship, and training requirements.

In order to help new IPM Committee members understand the working of each department, the IPM Coordinator has developed Department Overviews that cover department responsibilities in general, and pest management responsibilities in particular; funding sources and budget; pests under management and the methods used to manage them; and department challenges.

Each of the County's pest management programs must keep records of pesticides used and submit a report monthly to the County's Agriculture Department for transmission to the state Department of Pesticide Regulation. Once a year, the IPM Coordinator collates and analyzes this information for the annual report.

## Agriculture Department

### *IPM Program Highlights*

- Subcommittee work

The Department participated as a member of the Decision-Making subcommittee.

- Invasive weed program

The Department concentrates their efforts on contracted work for parkland and municipalities within the County. The Department has successfully reduced artichoke thistle and purple starthistle to a level at which private landowners can now manage these weeds on their own. The Department continues to recommend that landowners who lease property to cattlemen include invasive weed control in their lease agreements to encourage ranchers to maintain a weed management program.

The Department's invasive weed treatments include hand removal, mechanical removal, and targeted treatment with low toxicity herbicides. With rare exception, pesticide treatment involved highly focused spot spraying using backpack sprayers.

- Artichoke thistle (*Cynara cardunculus*)

The Department surveys and treats properties under contract for East Bay Regional Park District and Contra Costa Water District. This year staff surveyed 36 sites totaling 27,205 acres and treated 23 net acres for artichoke thistle.

Artichoke thistle is a highly invasive, non-native perennial weed that displaces herbaceous plants and annual grasses, decreasing the value of agricultural land, open space, and wildlands. Horses and cattle will not consume this thistle, and at high densities, the formidable spines on the leaves and stems and on the bracts around the flowers make it impossible for animals or people to walk through stands of the weed.

In 1979 Contra Costa County was identified as one of the most heavily infested counties in the state. At that time, at least 100,000 acres of land were infested with artichoke thistle. In that year, the Department began their management program in cooperation with property owners by using ground rigs and helicopters to spray large swaths of land. The artichoke thistle infestation has been reduced so much that staff primarily spot treat individual plants using a backpack sprayer. Because seedlings form deep, fleshy taproots within the first year, mechanical or hand removal (digging out the plants) is not an option. Mowing and burning are neither practical nor effective.



Rangeland infested with artichoke thistle

- Japanese dodder (*Cuscuta japonica*)

In 2017, staff surveyed 30 historically infested sites and did not find any recurrence of this weed. This is a California Department of Agriculture “A rated” weed that the Department is obligated to treat. Since three years have passed since staff have found any dodder in the County, the Department is declaring it eradicated.

Japanese dodder is an aggressive parasitic plant that has the potential to severely alter the composition and function of riparian areas. It also affects ornamental plantings and agricultural crops. Japanese dodder is native to Southeast Asia and was first discovered in the county in 2005.



First Japanese dodder find in CCC, 2005



Kangaroo Thorn

- Kangaroo thorn (*Acacia paradoxa*)

The County has one site infested with kangaroo thorn. The removal of the existing infestation in 2005 involved 52 hours of staff time. At that time the infestation covered a little less than one net acre. In 2014, it took only 2 hours of staff time to accomplish the surveying and seedling removal, all of which was done by hand. Only small seedlings of less than one foot in height were found, and the infested area totaled less than one hundredth of an acre.

After a several year hiatus, annual surveys have resumed.

- Purple starthistle (*Centaurea calcitrapa*)

Under contract to the East Bay Regional Park District, the Department surveyed 17 sites covering 1845 acres and treated 23.9 net acres for purple starthistle.

This weed is a highly invasive non-native biennial that displaces annual grasses, desirable vegetation, and wildlife and decreases the production value of agricultural land. The plant also has allelopathic properties, which means it produces chemicals that inhibit the growth of other vegetation. Its large spines and high densities can form an impenetrable barrier to wildlife and livestock in open rangeland and to horses and hikers in parkland. Seed can remain viable in the soil for ten or more years.

Purple starthistle in Contra Costa County is not as widespread as artichoke thistle. However, being a prolific seed producer, it has the potential to become as large scale a problem as artichoke thistle. Early identification and eradication of isolated populations is key to preventing its establishment in uninfested agricultural lands.



Purple Starthistle

- Managing ground squirrels to protect critical infrastructure

The Department manages ground squirrels to protect critical infrastructure including levees, earthen dams, railroad beds, and roadways. The goal is to maintain a 100 linear foot buffer around the infrastructure to reduce ground squirrel damage to a tolerable level. Ground squirrel burrowing is the single biggest threat to California levees. Burrowing can compromise the earthen embankments and create pathways for water leakage that can undermine the structural integrity of levees, as well as earthen dams and railroad embankments. Burrowing and the resulting pathways for water erosion can also cause damage to, or sudden failure of, roadsides and other structures.



The Department has been taking steps to reduce the amount of rodenticide it uses for ground squirrel control in the County in order to mitigate harm to endangered and other non-target species. In 2013 the Department modified its broadcast baiting treatment procedure for safety and efficiency. Staff are applying bait more precisely and have reduced the number of bait applications in an area from three to two. Staff initially spread untreated rolled oats to draw out squirrels and make it easy to find areas of squirrel activity. Treatments are carried out by a team of two staff members so that one person can concentrate on driving while the other operates the bait spreader to apply bait only where ground squirrel activity is observed.

- Exotic pest prevention

The Agriculture Department is the County's first line of defense against invading pests including insects, plants, and plant diseases. Every day staff perform inspections on incoming shipments at destination points, including nurseries, the post office, and express carriers (UPS, FedEx and others) to look for quarantined plants as well as pests that can hitchhike unnoticed on plant material and other items such as household goods.



Cairo inspecting packages at UPS

In 2006, the Department was the first in the state to incorporate dog teams into parcel inspection. Since then a number of other counties have followed Contra Costa's lead. The dogs greatly speed inspections and have significantly increased detections of quarantined plants and exotic pests. The dog teams are a shared resource with other Bay Area counties that do not have the expertise or resources to maintain an active surveillance program; therefore, as a result of Contra Costa's initiative, pest detections in those counties have increased.

This year the Department inspected 28,588 shipments and rejected 61 after finding various pests.

The Department also deploys and services numerous traps for the purpose of early detection of 11 different serious insect pests. This year the Department deployed 5,782 traps, and staff serviced those traps 61,643 times.

- Pesticide use

This year the Department reduced its pesticide use from 76 lbs. of active ingredient in FY 15-16 to 68 lbs. in FY 16-17. This is a 95% reduction from FY 00-01 when the County began collating pesticide use figures.

### ***Agriculture Department Challenges***

- Ground squirrel control alternatives

The department continues to search for alternatives to treated grain bait. Unfortunately, raptor perches and live trapping of ground squirrels have proved to be ineffective and/or too costly. Ground squirrels are native to this area and will never be eradicated. Since the Department aims to create a fairly narrow buffer zone around infrastructure, it is inevitable that in areas with ground squirrel pressure outside of the 100 ft buffer, the animals will eventually move back into the burrows left vacant by the squirrels that have been poisoned, although this happens slowly. This leads to a yearly management program. Altering the environment to prevent ground squirrel burrowing is difficult because of the extent of the infrastructure that must be protected and because the squirrels favor human-built infrastructure as sites for their burrows.

- Invasive weed management on private land

The Department budget, labor pool, and other mandates have curtailed invasive weed management on private land. Without diligent landowners who include invasive weed control in their land management, invasive weeds will proliferate throughout the County.



## Public Works Facilities Division

### *IPM Program Highlights*

- Area under management

The Facilities Division manages 147 sites that comprise almost 3.3 million sq. feet.

- Subcommittee work

A representative from Pestec, the County's structural pest management provider participated as a member of the County's Bed Bug Task Force.

- New cockroach causing problems in County buildings

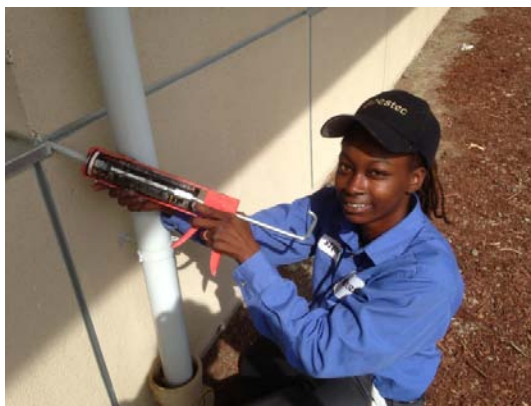
The three-lined cockroach (*Phyllodromica trivittata*) is native to the Mediterranean and was first submitted for identification to the California Department of Food and Agriculture (CDFA) in September 2009. The samples were collected by Dr. William Shepard of the University of California at his residence in Pinole. Although this was the first official submission of this cockroach to CDFA, this insect was known to be in Marin County as early as 2004. In Europe and North Africa this cockroach is found in leaf litter and plant debris in dry habitats around the Mediterranean. This corresponds to the habitat in which the cockroach is found in Contra Costa.



Three-lined cockroach (*Phyllodromica trivittata*)

The three-lined cockroach has been invading buildings across the County for two years. This year, Building 500 of the Public Works Administration complex and the Contra Costa Regional Medical Center, both in Martinez, were again plagued by infestations from the late spring through the fall. Winter temperatures seem to suppress populations. Building occupants have complained of cockroaches dropping from the ceiling, crawling on their desks and out of their files. They have found cockroaches in their coffee cups and yogurt, but since this insect does not eat human food, it is likely that the insects accidentally fell into those containers.

Because this cockroach does not feed on human food or garbage and commercial cockroach baits are formulated with a food attractant, commercial baits have not been effective in attracting the insects to consume the bait. Pestec has tried Niban® granular bait (5% orthoboric acid), MotherEarth® granular bait (5% boric acid), Advion® insect granule (0.22% indoxacarb), Maxforce Impact gel bait (1% clothianidin), spot sprays of Alpine water soluble granule (40% dinotefuran), and dusting window weep holes with diatomaceous earth. Maxforce Impact bait is the only product that has shown some promise in killing the three-lined cockroach.



Niyokee Jones of Pestec caulking at 255 Glacier.

The most persistent problem has been at Building 500 of Public Works Administration at 255 Glacier in Martinez. No bait or spot spray has provided relief. In September, the Facilities Manager, the



Small gaps in stucco that had to be filled on the exterior of Bldg 500 at 255 Glacier in Martinez to prevent cockroaches from getting in.

IPM Coordinator, and Pestec met with the occupants of Building 500 to explain the problem and the next steps: pest exclusion since this cockroach lives mainly outdoors.

Last year, Pestec had installed three brush-style doorsweeps at Building 500 that may have helped, but at the end of September this year, they began meticulously sealing all holes they could find on the exterior of the building. This cockroach is small and the holes were numerous. Pestec staff worked more than 51 person hours to complete this task. Since completion, there have been no three-lined cockroaches in the sticky monitoring traps inside the building.

- Ground squirrels at the West County Detention Facility and Alamo School  
In late summer, Pestec staff conducted a demonstration of the Gopher X<sup>®</sup> machine for Grounds Division staff at both Alamo School and the West County Detention Center in Richmond. The Grounds Division has a machine that uses carbon dioxide to kill gophers and ground squirrels, but they were interested in observing the Gopher X, which uses carbon monoxide.
- Increased ant infestations in County buildings  
Once again, County buildings experienced serious and repeated Argentine ant invasions, especially in the late summer and early fall. Pestec has been using various ant baits mainly with the active ingredient indoxacarb, boric acid, or borate.
- Structural IPM program pesticide use  
In FY 16-17, 17 lbs. of pesticide active ingredients were used in and around the approximately 2.75 million square feet of County buildings that Pestec is contracted to manage. This is 14 lbs. less than last fiscal year. Ant baits and soap solution accounted for 87% of the pesticide used. Pestec continues to successfully manage rats and mice exclusively with traps, sanitation, and pest proofing.
- Bed bugs in County buildings  
This year Calli House, the County's youth shelter in Richmond, experienced a bed bug infestation that required heat treatments. Pestec found numerous bed bugs of all stages in several rooms, so the infestation had been there for some time. Last year Pestec joined the IPM Coordinator to train the staff in prevention and inspection for bed bugs and in bed bug biology and habits, but staff changes may have contributed to a lapse in vigilance and enforcement of prevention procedures. In September, the IPM Coordinator and Pestec provided another training session in prevention to Calli House staff.

### ***Facilities Division Challenges***

- Pest exclusion in County buildings  
This continues to be a challenge, but the Facilities Division is doing what they can with their limited staffing and schedule. The Division's first priority is to address health, safety, and access issues. As we saw this year at 255 Glacier in Martinez, pest proofing has a significant impact on reducing pest problems.
- Ant baiting  
Pestec continues to review the products used for baiting along with their baiting strategy in order to try to provide better control for the very large ant populations seen in the last two years. They are also working on a proprietary bait station that they hope will be more effective in the County.
- Three-lined cockroach  
This new insect presents a considerable challenge since it invades buildings and is not attracted to commercial cockroach baits. It may be that pest proofing is the only way to treat this problem in County buildings. If so, that will be expensive and time consuming; however, tight buildings will exclude many other pests besides the three-lined cockroach so that pest invasions overall will be reduced.
- Bed bugs in County buildings  
The biggest challenge with bed bugs is in the County shelters. An outbreak at Calli Youth Shelter in Richmond and another at the Concord Shelter have shown that we cannot rest on the past 5 years of

success, especially if staff change. The IPM Coordinator will be working on providing regular refresher trainings along with educational materials for shelter staff.

## **Public Works Grounds Division**

### ***IPM Program Highlights***

- Subcommittee work  
Staff worked with the IPM Coordinator to create decision documentation for managing gophers in landscapes.
- Premium mulch from pallets and dead trees  
This year the Grounds Division stockpiled about 700 cubic yards of woodchips ground from pallets, trees



Woodchips stockpiled at the Grounds Corporation Yard

because they are a uniform color and don't contain bits of trash or leaf debris. Sites that receive this mulch have been very pleased with the look. This can be important in gaining acceptance for landscaping with fewer plants and more mulch.

The Grounds' tree removal contract includes transport back to the Grounds Corporation Yard so the logs can be easily chipped. PGE, Davey Tree, and the Public Works tree crew deliver logs to the Corporation Yard that are too big for their chippers. Pallets come from a number of sources. The Grounds manager temporarily suspended delivery of logs and pallets because the storage capacity was reached in their yard; however, he has begun accepting deliveries again.

downed in storms, and trees killed by the drought. Considering that high quality wood chips cost \$32/cu yd delivered, this represents \$22,400 worth of mulch for the County.

Staff continue to spread this woodchip mulch at various sites throughout the County. Where possible, trees are chipped and used onsite; otherwise chips are hauled from the Corporation Yard. The chips are of very high aesthetic quality



Logs and pallets awaiting chipping

- Using recycled water in County landscapes  
There are now seven sites using reclaimed water:
  1. 2467 Waterbird (Grounds Division offices)
  2. 920 Mellus (Sheriff/Coroner)
  3. 2530 Arnold (Summit Center--Assessor, Redevelopment, Risk Management)
  4. Hemme Station Park in Alamo
  5. Livorna Park in Alamo
  6. Martinez Detention Facility
  7. Pittsburg Health Center

- Managing gophers with trapping, CO, and CO<sub>2</sub>  
The Division vertebrate pest manager continues to use trapping and CO<sub>2</sub> for gophers in County landscaping. This year the Division hosted a demonstration of a device called Gopher X<sup>®</sup>, which produces carbon monoxide to kill burrowing rodents. The Division is considering buying the device to use on ground squirrels, moles, and gophers.
- Pesticide use decreased in FY 16-17  
Seven years ago, the Grounds Division consciously decided to eliminate the use of any insecticides, miticides, fungicides, or rodenticides in their work. The Division has chosen to manage arthropod pests and plant diseases in County landscapes solely with good horticultural practices. If plants are severely affected, they are removed.

Herbicides are the only pesticide used by the Division, and this fiscal year, staff used 129 fewer pounds than in FY 15-16. This represents a 67% reduction in pesticide use compared to FY 00-01 when the County started collating pesticide use records. As noted last year, the Division is continuing to try to improve the condition of many of the County's properties in order to move away from crisis management and back to preventive maintenance. For a number of years the lack of funding made it impossible to properly manage weed problems around County buildings and in the Special Districts the Division is responsible for. This is now changing, but weeds that went unmanaged for years left huge amounts of seed that will produce large crops of weeds for years to come.

### ***Grounds Division Challenges***

- Staffing needs  
Grounds has 16 permanent employees (up from 15 last year), and 2 temporary employees. This is still fewer staff than the 18 permanent employees and 3 temporary workers in 2015.  
  
The Division's Senior Lead Gardener retired at the end of September after 40 years of service. The position is still open. The Division is also looking to hire an irrigation specialist and at least one more gardener.
- Drought stress in the County  
The Division continues to deal with a large number of diseased, stressed, and dying trees, although the death rate is slowing. Many redwoods in the County are partially dead and it could take from 5 to 10 years for them to die completely. Unless failing trees pose a hazard, the Division will take them down over time since it will be easier aesthetically and financially. It has been challenging to try to drought-proof landscapes, but the woodchips the Division is producing play an important role.

## **Public Works Department Roadside and Flood Control Channel Maintenance Division**

### ***IPM Program Highlights***

- Subcommittee work  
Staff worked with the IPM Coordinator to create decision documentation for vegetation management on County roads and to revise the decision document for vegetation management on flood control channels.
- Annual habitat assessment refresher training  
This year, 42 Public Works Maintenance employees attended the annual refresher training on habitat assessment for endangered and threatened species in order to comply with the California Department of Fish and Wildlife (CDFW) Routine Maintenance Agreement (RMA). The RMA stipulates that before any work can commence in an area, an assessment must be conducted to identify endangered species habitat. In FY 16-17 crews that were trained to identify potential habitat spent a total of 303 hours performing habitat assessments. As endangered species are identified, they are reported to CDFW, which then



provides County staff with guidelines to move forward with work. These guidelines may include full time monitoring of the jobsite by a professional biologist.

- Flood control vegetation and erosion management using California natives

The County Flood Control District is partnering with The Restoration Trust, an Oakland-based non-profit organization promoting habitat restoration and stewardship, in a native planting experiment along Clayton Valley Drain (near Hwy 4 adjacent to Walnut Creek). The study is examining the survival of several California natives: Santa Barbara sedge, (*Carex barbarae*), common rush (*Juncus effusus*), Baltic rush (*Juncus balticus*), field sedge (*Carex praegracilis*), and creeping wild rye (*Leymus triticoides*).



December 2016: Volunteers learn how to properly plant grass plugs at the Clayton Valley Drain site.

The original planting occurred in December 2013, and over the past four years, the Contra Costa County Flood Control District, The Restoration Trust, Boy Scout Troop 239, and numerous hardworking volunteers have planted over 33,000 native grass and sedge plugs, removed over 1,500 pounds of trash, and helped restore native habitat along the Clayton Valley Drain.

The Division continues, at the request of The Restoration Trust, to occasionally spray the area for broadleaf weeds to reduce competition and provide the native plants with an advantage. The Division has also been providing hand and mechanical mowing, as requested.

The native species that were planted spread from underground rhizomes that anchor the soil and provide erosion control. They are perennial species that stay green year around and thus are resistant to fire. The plants are compatible with flood control objectives since they do not have woody stems, and during flood events, they lie down on the slope which reduces flow impedance. They are not sensitive to broadleaf-specific herbicides, and unlike non-native annuals, they provide carbon sequestration and remove as much as ½ ton of carbon per acre per year.

The Restoration Trust will monitor these plots until 2018 to assess native plant survival and the degree to which they compete with the non-native annual species.



Feathers and bones inside the Livorna Park owl box

- Owl and kestrel boxes on County property

The owl box installed at Livorna Park in August 2016 by Boy Scout Troop 815, in cooperation with the County Clean Water Program and the Public Works Special Districts Division, has housed its first family of owls. The box was cleaned in October and is ready for



Scouts with one of the completed owl boxes in Kubicek Basin

new occupants.

Public Works Special Districts, which manages Livorna Park, no longer uses rodenticide to control



Kestrel box in Kubicek Basin

rats in the park. Rats had been girdling plants along the edge of the park and rodenticide had been used to control

the population. Traps were also used, but nothing was caught in the traps. The plants have grown considerably and are no longer in danger from the gnawing, so the rat bait boxes have been removed from the park.

In May of this year, Eagle Scout David Bachofer with members of Boy Scout Troup 239 built and installed two owl boxes in Kubicek Basin along Pine Creek in Walnut Creek. The Scouts created a flyer and did outreach in the neighborhood about the benefits of increasing owl habitat in the area.

The owl boxes are designed for barn owls. A family of owls can consume 3,000 rodents (voles, mice, rats, and squirrels) during a 4 month nesting period. Since gophers spend most of their time underground, owls will likely have little impact on that rodent. It is important to note that although predators like owls can prune a rodent population, they will not control the population, especially considering the fecundity of these animals.

In September, members of the Peregrine Team of Pine Canyon erected two nest boxes for American kestrels in Kubicek Basin. This is a project of Native Bird Connections to increase kestrel habitat in the Mt. Diablo region.

- Grazing as a vegetation management tool

The Division continues to use grazing as an effective tool for vegetation management, mainly on flood control facilities. Using grazing to manage vegetation is complicated and very dependent on site-specific conditions. Grazing is not appropriate in all situations and could not, for instance, be used on the side of County roads without endangering both the animals and motorists. Many factors raise or lower the cost per acre for grazing, including the size of the parcel (at



Pine Creek before grazing

larger sites the cost of moving the goats in and out is spread over a number of acres), whether the animals can easily enter the site, the amount of fencing necessary, how many times the animals must be moved within the job site coupled with the ease with which that can be done, whether water is available or must be trucked in, and the season in which the animals are being used (costs are lower when demand is lower, e.g., in fall and winter).



Pine Creek after grazing

- Ideal grazing situations for fire prevention

The Division has found that the following situations are ideal for meeting fire prevention standards with grazing:

1. Sensitive sites with endangered or threatened species where mowing could kill animals and where herbicides are restricted
2. Sites where access is difficult for people or machines
3. Sites with steep slopes or uneven terrain that would have to be mowed by hand and that present dangerous working conditions for staff
4. Sites that are too wet for either hand or machine mowing

- Areas not suited for grazing

1. One to two acre sites are not economical because of the cost of getting the animals in and out.

2. Unfenced areas along roadsides are not appropriate because of safety issues and because of the cost of fencing off a narrow band of land and continually moving animals along the road.
3. In the winter, grazing animals cannot be used on the rain softened creek banks and the ground adjacent to the banks because of the danger of causing erosion.

- Advances in grazing strategy

The Division continues to take advantage of the time after a site has been grazed. When goats remove vegetation, staff can inspect flood control facilities much more effectively. Goats are used to prepare



Goats on Rodeo Creek

various creeks for their annual or biennial inspection by the Army Corp of Engineers. This makes the Corp's job much easier, for which they are very grateful.

Staff have always monitored the integrity of the slopes and the presence of invasive and other problematic weeds, but when vegetation is very low, it is much easier to see the condition of the flood control facilities and easier to spot treat for hard-to-control weeds. This combination of grazing and herbicides has proven very effective.

- Grazing costs

Costs vary widely among sites. This year costs ranged from \$1,225/acre to graze Rodeo Creek to

\$546/acre to graze Trembath Basin. Difficult access and no water greatly increase the cost. Although Rodeo Creek has water available, there are access issues for off-loading and loading the goats. Trembath Basin is 15 acres of open area with water and easy access.

- Using mulch for weed suppression

The effects of the drought continue to kill thousands of trees in the County. The Division chips prunings and dead trees into mulch that is being used more extensively along fencelines above flood control channels and in empty County parcels. Logs that are too large for the Division's chipper go to the Grounds Division for chipping and use on County landscapes.



Mulch along the access road on Walnut Creek

- Diseased and beetle infested trees

This year the Division spent considerable time removing dead trees infected with sudden oak death (SOD), pine pitch canker, and pine bark beetles. These trees must be chipped or otherwise disposed of onsite to prevent spread of disease or infestation. These tree problems, especially the pine bark beetles, may have been exacerbated by the prolonged drought of the previous years that stressed and weakened many trees in the County.

- Fire fuel reduction challenges in 2017

Fire prevention weed abatement is time-sensitive, and historically the deadline has been July 1. If weed abatement was not completed by that date, the County could incur fines from the fire districts. In FY 16-17, the wet winter created a very large volume of weeds to be managed. This year fire districts were requiring weed abatement to be completed in some areas by May 30. The Routine Maintenance Agreement with the state Department of Fish and Wildlife stipulates that no work can begin in Contra Costa flood control channels prior to April 15. Once again, it was impossible for staff to complete all the mowing in the short four to six week window available before the deadline. Because some flood control



channels were mowed so early in the season, crews had to return to mow them a second time because vegetation had grown back.

Along flood control channels, the weed abatement crew is applying pre-emergents around gates, fencelines, and flood control structures so that when mowing crews come through, they can spend less time hand mowing thus making it more likely that the County can meet its fire fuel reduction deadlines.

- Buffer zones for certain pesticides enjoined by the courts

Several lawsuits brought by environmental organizations against the EPA have been temporarily settled by the delineation of buffer zones in and around habitat for a number of endangered or threatened species in the Bay Area. The Department continues to work within the guidelines of the injunctions to assess work sites and implement buffer zones before using any of the enjoined pesticides.

### ***Roadside and Flood Control Maintenance Division Challenges***

- Erratic weather conditions

With record rainfall in Contra Costa County during the 2016-17 winter, the Division faced a number of challenges. In January, flooding on Pinole Creek washed out a 70-ft. section of Alhambra Valley Road at Castro Ranch Road. The road is still closed for ongoing repairs. A portion of Morgan Territory Road near Whispering Pines Road failed and slid down the hill in February. There were numerous mudslides, drainage problems, and downed trees on many other roads in the County. Road maintenance crews were busy addressing storm-related damage to roads and removing downed trees from January through May which slowed the Division's regular vegetation management schedule.



The drought of the previous 5 years created conditions that selected for the tougher and weedier plant species along the roads and flood control channels. The dry soil conditions suppressed the growth of some weeds, and without competition, the hardier weeds had more room and freedom to grow. This winter's abundant rainfall has allowed these problem species to thrive and expand their foothold. Crews

continue to see an increase in kochia (*Bassia* sp.), Russian thistle (*Salsola* spp.), fleabane (*Conyza* sp.) and mare's tail (*Conyza canadensis*), all weeds that emerge late in the season and are difficult to control. Stinkwort (*Dittrichia graveolens*), another late emerging weed, has spread dramatically throughout the County. Volunteer trees have sprouted in abundance in response to the rain.

- Cost implications of regulations

Compliance with Routine Maintenance Agreement (RMA) requirements has considerable effect on the cost of operations. As mentioned above, work within CDFW jurisdiction requires a habitat assessment prior to start of work so that RMA-listed species are not harmed. Crews again identified listed species at a couple of job sites and consultation with CDFW resulted in using alternative work methods that were more costly.

Three years ago, the CalFire increased the safety requirements for mowing, and these measures



Morgan Territory Road near Whispering Pines Road  
Winter 2017

continue in effect. These measures help prevent fires and injuries to workers but increase the cost of mowing.

1. Crews must have access to a water truck or a 5 gallon backpack type water fire extinguisher.
2. A worker trained in using the fire-fighting equipment on the truck must be added to a mowing crew to continuously monitor the weather and serve as a lookout.
3. If the height of the vegetation requires that a worker scout the ground ahead of the mower, a separate person must be assigned to perform that function.
4. If the ambient air temperature reaches 80° F, the relative humidity is 30% or lower, or if wind speeds reach 10 mph or higher, mowing cannot begin or must stop immediately.

- Cost implications of various management techniques

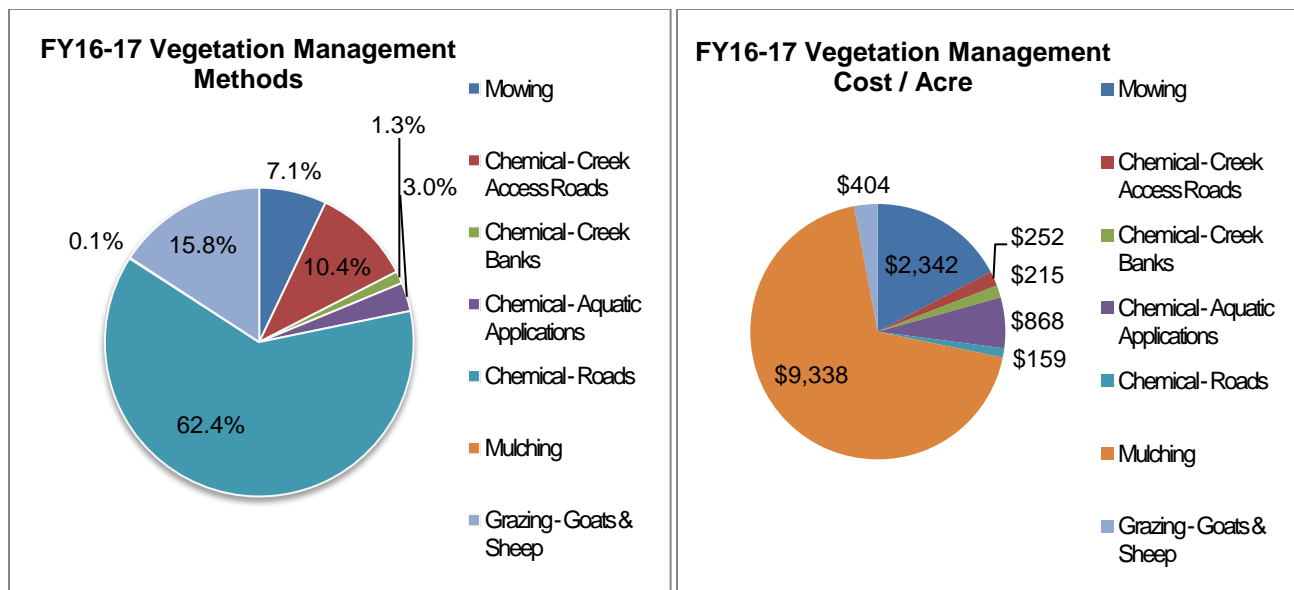
In FY 16-17, 60% of the Division's expenditures on vegetation management was spent on non-chemical treatment methods, on 23% of the total acres treated (see the table below for details).

### A Cost\* Comparison of Vegetation Management Methods for Roadsides and Flood Control Channels Fiscal Year 2016-17

| Vegetation Management Method              | Acres Treated | % of Total Acres Treated | Total Cost for all acres treated | Cost/Acre | % of Total Cost for all acres treated |
|---|---------------|--------------------------|----------------------------------|-----------|---------------------------------------|
| Chemical Treatment - Roads                | 1014          | 62.4%                    | \$161,427                        | \$159     | 25%                                   |
| Right of Way Mowing                       | 115           | 7.1%                     | \$269,329                        | \$2,342** | 42%                                   |
| Chemical Treatment – Creek Access Roads   | 169           | 10.4%                    | \$42,590                         | \$252     | 7%                                    |
| Chemical Treatment – Creek Banks          | 21            | 1.3%                     | \$4,515                          | \$215     | 0.7%                                  |
| Grazing – Peak and Off Season             | 257           | 15.8%                    | \$103,910                        | \$404     | 16%                                   |
| Chemical Treatment - Aquatic Applications | 49            | 3.0%                     | \$42,523                         | \$868     | 7%                                    |
| Mulching                                  | 1.2           | 0.1%                     | \$11,205                         | \$9,338   | 2%                                    |
| Totals                                    | 1626          |                          | \$635,499                        |           |                                       |

\* The cost figures above for each method include labor, materials, equipment costs, contract costs (for grazing), and overhead, which includes training, permit costs, and habitat assessment costs. Licensing costs for staff members are paid by the individual and not by the County. The cost of the Vegetation Management Supervisor when he supervises work is not included in any of the figures, but is comparable among the various methods.

\*\* The cost of right-of-way mowing continues to increase due to new fire prevention regulations (FY13-14=\$762/A; FY14-15=\$828/A; FY15-16 \$1,445/A, FY 16-17 \$2,342).



Note: The legend to the right of the pie chart identifies slices starting from 12 o'clock and continuing clockwise.

With limited budget, staff, and equipment, the Division must make strategic decisions about where to deploy their resources in order to meet their mandates of managing vegetation for fire and flood prevention and for road safety. The Division is managing weeds in a biological system, and factors such as weather, rainfall, weed growth patterns, timing for optimum weed susceptibility to the treatment method, and threatened and endangered species issues must also be factored into management decisions. The pie charts above further illustrate the cost of various management techniques and show how the Division has allocated resources.

- Weather

Mowing, as well as the application of herbicides, is highly dependent upon weather conditions. Weather can affect when herbicides can or must be applied and can also affect when mowing can or should occur. Weather can substantially alter the size and type of the weed load or its distribution over time and space. The Department has a limited capacity to use mowing because of a number of factors including vacancies in vegetation management staff, the Department's limited budget for weed abatement, and the limited number of tractor mowers (two). The Department faces a continued challenge of balancing the use of herbicides to control weed growth with the Department's capacity to mow or to graze with goats or sheep within the confines of the budget and the timeline to prevent fires.

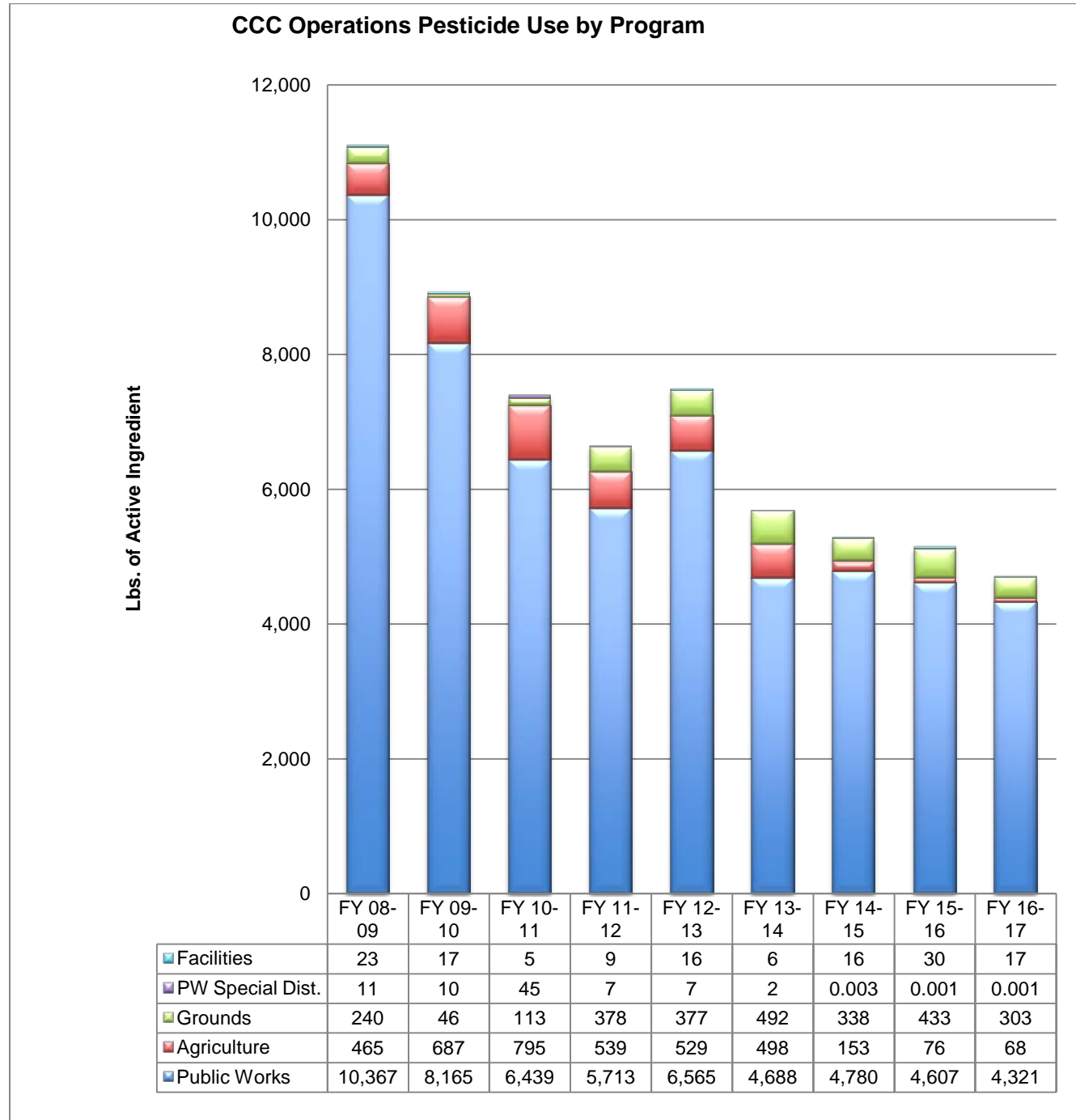
Using mowers during hot, dry weather also poses a hazard of its own: sparks caused by the metal mower blades striking rocks or metal debris can ignite tinder-dry grass.

- Staffing

The Vegetation Management crew is still understaffed with 4 personnel as compared to a staff of 6 in 2009, and is without a supervisor. Full staffing would consist of 3 vegetation management techs, two senior vegetation management techs, and one supervisor. Currently the crew is short 1 vegetation management tech, 1 senior tech, and has no supervisor. Peter Gollinger, who had been the Vegetation Management Supervisor and was promoted to Assistant Field Operations Manager, has now left the County for a job with the City of Palo Alto.

## Pesticide Use by Contra Costa County Operations

Starting in FY 00-01, the IPM Task Force annually reported pesticide use data to the Transportation, Water, and Infrastructure Committee for the County departments involved in pest management. The IPM Coordinator has continued this task. Below is a bar chart of pesticide use over the last 9 years. For information on pesticide use reporting and for more detailed pesticide use data including total product use, see Attachment C and the separate County Pesticide Use Spreadsheet.



## Decrease in Pesticide Use by County Operations

In FY 16-17, all County Departments reduced their pesticide use from the previous fiscal year. Since FY 00-01, the County has reduced its use of pesticide by 75%. Note that pesticide use fluctuates from year to year depending on many factors.

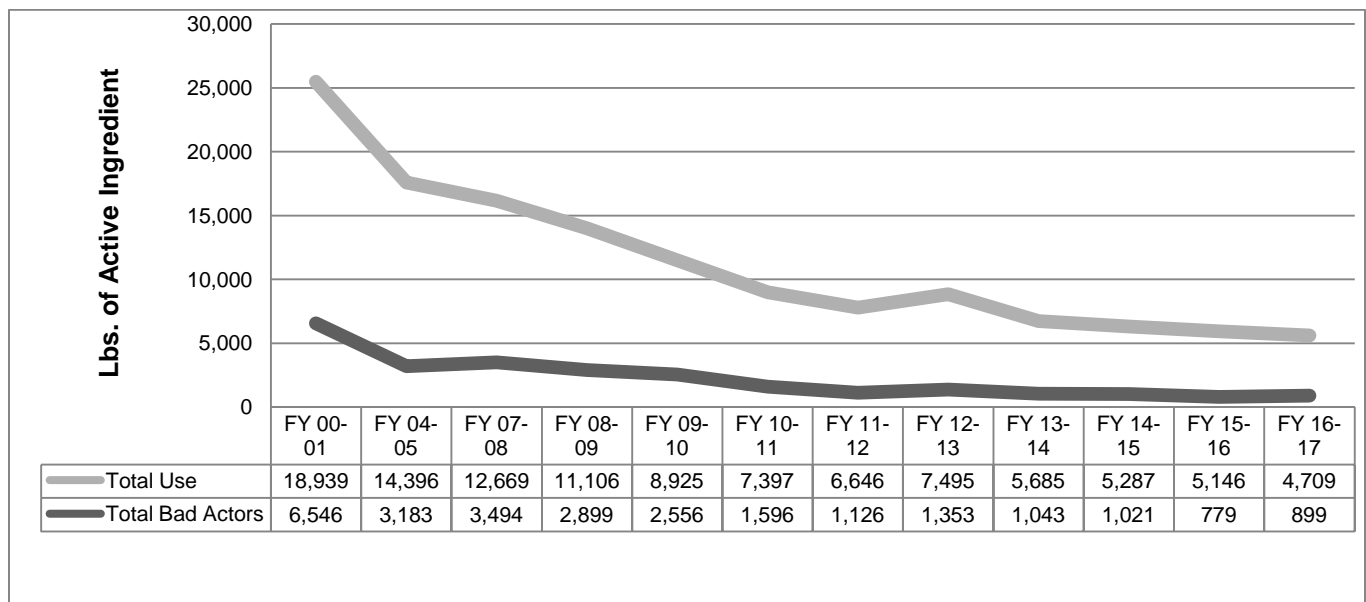
## Concern about “Bad Actor” Pesticides

There has been concern among members of the public and within the County about the use of “Bad Actor” pesticides by County departments. “Bad Actor” is a term coined by the Pesticide Action Network (PAN) and Californians for Pesticide Reform to identify a “most toxic” set of pesticides. These pesticides are at least one of the following: known or probable carcinogens, reproductive or developmental toxicants, cholinesterase inhibitors, known groundwater contaminants, or pesticides with high acute toxicity.

Parents for a Safer Environment has requested that additional pesticides be reported as “Bad Actors”, but in 2013 after studying this request and consulting Dr. Susan Kegley, who was instrumental in developing the PAN pesticide database, the IPM Advisory Committee decided that the County will report as “Bad Actor” pesticides only those that are designated as such in the PAN database.

The County’s use of these particular pesticides has decreased dramatically since FY 00-01 as shown in the graph below. In Fiscal Year 00-01, County operations used 6,546 lbs. of “Bad Actor” active ingredients and this year used 899 lbs.

## CCC Operations Total Pesticide Use vs. ‘Bad Actor’ Use



## Rodenticide Use

The Department of Agriculture uses rodenticide for ground squirrels whose burrowing threatens critical infrastructure in the County, such as roads, levees, earthen dams, and railroad embankments. In Special Districts, at Livorna Park and around the playing field at Alamo School, gophers, moles, and voles are managed by trapping with occasional limited use of rodenticides.

### “First generation” vs. “second generation” anticoagulant rodenticides

Anticoagulants prevent blood from clotting and cause death by internal bleeding. In small doses they are used therapeutically in humans for a number of heart ailments. Vitamin K<sub>1</sub> is the antidote for anticoagulant poisoning, and is readily available. (There are some types of rodenticides for which there is no antidote.)

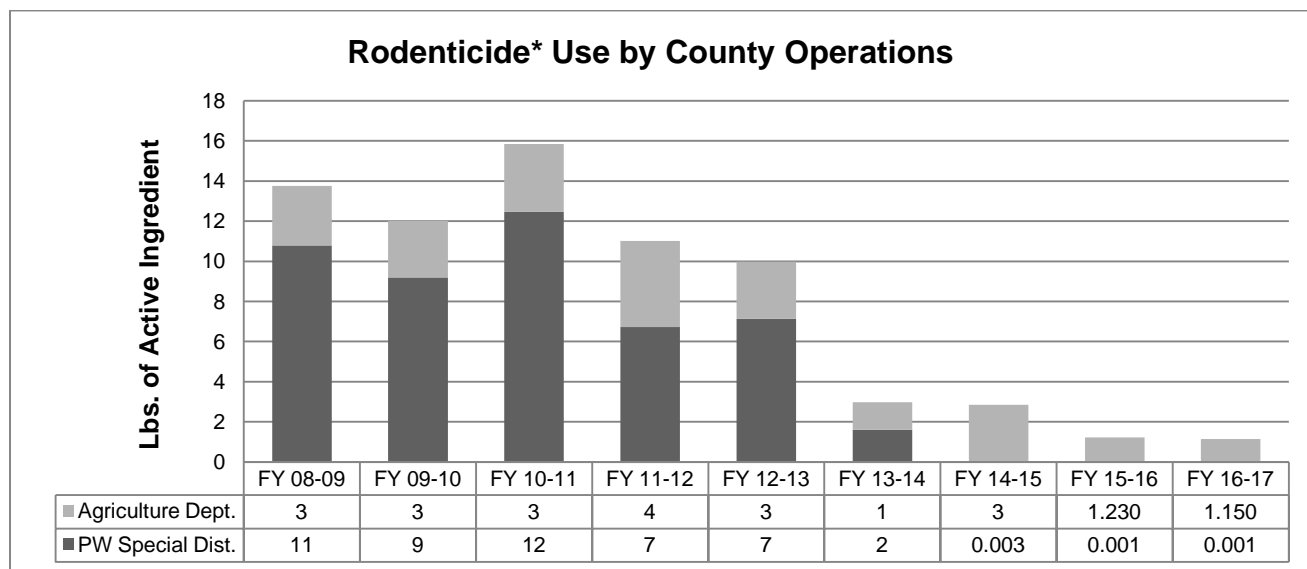
When anticoagulant rodenticides are necessary, the County uses first generation anticoagulant baits. First generation anticoagulants require multiple feedings over several days to a week to kill.

Second generation anticoagulants are designed to kill after a single feeding and pose a greater risk to animals that eat poisoned rodents. If the rodent continues to feed on a second generation anticoagulant after it eats a toxic dose at the first meal, it may build up more than a lethal dose in its body before the clotting factors run out and the animal dies. Residues of second generation anticoagulants may remain in liver tissue for many weeks. Because rodents poisoned by second generation anticoagulants can carry a heavier load of more toxic poison that persists in their bodies for a long period of time, the risk of death is increased for a predator that eats rodents poisoned by second generation anticoagulants.

The first generation materials are cleared much more rapidly from animal tissues and have a much reduced potential for secondary kill when compared to second generation materials. However, the first generation anticoagulants can also kill animals that eat poisoned rodents.

As noted earlier in this report, the Agriculture Department has revised its ground squirrel baiting procedure to reduce the amount of treated grain used. The Agriculture Department also mitigates the risk of secondary poisoning by performing carcass surveys in all areas treated with anticoagulants whether or not it is required by endangered species restrictions.

Only the Agriculture Department and Special Districts use rodenticides. Below is a bar chart to illustrate the decline in rodenticide use by the County.



\* The Agriculture Department uses primarily diphacinone treated grain bait, but in years past they also used some gas cartridges as fumigation agents.

From FY 14-15 to the present, Special Districts has used only diphacinone, but in years past, their use was more than 99% aluminum phosphide, which is a fumigant and not an anticoagulant rodenticide.

## **Trends in Pesticide Use**

A change in pesticide use from one year to the next does not necessarily indicate a long-term trend. Long-term trends are more meaningful than short-term changes. It is important to understand that pesticide use can increase and decrease depending on the pest population, the weather, the invasion of new and perhaps difficult to control pests, the use of new products that contain small percentages of active ingredient, the use of chemicals that are less hazardous but not as effective, the addition or subtraction of new pest management projects to a department's workload, and cuts to budgets or staff that make it difficult or impossible to use alternate methods of control.

The County's pesticide use trend follows a trend typical of other pollution reduction programs. Early reductions are dramatic during the period when changes that are easy to make are accomplished. When this "low-hanging fruit" has been plucked, it takes more time and effort to investigate and analyze where additional changes can be made. Since FY 00-01, the County has reduced its use of pesticide by 75%. If further reductions in pesticide use are to be made, it will require time for focused study and additional funding for implementation.





## **Departmental Integrated Pest Management Priorities For 2018**

### **Agriculture Department Priorities for 2018**

- Continue the County's highly effective invasive weed program  
The Agriculture Department will give priority to weed work under contract with local parks and municipalities. Artichoke thistle and purple starthistle will remain the primary target weeds for the 2018 season. The Department will move toward a more collaborative role with private landowners and will encourage landowners to take the primary role for weed control on their properties.

The Department will continue to respond to any "A rated" weed that enters the county with surveys and treatment.

- Ground Squirrel Management Program

The Agricultural Department will continue to provide information and resources to the County, municipalities, growers, and the general public on the control of ground squirrels. Without effective control measures, ground squirrels will damage crops, and infrastructure such as earthen dams, levees, and highways. The economic and environmental consequences would be substantial.

Over the years the Department has experimented with raptor perches, exclusion techniques, and live trapping as alternatives to traditional baiting. Although some of these methods could provide reasonable control with small, limited infestations of ground squirrels, all of these methods are considerably more costly and less effective on a larger scale. The Department continues to search for the most effective, least toxic, and most economical ways to reduce ground squirrel damage to a tolerable level within our county by consulting with researchers, the University of California Cooperative Extension Service, the California Department of Food and Agriculture, other counties, and with industry.

### **Public Works Department Priorities for 2018**

#### ***Facilities Division***

- Continue working to fix structural deficiencies in County buildings
- Continue monitoring the bed bug situation in County buildings and providing awareness training if necessary

#### ***Grounds Division***

- Fill the Grounds Supervisor position
- Continue removing hazard trees and trees killed by the drought—where appropriate and where there is funding, trees will be replaced with drought tolerant species
- Continue installing smart irrigation controllers throughout the County, and continue to conserve water as much as possible
- Continue diverting green waste from the landfill by chipping prunings and using the material in place
- Continue chipping large logs from PGE, tree companies, and Public Works Maintenance for mulch—the mulch will be used to suppress weeds wherever possible
- Continue hand weeding wherever and whenever feasible—using mulch facilitates hand weeding
- Continue educating the public to help them raise their tolerance of weeds
- Continue working on the rejuvenation of aging County landscapes
- Continue raising the level of service on County property

### ***Roadside and Flood Control Maintenance Division***

- Fill the Vegetation Manager position  
This position has been vacant for several years. The County has had difficulty in attracting candidates who possess the minimum requirements for the job.
- Ensure continuity in the vegetation management program as the Assistant Field Operations Manager/Vegetation Manager leaves the County for another job  
This will be important for maintaining the high quality of the vegetation management program.
- Continue to refine IPM practices  
The Division would like to incorporate more innovation into the vegetation management program, and will be looking at testing and/or incorporating new vegetation management techniques, technology, software, equipment, machinery, and chemicals.
- Coordinate work efforts more closely with other Public Works Department crews  
There are many instances where the Vegetation Management Crew could anticipate performing work that can aid other Department crews such as Road Maintenance, Flood Control, and Airport Operations.

## **Attachment A.**

- **Report of the Decision-Making Subcommittee to the Contra Costa County IPM Committee**
  
- **Decision-Making Documents**
  - **Gophers in County Landscaping**
  - **Vegetation on Roadsides and Rights-of-Way (draft)**
  - **Vegetation on Flood Control Channels (draft)**



## **Report of the Decision-Making Subcommittee to the Contra Costa County IPM Advisory Committee**

Prepared by Andrew M. Sutherland, Subcommittee Chair, and Tanya Drlik, IPM Coordinator

November 2017

### **Members**

Susan Captain

Jim Cartan

Jim Donnelly – vice chair

Andrew Sutherland - chair

Larry Yost

During the past year, the Decision-Making Subcommittee, as a service to the Contra Costa County IPM Advisory Committee and the residents of the County, continued its work to document situation-specific pest management decision-making processes and to revise existing decision documents. The subcommittee is charged with making recommendations that may improve the County's pest management processes while considering the needs of the communities affected, seeking to minimize negative impacts, and attempting to maximize efficiency associated with pest management programs.

Since our last report (September 2016), the Decision-Making Subcommittee has met six times: October 27, December 12, January 20, May 11, June 29, and August 3. The subcommittee will also meet on September 14 and October 12, 2017. For this report, recent activities have been grouped into three broad themes below: pest management in Special Districts, weed management along rights-of-way, and ground squirrel management by the Department of Agriculture.

### **Special Districts and County Landscape Standards**

In 2016, the subcommittee began work on a decision-making document for gophers in County landscapes. This document was finalized in May 2017 and is attached to this report. Work on this document led to a series of conversations with Special Districts staff members about pest management contracts and the County's Landscape Standards, which informs the work of County staff and contractors engaged in pest management. The subcommittee made recommendations on revisions to the pest management section of the Standards and discussed the suggestions with Special Districts staff. All the subcommittee's recommendations were adopted and are now reflected in the current version of this County document. The revised pest management section can be found under "Maintenance" in the Standards at <http://www.contracosta.ca.gov/2147/Landscape-Standards>. The subcommittee believes these changes will clarify the IPM process by emphasizing monitoring for pests, use of nonchemical tactics, and consideration of the nontarget effects associated with pesticide use. The subcommittee recommends a continuation of the Special Districts' outreach efforts to County contractors and residents in these areas to help them understand the IPM process. This helps alert residents to pest management activities in their communities so they might be more invested in the process.

### **Weed management along rights-of-way**

The subcommittee also continued work on documenting decision-making for vegetation management along County road rights-of-way. The draft decision-making document is attached.

A separate document has been created for vegetation management along flood control channels and is under review by the subcommittee. The draft document is attached.

In 2016 and 2017, subcommittee members and County staff interviewed vegetation managers from the counties of Alameda, Yolo, San Mateo, Santa Clara, and Solano about their management practices, equipment, and budgets.

The subcommittee recommends that the IPM Advisory Committee consider convening a panel of county vegetation managers from around the Bay in order to understand IPM strategies used elsewhere. Information from

Bay Area colleagues could help guide the conversation about the County's existing programs, available alternatives, and recommendations for the future.

Funding is the limiting factor for vegetation management programs in all counties. Funding for road maintenance is a complex issue, so in September 2017 the subcommittee arranged a presentation on the subject before the full IPM Advisory Committee from the head of the Public Works Maintenance Division.

At this point, it appears that mowing is the only viable alternative to pesticide use for vegetation management along roadsides in Contra Costa. The County already uses a mix of mowing and pesticides along roads, but there are questions and issues associated with increasing the amount of mowing. For example:

- How many areas are actually suitable for mowing? Many of the County roads are constructed on terrain that cannot be mowed because of trees, rocks, and utilities infrastructure.
- How much would it cost to mow the suitable roadsides?
  - Currently, about 60% of the County's expenditures on vegetation management are spent on non-chemical treatment methods (mainly mowing and grazing). This is spent on about 23% of the acreage managed (includes both roadsides and flood control channels).
  - How many more staff would be needed to mow all suitable roadsides?
  - Would the staff have to be new hires or could they be moved from other duties?
  - What kinds of new equipment would be needed?
  - How many times per year would those areas have to be mowed? Without adequate staff and equipment to mow weeds at the proper time, they can regrow and require multiple mowings.
- How are other counties, especially those with larger vegetation management budgets, funding their programs?
- How does the dollar amount of gas tax revenue (the primary funding for road maintenance) received vary in counties on a per mile managed basis?
- The County is under strict fire prevention regulations, and any changes in vegetation management would have to conform to those regulations. How would that affect where and how many times areas might have to be mowed?
- County salaries and benefits have been a stumbling block to hiring new employees in the Maintenance Division. How long would it take to hire new employees if they were needed? Would salaries and benefits need to be increased in order to attract people?
- The County's Climate Action Plan, adopted by the Board of Supervisors in 2015, requires Contra Costa to reduce its greenhouse gas emissions by 15% below 2005 baseline levels by 2020. On-road vehicles currently account for about 45% of the County's emissions. Increasing the use of large diesel powered mowers and trucks would increase significantly the greenhouse gas emissions by County operations, especially if areas required multiple mowings per season.

The Public Works Roadside and Flood Control Maintenance Division has reduced its use of pesticide by 74% since FY 2000-2001. If the Board of Supervisors chooses to make further reductions of pesticide use along rights-of-way a priority, funding for vegetation management will have to be increased.

### **Ground squirrel control by the Department of Agriculture**

In 2013, the Decision-Making subcommittee created a decision document for ground squirrels in critical infrastructure. In May 2017, the subcommittee decided to review the document because this pest situation is responsible for the largest County use of anticoagulant rodenticide. The nontarget issues surrounding use of anticoagulants continue to be important to the County and its residents. The review process is ongoing.



## Contra Costa County

### Decision Documentation for Gopher Management in Landscapes

Date: 5/24/17

Department: Public Works Grounds Division and Special Districts

Location: Countywide

Situation: Gophers in parks, frontage landscaping, and County landscaping

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| <b>What is the management goal for the sites?</b>                | <p>Gopher management in the County does not seek to eradicate the animals. The management goals are to prevent gopher damage to landscaping and to building foundations or other infrastructure such as irrigation pipes and tubing, and prevent tripping hazards where children, adults, and pets play. Historically, there was such a large population of gophers in the area above Reliez Valley Rd. in the Hidden Pond Landscaping Zone that gophers were being controlled to minimize destabilization of the slope to prevent landslides.</p>   |
| <b>Who has jurisdiction over the areas in question?</b>          | <p>The County has jurisdiction over the sites; however, in Special District frontage or other landscaping, the County does not control the allocation of funds for landscape maintenance, including pest management.</p> <p>Note that Special District landscaping zones formed before 1996 do not have a built-in CPI escalator, which makes it difficult to increase the funding available for landscape maintenance. The 3 zones currently monitored for gophers are Livorna Park, Hidden Pond Landscaping Zone, and Driftwood Landscaping Zone. Hidden Pond was formed in 1990, and Driftwood was formed in 1993.</p>  |
| <b>How often are the sites monitored?</b>                        | <p>This varies from site to site.</p> <p>In the course of her other work, the Grounds Division gopher manager surveys for evidence of gophers. She also responds to complaints about gophers from County staff and to information relayed by other members of the Grounds crew.</p> <p>The vertebrate pest manager for Special Districts regularly surveys for gophers in Livorna Park, Hidden Pond Landscaping Zone, and Driftwood Landscaping Zone and responds to complaints relayed through Special Districts staff.</p>   |
| <b>The problem species has been identified as the following:</b> | <p>Pocket gopher, <i>Thomomys</i> sp.</p> <p>From the UC IPM Pest Notes on pocket gophers (<a href="http://www.ipm.ucdavis.edu/PMG/PESTNOTES/pn7433.html">http://www.ipm.ucdavis.edu/PMG/PESTNOTES/pn7433.html</a>):</p> <p>“Pocket gophers are herbivorous and feed on a wide variety of vegetation but generally prefer herbaceous plants, shrubs, and trees. Gophers use their sense of smell to locate food. Most commonly they feed on roots and fleshy portions of plants they encounter while digging. However, they sometimes feed aboveground, venturing only a body length or so from their tunnel opening. Burrow openings used in this manner are called “<a href="#">feed holes</a>.” You can identify them by the absence of a dirt mound and by a circular band of clipped vegetation around the hole. Gophers also will pull entire plants into their tunnel from below. In snow-covered regions, gophers can feed on bark several feet up a tree by burrowing through the snow.</p> <p>“...A single gopher moving down a garden row can inflict considerable damage in a very short time. Gophers also gnaw and damage plastic water lines and lawn sprinkler systems. Their tunnels can divert and carry off irrigation water, which leads to soil erosion. Mounds on lawns interfere with mowing equipment and ruin the aesthetics of well-kept turfgrass.”</p> |

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|  | <p>Gophers sometimes girdle trees and shrubs and can kill trees with trunks several inches in diameter. Gophers also mix, aerate, and loosen soil, all of which can promote plant growth.</p>   |  |
| <b>What is the tolerance level for this species?</b>   | <p>One gopher burrowing in ornamental landscaping or a lawn will trigger management actions. Gophers in adjacent fields or in areas that are more wild are not managed except where gophers become numerous enough to destabilize the hillsides. Currently this applies to Hidden Pond Landscaping Zone only.</p>   |  |
| <b>Are these sensitive sites?</b>  |   |  |
|  | Are any sites under management part of any of the court-ordered injunction?   | No for the 2 sites where rodenticide might be used: Hidden Pond and Driftwood. |
|  | Are any of the sites known or potential habitats for any endangered or threatened species?  | No   |
|  | <p>Are any of the sites on or near an area where people walk or children play?</p> <p>Care must be taken when using gopher traps, so that neither pets nor children are likely to encounter them.</p>   | Yes  |
|  | Are any of the sites near a drinking water reservoir?   | Not applicable   |
|  | Are any of the sites near a creek or flood control channel?   | Not applicable   |
|  | Are any of the sites near crops?  | No   |
|  | Are any of the sites near desirable trees or landscaping?   | Yes  |
|  | Are any of the sites on soil that is highly permeable, sandy, or gravelly?  | Not applicable   |
|  | At any of the sites, is the ground water near the surface?  | Not applicable   |
|  | Are there any well heads near the sites?  | Not applicable   |
| <b>What factors are taken into account when determining the management technique(s) for gophers?</b> | <p>The proximity to foot traffic—currently traps are not used where children or other passersby might find and try to remove or tamper with the trap. Other considerations are the following: safety to the gopher manager, the environment, and non target species; endangered species considerations; the effectiveness of the method; and the cost to the Department or the Special District.</p>  |  |
| <b>What factors contribute the cost of gopher management?</b>  | <ol style="list-style-type: none"> <li>1. The number of gophers at the site.</li> <li>2. The number of gopher mounds at the site—each must be tamped down to determine which tunnels are active.</li> <li>3. The size of the site—if a large site must be surveyed on foot, it will take longer.</li> <li>4. The distance of the site from the corporation yard.</li> <li>5. The skill and experience of the pest manager—someone with little experience and skill will take</li> </ol> |  |

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|  | <p>longer to find and trap gophers or kill them with CO<sub>2</sub>.</p> <p>6. The frequency of re-invasion—sites near open fields, vacant lots, construction sites, and wildlands will experience repeated gopher invasions.</p>   |
| <b>Are special permits required to trap or otherwise kill gophers?</b> | <p>No special permits are required. Gophers are considered nongame animals by the California Department of Fish and Wildlife, which means that if a property owner finds gophers that are injuring garden or landscape plants or other property, the property owner can control the gophers at any time in any manner that is legal.</p>  |
| <b>Which cultural controls were considered?</b>                        | <p><b>Flooding:</b> This method is not particularly effective and would use large amounts of precious water. Most gophers survive flooding in their burrows. Some may be forced to the surface, but the pest manager would have to use something like a shovel to kill those exiting burrows.</p> <p><b>Planting buffers or repellent plants:</b> A 50 ft. buffer planted in a grain, such as wheat, is mentioned in the literature, but this is not practical for the County. There is no evidence for the efficacy of planting so-called gopher repellent plants such as castor bean.</p> <p><b>Conclusion: There are no practical or effective cultural controls for gophers in County landscaping.</b></p>  |
| <b>Which physical controls were considered?</b>                        | <p><b>Trapping:</b> Trapping is a very effective management method. There is skill and art to trapping, especially in finding the proper burrow in which to place traps; therefore, the more experienced the trapper, the more successful they are. Each management situation is unique and must be assessed at the time of inspection to determine a plan of action.</p> <p>There are a number of styles of gopher traps. The Grounds Division uses the Victor Black Box Trap. The Special District contractor uses the Gophinator trap, and the GopherHawk trap.</p> <ul style="list-style-type: none"> <li>• The gopher manager surveys the area to determine which gopher mounds look the freshest and flags those mounds. The remaining mounds are flattened.</li> <li>• The following day, the manager returns to determine which mounds are actually the newest. Brand new mounds, or mounds that had been flattened and were then pushed up again, indicate the gopher is working in those areas. Otherwise the flagged mounds are still the most recent.</li> <li>• Working near the newest mounds, the manager uses a probe (a long pole) find the main gopher tunnel.</li> <li>• A small area above the main tunnel is excavated so the traps can be inserted. Two traps are set, one in each direction back to back, so that a gopher travelling along the tunnel in either direction will encounter the business end of the trap.</li> <li>• The hole is covered with a board. Recommendations vary on whether or not to cover the hole, and some sources indicate that it doesn't matter, but in the County, the hole should be covered to help prevent the public from investigating the trap. The spot is marked with a small flag.</li> </ul> <p>In an April 2013 paper in <i>Crop Protection</i>, Baldwin, et al. found that the Gophinator trap was more effective than the Macabee trap [another similar body gripping trap], probably because it was able to capture larger gophers. They also found that covering traps in late spring to early summer increased catches, but not during autumn. They recommended that if efficacy is paramount, traps should be covered from late spring to early summer, but if time is a constraining factor, traps can be left uncovered.</p> <ul style="list-style-type: none"> <li>• Sometimes gophers are trapped immediately while the manager is still working at the site. If not, the manager returns within 24 hours to check the traps.</li> </ul> <p><b>Explosive Devices:</b> The Rodenator injects a combination of 3% propane and 97% oxygen into a burrow and ignites these gases. The resulting explosion collapses the tunnel and creates a shockwave that kills gophers in the burrow. Approximately 5 years ago, the Grounds Division conducted a trial of the Rodenator outside the Public Works Administration building on Glacier Drive in Martinez. Gophers were burrowing close to the building, and it was feared that they might undermine the foundation. The device worked well and no gophers have been seen in that area since. There are, however, some problems with this device. All the windows on the treatment side of</p> |

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|   | <p>the building had to be protected with sheets of plywood, and the explosions rattled the windows and the occupants of the building. The reports from the explosions, which sound like gunshots, precipitated calls to the police, even though the surrounding neighbors had been notified. The Division has not pursued this strategy because of this last issue. There is also a fire risk with this method.</p> <p><b>Exclusion with wire mesh:</b> Three-foot high ½" wire mesh buried 2 feet below ground and encircling a plant can exclude gophers temporarily. These wire cages are only effective in protecting a small area and are very expensive to make and install.</p> <p><b>Conclusion: Trapping is the most effective and practical physical control for gophers in County landscaping.</b></p>  |
| <b>Which biological controls were considered?</b> | <p>Great blue herons, coyotes, domestic dogs and cats, foxes, and bobcats capture gophers at their burrow entrances; badgers, long-tailed weasels, skunks, rattlesnakes, and gopher snakes corner gophers in their burrows. Owls and hawks capture gophers above ground.</p> <p>Predators can prune a population, but none of these predators can control gophers to the extent that is necessary in County landscaping. Owl boxes could attract more owls to certain areas of the County. More owls could mean somewhat fewer gophers in open fields.</p> <p><b>Conclusion: Biological controls alone for gophers have not been shown to reliably reduce populations to the level that will prevent damage to plants and infrastructure.</b></p>  |
| <b>Which chemical controls were considered?</b>   | <p><b>The risk to predatory animals must be considered before any rodenticides are used for gopher management.</b></p> <p><b>Fumigants</b></p> <p>Extension and university literature recommend against using fumigants for gophers because the animals can quickly backfill a tunnel when they perceive a threat, which prevents the gas from reaching them. Injecting gas far enough into their extensive burrow system is difficult, and since their tunnels are close to the surface, gas can leak out and never reach a concentration high enough to kill.</p> <p><b>CO<sub>2</sub> Injection</b></p> <ul style="list-style-type: none"> <li>• The Grounds Division has purchased a CO<sub>2</sub> injection device called the Eliminator which injects carbon dioxide into the burrow system. So far the gopher manager has had good luck with this device. Perhaps this is more effective since the CO<sub>2</sub> initially sinks to the floor of the burrow.</li> <li>• The gopher manager uses this device where foot traffic prohibits the use of traps.</li> <li>• The manger uses the same preliminary procedures for using this device as she used for trapping (see above).</li> <li>• Before she deploys the device in the burrow, she closes any openings and flattens any remaining mounds to help keep the gas inside the burrow.</li> <li>• When the trigger on the device is pulled, there should be no hissing sounds.</li> <li>• The day after the treatment the manager returns to determine the success of the treatment.</li> </ul> <p><i>A note on "signal words," below: these designations from the USEPA pertain to the acute toxicity of a pesticide.</i></p> <p><b>Aluminum Phosphide</b></p> <p><b>Signal Word: DANGER</b></p> <ul style="list-style-type: none"> <li>• Fumigation with aluminum phosphide <u>is</u> effective for gophers, although it is a restricted use material that requires a permit from the County Department of Agriculture. Aluminum Phosphide is not used in the County for gophers.</li> </ul> |

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|  | <p><b>Baiting</b></p> <p>Diphacinone (005%) Multiple Dose Bait Blocks (Eaton's Answer®)</p> <p>Signal Word: CAUTION.</p> <ul style="list-style-type: none"> <li>• This product overcomes a shortcoming of grain baits, which can degrade in the moist soils inside gopher tunnels. It is blended with a water-resistant paraffin material and formulated in bait blocks. This bait was developed with the objective of providing long-term control because the bait remains effective in moist environments after killing resident gophers. Then, newly invading gophers feed on the bait and die as well.</li> <li>• Bait blocks are placed underground in the main tunnel, about 4" to 12" deep and then covered. Usually one block is used for an approximately 20' run of main tunnel where fresh mounds are found on the surface.</li> </ul> <p>Diphacinone is a first generation anticoagulant that prevents blood from clotting and causes death by internal bleeding. First generation anticoagulants require multiple feedings over several days to a week to kill. This is different from second generation anticoagulants that are far more toxic and can kill within days of a single feeding if enough bait is ingested.</p> <p>Second generation anticoagulants pose a greater risk to animals that eat poisoned rodents. If the rodent continues to feed on the single-dose anticoagulant after it eats a toxic dose at the first meal, it may build up more than a lethal dose in its body before the clotting factors run out and the animal dies. Residues of second generation anticoagulants may remain in liver tissue for many weeks, so a predator that eats many poisoned rodents may build up a toxic dose over time. However, even the first generation anticoagulants may be poisonous to animals that eat poisoned rodents. The first generation materials break down much more rapidly in animal tissues and have a much reduced potential for secondary kill when compared to second generation materials.</p> <p><b>Conclusion: CO<sub>2</sub> injection seems to be useful for the Grounds Division, but more experience with the tool is necessary.</b></p> <p><b>Diphacinone bait blocks are used from time to time at Hidden Pond and Driftwood. The landscaping in these two areas is located on frontage property. The County does not have control over the fees assessed for maintenance on these properties and the budget is currently insufficient to afford trapping as a control for gophers.</b></p> |
| <b>Recommendations from the IPM Advisory Committee</b> | <p><b>On-going monitoring should be used to adjust control activities to a level appropriate to the population of gophers. Trapping and CO<sub>2</sub> injection are the preferred control methods when sufficient funding is available.</b></p> <p><b>Consider expanding trapping into areas where children or other passersby have access after investigating techniques used in school IPM programs or other programs where trapping is conducted in sensitive sites.</b></p>  |
| <b>References</b>                                      | <p>UC IPM Pest Notes on pocket gophers: <a href="http://www.ipm.ucdavis.edu/PMG/PESTNOTES/pn7433.html">http://www.ipm.ucdavis.edu/PMG/PESTNOTES/pn7433.html</a></p> <p>Baldwin, R.A., D.B. Marcum, S.B. Orloff, S.J. Vasquez, C.A. Wilen, and R.. Engeman (2013). The influence of trap type and cover status on capture rates of pocket gophers in California, <i>Crop Protection</i>, 46: 7-12.</p> <p>Baldwin, Roger. Personal communication</p>   |



**Contra Costa County**

**DRAFT DECISION DOCUMENTATION for VEGETATION MANAGEMENT**

**on County Roadsides and Road Rights-of-Way**

Date: February 3, 2017

Department: Public Works Maintenance Division

Location: Unincorporated rural areas

Situation: Vegetation management along roadsides and road rights-of-way

Note that management decisions are site specific for roads. Not every management technique will work equally well at all sites and for all weeds, and the costs of each technique will vary depending on the site. The County has developed a flowchart to aid the decision-making process.

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| <p><b>What are the management goals for these sites?</b></p> | <p><u>To reduce fire risk:</u></p> <p>The County is subject to the regulations of 9 separate fire districts. The following are the districts and the links to their regulations (if available):</p> <ul style="list-style-type: none"> <li>• Contra Costa Fire Protection District (ConFire)<br/><a href="http://www.cccfpd.org/pdfs/WA-2-minimum-standards-17.pdf">http://www.cccfpd.org/pdfs/WA-2-minimum-standards-17.pdf</a></li> <li>• Crocket-Carquinez Fire Protection District (regulations not apparent on website)</li> <li>• East Contra Costa Fire Protection District (same regs as ConFire)</li> <li>• Kensington Fire Department (same regs as Richmond)</li> <li>• Knightsen Fire District (no website)</li> <li>• Moraga-Orinda Fire District<br/><a href="http://www.mofd.org/literature_196457/Exterior_Hazard_Abatement_Standards">http://www.mofd.org/literature_196457/Exterior_Hazard_Abatement_Standards</a></li> <li>• Pinole Fire Department (regulations not apparent on website)</li> <li>• Richmond Fire Department<br/><a href="http://www.ci.richmond.ca.us/DocumentCenter/View/38822">http://www.ci.richmond.ca.us/DocumentCenter/View/38822</a></li> <li>• San Ramon Valley Fire Protection District --<br/><a href="http://www.firedepartment.org/civica/filebank/blobdload.asp?BlobID=4207">http://www.firedepartment.org/civica/filebank/blobdload.asp?BlobID=4207</a></li> </ul> <p>The County manages to the most restrictive regulations of the 9 fire districts, which are described in the County's fire protection ordinance:</p> <p style="padding-left: 40px;">Title 7, Division 722, Section 320.4.1 says, "No person who has any ownership or possessory interest in or control of parcel of land shall allow to exist thereon any hazardous rubbish, weeds, trees, or other vegetation that constitutes a fire hazard."</p> <p style="padding-left: 40px;">Title 7 Division 722, Section 320.4.2.1 says, "The Fire Code Official is authorized to cause areas within 10 feet (3048 mm) on each side of portions of streets which are improved, designed, or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth."</p> <p>The Public Works Department tries to maintain an 8 foot strip, where practical, of vegetation-free ground (not including trees, shrubs, or landscaping) along each side of a road. Fire district regulations stipulate that vegetation management must typically be completed by May 1, and at the very latest by July 1, in order to avoid abatement notices from the local fire district. The May 1</p> |
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|   | <p>deadline is a recent change and makes it more difficult for the crew to perform all the needed work between the time that weather conditions permit work and May 1.</p> <p><u>To maintain road safety:</u><br/>The County maintains road safety in accordance with the County's best management practices. The following are some of the management practices:</p> <ul style="list-style-type: none"> <li>• Prevent sight line obstruction of signs, pullouts, ditches on sides of road, obstacles on sides of the road (California Streets and Highways Code, Sections 1480-1485)</li> <li>• Prevent a perceived narrowing of the roadway from large plants growing close to the side of the road that can force drivers to move to the center of the road</li> <li>• Maintain adequate road drainage (vegetation can clog ditches and drains)</li> <li>• Keep pavement intact as long as possible <ul style="list-style-type: none"> <li>○ Plants next to pavement or growing into cracks in pavement can allow water to move down under the asphalt causing it to buckle and crack more.</li> <li>○ Weeds growing along the shoulder can hasten the deterioration of the shoulder which can lead to hazardous roadside conditions, especially for bicycles, but also for cars if the drop from the road surface becomes large.</li> </ul> </li> </ul> <p><u>To reduce liability for the County:</u> Fires, accidents, and law suits against the County are a regular and costly occurrence.</p> <p><u>To prevent the movement of invasive plants along roadway corridors:</u> Invasive plant seeds and parts can be carried far and wide by animals, wind, and water moving along roadsides. Even vehicle tires and undercarriages, bicycle tires, and people's footwear can move weeds from one place to another.</p> |
| <b>Who has jurisdiction over the areas in question?</b>               | <p>The County owns the roads and rights-of-way and is responsible for their maintenance. The local fire districts are responsible for insuring that property owners and managers follow their regulations.</p> <p>Note: In general in unincorporated areas where there are curbs, gutters, and sidewalks, the homeowner is responsible for vegetation management.</p>  |
| <b>Number of road miles under management</b>                          | <p>The total number of road miles is 660 (a road mile includes both sides of the road).</p> <p>Approximately 325 to 375 road miles are under active vegetation management (the number changes with the weather and other factors from year to year). Not all of the 660 road miles are rural roads, many are in unincorporated residential areas where the Public Works Department does not manage roadside vegetation).</p>   |
| <b>Number of staff available for vegetation management activities</b> | <p>Currently the Division has 3 trained vegetation management techs.</p> <p>Full staffing would be 1 supervisor and 6 vegetation management personnel.</p> <p>The maintenance division would be fully staffed at 86, however, currently there are only 57 positions filled. These 57 employees perform all of the road maintenance tasks, such as paving, crack sealing, pavement marking, ditch and drainage maintenance, signage, tree trimming and removal, storm damage emergency response and repair, guard rail maintenance and flood control maintenance. The small vegetation management crew is part of the 57 employees and is responsible not only for roadsides, but also for flood control channels and unimproved County properties.</p>   |
| <b>Source of funding</b>  | <p>Road maintenance, including vegetation management, is funded solely from the gasoline tax. The County does not contribute any money from the General Fund except for a small amount going to specific drainage projects.</p> <p>The funds coming from the gas tax had been declining for years because the tax had not been increased, while at the same time cars have become much more fuel efficient. In addition there are many electric vehicles on the road that pay no gas tax for maintenance of the roads on which they drive.</p> <p>With the passage of California Senate Bill 1 in December 2016, the County will see a much needed increase in funds for road maintenance; however, the extra funds must first go to bring the average Pavement Condition Index up to 80 or better. At present, CCC's arterial Pavement Condition Index</p>  |

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|  | <p>is in the 60s.</p> <p>The following are the main provisions of SB 1:</p> <ul style="list-style-type: none"> <li>• \$0.12 increase in gasoline tax/gallon, with inflation adjustment</li> <li>• Increase to the Vehicle License Fee of between \$25 and \$175, with inflation adjustment, depending on the cost of the vehicle</li> <li>• \$0.20 increase in the tax/gallon on diesel</li> <li>• An increase in vehicle registration fee for 2020 and later model zero-emission vehicles of \$100 with inflation adjustment f</li> <li>• 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.</li> </ul>  |    |
| <b>How often is the site monitored?</b>                | <p>All sites in the county are monitored every few days. The Vegetation Manager spends part of every day inspecting roadways on a rotating basis. The road crews, the road crew supervisors, and the vegetation management crew are all trained to recognize vegetation issues on roadsides and road rights-of-way and to report them to the Vegetation Manager. Monitoring information is recorded on the Vegetation Manager's Daily Report.</p> <p>If a new weed species is found, the Vegetation Manager identifies and researches the weed. If he/she cannot identify the specimen, he/she consults the County Department of Agriculture. If a weed on the California Department of Food and Agriculture A-rated list is found, the County Agriculture Department is also consulted.</p>  |    |
| <b>Weeds have been identified as the following:</b>    | <p>Any species that can pose a fire danger or sight obstruction, including volunteer trees and otherwise desirable species, will be managed to maintain the integrity of the road and road shoulder.</p> <p>Key weeds are listed below. The list is continually updated as vegetation changes.</p> <p>Invasive species:</p> <ul style="list-style-type: none"> <li>• Yellow starthistle (<i>Centaurea solstitialis</i>)</li> <li>• Purple starthistle (<i>Centaurea calcitrapa</i>)</li> <li>• Russian thistle, or tumbleweed (<i>Salsola tragus</i>)</li> <li>• Kochia (<i>Kochia scoparia</i>)</li> <li>• Stinkwort (<i>Dittrichia graveolens</i>)</li> <li>• French broom (<i>Genista monspessulana</i>)</li> <li>• Pepperweed (<i>Lepidium latifolium</i>)</li> <li>• Tree of heaven (<i>Ailanthus altissima</i>)</li> <li>• Algerian ivy (<i>Hedera algeriensis</i>)</li> <li>• Himalayan blackberry (<i>Rubus armeniacus</i>)</li> </ul> <p>Other species:</p> <ul style="list-style-type: none"> <li>• Poison oak (<i>Toxicodendron diversilobum</i>)</li> <li>• Poison hemlock (<i>Conium maculatum</i>)</li> <li>• Mare's tail (<i>Conyza canadensis</i>)</li> <li>• Mustard (<i>Brassica</i> spp.)</li> <li>• Mallow or cheeseweed (<i>Malva</i> spp.)</li> <li>• Various grasses</li> </ul> <p>The Department does not have a specific invasive weed management program; however, the vegetation management crew is trained to look for invasives when they are out working.</p> |    |
| <b>Are populations high enough to require control?</b> | <p>The Vegetation Management crew manages vegetation as necessary to meet the management goals above.</p> <p>At times vegetation re-growth may be sparse enough and the fire risk low enough that a decision might be made to leave the re-growth alone.</p>  |    |
| <b>Are these sensitive sites?</b>                      | <b>Are any areas "highly sensitive sites" as defined by PWD Environmental staff?</b>  | No |

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|   | <b>Are any areas under the Routine Maintenance Agreement with Fish and Game?</b>   | It's possible if a road shoulder is under the riparian canopy. |
|   | <b>Are any areas part of any of the court-ordered injunction?</b> (see: <a href="https://www.epa.gov/endangered-species/interim-use-limitations-eleven-threatened-or-endangered-species-san-francisco-bay">https://www.epa.gov/endangered-species/interim-use-limitations-eleven-threatened-or-endangered-species-san-francisco-bay</a> )<br><br>Some areas are included in the red legged frog injunction. The Department has a map of areas included in the red legged frog injunction.  | Yes  |
|   | <b>Are any areas known or potential habitat for any endangered or threatened species?</b><br><br>Some areas border habitat or potential habitat for species, but the actual gravel road shoulder is not suitable habitat for most vertebrates.   | No   |
|   | <b>Are these areas places where people walk or children play?</b><br><br>Most of the roads and rights-of-way covered by this document are not suitable for pedestrian traffic or for children to play. Areas where people walk are the following: <ul style="list-style-type: none"> <li>• Iron Horse Trail</li> <li>• Clyde Pedestrian Path</li> <li>• Delta De Anza Trail (county only maintains a small portion)</li> </ul>   | Occasionally   |
|   | <b>Are they near a drinking water reservoir?</b>   | Yes, some  |
|   | <b>Are they near crops?</b>  | Yes, in some cases.  |
|   | <b>Are they near desirable trees or landscaping?</b>   | Yes, occasionally  |
|   | <b>Is the soil highly permeable, sandy, or gravelly?</b><br><br>Yes, in some areas. Hoffman Road is one.   | Yes  |
|   | <b>Is the ground water near the surface?</b>   | Unknown, other than Hoffman Road                               |
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| <b>What factors are taken into account when determining the management technique(s) for vegetation?</b> | <ul style="list-style-type: none"> <li>• Species of plant</li> <li>• Stage of growth</li> <li>• Plant density</li> <li>• Plant location</li> <li>• Road condition—if a road is in very poor condition, vegetation growing close to the edge can cause more damage than if a road is in good condition. Every 7 to 10 years, the road is scheduled for resurfacing and there must be a clear corridor for the work.</li> </ul>  |  |
| <b>Are special permits required for work?</b>   | If the Department were to use Vanquish (dicamba), which is restricted because of volatility, it would need to file with the County Department of Agriculture a Notice of Intent (NOI) to apply the material.   |  |
| <b>Which cultural controls were considered?</b>   | <b>Mulching</b> <ul style="list-style-type: none"> <li>• It is difficult to contain mulch on the side of the road. There is a danger that it could clog drainage ditches and drains, run off into waterways, present road hazards to bicyclists.</li> <li>• Wood chip mulch is combustible and would only add to the fire danger.</li> <li>• The cost of buying and/or spreading mulch along roadsides would be prohibitive and very dangerous for the crew.</li> </ul> <b>Weed Barriers</b> <ul style="list-style-type: none"> <li>• Rubber mats can be used around guard rails, but are very expensive. Weeds can grow up</li> </ul> |  |

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|  | <p>through the joints in the mats and on top of the mats in accumulated soil and organic matter. Rubber mats are combustible, and the resulting fire releases noxious fumes.</p> <ul style="list-style-type: none"> <li>• Fabric barriers are expensive and very costly to install, hard to anchor to the ground, and vehicles can tear them, rendering them ineffective.</li> <li>• Weed seeds can germinate in the organic matter that accumulates on the weed barrier or is intentionally placed there.</li> </ul> <p><b>Planting Desirable Species</b></p> <ul style="list-style-type: none"> <li>• This has been used in some limited circumstances in Yolo County, but the plants must still be mowed.</li> <li>• Establishment takes time, money, water, and attention.</li> <li>• The plants must conform to very limiting specifications so as not to be sight hazards, fire hazards, etc. They could not be planted adjacent to the road.</li> </ul> <p><b>CONCLUIONS:</b></p> <p><b>Mulching and weed barriers are problematic on roadsides. The Department has not found any areas where these would be appropriate.</b></p> <p><b>Planting desirable species is not used at this time because the Department must maintain a vegetation-free zone next to the road.</b></p>   |
| Which physical controls were considered? | <p><b>Pruning:</b> This is used on large vegetation where needed to meet management goals.</p> <p><b>Mowing by machine:</b> Mowing is used on French broom to reduce the amount of vegetation before herbicide applications. Mowing is also used for blackberries and for willows in place of, or before, herbicide treatment. Mowing on the Iron Horse Trail is contracted out.</p> <p>Machine mowing is not used more extensively because of the following:</p> <ul style="list-style-type: none"> <li>• Terrain is a limiting factor. Many of the County's rural roads have unimproved shoulders that are very uneven and have trees growing on them. This makes mowing very difficult.</li> <li>• Mowing may not meet fire regulations in many areas.</li> <li>• Mowing usually requires more than one pass per treatment which increases cost. Depending on the terrain, it may take several passes per treatment to mow down the vegetation.</li> <li>• With mowing there is always the risk of starting a fire when mower blades create sparks from striking rocks or other obstacles. This is a regular occurrence with both machine and hand mowing.</li> <li>• Recent changes in safety regulations for mowing have increased costs and the number of staff needed for each mower. This may have the effect of further limiting the work window.</li> <li>• Mowing can also transport invasive plant seeds and parts from one area to another.</li> <li>• There is a narrow window of time when mowing is most effective for meeting fire regulation deadlines. This is the same window of time in which flood control channels must be mowed. If mowing is done too early, the vegetation can grow back and require mowing a second or even third time to meet fire regulations. The Department does not have enough crew and equipment to complete all work by mowing in that space of time</li> <li>• It is more costly than herbicide treatment. See Table 1 below.</li> <li>• The County's Climate Action Plan requires a reduction in greenhouse gas emissions, and increasing mowing would substantially increase those emissions.</li> </ul> <p><b>Mowing by hand:</b> This has limited use on roadsides, but it can be useful around guard rails.</p> <ul style="list-style-type: none"> <li>• Mowing by hand (weed whacking) can be particularly dangerous for employees: <ul style="list-style-type: none"> <li>◦ Traffic presents serious hazards.</li> <li>◦ Workers can sustain injuries from slipping on steep or rocky terrain.</li> <li>◦ Workers can sustain injuries from debris being thrown up and onto workers: rocks, glass, barbed wire, pieces of metal and pieces of mower blades.</li> </ul> </li> <li>• Hand mowing is even more costly than machine mowing.</li> <li>• There is always a risk of starting a fire.</li> </ul> <p><b>Grazing</b></p> <ul style="list-style-type: none"> <li>• Logistics and safety on the side of a narrow country road are very difficult. The liability to the County is high.</li> </ul> |

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|  | <ul style="list-style-type: none"> <li>• Grazing animals can distract motorists, which can be a danger to both the animals and motorists. The animals temporarily remove the emergency parking available on the shoulder.</li> <li>• Grazing is costly for this application, especially because grazing a narrow strip necessitates moving the animals frequently, which is expensive. (See Table 1.)</li> </ul> <p><b>Burning:</b> Besides being dangerous, this technique could not be used on roadsides because the Bay Area Air Quality Control Board would not allow it.</p> <p><b>Concrete under guard rails or cement treated base for road shoulders:</b> These treatments are long lasting, but very expensive. (Need cost range) Currently the County is not installing any new guard rails or shoulders.</p> <p>It is quite difficult to make repairs to concrete slabs if they crack or erode. Once cracks form, weed seeds can sprout in the cracks. Repairing concrete or cement-treated base used on the road shoulder is also very difficult, especially if damage occurs at the edge from erosion. Everything must be torn out and replaced.</p> <p><b>CONCLUSIONS:</b> Pruning and machine mowing are used by the Department where they are appropriate. At this time, the other techniques are too dangerous, too costly, or not practical.</p>   |
| Which biological controls were considered? | Biological controls are not applicable in this situation unless a particular invasive weed is the target, and it has an available biological control.  |
| Which chemical controls were considered?   | <p>During many years of research, experience, and experimentation, including consulting the literature, researchers, and colleagues about materials that are labeled for, and effective on, weeds in rights-of-way, the Division has chosen the herbicide options listed below. The Department continues to consult researchers and colleagues, as well as new literature, to identify new choices that may be more effective, more environmentally friendly, and of lesser human toxicity.</p> <p><b>Note that the Weed Science Society of America (WSSA) and the Herbicide Resistance Action Committee (HRAC) both create resistance group designations to help weed managers reduce the likelihood of creating resistant weeds. Every 2 to 3 seasons, the Division rotates herbicide active ingredients according to the resistance group designations from WSSA to limit the buildup of herbicide resistant weeds along the roadsides.</b></p> <p><b>Possible herbicide choices (These product names are subject to change.)</b></p> <p>When the IPM process calls for the use of herbicides, the products below are used where most suitable considering cost, efficacy, the environment, human communities, and resistance management.</p> <p><b><u>Pre-emergent Herbicides</u></b></p> <p><b>Esplanade, Gallery, and Resolute are pre-emergent herbicides that are used in the buffer zone next to the road to maintain bare ground. They each belong to a different resistance management group and are used in rotation to prevent herbicide resistance. The Division uses pre-emergent herbicides to reduce the amount of post-emergent herbicides that are needed.</b></p> <p><b>Indaziflam (Esplanade®):</b> This pre-emergent herbicide controls a broad spectrum of weeds if applied before germination. It does not generally control weeds after they have emerged. For maximum weed control, the herbicide needs to reach the soil surface and be activated by rainfall or adequate soil moisture. It is applied in the fall to control winter germinating weeds and in the spring to control spring germinating weeds.</p> <p>Signal Word: CAUTION<br/> Rate: 3 to 5 oz/acre<br/> Timing: Before weeds sprout in either fall or spring near the time rain is expected.<br/> Cost to apply (includes material cost): \$125/acre</p> |

Herbicide Resistance Management Group: 29

**Isoxaben (Gallery® S.C.):** This pre-emergent controls certain broadleaf weeds.

Signal Word: CAUTION

Rate: 20 to 30 oz/acre

Timing: Before weeds sprout in either fall or spring near the time rain is expected.

Cost to apply (includes material cost): \$210/acre

Herbicide Resistance Management Group: 21

**Prodiamine (Resolute® 65 WDG):** This pre-emergent herbicide controls grass and broadleaf weeds by preventing the growth and development of newly germinated weed seeds. Weed control is most effective when the product is activated by at least ½" of rainfall or irrigation, or shallow (1" to 2") incorporation before weed seeds germinate and within 14 days following application.

Signal Word: CAUTION

Rate: 1 to 2 lbs/acre

Timing: Before fall weeds or spring weeds germinate, and close to the time rain is expected.

Cost to apply (includes material cost): \$97/acre

Herbicide Resistance Management Group: 3

#### **Post emergent (contact) herbicides**

**Glyphosate (Roundup® Pro Concentrate):** Glyphosate is a systemic herbicide (is absorbed into the plant and circulates to kill the entire plant) that will kill most types of vegetation—grass, broadleaf, vines, brush, etc. **Roundup is used as a contact herbicide for emerged grasses on road shoulders.**

Signal Word: CAUTION

Rate for spot spraying on roadsides using a boom mounted on a truck: 2 pts in 20 gal of water/acre

Rate for spot spraying by pulling hose with a handgun attached: 6 pts in 100 gal of water/acre

This method is used mostly for parcels where a crew must walk rather than drive.

Timing: Varies depending on the location, the weather, the weed growth, the work load

Cost to apply (includes material cost):

- \$135/acre for Roundup application from a boom mounted on a truck
- \$673/acre for Roundup application from a hose with a handgun

Herbicide Resistance Management Group: 9

\*\*Enjoined for red legged frog

**Triclopyr TEA (Garlon® 3A):** Garlon 3A is specific for woody plants and broadleaf weeds (but not grasses) and is used for spot treatments. It is usually tank mixed with Roundup.

Signal Word: DANGER (for eye damage to mixer/loader and applicator)

Rate for spot spraying on roadsides using a boom mounted on a truck: 2 to 4 pts in 20 gal of water/acre

Rate for spot spraying by pulling hose with a handgun attached: 4 to 6 pts in 100 gal of water/acre

This method is used mostly for parcels where a crew must walk rather than drive.

Timing: Varies depending on the location, the weather, the weed growth, the work load

Cost to apply (includes material cost):

- \$146/acre for Garlon 3A application from a boom mounted on a truck
- \$714/acre for Garlon 3A application from a hose with a handgun

Herbicide Resistance Management Group: 4

\*\*Enjoined for red legged frog

#### **Herbicides with both Pre- and Post-Emergent Activity**

**Chlorsulfuron (Telar® XP):** Telar XP is both a pre-emergent and post-emergent herbicide for the control of many invasive and noxious broadleaf weeds. Warm, moist conditions following application enhance the effectiveness of Telar XP since moisture carries the herbicide into weed roots and prevents them from developing. Weeds hardened off by drought stress are less susceptible to this

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|  | <p>herbicide. <b>Telar is used primarily for control of difficult broadleaf weeds such as pepperweed.</b></p> <p>Signal Word: CAUTION<br/> Rate: 1.6 oz/acre<br/> Timing: Before fall weeds or spring weeds germinate and close to the time rain is expected.<br/> Cost to apply (includes material cost): \$113/acre<br/> Herbicide Resistance Management Group: 2</p> <p><b>Dicamba diglycolamine salt (Vanquish®):</b> Vanquish is registered for selective broadleaf and brush control and has both pre- and post-emergent qualities. Dicamba is a systemic herbicide that acts as a plant growth regulator. Dicamba is a federally restricted material due to the potential for harm to non-target plants. It can volatilize when temperatures are high. A special permit must be obtained from County Ag, and the applicator must notify County Ag in advance of the application. If the application is cancelled, County Ag must be notified. <b>Vanquish is used selectively as a spot treatment for difficult to control broadleaf weeds.</b></p> <p>Signal Word: CAUTION<br/> Rate: 1 to 2 pts/acre<br/> Timing: Best when weeds are small<br/> Cost to apply (includes material cost): \$95/acre<br/> Herbicide Resistance Management Group: 4<br/> Not on any injunction list</p> <p><b>Aminopyralid (Milestone®):</b> Milestone is a systemic herbicide with both pre- and post-emergent properties that controls broadleaf weeds without affecting grasses. <b>Milestone is used for the more woody and thick-stemmed weeds on road shoulders.</b></p> <p>Signal Word: CAUTION<br/> Rate: 5 to 7 oz/acre<br/> Timing: Between fall and spring before seeds germinate, but it is a more flexible chemical because it also has contact properties<br/> Cost to apply (includes material cost): \$96/acre<br/> Herbicide Resistance Management Group: 4<br/> Not on any injunction list</p> <p><b>Sulfometuron methyl (Oust XP®):</b> This pre-emergent and early post-emergent herbicide controls many annual and perennial grasses and broadleaf weeds. <b>The Department rarely uses this on roadsides.</b></p> <p>Signal Word: CAUTION<br/> Rate: 3.6 to 4.8 oz/acre<br/> Timing: Before or just after weeds germinate in the fall or spring.<br/> Cost to apply (includes material cost): \$95/acre<br/> Herbicide Resistance Management Group: 2</p> |
| Which herbicide application methods are available for these chemicals? | <p>The Department's current equipment allows for 3 methods of application:</p> <ul style="list-style-type: none"> <li>• broadcast application or spot treatment from a boom attached to a truck</li> <li>• spot treatment from a handgun attached to a hose connected to a truck-mounted tank</li> <li>• and spot treatment with a backpack.</li> </ul> <p><b>CONCLUSIONS: The terrain, proximity to water, potential human or non-target exposure, kind of weed species, and goal of the treatment dictate the application method.</b></p>   |
| What weather concerns must be checked prior to application?            | <p>The Vegetation Manager takes into consideration the pesticide label and all site specific factors. Each day, the Vegetation Manager checks the weather when he/she arrives at work at 6:00 AM. Rain can prevent application of some herbicides because of the danger of runoff. For most pre-emergent herbicides, rain is needed after application in order for the herbicide to be effective. The Vegetation Manager must also consider wind speed (generally it should be &lt;7 mph) and possible temperature inversions to avoid herbicide drift. Crews measure and record weather factors prior to and during application. Excessive heat or cold makes plants shut down, and herbicide applications</p>   |



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|   | at that time could be ineffective. The Vegetation Manager uses these factors to write Pest Control recommendations for the crew to follow on the days that spraying takes place.  |
| <b>Cost Comparisons for various mgmt methods on both roadsides and flood control channels</b> | See Table 1, below.   |
| <b>Recommendations from the IPM Advisory Committee</b>  | <ul style="list-style-type: none"> <li>Continue to review all vegetation management methods available for flood control channels and access roads considering efficacy, cost, impacts to the environment, and to the human community.</li> <li>Encourage investigation into, and experimentation with, new methods.</li> <li>Review this document every 3 years.</li> </ul> |

**Table 1. Methods, Acres Treated, and Cost\* for Vegetation Management along Contra Costa Roadsides and Flood Control Channels, Averaged over Two Years (2014-2016)<sup>§</sup>**

| <b>Vegetation Management Method</b>                            | <b>Acres Treated</b> | <b>% of Total Acres Treated</b> | <b>Total Cost for all acres treated</b> | <b>Cost/ Acre</b> | <b>% of Total Cost for all acres treated</b> | <b>% Change in Total Acres Treated from FY 12-13</b> |
|--|----------------------|---------------------------------|---|-------------------|--|--|
| Chemical Treatment - Roads                                     | 1157                 | 55%                             | \$180,145                               | \$156             | 22%  | -36%   |
| Right of Way Mowing (mainly flood control channels)            | 280                  | 13%                             | \$278,133                               | \$993             | 34%  | +8%  |
| Chemical Treatment - Creek Access Roads                        | 152                  | 7%                              | \$46,728                                | \$307             | 6%   | +33%   |
| Chemical Treatment - Creek Banks                               | 70                   | 3%                              | \$28,657                                | \$409             | 4%   | -59%   |
| Grazing (flood control facilities)                             | 375                  | 18%                             | \$191,301                               | \$510             | 24%  | +74%   |
| Chemical Treatment - Aquatic Applications                      | 66                   | 3%                              | \$46,125                                | \$699             | 6%   | +11%   |
| Mulching (flood control fence-lines and access road shoulders) | 10                   | 0.5%                            | \$36,923                                | \$3692            | 4%   | +43%   |
| Totals   | 2110                 |                                 | \$808,012                               |                   |  | -20%   |

\*Table lists the most accurate costs available and is not necessarily specific to roadsides.

<sup>§</sup>Table is updated each year in the IPM Annual Report. See [cchealth.org/ipm](http://cchealth.org/ipm).

**Contra Costa County**

**DRAFT DECISION DOCUMENTATION for VEGETATION MANAGEMENT**

**on Flood Control Channels**

Date: October 2, 2017

Department: Public Works Roadside and Flood Control Channel Vegetation Management Div.

Location: Flood Control Channels

Situation: Vegetation management along 76 miles of flood control channels and creek banks; this includes areas ranging from unimproved natural creeks to concrete-lined channels, along with levies that are certified by the Army Corps of Engineers

Note that management decisions are site specific for flood control channels. Not every management technique will work equally well at all sites and the costs of each technique will vary depending on the site.

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| <b>What are the management goals for the site?</b> | <p>To maintain vegetation along flood control channels and creek banks so that</p> <ul style="list-style-type: none"> <li>• erosion of the banks does not occur</li> <li>• vegetation does not impede the flow of water in a flood</li> <li>• vegetation does not collect silt and debris that could obstruct the passage of water</li> <li>• vegetation does not hide problems on banks such as ground squirrel burrows, erosion, beaver activity, etc.</li> <li>• vegetation does not pose a fire hazard</li> <li>• vegetation remains a mix of small herbaceous plants and grasses</li> <li>• homeless encampments cannot flourish unnoticed</li> <li>• waterways do not become a conduit for the spread of noxious weeds throughout the county</li> <li>• waterways provide habitat for wildlife</li> <li>• maintenance is performed in accordance with the Routine Maintenance Agreement (RMA) with the state Department of Fish and Wildlife</li> <li>• maintenance is performed in accordance with the regulations from the Army Corps of Engineers and the Regional Water Quality Control Boards (San Francisco and San Joaquin)</li> </ul> <p>Vegetation is also managed along flood control access roads to maintain the integrity of the roads and ease of access for equipment.</p> |
| <b>How often is the site monitored?</b>            | <p>All sites in the county are monitored every few days to every few weeks. The Vegetation Manager spends part of every day inspecting waterways on a rotating basis. The road crews, the flood control supervisors, and the vegetation management crew are all trained to recognize vegetation issues on flood control channels and creeks and to report them to the Vegetation Manager. Monitoring information is recorded on the Vegetation Manager's Daily Report.</p> <p>If a new weed species is found, the Vegetation Manager identifies and researches the weed. If he/she cannot identify the specimen, he/she consults the County Department of Agriculture. If a weed on the California Department of Food and Agriculture A-rated list is found, the County Agriculture Department is also consulted.</p>   |
| <b>Weeds have been identified as the</b>           | <p>Various grasses, including</p> <ul style="list-style-type: none"> <li>• Harding grass (<i>Phalaris aquatica</i>)</li> </ul>  |

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| <p><b>following:</b></p> <p><b>Note that this is not a comprehensive list, but a list of the main problem plants.</b></p> | <ul style="list-style-type: none"> <li>• Johnsongrass (<i>Sorghum halepense</i>)</li> <li>• Reed canarygrass (<i>Phalaris arundinacea</i>)</li> <li>• Wild oats (<i>Avena fatua</i>)</li> <li>• Quack grass (<i>Elymus repens</i>)</li> </ul> <p>Various broadleaf weeds including</p> <ul style="list-style-type: none"> <li>• Mustard (<i>Brassica</i> spp.)</li> <li>• Cocklebur (<i>Xanthium</i> sp.)</li> <li>• Poison hemlock (<i>Conium maculatum</i>)</li> <li>• Wild carrot (<i>Daucus carota</i>)</li> <li>• Stinging nettle (<i>Urtica</i> sp.)</li> <li>• Himalayan blackberry (<i>Rubus armeniacus</i>)</li> </ul> <p>Invasive weeds such as</p> <ul style="list-style-type: none"> <li>• Perennial pepperweed (<i>Lepidium latifolium</i>)</li> <li>• Purple loosestrife (<i>Lythrum salicaria</i>)</li> <li>• Red sesbania (<i>Sesbania punicea</i>)</li> </ul> <p>On some engineered channels, cattails (<i>Typha</i> sp.) and trees (willow—<i>Salix</i>, walnut—<i>Juglans</i>, ash—<i>Fraxinus</i>) are considered weeds.</p> <p>The Maintenance Division's vegetation management crew is trained to look for invasives when they are out working and report them to the Vegetation Manager who consults with the Agriculture Department about what action to take.</p> |            |
| <p><b>Are populations high enough to require control?</b></p>   | <p>The Vegetation Management crew manages vegetation as necessary to meet the goals above.</p>   |            |
| <p><b>Is this a sensitive site?</b></p>   | <p><b>Is this a “highly sensitive site” as defined by PWD Environmental staff? A highly sensitive site contains a known habitat for, or is close to sightings of, endangered or threatened species. Refer to the attached flow chart for how sensitive sites are determined and handled.</b></p> <p>Some sites fit in this category.</p>   | <p>Yes</p> |
|   | <p><b>Is this under the Routine Maintenance Agreement with Fish and Game?</b></p> <p>All creeks are covered under the Routine Maintenance Agreement.</p>   | <p>Yes</p> |
|   | <p><b>Is this part of any of the court-ordered injunction?</b> (see: <a href="https://www.epa.gov/endangered-species/interim-use-limitations-eleven-threatened-or-endangered-species-san-francisco-bay">https://www.epa.gov/endangered-species/interim-use-limitations-eleven-threatened-or-endangered-species-san-francisco-bay</a>)</p> <p>Some areas are included in one or more injunctions.</p>   | <p>Yes</p> |
|   | <p><b>Is this a known or potential habitat for any endangered or threatened species?</b></p> <p>Yes, some sites contain habitat for various sensitive species including salmonids, red legged frog, various nesting birds, dusky footed woodrat, salt marsh harvest mouse. Each site is reviewed by a biological monitor (a trained Public Works staff member) or a Certified Biologist.</p>   | <p>Yes</p> |
|   | <p><b>Is it on or near an area where people walk or children play?</b></p> <p>The Division does not manage pests on established (paved) trails. These trails are mainly under the management of East Bay Regional Park District. In cases where established trails exist along flood control</p>   | <p>No</p>  |

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|   | channels ( areas of Walnut Creek, Marsh Creek, and Wildcat Creek) they are situated above the creek slopes. Access roads along flood control channels are County property and are posted "No Trespassing." The public should not be on the access roads and enter at their own risk. In general, the public is not allowed access to the slopes or waterway within these environments.  |     |
|   | <b>Is it near a drinking water reservoir?</b><br>None of the flood control channels that the Division maintains is near a reservoir.  | No  |
|   | <b>Is it near crops?</b><br>There are areas of Marsh Creek, Sand Creek, and Dry Creek that are near crops.  | Yes |
|   | <b>Is it near desirable trees or landscaping?</b><br>There are some flood control access roads that are near residences.  | Yes |
|   | <b>Is the soil highly permeable, sandy, or gravelly?</b><br>Yes, in some areas.   | Yes |
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| <b>Which cultural controls were considered?</b> | <p><b>Mulching:</b> Woodchips are used on flood control access roads where appropriate to prevent and suppress weeds. Creek banks cannot be mulched.</p> <p><b>Weed Barrier/Sheet Mulching:</b> This cannot be used on the creek banks, and for the access roads, it would be an added and unnecessary expense since a deep cover of woodchips serves the same purpose.</p> <p><b>Planting Desirable Species:</b> The County Flood Control District is partnering with The Restoration Trust, an Oakland-based non-profit organization promoting habitat restoration and stewardship, in a native planting experiment along Clayton Valley Drain (near Hwy 4 adjacent to Walnut Creek). The study is examining the survival of several California natives: Santa Barbara sedge, (<i>Carex barbarae</i>), common rush (<i>Juncus effusus</i>), Baltic rush (<i>Juncus balticus</i>), field sedge (<i>Carex praegracilis</i>), and creeping wild rye (<i>Leymus triticoides</i>).</p> <p>The original planting occurred in December 2013, and in December 2014 volunteers focused on supplemental planting in the same location to replace drought damaged plants. Santa Barbara sedge, common rush, Baltic rush, and field sedge were planted on the lower terrace near the creek and the creeping wild rye was planted on the slopes of the channel.</p> <p>These species spread from underground rhizomes and will anchor the soil to provide erosion control. They are all perennial species that stay green year around and are resistant to fire. The plants are compatible with flood control objectives since they do not have woody stems, and during flood events, they lie down on the slope, thereby reducing flow impedance. They are not sensitive to broadleaf-specific herbicides, and unlike non-native annuals, they provide carbon sequestration and remove as much as ½ ton of carbon per acre per year. Native grasses and sedges can potentially out-compete non-native broadleaf weeds and annual grasses, but they do require maintenance assistance from herbicides.</p> <p>The Division, at the request of The Restoration Trust, spot treats the area with broadleaf herbicides to reduce competition and provide the native plants with an advantage. The Division also provides hand and mechanical mowing, as requested.</p> <p>The Restoration Trust will monitor these plots until 2018 to assess native plant survival, the degree to which they compete with the non-native annual species, and the relative success of seeding</p> |     |

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|  | <p>versus planting plugs.</p> <p><b>CONCLUSIONS:</b> Mulching can be and is used along flood control access roads where the mulch will not drift into the creek. The Public Works Department is experimenting with planting desirable species to out-compete weedy species. This is an IPM technique the Public Works Department is interested in exploring further. However, establishment of desired species takes time, money, water, and attention and may require continued use of herbicide to prevent invasion of undesirable species.</p>   |
| Which physical controls were considered?   | <p><b>Pruning:</b> Trees are pruned for equipment clearance and for line of sight along access roads. Trees that sprout in engineered channels on the slopes or in creek channels are cut down in order to comply with Army Corps of Engineers regulations. The top of the stump is generally painted with an herbicide to ensure control.</p> <p><b>Mowing by machine:</b> Many creek slopes are mowed by tractor for fire prevention, as required by the Fire District. The channels are mowed along the top of the slope and a minimum of 6 ft. down the side of the slope. Mowing works best on open spaces without a lot of trees.</p> <p><b>Mowing by hand:</b> Areas that are not mowed by machine or grazed by animals are usually mowed by a crew with weed whackers.</p> <p><b>Grazing:</b> Grazing is used where the presence of endangered species, such as the red legged frog, make it difficult to mow, for example, on Pine Creek Dam. Grazing is also used in areas such as Pine Creek and Ygnacio Valley Drain where the creek sides are steep and dangerous for human workers. Goats are more expensive than hand mowing but their use can help avoid incurring indirect costs such as staff injuries. See Table 1 for more information on costs.</p> <p>For detailed information on how grazing is used in the County, see the decision document for weed management entitled Using Grazing Animals for Weed Abatement.</p> <p><b>Burning:</b> This technique was used in the past but is no longer because the Bay Area Air Quality Control Board allows burning only in very limited circumstances.</p> <p><b>Electrothermal weeding (Ubiquetek):</b> This method uses a probe carrying electricity at a high voltage (3, 000 to 5,000 to volts) and low amperage (0.5 to 2 amps) to heat plant tissue and kill both roots and above ground plant material. The probe must contact each individual weed. This method is more efficient than steaming or flaming weeds, but would be very slow compared to mowing by machine or hand. Such high voltage is lethal, so the device is potentially extremely dangerous to the operator. This method also poses a fire risk because of the intense heat at the point of contact with the plant that can produce sparks and small flames. Currently there have been no independent evaluations of this method. For these reasons the Department does not consider this a viable tactic at this time.</p> <p><b>Steam weeding (Weedtechnics):</b> This method works by sending water under pressure through a diesel boiler and then out through hoses to an application head. The water comes out at 205 to 218 degrees Fahrenheit. This method is also extremely slow. The applicator must drive around 2 mph to treat effectively. Because of the speed of application and the small water tank, an applicator could only treat 5 to 7 miles before having to refill the tank. This method only penetrates the soil about ¼” so it does not kill underground portions of plants and therefore must be repeated every 3 to 4 weeks. For these reasons the Department does not consider this a viable tactic at this time.</p> <p><b>CONCLUSIONS:</b> Each of these techniques, except burning and electrothermal and steam weeding, is used by the Department where appropriate.</p> |
| Which biological controls were considered? | <p>Biological controls are not applicable in this situation unless a particular invasive weed is the target, and it has a biological control available.</p>   |

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| <p><b>Which chemical controls were considered?</b></p> | <p>During many years of research, experience, and experimentation, including consulting the literature, researchers, and colleagues about materials that are labeled for, and effective on, weeds in rights-of-way, the Division has chosen the herbicide options listed below. The Department continues to consult researchers and colleagues, as well as new literature, to identify new choices that may be more effective or more environmentally friendly.</p>  |
| <p><b>Attach PCA recommendation</b></p>                | <p>Note that the Weed Science Society of America (WSSA) and the Herbicide Resistance Action Committee (HRAC) both create resistance group designations to help weed managers reduce the likelihood of creating resistant weeds. The designations below are from WSSA. Herbicide resistance groups are rotated every 2 to 3 seasons to limit the buildup of herbicide resistant weeds along the roadsides.</p> <p><b>Possible herbicide choices:</b></p> <p><b>Pre-emergent Herbicides</b></p> <p><b>Esplanade, Oust XP, and Resolute 65 WDG are pre-emergent herbicides that are used only on flood control access roads to prevent weed emergence. They each belong to a different resistance management group and are used in rotation to prevent creating herbicide-resistant weeds. The Department uses pre-emergent herbicides to reduce the amount of post-emergent herbicides that are needed. In some areas, it is very difficult to mow either by hand or by machine, and grazing would be too costly. Those areas are treated with herbicide.</b></p> <p><b>Indaziflam (Esplanade®):</b> This pre-emergent herbicide controls a broad spectrum of weeds if applied before germination. It does not generally control weeds after they have emerged. For maximum weed control, the herbicide needs to reach the soil surface and be activated by rainfall or adequate soil moisture. It is applied in the fall to control winter germinating weeds and in the spring to control spring germinating weeds.</p> <p>Signal Word: CAUTION<br/> Rate: 3 to 5 oz/acre<br/> Timing: Before weeds sprout in either fall or spring near the time rain is expected.<br/> Cost to apply (includes material cost): \$125/acre<br/> Herbicide Resistance Management Group: 29</p> <p><b>Sulfometuron methyl (Oust XP®):</b> This pre-emergent and early post-emergent herbicide controls many annual and perennial grasses and broadleaf weeds. The Department uses it to control grasses on flood control access roads.</p> <p>Signal Word: CAUTION<br/> Rate: 3.6 to 4.8 oz/acre<br/> Timing: Before or just after weeds germinate in the fall or spring.<br/> Cost to apply: <b>Need current figures</b><br/> Herbicide Resistance Management Group: 2</p> <p><b>Prodiamine (Resolute® 65 WDG):</b> This pre-emergent herbicide controls grass and broadleaf weeds by preventing the growth and development of newly germinated weed seeds. Weed control is most effective when the product is activated by at least ½" of rainfall or irrigation, or shallow (1" to 2") incorporation before weed seeds germinate and within 14 days following application.</p> <p>Signal Word: CAUTION<br/> Rate: 1 to 2 lbs/acre<br/> Timing: Before fall weeds or spring weeds germinate, and close to the time rain is expected.<br/> Cost to apply (includes material cost): \$97/acre<br/> Herbicide Resistance Management Group: 3</p> <p><b>Post emergent (contact) herbicides</b></p> <p><b>Glyphosate, which is not a selective herbicide, is used at a regular rate in areas where it is not necessary to maintain a cover of grasses. Glyphosate, at a much reduced rate, is used to</b></p> |

chemically “mow”, or stunt, vegetation on creek banks where feasible.

**Garlon 3A and Renovate3** are specific for broadleaf weeds and are used where the Department wants to keep a grassy cover on the creek slopes. Renovate is used to control cattail growth in areas not subject to the injunctions. Either might be used as a cut stump treatment.

**Clearcast** is used for spot treating cattails in flood control channels.

**Glyphosate (Roundup® Pro Concentrate & Roundup Custom®):** Glyphosate is a systemic herbicide (is absorbed into the plant and circulates to kill the entire plant) that will kill almost any type of vegetation—grass, broadleaf, vines, brush, etc. Roundup is used on creek slopes for many different weeds. Roundup Custom is used at a much reduced rate for chemical “mowing” on creek slopes to stunt vegetation but not kill it. Roundup Custom is registered for use in water so the Department uses that formulation if applications are going to be very near water.

Signal Word: CAUTION

Rate for spot spraying on access roads using a boom mounted on a truck: 2 pts in 20 gal of water/acre

Rate for spot spraying by pulling hose with a handgun attached: 6 pts in 100 gal of water/acre

This method is used mostly where a crew must walk rather than drive.

Rate for chemical mowing: 1/5 pt in 10 gal of water/acre

Timing: Varies depending on the location, the weather, the weed growth, the work load

Costs to apply (includes material cost):

- \$135/acre for Roundup application from a boom mounted on a truck
- \$673/acre for Roundup application from a hose with a handgun
- Need current cost/acre for Roundup Custom used for chemical mowing

Herbicide Resistance Management Group: 9

\*\*Enjoined for red legged frog

**Triclopyr TEA (Garlon® 3A and Renovate® 3):** Triclopyr controls woody plants and broadleaf weeds, but not grasses. Renovate is registered for use within or adjacent to aquatic sites.

Signal Word: DANGER (for eye damage to mixer/loader and applicator)

Garlon 3A or Renovate on access roads using a boom mounted on a truck: 2 pts in 20 gal of water/acre

Rate for use of Garlon 3A or Renovate pulling hose with a handgun attached: 4 pts in 100 gal of water/acre

Rate for cut stump treatment: Undiluted material

Timing: Varies depending on the location, the weather, the weed growth, the work load

Cost to apply (includes material cost):

- \$146/acre for Garlon 3A application from a boom mounted on a truck
- \$714/acre for Garlon 3A application from a hose with a handgun
- Need current cost/acre for Renovate application from a boom mounted on a truck
- Need current cost/acre for Renovate application from a hose with a handgun

Herbicide Resistance Management Group: 4

\*\*Enjoined for red legged frog

**Imazamox (Clearcast®):** Imazamox is a post-emergent, slow acting, systemic herbicide for use in and around aquatic and non-cropland sites. **Currently, it is only used for treating cattails with a hose and handgun.**

Signal Word: CAUTION

Rate for spot spraying cattails with a hose and handgun:

Timing:

Cost to apply (includes material cost):

Herbicide Resistance Group: 2

**Herbicides with both Pre- and Post-Emergent Activity**

**Chlorsulfuron (Telar® XP):** Telar XP is both a pre-emergent and post-emergent herbicide for the



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|   | <p>control of many invasive and noxious broadleaf weeds. Warm, moist conditions following application enhance the effectiveness of Telar XP since moisture carries the herbicide into weed roots and prevents them from developing. Weeds hardened off by drought stress are less susceptible to this herbicide. <b>This herbicide is used by the Department mainly for control of perennial pepperweed.</b></p> <p>Signal Word: CAUTION<br/> Rate: 1.6 oz./acre<br/> Timing: Before fall weeds or spring weeds germinate and close to the time rain is expected.<br/> Cost to apply (includes material cost): \$113/acre<br/> Herbicide Resistance Management Group: 2</p> <p><b>Imazapyr (Habitat®):</b> Habitat is registered for the control of undesirable vegetation in and around standing or flowing water, and can be used for wetland, riparian, and terrestrial vegetation growing in or around surface water when treatment might inadvertently result in application to surface water. Habitat has both pre- and post-emergent activity and is a systemic herbicide (is absorbed into the plant and circulates to kill the entire plant) that controls grass and broadleaf weeds, brush, vines, etc. It will not control vegetation submerged in water.</p> <p><b>Habitat is used only as a spot treatment for <i>Arundo</i>, pampas grass, ivy growing on fences and in creeks, and as a cut stump treatment for feral trees (the tree is cut down and the herbicide is immediately applied to the cut stump).</b></p> <p>Signal Word: CAUTION<br/> Rate: 8 oz./3 gal of water in a backpack for spot treatments and for cut stumps<br/> Timing: Timing: Varies depending on the location, the weather, the weed growth, the work load<br/> Cost to apply (includes material cost): Need current cost/acre<br/> Herbicide Resistance Management Group: 2<br/> **Enjoined for red legged frog</p> <p><b>CONCLUSIONS: All of the above herbicides are used where most suitable and are rotated among the different resistance management groups in order to prevent creating herbicide-resistant weeds.</b></p> |
| <b>Which herbicide application methods are available for this chemical?</b> | <p>Methods available:<br/> Current equipment allows for 4 methods of application: a boom attached to a truck, a handgun attached to a hose connected to a truck-mounted tank, spot treatment with a backpack, and spot treatment with a squirt bottle.</p> <p>The truck with a boom is used wherever possible since it is most efficient. A handgun attached to a hose is used where access is difficult for a truck, the backpack sprayer is used for small spot treatments, and the squirt bottle is used for cut stump treatments.</p> <p><b>CONCLUSIONS: The terrain, the proximity to the water, the kind of weed, and the goal of the treatment dictate the application method.</b></p>   |
| <b>What weather concerns must be checked prior to application?</b>          | <p>The Vegetation Manager takes into consideration the pesticide label and all site specific factors. Each day, the Vegetation Manager checks the weather when he/she arrives at work at 6:00 AM. Rain can prevent application of some herbicides because of the danger of runoff. For most pre-emergent herbicides, rain is needed after application for the herbicide to be effective. The Vegetation Manager must also consider wind speed (generally it should be &lt;7 mph) to avoid herbicide drift. Crews carry wind meters in their trucks. Excessive heat or cold makes plants shut down, and herbicide applications then would be ineffective. The Vegetation Manager uses these factors to write Pest Control recommendations for the crew to follow when spraying takes place.</p>  |
| <b>Cost Comparisons for various management</b>                              | <p>See Table 1, below.</p>  |

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| <b>methods</b>   |   |
| <b>Changes in management methods since the previous iteration of this document</b> | <p>Since FY 12-13, changes are as follows:</p> <ul style="list-style-type: none"> <li>• Increased acres mowed on flood control channels by 8%</li> <li>• Reduced acres treated with chemicals on flood control channels by 59%</li> <li>• Increased acres grazed by goats by 74%</li> <li>• Increased acres of aquatic chemical treatments by 11%</li> <li>• Increased acres of access road shoulder and fenceline treatments by 33%</li> </ul> |
| <b>Recommendations from the IPM Advisory Committee</b>                             | <ul style="list-style-type: none"> <li>• Continue to review all vegetation management methods available for flood control channels and access roads considering efficacy, cost, impacts to the environment, and to the human community.</li> <li>• Encourage investigation into, and experimentation with, new methods.</li> <li>• Review this document every 3 years.</li> </ul>   |

**Table 1. Methods, Acres Treated, and Cost\* for Vegetation Management along Contra Costa Roadside and Flood Control Channels, Averaged over Two Years (2014-2016)<sup>§</sup>**

| <b>Vegetation Management Method</b>                            | <b>Acres Treated</b> | <b>% of Total Acres Treated</b> | <b>Total Cost for all acres treated</b> | <b>Cost/ Acre</b> | <b>% of Total Cost for all acres treated</b> | <b>% Change in Total Acres Treated from FY 12-13</b> |
|--|----------------------|---------------------------------|---|-------------------|--|--|
| Chemical Treatment - Roads                                     | 1157                 | 55%                             | \$180,145                               | \$156             | 22%  | -36%   |
| Right of Way Mowing (mainly flood control channels)            | 280                  | 13%                             | \$278,133                               | \$993             | 34%  | +8%  |
| Chemical Treatment – Flood Control Access Roads                | 152                  | 7%                              | \$46,728                                | \$307             | 6%   | +33%   |
| Chemical Treatment – Flood Control Banks                       | 70                   | 3%                              | \$28,657                                | \$409             | 4%   | -59%   |
| Grazing (flood control facilities)                             | 375                  | 18%                             | \$191,301                               | \$510             | 24%  | +74%   |
| Chemical Treatment - Aquatic Applications                      | 66                   | 3%                              | \$46,125                                | \$699             | 6%   | +11%   |
| Mulching (flood control fence-lines and access road shoulders) | 10                   | 0.5%                            | \$36,923                                | \$3692            | 4%   | +43%   |
| Totals   | 2110                 |                                 | \$808,012                               |                   |  | -20%   |

\*Table lists the most accurate costs available.

<sup>§</sup>Table is updated each year in the IPM Annual Report. See [cchealth.org/ipm](http://cchealth.org/ipm).



## **Attachment B.**

- Report from the IPM Outreach Subcommittee to the Contra Costa County IPM Advisory Committee
- Pests and Rental Housing in California: *Know your rights and responsibilities!*
- Script for Pest Management Awareness for In-home Visitors PowerPoint Presentation



## **Report from the IPM Outreach Subcommittee to the Contra Costa County IPM Advisory Committee**

Prepared by Tanya Drlik, IPM Coordinator, November, 2017

### **Members**

Jim Cartan  
Susan Heckly  
Michael Kent – Chair  
Andrew Sutherland

To date, the IPM Outreach subcommittee has met five times in 2017: February 14, April 25, May 30, July 6, August 17, and October 11.

At their first meeting, after electing Michael Kent as chair, the subcommittee decided to work with the County's most vulnerable populations through outreach to in-home visitors with the goals of

- Informing County staff of the public health risks of having pests in the home.
- Helping staff to recognize pest problems in their clients' homes.
- Making staff aware of the resources available for their clients.

The subcommittee invited various County programs to a meeting to explain the subcommittee's ideas about the outreach program and to obtain feedback from the program representatives. The following programs either attended the meeting or were contacted by the Chair:

- Senior Nutrition Program (Meals on Wheels)
- Adult Protective Services
- WIC
- In Home Support Services
- Head Start
- Behavioral Health in-home nurses
- Public Health nurses

The response from program representatives was positive, and the subcommittee began work on a PowerPoint presentation with the aim of giving presentations to County staff starting in fall 2017.

The subcommittee gathered pest management resources and created a fact sheet to clarify tenant and landlord responsibilities regarding pest management. (See attached.)

The subcommittee reviewed and revised the presentation and gave a sample presentation to the entire IPM Advisory Committee at its September 2017 meeting to gain additional feedback. The subcommittee has encouraged all members of the Outreach subcommittee to consider giving the presentation to one of the target organizations.

The final script for the presentation is attached.

The Chair and the IPM Coordinator will devise a schedule of presentations for the fall and winter.

## Pests and Rental Housing in California

### *Know your rights and responsibilities!*

Pests such as rodents, cockroaches, bed bugs, and ants can cause serious problems in your home and may threaten your health and well-being. Make sure you know your rights and responsibilities as a tenant of rental housing in California. Remember that you must work together with your landlord to solve problems and improve conditions in your community.

- **You have a right to safe and healthy housing.** Your landlord must make sure your unit is fit to live in ('habitable') when you move in (CA Civil Code Section 1941). They must also repair any problems that make your unit unfit to live in while you are there (CA Civil Code Section 1941). This includes pest and mold (CA Senate Bill 655) problems! Landlords must also fix problems that are contributing to pest problems (CA Senate Bill 1167), such as water leaks, gaps around doors and windows that provide pest access, and holes and crevices that provide places for pests to hide.
  - **You must notify your landlord when you have pest problems.** Your landlord needs to know when you have issues with pests. Let them know as soon as possible when you observe rodents, cockroaches, or other pests in your unit. For bed bugs, this notification is your legal responsibility, especially if your building includes five or more units (CA Assembly Bill 551).
  - **You are responsible for pest prevention in your unit.** You must take reasonable care of your unit (CA Civil Code Sections 1941 and 1942). This means that you must keep things clean and tidy in your home. Proper sanitation will prevent pests like cockroaches and ants from becoming problems.
  - **You have a right to know about pest management in your unit.** Your landlord must inform you in advance when they plan to enter your unit for pest management (CA Civil Code Section 1954). They must also inform you of pesticide applications that will take place in your unit (CA Civil Code Section 1940). These notices should be written, providing at least 24 hours' notice. If mailed to your home, these notices may require up to six days' notice.
  - **You have the right to seek help if your landlord will not manage pests in your home.**
    - Contact Code Enforcement in the jurisdiction of your residence.
- Help for tenants regarding legal aspects can be found by going to:
- Contra Costa Bar Association (<http://www.cccba.org/>)
  - [www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)
  - Tenants Together (<http://www.tenantsaltogether.org/>) or other tenants' rights organizations
  - Echo Housing provides help to some residents of CCC (<http://www.echofairhousing.org/tenantlandlord-services.html>)

(Note for subcomm: add an East CCC resource)

To learn more about your rights as a tenant in California, please review the Department of Consumer Affairs guide *California Tenants*: <http://www.dca.ca.gov/publications/landlordbook/catenant.pdf>

# Script for Pest Management Awareness for In-home Visitors PowerPoint Presentation

## Slide 1

Hi, I'm \_\_\_\_\_ from the County's Integrated Pest Management Committee. The County is dedicated to using a least hazardous approach to managing pests. I'm here because we think home visitors can learn about this approach to help your clients.

Ideas for props: Climbups, snap traps-Victor and T-Rex, cockroach bait stations, roach motels, mattress encasement, food storage container-plastic and glass

## Slide 2: What we'll cover today

READ text on slide out loud:

What we'll cover today:

- Common pest problems and some solutions
- Opportunities for you to help your clients
- Resources for helping your clients)

You can decide how you want to use the resources and what you are comfortable with in helping your clients.

## Slide 3: Why care about pests in the home?

So, why should we care about pests in the home?

Pests can damage our health, our buildings, and our food. Insects, rodents, molds, and microbes can all be considered pests.

## Slide 4: Asthma triggers

Asthma is the health problem most commonly impacted by the home environment.

When we think about asthma triggers we usually think of pet dander, pollen, cigarette smoke and mold, but did you know that pests can be asthma triggers too?

## Slide 5: Asthma triggers from pests

Dust mite skins, feces, and secretions are the most common allergenic component in house dust. Cockroach droppings and scales, as well as mouse urine, have been shown to contain potent allergens. If we can reduce these asthma triggers, we can have healthier living spaces.

## Slide 6: Pests create other hazards in the home

Pests create other hazards in the home.

Rodents can carry *Salmonella* in their gut, and when they contaminate food in the home, there is a risk of food poisoning.

There are mites that ride around on rats and are capable of biting people, especially if the rat makes a nest in the home and then abandons it.

Rats can and do bite people, and of course bed bugs bite people.

A serious problem with rodents is that they often gnaw on electrical wires and cause fires or electrical shorts.

## Slide 7: Other problems with pests

There are still other problems with pests in the home.

Rodents eat our food but they contaminate much more food than they eat.

Rodents do a lot of gnawing which damages personal belongings and structures.

This is a couch we found in a Richmond motel where mice had chewed holes under the cushions to make a home.



This is a picture of a hole that rats gnawed in the wall to get from their nest in the wall out into the home to get food.

#### **Slide 8: Other problems with pests**

You may have had grain moths or beetles in your kitchen and had to throw away the food.

And maybe you've had carpet beetles or clothes moths ruin belongings.

#### **Slide 9: Bed bugs can cause:**

There has been a resurgence of bed bugs throughout the U.S. You will be encountering them more and more often.

Having bed bugs can make it very hard for people to sleep.

Bed bugs can make people really anxious and may cause depression and other psychological problems.

We have seen people spraying pesticides on their baby's crib mattress and on their children's clothes.

We've seen people setting off numerous bug bombs at once in their homes. These pesticides don't help and are hazardous to everyone's health.

#### **Slide 10: What happens when there is a lack of pest control services?**

What we have seen is that poor or nonexistent pest control services can drive residents to take matters into their own hands by applying store-bought pesticides.

Many people think that since a little pesticide is good, a lot must be better! This can be hazardous to people's health.

#### **Slide 11: What can you do to help?**

Perhaps the best way for you to detect pest problems is to listen to your clients.

Sometimes your clients may not be aware that they have pest problems.

You can share resources and information about pests and pest management from CC County and the Univ. of CA.

Your clients will learn that you have information and connections and will share pest info with you.

In this way you can help create a healthier environment for them.

#### **Slide 12: Signs of rats & mice**

Pests often leave distinctive evidence that says they've been around.

You may see some of these signs and be able to help your client even though they don't know they need help.

Here you can see mice and rat droppings compared to rice grains.

#### **Slide 13: Signs of bed bugs**

With bed bugs, you might see blood stains, live bugs, or fecal spots.

If you see bites, it could warrant further investigation.

But understand that no one can tell what caused a bite.

It is not possible to tell a mosquito or flea bite from a bed bug bite, no matter what a doctor might tell you.

#### **Slide 14: Signs of cockroaches**

With cockroaches, you might see live bugs or their droppings in places they hang out, like in cupboards or under the sink.

#### **Slide 15: Pest Prevention**

Preventing pests is the most effective way to control them. It's more work, but prevention is a long-lasting solution.

Prevention has many benefits.  
READ text on slide out loud.

**Slide 16: Prevention—Understand what all pests need**

To prevent pests, we need to understand what they need. Pests need access to a dwelling to cause problems, and their other needs are the same as for humans: food, water, & shelter.

Pests get in through holes and cracks, they come in on food from the grocery store, and we may bring them in on our personal belongings.

Visitors can bring in pests, and pests can move from one apartment to another through the walls and under doors.

Once inside, pests need the same things we do: food, water and shelter.

If we can reduce the access or curtail the availability of food, water, or shelter, we can make a big difference.

**Slide 17: Deny access to the structure**

Pests can get in through small holes, gaps, or cracks. We can reduce pest access by filling holes, putting doorsweeps at the bottom of doors, and putting screens on windows.

A door sweep is fastened to the bottom of a door to close the gap between the door and the floor.

Inspect items you bring into the house for pests like cockroaches or bed bugs.

**Slide 18: Store food properly**

Food should be stored properly: in the refrigerator, in plastic containers with tight-fitting lids, in glass jars.

**Slide 19: Keep things clean**

It's important to keep things clean. Spilled food or drinks and crumbs provide plenty of food for pests.

**Slide 20: Wash sheets at least every 2 weeks**

Sheets should be washed at least every 2 weeks and dried on "high".

READ bullet text on slide.

**Slide 21: Remove food garbage**

If cockroaches or ants are the problem, seal up food garbage overnight.

Night time is when cockroaches come out to feed, and night is when ants can discover leftover food when you're not around to clean up.

Be sure to remove garbage frequently and put in the outside trash can.

**Slide 22: Remove food garbage**

Mice and rats can chew through a garbage bag, so if they are the problem, remove food garbage every day before you go to bed.

Don't leave garbage outside of your trash cans, and make sure to close the lid.

You don't want to be feeding rodents at your garbage cans.

**Slide 23: Water**

Excess water in the home increases the humidity. This is an ideal environment for cockroaches, dust mites, and mold. Wet, decaying wood is very attractive to termites.

- Fix leaking pipes
- Open the window or turn on the fan when showering.

If the fan isn't working, it should be fixed.

**Slide 24: Shelter**

READ text on slide.

Then:

It also collects mouse urine & dust.

**Slide 25: A team approach is necessary to solve pest problems.**

A team is necessary to solve pest problems.

Pests like rodents, bed bugs, and cockroaches can make their way through the walls of an apartment building, so controlling them requires cooperation among tenants, landlords and pest management professionals.

**Slide 26: Cooperative Roles in Pest Management**

Everybody has a role in pest management.

These are the tenant's responsibilities.

READ bullet text on slide.

**Slide 27: Cooperative Roles--Landlords**

Landlords have responsibilities too. Some of them are written into law.

READ bullet text on slide.

**Slide 28: Cooperative Roles—Landlords, cont.**

(READ text on slide.)

**Slide 29: Cooperative Roles—Pest Mgmt Professionals**

READ 1<sup>st</sup> bullet.

Conducive conditions are things like holes around pipes, excessive moisture, or poor sanitation that encourage pests to take up residence.

READ remaining text on slide.

**Slide 30: Benefits of Using Pest Management Professionals**

And there are benefits to using professional.

READ bullet text on slide.

We recommend using professionals, but we do have tips for your clients that can help them if they own their home or if their landlord won't do anything to help them.

**Slide 31: Special Tips for Bed Bugs**

A clothes dryer will kill all stages of bed bugs: items that are dry should be tumbled for 15 minutes on high; wet items should be dried first and then tumbled an extra 15 minutes on high to make sure bugs are dead.

The Climbup Interceptor is a plastic dish that is rough on the outside, but very smooth and slippery on the inside. Bed bugs wander in to Climbup Interceptors -- there is no attractant or pesticide needed. Once they are in, they can't climb out.

You can place 3 or 4 in each room and check them after about 2 weeks to see if the apartment has bed bugs.

You can place them under the legs of a bed that has been thoroughly cleaned to protect the bed.

Climbup Interceptors are available from Amazon or can be ordered from Home Depot.

(Show audience examples of Climbups.)

**Slide 32: Special Tips for Cockroaches**

READ text on slide.

**Slide 33: Special Tips for Rodents**

READ text on slide.

**Slide 34: Special Tips for Ants**

READ text on slide.

So, are you noticing a pattern here? Don't leave food out, clean up, and take out the garbage!

**Slide 35: Questions?**

I'm going to pass out our resource sheet.

I'm happy to answer any questions, and you're welcome to come up and look at the products.



## **Attachment C.**

- **Pesticide Use Reporting**

**(See separate PDF for Contra Costa Operations Pesticide Use Data Spreadsheet)**



## Pesticide Use Reporting

(See separate PDF for Contra Costa County Operations Pesticide Use Data Spreadsheet)

### History of Pesticide Use Reporting

Since the 1950s, the State of California has required at least some kind of pesticide use reporting, but in 1990, the comprehensive reporting program we have now went into effect.

California was the first state in the nation to require full reporting of all agricultural and governmental agency pesticide use. The current reporting system exempts home use pesticides and sanitizers, such as bleach, from reporting requirements. (Sanitizers are considered pesticides.)

### What does “pesticide” mean?

The California Department of Pesticide Regulation (DPR) defines pesticide as “any substance or mixture of substances intended for preventing, destroying, repelling or mitigating insects, rodents, nematodes, fungi, weeds, or other pests. In California plant growth regulators, defoliants, and desiccants, as well as adjuvants, are also regulated as pesticides.”

“Adjuvants” increase pesticide efficacy and include emulsifiers, spreaders, foam suppressants, wetting agents, and other efficacy enhancers. In FY 16-17, Contra Costa County operations used a total of 4,709 lbs. of pesticide active ingredients, which included 2,322 lbs. of spray adjuvant active ingredients that were used to prevent foaming, to reduce pesticide drift, and change the pH of local water used in spraying.

### How Pesticide Use is Reported to the State

Pesticide use data is reported monthly to the County Agriculture Commissioner. The data is checked and sent on to DPR, which maintains a database of pesticide use for the entire state. Although pesticide use is reported to DPR as pounds, ounces, or gallons of pesticide product, DPR reports pesticide use in its database as pounds of active ingredient.

DPR defines active ingredient as “[a]n agent in a product primarily responsible for the intended pesticidal effects and which is shown as an active ingredient on a pesticide label.” (Since adjuvants are regulated as pesticides in California, the active ingredients of adjuvants are also included in DPR’s database.)

### How Pesticide Use is Reported by Contra Costa County Operations

The attached spreadsheet records pesticide use data only for County operations and not for any other agency, entity, company, or individual in the County.

Since DPR reports California pesticide use in pounds of active ingredient, Contra Costa County does the same. The County uses the same formula for converting gallons of pesticide product into pounds of active ingredient that the state uses:

**Pounds of Active Ingredient =**

**gallons of product used X 8.33 lbs/gallon of water X the specific gravity of the product X the % of active ingredient in the product**



CONTRA COSTA COUNTY OPERATIONS - PESTICIDE USE SUMMARY COMPARISON FY 00-01 to FY 16-17, Revised 11-14-17

PESTICIDES OF CONCERN ARE SHADED (Pesticide Action Network defined "Bad Actors")

Contra Costa County Public Works

|   | Name of Product Applied           | EPA or Calif. Registration # | Amt Used FY 00-01 | Specific Gravity | % A. I. | Total Lbs A.I. Used FY 00-01 | Amt Used FY 12-13 | Total Lbs A.I. Used 12-13 | Amt Used FY 13-14 | Total Lbs A.I. Used 13-14 | Amt Used FY 14-15 | Total Lbs A.I. Used 14-15 | Amt Used FY 15-16 | Total Lbs A.I. Used 15-16 | Amt Used FY 16-17 | Total Lbs A.I. Used 16-17 |
|---|-----------------------------------|------------------------------|-------------------|------------------|---------|------------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|
|   | Liquid Materials                  |                              | (gallons)         |                  |         |                              | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           |
| Adjuvant  | Activator 90                      | 36208-50014                  | 613.88            | 1.040            | 90.000  | 4786.31                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Adjuvant  | Agri-Dex                          | 5905-50094-AA                |                   | 0.879            | 99.000  |                              |                   |                           |                   |                           |                   |                           | 84.75             | 614.34                    | 49.5              | 358.82                    |
| Glyphosate, isopropylamine salt                               | AquaMaster                        | 524-343                      | 0.00              | 1.205            | 53.800  |                              | 55.75             | 301.06                    | 47.25             | 255.16                    | 26.38             | 142.46                    |                   |                           |                   |                           |
|   | Chemtrol                          | 36208-50015                  | 14.00             | 0.995            | 1.000   | 1.16                         |                   |                           | 8.50              | 0.70                      |                   |                           |                   |                           |                   |                           |
| Penoxulam   | Cleantraxx                        | 62719-702-AA                 |                   | 1.177            | 0.850   |                              |                   |                           |                   |                           |                   |                           |                   |                           | 1.5               | 0.13                      |
| Oxyfluorfen   |                                   |                              |                   | 1.177            | 40.310  |                              |                   |                           |                   |                           |                   |                           |                   |                           | 1.5               | 5.93                      |
| Sodium salt of Imazxamox                                      | Clearcast                         | 241-437-AA-67690             |                   | 1.049            | 12.100  |                              |                   |                           | 5.00              | 5.29                      | 3.50              | 3.70                      | 3.31              | 3.50                      |                   |                           |
| Copper ethanolamine complexes, mixed                          | Citrine Plus                      | 8959-10-AA                   | 65.00             | 1.206            | 9.000   | 58.78                        | 7.50              | 6.78                      | 5.00              | 4.52                      |                   |                           |                   |                           |                   |                           |
| Dithiopyr   | Dimension 2EW                     | 62719-542-AA                 |                   | 1.001            | 24.000  |                              |                   |                           |                   |                           |                   |                           | 0.31              | 0.62                      |                   |                           |
| Indaziflam  | Esplanade 200 SC                  | 432-1516-AA                  |                   | 1.050            | 19.050  |                              | 2.50              | 4.17                      | 25.00             | 41.66                     | 25.14             | 41.89                     | 28.44             | 47.39                     | 24.96             | 41.59                     |
| Prodiamine  | Evade 4FL                         | 34704-915-AA                 |                   | 1.184            | 40.500  |                              |                   |                           |                   |                           |                   |                           |                   |                           | 21.25             | 84.88                     |
| Adjuvant  | Foam Fighter F                    | 36208-50015                  | 1.25              | 0.995            | 5.000   | 0.52                         |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Dimethyl silicone fluid emulsion                              | Foam Fighter F                    | 36208-50003, 72-50005-AA     | 0.00              | 1.000            | 10.000  |                              | 0.88              | 0.73                      | 0.63              | 0.52                      |                   |                           |                   |                           |                   |                           |
| Triclopyr triethylamine salt                                  | Garlon 3A                         | 62719-37-ZA                  | 64.00             | 1.135            | 44.400  | 268.66                       | 240.13            | 1008.02                   | 119.69            | 502.44                    | 166.75            | 699.99                    | 153.13            | 642.81                    | 186.38            | 782.39                    |
| Triclopyr BEE   | Garlon 4                          | 62719-40                     | 51.25             | 1.060            | 61.600  | 278.76                       | 2.00              | 10.88                     | 3.50              | 19.04                     |                   |                           |                   |                           |                   |                           |
| Oxyfluorfen   | Goal                              | 707-174                      | 2.00              | 0.990            | 19.400  | 3.20                         |                   |                           |                   |                           |                   |                           |                   |                           |                   | 0.00                      |
| Oxyfluorfen   | Goal Tender                       | 62719-447-ZA                 | 0.00              | 1.170            | 41.000  |                              | 0.50              | 2.00                      |                   |                           |                   |                           | 13.38             | 53.47                     |                   |                           |
| Imazapyr, isopropylamine salt                                 | Habitat                           | 241-426-AA                   | 0.00              | 1.068            | 28.700  |                              | 2.25              | 5.75                      | 0.88              | 2.25                      | 2.19              | 5.59                      | 3.55              | 9.07                      | 0.39              | 1.00                      |
| Heavy-range paraffin based petroleum oil+nonionic emulsifiers | Helena Agri-Dex                   | 5905-50017-AA                |                   | 0.879            | 99.000  |                              |                   |                           |                   |                           | 2.00              | 14.50                     |                   |                           |                   |                           |
| Aminopyralid, tri isopropanolamine salt                       | Milestone                         | 62719-519-AA                 |                   | 1.140            | 40.600  |                              |                   |                           |                   |                           |                   |                           | 4.75              | 18.31                     | 14.06             | 54.21                     |
| Aminopyralid, tri isopropanolamine salt                       | Milestone VM                      | 62719-537-AA                 | 0.00              | 1.140            | 40.600  |                              | 31.15             | 120.12                    | 14.88             | 57.36                     | 13.09             | 50.48                     | 8.72              | 33.63                     |                   |                           |
|   | M.O.C. Methylated Oil Concentrate | 5905-50095-AA                |                   | 0.891            | 100.000 |                              |                   |                           |                   |                           |                   |                           | 2.75              | 20.41                     | 2.38              | 17.66                     |
| Adjuvant  | MSO Conc w/Leci-Tech              | 34704-50053-AA               |                   | 0.900            | 100.000 |                              |                   |                           |                   |                           | 0.38              | 2.85                      |                   |                           |                   |                           |
| Adjuvant  | No Foam A                         | 11656-50086-ZA & AA          | 0.00              | 1.050            | 90.000  |                              | 291.00            | 2290.71                   | 230.85            | 1817.22                   | 209.00            | 1645.22                   | 121.75            | 958.40                    |                   |                           |
| Adjuvant  | No Foam A                         | 1050775-50015-AA             |                   | 1.060            | 90.000  |                              |                   |                           |                   |                           |                   |                           | 0.5               | 3.97                      | 131.88            | 1048.03                   |
| Pendimethalin   | Pendulum Aquacap                  | 241-416-AA                   | 0.00              | 1.175            | 38.700  |                              |                   |                           |                   |                           |                   |                           | 5.00              | 18.94                     |                   |                           |
| Imazapyr, isopropylamine salt                                 | Polaris                           | 228-534-AA                   |                   | 1.057            | 27.700  |                              | 11.00             | 26.83                     | 12.02             | 29.32                     |                   |                           | 0.33              | 0.80                      |                   |                           |
| Triclopyr TEA   | Renovate 3                        | 62719-37-67690               | 0.00              | 1.140            | 44.400  |                              | 34.50             | 145.49                    | 87.00             | 366.88                    | 35.13             | 148.15                    | 27.63             | 116.52                    | 27.5              | 115.97                    |
| Glyphosate,   | Rodeo                             | 524-343                      | 221.00            | 1.205            | 53.800  | 1193.46                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Glyphosate, isopropylamine salt                               | Roundup Custom                    | 524-343-ZC & ZG              |                   | 1.206            | 53.800  |                              |                   |                           |                   |                           | 29.94             | 161.82                    | 49.19             | 265.86                    | 42.5              | 229.70                    |
|   | Roundup Pro                       | 524-475-ZA & ZB              | 510.75            | 1.170            | 41.000  | 2041.43                      |                   |                           |                   |                           | 12.00             | 47.96                     | 36.63             | 146.41                    |                   |                           |

CONTRA COSTA COUNTY OPERATIONS - PESTICIDE USE SUMMARY COMPARISON FY 00-01 to FY 16-17, Revised 11-14-17

| Contra Costa County Public Works (continued) |                            |                              |                   |                  |         |                              |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|--|----------------------------|------------------------------|-------------------|------------------|---------|------------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|
|  | Name of Product Applied    | EPA or Calif. Registration # | Amt Used FY 00-01 | Specific Gravity | % A. I. | Total Lbs A.I. Used FY 00-01 | Amt Used FY 12-13 | Total Lbs A.I. Used 12-13 | Amt Used FY 13-14 | Total Lbs A.I. Used 13-14 | Amt Used FY 14-15 | Total Lbs A.I. Used 14-15 | Amt Used FY 15-16 | Total Lbs A.I. Used 15-16 | Amt Used FY 16-17 | Total Lbs A.I. Used 16-17 |
|  | Liquid Materials           |                              | (gallons)         |                  |         |                              | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           |
| Glyphosate, isopropylamine salt              | Roundup Pro Conc.          | 524-529                      | 0.00              | 1.199            | 50.200  |                              | 298.50            | 1496.00                   | 273.16            | 1369.00                   | 240.75            | 1206.57                   | 238.63            | 1195.95                   | 280.13            | 1403.93                   |
| Glyphosate, isopropylamine salt              | Roundup Tough Weed Formula | 239-2636                     |                   | 1.070            | 18.000  |                              | 61.13             | 98.07                     |                   |                           |                   |                           |                   |                           |                   |                           |
| Maleic hydrazide                             | Royal Slo Gro              | 400-94-AA                    |                   | 1.135            | 21.700  |                              | 20.00             | 41.03                     |                   |                           |                   |                           |                   |                           |                   |                           |
| Imazapyr, isopropylamine salt                | Stalker                    | 241-398                      | 5.63              | 1.050            | 27.600  | 13.58                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Adjuvant                                     | Silicone Super Wetter      | 17545-50029-AA               |                   | 0.994            | 100.000 |                              |                   |                           | 0.19              | 1.57                      |                   |                           |                   |                           |                   |                           |
| Adjuvant                                     | Silwet L-77                | 36208-50025                  | 1.70              | 1.007            | 100.000 | 14.26                        | 1.88              | 15.77                     |                   |                           |                   |                           |                   |                           |                   |                           |
| Adjuvant                                     | Smoke                      | 5905-50104-AA                |                   | 1.160            | 56.400  |                              |                   |                           |                   |                           |                   |                           |                   |                           | 3.25              | 17.71                     |
| Oryzalin                                     | Surflan A.S.               | 62719-113                    | 14.25             | 1.188            | 40.400  | 56.97                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Oryzalin                                     | Surflan A.S.               | 70506-44                     | 0.00              | 1.236            | 40.400  |                              |                   |                           |                   |                           | 12.00             | 49.92                     |                   |                           |                   |                           |
| Adjuvant/Surfactant                          | Surphtac                   | 68891-50001-AA               | 39.63             | 1.118            | 53.400  | 197.06                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Adjuvant/Surfactant                          | Surphtac                   | 11656-50093                  | 0.00              | 1.180            | 53.400  |                              | 33.13             | 173.90                    | 29.00             | 152.22                    | 20.81             | 109.23                    | 11.56             | 60.68                     |                   |                           |
| Adjuvant/Surfactant                          | Surphtac                   | 34704-50086                  |                   | 1.096            | 33.000  |                              |                   |                           |                   |                           |                   |                           | 9.56              | 28.80                     | 23.19             | 69.87                     |
| Clopyralid                                   | Transline                  | 62719-259                    | 22.50             | 1.161            | 40.900  | 89.00                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Adjuvant                                     | Unfoamer                   | 34704-50062-AA               |                   | 1.000            | 12.500  |                              |                   |                           |                   |                           | 0.5               | 0.52                      | 0.13              | 0.14                      |                   |                           |
|  | Vanquish                   | 55947-46                     | 230.00            | 1.250            | 56.800  | 1360.29                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Dicamba, diglycolamine salt                  | Vanquish                   | 228-397                      | 0.00              | 1.250            | 56.800  |                              | 56.38             | 333.45                    | 0.75              | 4.44                      | 24.56             | 145.26                    | 7.5               | 44.36                     |                   |                           |
|  | Weedar 64                  | 71368-1-264                  | 526.75            | 1.160            | 38.900  | 1979.96                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  |                            |                              |                   |                  |         |                              |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | Dry Materials              | For dry materials: Ar        | (pounds)          |                  |         |                              |                   |                           | (pounds)          |                           | (pounds)          |                           | (pounds)          |                           | (pounds)          |                           |
| Dithiopyr                                    | Dimension Ultra 40 WP      | 62719-445                    | 0.00              | N/A              | 40.000  |                              |                   |                           |                   |                           |                   |                           | 3.75              | 1.50                      |                   |                           |
|  | Direx 80DF                 | 352-508-1812                 | 2875.00           | N/A              | 80.000  | 2300.00                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | Endurance                  | 55947-43                     | 1513.00           | N/A              | 65.000  | 983.45                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Isoxaben                                     | Gallery 75DF               | 62719-145                    | 54.00             | N/A              | 75.000  | 40.50                        | 21.00             | 15.75                     | 15.00             | 11.25                     | 48.50             | 36.38                     |                   |                           |                   |                           |
|  | Gallery SC                 | 62719-658 AA                 |                   | N/A              | 45.450  |                              |                   |                           |                   |                           | 13.00             | 5.91                      | 452.50            | 205.66                    | 60.00             | 27.27                     |
| Sulfometuron methyl                          | Oust                       | 352-401                      | 27.38             | N/A              | 75.000  | 20.53                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | Oust XP                    | 352-601                      |                   | N/A              | 75.000  |                              | 19.00             | 14.25                     | 12.74             | 9.56                      |                   |                           |                   |                           |                   |                           |
|  | Predict                    | 55947-78                     | 495.00            | N/A              | 78.600  | 389.07                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Prodiamine                                   | ProClipse 65 WDG           | 228-434                      |                   | N/A              | 65.000  |                              | 690.00            | 448.50                    | 48.00             | 31.20                     | 383.00            | 248.95                    |                   |                           |                   |                           |
| Prodiamine                                   | Resolute 65WG              | 100-834-ZE                   |                   | N/A              | 65.000  |                              |                   |                           |                   |                           |                   |                           | 148.00            | 96.20                     | 95.00             | 61.75                     |
|  | Ronstar 50WSP              | 264-538                      | 120.00            | N/A              | 50.000  | 60.00                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | Simtrol 90DF               | 35915-12-60063               | 430.00            | N/A              | 90.000  | 387.00                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Tebuthiuron                                  | Spike 80DF                 | 62719-107                    | 60.00             | N/A              | 80.000  | 48.00                        |                   |                           |                   |                           |                   |                           | 24.00             | 19.20                     |                   |                           |
| Chlorsulfuron                                | Telar DF                   | 352-522-ZA                   |                   | N/A              | 75.000  |                              |                   |                           |                   |                           | 1.00              | 0.75                      |                   |                           |                   |                           |
| Chlorsulfuron                                | Telar XP                   | 352-654-AA                   |                   | N/A              | 75.000  |                              | 8.00              | 6.00                      | 9.01              | 6.76                      | 16.00             | 12.00                     | 0.63              | 0.47                      |                   |                           |
| Chlorsulfuron                                | Telar                      | 352-404                      | 25.38             | N/A              | 75.000  | 19.031                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| TOTAL:                                       |                            |                              |                   |                  |         | 16590.97                     |                   | 6565.25                   |                   | 4688.34                   |                   | 4780.08                   |                   | 4607.39                   |                   | 4320.83                   |
| "Bad Actors" w/May 2013 changes              |                            |                              |                   |                  |         | 5764.53                      |                   | 1340.19                   |                   | 1032.82                   |                   | 1020.03                   |                   | 779.00                    |                   | 898.36                    |

CONTRA COSTA COUNTY OPERATIONS - PESTICIDE USE SUMMARY COMPARISON FY 00-01 to FY 16-17, Revised 11-14-17

Contra Costa County Public Works, Special Districts

| Name of<br>Product Applied      |                                       | EPA or Calif.<br>Reg # | Amt Used<br>FY 07-08 &<br>before | Specific<br>Gravity | %<br>A.I. | Total Lbs A.I.<br>Used FY 07-08 &<br>before |  |          | Amt Used<br>FY 13-14 | Total Lbs A.I.<br>Used 13-14 | Amt Used<br>FY 14-15 | Total Lbs A.I.<br>Used 14-15 | Amt Used<br>FY 15-16 | Total Lbs A.I.<br>Used 15-16 | Amt Used<br>FY 16-17 | Total Lbs A.I.<br>Used 16-17 |
|---------------------------------|---------------------------------------|------------------------|----------------------------------|---------------------|-----------|---|--|----------|----------------------|------------------------------|----------------------|------------------------------|----------------------|------------------------------|----------------------|------------------------------|
| Dry Materials                   |                                       |                        | (pounds)                         | t. used x % AI      |           |   |  | (pounds) |                      |                              | (pounds)             |                              | (pounds)             |                              | (pounds)             |                              |
| Diphacinone                     | Diphacinone Treated Grain Rodent Bait | 10965-50001-ZA         | no data                          | N/A                 | 0.005     | no data                                     |  |          | 45.00                | 0.00225                      | 29.00                | 0.00145                      | 1.00                 | 0.00005                      | 10.00                | 0.00050                      |
| Diphacinone                     | Eaton's Answer                        | 56-57                  | no data                          | N/A                 | 0.005     | no data                                     |  |          | 39.00                | 0.00195                      | 16.00                | 0.00080                      | 17.00                | 0.00085                      | 5.00                 | 0.00025                      |
| Diphacinone                     | Eaton's Bait Blocks                   | 56-42                  | no data                          | N/A                 | 0.005     | no data                                     |  |          | 4.00                 | 0.00020                      | 8.50                 | 0.00043                      | 9.50                 | 0.00048                      | 3.00                 | 0.00015                      |
| Diphacinone                     | Gopher Getter Type 2 AG Bait          | 36029-23               | no data                          | N/A                 | 0.005     | no data                                     |  |          |                      |                              |                      |                              |                      |                              |                      |                              |
| Diphacinone                     | Gopher Getter Type 2 AG Bait          | 36029-24               | no data                          | N/A                 | 0.005     | no data                                     |  |          |                      |                              |                      |                              |                      |                              |                      |                              |
| Diphacinone                     | P.C.Q. Pelleted Rodent Bait           | 12455-50003-AA         | no data                          | N/A                 | 0.010     | no data                                     |  |          |                      |                              |                      |                              |                      |                              |                      |                              |
| Aluminum phosphide              | Weevil-cide                           | 70506-13               | no data                          | N/A                 | 60.000    | no data                                     |  |          | 2.65                 | 1.59000                      |                      |                              |                      |                              |                      |                              |
| TOTAL                           |                                       |                        |                                  |                     |           |   |  |          | 1.594400             |                              |                      | 0.00268                      |                      | 0.00138                      |                      | 0.00090                      |
| TOTAL Oz.                       |                                       |                        |                                  |                     |           |   |  |          |                      |                              |                      | 0.04 oz                      |                      | 0.02                         |                      | 0.01                         |
| "Bad Actors" w/May 2013 changes |                                       |                        |                                  |                     |           |   |  |          | 1.59                 |                              |                      | 0.00                         |                      | 0.00                         |                      | 0.00                         |

CONTRA COSTA COUNTY OPERATIONS - PESTICIDE USE SUMMARY COMPARISON FY 00-01 to FY 16-17, Revised 11-14-17

Contra Costa County Department of Agriculture

|  |                            | Gal. used x 8.33 lbs/gal H2O x sp. Grav. x %AI |                   |                  |         |                             |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|--|----------------------------|--|-------------------|------------------|---------|-----------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|-------------------|---------------------------|
|  | Name of Product Applied    | EPA or Calif. Registration #                   | Amt Used FY 00-01 | Specific Gravity | % A. I. | Total Lbs A.I Used FY 00-01 | Amt Used FY 12-13 | Total Lbs A.I. Used 12-13 | Amt Used FY 13-14 | Total Lbs A.I. Used 13-14 | Amt Used FY 14-15 | Total Lbs A.I. Used 14-15 | Amt Used FY 15-16 | Total Lbs A.I. Used 15-16 | Amt Used FY 16-17 | Total Lbs A.I. Used 16-17 |
|  | Liquid Materials (gallons) |  |                   |                  |         |                             | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           | (gallons)         |                           |
| glyphosate                               | Aquamaster                 | 524-343  |                   | 1.205            | 53.80   |                             | 0.98              | 5.29                      | 3.12              | 16.85                     |                   |                           |                   |                           |                   |                           |
| Dicamba & 2.4 D                          | Banvel                     | 55947-1  | 14.91             | 1.211            | 48.20   | 72.51                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | 2,4-D                      | 34704-5  | 5.50              | 1.163            | 46.50   | 24.78                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | Bivert                     | 2935-50157-AA                                  | 0.93              | 0.790            | 100.00  | 6.12                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | Carbaryl ("7")             | 54705-4  | 7.95              | 1.100            | 41.20   | 30.01                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| dicamba, diglycolamine salt              | Clarity                    | 7969-137                                       | 0.00              | 1.250            | 58.10   |                             | 38.12             | 230.61                    | 25.20             | 152.45                    | 14.76             | 89.29                     | 2.55              | 15.43                     | 1.38              | 8.35                      |
| Triclopyr, butoxyethyl ester             | Garlon 4 Ultra             | 62719-527                                      |                   | 1.110            | 60.45   |                             |                   |                           |                   |                           |                   |                           | 8.85              | 49.47                     | 8.44              | 47.17                     |
| Triclopyr, butoxyethyl ester             | Garlon 4                   | 464-554  | 2.50              | 1.082            | 61.60   | 13.88                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| imazapyr isopropylamine salt             | Habitat                    | 241-426  | 0.00              | 1.068            | 28.70   | 0.00                        | 0.36              | 0.92                      | 0.09              | 0.23                      |                   |                           |                   |                           |                   |                           |
| surfactant                               | Hasten                     | 2935-50160                                     |                   | 0.900            | 100.00  |                             |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Drift retardant--oils                    | In Place                   | 2935-50169                                     |                   | 0.880            | 100.00  |                             | 8.11              | 59.45                     | 6.25              | 45.82                     | 0.41              | 2.98                      |                   |                           |                   |                           |
| Aminopyralid, trisopropanolammonium salt | Milestone                  | 62719-519                                      | 0.00              | 1.140            | 40.60   |                             | 5.58              | 21.52                     | 6.27              | 24.18                     | 3.13              | 12.07                     | 0.98              | 3.78                      | 0.62              | 2.39                      |
| surfactant                               | Pro-Tron                   | 71058-50008-AA                                 |                   | 0.984            | 95.00   |                             | 17.69             | 137.75                    | 21.30             | 165.86                    | 4.93              | 38.39                     | 0.11              | 0.86                      | 1.11              | 8.64                      |
| Adjuvant                                 | R-11                       | 2935-50142-AA                                  | 51.00             | 1.020            | 90.00   | 389.99                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Glyphosate, isopropylamine salt          | Rodeo                      | 524-343  | 2.50              | 1.205            | 53.80   | 13.50                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Glyphosate, isopropylamine salt          | Roundup Pro                | 524-475  | 69.14             | 1.170            | 41.00   | 276.35                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Glyphosate, isopropylamine salt          | Roundup Pro Conc.          | 524-529  |                   | 1.199            | 50.20   |                             | 12.74             | 63.88                     | 17.12             | 85.84                     | 1.69              | 8.47                      | 1.09              | 5.47                      |                   |                           |
| imazapyr isopropylamine salt             | Stalker                    | 241-398  |                   | 1.060            | 27.60   |                             | 0.29              | 0.71                      |                   |                           | 0.0004            | 0.001                     |                   |                           |                   |                           |
| Picloram potassium salt                  | Tordon 22K                 | 464-323  | 1.53              | 1.140            | 24.40   | 3.55                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Clopyralid, monoethanolamine salt        | Transline                  | 62719-259                                      | 70.28             | 1.161            | 40.90   | 277.99                      |                   |                           |                   |                           |                   |                           |                   |                           | 0.01              | 0.04                      |
| dicamba, diglycolamine salt              | Vanquish                   | 55947-46                                       | 50.59             | 1.250            | 56.80   | 299.20                      |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  |                            |  |                   |                  |         |                             |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
|  | Dry Materials              |  | (pounds)          |                  |         | Amt . Used x %A             | (pounds)          |                           | (pounds)          |                           | (pounds)          |                           | (pounds)          |                           | (pounds)          |                           |
| Diphacinone                              | Diphacinone .005%          | 10965-50001-ZA                                 | 725.00            | N/A              | 0.005   | 0.04                        | 1835.00           | 0.09                      | 1335.00           | 0.07                      | 260               | 0.013                     | 731.00            | 0.03655                   | 236.00            | 0.0118                    |
| Diphacinone                              | Diphacinone .01%           | 10965-50003-ZA                                 | 15667.30          | N/A              | 0.01    | 1.57                        | 27487.50          | 2.75                      | 13055.50          | 1.31                      | 27109             | 2.71                      | 11888.50          | 1.18885                   | 11389.00          | 1.1389                    |
| Sodium nitrate, charcoal                 | Gas Cartridge              | 56228-2  | 0.00              | N/A              | 81.00   |                             | 6.75              | 5.47                      |                   |                           |                   |                           |                   |                           |                   |                           |
| Imidacloprid                             | Merit 75WSP                | 3125-439                                       | 13.58             | N/A              | 75.00   | 10.19                       |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Chlorsulfuron                            | Telar                      | 352-522  | 0.00              | N/A              | 75.00   |                             | 7.78              | 5.84                      | 10.79             | 8.09                      | 1.05              | 0.79                      |                   |                           |                   |                           |
| Picloram potassium salt                  | Tordon 10K                 | 464-320  | 8.56              | N/A              | 11.60   | 0.99                        |                   |                           |                   |                           |                   |                           |                   |                           |                   |                           |
| Aluminum phosphide                       | Weevil-cide                | 70506-13                                       | 0.00              | N/A              | 60.00   |                             |                   |                           | 0.50              | 0.30                      |                   |                           |                   |                           | 0.66              | 0.396                     |
| TOTAL:                                   |                            |  |                   |                  |         | 1420.66                     |                   | 534.27                    |                   | 500.98                    |                   | 154.72                    |                   | 76.22                     |                   | 68.14                     |
| "Bad Actors" w/May 2013 changes          |                            |  |                   |                  |         | 131.84                      |                   | 5.84                      |                   | 8.39                      |                   | 0.79                      |                   | 0.00                      |                   | 0.40                      |

CONTRA COSTA COUNTY OPERATIONS - PESTICIDE USE SUMMARY COMPARISON FY 00-01 to FY 16-17, Revised 11-14-17

Contra Costa County Public Works - Grounds

| Gal. used x 8.33 lbs/gal H2O x sp. Grav. x %AI |                                      |                              |                   |                  |                                 |                             |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
|--|--------------------------------------|------------------------------|-------------------|------------------|---------------------------------|-----------------------------|-------------------|--------------------------|-------------------|--------------------------|-------------------|--------------------------|-------------------|--------------------------|-------------------|---------------------------|
|  | Name of Product Applied              | EPA or Calif. Registration # | Amt Used FY 00-01 | Specific Gravity | % A. I.                         | Total Lbs A.I Used FY 00-01 | Amt Used FY 12-13 | Total Lbs A.I Used 12-13 | Amt Used FY 13-14 | Total Lbs A.I Used 13-14 | Amt Used FY 14-15 | Total Lbs A.I Used 14-15 | Amt Used FY 15-16 | Total Lbs A.I Used 15-16 | Amt Used FY 16-17 | Total Lbs A.I. Used 16-17 |
|  | Liquid Materials (gallons)           |                              |                   |                  |                                 |                             | (gallons)         |                          | (gallons)         |                          | (gallons)         |                          | (gallons)         |                          | (gallons)         |                           |
| Clethodim                                      | Arrow 2EC                            | 66222-60                     |                   | 0.970            | 26.40                           |                             |                   |                          |                   |                          |                   |                          | 0.06              | 0.13                     | 0.03              | 0.06                      |
| Adjuvant                                       | Crop Oil (Monterey Herbicide Helper) | 54705-50001-AA               |                   | 0.900            | 100.00                          |                             |                   |                          | 0.08              | 0.60                     |                   |                          |                   |                          |                   |                           |
| Fluazifop-P-butyl                              | Fusilade II                          | 100-1084                     |                   | 0.980            | 24.50                           |                             |                   |                          | 0.05              | 0.10                     |                   |                          |                   |                          |                   |                           |
|  | Goal                                 | 707-174                      | 12.09             | 0.990            | 19.40                           | 19.34                       |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
| Adjuvant                                       | Magnify                              | 17545-50018                  |                   | 1.220            | 51.50                           |                             | 0.09              | 0.47                     |                   |                          | 0.01              | 0.05                     |                   |                          |                   |                           |
|  | Maintain A                           | 400-396-AA                   | 0.00              | 1.000            | 0.30                            |                             |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
| Adjuvant                                       | No Foam A (Monterey)                 | 54705-50004-AA               |                   | 1.050            | 90.00                           |                             |                   |                          | 0.15              | 1.18                     | 0.22              | 1.73                     | 0.003             | 0.02                     | 0.03              | 0.24                      |
| Adjuvant                                       | No Foam A                            | 1050775-50015-AA             |                   | 1.050            | 90.00                           |                             |                   |                          |                   |                          |                   |                          | 0.0155            | 0.12                     |                   |                           |
|  | NuFarm Polaris                       | 228-534-AA                   |                   | 1.057            | 27.70                           |                             |                   |                          |                   |                          | 0.04              | 0.10                     |                   |                          | 0.08              | 0.20                      |
| Glyphosate isopropylamine salt                 | RangerPro                            | 524-517-ZB                   |                   | 1.169            | 41.00                           |                             |                   |                          |                   |                          |                   |                          | 14.62             | 58.37                    |                   |                           |
|  | Roundup Pro                          | 524-445-ZB                   | 44.78             | 1.020            | 41.00                           | 156.00                      |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
| Glyphosate isopropylamine salt                 | Roundup Pro Conc.                    | 524-529                      | 0.00              | 1.199            | 50.20                           |                             | 70.15             | 351.72                   | 36.41             | 182.55                   |                   |                          |                   |                          | 39.13             | 196.19                    |
| Glyphosate potassium salt                      | Roundup Promax                       | 524-579                      |                   | 1.356            | 48.70                           |                             |                   |                          | 52.72             | 290.01                   | 56.51             | 310.86                   | 55.28             | 304.09                   | 16.13             | 88.73                     |
|  | Triclopyr 4EC                        | 81927-11-AA                  |                   | 1.100            | 61.60                           |                             | 0.25              | 1.41                     |                   |                          | 0.25              | 1.41                     |                   |                          |                   |                           |
| Triclopyr BEE                                  | Turflon                              | 62719-258                    | 0.36              | 1.060            | 61.60                           | 1.96                        |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
|  | Turflon Ester                        | 17545-8-AA                   |                   | 1.08             | 60.45                           |                             |                   |                          |                   |                          | 0.003             | 0.02                     |                   |                          |                   |                           |
|  | Dry Materials                        |                              |                   |                  |                                 |                             |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
|  |                                      |                              | (pounds)          |                  | %AI                             |                             | (pounds)          |                          | (pounds)          |                          | (pounds)          |                          | (pounds)          |                          | (pounds)          |                           |
| Isoxaben                                       | Gallery 75 DF                        | 62719-145-AA                 | 129.44            | N/A              | 75.00                           | 97.08                       | 11.00             | 8.25                     | 3.00              | 2.25                     | 18.38             | 13.79                    | 80.00             | 60.00                    | 11.78             | 8.84                      |
| Dithiopyr                                      | Dithiopyr 40 WSB                     | 73220-13                     |                   | N/A              | 0.125 lbs ai/5 oz               |                             | 108.75 oz.        | 2.72                     |                   |                          | 30 oz (6 bags)    | 0.75                     | 5 oz (1 bag)      | 0.125                    |                   |                           |
| Flumioxazin                                    | Payload                              | 59639-120-ZA                 |                   | N/A              | 51.00                           |                             |                   |                          | 9.31              | 4.75                     | 3.06              | 1.56                     | 1.92              | 0.98                     | 3.33              | 1.70                      |
|  | Orthene                              | 59639-88                     | 0.69              | N/A              | 75.00                           | 0.52                        |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
| Sulfometuron methyl                            | Oust                                 | 352-401                      | 5.13              | N/A              | 75.00                           | 3.85                        |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
|  | Quali-Pro Dithiopyr                  | 66222-213-AA                 |                   | N/A              | 40.00                           |                             |                   |                          |                   |                          |                   |                          |                   |                          | 0.63              | 0.25                      |
| Oxadiazon                                      | Ronstar WP                           | 264-538                      | 1297.25           | N/A              | 50.00                           | 648.63                      |                   |                          |                   |                          |                   |                          |                   |                          |                   |                           |
| Halosulfuron methyl                            | Sedgehammer                          | 81880-1-10163                |                   | N/A              | 75.00                           |                             |                   |                          |                   |                          |                   |                          | 0.007             | 0.005                    |                   |                           |
| Halosulfuron methyl                            | Sedgehammer                          | 81880-24-10163               |                   | N/A              | 5.00                            |                             |                   |                          | 2.00              | 0.10                     | 0.03              | 0.0015                   | 0.04              | 0.002                    |                   |                           |
| Flumioxazin                                    | SureGuard                            | 59639-120                    |                   | N/A              | 51.00                           |                             | 23.93             | 12.20                    | 21.16             | 10.79                    | 15.69             | 8.00                     | 17.33             | 8.84                     | 13.76             | 7.02                      |
|  |                                      |                              |                   |                  | TOTAL                           | 927.37                      |                   | 376.77                   |                   | 492.33                   |                   | 338.26                   |                   | 432.68                   |                   | 303.22                    |
|  |                                      |                              |                   |                  | "Bad Actors" w/May 2013 changes | 649.14                      |                   | 0.00                     |                   | 0.10                     |                   | 0.00                     |                   | 0.00                     |                   | 0.00                      |

CONTRA COSTA COUNTY OPERATIONS - PESTICIDE USE SUMMARY COMPARISON FY 00-01 to FY 16-17, Revised 11-14-17

CCC Public Works - Facilities

|                                       | Name of Product Applied          | EPA or Calif. Registration # | Amt Used FY 07-08 | Specific Gravity | % A. I. | Total oz. A.I Used FY 07-08 |  |         | Amt Used FY 13-14 | Total OZ. A.I. Used 13-14 | Amt Used FY 14-15 | Total OZ. A.I. Used 14-15 | Amt Used FY 15-16                   | Total OZ. A.I. Used 15-16 | Amt Used FY 16-17                   | Total OZ. A.I. Used 16-17 |
|---------------------------------------|----------------------------------|------------------------------|-------------------|------------------|---------|-----------------------------|--|---------|-------------------|---------------------------|-------------------|---------------------------|-------------------------------------|---------------------------|-------------------------------------|---------------------------|
|                                       | Liquid Materials                 |                              | (fl. ounces)      |                  |         |                             |  |         | (fl. oz.)         | Oz. by Wt.                | (fl. oz.)         | Oz. by Wt.                | (fl. Oz.)                           | Oz. by Wt.                | (fl. Oz.)                           | Oz. by Wt.                |
| Indoxacarb                            | Advion Ant Bait Arena            | 100-1485                     |                   | 1.09             | 0.10    |                             |  |         |                   |                           |                   |                           | 252 ea (Net wt of Arena is 0.07 oz) | 0.02                      | 112 ea (Net wt of Arena is 0.07 oz) | 0.00889                   |
| Indoxacarb                            | Advion Ant Gel                   | 100-1498                     |                   | 1.2              | 0.05    |                             |  |         |                   |                           |                   |                           | 143.67                              | 0.08965                   | 202.70                              | 0.12648                   |
| Indoxacarb                            | Advion Cockroach Bait Arena      | 100-1486                     |                   | 1.09             | 0.50    |                             |  |         |                   |                           |                   |                           | 41 ea (Net wt of Arena is 0.07 oz)  | 0.01627                   | 10 ea (Net wt of Arena is 0.07 oz)  | 0.00397                   |
| Indoxacarb                            | Advion Cockroach Gel Bait        | 100-1484                     |                   | 1.123            | 0.60    |                             |  |         |                   |                           |                   |                           | 14.61                               | 0.10238                   | 60.10                               | 0.42115                   |
| Chlorantraniliprole                   | Altriset                         | 100-1503                     |                   | 1.094            | 18.4    |                             |  |         |                   |                           | 2.00              | 0.419                     |                                     |                           |                                     |                           |
| Chlorantraniliprole                   | Altriset (DuPont)                | 352-829                      |                   | 1.094            | 18.4    |                             |  |         |                   |                           |                   |                           |                                     |                           | 7.00                                | 1.46543                   |
| Abamectin                             | Avert Cockroach Bait Station     | 499-467                      |                   | 1.065            | 0.05    |                             |  |         |                   |                           |                   |                           |                                     |                           | 2 ea (Net wt of Station is 0.52 oz) | 0.00058                   |
| Cedar oil                             | Best Yet Insect Control Solution | Exempt 25b material          |                   | 1.00             | 10.00   |                             |  |         |                   |                           | 128.00            | 12.800                    | 16.00                               | 1.66400                   | 76.00                               | 7.90400                   |
| Cedar oil                             | Cedarcide PCO Choice Concentrate | Exempt 25b material          |                   | 1.00             | 85.00   |                             |  |         |                   |                           |                   |                           | 10.00                               | 8.84000                   | 5.08                                | 4.49072                   |
| White pepper, mineral oil             | DeTour for Rodents               | Exempt                       |                   | 0.864            | 3.00    |                             |  |         |                   |                           | 166.00            | 4.475                     |                                     |                           | 8                                   | 0.21565                   |
| Sodium Tetraborate decahydrate        | Doninant Liquid Ant Bait         | 64405-24                     |                   | 1                | 1.00    |                             |  |         |                   |                           |                   |                           |                                     |                           | 20.00                               | 0.20800                   |
| Oil of black pepper                   | Havahart Critter Ridder          | 50932-10                     |                   |                  | 0.48    |                             |  | 804.00  | 3.8592            | 624                       | 2.9952            | 458                       | 2.1984                              | 1371                      |                                     | 6.5808                    |
| Sodium Tetraborate Decahydrate (Borax | Intice Thiquid Ant Bait          | 73079-7                      |                   | 1.33             | 1.00    |                             |  | 3128.00 | 43.26650          | 3554.00                   | 49.159            |                           |                                     |                           | 1952.3                              | 27.00421                  |
| Fipronil                              | Maxforce Ant KillerBait Gel      | 64248-21                     |                   | 1.05             | 0.00    |                             |  |         |                   |                           |                   |                           |                                     |                           | 1.12                                | 0.00001                   |
| Fipronil                              | Maxforce FC Magnum               |                              |                   | 1.14             | 0.05    |                             |  |         |                   |                           |                   |                           |                                     |                           | 1.05                                | 0.00062                   |
| Imidacloprid                          | Maxforce Quantum Ant Bait        | 432-1506                     |                   | 1.43             | 0.03    |                             |  |         |                   |                           | 27.90             | 0.012                     | 31.71                               | 0.01415                   | 20.2                                | 0.00901                   |
| Methyl Ethoxy Pyridine                | Nyguard IGR Concentrate          | 1021-1603                    |                   | 0.939            | 10.00   |                             |  |         |                   |                           |                   |                           |                                     |                           | 0.6                                 | 0.05859                   |
| Methyl Ethoxy Pyridine                | Nylar (Archer)                   | 100-1111                     |                   | 0.847            | 1.30    |                             |  |         |                   |                           |                   |                           |                                     |                           | 3                                   | 0.03435                   |
| sodium lauryl sulfate                 | Oh Yeah                          | Exempt                       |                   | 1                | 7.00    |                             |  | 1072.00 | 78.04160          | 2222                      | 161.762           | 78                        | 5.67840                             | 865.5                     | 63.00840                            |                           |
| coyote & fox urine                    | Shake Away: Fox/Coyote           | 80917-5                      |                   | 2.70             | 5.00    |                             |  |         |                   |                           |                   |                           |                                     |                           | 5.00                                | 0.70200                   |
| Imidacloprid                          | Temprid Ready Spray Insecticide  | 432-1527                     |                   | 1.00             | 0.05    |                             |  |         |                   |                           |                   |                           |                                     |                           | 10.00                               | 0.00520                   |
| Cyfluthrin                            |                                  |                              |                   | 1.00             | 0.03    |                             |  |         |                   |                           |                   |                           |                                     |                           | 10.00                               | 0.00260                   |
| Fipronil                              | Termidor SC (termites)           | 7969-210                     |                   | 1.06             | 9.10    |                             |  |         |                   |                           |                   |                           |                                     |                           | 3.20                                | 0.32102                   |
| Sodium Tetraborate Decahydrate (Borax | Terro PCO Bait stations          | 149-8-64405                  |                   | 1.00             | 5.40    |                             |  |         |                   | 135-0.36 oz stations      | 2.6244            | 170-0.36 oz stations      | 3.43699                             | 149-0.36 oz stations      |                                     | 3.01242                   |
| Sodium Tetraborate Decahydrate (Borax | Terro PCO Liquid Ant Bait        | 149-8-64405                  |                   | 1.00             | 5.40    |                             |  |         |                   |                           |                   |                           |                                     |                           | 19.44                               | 1.09175                   |

CONTRA COSTA COUNTY OPERATIONS - PESTICIDE USE SUMMARY COMPARISON FY 00-01 to FY 16-17, Revised 11-14-17

CCC Public Works - Facilities, cont.

|                           | Name of Product Applied        | EPA or Calif. Registration # | Amt Used FY 07-08 | Specific Gravity | % A. I. | Total oz. A.I Used FY 07-08 |      |  | Amt Used FY 13-14 | Tot. oz. A.I. by wt. Used 13-14 | Amt Used FY 14-15 | Tot. oz. A.I. by wt. Used 14-15 | Amt Used FY 15-16 | Tot. oz. A.I. by wt. Used 15-16 | Amt Used FY 16-17 | Tot. oz. A.I. by wt. Used 16-17 |
|---------------------------|--------------------------------|------------------------------|-------------------|------------------|---------|-----------------------------|------|--|-------------------|---------------------------------|-------------------|---------------------------------|-------------------|---------------------------------|-------------------|---------------------------------|
|                           | Dry Materials                  |                              | (ounces)          |                  |         |                             |      |  | OZ. by Wt.        |                                 | OZ. by Wt.        |                                 | OZ. by Wt.        |                                 | OZ. by Wt.        |                                 |
| Dinotefuran               | Alpine Dust                    | 499-527                      |                   |                  | 0.25    |                             |      |  |                   |                                 |                   |                                 |                   |                                 | 0.11              | 0.0003                          |
| Diatomaceous earth        |                                |                              |                   |                  | 95.00   |                             |      |  |                   |                                 |                   |                                 |                   |                                 | 0.11              | 0.1045                          |
| Incoxacarb                | Advion Insect Granule          | 352-651                      |                   |                  | 0.22    |                             |      |  |                   |                                 |                   |                                 |                   |                                 | 9.64              | 0.0212                          |
| Amorphous silica gel      | Cimexa                         | 73079-12                     |                   |                  | 100.00  |                             |      |  |                   |                                 |                   |                                 |                   |                                 | 5.12              | 5.1200                          |
| Amorphous silicon dioxide | Concern Diatomaceous Earth     | 73729-1-50932                |                   |                  | 85.00   |                             |      |  |                   |                                 | 0.23              | 0.1955                          | 0.79              | 0.6715                          | 1.29              | 1.0965                          |
| Orthoboric acid           | Niban FG/Mother Earth Granules | 64405-2<br>499-515           | 3813.7600         |                  | 5.00    | 190.69                      |      |  | 375.00            | 18.75                           | 3144.5            | 157.225                         | 6038.5            | 301.925                         | 2886.5            | 144.3250                        |
|                           |                                |                              |                   |                  |         | OZ of A.I                   |      |  |                   | 159.638                         |                   | 393.414                         |                   | 485.859                         |                   | 267.343                         |
|                           |                                |                              |                   |                  |         | LBs of A.I.                 |      |  |                   | 9.98                            |                   | 24.59                           |                   | 30.37                           |                   | 16.71                           |
|                           |                                |                              |                   |                  |         | OZ of BA                    | 0.41 |  |                   | 0.00                            |                   | 0.00                            |                   | 0.0582                          |                   | 0.0006                          |

**Contra Costa County Staff Responses to Issues Raised by the Public  
Regarding the County Integrated Pest Management Program**

~~November-February 729, 20187~~

| <b>Date(s)<br/>Issue<br/>Raised to:</b><br><br><b>TWIC =<br/>Transportation,<br/>Water &amp;<br/>Infrastructure<br/>Committee</b><br><br><b>IPM = IPM<br/>Committee or<br/>subcommittees</b><br><br><b>IO=Internal<br/>Operations<br/>Committee</b> | <b>Issues Raised by the<br/>Public</b>  | <b>Steps taken by the IPM Advisory Committee and County Staff<br/>from January 2009 to the present</b>  |
|---|---|---|
|   | <b>Using glue boards for rodents in County buildings</b>  |   |
| 11/16/16-IPM<br>3/16/17-IPM<br><u>1/18/18-IPM</u>   | <i>From Parents for a Safer Environment (PfSE)</i><br><br>“The rodent control method that is horrible in particular is the use of glue boards in the county buildings. I hope to see this deplorable practice stop before the beginning of the NewYear. (11/16/16)  | Pestec, the County’s structural IPM contractor, used a small number of glue boards in 2016. In the past, glue boards have been used from time to time in detention facilities at the request of the Sheriff who is concerned that snap traps, the alternative, could be used by inmates as weapons. Pestec now has access to the interior space between the walls of cells where mice can roam, so technicians are able to set snap traps in those areas.<br><br>Glue boards are not currently used at any <del>other</del> facilities in the County. The County will keep glue boards as a tool for rodent control that will be used when there is no effective alternative. |
|   | <b>Chairing the IPM Committee should be rotated; a scribe not associated with the Committee should be used to take notes</b>  |   |
| 2/17/16-IPM   | <i>From Parents for a Safer Environment (PfSE)</i><br><br>“Chairing the IPM Advisory Committee should be rotated among members who wish to chair. A Scribe should be independent of Committee members and staff involved with the IPM Program.”   | <ul style="list-style-type: none"> <li>• Every 2 years the Committee holds an election for officers. Anyone who wishes to chair the committee can nominate themselves.</li> <li>• The Committee elects a secretary to help take notes for the Committee’s minutes which are written by staff. There is no outside person who could be a scribe.</li> </ul>  |
|   | <b>Staff has found no unique or innovative pesticide alternatives in the Bay Area or Nation</b>   |   |
| 11/4/15-IPM<br>2/17/16-IPM  | <i>From Parents for a Safer Environment (PfSE)</i><br><br>“In the staff document provided titled 2015 IPM Program Accomplishments, I was very surprised to read that staff believes after reviewing programs throughout the ‘Bay Area and the nation’, that ‘there is nothing unique or innovative in the Bay Area or the nation.’” | <ul style="list-style-type: none"> <li>• PfSE appears to be concerned that staff has found no unique or innovative approaches to pest management. This concern seems to stem from a mis-reading of the 2015 IPM Program Accomplishments document in the section on the work history of the IPM Program Data Management subcommittee. The phrase actually reads: “Looked for data other than pesticide use to measure implementation of IPM in CCC; found nothing unique or innovative in the Bay Area or the nation”</li> </ul>   |
|   | <b>The IPM Coordinator does not allow the IPM Committee members and the public adequate time to review documents</b>  |   |
| 9/2/15-IPM  | <i>From Parents for a Safer Environment (PfSE)</i>  | <ul style="list-style-type: none"> <li>• The IPM Coordinator sends out agenda materials in accordance with the Brown Act and County policy, which is 96 hours prior to the time of the public meeting.</li> </ul>   |



| <b>Date(s)<br/>Issue<br/>Raised to:</b><br><br><b>TWIC =<br/>Transportation,<br/>Water &amp;<br/>Infrastructure<br/>Committee</b><br><br><b>IPM = IPM<br/>Committee or<br/>subcommittees</b><br><br><b>IO=Internal<br/>Operations<br/>Committee</b> | <b>Issues Raised by the<br/>Public</b>   | <b>Steps taken by the IPM Advisory Committee and County Staff<br/>from January 2009 to the present</b>  |
|---|--|---|
|   | <p>"People are often reluctant to admit that they have not had time to review documents before voting on minutes and other items. Committee members are likely to just go along with the majority and vote to accept documents as Staff submits them...It is more reasonable to provide at least four to six weeks of time for volunteers to fit in the review amongst a busy schedule." (9/2/15)</p> <p>"...I find it appalling that Staff would propose to totally eliminate the By-Laws language that requires a timely distribution of the meeting minutes to the IPM Advisory Committee. It has been difficult to read all the documents required for review within 5 days [from when] they are provided, which is a recent improvement to providing it 3 days prior to meetings that was practiced before my letter earlier this year...The By-Laws currently states that minutes be distributed 1 week after the meeting...I believe it's reasonable to amend [the by-laws] to distributing the materials within 2 weeks after the meeting to give staff time to prepare the meeting minutes, but eliminating this important timeline is not acceptable to the community." (9/2/15)</p> | <ul style="list-style-type: none"> <li>• At the end of each meeting, the next meeting's agenda is planned so that members are aware of and can plan time for review of long or numerous documents.</li> <li>• Since the inception of the IPM Advisory Committee, the practice has been to distribute the minutes with the agenda materials. Because the by-laws were being updated to reflect the current designations for IPM Committee seats and to change public member terms, the IPM Coordinator proposed changing the by-laws to reflect the current practice regarding distribution of the minutes. On 9/2/15 the IPM Committee members discussed these by-laws changes and heard comment from the public on the issue. The Committee voted to unanimously approve all the by-laws changes. The changes were approved by the full Board of Supervisors.</li> </ul>   |
|   | <b>IPM subcommittees should focus on pesticide use and not on bed bugs or removing turf</b>  |   |
| 2/16/15-IPM<br>2/17/15-IPM<br>2/20/15-IPM<br>3/2/15-TWIC<br>3/4/15-IPM<br>5/6/15-IPM<br>8/6/15-IPM<br>9/2/15-IPM<br>11/4/15-IPM   | <p><i>From Parents for a Safer Environment (PfSE)</i></p> <p>Issue of the subcommittees working on bed bugs, a community problem, rather than County-only pesticide issues and working on turf removal around buildings rather than on pesticide use in rights-of-way</p>  | <ul style="list-style-type: none"> <li>• Bed bugs affect 1000s of Contra Costa residents, both in municipalities and the unincorporated areas of the County. In order to get relief, desperate citizens are using many different kinds of pesticides in the home, throughout the bedroom, and often on the bedding itself. Reports indicate that frequently pesticides are used to excess and in a manner contrary to the labeled directions. This intimate contact with, and misuse of, pesticides is very troubling. This is a serious issue of pesticide exposure and contamination as well as an issue of the well-being of Contra Costa residents that the County has an obligation to address.</li> <li>• There are also bed bug issues that need to be addressed in County buildings. Staff and buildings are vulnerable where the public goes in and out of offices frequently and in large numbers. Staff and supervisors need training in identifying risks, actual infestations, and opportunities for prevention.</li> <li>• Converting turf to drought-tolerant landscaping accomplishes several things: <ul style="list-style-type: none"> <li>◦ Saves millions of gallons of water in this time of serious drought.</li> </ul> </li> </ul> |

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|---|---|---|
|   |   | <ul style="list-style-type: none"> <li>o Reduces the need for weed control and thus for herbicides. The limited irrigation and wood chip mulch between the drought-tolerant plants is not conducive to weed growth, Few weeds sprout in the dry soil under the mulch, and those that do sprout can often be hand-pulled.</li> <li>o Addresses herbicide use near buildings, which is where people have the greatest chance of being exposed to these pesticides.</li> <li>o Reduces maintenance hours because turf is a high maintenance plant.</li> <li>o Frees Grounds maintenance staff to better manage other landscapes and continue to reduce their use of pesticide.</li> <li>o Reduces the amount of electricity used to pump water, the amount of gas used in lawn mowers and trimmers and in trucks to travel to and from sites for maintenance, and reduces the amount of pesticide and fertilizer used in maintaining the turf. This reduces greenhouse gas emissions.</li> <li>o Demonstrates that the County is a leader in landscaping more wisely for the arid climate in which we live.</li> </ul> |
|   | <b>County not tracking pesticide use separately for Public Works rights-of-way/roadsides, flood control channels, and County-owned parcels</b>  |   |
| 3/2/15-IPM<br>8/26/15-Email<br>3/16/16-IPM  | <i>From Parents for a Safer Environment (PfSE):</i><br>"We do not see any good reason why pesticide usage is not being provided to the community for each roadside and flood control program." (3/2/15) | <ul style="list-style-type: none"> <li>• The County has always tracked pesticide use separately for roadsides, flood control channels, and County-owned parcels, but because of a recent change in the way the Department reported pesticide use to the State of California, the state Pesticide Use Reports for FY 12-13 and FY 13-14 were not separated. The database that Public Works uses to track pesticide use cannot produce reports for PfSE that are user friendly since the database was never intended to be a pesticide use reporting tool. As a courtesy to PfSE, the Department has resumed separating pesticide use for the 3 programs when it reports to the state. These Pesticide Use Reports have been provided to PfSE for FY 14-15.</li> </ul>  |
|   | <b>Report the total amount of pesticide used not just the active ingredients</b>  |   |
| 8/26/15-Email<br>11/4/15-IPM  | <i>From Parents for a Safer Environment (PfSE):</i><br>"Report total amount, not just the active ingredients of pesticides used in usage spreadsheet"   | <ul style="list-style-type: none"> <li>• In the spread sheet prepared by the IPM Coordinator every year for pesticide use by County operations, the total amount of pesticide product used is recorded as well as the total amount of pesticide active ingredient used for each product.</li> <li>• The California Department of Pesticide Regulation reports pesticide use for the state in pounds of active ingredient. The County has adopted this system so that pesticide use reporting is aligned with the state. But as noted above, the County spreadsheet also records total pounds or gallons of pesticide product used.</li> <li>• The spreadsheet is posted on the IPM website and attached to the annual report.</li> </ul>  |
|   | <b>Corrections to the minutes of the IPM Advisory Committee or its subcommittees requested by PfSE</b>  |   |
| 5/6/15-IPM<br>6/9/15-IPM<br>8/6/15-IPM<br>7/20/16-IPM   | <i>From Parents for a Safer Environment (PfSE)</i><br>Issue of PfSE requesting changes to the minutes and then changes are not made   | <ul style="list-style-type: none"> <li>• The IPM Committee members vote on whether or not to make corrections to the minutes. The members do not always vote to make PfSE's corrections, additions, and changes. The IPM Coordinator includes written changes from PfSE (as well as other public comment) as attachments to the official record of the meeting. The official agenda, minutes, public comment, and other attachments are posted on the IPM website.</li> </ul>   |

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|---|--|--|
| <b>The herbicide Roundup (active ingredient glyphosate) has been designated as a probable human carcinogen by the World Health Organization's International Agency for Research on Cancer (IARC)</b>  |  |  |
| 6/9/15-IPM<br>7/8/15-IPM<br>8/6/15-IPM<br>9/2/15-IPM<br>7/20/17-IPM<br>11/16/17-IPM   | <i>From Parents for a Safer Environment (PfSE):</i><br><br>"Considering that RoundUp products with the active ingredient, glyphosate, is [sic] being applied at the rate of nearly 1,000 lbs annually in the Grounds Program alone, and that glyphosate has been listed as a Probable Human Carcinogen by the World Health Organization earlier this year, are there any plans by the county to eliminate this risky chemical to reduce exposure to the community and wildlife?" | <ul style="list-style-type: none"> <li>• In 2015, the IPM Coordinator attended meetings in San Francisco with IPM coordinators and city and county staff from around the Bay to discuss the Roundup issue. At this point we do not have a less hazardous product with equivalent efficacy to replace Roundup, but we continue to look for one. The Grounds Division uses Roundup as a spot treatment and uses a little as necessary. In FY 14-15 the Grounds Division used 311 lbs. of glyphosate, the active ingredient in Roundup.</li> <li>• The most serious risk of exposure to Roundup is to the applicator because that person is in close contact with the material, sometimes daily. The law and the County require applicators to wear personal protective equipment and to be trained annually to prevent exposure. In light of the new probable carcinogen designation, the County is looking at whether there are additional precautions that should be taken to protect workers.</li> <li>• IARC identifies the potential for a chemical to cause cancer but does not quantify any increased risk to people from a chemical so designated nor does it recommend a safe level of exposure. Those designations are left up to regulatory agencies around the world. The County is waiting for the USEPA to complete its review of glyphosate.</li> <li>• On 11/12/15, the European Food Safety Authority ruled that glyphosate probably does not cause cancer in humans despite IARC's findings.</li> <li>• In March 2017, the Australian government's Pesticides and Veterinary Medicines Authority (APVMA) produced its Final Regulatory Position on whether to conduct a formal reconsideration of the chemical glyphosate. They stated that "[b]ased on this nomination assessment, the APVMA concludes that the scientific weight-of-evidence indicates that: exposure to glyphosate does not pose a carcinogenic or genotoxic risk to humans."</li> <li>• In April 2017, Health Canada released the following statement, "Following a rigorous science-based assessment, Health Canada has determined that when used according to the label, products containing glyphosate are not a concern to human health and the environment."</li> <li>• The County is still waiting for the final risk assessment from the USEPA.</li> <li>• In November 2017, researchers updated the Agricultural Health Study, which is a 20-year study of the effects of glyphosate on over 54,000 licensed pesticide applicators from North Carolina and Iowa. They found no statistically significant associations with glyphosate use and cancer in any part of the body. However, among applicators in the highest exposure quartile, there was an increased risk of acute myeloid leukemia compared with those who had never used glyphosate, though this association was not statistically significant. The researchers noted that this association requires confirmation.</li> </ul> |
| <b>Questions posed during public comment for items not on the agenda are not answered by the IPM Committee</b>  |  |  |
| 8/6/15-IPM<br>7/20/16-IPM<br>9/21/16-IPM  | <i>From Parents for a Safer Environment (PfSE):</i><br><br>"...please allow ample time for answering and discussing these 6  | <ul style="list-style-type: none"> <li>• The IPM Committee does not take up and discuss issues that are not on the published agenda for the meeting as this would be a violation of the Brown Act.</li> <li>• Members of the Committee can request to have public concerns put on the</li> </ul>   |

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|---|--|---|
| 3/16/17-IPM<br><a href="#">11/16/17-IPM</a><br><a href="#">1/11/18 Email</a><br><a href="#">1/18/18-IPM</a>   | questions as listed in order of<br>priority at the next meeting agenda.<br>Community members have been<br>waiting patiently since last year for<br>most of these questions to be<br>addressed."  | agenda for a future meeting.  |
| <b>IPM Committee members should RSVP for each meeting</b>   |  |   |
| 6/9/15-IPM<br>7/8/15-IPM<br>8/6/15-IPM<br>11/16/17-IPM  | <i>From Parents for a Safer<br/>Environment (PfSE):</i><br>"I attended the April 14, 2015<br>meeting when we waited for over<br>30 minutes for staff and community<br>members on the [Weed sub]<br>Committee to arrive to no avail.<br>Staff had to regretfully cancel the<br>meeting due to lack of a quorum.<br>...consider asking for a heads-up<br>from committee members if they<br>cannot attend a future IPM<br>meeting." (6/9/15 and 7/8/15)<br>"Would the county request<br>Committee members to provide in<br>writing, anticipation of absenteeism<br>so that those who arrive at<br>meetings are not waiting for an<br>hour only for the meeting to be<br>cancelled due to lack of a quorum."<br>(8/6/15) | <ul style="list-style-type: none"> <li>• IPM Committee members alert the IPM Coordinator when they know they will be late or will be missing a meeting of either the full committee or a subcommittee. Unfortunately, unexpected circumstances do arise from time to time.</li> <li>• The Weed subcommittee meeting on April 14, 2015 was the first meeting of the full IPM Committee or any of its subcommittees that had to be cancelled for lack of a quorum since the IPM Advisory Committee was formed in 2010.</li> </ul> |
| <b>Quorums have been disregarded in previous subcommittee meetings</b>  |  |   |
| 6/9/15-IPM<br>7/8/15-IPM  | <i>From Parents for a Safer<br/>Environment (PfSE):</i><br>"According to Shirley Shelangoski<br>who had attended all<br>subcommittees between 2012-<br>2014, quorums were <i>not</i><br>considered in subcommittees until<br>the recent year. Before,<br>subcommittee meetings were held<br>regardless of a lack of quorum."   | <ul style="list-style-type: none"> <li>• All subcommittees consider whether or not there is a quorum before proceeding with a meeting. Attendance is tracked in each set of minutes.</li> </ul>   |
| <b>Absences on the IPM Committee</b>  |  |   |
| 8/6/15-IPM<br>8/26/15 Email   | <i>From Parents for a Safer<br/>Environment (PfSE):</i><br>"Will the county track absenteeism<br>and provide the data annually so  | <ul style="list-style-type: none"> <li>• Absences are tracked in the minutes of every meeting of the full IPM Committee and each of its subcommittees. Attendance at meetings is reported annually to the Board of Supervisors.</li> </ul>  |

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|---|--|---|
|   | <p>that those who missed more than two in a given year be considered for removal from membership as stated in the By-Laws?"</p>  |   |
| <b>Pesticide Use around the Hazardous Materials Office and Co. Admin Bldg in Martinez</b>   |  |   |
| <p>2/20/15-IPM<br/>8/6/15-IPM<br/>2/17/16-IPM<br/>11/16/16-IPM</p>  | <p><i>From Parents for a Safer Environment (PfSE)</i><br/><br/> Issue of members of PfSE observing pesticide use around the Hazardous Materials Office at 4585 Pacheco Blvd. in Martinez without posting<br/><br/> "Currently, pesticides are used outside the auspices of the County IPM program in many buildings, including the Hazardous Materials building and the County Administration building." (2/17/16)</p>   | <ul style="list-style-type: none"> <li>• The Hazardous Materials Program rents space from ERRG, a company that occupies the top floor of the building. They and not the County are responsible for maintaining the building and the property.</li> <li>• The County's posting policy does not require private owners of buildings to post their pesticide use.</li> <li>• On 8/6/15, PfSE videoed a Clark Pest Control technician spraying around the building at 4585 Pacheco Blvd. Clark, the contractor for ERRG, was using a pesticide called indoxacarb for ants that had been invading the building, particularly the top floor. Indoxacarb is listed as a "reduced risk" pesticide by the USEPA and is used by Pestec, the County contractor, in baits for cockroaches and ants. Hazardous Materials staff who experienced ant problems were educated by the IPM Coordinator, all food debris was removed, and boric acid baits were used in the two Hazardous Materials offices with ants trailing through.</li> <li>• No pesticides are being used in or around the County Administration building at 651 Pine Street that are not applied by Pestec, the County contractor, as part of the County IPM program. We are not aware of any pesticides being used at other County buildings that are not applied by Pestec. If PfSE has specific evidence of this happening, we would gladly investigate.</li> </ul> |
| <b>IPM Contract Language and reviewing contracts</b>  |  |   |
| <p>11/6/13-IPM<br/>12/5/13-TWIC<br/>2/26/14-IPM<br/>3/5/14-IPM<br/>3/6/14-TWIC<br/>8/26/15-Email<br/>2/17/16-IPM<br/>9/15/16-IPM</p>  | <p><i>From Parents for a Safer Environment (PfSE):</i><br/><br/> "the county still does not have IPM language in its contracts with pest control contractors"<br/><br/> "Contractors conducting pest control should be evaluated annually by the IPM Advisory Committee and contracts bid upon and assessed for a strong IPM track record." (2/17/16)<br/><br/> "The Public Works Dept's Special District currently has on its payroll, a contractor who did not have to bid with IPM experience as a criteria and uses only rodenticides, including 2<sup>nd</sup> generation [sic] in public parks." (2/17/16)</p> | <ul style="list-style-type: none"> <li>• 2009: the IPM Coordinator and County staff added IPM language to the contract for pest management in &amp; around Co. buildings. The contractor emphasizes education, sanitation, and pest proofing as primary solutions. Insecticides, mainly in the form of baits, are used as a last resort. For the control of rats and mice in and around County buildings, the County only uses sanitation, education, and trapping.</li> <li>• Special Districts currently hires only 1 contractor for pest control. He is employed by means of a purchase order, which is not an appropriate vehicle for IPM contract language; however, <ul style="list-style-type: none"> <li>◦ as a condition of his employment, he is required to abide by the Public Works "Landscape Design, Construction, and Maintenance Standards and Guidelines"<sup>1</sup> which contain language outlining the IPM approach. This also applies to any other contractor hired by Special Districts.</li> <li>◦ this has been explained to PfSE several times.</li> </ul> </li> <li>• Spring 2012: to reinforce the IPM standards, the Special Districts Manager sent a letter to each Special Districts' contractor detailing the IPM approach expected of them. This is an on-going practice and any new contractors will receive the same</li> </ul>   |

<sup>1</sup> <http://www.co.contra-costa.ca.us/index.aspx?nid=2147>

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|   | <p>Concerns about the letter from Special Districts to its contractors explaining the IPM approach expected of them. (9/15/16)</p>   | <p>letter to emphasize the County's IPM principles.</p> <ul style="list-style-type: none"> <li>On 11/28/12, Susan JunFish asked for Special Districts contracts and purchase orders; on 11/29/12 the IPM Coordinator sent her the contracts, purchase orders, and letters mentioned above that were sent out by Special Districts.</li> <li>On 2/14/13, Susan JunFish asked again for copies of the letters and was sent them on 2/15/13.</li> <li>The Grounds Division occasionally hires a contractor to apply pesticides that the Division does not have staff or equipment to apply itself. The IPM Coordinator considers that these contracts or purchase orders do not require IPM language because the contractor is hired for a specific pesticide application and not to perform IPM services or make any IPM decisions. In these cases the Grounds Division has already gone through the IPM decision making process and has decided the specific work ordered is appropriate.</li> <li>Reviewing contracts has not been in the purview of the IPM Advisory Committee.</li> <li>The 1 contractor hired by Special Districts for pest control (see also the 2<sup>nd</sup> bullet, above) uses mostly trapping for vertebrate pests. In FY 15-16, he used 0.02ounces of the rodenticide active ingredient diphacinone (a 1<sup>st</sup> generation anticoagulant). He does not use any 2<sup>nd</sup> generation anticoagulants.</li> <li>Since the IPM Program began reporting data on pesticide use in Special Districts in FY 08-09, no 2<sup>nd</sup> generation anticoagulants have been used.</li> <li>The concerns expressed by Susan JunFish on 9/15/16 about the clarity and detail of the letter to contractors are valid and the Decision-Making subcommittee will take up these concerns.</li> </ul> |
| <b>Unprofessional Behavior by County Staff</b>  |  |   |
| <p>11/6/13-IPM<br/>11/13/13-IO<br/>12/5/13-TWIC<br/>2/26/14-IPM<br/>3/5/14-IPM<br/>3/6/14-TWIC</p>  | <p><i>From Parents for a Safer Environment (PfSE):</i><br/>"serious pattern of hostile and unprofessional treatment to the community by County staff"<br/>"continued name-calling, shouting, and put-downs by county staff and Committee members at IPM meetings"<br/>"require staff to take training in order to learn how to work productively in public meetings"</p> | <ul style="list-style-type: none"> <li>Staff disagree with the assertions that staff have been hostile or unprofessional toward members of PfSE or that staff have engaged in name-calling, shouting, or put-downs in any committee meetings. However, without reference to specific incidents on specific dates, it is impossible for staff to respond in detail.</li> <li>Members of the public have always had ample opportunity (within defined limits) to participate in all aspects of IPM Committee meetings.</li> <li>Starting in 2014, IPM full committee and subcommittee meetings will strictly adhere to the Ground Rules adopted unanimously by the IPM Committee on May 5, 2010. The IPM Coordinator will distribute Committee Ground Rules with each agenda packet. This will make public participation more fair and prevent one or a few individuals from dominating public comment. This course of action should limit the potential opportunities for improper discourse.</li> </ul>   |
| <b>Make Audio and/or Video Recordings of IPM Committee Meetings</b>   |  |   |
| <p>3/6/14-TWIC<br/>3/2/15-TWIC<br/>2/17/16-IPM</p>  | <p><i>From Parents for a Safer Environment (PfSE):</i><br/>"record meetings with a camcorder"<br/>"The Community requested to have IPM related meetings recorded to achieve accurate meeting minutes"</p>  | <ul style="list-style-type: none"> <li>Vince Guise, Agricultural Commissioner in 2013, suggested that meetings be audio recorded (no video). The issue may be taken up at a future IPM Committee meeting.</li> <li>No other advisory bodies video or audio record their meetings. If the public wishes to record meetings, they may do so and should announce their intention at the beginning of the meeting.</li> <li>It appears that PfSE is recording all IPM Committee meetings on a laptop, so they</li> </ul>  |



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|   | <p>that reflect what actually happened at the meetings and to encourage professional behavior."</p>  | <p>will be able to reference those recordings if need be.</p> <ul style="list-style-type: none"> <li>• <a href="#">At the January 18, 2018 IPM Committee meeting, Carlos Agurto, representative from Pestec, the County's structural IPM Contractor, volunteered to be secretary to the Committee. He will make audio recordings of the meetings and provide the IPM Coordinator with at transcript.</a></li> </ul>  |
| <b>Intimidation of a member of Parents for a Safer Environment by the IPM Coordinator</b>   |  |  |
| <p>2/12/14-TWIC<br/>3/5/14-IPM<br/>3/6/14-TWIC<br/>2/17/16-IPM</p>  | <p><i>From Parents for a Safer Environment (PfSE):</i><br/>"we ask that in the future, [County] staff not contact the community and pressure them to retract their public comments"</p>  | <p>On November 13, 2013, Margaret Lynwood submitted a written public comment to the Internal Operations Committee. In the comment, she stated that she had "been attending pesticide related meetings and [had] discovered a serious pattern of hostile and unprofessional treatment to the community by county staff." Since Ms. Lynwood did not provide specific details, and the IPM coordinator had no record of her attending and did not remember seeing her in the last 4 years at any IPM Committee or subcommittee meetings, but only at TWIC and IO meetings, she contacted Ms. Lynwood by phone to understand her concerns and ask her if she felt that County Supervisors or other staff in TWIC or IO meetings had exhibited unprofessional behavior. She said, "No," and was unable to cite a specific instance when she had witnessed such behavior. The IPM Coordinator did not ask her to retract her public comment.</p>   |
| <b>Use of Pre-Emergent Herbicides</b>   |  |  |
| <p>11/6/13-IPM<br/>12/5/13-TWIC</p>   | <p><i>From Parents for a Safer Environment (PfSE):</i><br/>"The Community wants to be assured that the Public Works Dept does not use pesticides along the Flood Control District that has [sic] residual activity before a forecasted rainstorm."</p> | <p>This is an issue about pre-emergent herbicides and was discussed in a subcommittee meeting on 10/29/13 and again in the Advisory Committee meeting on 11/6/13. Both meetings were attended by both Susan JunFish and Shirley Shelangoski of PfSE.</p> <p>The following points were made:</p> <ul style="list-style-type: none"> <li>• Pre-emergent herbicides have residual activity by design because they are meant to prevent the germination of weeds over an extended period of time, sometimes a number of weeks.</li> <li>• Pre-emergent herbicides are used by Public Works as part of their herbicide rotation program to prevent the development of herbicide-resistant weeds. Herbicide rotation is one of a number of best practices strongly recommended by the University of California and many other researchers to prevent herbicide resistance<sup>2</sup>. Creating herbicide-resistant weeds is considered an extremely serious problem by weed scientists throughout the world.</li> <li>• Pre-emergent herbicides are not applied on flood control channel banks; they are used on flood control access roads above the banks.</li> <li>• Pre-emergent herbicides need irrigation or rainfall shortly after their application, typically within a few days to several weeks, to carry them shallowly into the soil where they become active. Because there is no irrigation on flood control access roads, pre-emergent herbicides must be applied prior to a rain event.</li> <li>• The Department follows all label requirements for the application of pre-emergent</li> </ul> |

<sup>2</sup> 2012. Norsworthy, Jason K., et al. Reducing the Risks of Herbicide Resistance: Best Management Practices and Recommendations. *Weed Science* 2012 Special Issue:31-62.

2000. Prather, Timothy S., J.M. DiTomaso, and J.S. Holt. Herbicide Resistance: Definition and Management Strategies. University of California, Division of Agriculture and Natural Resources Publication #8012. 14 pp.

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|   |   | <p>herbicides (and all other herbicides). Note that a pesticide label is <u>law</u> and must be strictly followed.</p> <ul style="list-style-type: none"> <li>The use of pre-emergent herbicides can reduce the total amount of herbicide needed to control weeds in the County because it takes a smaller amount of pre-emergent herbicide to control weeds in an area than it would using a post-emergent herbicide.</li> </ul>   |
|   | <b>Use of Garlon 3A® (triclopyr) herbicide on flood control channel slopes without considering its half-life</b>  |   |
| 3/5/14-IPM<br>3/6/14-TWIC<br>8/26/15-Email  | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"We want the Public works Department to consider the residual activity (or half-life) of pesticides prior to application. Particularly along the Flood Control District before a forecasted rain that can wash pesticides into the channels and contaminate the water that flows to the Bays"</p> | <ul style="list-style-type: none"> <li>Staff has reviewed EPA documents for triclopyr reregistration; information on triclopyr in the Nature Conservancy's <i>Weed Control Methods Handbook</i>; information on triclopyr in the Weed Science Society of America's <i>Herbicide Handbook</i>; and the CA Department of Pesticide Regulation's "Environmental Fate of Triclopyr" (January 1997); and has found that triclopyr: <ul style="list-style-type: none"> <li>Is practically non-toxic to birds, fish, and crustaceans</li> <li>Is of very low toxicity to mammals and is rapidly absorbed and then rapidly excreted by the kidneys, primarily in unmetabolized form</li> <li>Has an average half-life in soil of 30 days (considered short persistence)</li> <li>Would have little toxicological hazard to fish and wildlife as currently used in forestry (CCC's use is similar, although the County uses less product per acre than studies cited)</li> <li>Has a low K<sub>oc</sub>, which indicates mobility in soil; however, studies show that triclopyr is only somewhat prone to lateral movement and is practically not prone to vertical movement. In addition, triclopyr is fairly immobile in the sub-surface flow.</li> <li>Could be used without harm to nearby streams in forestry applications if buffer zones are used around streams and ephemeral drainage routes.</li> </ul> </li> <li>CCC Public Works Vegetation Management uses Garlon 3A as follows: <ul style="list-style-type: none"> <li>Garlon 3A is a broadleaf contact herbicide with no pre-emergent qualities. It does not kill grasses, so it is often used with Roundup (glyphosate), which does kill grasses.</li> <li>Generally Garlon 3A is not used during the rainy season.</li> <li>It is used on roadsides, flood control channel slopes, and flood control channel access roads.</li> <li>On flood control channel slopes, Garlon 3A is sprayed down the slope no further than the toe of the slope. Flood control channels are trapezoidal in cross section, and the toe of the slope is where the slope meets the flat part of the channel. Depending on the site, the water in the channel is from 10-50 ft. from the toe.</li> <li>If there is a chance of the herbicide getting into the water, Public Works uses Renovate 3, which has the same active ingredient (triclopyr), but is labeled for aquatic use.</li> </ul> </li> </ul> |
|   | <b>Posting for pesticide use</b>  |   |
| 11/6/13-IPM<br>12/5/13-TWIC   | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"The county staff are still not</p>   | <ul style="list-style-type: none"> <li>In 2009 the Departments developed a pesticide use posting policy. The policy does not require posting in "rights-of-way or other areas that the general public does not use for recreation or pedestrian purposes".</li> </ul>   |



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| 2/20/14-IPM<br>2/24/14-IPM<br>2/26/14-IPM<br>3/5/14-IPM<br>3/6/14-TWIC<br>4/2/14-IPM<br>12/4/14-TWIC<br>2/17/15-IPM<br>3/2/15-TWIC<br>8/26/15-Email<br>11/4/15-IPM<br>2/17/16-IPM<br>11/16/16-IPM<br>11/16/17-IPM                                   | <p>posting when applying pesticide in parks, along hiking trails, major intersections of rights of ways, along flood control districts where many people, children and their pets frequent."</p> <p>"Posting online of pesticide applications"</p> <p>"Posting online of pesticide use reports from <i>each</i> program as they are generated on a monthly basis [for fulfilling reporting requirements with the state Department of Pesticide Regulation]"</p> <p>Provide a list of where pesticide applications were posted for each IPM program and how many signs were used in 2013. (4/2/14)</p> <p>"The County's Posting Policy states that posting is required where there is foot access by the public or where the area is used for recreation...PfSE has shown you photos of children walking along these access trails...These access roads look just like walking trails along often idyllic looking creeks that the community use on a daily basis." (12/4/14)</p> <p>Concerns about pesticide posting (2/17/15)</p> <p>"Posting is still not done in most treated areas where people have foot access and where they recreate per the CC County's Posting Policy." (3/2/15)</p> <p>"I'd also like to see that posting is being done per policy." (11/16/16)</p> | <ul style="list-style-type: none"> <li>• The CCC posting policy, including the provision mentioned above, is consistent with, and very similar to the posting policies of Santa Clara and Marin Counties and with the City of San Francisco.</li> <li>• The policy was reviewed and discussed by the IPM Committee when it was first developed, and in 2012 was revised to allow web posting and allow permanent signs in certain areas.</li> <li>• County Departments have verified that they abide by the posting policy.</li> <li>• The County's website for online posting of pesticide applications (for the areas required by the CCC posting policy) was up and running as of 3/10/15.</li> <li>• Pesticide use reports that are generated for the California Department of Pesticide Regulation are provided yearly to Parents for a Safer Environment. Monthly reports are available if the public wishes to view them.</li> <li>• In the 5/27/14 IPM Transparency subcommittee meeting, the IPM Coordinator presented a chart with a list of pesticide application postings and the number of posting signs used during the 2013 calendar year.</li> <li>• Note that the County Posting Policy states that posting is "Not required in locations that the public does not use for recreation or pedestrian purposes" Recreation is defined as "any activity where significant physical contact with the treated area is likely to occur".</li> <li>• On Pinole Creek, in the photo submitted by PfSE, the Public Works Department does not treat the paved path next to the school that the children are shown walking on.</li> <li>• Most of the County's Flood Control access roads are within locked gates with signs saying "Property of Contra Costa. No Trespassing". No one should be jogging or walking along these roads.</li> <li>• If PfSE can provide the County with information on specific access roads and specific times when people have been exposed to pesticide spraying, the County will investigate immediately.</li> <li>• Without information on specific locations, the County is unable to investigate this concern about not posting "in most treated areas where people have foot access and where they recreate..."</li> <li>• The IPM Committee has formed a Task Force to review the County's posting policy and compliance with that policy. (11/16/17)</li> </ul> |
|   | <b>Adopting an IPM ordinance</b>  |   |
| 9/4/13-IPM<br>11/6/13-IPM<br>2/26/14-IPM<br>3/5/14-IPM<br>3/6/14-TWIC<br>3/2/15-TWIC<br>2/17/16-IPM   | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>Issue of adopting an IPM ordinance for the County</p>   | <ul style="list-style-type: none"> <li>• In 2009, Susan JunFish proposed the need for an IPM Ordinance to the BOS. The Board directed the Committee to investigate the issue.</li> <li>• In 2009, County Counsel wrote an opinion recommending the use of an administrative bulletin to supplement the County's IPM Policy.</li> <li>• County Counsel continues to stand by their 2009 opinion.</li> <li>• At several meetings in 2010 and 2011, the IPM Committee studied the issue and heard presentations from PfSE and from other counties. In 2011 the Committee concluded unanimously that the County should adopt an IPM Administrative</li> </ul>   |

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| 1/19/17 IPM   |  | <p>Bulletin to supplement the IPM Policy that the County adopted in 2002. In CCC an administrative bulletin serves to direct staff and carries consequences for non-compliance.</p> <ul style="list-style-type: none"> <li>• The IPM Committee found no advantage to adopting an IPM ordinance.</li> <li>• In April of 2013, the IPM Administrative Bulletin was adopted.</li> <li>• In the fall of 2013, the IPM Committee again reviewed the issue of adopting an IPM Ordinance. For the second time, the Committee saw no advantage to developing an ordinance and once again voted unanimously to recommend the continued use of the IPM Policy supplemented by the IPM Administrative Bulletin.</li> </ul>  |
| <b>Reporting “Bad Actor” pesticides</b>   |  |  |
| 11/6/13-IPM<br>12/5/13-TWIC<br>2/12/14-TWIC<br>3/5/14-IPM<br>3/6/14-TWIC<br>2/17/15-IPM<br>3/2/15-TWIC<br>8/26/15-Email<br>9/2/15-IPM   | <i>From Parents for a Safer Environment (PfSE):</i><br><br>Disagreement on how the County should report “Bad Actor” <sup>3</sup> pesticides in the IPM Annual Report   | <ul style="list-style-type: none"> <li>• Since FY 00-01, the County has been publishing pesticide use figures that include use figures for “Bad Actors”.</li> <li>• Note that <u>all</u> pesticides used by County operations are reported in the IPM Annual Report, regardless of the toxicity or hazards of the pesticide. At issue is the categorization of pesticides in the report, not whether all use is reported.</li> <li>• Susan JunFish, of Parents for a Safer Environment (PfSE), has been asking that additional pesticides be reported as “Bad Actors”. To resolve this issue, the IPM Committee heard presentations from Susan JunFish and held a special meeting of the Data Management subcommittee on March 25, 2013 devoted exclusively to this issue. Dr. Susan Kegley<sup>4</sup> was invited to speak, as requested by Ms. JunFish.</li> <li>• After hearing Dr. Kegley’s presentation and discussing the issue with her and with representatives of PfSE, the subcommittee members concluded that the County should report as “Bad Actors” only those that are designated as such in the Pesticide Action Network database.</li> <li>• June 26, 2013: The IPM Committee voted unanimously to make changes to the 2012 IPM Annual to reflect the recommendation from the Data Management subcommittee, as noted above. The IPM Coordinator continues to report pesticides as “Bad Actors” only if they are designated as such in the PAN database.</li> </ul> |
| <b>Use of Paraquat and Other Bad Actors for Aquatic Weed Control by the Department of Agriculture</b>   |  |  |
| 2/17/15-IPM   | <i>From Parents for a Safer Environment (PfSE):</i><br><br>“Use of paraquat for Aquatic Weed Control and other broad applied Bad Actor Pesticides by the Department of Agriculture.”<br>(Particular mention of South American sponge plant in the Delta was made.) | <ul style="list-style-type: none"> <li>• The Agriculture Department has not used paraquat in any aquatic weed applications and does not apply herbicides to the Delta for aquatic weeds. In the past, the Department has treated purple loosestrife in County waterways that feed into the Delta, but from this point forward they will not be treating any aquatic weeds.</li> <li>• The State Department of Boating and Waterways (DBW) has treated various areas in the Delta for invasive aquatic weeds over the years, and in September 2012, Governor Brown signed legislation authorizing DBW to add South American sponge plant to the list of weeds they treat.</li> </ul>  |

<sup>3</sup> “Bad Actor” is a term coined by 2 advocacy groups, Pesticide Action Network (PAN) and Californians for Pesticide Reform, to identify a “most toxic” set of pesticides. These pesticides are at least one of the following: known or probable carcinogens, reproductive or developmental toxicants, cholinesterase inhibitors, known groundwater contaminants, or pesticides with high acute toxicity. The pesticides designated as “Bad Actors” can be found in the PAN database on line: <http://www.pesticideinfo.org/>

<sup>4</sup> Ph.D. Organic/Inorganic Chemistry; Principal and CEO, Pesticide Research Institute; former Senior Staff Scientist for Pesticide Action Network (PAN); instrumental in the development of the PAN database.

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|   |   | <ul style="list-style-type: none"> <li>• State weed science experts judged that South American sponge plant posed a serious threat to the ecosystems in California waterways. This was based on research, the biology of the plant, and the rapid rate of its spread in California.</li> <li>• Judicious use of herbicide to eliminate small infestations before they take over and completely clog Delta waterways is an excellent use of herbicide and will prevent huge expenditures of labor and herbicide in the future. This kind of preventive use of a pesticide to reduce the necessity to use large amounts of pesticide when the pest has built to great numbers is a recognized and legitimate IPM tactic.</li> </ul>   |
| <b>Providing comments on the kestrel study, and rodenticides use concerns</b>   |   |   |
| 11/6/13-IPM<br>12/5/13-TWIC<br>2/20/14-IPM<br>2/24/14-IPM<br>3/5/14-IPM<br>3/6/14-TWIC<br>8/26/15-Email<br>7/20/16-IPM  | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"We have asked the Dept of Ag and the IPM Advisory Committee to provide comments on the Kestrel study and PfSE's Draft LD50 document in the past two years."</p> <p>In conjunction with this research paper, PfSE has brought up its concern about the rodenticides used by County operations.</p> <p>"Contractors [in Special Districts] use pesticides [rodenticides] before demonstrating alternatives first." (8/26/15)</p> <p>"I would like to first point out that the Special District program of Public Works is still using rodenticides in the county parks...It would be helpful to see the decision making tree on the way rodenticides are chosen instead of traps or asphyxiation methods using safer gases like carbon dioxide." (3/16/16)</p> <p>"The Public Works Special District program is using about 50 lbs. of rodenticides in parks." (7/20/16)</p> | <ul style="list-style-type: none"> <li>• On 9/18/12 Susan JunFish circulated to members of the IPM Committee the abstract from the kestrel study mentioned at left. On 2/4/13, the IPM Coordinator circulated the actual research paper to all the members of the IPM Committee.</li> <li>• On November 22, 2013, Vince Guise, Agricultural Commissioner, sent a formal response to Susan JunFish regarding the kestrel study. (TWIC and the IPM Committee Chair and IPM Coordinator were cc'ed on this communication.)</li> <li>• On January 7, 2014, Vince Guise re-sent the formal response to Susan JunFish and Shirley Shelangoski. On January 16, 2014, Shirley Shelangoski confirmed having received the document.</li> <li>• Susan JunFish asked the Committee to comment on the study, and the formal response was provided by the Agriculture Dept.</li> <li>• Regarding "PfSE's Draft LD50 document", neither the Committee nor County staff can comment on data calculated by Susan JunFish that have no references or clear calculation methods. This was conveyed to PfSE in the Department of Agriculture's Kestrel response letter.</li> <li>• Note that as part of the Department of Agriculture's ground squirrel program, the Department surveys ground squirrel treated areas for ground squirrel carcasses (or any other carcasses). Staff rarely find dead ground squirrels above ground, which is consistent with U.C. research in the state and the experience of other agencies. Staff has never found secondary kill, such as raptors or predatory mammals, in areas the Department treats. This does not mean, nor does the County claim, that no secondary kill ever occurs in the course of the County's treatment program.</li> <li>• The IPM Committee did not discuss the research paper specifically; however, the Committee and County staff took the following steps regarding the rodenticide issue: <ul style="list-style-type: none"> <li>○ In 2012, the Agriculture Dept. conducted an in-house trial of live-trapping of ground squirrels as a possible alternative to rodenticides treatment. See below for more detail.</li> <li>○ At their January 2013 meeting, the Committee heard a presentation from the Agriculture Dept on the trapping study and heard a presentation from the State Department of Fish and Wildlife on secondary poisoning of raptors and other predators and the state's efforts to restrict use of the more toxic 2<sup>nd</sup> generation anticoagulant rodenticides (CCC does not use 2<sup>nd</sup> generation anticoagulants because of their toxicity and their hazards to non-target animals that consume poisoned rodents).</li> <li>○ At their March 2013 meeting, the Committee heard a presentation from Dr. Jim Hale on wildlife issues in CCC that included discussion of the impacts of</li> </ul> </li> </ul> |

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|  |   | <p>rodenticides.</p> <ul style="list-style-type: none"> <li>○ At their May 2013 meeting, the Committee heard a presentation from Mt. Diablo Audubon on their campaign to curb the use of 2<sup>nd</sup> generation rodenticides.</li> <li>○ The Agriculture and Public Works Departments jointly prepared a map of the County marking where rodenticides are used by the Agriculture Dept. This map was presented in separate meetings to Supervisors Gioia, Mitchoff, and Andersen, and to Susan JunFish &amp; Shirley Shelangoski of PfSE. In these meetings the Agricultural Commissioner explained the Department's ground squirrel program and the live trapping study.</li> <li>○ The Agriculture Dept. prepared a very detailed decision making document for ground squirrel management in the County to record their decision making process and explain the complexities involved in their decisions, including biology, safety, efficacy, cost and the goals of the program. This document was discussed extensively in a subcommittee meeting and again in a regular Committee meeting. PfSE members were present and participated in the discussion.</li> <li>○ In 2013, the Agriculture Dept revised its ground squirrel baiting methodology to make it safer for staff, to make applications more precisely targeted, and to reduce the amount of bait used each season. The amount of bait used by the Department has been reduced by over 50% since 2011. Use has gone from 35,915 lbs in 2011 and 14,271 lbs in 2013. 14,271 lbs of bait is 1.4 lbs. of actual diphacinone.</li> <li>○ In February and again in August of 2013, the IPM Coordinator investigated rodenticides use by contractors to Special Districts. She presented her findings to the Committee at the 9/4/13 meeting.</li> <li>○ On 3/5/14, the IPM Committee heard an update from the California Department of Fish and Wildlife on the regulations concerning 2<sup>nd</sup> generation anticoagulant rodenticides and on secondary poisoning of raptors and mammalian predators by anticoagulant rodenticides.</li> <li>○ The Special Districts' contractor has reduced his use of anticoagulant bait from 188 lbs in FY 12-13 to 88 lbs in FY 13-14 and to 53.5 lbs in FY 14-15. The amount of actual anticoagulant active ingredient in 53.5 lbs is 0.0027 lbs ( 0.04 oz). The contractor has increased trapping and is not using any of the more toxic and dangerous 2nd generation anticoagulants.</li> <li>○ In FY 15-16 the Special Districts vertebrate pest manager used 27.5 lbs. of rodent bait, which is 0.0013 lbs. (0.02 oz.) of diphacinone. 9.5 lbs. of that rodent bait was used in a park (Livorna Park). This is 0.0076 oz of diphacinone. As noted above, the County is no longer using rodenticides in Livorna or any other park. <u>In FY 16-17 the Special Districts vertebrate pest manager used 18 lbs. of rodent bait, which is 0.0009 lbs. (0.01 oz.).</u></li> <li>○ As of May 2016, Special Districts is no longer baiting with diphacinone for rats in Livorna Park. The shrubs that were being damaged by rat gnawing have recovered and are thriving. The contractor will continue to monitor at Livorna for rat damage.</li> <li>○ In the spring of 2016, the IPM Decision-Making subcommittee asked the IPM Coordinator to create a decision-making document for gopher management in the County. The document was finished in June 2016. In the Grounds Division, the gopher manager uses only carbon dioxide asphyxiation and traps to control gophers in County landscaping. The</li> </ul> |

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|  |   | <p>Special Districts' contractor uses trapping and diphacinone, a 1<sup>st</sup> generation anticoagulant rodenticide, for gophers in Livorna Park. He uses trapping in Livorna wherever it is safe to do so, i.e., where children are unlikely to find and play with the traps. He uses diphacinone in the Hidden Pond and Driftwood landscaping zones because the budgets in these two Special Districts will not cover trapping, which is more labor intensive. Both those landscaping zones are frontage property. The only other location where the Special Districts' contractor manages vertebrate pests is the Alamo School field, where he is using traps.</p> <ul style="list-style-type: none"> <li>• <u>In 2017, the IPM Committee will again have presentations on ground squirrel management and rodenticide hazards.</u></li> </ul>   |
|  | <p><b>Trapping for ground squirrels</b></p>   |  |
| <p>12/5/13-TWIC<br/>2/20/14-IPM<br/>2/24/14-IPM<br/>3/5/14-IPM<br/>3/6/14-TWIC<br/>10/9/14-TWIC<br/>1/14/15-IPM<br/>8/26/15-Email<br/>2/17/16-IPM<br/>7/20/16-IPM</p>  | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"[PfSE] asked TWIC to instruct the Department of Agriculture and Public Works Dept to use trapping methods [for ground squirrels]"</p> <p>"Santa Clara spends only \$25/ground squirrel trapping &amp; removal"</p> <p>"Isn't it worth the effort to learn how the other counties are doing using only trapping for ground squirrel control?" (10/9/14)</p> <p>"One cannot compare efficiency of our [County] staff applying rodenticides and compare that to them trapping and stacking up overtime costs during the learning curve...A good-faith comparison would have been to utilize expert trappers vs our staff applying rodenticides, and then comparing costs." (10/9/14)</p> <p>"[The IPM Coordinator] states that the county would incur a charge of \$16,720 per linear mile for ground squirrel control if we paid a contractor who charges \$25/squirrel trapped. This is very speculative and we would like to see the county take bids from trappers and share the proposals with the Committee." (1/14/15)</p> <p>"Pilot Trial of rodenticides vs tapping done in 2012, biased &amp; scientifically indefensible."</p> | <ul style="list-style-type: none"> <li>• In 2012, the Agriculture Department ran an extensive, in-house ground squirrel live trapping trial to determine the feasibility of using live traps to protect critical County infrastructure from ground squirrel burrowing. <ul style="list-style-type: none"> <li>○ The trapping was successful in that staff were easily able to capture 152 ground squirrels in the 1,200 linear foot trial area along a County road over the 5 day trial period.</li> <li>○ The squirrels were euthanized on site by the California Department of Fish and Wildlife.</li> <li>○ Unfortunately, squirrels from the surrounding area quickly moved into the vacant burrows. <u>This makes trapping ineffective in areas with surrounding pressure from ground squirrels.</u></li> <li>○ When the Department uses rodenticide bait, the squirrels do not move back into the vacant burrows for an extended period of time. The Department surmises that because baited squirrels die mostly in their burrows, the carcasses repel any newcomers.</li> <li>○ The Department found that live trapping would be prohibitive. It would cost \$5,074/linear mile compared to \$220/linear mile using bait. The Department treats around 925 linear miles of roadway each year.</li> <li>○ Note that along roadsides, the Department spreads bait in a 12 to 15 ft wide swath at a rate of 2 to 3 oat kernels per square foot only in areas where ground squirrels are active. This treatment method takes advantage of the natural foraging habit of the ground squirrel, an animal that is highly adapted to finding individual seed kernels on the ground.</li> <li>○ The Department verified the expense by contacting 2 pest control contractors. Using their fees per hour or per squirrel trapped, the Department estimated that the cost to use a contractor to trap ground squirrels would be between \$12,524 and \$16,700 per linear mile. This does not compare favorably to the Department estimate of \$5,074/linear if work were done by Department staff.</li> <li>○ <u>Note that at the \$25/squirrel rate quoted by PfSE, it would cost the County \$16,720/linear mile if the ground squirrel catch rate were similar to the 152 squirrels/1,200 linear feet.</u> This is 3 times more than it cost for Agriculture Department personnel to trap over a linear mile, so using a contractor would not save money, even if this method were effective.</li> <li>○ We are assuming that Susan JunFish's 7/20/16 comment on the cost of trapping ground squirrels comes from the IPM plan for Rodent Control for</li> </ul> </li> </ul> |



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|   | <p>(8/26/15)<br/>"Cost of trapping inflated."<br/>(8/26/15)<br/>"Trapping [for ground squirrels] costs about 50% more according to a Ventura County Ag Dept report, or approximately \$80,000 more for CCC." (7/20/16)</p> | <p>Flood Control Facility Protection approved by the Ventura Board of Supervisors in December 2006. PfSE provided a copy of this IPM plan to the IPM Committee a number of years ago. In a table in that IPM plan, the county summarizes the costs for various treatments for ground squirrels. The table makes it clear that the costs are "estimates [for] one treatment event for a typical [flood control] facility." The Ventura IPM plan estimates the cost of trapping to be almost 100% more than the cost of broadcasting diphacinone bait (\$1700 for baiting vs. \$2900 for trapping). Note that the report does not define the "typical facility", so it is not possible to compare their estimates to the actual costs experienced in Contra Costa County. Note also that Ventura did not run a trial prior to adopting their IPM plan to determine the real costs of trapping or whether that strategy could be effective within the 3 "treatment events" the IPM plan recommends. It is not clear how Ms. JunFish calculated the \$80,000 extra needed to trap ground squirrels in Contra Costa County.</p> <ul style="list-style-type: none"> <li>○ One of the pest control contractors who was contacted for an estimate said he had also observed the ineffectiveness of trapping in areas with surrounding ground squirrel pressure.</li> <li>○ The Department also observed some other unexpected outcomes: <ul style="list-style-type: none"> <li>▪ Traps were checked daily, but staff found squirrels bloodied and wounded from fighting with each other or trying to chew their way out of the traps.</li> <li>▪ Traps were vandalized by the public even though large signs warned people to leave the traps alone. This exposed the public to health risks from bites and scratches and from transmissible diseases carried by ground squirrels.</li> </ul> </li> <li>○ In certain small areas that have a limited number of ground squirrel colonies, live trapping may be a viable alternative.</li> <li>• Santa Clara County Regional Parks find live trapping effective for their limited use of the method. They trap squirrels around Regional Park buildings to prevent undermining of foundations. This is a very small area compared to the hundreds of miles of roads involved in CCC. Park rangers are close by to educate the public and to observe the traps continually. This reduces vandalism and allows park personnel to have squirrels dispatched soon after they are trapped, which prevents harm to the squirrels from fighting or gnawing the cage.</li> <li>• In March 2006, the Ventura County Board of Supervisors directed county staff to avoid the use of anticoagulant rodenticides within county-owned properties and facilities. To address these concerns, the county hired a consultant and formed an ad hoc committee. The County developed an IPM program and as a result of a subsequent study, the ad hoc committee <i>and</i> the Board recommended broadcast baiting with diphacinone as the primary control method for ground squirrels. The Board approved this program in December 2006.</li> <li>• The CCC Agriculture Department has also evaluated kill traps but has chosen not to use that method for many reasons, including the increased risk of taking non-target animals, the risk of injury to curious children, and the expense.</li> </ul> |
|   | <b>Burrowing rodent control</b>  |   |
| 1/20/17-IPM   | <i>From Parents for a Safer</i>  | In 2017, the IPM Committee heard a presentation on the use of carbon monoxide   |

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| <p>11/16/17-IPM</p>  | <p><i>Environment (PfSE):</i></p> <p>The IPM Committee should investigate the use of carbon monoxide for controlling burrowing rodents.</p>  | <p>and carbon dioxide for burrowing rodents.</p> <p>Dr. Roger Baldwin, from UC Cooperative Extension, gave the presentation on carbon monoxide (CO) and made the following points:</p> <ul style="list-style-type: none"> <li>• His research was done in alfalfa fields, but it probably relates fairly well to rights-of-way. (In CCC, the greatest amount of rodenticide is used on rights-of-way to reduce damage from ground squirrels. A tiny amount of rodenticide is used in Special Districts for gophers, and no rodenticides are used in County grounds.)</li> <li>• Using CO in rights-of-way will cost more than it did in his alfalfa fields. Efficacy still varies tremendously from site to site. It works best when soil is moist and not sandy.</li> <li>• It takes 3-4 minutes to treat each burrow, and other openings must be covered with soil, so the gas does not escape. It would be difficult to try to dig up hard packed clay in the summer to cover burrow openings. Sand bags might work, but they are heavy and time-consuming to load, unload, and carry to and from the truck to each hole.</li> </ul> <p>The Grounds Division Vertebrate Pest Manager already uses carbon dioxide to kill gophers and moles in County landscaping, in addition to trapping. In the summer of 2017, the Grounds Division hosted a demonstration of the carbon monoxide machine, which they are considering purchasing.</p> <p>Using either CO or CO<sub>2</sub> along County roads would likely be very costly due to the many miles of road and the many ground squirrel burrows along some sections of road. It would be most effective in the winter or spring when the soil is wet and prevents gasses from leaking out. The Agriculture Department, the entity that manages ground squirrels for the Public Works Department, is engaged in invasive weed control and other duties during that time of year and could not attend to ground squirrels as well. In August when the Department has traditionally handled ground squirrels, the soil is dry and hard. Gasses leak out in dry soil, and as mentioned above, covering holes would be challenging.</p> |
| <p><b>CCC is the only Bay Area county using rodenticides for ground squirrels</b></p>  |  |  |
| <p>12/5/13-TWIC<br/>10/9/14--TWIC<br/>7/20/16-IPM</p>  | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"[Contra Costa is] currently the only Bay Area county to continue to use the archaic and non-specific to target pest method of rodenticides to kill grounds squirrels"</p> <p>"It's great that the Agriculture Department has decreased usage of rodenticides from 36,615 pounds [of treated grain] applied two years ago to 14,391 pounds [of treated grain] applied in the most recent fiscal year. However it is still 14,301 pound [sic] more of bait applied than all Marin, San Francisco, and Santa Clara counties combined that do not use any rodenticides at all in open</p> | <p>Note that CCC uses diphacinone-treated bait to protect critical infrastructure in the County from damage caused by ground squirrel burrowing. Diphacinone is a 1<sup>st</sup> generation anticoagulant that is less toxic and less persistent in animal tissues than 2<sup>nd</sup> generation anticoagulants. The Agriculture Department endeavors to maintain a relatively ground squirrel-free 100 ft buffer along various County roads (mainly in East County), along levees and railroad embankments, and around earthen dams and bridge abutments. To maintain this buffer, the Department treats a 12 to 15 ft. swath.</p> <ul style="list-style-type: none"> <li>○ Alameda County engages in a ground squirrel treatment program using diphacinone bait that is very similar to CCC. They treat roadsides and levees and Zone 7 Water District sites and use a similar amount of diphacinone-treated bait.</li> <li>• The City and County of San Francisco does not have ground squirrel problems to contend with; however, as of February of 2016, their IPM program allows the use of bromadiolone bait (a 2<sup>nd</sup> generation anticoagulant rodenticide) for rats at the SF Airport and by commercial lessees on city properties that are not adjacent to natural areas. Second generation anticoagulants are more toxic and more persistent in the tissues of poisoned animals than 1<sup>st</sup> generation anticoagulants, such as the diphacinone that CCC Department of Agriculture uses. Bromadiolone persists in liver tissues for 248 days compared to 90 days for diphacinone which</li> </ul>   |

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|   | space." (10/9/14)   | <p>makes sub-lethally poisoned animals walking hazards for predators much longer.</p> <ul style="list-style-type: none"> <li>Note that as of February 2016, San Francisco allows the use of diphacinone for baiting rats in areas with high public health concerns and where trapping is infeasible. CCC uses only trapping to control rats and mice in and around County buildings. But note also that CCC is far less urbanized than San Francisco, and therefore does not have the same kind of severe pest pressure from rats.</li> <li>Marin and Napa County Public Works Departments reported that they have nowhere near the kind of ground squirrel populations that East Contra Costa County has, and consequently, they don't do anything about the few ground squirrels along their roads.</li> </ul>   |
| <b>The County should use volunteers and free labor</b>  |   |  |
| 12/5/13-TWIC<br>3/6/14-TWIC<br>2/17/16-IPM<br>11/16/17-IPM  | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>The County should use free labor programs</p> | <ul style="list-style-type: none"> <li>This could be particularly helpful around County buildings. The Grounds Manager would welcome Parents for a Safer Environment (PfSE) volunteers to pull weeds at particular sites, but PfSE would first need to negotiate with the County to determine if PfSE volunteers would be permitted work on County landscaping. If the work were approved, PfSE would need to organize and supervise the volunteers.</li> <li>Note that County unions have protested the use of inmate labor for jobs that could be filled by union members. The union recently won a grievance against the Sheriff's Department regarding the use of inmate labor for grounds maintenance work. The union has filed a grievance against the fire department regarding the use of inmate labor to clear brush. The Grounds Manager does not anticipate that PfSE volunteers pulling weeds would precipitate these kinds of union actions.</li> <li>In the County's other IPM programs, using volunteers is more difficult. <ul style="list-style-type: none"> <li>"Free" labor involves considerable County resources including outreach to solicit volunteers, planning and organizing work sessions, staff time for training volunteers, transportation of volunteers, equipment for volunteers and staff time for supervision.</li> <li>Almost all of the Agriculture Department's noxious weed program involves activity on private land or on lands that are not owned or managed by the County. Use of volunteer help in these areas would involve liability for those land owners or managers.</li> <li>Much of the Public Works Department's creek and roadside vegetation management involves work in dangerous areas such as roadsides or steep and rocky slopes and requires the use of hazardous equipment such as chain saws and brush cutters. County liability for volunteers performing this kind of work would be extremely high.</li> <li>The County's structural IPM program is not suited to the use of volunteer labor.</li> </ul> </li> <li>Note that the County does use volunteers, most notably in creek restoration and clean up, for creek water quality monitoring and for outreach to the public about creek water quality and the value of healthy creeks and watersheds.</li> </ul> |
| <b>Grazing has no significant impact on water quality</b>   |   |  |
| 12/4/14-TWIC<br>8/26/15-Email   | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"...[I]n each of the four case</p>            | <ul style="list-style-type: none"> <li>The County is aware that grazing does not have a significant impact on water quality. Economics and not water quality is the limiting factor in the vegetation management situations in the County. Public Works continues to expand its grazing program where it is most appropriate and/or cost-effective, and grazing</li> </ul>   |



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|   | <p>studies, grazing had NO significant impact on water quality. It is my hope that this research can provide decision makers with confidence that managed grazing is an effective, economical and safe vegetation management tool along watercourses."</p> <p>"Small PfSE Pilot Trial in 2009 showed no contaminants downstream of grazing." (8/26/15)</p>  | <p>has become a permanent tool in the County's IPM Toolbox.</p>  |
| <b>The County should expand goat grazing and competitive planting</b>   |   |  |
| <p>12/5/13-TWIC<br/>3/5/14-TWIC<br/>2/17/15-IPM<br/>8/26/15-Email<br/>7/20/16-IPM<br/>5/11/17-IPM<br/>11/16/17- IPM</p>   | <p><i>From Parents for a Safer Environment (PfSE):</i><br/>"The County should expand the competitive planting and goat grazing programs"</p> <p>"[One decision-making document] asserts that goat grazing costs much more than herbicide spraying; however it appears the cost of grazing during the in-season are [sic] being compared with herbicide usage. Other case studies we are evaluating show that grazing is cost effective and even cheaper than herbicide usage." (2/17/15)</p> <p>Grazing costs are inflated and cost of herbicide use is deflated. (8/26/15)</p> <p>"With evidence that grazing causes no more damage and can be less expensive in the short term and also less risk to public health and the environment, we need to expedite moving away from herbicide usage and utilize more grazing." (7/20/16)</p> | <ul style="list-style-type: none"> <li>• The County Flood Control District is partnering with Restoration Trust, an Oakland-based non-profit, in a native planting experiment along Clayton Valley Drain (near Hwy 4 adjacent to Walnut Creek). The study involves planting 2 species of native sedge and 1 species of native grass. These are perennial species that stay green year round and are resistant to fire. The plants are compatible with flood control objectives because they do not have woody stems, and during flood events, they would lie down on the slope, thus reducing flow impedence. They are not sensitive to broadleaf herbicides that will be needed to control weeds at least until the plants have spread enough to outcompete weeds. County volunteers installed the first plantings on December 7, 2013</li> <li>• Note that it is conceivable that herbicides may always have to be used on these plantings to prevent the area from being overrun with weeds because the surrounding weed pressure is very high.</li> <li>• Restoration Trust will be monitoring the test plots through 2018 to assess the survival of the native plants and their degree of successful competition with non-native annual species. The County will gather information over the same time period to determine whether, how, and where to expand this kind of planting. The County cannot expand this project without data on its costs and viability.</li> <li>• Over the last 3 years, the Public Works Department has expanded its use of goat grazing considerably. In FY 12-13 they grazed 74 acres, in FY 13-14 they grazed 183 acres, and in FY 14-15 they grazed 367 acres. It is now a regular management tool for the Department. Every site the County manages differs in the ease with which goats can be used and their suitability for managing vegetation. The Department uses goats where they are appropriate and cost effective, and continues to gather data on costs and long-term effectiveness at individual sites. Cost is affected by many factors: <ul style="list-style-type: none"> <li>○ The size of the site—loading and unloading the animals is a fixed cost, so small sites cost more per acre than large sites</li> <li>○ The ease of access to the site—the harder it is to get the goats into an area, the more expensive it is</li> <li>○ The availability of water—if water must be trucked in, the cost is greater</li> <li>○ The security of the site—the more fencing that is required and the more the fences must be taken down and erected within the site both increase the cost</li> <li>○ The time of year—because of the law of supply and demand, cost is greater during the peak grazing season</li> <li>○ The presence of endangered species—sites with endangered species and</li> </ul> </li> </ul> |

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|   |  | <p>other restrictions from the State Dept. of Fish and Wildlife are good candidates for grazing regardless of the cost</p> <ul style="list-style-type: none"> <li>• Although the cost of off-season grazing is less expensive than during the peak grazing season, Public Works cannot effectively manage all the weeds that grow in the Flood Control District only with off-season grazing.</li> <li>• In 2016 Public Works continued to use grazing wherever possible and to allow the grazer to stage goats on various channels and in detention basins in exchange for free vegetation management from the goats.</li> <li>• In FY 15-16 the County used goats to graze a total of 315 acres which included 158 free acres. Without the staging arrangement with the grazer, the County would have paid around \$950/acre for grazing. With the free acres, the cost came down to \$470/acre. This is twice what it costs to treat creek banks with herbicide (\$222/acre).</li> </ul>  |
| <b>Considering least-toxic alternatives before choosing pesticides</b>  |  |  |
| <p>12/5/13-TWIC<br/>2/26/14-IPM<br/>2/17/15-IPM<br/>8/6/15-IPM<br/>8/26/15-Email<br/>11/4/15-IPM<br/>2/17/16-IPM<br/>11/16/17-IPM</p>   | <p><i>From Parents for a Safer Environment (PfSE):</i><br/>"Staff has still not demonstrated that for <i>each</i> pest control problem, least toxic alternatives were evaluated prior to choosing pesticides."<br/><br/>Estimates for costs of herbicide applications need to include cost of permits, tracking requirements, storage of chemicals, licensing, training, etc.<br/><br/>"The IPM Advisory Committee has not yet reviewed several key data in the [decision-making documents] that justify using broadcast herbicide spraying along Right of Ways and rodenticide usage in open space." (2/17/15)<br/><br/>"Also, has the county investigated least toxic methods in accordance with the IPM Policy?" (8/6/15)</p> | <ul style="list-style-type: none"> <li>• In 2012, the IPM Committee developed a form for recording IPM decisions made by the Departments. In 2013, each IPM program in the County produced at least 1 decision-making document for a specific pest or pest management situation (the Agriculture Department produced 2 documents that year).</li> <li>• These documents show which least-toxic alternatives are considered and tested, which are being regularly employed, which are not, and why.</li> <li>• In 2013, 2014, 2015, 2016 &amp; 2017, each new decision-making document was extensively reviewed by the Decision-Making subcommittee with PfSE members in attendance.</li> <li>• Recording the thought processes and decision-making path for each pest or pest management situation takes considerable time (approximately 40 hours of work per document).</li> <li>• In 2014, the Decision-Making subcommittee reviewed and, after numerous revisions, accepted 4 more decision-making documents. These discussions were conducted in public with members of PfSE in attendance.</li> <li>• In 2015, the Weed subcommittee reviewed and revised 1 more decision-making document which covered how the County decides to use grazing as a management tool.</li> <li>• In 2014, the Cost Accounting subcommittee chose to research the costs associated with altering landscapes around County buildings to require less maintenance, less water, and less herbicide. The subcommittee concluded that this is a very worthy goal, but more complicated to achieve than expected. Sites must be considered individually because one plan will not fit all, and in the midst of severe drought, it is not the time to begin replanting. The subcommittee also explored the idea of replacing lawns with artificial turf, but decided that it is not the answer except in very specific, limited situations. Artificial turf has high up-front costs, still requires maintenance, can become infested with weeds growing in soil that accumulates on top of the mat, and has environmental consequences at the end of its life,</li> <li>• Herbicide treatment costs reported in IPM Annual Reports from 2013 onward include all associated costs mentioned by PfSE. When costs are compared in future documents, every effort will be made to include all related costs for both pesticides and alternatives.</li> </ul> |

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| <p><b>Excessive pesticide use in CCC</b></p>   |  |   |
| <p>12/5/13-TWIC<br/>2/26/14-IPM<br/>12/4/14-TWIC<br/>3/10/15-IPM<br/>2/17/16-IPM<br/>3/16/16-IPM<br/>7/20/16-IPM<br/>11/16/17-IPM</p>  | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>Contra Costa County uses more pesticide than any other Bay Area County (or, than several Bay Area Counties combined)</p> <p>"lack of progress is evident in that the county has not significantly altered their use of pesticide since 2009"</p> <p>"The single most underlying problem I see in the IPM Program is that there is little to no leadership in guiding the County to reduce pesticides. (12/4/14)</p> <p>"Compare the quantity and the type of pesticides being used by neighboring counties of Marin, S.F., and Santa Clara Counties [sic] for the same pest problems." (2/17/16)</p> <p>"...I am concerned about the exponential increase of herbicides being applied by the Grounds program in the last fiscal year [FY 14-15]." (3/16/16)</p> <p>"The Right of Ways program of Public Works alone used over 10,200 lbs of pesticides last fiscal year, using 20 herbicides...These [sic] program needs review of why so much pesticides are required and at such high rates." (3/16/16)</p> <p>"...CCC Ag Dept's usage of the active ingredient diphacinone rodenticides in the last 5 years increased by 15% in open space, with a 90% increase between the last 2 years." (7/20/16)</p> <p>"The Public Works Department's Grounds Program in the last 5 years increased their herbicide usage by 73%. CCC Grounds program used 700% more herbicides than the counties of Santa Clara and Marin combined last year [presumably 2015] (600 lbs vs 100 lbs) even when Santa</p> | <ul style="list-style-type: none"> <li>• The assertion that CCC uses more pesticide than any other Bay Area County, or other counties combined, is hard to evaluate since staff have not seen current pesticide use figures for County operations in other Bay Area Counties.</li> <li>• This could be researched, but would take time. It is difficult to compare counties, all of which vary greatly in their size, their budgets, their staff, their pests, their weather, and the kinds of responsibilities they choose to undertake. Staff feel that comparing pesticide use in various counties is not particularly relevant to how well Contra Costa County operations are implementing IPM.</li> <li>• In 2012 and 2013, the IPM Data Management subcommittee undertook to find additional metrics to evaluate the County's IPM programs. This proved to be a difficult task, and the committee's research did not discover any unique or innovative measures for evaluating IPM programs in other Bay Area counties, or across the U.S.</li> <li>• The subcommittee agreed that pesticide use data do not reveal whether the County is implementing IPM, and so in 2012, the subcommittee developed the IPM Priority Assessment Tool. This is a compilation of IPM best management practices (BMPs). The subcommittee asked the Departments to fill out the form in 2012 and 2013 and report the percentage of implementation of each of the BMPs.</li> <li>• It is important to understand that pesticide use can increase and decrease from year to year depending on the pest population, the weather, the invasion of new and perhaps difficult to control pests, the use of new products that contain small percentages of active ingredient, the use of chemicals that are less hazardous but not as effective, the addition or subtraction of new pest management projects to a department's workload, and cuts or increases to budgets or staff that change priorities or workload.</li> <li>• From FY 00-01 through FY 16-17, the County has reduced its pesticide use by 75% --from 18,931 lbs of active ingredient in FY 00-01 to 4709 lbs of active ingredient in FY 16-17.</li> <li>• Since FY 00-01, each Department has been evaluating its pesticide use and researching options for eliminating or reducing pesticide use. By 2015 County operations had eliminated the use of 24 of the 31 "Bad Actor" pesticides that they had been using and had reduced the lbs of "Bad Actor" active ingredients by 84%.</li> <li>• The County's pesticide use trend follows a trend typical of other pollution reduction programs. Early reductions are dramatic during the period when changes that are easy to make are accomplished. Once this "low-hanging fruit" has been plucked, it takes more time and effort to investigate and analyze where additional changes can be made. The County is entering this period, and if further reductions in pesticide use are to be made, it will require time for focused study and additional funding for implementation.</li> <li>• Note that County operations use about 2% of all the pesticide (active ingredients) that is required to be reported in the County. The total reported to the state does not include homeowner use, which researchers suspect is a considerable amount.</li> <li>• In FY 14-15, the Grounds Division used only 1/3 of the pesticide it used in FY 00-01. The amount used in FY 14-15 was 154 lbs. of active ingredient less than in</li> </ul> |

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|  | <p>Clara county has at least 50% more grounds requiring management." (7/20/16)</p> <p>The Public Works Department's Facilities program manages pests in buildings and has been doing great until last year when insecticide usage inside building(s) [sic] went up past 8 lbs." (7/20/16)</p>   | <p>FY 13-14.</p> <ul style="list-style-type: none"> <li>• In FY 14-15 the Public Works Roadside and Flood Control Channel Maintenance Division (the "Right of Ways program" that PfSE refers to) used 4,780 lbs. of pesticide active ingredients. This is a little more than ¼ of the pesticide they used in FY 00-01.</li> <li>• In FY 14-15 the Agriculture Department used 346 lbs. <i>less</i> of the anticoagulant diphacinone than the previous year. In FY 15-16, the Department reduced its use even further. In FY 14-15 the Department used 154.7 lbs of diphacinone and in FY 15-16 it used 76 lbs. Over the last 5 years, this is a dramatic decrease of 86% and a decrease of 95% from the 1420.7 lbs. used by the Department in FY 00-01.</li> <li>• The Grounds Division use of herbicide has indeed increased over the last 8 years. The Recession and its attendant budget cuts, along with decisions by the former Grounds manager to stop almost all herbicide use, contributed to several years of minimal use. Weeds and their seeds were not managed effectively for several years resulting in large weed and weed seed loads at many County properties. Over the last 6 years, the current Grounds Manager and his crew have been working very hard to reduce the weed pressure and improve the aesthetics of County landscaping. This has included the application of prodigious amounts of woodchip mulch and reducing irrigation to prevent weeds, but it has also meant the use of more herbicide. Inadequate budgets and staffing problems have made the recovery of County properties slow. Currently (2016) the Division is in much better shape and has enough money and almost enough staff to properly maintain County landscaping. As the crew reduces the weed load, they can more easily maintain relatively weed-free landscapes with physical methods such as handpulling and mulching.</li> <li>• Pestec, the County's structural pest management contractor that manages pests in and around buildings, has been battling very large ant populations the last 2 (2015 and 2016) years, and this has increased the amount of insecticide used. Insecticides for ants are all in the form of baits and pose very little exposure for County staff and wildlife.</li> </ul> |
| <p><b>CCC should do more IPM training and outreach to County staff and the public</b></p>  |   |   |
| <p>12/5/13-TWIC<br/>2/17/16-IPM<br/>3/16/16-IPM<br/>11/16/16-IPM<br/>3/16/17-IPM</p>   | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"the County IPM Coordinator and the IPM Advisory Committee [should] provide annual IPM training and outreach programs to both county staff and the public"</p> <p>The County should "provide training and conferences such as those conducted by Santa Clara and San Francisco counties which train hundreds of interested participants."</p> <p>"I would like to see Contra Costa County, with more resources than [Parents for a Safer Environment], facilitate some training for</p> | <ul style="list-style-type: none"> <li>• The IPM Committee is an advisory body to the Board of Supervisors and does not have a budget, nor does it have the staff or the mandate to provide outreach and training.</li> <li>• There is no need to duplicate San Francisco and Santa Clara's regional IPM conferences, and it would be impossible for the IPM Coordinator to do so without staff and budget.</li> <li>• In 2012, the IPM Coordinator partnered with cities in CCC to provide a half-day landscape IPM training to City and County staff and will probably do so again in the future.</li> <li>• The IPM Coordinator provides extensive education in person and over the phone to County staff and Contra Costa citizens on bed bug awareness and an IPM approach to managing bed bugs. The IPM Coordinator produces educational materials on bed bugs for professionals and lay people. Materials are housed on the Health Services bed bug website (cchealth.org/bedbugs).</li> <li>• The Departments provide annual training to County staff that includes IPM.</li> <li>• County staff attend numerous trainings and conferences that include IPM training</li> </ul>   |

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|   | <p>municipalities in our county for some of the toughest problems that trigger pesticide usage...”<br/>(11/16/16)</p> | <p>in order to stay current on pest management research and to maintain their various licenses.</p> <ul style="list-style-type: none"> <li>• The Department of Agriculture has a biologist on-call from 8 AM to 5 PM each weekday to answer questions from the public about pests and pest management. Biologists base their responses on IPM principles and on materials and resources from the U.C. Statewide IPM Program.</li> <li>• Every day in the course of their work, County staff from Public Works, Health Services and the Department of Agriculture engage citizens in dialog about the pest management work the County does and the IPM principles the County employs.</li> <li>• The Department of Agriculture provides many training sessions each year on pesticide safety (including IPM issues) to growers, farm workers, agencies, and the pest control industry.</li> <li>• The Department of Agriculture is a member of the <i>Egeria densa</i> Integrated Pest Management Committee and developed the Contra Costa Delta/Discovery Bay Region Brazilian Waterweed (<i>Egeria densa</i>) Integrated Pest Management Plan.</li> <li>• The County Clean Water Program sponsors an annual Bay Friendly Landscaping training for County staff and professional landscapers throughout the county. This training includes information about IPM and about reducing inputs into and outputs from landscaping activities to prevent pollution in creeks and the Bay.</li> <li>• The County Clean Water Program provides support for watershed coordinators and friends of creeks groups that coordinate volunteers to conduct general outreach to the community about water quality in creeks and the value and importance of wildlife habitat, watersheds, and creek restoration.</li> <li>• The County Clean Water Program provides support to the Bringing Back the Natives Garden Tour which educates the public about the many benefits of gardening with California native plants.</li> <li>• The County Clean Water Program supports the Our Water, Our World Program in Contra Costa County (a program originally developed by CC Central Sanitary District). This program provides in-store IPM education directly to consumers who are purchasing pesticides. IPM training is also provided for nursery and hardware store employees.</li> <li>• In 2014 the County Clean Water Program launched 3 other IPM and pesticide public education programs.</li> <li>• The Contra Costa Master Gardener Program trains volunteers with a curriculum that includes IPM. Master Gardener volunteers are available Monday through Thursday from 9 to Noon to answer gardening and pest management questions from the public. Advice is based on materials and resources from the U.C. Statewide IPM Program. Master Gardeners also provide presentations on gardening and IPM to a broad cross section of Contra Costa citizens.</li> <li>• The IPM Coordinator accepts many speaking engagements throughout the County and the region to provide training on IPM and especially on bed bug issues.</li> <li>• The IPM Coordinator and other County staff have been working closely with cities to provide guidance on the bed bug infestations they are experiencing.</li> <li>• The IPM Coordinator is working with Code Enforcement in the City of Richmond to develop bed bug training for Code Enforcement officers throughout the state.</li> <li>• Every month the IPM Coordinator spends a significant number of hours talking</li> </ul> |

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|   |  | <p>with citizens about least-hazardous bed bug control.</p> <ul style="list-style-type: none"> <li>• The Agricultural Department represents the California Agricultural Commissioner's and Sealer's Association as the sitting member of the California Invasive Species Advisory Task Force.</li> <li>• In October 2013, County staff attended a Parents for a Safer Environment's IPM workshop and found it informative. Parents for a Safer Environment can provide a useful community service by hosting more such workshops.</li> <li>• In April 2014, the IPM Coordinator provided an in-person IPM tutorial for the Grounds Division's new spray technician.</li> <li>• In May 2014, the IPM Coordinator arranged an IPM workshop given by Pestec, the County's Structural IPM Contractor, for the County's Head Start Home Base educators. Pestec presented information on how to prevent pests in the home and simple, non-toxic strategies for low income families to use to combat pest invasions. Home Base educators provide in-home education to Head Start families.</li> <li>• In May 2014, the Contra Costa Environmental Health Division sponsored a workshop on IPM for bed bugs for County Environmental Health Inspectors and code enforcement officers in Contra Costa municipalities.</li> <li>• In July 2014, the County hosted a presentation by the U.C. Horticultural Advisor on how landscapes should be managed during drought and how to plan landscapes for what is likely to be continual droughts. County staff, both administrators and maintenance personnel, along with park personnel from the city of Danville attended.</li> <li>• In July 2014, the IPM Coordinator provided a bed bug awareness training for the residents of Meadow Wood at Alamo Creek, a senior living facility in Danville, along with subsequent consultation with individual residents and staff.</li> <li>• In September 2014, the IPM Coordinator provided the Greater Richmond Interfaith Program with assistance for a bed bug infestation at their Family Housing Program.</li> <li>• In February 2015, the IPM Coordinator met with staff at the Bay Area Rescue Mission in Richmond to discuss bed bug prevention.</li> <li>• In June 2015, the IPM Coordinator completed an IPM Guidance manual for municipalities in Contra Costa County with help from Beth Baldwin of the County Clean Water Program and Stephen Pree of the City of El Cerrito. The three had worked for 2 years to develop IPM guidance for cities on implementing IPM and to develop standard operating procedures for various pests. The three presented an IPM workshop for municipal staff that included information on how to use the manual and resources available to them within the County.</li> <li>• In November 2015, the IPM Coordinator and Luis Agurto from Pestec provided a bed bug training for County Adult Protective Services staff who have been encountering bed bug problems in their clients homes more frequently.</li> <li>• In April 2016, the IPM Coordinator helped arrange a County-sponsored Bay Friendly Landscaping refresher training at the Pittsburg Civic Center open to all Bay Friendly certified landscaping professionals in the County.</li> <li>• In April 2016, the IPM Coordinator and Luis Agurto from Pestec provided a bed bug awareness training for staff from the Behavioral Health Division.</li> <li>• In May 2016, the IPM Coordinator arranged a talk on mosquitoes as vectors of disease by Dr. Steve Schutz of CC Mosquito and Vector Control for the IPM</li> </ul> |



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|  |   | <p>Advisory Committee.</p> <ul style="list-style-type: none"> <li>• In May 2016, the IPM Coordinator gave a class in home and garden pests at the Gardens at Heather Farms for the general public.</li> <li>• In May 2016, the IPM Coordinator helped arrange a talk at the Richmond Civic Center on vertebrate pest management for County and municipal staff and professional landscapers.</li> <li>• In May 2016, the IPM Coordinator provided a bed bug prevention training to the County's Discovery House staff.</li> <li>• In June 2016, the IPM Coordinator and Carlos Agurto from Pestec provided a bed bug prevention refresher training to the Concord Homeless Shelter and Calli House youth shelter staff.</li> <li>• In July 2016, the IPM Coordinator provided bed bug prevention trainings for both Adult Mental Health and Older Adult Mental Health staff.</li> <li>• In August 2016, the IPM Coordinator provided bed bug prevention trainings for the Behavioral Health safety coordinators and for a group of board and care owners and managers.</li> <li>• In October 2016, the IPM Coordinator provided a bed bug prevention talk for homeless care providers, worked with the City of Richmond to create a plan for managing bed bugs in their city, and talked to staff at 1650 Cavallo about preventing ant infestations.</li> <li>• In January 2017, the IPM Coordinator gave a presentation on bed bugs for a group home in Antioch.</li> <li>• In February 2017, the IPM Coordinator provided the IPM presentation for the Bay Friendly Landscaping training in Concord.</li> <li>• In February 2017, the IPM Coordinator gave a bed bug talk at a home for HIV patients in El Cerrito.</li> <li>• During the spring of 2017, the IPM Coordinator consulted on a project of the Alameda County Healthy Homes program to create a three-part online training series on IPM for landlords and property owners.</li> <li>• In May of 2017, the IPM Coordinator participated in a bed bug investigation of a motel in Richmond and helped to educate the owner about bed bug prevention.</li> <li>• In August, the IPM Coordinator gave a bed bug awareness presentation to WIC staff.</li> <li>• During the summer of 2017, the IPM Outreach subcommittee of the IPM Advisory Committee developed a short presentation on pest management in homes for County in-home visitors. The subcommittee has three presentations scheduled through the end of 2017, and will be contacting additional groups for presentations in the new year. <u>As of January 2018, the subcommittee had given 4 presentations which trained 112 in-home visitors about the risks of pests and pesticides in the home and explained prevention and control measures for common pests. The subcommittee has 8 more presentations scheduled as of January 2018.</u></li> <li>• In August of 2017, the IPM Coordinator and Carlos Agurto from Pestec, the County's structural pest management contractor, provided a bed bug prevention training for Calli House Youth Shelter staff. <u>In September, the IPM Coordinator provided a bed bug prevention presentation for WIC staff. In January and March 2018, they Pestec and the IPM Coordinator will provide additional training for all</u></li> </ul> |

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|   |   | <p>staff from all of the County shelters. They had provided this training in the past, but will now provide it at least annually to make sure new staff understand the threat, how to take precautions, and how to prevent infestations.</p>  |
|   | <b>Violations of the Brown Act</b>  |   |
| 12/5/13-TWIC<br>3/2/15-TWIC<br>8/6/15-IPM<br>2/17/16-IPM  | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>"continued violations of the Brown Act including repeated disposal of original meeting minutes, repeated failure to provide public records at all or much later than 10 working day, and meeting minutes that do not accurately reflect comments made or not made by participants"</p> <p>"our county's IPM policy and the Public Records Act have been violated at least on a quarterly basis by staff since 2009." (3/2/15)</p> <p>"We are still waiting to learn where Fusilade II Turf and Ornamental herbicide had been applied by the Grounds Program in the past years" (8/6/15)</p> | <ul style="list-style-type: none"> <li>• Staff always respond within 10 days to public records requests. In almost all cases staff respond within 1 to 3 days. The only reason for delay has been to find and collect documents that have been requested.</li> <li>• The County takes public records requests seriously and responds promptly to each one.</li> <li>• Hand written meeting minutes are recycled after official minutes have been typed up. Official minutes, once approved by the IPM Committee, are posted on the IPM website.</li> <li>• The IPM Committee approves the minutes for each meeting. The public is provided time to comment on the minutes, and as the IPM Committee sees fit, the minutes are corrected.</li> <li>• Staff are ready to respond to any specific instances or claims of Brown Act violations. Staff maintain written logs of all public records requests.</li> <li>• On July 8, 2015 Susan JunFish formally requested information about Fusilade use by the Grounds Division. On July 16, 2015 the IPM Coordinator provided her with a chart, created for her, showing how much and where Fusilade was used (0 used in FY 12-13 and FY 14-15 and 0.1 pound used once in a parking lot in FY 13-14).</li> </ul>  |
|   | <b>Financial incentives to serve on the IPM Committee/Conflict of interest on the IPM Committee</b>   |   |
| 12/5/13-TWIC<br>1/14/15 IPM<br>3/2/15-TWIC<br>2/17/16-IPM   | <p><i>From Parents for a Safer Environment (PfSE):</i></p> <p>The County should "discourage financial incentives of [IPM Committee] applicants by providing a minimum of a 5 year moratorium for those who serve to be eligible for receiving a county contract or any funding"</p> <p>"In 2009, Michael Baefsky, a community representative of the IPM Advisory Committee received a contract with the former General Services Department according to a document from Terry Mann, former Deputy Director of the General Services Dept. After receiving that contract, Mr. Baefsky's behavior on the Committee changed significantly."</p>               | <ul style="list-style-type: none"> <li>• Staff disagree that there are any kinds of financial incentives to serve on the IPM Advisory Committee, but will defer to the Board of Supervisors on whether to impose such a moratorium.</li> <li>• If the public has evidence of financial incentives for serving on the IPM Committee, we request that they bring that evidence forward.</li> <li>• Michael Baefsky was not a member of the IPM Advisory Committee when he was asked to contract with General Services to advise the County on non-chemical methods to manage weeds on the Camino Tassajara medians in 2009. His contract ended in 2009. That year he attended meetings of the IPM Task Force, an informal body with no official appointees. The IPM Advisory Committee was not created until 2010, and he was appointed by the Board to an At-Large seat in 2010. He has held no contracts with the County since 2009.</li> <li>• The IPM Committee bylaws state the following in sections III.B.2&amp;3: <ul style="list-style-type: none"> <li>• "Contractors who provide pest management services to the County may not serve on the Committee. The exception is A.1.d., above, the Current Structural Pest Management Contractor with General Services Department.</li> <li>• "If a member's work status or residence changes, he/she must notify the Committee in writing, within thirty (30) days of their change in status. The Chair will review the change of status and determine if the member is still eligible for membership according to these by-laws. If they are found to be ineligible, the member will be asked to resign his/her position."</li> </ul> </li> </ul> |



| <b>Date(s)<br/>Issue<br/>Raised to:</b><br><br><b>TWIC =<br/>Transportation,<br/>Water &amp;<br/>Infrastructure<br/>Committee</b><br><br><b>IPM = IPM<br/>Committee or<br/>subcommittees</b><br><br><b>IO=Internal<br/>Operations<br/>Committee</b> | <b>Issues Raised by the<br/>Public</b>  | <b>Steps taken by the IPM Advisory Committee and County Staff<br/>from January 2009 to the present</b>  |
|---|---|---|
|   |   |   |
| <b>Monetary compensation or gifts from pesticide salespeople</b>  |   |   |
| 12/5/13-TWIC<br>3/2/15-TWIC   | <i>From Parents for a Safer Environment (PfSE):</i><br>"We are requesting that TWIC require that all staff involved in ordering pesticides from salespersons fill out a form disclosing any monetary compensation or any other forms of gifts from pesticide salespersons"  | <ul style="list-style-type: none"> <li>County staff do not receive (and have not been offered) gifts or compensation in any form from pesticide salespeople or any other salespeople. Accepting gifts or compensation would be against County policy<sup>5</sup> and would subject staff and their departments to disciplinary action</li> <li>If the public has evidence of County staff taking bribes, we urge the public to provide that evidence for investigation.</li> </ul>  |
| <b>IPM Committee did not accept all of Parents for a Safer Environment's priorities as their own</b>  |   |   |
| 2/12/14-TWIC<br><a href="#">11/16/17-IPM</a><br><a href="#">1/17/18-Email</a>   | <i>From Parents for a Safer Environment (PfSE):</i><br>The IPM Committee is planning to include only 70% of PfSE's priorities as the Committee's priorities for 2014<br><br><u>Taking PfSE's priorities into consideration (11/2017 &amp; 1/2018)</u>   | <ul style="list-style-type: none"> <li>The IPM Committee devoted more than an entire meeting to the discussion of its work priorities for 2014. The public was fully involved in the discussion and PfSE provided documents and testimony detailing their own priorities. The Committee had a thorough discussion and then voted on which priorities to pursue.</li> <li><u>The IPM Committee continues to hear from PfSE about, and involve them in, setting priorities for the Committee (11/2017 and 1/2018).</u></li> </ul> |
| <b>IPM Coordinator references statements by members of Parents for a Safer Environment that were never made</b>   |   |   |
| 3/2/15  | <i>From Parents for a Safer Environment (PfSE):</i><br>"PfSE members also feel a lack of goodwill and collaboration when the IPM Coordinator references statements by members that were never made. For example, in the Response Table, it states that a PfSE member stated at the February 12, 2015 [sic] TWIC meeting that 'The IPM Committee | <ul style="list-style-type: none"> <li>In her written public comments to TWIC on February 12, 2014, Susan JunFish states: "We believe that the Committee is planning to address about 70% of the priority issues the community has raised, so we are hopeful. The two areas where there has been no plan to address are columns 4 and 5 of the table."</li> </ul>   |

<sup>5</sup> California Government Code § 1090 prevents county employees and officials from being "financially interested" in any contract made by them in their official capacity, or by anybody or board of which they are members.

California Government Code § 81000 et seq., known as the Political Reform Act, requires, among other things, that certain public employees perform their duties in an impartial manner, free from bias caused by their own financial interest. See Cal Gov Code § 81001(b). It also prevents certain employees from using their positions to influence county decisions in which they have a financial interest. See Cal Gov Code 87100. The Act also requires certain employees and officers to file a Form 700, Statement of Economic Interests (the CCC Agricultural Commissioner, the managers in Public Works and the IPM Coordinator fill out this form) See Cal Gov Code 89503.

CCC Administrative Bulletin 117.6, paragraph 6, can be read to prevent employees from accepting any gift which "is intended, or could reasonably considered as tending to influence business or applications pending before the Board of Supervisors."

| <b>Date(s)<br/>Issue<br/>Raised to:</b><br><br><b>TWIC =<br/>Transportation,<br/>Water &amp;<br/>Infrastructure<br/>Committee</b><br><br><b>IPM = IPM<br/>Committee or<br/>subcommittees</b><br><br><b>IO=Internal<br/>Operations<br/>Committee</b> | <b>Issues Raised by the<br/>Public</b>   | <b>Steps taken by the IPM Advisory Committee and County Staff<br/>from January 2009 to the present</b>   |
|---|--|--|
|   | <p>is planning to include only 70% of PfSE's priorities as the Committee's priorities for 2014.' We would be thrilled if this was the case..."</p>                           |  |
|   | <b>The IPM Committee needs a non-voting facilitator</b>  |  |
| 2/12/14-TWIC<br>3/2/15-TWIC   | <i>From Parents for a Safer Environment:</i><br>"an impartial, non-voting facilitator would make the meetings run smoother and become more viable"                           | <ul style="list-style-type: none"> <li>• Staff believe that meetings are run effectively and efficiently.</li> <li>• The new IPM Committee chair has been very effective at running the 2014 and 2015 IPM Committee meetings and allowing the public ample opportunities to provide comment.</li> </ul>  |
|   | <b>Parents for a Safer Environment disagrees with responses to "unresolved" issues in the Triennial Review Report</b>  |  |
| 11/6/13-IPM<br>2/12/14-TWIC<br>3/5/14-IPM<br>3/2/15-TWIC  | <i>From Parents for a Safer Environment:</i><br>Disagreement with the response by staff to "unresolved issues" in the Triennial Review Report for the IPM Advisory Committee | <ul style="list-style-type: none"> <li>• The response in dispute refers to the question in Section VIII of the Triennial Review report to the Board of Supervisors from the IPM Committee: "The purpose of this section is to briefly describe any potential issues raised by advisory body members, stakeholders, or the general public that the advisory body has been unable to resolve."</li> <li>• The response given to this question in the report accurately reflects the response intended by the IPM Committee as agreed at their November 6, 2013 meeting.</li> <li>• The Triennial Review Report has been accepted by TWIC and the BOS, and the IPM Committee cannot go back and change the report.</li> <li>• The issue in question for the IPM Committee was whether to describe in Section VIII only issues that the Committee had been unable to resolve, or to also include a discussion of issues that PfSE felt were still unresolved. The Committee debated this and decided to also include a discussion of issues that PfSE felt were unresolved. However, it was completely clear from the discussion at the meeting that the Committee agreed that the issues described in this section (with the exception of the two that were noted as ongoing) had previously been given due consideration by the Committee, and that the Committee had addressed the issues. The Committee directed the IPM Coordinator to meet with the Committee Secretary to compile Committee and staff responses to the "unresolved" PfSE issues to include in the report and then to submit the report.</li> <li>• Note that in the IPM Committee's extensive planning sessions for 2014 work, the Committee did not identify any of the "unresolved" issues as priorities for 2014.</li> </ul> |



Contra  
Costa  
County

To: Board of Supervisors  
From: David O. Livingston, Sheriff-Coroner  
Date: March 20, 2018

Subject: Purchase Order - Trailerlogic

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**RECOMMENDATION(S):**

APPROVE and AUTHORIZE the Purchasing Agent, or designee, to execute a purchase order on behalf of the Sheriff Coroner with Trailerlogic in the amount of \$317,848 to purchase an OFX/ForensicSCAN Dual View High Performance Forensic Digital X-ray Imaging Machine with trailer for the Office of the Sheriff Coroner.

**FISCAL IMPACT:**

Zero Net County Cost. 100% SHSGP funded.

**BACKGROUND:**

The Coroner's division of the Sheriff's Office provides services to more than 24 law enforcement agencies within the County, serving over one million residents. On average, 6,000 deaths per year are reported to the Coroner. Currently, the Coroner's Office uses an ONYX-RAD X-Ray machine to process bodies. This machine is an antiquated, analog machine using older software that is quickly becoming non-existent. This currently used machine requires deputies to manipulate a body through heavy lifting to acquire a poor quality image.

The Coroner's Office needs a full body, multidimensional X-Ray machine. The OFX whole body Forensic X-Ray machine has the capability to scan a complete body in under 45 seconds with a high

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Liz Arbuckle,  
335-1529

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

By: , Deputy

cc: Liz Arbuckle, Heike Anderson, Tim Ewell

**BACKGROUND: (CONT'D)**

definition image for use by forensic pathologists. This machine will reduce the risk of employee injuries and greatly increase the ability of forensic pathologists to view detailed images of bodies being autopsied.

This purchase is 100% funded by the 2016 State Homeland Security Grant Program (SHSGP).

**CONSEQUENCE OF NEGATIVE ACTION:**

The Coroner will not be able to purchase the new full OFX ForensicSCAN X-ray machine. The continued use of the outdated ONYX-RAD X-ray machine will hamper the Coroner's ability to provide the County with the highest quality of service in an efficient manner.

**CHILDREN'S IMPACT STATEMENT:**

No impact.



Contra  
Costa  
County

To: Board of Supervisors  
From: Brian M. Balbas, Public Works Director/Chief Engineer  
Date: March 20, 2018

Subject: APPROVE the ABCD Relocation Project and take related actions under CEQA.

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**RECOMMENDATION(S):**

APPROVE the ABCD (formerly CAAD) Relocation Project (Project), Concord area. [County Project No. PD200-17001, DCD-CP#17-29] (District IV).

DETERMINE the Project is a California Environmental Quality Act (CEQA), Class 1(a) Categorical Exemption, pursuant to Article 19, Section 15301 of the CEQA Guidelines, and

DIRECT the Director of Department of Conservation and Development to file a Notice of Exemption with the County Clerk, and

AUTHORIZE the Public Works Director or designee to arrange for payment of a \$25 fee to the Department of Conservation and Development for processing, and a \$50 fee to the County Clerk for filing the Notice of Exemption.

**FISCAL IMPACT:**

100% Hospital Enterprise Fund

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Sandeep Singh, (925)  
313-2022

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

By: , Deputy

cc:

### BACKGROUND:

The purpose of this Project is to allow the Autism, Behavior, and Child Development Center (ABCD Center) previously known as the CAAD Program to conduct business with more functional agencies as they are currently working in a fragmented and inefficient manner at a separate facility.

The Project consists of removal of existing partition walls and creating new offices and evaluation rooms. New carpet, paint, and equipment will be incorporated as needed.

On April 18, 2017, 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 Federal Solutions Group, Aztec Consultants, Mark Scott Construction, Inc., and S.C. Anderson Group International Inc., each in the amount of \$2,500,000. This project is expected to be performed by one of the four JOC contractors. A task order catalogue has been prepared for the JOC contractor to complete this Project. In the event that the Project is not performed by the JOC contractor, the Public Works Department will return to the Board for approval of plans and specifications and authorization to advertise and solicit bids.

### CONSEQUENCE OF NEGATIVE ACTION:

Delay in approving the project may result in a delay of design, construction, and may jeopardize funding.

### ATTACHMENTS

CAAD Relocation CEQA

PUBLIC WORKS DEPARTMENT  
INITIAL STUDY OF  
ENVIRONMENTAL SIGNIFICANCE

PROJECT NUMBER: PD200-17001  
CP# 17-29

PROJECT NAME: CAAD Relocation

PREPARED BY: Sandeep Singh *AS*

DATE: August 1, 2017

APPROVED BY: *[Signature]*

DATE: 8-30-17

**RECOMMENDATIONS:**

☒ **Categorical Exemption: 15301 Class 1(a)**

☐ 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 minor alteration of an existing structure involving negligible expansion of use, pursuant to section 15301 Class 1(a) of the CEQA guidelines.

What changes to the project would mitigate the identified impacts: N/A

|                                      |                               |                              |
|--------------------------------------|-------------------------------|------------------------------|
| USGS Quad Sheet: <u>Walnut Creek</u> | Base Map Sheet #: <u>H-15</u> | Parcel #: <u>113-041-037</u> |
|--------------------------------------|-------------------------------|------------------------------|

**GENERAL CONSIDERATIONS:**

1. **Location:** The project is located 3024 Willow Pass Road, Concord [Figures 1-2].
2. **Project Description:** The purpose of this Project is to allow the Autism, Behavior, and Child Development Center (ABCD Center) previously known as the CAAD Program to conduct business with more functional adjacencies as they are currently working in a fragmented and inefficient manner at a separate facility.

The Project consists of removal of existing partition walls and creating new offices and evaluation rooms. New carpet, paint, and equipment will be incorporated as needed.

General Plan Conformance is necessary from the City of Concord.

3. **Does it appear that any feature of the project will generate significant public concern?**

☐ Yes ☒ No ☐ maybe (Nature of concern):

4. **Will the project require approval or permits by other than a County agency?**

☐ Yes ☒ No

5. **Is the project within the Sphere of Influence of any city?** Yes, Concord

# CONTRA COSTA COUNTY CALIFORNIA

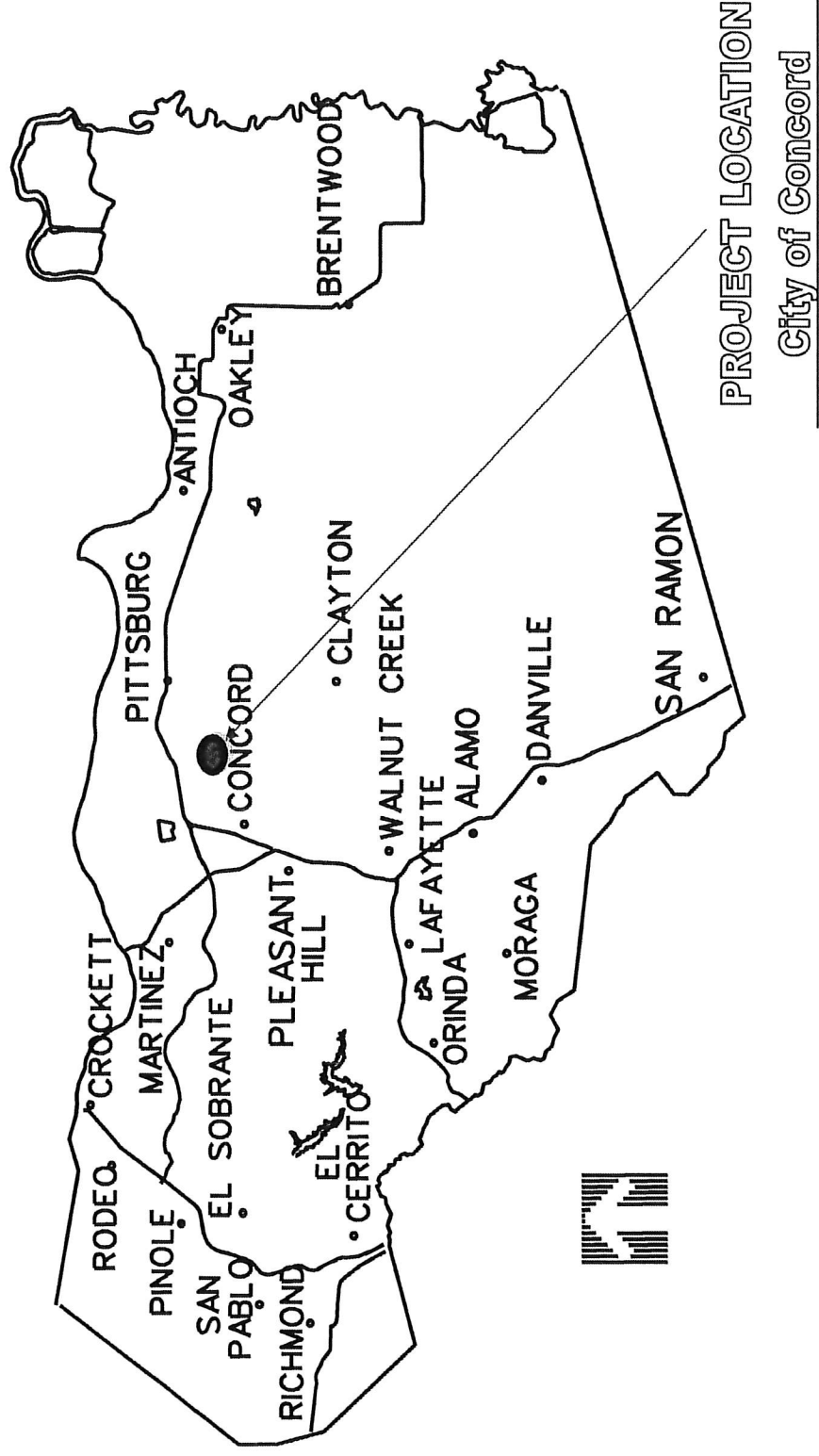


Figure 1





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

☒ County Clerk  
County of: Contra Costa

From: Contra Costa County  
Dept. of Conservation & Development  
30 Muir Road  
Martinez, CA 94553

Project Title: **CAAD Relocation**  
**Proj. No. PD200-17001 CP#17-29**

Project Applicant: **Contra Costa County Public Works Department**

Project Location – **3024 Willow Pass Road**

Project Location: **Concord**

Project Location – County: **Contra Costa**

**Description of Nature, Purpose and Beneficiaries of Project:**

The purpose of this Project is to allow the Autism, Behavior, and Child Development Center (ABCD Center) previously known as the CAAD Program to conduct business with more functional adjacencies as they are currently working in a fragmented and inefficient manner at a separate facility.

The Project consists of removal of existing partition walls and creating new offices and evaluation rooms. New carpet, paint, and equipment will be incorporated as needed.

General Plan Conformance is necessary from the City of Concord.

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:**

- |   |  |
|---|--|
| <input type="checkbox"/> Ministerial Project (Sec. 21080(b) (1); 15268;     | <input checked="" type="checkbox"/> Categorical Exemption: <b>Section 15301 Class 1(a)</b> |
| <input type="checkbox"/> Declared Emergency (Sec. 21080(b)(3); 15269(a));   | <input type="checkbox"/> Other Statutory Exemption, Code No.: _____                        |
| <input type="checkbox"/> Emergency Project (Sec. 21080(b)(4); 15269(b)(c)); | <input type="checkbox"/> General Rule of Applicability [Article 5, Section 15061 (b)(3)]   |

**Reasons why project is exempt:** The project consists of minor alteration of an existing structure involving negligible expansion of use, pursuant to Section **15301 Class 1(a)** of the CEQA guidelines.

Lead Agency Contact Person: **Sandeep Singh - Public Works Dept.** Area Code/Telephone/Extension: **(925) 313-2022**

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: **Sandeep Singh**

Environmental Services Division

Phone: **(925) 313-2022**

**Department of Fish and Game Fees Due**

- |  |
|--|
| <input type="checkbox"/> EIR - \$3,168. <sup>00</sup>                            |
| <input type="checkbox"/> Neg. Dec. - \$2,280. <sup>75</sup>                      |
| <input type="checkbox"/> DeMinimis Findings - \$0                                |
| <input checked="" type="checkbox"/> <b>County Clerk - \$50</b>                   |
| <input checked="" type="checkbox"/> <b>Conservation &amp; Development - \$25</b> |

**Total Due: \$75.<sup>00</sup>**

Total Paid \$ \_\_\_\_\_

Receipt #: \_\_\_\_\_



**Contra  
Costa  
County**

To: Board of Supervisors

From: INTERNAL OPERATIONS COMMITTEE

Date: March 20, 2018

Subject: REPORT FROM THE AUDITOR-CONTROLLER'S OFFICE ON THE SCHEDULE OF FINANCIAL AUDITS  
FOR 2017

**RECOMMENDATION(S):**

ACCEPT report on the Auditor-Controller's audit activities for 2017 and APPROVE the proposed schedule of financial audits for 2018.

**FISCAL IMPACT:**

There is no fiscal impact related to providing input into the annual audit schedule. The financial auditing process may result in positive and negative fiscal impacts, depending on the audit findings.

**BACKGROUND:**

The Internal Operations Committee was asked by the Board in 2000 to review the process for establishing the annual schedule of audits, and to establish a mechanism for the Board to have input in the development of the annual audit schedule and request studies of departments, programs or procedures. The IOC recommended a process that was adopted by the Board on June 27, 2000, which called for the IOC to review the schedule of audits proposed by the Auditor-Controller and the County Administrator each December. However, due to the preeminent need during December for the Auditor to complete the Comprehensive Annual Financial Report, the IOC, some years ago, rescheduled consideration of the Auditor's report to February of each year.

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Julie DiMaggio Enea  
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Chief Auditor, IOC Staff

### BACKGROUND: (CONT'D)

Attached is a report from the Auditor-Controller reviewing the department's audit activities for 2017 and transmitting the proposed schedule of financial audits for 2018, which are already in progress.

To provide continuity from the prior year report, in 2017, Chief Auditor Joanne Bohren had indicated last year that 37% of the findings were repeat findings from the previous year and concerned violations of Municipal Advisory Council fiscal policies, procurement card policies, and cash handling procedures. Asst. Auditor-Controller Elizabeth Verigin had advised that the Auditor's Office would reinstate periodic fiscal management training for the Municipal Advisory Councils, and strongly recommended a recommitment by Public Works-Purchasing to revive Procurement Card Training. Purchasing Services Manager David Gould advised that he had personally conducted one-on-one procurement card training during the previous six months and was researching electronic tools to help monitor card use and identify misuse. The Auditor's Office and Clerk of the Board's Office, in September 2017, jointly conducted a fiscal training session for MAC staff and membership.

The Internal Operations Committee, on March 12, received the staff report and recommends no changes to the 2018 schedule of audits.

### ATTACHMENTS

2017/2018 Report and Schedule of Internal Audits

Office of the Auditor-Controller  
**Contra Costa County**

**Robert R. Campbell**  
Auditor-Controller

625 Court Street  
Martinez, California 94553-1282  
Phone (925) 335-8600  
Fax (925) 646-2649




**Elizabeth A. Verigin**  
Assistant Auditor-Controller

**Harjit S. Nahal**  
Assistant Auditor-Controller

March 12, 2018

TO: Internal Operations Committee

FROM: Robert R. Campbell, Auditor-Controller   
By: Harjit S. Nahal, Assistant Auditor-Controller

SUBJECT: Internal Audit – Annual Report

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The Board of Supervisors adopted a policy on June 27, 2000, directing the Auditor-Controller to annually report to the Internal Operations Committee on the proposed schedule of Internal Audit examinations for the following calendar year. The attached "*Schedule of Internal Audit Examinations*" provides the proposed examination schedule for 2018, and the attached "*Schedule of Internal Audit Examinations for 2017*" summarizes the status of the 2017 examinations.

In 2017, the Internal Audit Division completed thirty-four (34) of the scheduled examinations.

**General Findings:**

**Departmental Examinations**

There is an overall lack of adherence to several of the County's administrative requirements. Many of the departmental examination recommendations include the following:

- Comply with the Administrative Bulletins established for the cash collection process, discharge of delinquent accounts, inventories of materials and supplies, inventories of capital assets, inventories of cash instruments, and petty cash;
- Adhere to the procurement card manual;
- Comply with the Contract Administration procedures and policies; and,
- Adhere to the Municipal Advisory Council (MAC) Fiscal Procedures and Board of Supervisors Resolution 2011/497, "Adopting policy governing appointments to, formation of, and requirement of boards, committees, and commissions that are advisory to the Board of Supervisors."

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**Procurement Card**

The quarterly procurement card review continues to reflect compliance issues in the use of the card for recurring payments, gifts, services, memberships, and meal payments. Per the Procurement Card Manual, Section III.I., the use of a procurement card for recurring payments, gifts, services, memberships, printing services, and meal payments is prohibited. Cardholders are also prohibited to use the procurement card for purchases not authorized in the County's Administrative Bulletins. Additionally, the required supporting documentation for payments often is missing or inadequate. The Purchasing Officer is currently working with the Department of Risk Management to establish an electronic training program for new and existing cardholders.

**2018 Scheduled Examinations**

The Chief Auditor and the Assistant Auditor-Controller performed a thorough review of existing and recurring examinations as well as identifying potential new examinations that should be incorporated in the 2018 schedule. The emphasis and priority in scheduling examinations is based on the perceived risk to the County. The schedule is composed of legally required examinations, such as the Treasury cash counts, reoccurring examinations, and new examinations. Twenty-seven (27) examinations have been scheduled for calendar year 2018.

Legally required examinations have their basis in government code. Reoccurring examinations have a preferred cycle attached to them based on their perceived amount of inherent risk. If a concern comes to the attention of the Chief Auditor or the Assistant Auditor-Controller, a reoccurring examination may be planned prior to it being due based on the preferred cycle.

The County's financial operations are subject to audit by a firm of independent external auditors, Macias Gini & O'Connell, LLP, Certified Public Accountants (MGO). The external auditors are responsible for performing an annual audit of the general-purpose financial statements of the County and the Public Financing Authority. The external auditors also perform an annual "Single Audit" of the County's federal financial-assistance programs. Other independent auditors perform annual audits of the Contra Costa County Housing Authority, state grant programs, and the FIRST 5 Contra Costa Children and Families Commission.

**Revisions to Annual Examination Process**

The Auditor-Controller and Assistant Auditor-Controller reviewed the examination process and have implemented an expanded examination program. The expanded examination program includes a more detailed control assessment including interviews with senior management to assess risk within the departments. Additionally, the expanded examination program will assist Internal Audit staff to identify the lack of internal controls and noncompliance of statutory, contractual, and administrative requirements that may have been undetected in previous examinations.

Attachments

**Schedule of Internal Audit Examinations  
Calendar Year 2018**

| Department<br>Project Description  | Historical<br>Estimated<br>Hours | Last Done<br>Through | Prefd.<br>Examination<br>Cycle (yrs) | Scheduled<br>For<br>2018 | Exam<br>Hours<br>2018 |
|--|----------------------------------|----------------------|--------------------------------------|--------------------------|-----------------------|
| <b>Board of Supervisors</b>  |                                  |                      |                                      |                          |                       |
| District 4 General Department Audit (Including MACs)                                     | 100                              | 3/11                 | 4                                    | X                        | 100                   |
| <b>Auditor-Controller</b>  |                                  |                      |                                      |                          |                       |
| Revolving/Cash Diff. Fund & Shortage Report (fiscal year)                                | 60                               | 6/17                 | 1 (Law)                              | X                        | 60                    |
| General Department Audit   | 250                              | 12/10                | 4                                    | X                        | 250                   |
| Miscellaneous Trust Funds  | 320                              | 1/10                 | 4                                    | X                        | 320                   |
| Misc A-C duties (ie Petty Cash ICQ; Relief of Shortage; Increase/New Petty Cash; Recons) | 60                               |                      | 1                                    | X                        | 60                    |
| <b>Treasurer-Tax Collector</b>   |                                  |                      |                                      |                          |                       |
| Treasury Cash & Investments - 1st qtr (2018)   | 50                               | 02/17                | 1/4 (Law)                            | X                        | 50                    |
| Treasury Cash & Investments - 2nd qtr (2018)   | 50                               | 05/17                | 1/4 (Law)                            | X                        | 50                    |
| Treasury Cash & Investments - July 1 (2018)  | 50                               | 7/3/17               | 1/4 (Law)                            | X                        | 50                    |
| Treasury Cash & Investments - 3rd qtr (Auditor recommendation) (2018)                    | 50                               | 07/17                | 1/4 (Law)                            | X                        | 50                    |
| Treasury Cash & Investments - 4th qtr (2017)   | 50                               | 12/16                | 1/4 (Law)                            | X                        | 50                    |
| Tax Collector Cash on Hand - 1st qtr (2018)  | 20                               | 2/17                 |                                      | X                        | 20                    |
| Tax Collector Cash on Hand - 2nd qtr (2018)  | 20                               | 05/17                |                                      | X                        | 20                    |
| Tax Collector Cash on Hand - July 1 (2018)   | 20                               | 7/3/17               |                                      | X                        | 20                    |
| Tax Collector Cash on Hand - 3rd qtr (2018)  | 20                               | 07/17                |                                      | X                        | 20                    |
| Tax Collector Cash on Hand - 4th qtr (2018)  | 20                               | 12/16                |                                      | X                        | 20                    |
| Treasury Oversight Committee (calendar year) (2017)                                      | 175                              | 12/16                | 1 (Law)                              | X                        | 175                   |
| <b>Department of Information Technology</b>  |                                  |                      |                                      |                          |                       |
| Communications equipment inventory   | 100                              | 6/12                 | 3                                    | X                        | 100                   |
| <b>Child Support Services</b>  |                                  |                      |                                      |                          |                       |
| General Departmental Audit   | 200                              | 3/10                 | 3                                    | X                        | 200                   |
| <b>Clerk-Recorder</b>  |                                  |                      |                                      |                          |                       |
| General Departmental Audit   | 420                              | 5/15                 | 2                                    | X                        | 420                   |
| <b>District Attorney</b>   |                                  |                      |                                      |                          |                       |
| General Departmental Audit   | 225                              | 12/16                | 3                                    | X                        | 225                   |
| <b>Probation</b>   |                                  |                      |                                      |                          |                       |
| General Departmental Audit   | 240                              | 12/15                | 2(Law)                               | X                        | 240                   |
| <b>Health Services</b>   |                                  |                      |                                      |                          |                       |
| Public Health  | 250                              | 12/13                | 2                                    | X                        | 250                   |
| <b>Employment &amp; Human Services</b>   |                                  |                      |                                      |                          |                       |
| Community Services Bureau (EHSD)   | 400                              | 5/11                 | 2                                    | X                        | 400                   |

**Schedule of Internal Audit Examinations  
Calendar Year 2018**

| Department<br>Project Description                     | Historical<br>Estimated<br>Hours | Last Done<br>Through | Prefd.<br>Examination<br>Cycle (yrs) | Scheduled   |  | Exam<br>Hours<br>2018 |
|---|----------------------------------|----------------------|--------------------------------------|-------------|--|-----------------------|
|   |                                  |                      |                                      | For<br>2018 |  |                       |
| <b>Public Works</b>                                   |                                  |                      |                                      |             |  |                       |
| Public Works Inventories                              | 100                              | 6/12                 | 3                                    | X           |  | 100                   |
| Fleet Services Inventory                              | 120                              | 6/11                 | 3                                    | X           |  | 120                   |
| County issued Fastrak passes / County issued Vehicles |                                  | special              |                                      | X           |  | 120                   |
| <b>Purchasing:</b>                                    |                                  |                      |                                      |             |  |                       |
| Procurement Card Program - July - December 2017       | 100                              | new increment        | 1/4 (CAO)                            | X           |  | 110                   |
| Procurement Card Program - January - June 2018        | 100                              | new increment        | 1/4 (CAO)                            | X           |  | 110                   |
|   |                                  |                      |                                      |             |  |                       |
| Special projects                                      |                                  |                      |                                      |             |  |                       |
| GASB Implementation (40 X 2)                          |                                  |                      |                                      |             |  | 150                   |
| Single Audit assistance/wrap up                       |                                  |                      |                                      |             |  | 80                    |
|   |                                  |                      |                                      |             |  | 80                    |



Schedule of Internal Audit Examinations for 2017

| Department<br>Examination Description   | Last Done<br>Through | Prefd.<br>Audit<br>Cycle (yrs) | Scheduled<br>For<br>2017 | Estimated<br>Hours<br>2017 | Total<br>Examination<br>Hours |
|---|----------------------|--------------------------------|--------------------------|----------------------------|-------------------------------|
| <b>Completed Examinations-As Scheduled</b>  |                      |                                |                          |                            |                               |
| <b>County Administrator</b>   |                      |                                |                          |                            |                               |
| General Department Audit  | 12/05                | 4                              | X                        | 160                        | 158.00                        |
| <b>Assessor</b>   |                      |                                |                          |                            |                               |
| General Department Audit  | 1/07                 | 4                              | X                        | 180                        | 233.50                        |
| <b>Auditor-Controller</b>   |                      |                                |                          |                            |                               |
| Revolving/Cash Diff. Fund & Shortage Report (fiscal year)   | 6/16                 | 1 (Law)                        | X                        | 60                         | 38.00                         |
| Misc A-C duties (ie Petty Cash ICQ,Relief of Shortage;Increase/New Petty Cash; Recons)  |                      | 1                              | X                        | 60                         | 7.00                          |
| <b>Treasurer-Tax Collector</b>  |                      |                                |                          |                            |                               |
| Treasury Cash & Investments - 1st qtr (03/31/17)  | 02/17                | 1/4 (Law)                      | X                        | 50                         | 44.50                         |
| Treasury Cash & Investments - 2nd qtr (06/30/17)  | 05/17                | 1/4 (Law)                      | X                        | 50                         | 59.00                         |
| Treasury Cash & Investments - July 1  | 7/1/17               | 1/4 (Law)                      | X                        | 50                         | 50.00                         |
| Treasury Cash & Investments - 3rd qtr (09/30/17) (Auditor recommendation)   | 07/17                | 1/4 (Law)                      | X                        | 50                         | 40.00                         |
| Treasury Cash & Investments - 4th qtr (12/31/16)  | 12/16                | 1/4 (Law)                      | X                        | 50                         | 57.00                         |
| Tax Collector Cash on Hand - 1st qtr (03/31/17)   | 02/17                |                                | X                        | 20                         | 10.00                         |
| Tax Collector Cash on Hand - 2nd qtr (06/30/17)   | 05/17                |                                | X                        | 20                         | 11.00                         |
| Tax Collector Cash on Hand - July 1   | 7/1/17               |                                | X                        | 20                         | 12.00                         |
| Tax Collector Cash on Hand - 3rd qtr (09/30/17)   | 07/17                |                                | X                        | 20                         | 9.00                          |
| Tax Collector Cash on Hand - 4th qtr (12/31/16)   | 12/16                |                                | X                        | 20                         | 18.00                         |
| Secured Tax Collection  | 3/09                 | 2                              | X                        | 220                        | 206.00                        |
| Unsecured Payment Trust   | 2/08                 | 4                              | X                        | 80                         | 63.50                         |
| Unsecured Tax Collection  | 2/08                 | 2                              | X                        | 220                        | 261.00                        |
| Treasury Oversight Committee (calendar year)  | 12/16                | 1 (Law)                        | X                        | 140                        | 277.00                        |
| <b>Office of Revenue Collections</b>  |                      |                                |                          |                            |                               |
| Balances not tested in 2015 examination of ORC remaining Accounts Receivable  | special              |                                | X                        | 100                        | 49.00                         |
| <b>Human Resources</b>  |                      |                                |                          |                            |                               |
| General Departmental Audit  | 4/06                 | 5                              | X                        | 170                        | 111.50                        |
| <b>Clerk-Recorder</b>   |                      |                                |                          |                            |                               |
| GC27361(d)(4) project re: SSN truncation - Required to be performed by <b>12/2013 and 12/2017 (between 6/1/17 and 12/31/17)</b> | 2013                 | 4                              | X                        | 120                        | 131.00                        |
| <b>District Attorney</b>  |                      |                                |                          |                            |                               |
| General Departmental Audit  | 3/11                 | 3                              | X                        | 190                        | 286.00                        |

Schedule of Internal Audit Examinations for 2017

| Department<br>Examination Description   | Last Done<br>Through     | Prefd.<br>Audit<br>Cycle (yrs) | Scheduled<br>For<br>2017 | Estimated<br>Hours<br>2017 | Total<br>Examination<br>Hours |
|---|--------------------------|--------------------------------|--------------------------|----------------------------|-------------------------------|
| <b><u>Sheriff-Coroner</u></b><br>(Requested Audit) Cal-Id   | 6/10                     | Special Req                    | X                        | 80                         | 86.00                         |
| <b><u>Animal Services</u></b><br>General Departmental Audit   | 4/10                     | 2                              | X                        | 320                        | 149.50                        |
| <b><u>Health Services</u></b><br>Alcohol and Other Drugs  | 2/10                     | 2                              | X                        | 185                        | 253.00                        |
| Mental Health   | 2/10                     | 2                              | X                        | 185                        | 221.50                        |
| Patients Trust & Valuables  | 3/09                     | 4                              | X                        | 65                         | 136.00                        |
| <b><u>Employment &amp; Human Services</u></b><br>Children and Family Services (CFS) (0502)              | with Dept<br>audit- 1/09 |                                | X                        | 120                        | 234.00                        |
| Aging and Adult Services (0503)   | with Dept<br>audit- 1/09 |                                | X                        | 120                        | 292.50                        |
| <b><u>Public Works</u></b><br><b><u>Purchasing:</u></b><br>Sale of surplus equipment                    |                          |                                |                          |                            |                               |
| Procurement Card Program - 1st qtr (03/31/17)   | 12/04                    | 4                              | X                        | 120                        | 197.00                        |
| Procurement Card Program - 2nd qtr (06/30/17)   | 03/16                    | 1/4 (CAO)                      | X                        | 40                         | 133.50                        |
| Procurement Card Program - 4th qtr (12/31/16)   | 06/16                    | 1/4 (CAO)                      | X                        | 40                         | 76.50                         |
| Procurement Card Program - 3rd qtr (09/30/17)*  | 12/15                    | 1/4 (CAO)                      | X                        | 40                         | 123.00                        |
| *Changed examination to every 6 months instead of quarterly. Last exam sent for 09/30/17 thru 12/31/17) | 09/16                    | 1/4 (CAO)                      | X                        | 40                         | Outstanding                   |
| <b><u>Contra Costa Fire Protection District</u></b><br>Fleet Parts and Fuel Inventories                 | 6/10                     | 3                              | X                        | 100                        | 41.00                         |
| <b><u>Mitigation Funds</u></b><br>North Richmond Mitigation Fund  | 2/11                     |                                | X                        | 240                        | 522.00                        |



**Contra  
Costa  
County**

To: Board of Supervisors  
From: INTERNAL OPERATIONS COMMITTEE  
Date: March 20, 2018

Subject: Review of Annual Master Vehicle Replacement List and Disposition of Low-Use Vehicles

---

**RECOMMENDATION(S):**

ACCEPT the 2016/17 annual report from the Public Works Director on the Internal Services Fund for the County's Vehicle Fleet.

**FISCAL IMPACT:**

Reassigning underutilized vehicles would increase cost efficiency, but the fiscal impact was not estimated.

**BACKGROUND:**

In FY 2008/09, the Board approved the establishment of an Internal Services Fund (ISF) for the County Fleet, now administered by the Public Works Department. Each year, the Public Works Department Fleet Services Manager analyzes the fleet and annual vehicle usage, and makes recommendations to the IOC on the budget year vehicle replacements and on the intra-County reassignment of underutilized vehicles, in accordance with County policy. The Board requested the IOC to review annually the Public Works Department report on the fleet and on low-mileage vehicles.

---

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Julie DiMaggio Enea  
(925) 335-1077

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Fleet Manager, IOC Staff

## BACKGROUND: (CONT'D)

To provide context for the 16/17 annual report, attached, below are some highlights from the 15/16 annual report:

- In FY 2015-16, 79 new vehicles were purchased, 32% less than FY 2014-2015, and 13% less than were purchased in FY 2013-14.
- Fleet continually reviews vehicle usage in an effort to reduce underutilized vehicles according to Administrative Bulletin 508.5. During the most recent review in February 2016, one unit was identified that required further analysis for possible reclassification or reassignment which is down from two in the previous year.
- Fleet Services continues to promote building a “Green Fleet” by purchasing 51 hybrid vehicles as replacement vehicles.
- Placed into operation 3 new partially grant funded HINO Class 4 195 Hybrid Trucks which reduce fuel consumption by 30% over a conventionally powered truck. Fleet Services took advantage of the California Hybrid and Zero-Emission Truck and Bus Fleet Internal Service Fund FY 2015
- Voucher Incentive Project to reduce the overall acquisition cost of the truck by \$23,000 per truck.
- Fleet Services continues to install telematics GPS devices, where appropriate, to help improve fleet utilization, identify vehicle locations in the event of an emergency, reduce costs by identifying and immediately reporting operational issues with the vehicle, and improve accuracy of mileage meter readings. Department users of vehicles equipped with the telematics GPS devices also have access to standard reports which they can use to review incidences of speeding, excessive idling, vehicle utilization, etc. to help reduce departmental fleet cost. Over 500 vehicles in the County fleet are equipped with these devices.
- 429 light vehicles equipped with the telematics GPS device are enrolled in the State Continuous Smog Testing Pilot Program excluding them from the mandatory biennial physical smog test which reduces cost and vehicle downtime. The telematics device continuously monitor emissions performance and will send a notification immediately when a fault is detected so repairs can be made.

Attached for the Board's review is the 2016/17 annual report on the ISF and low-mileage vehicles, as prepared by the Public Works Department. This report was received and approved by the Internal Operations Committee on March 12, 2018.

## ATTACHMENTS

2016/17 Fleet ISF Report

Fleet ISF - Attachment A

Fleet ISF - Attachment B

Fleet ISF - Attachment C



# Contra Costa County Public Works Department

Brian M. Balbas, Director

Deputy Directors  
Mike Carlson  
Stephen Kowalewski  
Carrie Ricci  
Joe Yee

## Memo

March 6, 2018

**TO:** Internal Operations Committee  
Supervisor Diane Burgis, District III, Chair  
Supervisor Candace Andersen, District II, Vice Chair

**FROM:** Brian M. Balbas, Public Works Director

**SUBJECT:** FLEET INTERNAL SERVICE FUND FY 2016-17 REPORT

---

### MESSAGE:

#### Recommendation

Accept the Internal Service Fund (ISF) Fleet Services report for FY 2016-17.

#### Background

The Fleet Services Division has operated as an Internal Service Fund since 2008 to ensure stable and long-term vehicle replacement funding.

Fleet Services provides various services to County departments including the acquisition, preventative maintenance, repair, and disposal of fleet vehicles and equipment. The division services the County's fleet of 1,671 vehicles/equipment/trailers, of which, 1,241 vehicles are included in the ISF program.

#### ISF Rate Structure

There are three components to recover operational costs for vehicles in the ISF Fleet Services program which are charged to the departments. They are:

1. A fixed monthly cost to cover insurance, Fleet Services overhead, and vehicle depreciation / replacement
2. A variable cost based on miles driven to cover maintenance and repair costs
3. Direct costs for fuel

This rate structure enables the ISF to collect monthly payments from customer departments over the life-cycle of the units to fund operations and enable the systematic replacement of units at the end of a vehicle's useful life or when it becomes a cost-effective decision to do so.

The estimated fixed and variable rates are adjusted each year to develop ISF rates as close to actual costs as possible for each class of vehicle. Accordingly, the FY 2016-17 expenses were reviewed to develop new rates for FY 2017-18, which went into effect September 1, 2017. Please refer to Attachment A accompanying this report for the ISF Fleet Rates Schedule.

### **Fleet Services Goals and Objectives**

- Continue to provide cost-effective services that meet or exceed our customers' needs and expectations by evaluating additional services and new technologies to increase efficiencies.
- Continue to evaluate and recommend for replacement all vehicles and fleet equipment that are due for replacement based on a predetermined schedule and/or a time when it is most cost-effective to do so and in accordance with Administrative Bulletin 508.5. This increases vehicle availability through reduced down time associated with an older fleet.
- Continue to maintain a newer fleet focusing on preventative maintenance thus reducing repair costs typically associated with an older fleet.
- Continue to purchase clean air vehicles whenever feasible and to grow the number of electric vehicles in the fleet as existing equipment requires replacement. Fleet Services continues to seek grant funding opportunities to expand the electric vehicle charging station infrastructure to support County and personal vehicles.
- Continue to ensure that all County vehicles are maintained and repaired in a timely, safe, and cost effective manner in order to provide departments with safe, reliable vehicles and equipment.
- Continue to work with departments to identify vehicles and equipment that are underutilized in an effort to maximize fleet utilization, identify departmental actual needs, and reduce fleet costs.

### **Highlights**

- In FY 2016-17, 57 new vehicles were purchased, 28% less than FY 2015-2016, and 33% less than were purchased in FY 2014-15.
- Fleet continually reviews vehicle usage in an effort to reduce underutilized vehicles according to Administrative Bulletin 508.5. During the most recent review in February 2017, one unit was identified that required further analysis for possible reclassification or reassignment which is the same as previous year.
- Fleet Services continues to promote building a "Green Fleet" by purchasing 26 hybrid vehicles as replacement vehicles.
- Fleet Services continues to install telematics GPS devices, where appropriate, to help improve fleet utilization, identify vehicle locations in the event of an emergency, reduce

costs by identifying and immediately reporting operational issues with the vehicle, and improve accuracy of mileage meter readings. Department users of vehicles equipped with the telematics GPS devices also have access to standard reports which they can use to review incidences of speeding, excessive idling, vehicle utilization, etc. to help reduce departmental fleet cost. Over 681 vehicles in the County fleet are equipped with these devices.

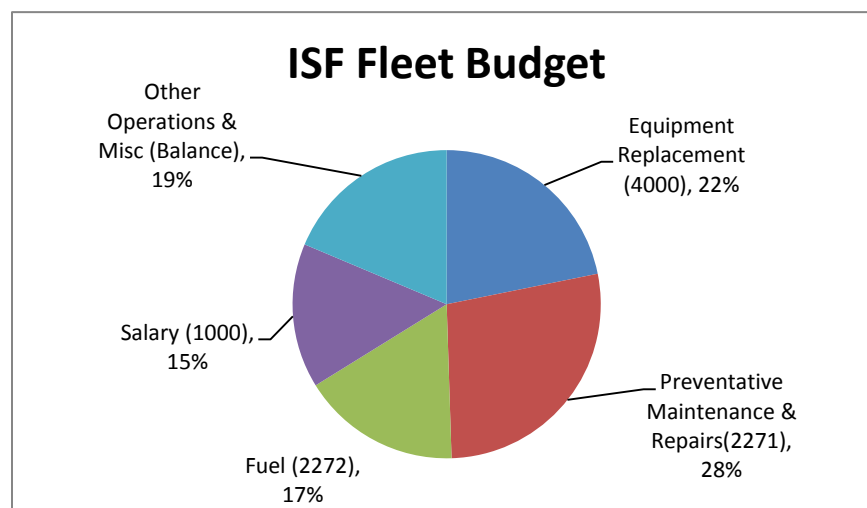
- 429 light vehicles equipped with the telematics GPS device are enrolled in the State Continuous Smog Testing Pilot Program excluding them from the mandatory biennial physical smog test which reduces cost and vehicle downtime. The telematics device continuously monitor emissions performance and will send a notification immediately when a fault is detected so repairs can be made.

## **Summary**

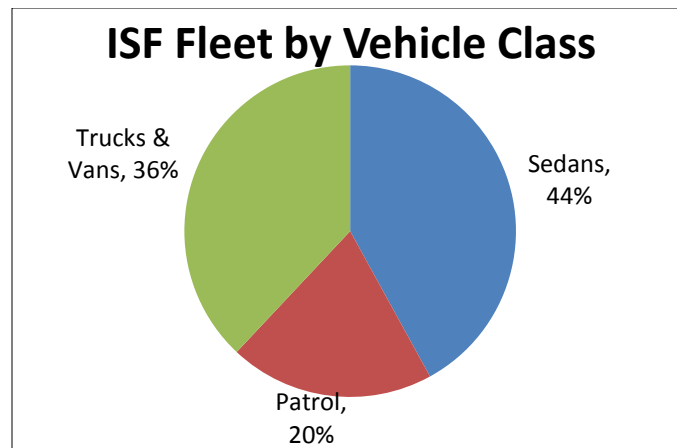
The Fleet Services Division operates as an Internal Service Fund (ISF), providing services to a variety of County Departments. As an ISF, Fleet is responsible to fully recover the cost of providing services and the cost of capital purchases. Key responsibilities of the Division are vehicle preventative maintenance and repair, fueling, replacement analysis, specification review, acquisition, new vehicle up-fitting, and preparation of surplus vehicles for disposal.

In FY 2016-17, Fleet Services had a staff of 20 Administration and Operations employees. The Administration section consists of one Fleet Manager, one Fleet Equipment Specialist and one Clerk. The Operations section consists of one Lead Fleet Technician, 2 Equipment Services Workers, 12 Equipment Mechanics and 2 Equipment Service Writers.

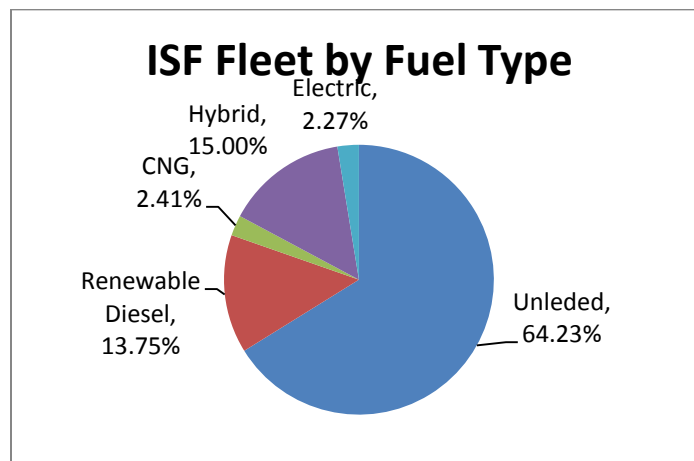
The FY 2016-17 budget of \$14,112,145 included: \$2,141,155 for salaries; \$3,903,608 for vehicle repairs; \$2,354,476 for fuel; and \$3,080,682 for the replacement of fleet vehicles and equipment. The ending ISF Fund Balance for FY 2016-17 is \$13,280,812.



The ISF fleet has 1,241 vehicles, comprised of sedans, patrol vehicles, and trucks/vans.



Fleet Services continues to purchase clean air vehicles whenever feasible and plans to grow the number of electric vehicles in the fleet as existing equipment requires replacement. All diesel vehicles use renewable fuel and all sedans must have a PZEV rating or greater by the California Air Resources Board.



Fleet Services continues to work to achieve the primary goals and objectives of providing County departments with vehicles and equipment that are safe, reliable, economically sustainable, and consistent with departmental needs and requirements at the lowest possible cost. The Division will continue to monitor vehicle use to optimize new vehicle acquisition and better utilize existing vehicle assets.

#### Attachments

- A ISF Rates Schedule
- B ISF Fund Balance
- C ISF Net Assets



**Internal Service Fund - Fleet Services**  
**ISF Fleet Rates Schedule**  
**FY 2016-17**

| Category                   | FY 2014-15   |                | FY 2015-16   |                | FY 2016-17   |                | FY 2017-18   |                | % Change     |                |
|----------------------------|--------------|----------------|--------------|----------------|--------------|----------------|--------------|----------------|--------------|----------------|
|                            | Monthly Rate | Mileage Charge | Monthly Rate | Mileage Charge | Monthly Rate | Mileage Charge | Monthly Rate | Mileage Charge | Monthly Rate | Mileage Charge |
| ISF-Sedan                  | \$ 284.83    | \$ 0.167       | \$ 264.33    | \$ 0.200       | \$ 349.83    | \$ 0.220       | \$ 372.33    | \$ 0.170       | 6.4%         | -22.7%         |
| ISF-Cargo Van              | 239.75       | 0.290          | 435.33       | 0.210          | 434.67       | 0.306          | 397.75       | 0.300          | -8.5%        | -2.0%          |
| ISF-Passenger Van          | 220.75       | 0.306          | 315.33       | 0.280          | 356.50       | 0.262          | 293.42       | 0.290          | -17.7%       | 10.7%          |
| ISF-Patrol                 | 427.33       | 0.462          | 445.00       | 0.410          | 576.92       | 0.635          | 770.17       | 0.470          | 33.5%        | -26.0%         |
| ISF-Sports Utility Vehicle | 307.42       | 0.272          | 374.50       | 0.200          | 406.67       | 0.241          | 373.75       | 0.230          | -8.1%        | -4.6%          |
| ISF-Truck, Compact         | 194.33       | 0.221          | 223.50       | 0.290          | 254.25       | 0.217          | 238.00       | 0.380          | -6.4%        | 75.1%          |
| ISF-Truck, Fullsize        | 233.50       | 0.388          | 335.08       | 0.410          | 496.33       | 0.254          | 482.33       | 0.360          | -2.8%        | 41.7%          |
| ISF-Truck, Utility         | 381.50       | 0.329          | 316.42       | 0.550          | 403.08       | 0.285          | 540.75       | 0.590          | 34.2%        | 107.0%         |

**Internal Service Fund - Fleet Services  
Fund Balance  
For the Year Ended June 30, 2017**

|                                      | <u>FY 2015-16</u>                  | <u>FY 2016-17</u>                  |
|--------------------------------------|------------------------------------|------------------------------------|
| <b>Beginning Fund Balance</b>        | <b><u>\$ 11,510,328</u></b>        | <b><u>\$ 12,002,754</u></b>        |
| <b>Expenses</b>                      |                                    |                                    |
| Salaries & Benefits                  | 2,164,397                          | 2,002,658                          |
| Services and Supplies, Other Charges | 6,735,541                          | 7,371,562                          |
| Depreciation                         | 2,163,592                          | 2,479,249                          |
| <b>Total Expenses</b>                | <b><u>\$ 11,063,530</u></b>        | <b><u>\$ 11,853,469</u></b>        |
| <b>Revenues</b>                      |                                    |                                    |
| Charges for services                 | \$ 10,494,462                      | \$ 12,261,130                      |
| Transfers In/(Out)                   | 414,730                            | 421,731                            |
| Sale of Surplus Vehicles             | 261,775                            | 193,286                            |
| Indemnifying Proceeds (Accidents)    | 384,989                            | 255,380                            |
| <b>Total Revenue</b>                 | <b><u>\$ 11,555,956</u></b>        | <b><u>\$ 13,131,527</u></b>        |
| <b>Change in Fund Balance</b>        | <b><u>\$ 492,426</u></b>           | <b><u>\$ 1,278,057</u></b>         |
| <b>FY Ending Fund Balance</b>        | <b><u><u>\$ 12,002,754</u></u></b> | <b><u><u>\$ 13,280,812</u></u></b> |

**Internal Service Fund - Fleet Services**  
**Balance Sheet (Fund 150100)**  
**As of June 30, 2017**

|                     |                             | <b>FY 2015-16</b>           | <b>FY 2016-17</b>           |
|---------------------|-----------------------------|-----------------------------|-----------------------------|
| <b>Assets</b>       |                             |                             |                             |
|                     | Current Assets:             |                             |                             |
| 0010                | Cash                        | \$ 3,014,494                | \$ 3,680,540                |
| 0100                | Accounts Receivable         | 59,731                      | 881                         |
| 0170                | Inventories                 | 360,839                     | 453,298                     |
| 0180                | Due From Other Funds        | 1,267,490                   | 1,831,931                   |
| 0250                | Prepaid Expense             | (16,908)                    | 73,613                      |
|                     | Total Current Assets        | <u>\$ 4,685,646</u>         | <u>\$ 6,040,262</u>         |
|                     | Noncurrent Assets:          |                             |                             |
| 0340                | Equipment                   | 21,960,461                  | 23,435,483                  |
| 0360                | Construction In Progress    | 1,214,291                   | 822,053                     |
| 0370                | Reserve For Depreciation    | (14,902,463)                | (15,576,586)                |
|                     | Total Noncurrent Assets     | <u>\$ 8,272,290</u>         | <u>\$ 8,680,950</u>         |
|                     | <b>Total Assets</b>         | <b><u>\$ 12,957,935</u></b> | <b><u>\$ 14,721,212</u></b> |
| <b>Liabilities</b>  |                             |                             |                             |
| 0500                | Accounts Payable            | \$ 355,679                  | \$ 576,350                  |
| 0540                | Due To Other Funds          | 536,928                     | 788,844                     |
| 0640                | Employee Fringe Benefit Pay | 62,573                      | 75,206                      |
|                     | <b>Total Liabilities</b>    | <b><u>\$ 955,181</u></b>    | <b><u>\$ 1,440,400</u></b>  |
| <b>Net Position</b> |                             |                             |                             |
|                     | Net Capital Assets          | \$ 8,272,290                | \$ 8,680,950                |
|                     | Working Capital             | <u>3,730,465</u>            | <u>4,599,862</u>            |
|                     | <b>Total Net Position</b>   | <b><u>\$ 12,002,754</u></b> | <b><u>\$ 13,280,812</u></b> |



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Kathy Gallagher, Director  
Date: March 20, 2018

Subject: 2018-19 Head Start Recruitment / Enrollment Plan and Admissions Priority Criteria

---

**RECOMMENDATION(S):**

APPROVE the 2018-19 Head Start Recruitment and Enrollment Plan and the Community Services Bureau Admissions Priority Criteria for the early care and education programs of the Community Services Bureau of the Employment & Human Services Department.

**FISCAL IMPACT:**

None

**BACKGROUND:**

Head Start Performance Standard 1305.3(c)(6) mandates that the Head Start grantee set criteria, based on a community assessment, that defines the types of children and families who will be given Head Start priority for recruitment and selection. This board order accepts the Employment and Human Services Department (EHSD), Community Services Bureau (CSB) Selection Criteria and Recruitment Plan for the 2018-19 program year. Due to the community need for full-day, full-year services, and the mandate that Head Start and Early Head Start programs collaborate for full-day services, EHSD CSB has adopted selection criteria, organized by priorities, which meet the State Department of Education regulations. The plan is set forth in the 2018-19 CSB Admissions Priorities / Selection Criteria.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: CSB, (925)  
681-6389

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

By: , Deputy

cc: Nasim Eghlima, Tracy Lewis

#### BACKGROUND: (CONT'D)

To meet Head Start and Early Head Start enrollment goals, plans must be developed and set in place for adequate marketing and recruitment strategies. CSB utilizes community assessment to identify populations to be served by the Head Start program and to recruit those eligible to receive services. The recruitment and enrollment plan is set forth in the 2018-19 Head Start / Early Head Start / Early Education and Support Program Recruitment and Enrollment Plan. The plans were approved by the Head Start Policy Council on February 21, 2018.

#### CONSEQUENCE OF NEGATIVE ACTION:

If not approved, the Department will not be in compliance with Head Start regulations.

#### CHILDREN'S IMPACT STATEMENT:

The Employment & Human Services Department Community Services Bureau supports three of Contra Costa County's community outcomes - Outcome 1: Children Ready for and Succeeding in School, Outcome 3: Families that are Economically Self-sufficient, and Outcome 4: Families that are Safe, Stable, and Nurturing. These outcomes are achieved by offering comprehensive services, including high quality early childhood education, nutrition, and health services to low-income children throughout Contra Costa County.

#### ATTACHMENTS

CSB Admission Priorities

Recruitment and Enrollment Plan

## CONTRA COSTA COUNTY

### CSB Admissions Priorities / Selection Criteria

#### 2018-2019 Program Year



Head Start Performance Standard 1302.14 (a)(1) mandates that the program set criteria, based on our Community Assessment, that define the types of children and families who will be given priority for recruitment and selection. Kindergarten is available in all communities that we serve. Due to the community need for full-day, full-year services, and the mandate that the Head Start & Early Head Start Program collaborate for full-day services, CSB has adopted the following selection criteria presented in order of priority, which also meets the regulations of our partner, the State Department of Education, with one exception as noted below\*:

| <b>INFANTS &amp; TODDLERS</b><br><b>(Aged 0-3, including pregnant women)</b>  | <b>PRE-SCHOOL</b><br><b>(Aged 3-5)</b>   |
|---|--|
| <ol style="list-style-type: none"> <li>1. Transfers</li> <li>2. CPS, Foster Child ♦ &amp; Child At Risk</li> <li>3. Eligible infant/toddler with disabilities (IEP or IFSP)</li> <li>4. Sibling of a child already enrolled in the program</li> <li>5. Current TANF Recipient ♦ or within 24 months</li> <li>6. Eligible infant/toddler who is homeless ♦</li> <li>7. Lowest income infant/toddler</li> </ol> <p><b>*Exception</b></p> <p><b>Contra Costa College:</b></p> <p>On October 3, 2008, the California Department of Education granted CSB an enrollment waiver to give first priority to children of college students at our Contra Costa College Children's Center.</p> | <ol style="list-style-type: none"> <li>1. Transfers</li> <li>2. CPS, Foster Child ♦, &amp; Child At Risk</li> <li>3. Eligible 4 yr old with disabilities (IEP or IFSP)</li> <li>4. Sibling of a child already enrolled in the program</li> <li>5. Eligible 4 yr old with special circumstances               <ul style="list-style-type: none"> <li>▪ Families experiencing domestic violence</li> <li>▪ Limited English</li> <li>▪ Families Needing Full Day services</li> <li>▪ Currently Homeless ♦ or Homeless within the last 18 months</li> <li>▪ Current TANF ♦ recipient or within the last 24 months</li> <li>▪ Health Impairments</li> <li>▪ Teen Parents</li> <li>▪ Grandparent caregivers</li> <li>▪ Children with current or former incarcerated parent(s)</li> </ul> </li> <li>6. Lowest income 4 yr old</li> <li>7. Eligible 3 yr olds disabilities (IEP or IFSP)</li> <li>8. Eligible 3 yr old with special circumstances               <ul style="list-style-type: none"> <li>▪ Families experiencing domestic violence</li> <li>▪ Limited English</li> <li>▪ Families Needing Full Day services</li> <li>▪ Currently Homeless ♦ or Homeless within the last 18 months</li> <li>▪ Current TANF ♦ recipient or within the last 24 months</li> <li>▪ Health Impairments</li> <li>▪ Teen Parents</li> <li>▪ Grandparent caregivers</li> <li>▪ Children with current or former incarcerated parent(s)</li> </ul> </li> <li>9. Lowest income 3 yr old</li> </ol> |

♦ Denotes categorical eligibility As per Head Start Performance Standard 1302.14 (b), at least 10 percent of the enrollment will be made available to children who meet the definition for children with disabilities. Children enrolled in the EHS-CCP and EHS-CCP2 program must be receiving child care subsidies at time of enrollment, as required for the Early Head Start- Child Care Partnership (EHS-CCP) and Early Head Start-Child Care Partnership 2 (EHS-CCP2) grant. CSB 603 – 2018-2017 Admissions Priorities / Selection Criteria, Approved by Policy Council on 02/21/2018 and approved by Board of Supervisors on xx/xx/2018. .

## 2018-19 Head Start/Early Head Start/Early Education and Support Programs Recruitment and Enrollment Plan

Contra Costa County Employment and Human Services Department - Community Services Bureau

**DESIRED OUTCOME:** To inform the public about services available through the Contra Costa County Community Services Bureau, particularly those populations identified in our Community Assessment, and to recruit and enroll eligible children and their families into the Head Start, Early Head Start and Early Education and Support Programs.

Goal #1: To recruit eligible pregnant women, infants, toddlers, and children.

Goal #2: To recruit children with disabilities.

Goal #3: To recruit special populations as per our community assessment and selection criteria: CPS/At-Risk, Domestic Violence, Limited English, Need for Full Day Care, Homeless, TANF/CalWORKS Recipient, Children with Health Impairments, Teen Parents, Grandparent Caregivers, and children of currently or formerly incarcerated parents.

| ACTIVITIES  | PERSON (S) RESPONSIBLE  | TIMELINE   | LOCATION   | INFORMATION TO INCLUDE   | DISTRIBUTION  |
|---|---|------------|--|--|---|
| Mobilize Parents – Word of Mouth, is our best strategy. Make sure a supply of flyers is available for parents to take and give out. | Comprehensive Services, Site Supervisors, Parent/ Family, Community Engagement Officer, and ERSEA Manager | March 2018 | Policy Council, Parent Meetings, Family Newsletter, Tables in entryways.   | Reproducible Flyers and Pre-App Screening Forms.<br>Contest – parent with most screening forms wins prize.   | All CSB and Delegate and Partner sites.   |
| Pamphlets/flyers distributed:<br>a) General info on CSB services<br>b) Enrollment flyers<br>c) Home-based services                  | Teachers, Site Supervisors, Comprehensive Services Staff, Home Educators                                  | Ongoing    | Laundromats<br>WIC offices<br>Grocery Stores<br>Classrooms<br>Elementary Schools<br>Clinics<br>Community-Based Organizations<br>County Agencies<br>Local churches<br>Education Offices<br>Libraries<br>Hospitals<br>Community Events/Flea Markets<br>Check Cashing Agencies<br>High Schools<br>One-Stop Locations<br>Housing site offices ( <i>including- 9 housing sites in San Ramon</i> )<br>Homeless Programs<br>Community Centers (Richmond, San Pablo, Oakley, Willow Pass)<br>Parks & Rec centers (Ambrose)<br>LiHEAP office<br>Stage II & Alternative Payment Plans<br>Family Entertainment Centers (Roller Rinks)<br>Community Colleges<br>First Five | Pictures<br>Short paragraph describing program options<br>Who is eligible<br>Explanation of services available<br>List Health, Nutrition, Education, Family Services, Family Wellness, Parent Engagement, Disabilities Services<br>Home base<br>Contact numbers and/or persons | HEAP mailings<br>Food Stamp Offices<br>Parent Meetings<br>Doctors' Offices<br>EHSD Child Care Offices<br>Volunteer Bureaus<br>One-Stop Centers<br>Parents<br>Farmers Markets (Richmond Main Street, San Pablo, Concord)<br>*See " <b>Location</b> " section for additional distribution information |

# 2018-19 Head Start/Early Head Start/Early Education and Support Programs Recruitment and Enrollment Plan

Contra Costa County Employment and Human Services Department - Community Services Bureau

| ACTIVITIES   | PERSON (S) RESPONSIBLE   | TIMELINE   | LOCATION   | INFORMATION TO INCLUDE   | DISTRIBUTION   |
|--|--|--|--|--|--|
| Family Newsletter  | Comprehensive Services, Site Supervisors   | Quarterly  | Distribute to all parents / partners   | Who is eligible?<br>Who to Contact?<br>Program Activities<br>Events, Educational opportunities   | Early Intervention Programs<br>Community Partners<br>Elementary Schools in the District  |
| Contact Agencies Serving Children                        | ERSEA Manager, Comprehensive Services Managers   | Spring and Fall and as needed                    | WIC offices<br>SELPAs<br>Child Care Centers<br>School Districts<br>Private Providers Community-Based Organizations<br>Community Recreation Sites<br>PTAs<br>Human Service Department<br>Partner Sites<br>Family Child Care Networks<br>Resource and Referral Agencies<br>Stage II & Alternative Payment Plans<br>First Five Offices & Centers<br>Homeless Shelter<br>OB/GYN Offices<br>LiHEAP office | Initial letter containing description of Head Start and Agency services and program options<br>Personal visit to discuss coordination services, share program and curriculum information, plan referrals.                                  | Community  |
| Coordinate Transition Activities with Elementary Schools | MH/Disabilities Manager; Site Supervisors<br>Education Managers                            | Spring/ Summer and throughout the year as needed | Childcare Centers Elementary Schools<br>Other agencies for intake for special needs children<br>High School/IT   | Any pertinent information on child, - authorized by parent   | Elementary School staff meetings & parent meetings;<br>Site based staff meetings/<br>parent meetings;<br>Policy Council Meetings |
| Speak at local organizations                             | Directors, Assistant Directors, Comprehensive Services Mgrs., Male Involvement Coordinator | Ongoing  | Union Meetings<br>Faith Based Organizations SHARE<br>County Malls<br>Fairs<br>Clubs<br>Community Events<br>Other Government Agencies<br>Non-Profit Agencies<br>Businesses, Corporations and Foundations  | Make Head Start staff or Policy Council rep. available<br>Describe advantageous services<br>Distribute pamphlets<br>List of centers with contact information<br>Set up information table with posters and pictures<br>Application packages | Civic Organizations<br>PTA meetings<br>Church groups<br>Community events   |



## 2018-19 Head Start/Early Head Start/Early Education and Support Programs Recruitment and Enrollment Plan

Contra Costa County Employment and Human Services Department - Community Services Bureau

| ACTIVITIES  | PERSON (S) RESPONSIBLE   | TIMELINE                         | LOCATION   | INFORMATION TO INCLUDE   | DISTRIBUTION                                  |
|---|--|----------------------------------|--|--|---|
| "Staff Walks around the Community"                                  | Site Supervisors,<br>Comprehensive Services Staff  | May –<br>August and<br>as needed | Neighborhoods<br>Other Agencies  | Brief description of services<br>Magnets or other marketing aids<br>with contact info<br>Flyers  | Community                                     |
| Any opportunity for free<br>ads in local media                      | Assistant Directors; Analysts  | Spring-Fall                      | Local newspaper agencies, Penny<br>Saver, Grapevine, Radio, Public<br>Access TV, etc.  | Short information on program, in<br>English and Spanish<br>Contact information (Recruitment<br>hotline)  | Newspapers and on<br>line.                    |
| Community Events  | ALL STAFF  | Ongoing                          | Contra Costa County  | Information on employment for<br>teachers<br>Informational Flyers<br>Magnets, etc. with brief<br>information   | Community                                     |
| Maintain supply of free<br>Head Start pamphlets<br>(order from ACF) | Site Supervisors,<br>Managers for HB and<br>Partners<br>Comp. Services Asst.<br>Managers | Ongoing                          | All CSB Centers<br>All Partner/Delegate centers<br>One Stop Career Centers<br>Human Services Department<br>SS of WIC<br>SparkPoint<br>Family Justice Center<br>LiHEAP office | Description of Head Start<br>program and sample activities,<br>with contact information.   | Community                                     |
| Implement streamlined<br>referral processes per<br>MOUs             | ERSEA Manager  | Ongoing                          | CFS<br>BBK<br>RCEB<br>Health Services<br>CalWorks  | Protocol and Procures<br>Forms<br>Tracking of special referrals  | Organizations noted<br>in "Location" section. |
| Recruitment through<br>partnerships                                 | ERSEA Manager,<br>Comprehensive Services<br>Managers, Partner Unit                       | Ongoing                          | CSB's Head Start and State child<br>development partner agencies   | Information of CSB's HS services<br>including different program<br>models to meet client needs.<br>Site location and contact list.<br>Transfer coordination. | Childcare and<br>development<br>partnerships  |



**Contra  
Costa  
County**

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: REFERRAL RELATED TO REGIONAL UNDOCUMENTED IMMIGRATION DEFENSE PROGRAM  
PARTICIPATION

---

**RECOMMENDATION(S):**

REFER to the Finance Committee a proposal by the Public Defender to participate in a regional undocumented immigration defense program with the San Francisco Public Defender's Office as the lead agency.

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

The Public Defender's Office has been approached by the San Francisco Public Defender's Office regarding participation in a regional undocumented immigration defense program funded by the State of California. Recently, the Public Defender's Office launched its Stand Together CoCo program, aimed at providing rapid response and educational services to undocumented residents in the County through a partnership with Catholic Charities.

The Stand Together CoCo program was reviewed by the Finance Committee prior to being forwarded to the full Board of Supervisors for discussion. To maintain continuity in review of similar programs, we are recommending that this matter be referred to the Finance Committee and scheduled for the March 26, 2018 Committee meeting.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: Timothy Ewell (925)  
335-1036

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

By: , Deputy

cc: Lisa Driscoll, Staff to Finance Committee

CONSEQUENCE OF NEGATIVE ACTION:

The issue would not be reviewed by a standing committee of the Board of Supervisors.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: ADOPT Resolution No. 2018/108 reaffirming the County Debt Management Policy, which replaces Resolution No. 2017/110

**RECOMMENDATION(S):**

ADOPT Resolution No. 2018/108 updating and reaffirming the County Debt Management Policy.

**FISCAL IMPACT:**

No specific fiscal impact.

**BACKGROUND:**

On December 7, 2006 the Finance Committee reviewed and discussed a report regarding establishing a County Debt Management Policy. The Committee directed staff to report to the full Board on December 19, 2006 the recommendation to adopt a formal County Debt Management Policy. A formal policy was adopted on December 19, 2006 (Resolution No. 2006/773).

The Board of Supervisors has worked exceptionally hard to address the County's financial issues and has set very ambitious and necessary goals for lowering cost growth, balancing the budget, and increasing reserves. These solutions are aimed at addressing both short and long term needs and improving the County's future ability to maintain public services. There are four major financial areas the County Administrator's office identified which benefited from formal policies:

- Budget Policy (established November 2006)
- 

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

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

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

By: , Deputy

cc: Hon. Robert R. Campbell, Auditor-Controller, Hon. Russell V. Watts, Treasurer-Tax Collector, Kara Douglas, Department of Conservation and Development

## BACKGROUND: (CONT'D)

General Fund Reserve Policy (established December 2005)

- Facilities Maintenance (included in Budget Policy)
- Debt Management Policy (established December 2006)

Debt affordability standards help the County to evaluate when, why, and how much debt should be issued. In addition to debt affordability standards, the County also adopted a formal Debt Management Policy. The Debt Management Policy:

- Establishes parameters for issuing and managing debt
- Provides guidance to decision makers so as not to exceed the debt affordability standards
- Directs staff on objectives to be achieved both pre- and post-issuance
- Promotes objectivity in decision-making and limits the role of political influence
- Facilitates the process by considering and making important policy decisions in advance of an actual financing

Periodically, policies should be revised to keep current with best practices or changes in laws. The Debt Affordability Advisory Committee reviews the existing Debt Policy on an annual basis and makes recommendations for revisions to the Board of Supervisors. The following revisions have been made since original adoption:

- On December 11, 2012, the Board of Supervisors adopted the Debt Affordability Advisory Committee's recommendations and added two additional appendix to the Debt Management Policy (Appendices 2 and 3) and amended two existing sections. The purpose of the Post-Issuance Tax Compliance Procedures for Tax-Exempt and Build America Bonds appendix (Appendix 2) was to establish policies and procedures in connection with tax-exempt bonds and "Build America Bonds" issued by the County of Contra Costa and the County of Contra Costa Public Financing Authority so as to ensure that the County complies with all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt or Build America bonds status of bonds. In recognition of the importance of the County meeting its disclosure obligations pursuant to S.E.C. Rule 15c(2)-12, the Committee directed the Finance Director to annually update the Disclosure Requirements Listing that appears in Appendix 3 as well as cause timely filing by the Dissemination Agent of the requisite Annual Reports required under the respective Continuing Disclosure Certificates. Section I of the Policy was amended to require the Debt Affordability Advisory Committee's review of the debt performance of the Community Facilities Districts (Appendix 4), Multifamily Mortgage Revenue Bond Program (Appendix 5), and the Successor Agency to the former Contra Costa County Redevelopment Agency (Appendix 6) to assure that prudent debt management practices extend to these important debt issuers. Section IV.B of the Policy was updated to require the County to issue Requests for Qualifications (RFQs) for financial advisor, bond counsel, disclosure counsel and tax counsel every three years.
- On March 25, 2014, the Board of Supervisors adopted the Debt Affordability

Advisory Committee's recommendations and updated Section II of the Policy to reflect the County's upgraded rating tier from Standard and Poor's of "AAA", and Appendix 3 to reflect the current annual disclosure requirement listing.

- On March 31, 2015, the Board of Supervisors adopted the Debt Affordability Advisory Committee's recommendations and updated Appendix 2 of the Policy to reflect updated post-issuance compliance requirements for private placements/direct loans. This is in response to a new law that went into effect January 1 that requires all issuers to report private placements/direct loans to the California Debt and Investment Advisory Commission (CDIAC) within 21 days of their occurrence (AB-2274, Chapter 181, Statutes of 2014).
- On July 16, 2015 the Board of Supervisors adopted the Debt Affordability Advisory Committee's recommendations and updated Debt Affordability measures to better track with current metrics used by credit rating agencies to evaluate the County's financial position.
- On August 25, 2015 the Board of Supervisors adopted updates to Appendix 3 of the Policy to include updated disclosure requirements and procedures.
- On March 8, 2016, the Board of Supervisors reaffirmed the Debt Management Policy.
- On March 21, 2017, the Board of Supervisors reaffirmed the Debt Management Policy, including updates to policies and procedures related to multi-family housing bonds.

The Debt Affordability Advisory Committee met on February 20, 2018 and reviewed the draft FY 2016/17 Debt Report, which includes the Debt Management Policy as an Appendix. Today's action would reaffirm the Debt Management Policy as Resolution No. 2018/108 and include the attached version by reference.

CONSEQUENCE OF NEGATIVE ACTION:

The policy will not be formally reaffirmed by the Board.

ATTACHMENTS

Resolution No. 2018/108

County Debt Management Policy, March 2018

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

Adopted this Resolution on 03/20/2018 by the following vote:

**AYE:** ☐

**NO:** ☐

**ABSENT:** ☐

**ABSTAIN:** ☐

**RECUSE:** ☐



**Resolution No. 2018/108**

**IN THE MATTER OF: REAFFIRMING THE COUNTY DEBT MANAGEMENT POLICY**

**WHEREAS**, the Contra County County Board of Supervisors, acting in its capacity as the Governing Board of the County of Contra Costa and for Special Districts, Agencies and Authorities governed by the Board wishes to reaffirm its Debt Management Policy, currently adopted as Resolution No. 2017/110.

**NOW, THEREFORE, BE IT RESOLVED** that the Contra Costa County Board of Supervisors, acting in its capacity as the Governing Board of the County of Contra Costa and for Special Districts, Agencies and Authorities governed by the Board, takes the following actions:

1. The County Debt Management Policy, Resolution No. 2017/110 is hereby replaced by this Resolution No. 2018/108, including the Debt Management Policy as attached.

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

**Contact:** **ATTESTED: March 20, 2018**  
\_\_\_\_\_, County Administrator and Clerk of the Board of Supervisors

By: \_\_\_\_\_, Deputy

**cc:** Hon. Robert R. Campbell, Auditor-Controller, Hon. Russell V. Watts, Treasurer-Tax Collector, Kara Douglas, Department of Conservation and Development

# **Contra Costa County, California Debt Management Policy**

County Administration  
651 Pine Street, 10<sup>th</sup> Floor  
Martinez, California 94553

Lisa Driscoll  
County Finance Director  
925-335-1023  
[lisa.driscoll@cao.cccounty.us](mailto:lisa.driscoll@cao.cccounty.us)

Resolution No. 2018/108  
Resolution No. 2017/110  
~~Resolution No. 2016/111~~  
~~Resolution No. 2015/308~~  
~~Resolution No. 2015/245~~  
~~Resolution No. 2015/113~~  
~~Resolution No. 2014/77~~  
~~Resolution No. 2012/333~~  
~~Resolution No. 2006/773~~



**DEBT MANAGEMENT POLICY  
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# Contra Costa County, California

## Debt Management Policy

**I. PURPOSE:** The County recognizes the foundation of any well-managed debt program is a comprehensive debt policy. A debt policy sets forth the parameters for issuing debt and managing outstanding debt and provides guidance to decision makers regarding the timing and purposes for which debt may be issued, types and amounts of permissible debt, method of sale that may be used and structural features that may be incorporated. The debt policy should recognize a binding commitment to full and timely repayment of all debt as an intrinsic requirement for entry into the capital markets. Adherence to a debt policy helps to ensure that a government maintains a sound debt position and that credit quality is protected. Advantages of a debt policy are as follows:

- enhances the quality of decisions by imposing order and discipline, and promoting consistency and continuity in decision making,
- provides rationality in the decision-making process,
- identifies objectives for staff to implement,
- demonstrates a commitment to long-term financial planning objectives, and
- is regarded positively by the rating agencies in reviewing credit quality.

## **II. DEBT AFFORDABILITY ADVISORY COMMITTEE**

**A. Purpose.** By adoption of this Debt Policy, the Debt Affordability Advisory Committee is established. Its purpose is to annually review and evaluate existing and proposed new County debt and other findings and/or issues the committee considers appropriate.

It is the task of this committee to assess the County's ability to generate and repay debt. The committee will issue an annual report to the County Administrator defining debt capacity of the County. This review will be an important element of the budget process and will include recommendations made by the committee regarding how much new debt can be authorized by the County without overburdening itself with debt service payments.

**B. Members.** The committee shall be composed of the Auditor-Controller, Treasurer-Tax Collector, Director/Conservation and Development Department, and County Finance Director.

**C. Debt Affordability Measures.** The committee shall examine specific statistical measures to determine debt capacity and relative debt position and compare these ratios to other counties, rating agency standards and Contra Costa County's historical ratios to determine debt affordability. From Moody's Investors Service, the committee will evaluate the County against the following debt ratios from the most recent available national medians for counties in the "Aa" rating tier with populations of at least 1 million:

1. Direct net debt as a percentage of Assessed Valuation;
2. Overall net debt as a percentage of Assessed Valuation;
3. Assessed Valuation per-capita;
4. Available general fund balance as a percentage of revenues; and
5. General fund balance as a percentage of revenues.

From Standard and Poor's, the committee will evaluate the County against the following debt ratios from the most recent available national medians for counties in the "AAA" rating tier:

1. Assessed valuation per-capita;
2. Direct debt as percentage of governmental funds revenue;
3. Total government available cash as a percentage of debt service;
4. Total government available cash as a percentage of expenditures; and
5. Total debt service as a percentage of general fund expenditures.

The Advisory Committee also evaluates the County against a group of cohort counties, namely, other large, urban counties in California. The Advisory Committee utilizes each respective cohort county's most recently available CAFR to measure the County's comparative performance on the various debt measures calculated by Moody's and S&P as noted above, and also against the additional ratios below:

1. Direct debt per capita; and
2. Debt payments as a percentage of general fund revenues.

### **III. COMPREHENSIVE CAPITAL PLANNING**

**A. Planning.** The County Administrator's Office shall prepare a multi-year capital program for consideration and adoption by the Board of Supervisors as part of the County's budget process. Annually, the capital budget shall identify revenue sources and expenditures for the coming current year and the next succeeding three fiscal years. The plan shall be updated annually.

**B. Funding of the Capital Improvement Program.** Whenever possible, the County will first attempt to fund capital projects with grants or state/federal funding, as part of its broader capital improvement plan. When such funds are insufficient, the County will use dedicated revenues to fund projects. If these are not available, the County will use excess surplus from the reserve and debt financing, general revenues. The County shall be guided by three principles in selecting a funding source for capital improvements: equity, effectiveness and efficiency.

**1. Equity:** Whenever appropriate, the beneficiaries of a project or service will pay for it. For example, if a project is a general function of government that benefits the entire community, such as an Office of Emergency Services, the project will be paid for with general purpose revenues or financed with debt. If, however, the project benefits specific users, such as a building permit facility, the revenues will be derived through user fees or charges, and assessments.

**2. Effectiveness:** In selecting a source or sources for financing projects, the County will select one or more that effectively funds the total cost of the project. For example, funding a capital project, or the debt service on a project, with a user fee that does not provide sufficient funds to pay for the project is not an effective means of funding the project.

**3. Efficiency:** If grants or current revenues are not available to fund a project, the County will generally select a financing technique that provides for the lowest total cost consistent with acceptable risk factors and principals of equity and effectiveness. These methods currently consist of County issued debt, special funding programs funded by state or federal agencies, or special pool financing. Examples include funding pools like the Association of Bay Area Governments Participation Certificates.



**C. Maintenance, Replacement and Renewal/FLIP.** The County intends to set aside sufficient current revenues to finance ongoing maintenance needs and to provide periodic replacement and renewal consistent with its philosophy of keeping its capital facilities and infrastructure systems in good repair and to maximize a capital asset's useful life.

**D. Debt Authorization.** No County debt issued for the purpose of funding capital projects may be authorized by the Board of Supervisors unless an appropriation has been included in the capital budget (Some forms of debt such as Private Activity Bonds for housing, Mello-Roos for infrastructure, and redevelopment bonds for infrastructure/facilities may not be appropriate for inclusion in the County capital improvement program. The policies for such forms of debt are included as Appendixes 4, 5, and 6).

#### ***IV. PLANNING AND STRUCTURE OF COUNTY INDEBTEDNESS***

**A. Overview.** The County shall plan long- and short-term debt issuance to finance its capital program based on its cash flow needs, sources of revenue, capital construction periods, available financing instruments and market conditions. The County Finance Director shall oversee and coordinate the timing, issuance process and marketing of the County's borrowing and capital funding activities required in support of the capital improvement plan. The County shall finance its capital needs on a regular basis dictated by its capital spending pattern. Over the long-term this policy should result in a consistently low average interest rate. When market conditions in any one year result in higher than average interest rates, the County shall seek refinancing opportunities in subsequent years to bring such interest rates closer to the average. The Debt Affordability Advisory Committee shall use the Government Financial Officers Association checklist set forth in Appendix 1 hereto in planning and structuring any debt issuances.

**B. Financing Team.** The County employs outside financial specialists to assist it in developing a debt issuance strategy, preparing bond documents and marketing bonds to investors. The key team members in the County's financing transactions include its financial advisor and outside bond and disclosure counsel, the underwriter and County representatives (the County Auditor-Controller, Treasurer-Tax Collector, and the County Finance Director, among others). Other outside firms, such as those providing paying agent/registrar, trustee, credit enhancement, verification, escrow, auditing, or printing services, are retained as required. The County will issue Requests for Qualifications (RFQs) for financial advisor, bond & tax counsel, disclosure counsel and underwriters every three years, with the option to renew for a maximum of two additional years. The financing team shall meet at least semi-annually to review the overall financing strategy of the County and make recommendations to the County Administrator.

**C. Term of Debt Repayment.** Borrowings by the County shall mature over a term that does not exceed the economic life of the improvements that they finance and usually no longer than 20 years, unless special structuring elements require a specific maximum term to maturity, as is the case with pension obligation bonds. The County shall finance improvements with a probable useful life less than five years using pay-go funding for such needs. Bonds sold for the purchase of equipment with a probable useful life exceeding five years are repaid over a term that does not exceed such useful life.

**D. Legal Borrowing Limitations/Bonds and other indebtedness.** California Government Code Section 29909 limits General Obligation Bond indebtedness to five percent of the total assessed valuation of all taxable real and personal property within the County, excluding Public Financing Authority lease revenue bonds, Private Activity Bond, Mello-Roos special tax, and Assessment District Debt for which no legal limitations are currently in effect.



## **E. Debt Features.**

**1. Original issue discount or premium.** The County's bonds may be sold at a discount or premium, in order to achieve effective marketing, achieve interest cost savings or meet other financing objectives. The maximum permitted discount is stated in the Notice of Sale accompanying the County's preliminary official statement on the Bond Purchase Agreement, as applicable.

**2. Debt service structure/Level Debt Service.** The County shall primarily finance its long-lived municipal improvements over a 20-year term or less, on a level debt service basis. This policy minimizes long-run impact on a funding department's budget. The County will seek to continue this practice, unless general fund revenues are projected to be insufficient to provide adequately for this debt service structure.

**3. Call provisions.** The County shall seek to minimize the protection from optional redemption given to bondholders, consistent with its desire to obtain the lowest possible interest rates on its bonds. The County's tax-exempt bonds are generally subject to optional redemption. The County seeks early calls at low or no premiums because such features will allow it to refinance debt more easily for debt service savings when interest rates drop. The County and its financial advisor shall evaluate optional redemption provisions for each issue to assure that the County does not pay unacceptably higher interest rates to obtain such advantageous calls. The County shall not sell derivative call options.

**4. Interest rates.** The County shall first consider the use of fixed-rate debt to finance its capital needs, except for short-term needs (such as short-lived assets) that will be repaid or refinanced in the near term; and may consider variable rate debt under favorable conditions.

**F. Other Obligations Classified as Debt/Other Post-Employment Benefits (OPEB)/Vested Vacation Benefits.** OPEBs and vacation benefits are earned by County employees based on time in service. The County records these vacation benefits as earned in accordance with generally accepted accounting principles as established by the Governmental Accounting Board (GASB). The liability for the benefit is recorded on the Fund level financial statements. The expense is recorded during the conversion to the Government Wide financial statements in accordance with GASB standards. For Enterprise funds the expense and liability are accrued in the respective funds. In this initial policy, the amount of OPEB and vacation benefits will not be in measures used to evaluate the County's debt affordability. However, the County's net OPEB obligation is posted to the County's balance sheet.

**V. METHOD OF SALE.** The County will select a method of sale that is the most appropriate in light of financial, market, transaction-specific and County-related conditions, and explain the rationale for its decision.

**A. Competitive Sales.** Debt obligations are generally issued through a competitive sale. The County and its financial advisor will set the terms of the sale to encourage as many bidders as possible. By maximizing bidding, the County seeks to obtain the lowest possible interest rates on its bonds. Some of the conditions that generally favor a competitive sale include:

1. the market is familiar with the County;
2. the County is a stable and regular borrower in the public market;
3. there is an active secondary market with a broad investor base for the County's bonds;
4. the issue has a non-enhanced credit rating of A or above or can obtain credit enhancement prior to the competitive sale;
5. the debt structure is backed by the County's full faith and credit or a strong, known or historically performing revenue stream;
6. the issue is neither too large to be easily absorbed by the market nor too small to attract



- investors without a concerted sale effort;
- 7. the issue does not include complex or innovative features or require explanation as to the bonds' security;
- 8. the issue can be sold and closed on a schedule that does not need to be accelerated or shortened for market or policy reasons; and
- 9. interest rates are stable, market demand is strong, and the market is able to absorb a reasonable amount of buying or selling at reasonable price changes.

**B. Negotiated Sales.** When certain conditions favorable for a competitive sale do not exist and when a negotiated sale will provide significant benefits to the County that would not be achieved through a competitive sale, the County may elect to sell its debt obligations through a private placement or negotiated sale, upon approval by the County Board of Supervisors. Such determination shall be made on an issue-by-issue basis, for a series of issues, or for part or all of a specific financing program. The following practices are recommended to be observed in the event of a negotiated sale:

- 1. ensure fairness by using a competitive underwriter selection process through a request for proposals distributed to the established underwriter pool so that multiple proposals are considered;
- 2. remain actively involved in each step of the negotiation and sale processes to uphold the public trust;
- 3. ensure that either an employee of the County and an outside professional other than the issue underwriter, who is familiar with and abreast of the condition of the municipal market, is available to assist in structuring the issue, pricing, and monitoring sales activities;
- 4. require that the financial advisor used for a particular bond issue not act as underwriter of the same bond issue;
- 5. require that financial professionals disclose the name or names of any person or firm, including attorneys, lobbyists and public relations professionals compensated in connection with a specific bond issue;
- 6. request all financial professionals submitting joint proposals or intending to enter into joint accounts or any fee-splitting arrangements in connection with a bond issue to fully disclose to the County any plan or arrangements to share tasks, responsibilities and fees earned, and disclose the financial professionals with whom the sharing is proposed, the method used to calculate the fees to be earned, and any changes thereto; and
- 7. review the "Agreement among Underwriters" and insure that it is filed with the County and that it governs all transactions during the underwriting period.

**VI. REFINANCING OF OUTSTANDING DEBT.** The County may undertake refinancing of outstanding debt under the following circumstances:

**A. Debt Service Savings.** The County may refinance outstanding long-term debt when such refinancing allows the County to realize significant debt service savings (2% minimum by maturity and a minimum 4% savings overall ) without lengthening the term of refinanced debt and without increasing debt service in any subsequent fiscal year. The County may also consider debt refinancing when a primary objective would be the elimination of restrictive covenants that limit County operations.

**B. Defeasance.** The County may refinance outstanding debt, either by advance refunding to the first call or by defeasance to maturity, when the public policy benefits of replacing such debt outweigh the costs associated with new issuance as well as any increase in annual debt service.

## **VII. CREDIT RATINGS**

**A. Rating Agency Relationships.** The County Finance Director, or designee, is responsible for maintaining relationships with the rating agencies that assign ratings to the County's various debt

obligations. This effort includes providing periodic updates on the County's general financial condition along with coordinating meetings and presentations in conjunction with a new debt issuance.

**B. Quality of Ratings.** The County shall request ratings prior to the sale of securities from at least two major rating agencies for public issuances of municipal bonds. Currently, there are three major rating agencies providing ratings to municipal issuers, including Moody's Investors Service ("Moody's"), Standard & Poor's Global Ratings (S&P) and Fitch Ratings. The County is currently rated by Moody's and S&P. The County shall provide a written and/or oral presentation to the rating agencies to help each credit analyst make an informed evaluation of the County's financial condition and to present details of the proposed issuance. The County shall make every reasonable effort to maintain its implied general obligation bond credit ratings. The County may, on a case by case basis, decide to obtain one or no ratings prior to a bond issuance if, after consulting with its financial advisor, bond counsel and disclosure counsel, it is determined that this is in the best interest of the County.

**VIII. MANAGEMENT PRACTICES.** The County has instituted sound management practices and will continue to follow practices that will reflect positively on it in the rating process. Among these are the County development of and adherence to long-term financial and capital improvement plans, management of expense growth in line with revenues and maintenance of an adequate level of operating reserves.

**A. Formal Fiscal Policies.** The County shall continue to establish, refine, and follow formal fiscal policies such as: Investment Policy, General Fund Reserve Policy, Budget Policy, and this Debt Management Policy.

**B. Rebate Reporting and Continuing Covenant Compliance.** The County Finance Director, or designee, is responsible for maintaining a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the federal tax code and/or contracting for such service. This effort includes tracking investment earnings on debt proceeds, calculating rebate payments in compliance with tax law, and remitting any rebatable earnings to the federal government in a timely manner in order to preserve the tax- exempt status of the County's outstanding debt issues. Additionally, general financial reporting and certification requirements embodied in bond covenants are monitored to ensure that all covenants are complied with.

**C. Reporting Practices.** The County will comply with the standards and best practices of the Government Finance Officers Association for financial reporting and budget presentation and the disclosure requirements of federal regulatory agencies including the Securities and Exchange Commission and Internal Revenue Service; state agencies charged with the regulation of municipal securities, including the State Treasurer's Office; and self-regulatory organizations such as the Municipal Standards Rulemaking Board.

**D. Post-Issuance Tax Compliance Procedures.** To assure it manages its debt obligations in accordance with all federal tax requirements, the County will comply with the Post-Issuance Compliance Tax Procedures set forth in Appendix 2 hereto.

**E. Continuing Disclosure Policies and Procedures.** To assure it manages its debt obligations in accordance with the terms of Continuing Disclosure Agreements included in individual bond issuances and federal and state regulations, the County has adopted policies and procedures set forth in Appendix 3 hereto.



GOVERNMENT FINANCE OFFICERS ASSOCIATION

**Checklist of Debt Policy Considerations**

1. How long is the capital planning period?
2. Have all non-debt sources of funds been considered?
3. How are borrowing plans reviewed internally?
4. What level of debt is manageable in order to maintain or improve the government's credit quality?
5. How much "pay-as-you-go" financing should be included in the capital plan?
6. How much short-term borrowing will be undertaken, including both operating and capital borrowings?
7. How much debt will be issued in the form of variable-rate securities?
8. How does the redemption schedule for each proposed issue affect the overall debt service requirements of the government?
9. What types of affordability guidelines will be established to help monitor and preserve credit quality?
10. What provisions have been made to periodically review the capital plan and borrowing practices?
11. What is the overlapping debt burden on the taxpayer?
12. How will the formal debt policies be integrated into the capital planning and funding process?



**County of Contra Costa  
Post-Issuance Tax Compliance Procedures  
For Tax-Exempt and Build America Bonds**

The purpose of these Post-Issuance Tax Compliance Procedures is to establish policies and procedures in connection with tax-exempt bonds and "Build America bonds" ("Bonds") issued by the County of Contra Costa and the County of Contra Costa Financing Authority (together, the "County") so as to ensure that the County complies with all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt or Build America bond status of the Bonds.

**General**

Ultimate responsibility for all matters relating to County financings and refundings, other than Tax and Revenue Anticipation Notes ("TRANS"), rests with the County Administrator (the "Administrator"). The County Treasurer and County Auditor-Controller are responsible for tax compliance with respect to TRANS.

**Post-Issuance Compliance Requirements**

Timely Reporting of Final Sale

The Administrator and other appropriate County personnel shall file timely any report required by state and federal regulatory agencies notifying those agencies of final sale of bonds, or receipt bank loan/private placement proceeds, as required by law. As of this writing, this section applies to the following:

1. California Debt and Investment Advisory Commission (CDIAC)
  - *Report of Final Sale:* This Reports details information about the issuer and the bond issuance. The report requires attachment of the Official Statement related to the transaction or other bond documents in the case of a bank loan/private placement. The report is required to be filed within 21 days of closing, pursuant to Government Code § 8855(j).
    - *Special Requirement for Refunding Bonds sold via Negotiated Sale or Private Placement:* In addition to the Report of Final Sale above, if refunding bonds are sold through a negotiated sale or private placement, CDIAC requires submission of a written statement explaining the reasons for not selling those bonds at a public sale within 14 days of closing, pursuant to Government Code § 53583(c)(2)(B).
2. Internal Revenue Service (IRS)
  - *IRS Form 8038-G "Information Return for Tax-Exempt Governmental Obligations":* This filing details information about the issuer and tax-exempt governmental obligations over \$100,000. The report is required to be filed no later than the 15<sup>th</sup> day of the second calendar month after the close of the calendar quarter in which the bond was issued, pursuant to Internal Revenue Code § 149(e).

External Advisors / Documentation

The Administrator and other appropriate County personnel shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in a County resolution(s), Tax Certificate(s) and / or other documents finalized at or before issuance of the Bonds.

Those requirements and procedures shall including future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The Administrator and other appropriate County personnel also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of Bond-financed assets and future contracts with respect to the use of output or throughput of Bond-financed assets.

Whenever necessary or appropriate, the County shall engage expert advisors (each a "Rebate Service Provider") to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds.

#### Role of the County as Bond Issuer

Unless otherwise provided by County resolutions, unexpended Bond proceeds shall be held by the County, and the investment of Bond proceeds shall be managed by the [Administrator]. The Administrator shall maintain records and shall prepare regular, periodic statements to the County regarding the investments and transactions involving Bond proceeds.

If a County resolution provides for Bond proceeds to be administered by a trustee, the trustee shall provide regular, periodic (monthly) statements regarding the investments and transactions involving Bond proceeds.

#### Arbitrage Rebate and Yield

Unless a Tax Certificate documents that bond counsel has advised that arbitrage rebate will not be applicable to an issue of Bonds:

- the County shall engage the services of a Rebate Service Provider, and the County or the Bond trustee shall deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider on a prompt basis;
- upon request, the Administrator and other appropriate County personnel shall provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- the Administrator and other appropriate County personnel shall monitor efforts of the Rebate Service Provider and assure payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed; and
- during the construction period of each capital project financed in whole or in part by Bonds, the Administrator and other appropriate County personnel shall monitor the investment and expenditure of Bond proceeds and shall consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds.

The County shall retain copies of all arbitrage reports and trustee statements as described below under "Record Keeping Requirements".



### Use of Bond Proceeds

The Administrator and other appropriate County personnel shall:

- monitor the use of Bond proceeds, the use of Bond-financed assets (e.g., facilities, furnishings or equipment) and the use of output or throughput of Bond-financed assets throughout the term of the Bonds (and in some cases beyond the term of the Bonds) to ensure compliance with covenants and restrictions set forth in applicable County resolutions and Tax Certificates;
- maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Bonds;
- consult with Bond Counsel and other professional expert advisers in the review of any contracts or arrangements involving use of Bond-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable County resolutions and Tax Certificates;
- maintain records for any contracts or arrangements involving the use of Bond-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable County resolutions and Tax Certificates;
- meet at least annually with personnel responsible for Bond-financed assets to identify and discuss any existing or planned use of Bond-financed assets or output or throughput of Bond-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable County resolutions and Tax Certificates.

All relevant records and contracts shall be maintained as described below.

### **Record Keeping Requirements**

Unless otherwise specified in applicable County resolutions or Tax Certificates, the County shall maintain the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years:

- a copy of the Bond closing transcript(s) and other relevant documentation delivered to the County at or in connection with closing of the issue of Bonds;
- a copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds;
- a copy of all contracts and arrangements involving private use of Bond-financed assets or for the private use of output or throughput of Bond-financed assets; and
- copies of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements.

**COUNTY OF CONTRA COSTA**  
**CONTINUING DISCLOSURE PROCEDURES**

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## ARTICLE I

### DEFINITIONS

The following capitalized terms shall have the following meanings in these Procedures:

“Agency” shall mean the Successor Agency to the former Redevelopment Agency of Contra Costa County.

“Annual Report” shall mean any annual report to be filed by the County or the Authority in connection with its obligations under any Continuing Disclosure Certificate executed in accordance with Rule 15c2-12 under the Securities Exchange Act of 1934.

“Auditor-Controller” shall mean the Auditor-Controller of the County of Contra Costa.

“Authority” shall mean the Contra Costa County Public Financing Authority, a joint exercise of powers authority of which the County of Contra Costa and the Contra Costa County Flood Control and Water Conservation District are members.

“Board of Supervisors” shall mean the Board of Supervisors of the County of Contra Costa.

“Bonds” shall mean any bonds, certificates of participation, notes or any other evidence of indebtedness issued by or on behalf of the County or the Authority which is subject to Rule 15c2-12.

“Bond Insurer” shall mean an issuer of a financial guaranty insurance or municipal bond insurance policy guaranteeing the scheduled payment of principal of and interest on an outstanding issue of Bonds when due.

“CDIAC” shall mean the California Debt and Investment Advisory Commission.

“Continuing Disclosure Certificate” shall mean each continuing disclosure certificate, undertaking or agreement executed and delivered by the County or the Authority in connection with an issue of Bonds.

“County” shall mean the County of Contra Costa, a political subdivision of the State of California.

“County Counsel” shall mean an attorney within the Office of the County Counsel of the County of Contra Costa, California.

“County Finance Director” shall mean the County Finance Director of the County of Contra Costa in the County Administrator’s Office.

“Credit Facility Provider” shall mean a bank providing a direct-pay letter of credit or other security or liquidity instrument in connection with an issue of Bonds which secures the payment of the principal or purchase price, if any, of and interest on an outstanding issue of Bonds when due.

“Disclosure Coordinator” shall mean the person or persons designated by a Disclosure Representative to assist in taking such action necessary or desirable to comply with the terms of the Continuing Disclosure Certificates, as provided in Article III hereof.



“Debt Affordability Advisory Committee” shall mean a committee composed of the Auditor-Controller, Treasurer-Tax Collector, Director of Conservation and Development and the County Finance Director that advise the County Administrator on debt management issues.

“Director of Conservation and Development” shall mean the Director of the Department of Conservation and Development of the County of Contra Costa.

“Disclosure Counsel” shall mean a firm of nationally recognized standing in matters pertaining to the disclosure obligations under Rule 15c2-12 of the Securities and Exchange Commission of the United States of America, duly admitted to the practice of law before the highest court of any state of the United States of America.

“Disclosure Representative” shall mean the County Administrator, Director of Conservation and Development and County Finance Director who are collectively responsible for compliance with the terms of the Continuing Disclosure Certificates, as provided in Article III.

“EMMA” shall mean the MSRB’s Electronic Municipal Market Access system or any other successor thereto as designated by the SEC or the MSRB.

“Event Notice” shall mean any notice of the occurrence of a Material Event or Listed Event.

“Listed Event” shall mean any event described in Section 3 of Article IV hereof.

“Material Event” shall mean any event described in Section 2 of Article IV hereof.

“MSRB” shall mean Municipal Securities Rulemaking Board.

“Official Statement” shall mean any Preliminary Official Statement, final Official Statement or any other disclosure document that the County or the Authority prepared in connection with the issuance and sale of any Bonds.

“Paying Agent” shall mean any bank, trust company, banking association or financial institution appointed to perform the functions of a paying agent for an issue of Bonds.

“Procedures” shall mean these Continuing Disclosure Procedures.

“Rating Agency” shall mean each of Moody’s Investor’s Service and Standard & Poor’s Rating Services or any other nationally recognized statistical rating organization registered with the SEC.

“Rule 15c2-12” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“Treasurer-Tax Collector” shall mean the Treasurer - Tax Collector of the County of Contra Costa.

“Trustee” shall mean the bank, trust company, national banking association or other financial institution appointed as a trustee for an issue of Bonds.

## ARTICLE II

### GENERAL PRINCIPLES

The County is committed to complete and accurate market disclosure in accordance with the disclosure requirements under the federal securities laws, including rules and regulations promulgated by the SEC and the MSRB. In order to achieve this objective and, in accordance therewith, these Procedures are approved by the Board of Supervisors, as recommended by the Debt Affordability Advisory Committee (DAAC), and may be amended and supplemented from time to time as necessary or desirable as SEC and MSRB rules are amended, as Bonds mature, or are redeemed, and as Bonds that are subject to Rule 15c2-12 are issued.

## ARTICLE III

### DISCLOSURE REPRESENTATIVES AND DISCLOSURE COORDINATORS

Section 1. **Appointment of Disclosure Representatives.** The County Administrator, Director of Conservation and Development and County Finance Director are appointed as Disclosure Representatives to fulfill the duties set forth in Section 2 of this Article III.

Section 2. **Duties of the Disclosure Representatives.**

- (A) The Disclosure Representatives shall:
- (i) monitor and maintain compliance by the County with its respective Continuing Disclosure Certificates and these Procedures;
  - (ii) serve as the main contact for each Disclosure Coordinator to communicate issues and information that may be included in an Event Notice or an Annual Report;
  - (iii) review all proposed Listed Event Notices, Annual Reports and other filings with the EMMA system and filings for Bond Insurers, Credit Facility Providers, Paying Agents, Rating Agencies, Trustees and CDIAC;
  - (iv) confer with County Counsel and Disclosure Counsel regarding the County's continuing disclosure undertakings and procedures;
  - (v) maintain the lists attached as Exhibits A and B;
  - (vi) direct the Disclosure Coordinators to file any required documents; and
  - (vii) take such other action as may be necessary or useful to achieve the objectives of these Procedures and to comply with all applicable federal securities laws.

Section 3. **Appointment of Disclosure Coordinator.**

The Disclosure Representatives shall appoint one or more Disclosure Coordinators from time to time to fulfill the duties set forth in Section 4 of this Article III. The Disclosure Coordinators may work with employees in various County or Authority offices and departments in order to effectively comply with the objectives of these Procedures.



Section 4. **Duties of the Disclosure Coordinator.**

(A) The Disclosure Coordinator shall:

- (i) file any documents as directed by the Disclosure Representative;
- (ii) serve as a contact for County staff to communicate issues and information that may be included in an Event Notice or an Annual Report;
- (iii) maintain correspondence regarding possible Listed Events;
- (iv) keep informed regarding all of the County's public disclosures, including disclosures to the Bond Insurers, the Credit Facility Providers, the Rating Agencies, the Trustees and CDIAC;
- (v) document the County's continuing disclosure filings by retaining the documents set forth in Article VIII hereof; and
- (vi) take such other action as may be necessary or useful to achieve the objectives of these Procedures and to comply with all applicable federal securities laws.

(B) In addition to the duties set forth above in clause (A), the Disclosure Coordinator shall review the Listed Events regularly to determine whether an event has occurred that may require a filing of an Event Notice. The Disclosure Coordinator shall regularly check the websites of and subscribe to communications (e.g., news alerts, press releases, etc.) from each Rating Agency, Bond Insurer or Credit Facility Provider in order to be aware of any Rating Change as described in the Continuing Disclosure Certificates. The Disclosure Coordinator shall contact relevant County staff on a regular basis to ascertain whether any events have occurred which would constitute Listed Events under the Continuing Disclosure Certificates.

**ARTICLE IV**

**LISTED EVENTS REQUIREMENTS**

Section 1. **General.**

The Continuing Disclosure Certificates entered into by the County or the Authority with respect to Bonds issued prior to December 1, 2010 require Event Notices to be filed upon the occurrence of any event listed in Section 2 of Article IV hereof, if material. Any such Event Notice shall be filed "in a timely manner". The Continuing Disclosure Certificates entered into by the County or Authority with respect to Bonds issued on or after December 1, 2010 require Event Notices to be filed upon the occurrence of any event listed in Section 3 of Article IV hereof no later than 10 business days after the occurrence of such Listed Event.

Section 2. **Listed Events for Bonds Issued Prior to December 1, 2010.**

For Bonds issued prior to December 1, 2010, pursuant to the provisions of the applicable Continuing Disclosure Certificate, the County or Authority shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the outstanding obligation, if material, in a timely manner:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (v) substitution of any credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax-exempt status of the securities;
- (vii) modifications to the rights of security holders;
- (viii) bond calls;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the securities; and
- (xi) rating changes.

**Section 3. Listed Events for Bonds Issued on and after December 1, 2010.**

For Bonds issued on or after to December 1, 2010, pursuant to the provisions of the applicable Continuing Disclosure Certificate, the County or Authority shall give, or cause to be given, notice of the occurrence of any of the following Listed Events within ten (10) business days of the occurrence thereof:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (vii) modifications to rights of security holders, if material;
- (viii) bond calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the securities, if material;



- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the obligated person (Note: For the purposes of this event, the event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person);
- (xiii) the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material.

## ARTICLE V

### ANNUAL REPORT REQUIREMENTS

Pursuant to the various Continuing Disclosure Certificates, the County and the Authority must provide its respective Annual Report with respect to an issue of Bonds by the date set forth in Exhibit B attached hereto. The Disclosure Coordinator shall commence collection of information for each Annual Report at such time as determined necessary or useful in order to timely complete and file the Annual Report. The Disclosure Coordinator shall obtain any information necessary to be included in an Annual Report that is not included in the County's audited financial statements. The Annual Report shall include the financial information and other operating data set forth in the respective Continuing Disclosure Certificate as summarized in Exhibit B attached hereto.

In accordance with the Continuing Disclosure Certificates, if audited financial statements are not available by the date the Annual Report is required to be filed, unaudited financial statements are to be included in such Annual Reports and audited financial statements shall be filed when such statements become available. In addition, the Continuing Disclosure Certificates require the County to file a notice of any failure to provide its Annual Report, on or before the date specified in a Continuing Disclosure Certificate.

## ARTICLE VI

### FILING AND NOTICE REQUIREMENTS

#### Section 1. Annual Reports and Event Notices.

The Disclosure Representative shall file each Annual Report on such dates as provided in Exhibit B attached hereto and shall file each Event Notice as required pursuant to Article III hereof and

the related Continuing Disclosure Certificate. The Disclosure Representative shall submit all filings of Annual Reports and Listed Events through EMMA or any other repository so designated by the MSRB or the SEC, unless the County is otherwise advised by a written opinion of Disclosure Counsel.

Section 2. **State and Federal Reporting.**

The Disclosure Representative shall file reports required to be prepared and filed with CDIAC and the IRS as set forth in State and Federal statute. This includes, but is not limited to, annual self-certifications for direct subsidy bonds allocated to the County and reports required pursuant to Senate Bill 1029 (Chapter 307, Statutes of 2016), Assembly Bill 2109 (Chapter 781, Statutes of 2014), as well as any subsequent or successor legislation.

Section 3. **Required Notices.**

The Disclosure Representative shall file any notice required to be given to any Bond Insurer, Credit Facility Provider, Paying Agent, Rating Agency or Trustee as may be required from time to time.

**ARTICLE VII**

**VOLUNTARY DISCLOSURES**

The County's policy is to only file annual financial information and operating data and Event Notices that are required under the Continuing Disclosure Certificates and applicable federal securities laws. The Disclosure Representative may determine to file voluntary disclosure information that is not required under the Continuing Disclosure Certificates.

**ARTICLE VIII**

**DOCUMENT RETENTION POLICY**

In accordance with Article III hereof, the Disclosure Coordinator shall maintain the following materials for a period ending 5 years after the final maturity of an issue of Bonds:

- A. Continuing Disclosure Certificate;
- B. Annual Reports, including any EMMA transmittal letters and EMMA filing receipts;
- C. Event Notices, including any EMMA transmittal letters and EMMA filing receipts;
- D. CDIAC transmittal letters and filing receipts;
- E. Rating reports; and
- F. Such other information as the Disclosure Representative determines necessary or useful in accordance with the Continuing Disclosure Certificates.



# EXHIBIT A: COUNTY AND AUTHORITY OUTSTANDING DEBT

as of March 15, 2018

| Name of Issue  | Issuing Entity   | Principal Amount | Date of Issue | Final Maturity Date  | CUSIP for Final Maturity   | Trustee or Paying Agent | Annual Report Due Date | Disclosure Representative | Disclosure Coordinator      |
|--|--|------------------|---------------|--|--|-------------------------|------------------------|---------------------------|-----------------------------|
| <b>Lease Revenue Bonds/Obligations:</b>  |  |                  |               |  |  |                         |                        |                           |                             |
| Lease Revenue Bonds, 2017 Series B (Capital Projects) ***Private Placement***  | County of Contra Costa Public Financing Authority                | \$ 100,285,000   | 5/26/2017     | 6/1/2032   | N/A  | Wells Fargo             | N/A                    | County Finance Director   | Chief Asst. CAO             |
| Lease Revenue Bonds, 2017 Series A (Refunding and Capital Projects) ***Private Placement***  | County of Contra Costa Public Financing Authority                | \$ 99,810,000    | 3/3/2017      | 6/1/2027   | 21226PNH7  | Wells Fargo             | N/A                    | County Finance Director   | Chief Asst. CAO             |
| Lease Revenue Bonds, 2015 Series A (Capital Projects) and 2015 Series B (Refunding)  | County of Contra Costa Public Financing Authority                | \$ 71,150,000    | 8/25/2015     | 6/1/2035 (A)<br>6/1/2028 (B)                                       | 21226PLV8 (A)<br>21226PMJ4 (B)   | Wells Fargo             | 3/31                   | County Finance Director   | Chief Asst. CAO             |
| Lease Revenue Obligations (Capital Projects Program) 2012 Series A, \$13,102,304 ***Private Placement***   | County of Contra Costa Public Financing Authority                | \$ 13,102,304    | 10/11/2012    | 6/1/2027   | N/A  | Wells Fargo             | N/A                    | County Finance Director   | Chief Asst. CAO             |
| Lease Revenue Bonds, \$58,055,000 comprised of Capital Project I - Tax Exempt Bonds, Series A-1, \$6,790,000 and Capital Project I - Taxable Build America Bonds, Series A-2, \$13,130,000 and Capital Project I - Taxable Recovery Zone Bonds, Series A-3, \$20,700,000 and 2010 Series B (Refunding), \$17,435,000 | County of Contra Costa Public Financing Authority                | \$ 58,055,000    | 11/16/2010    | 6/1/2020 (A-1)<br>6/1/2030 (A-2)<br>6/1/2040 (A-3)<br>6/1/2025 (B) | 21226PJR0 (A-1)<br>21226PKU1 (A-2)<br>21226PKE7 (A-3)<br>21226PKV9 (B) | Wells Fargo             | 3/31                   | County Finance Director   | Chief Asst. CAO             |
| <b>Pension Obligation Bonds</b>  |  |                  |               |  |  |                         |                        |                           |                             |
| California Taxable Pension Obligation Bonds, Series 2003A, \$322,710,000   | Contra Costa County  | \$ 322,710,000   | 5/1/2003      | 8/1/2022   | 212257BV0  | Wells Fargo             | 3/31                   | County Finance Director   | Chief Asst. CAO             |
| <b>Tax Allocation Bonds:</b>   |  |                  |               |  |  |                         |                        |                           |                             |
| Tax Allocation Refunding Bonds, Series 2017A, \$49,530,000   | Successor Agency to the Contra Costa County Redevelopment Agency | \$ 49,530,000    | 8/16/2017     | 8/1/2036   | 212263AM9  | US Bank                 | 3/31                   | DCD Director              | Asst. Deputy Director - DCD |
| Taxable Tax Allocation Refunding Bonds, Series 2017B, \$23,095,000   | Successor Agency to the Contra Costa County Redevelopment Agency | \$ 23,095,000    | 8/16/2017     | 8/1/2025   | 212263AV9  | US Bank                 | 3/31                   | DCD Director              | Asst. Deputy Director - DCD |
| <b>Special Assessment Districts</b>  |  |                  |               |  |  |                         |                        |                           |                             |
| 2013 Special Tax Refunding Bonds (Norris Canyon), \$5,605,000  | County of Contra Costa Community Facilities District No. 2001-1  | \$ 5,605,000     | 1/24/2013     | 9/1/2031   | 212288CT9  | BNY Mellon              | 3/31                   | DCD Director              | Asst. Deputy Director - DCD |



| EXHIBIT B:<br>REQUIRED INFORMATION FOR ANNUAL REPORTS OF COUNTY AND AUTHORITY  |                                   |  |
|--|-----------------------------------|--|
| Issue Description  | Due Date                          | Filing Requirements  |
| <b>Lease Revenue Bonds:</b><br>County of Contra Costa Public Financing Authority Lease Revenue Bonds, \$71,115,000 consisting of \$19,055,000 2015 Series A (Capital Projects) and \$52,060,000 2015 Series B (Refunding)  | Nine months after FYE 6/30 (3/31) | <p>(a) The audited financial statements of the County for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the County's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.</p> <p>(b) Numerical and tabular information for the immediately preceding Fiscal Year of the type contained in the Official Statement under the following captions:</p> <ol style="list-style-type: none"> <li>1. The status of the construction and installation of the improvement constituting the 2015 Project, until such time as the 2015 Project is completed;</li> <li>2. Report of changes in "DEBT SERVICE SCHEDULE;"</li> <li>3. Table B-1—"County of Contra Costa General Fund Budget Summary;"</li> <li>4. Table B-2—"County of Contra Costa Summary of Secured Assessed Valuations and <i>Ad Valorem</i> Property Taxation;"</li> <li>5. Table B-5—"County of Contra Costa General Fund Statement of Revenues, Expenditures and Changes in Fund Balances;"</li> <li>6. Table B-8—"Contra Costa County Employees' Retirement Association Schedule of Funded Status;"</li> <li>7. Table B-16—"Contra Costa County Other Post Employment Benefit Plan Summary of Contributions;" and</li> <li>8. Table B-19—"Contra Costa County Outstanding Lease Revenue Obligations and Pension Obligation Bonds";).</li> </ol> |
| County of Contra Costa Public Financing Authority Lease Revenue Bonds, \$38,055,000 consisting of \$6,790,000 2010 Series A-1 (Capital Project I – Tax Exempt Bonds); \$13,130,000 2010 Series A-2 (Capital Project I – Taxable Build America bonds); \$20,700,000 2010 Series A-3 (Capital Project I – Taxable Recovery Zone Bonds); and \$17,435,000 2010 Series B (Refunding) | Nine months after FYE 6/30 (3/31) | <p>(a) The audited financial statements of the County for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the County's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.</p> <p>(b) Numerical and tabular information for the immediately preceding Fiscal Year of the type contained in the Official Statement under the following captions:</p> <ol style="list-style-type: none"> <li>1. The status of the construction and installation of the improvement constituting Capital Project I and Capital Project II until such time as each Capital Project has been completed;</li> <li>2. Report of changes in "DEBT SERVICE SCHEDULE;"</li> <li>3. APPENDIX B—"COUNTY FINANCIAL INFORMATION—Recent County General Fund Budgets" (update Table B-1 "COUNTY OF CONTRA COSTA GENERAL FUND BUDGET");</li> <li>4. APPENDIX B—"COUNTY FINANCIAL INFORMATION—Ad Valorem Property Taxes" (update Table B-2 "COUNTY OF CONTRA COSTA SUMMARY OF SECURED ASSESSED VALUATIONS AND AD VALOREM PROPERTY TAXATION");</li> </ol>  |

| EXHIBIT B:<br>REQUIRED INFORMATION FOR ANNUAL REPORTS OF COUNTY AND AUTHORITY |          |  |
|---|----------|--|
| Issue Description   | Due Date | Filing Requirements  |
|   |          | <p>5. APPENDIX B—"COUNTY FINANCIAL INFORMATION—Accounting Policies, Reports and Audits" (update Table B-6 "COUNTY OF CONTRA COSTA GENERAL FUND STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES");</p> <p>6. APPENDIX B—"COUNTY FINANCIAL INFORMATION—Pension Plan" (update Table B-9 "CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION OF FUNDED STATUS");</p> <p>7. APPENDIX B—"COUNTY FINANCIAL INFORMATION—Other Post-Employment Healthcare Benefits" (update Table B-16 "CONTRA COSTA COUNTY OTHER POST-EMPLOYMENT HEALTHCARE BENEFIT PLAN SUMMARY OF PARTICIPATING EMPLOYEES AND CONTRIBUTIONS");</p> <p>8. APPENDIX B—"COUNTY FINANCIAL INFORMATION—Long Term Obligations" (update Table B-22—"CONTRA COSTA COUNTY OUTSTANDING LEASE OBLIGATIONS AND PENSION OBLIGATION BONDS").</p> |

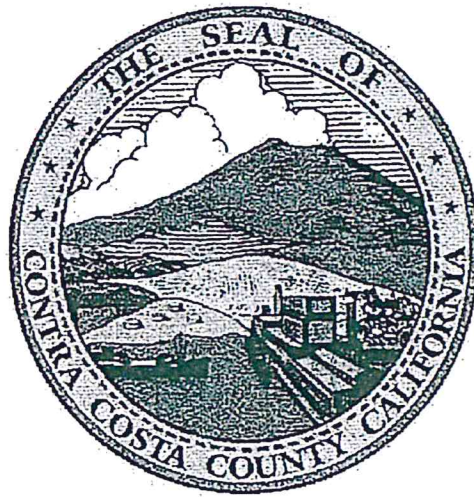


| EXHIBIT B:<br>REQUIRED INFORMATION FOR ANNUAL REPORTS OF COUNTY AND AUTHORITY  |   |  |
|--|---|--|
| Issue Description  | Due Date                                | Filing Requirements  |
| <b>Pension Obligation Bonds:</b><br>County of Contra Costa, California<br>Taxable Pension Obligation Bonds,<br>Series 2003A, \$322,710,000 Dated:<br>May 1, 2003 | Nine months after<br>FYE 6/30<br>(3/31) | <ol style="list-style-type: none"> <li>The audited financial statements of the County for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the County's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available</li> <li>Numerical and tabular information for the immediately preceding Fiscal Year of the type contained in the Official Statement under the following captions:               <ol style="list-style-type: none"> <li>“APPENDIX A – COUNTY ECONOMIC, DEMOGRAPHIC AND FINANCIAL INFORMATION – Recent County General Fund Budgets” (update table entitled “COUNTY OF CONTRA COSTA GENERAL FUND BUDGET”);</li> <li>“APPENDIX A – COUNTY ECONOMIC, DEMOGRAPHIC AND FINANCIAL INFORMATION – Ad Valorem Property taxes” (updated table entitled “COUNTY OF CONTRA COSTA SUMMARY OF ASSESSED VALUATIONS AND AD VALOREM PROPERTY TAXATION”);</li> <li>“APPENDIX A – COUNTY ECONOMIC, DEMOGRAPHIC AND FINANCIAL INFORMATION – Accounting Policies, Reports and Audits” (update table entitled “COUNTY OF CONTRA COSTA GENERAL FUND SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES”);</li> <li>“APPENDIX A – COUNTY ECONOMIC, DEMOGRAPHIC AND FINANCIAL INFORMATION – Long Term Obligations – General Obligation Debt” and “Lease Obligations” (update table entitled “COUNTY OF CONTRA COSTA OUTSTANDING MARKETABLE LEASE AND PENSION BOND OBLIGATIONS”)</li> </ol> </li> </ol> |
| <b>Tax Allocation Bonds:</b><br>Tax Allocation Refunding Bonds,<br>Series 2017A (Tax-Exempt),<br>\$49,530,000, Series 2017B (Taxable),<br>\$23,095,000           | Nine months after<br>FYE 6/30<br>(3/31) | <ol style="list-style-type: none"> <li>The audited financial statements of the Successor Agency for the prior fiscal year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the audited financial statements of the Successor Agency are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.</li> <li>Numerical and tabular information for the immediately preceding Fiscal Year of the type contained in the Official Statement as follows:               <ol style="list-style-type: none"> <li>Aggregate assessed values, incremental values, and projected Tax Revenues for the Project Areas;</li> <li>Assessed values for the Ten Largest Property Taxpayers in the Project Areas substantially in the form of Table 8 of the Official Statement;</li> <li>Information about each resolved and/or open appeal of assessed values in the Project Areas that exceeds 5% of the aggregate assessed value of the Project Areas substantially in the form of Table 9 of the Official Statement;</li> </ol> </li> </ol>   |

| <b>EXHIBIT B:</b><br><b>REQUIRED INFORMATION FOR ANNUAL REPORTS OF COUNTY AND AUTHORITY</b> |  |   |
|---|--|---|
| Issue Description   | Due Date                                   | Filing Requirements   |
|   |  | <p>(iv) The outstanding principal amount, debt service schedule, and debt service coverage ratios for the Series 2017 Bonds, and any outstanding Parity Debt secured by Tax Revenues; and</p> <p>(v) The balance in the Reserve Account, if a municipal debt service reserve insurance policy is not deposited into the Reserve Account.</p> <p>(c) In addition to any of the information expressly required to be provided under Sections 4(a) and 4(b), the Successor Agency shall provide such other information, if any, necessary to make the required information, in light of the circumstances under which they were made, not misleading.</p> <p>(d) The presentation and format of the Annual Report may be modified from time to time as determined in the sole judgment of the Successor Agency to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Successor Agency to reflect changes in the business, structure, or operations of the Successor Agency; provided that any such modifications shall comply with the requirements of the Rule.</p> <p>(e) Any or all of the items listed in this Section 4 may be included by specific reference to other documents, including official statements of debt issues of the Successor Agency or related public entities, which have been made available to the public on the MSRB website. The Successor Agency shall clearly identify each such other document so included by reference.</p>   |
| <b>Special Assessment Districts:</b><br>2013 Special Tax Refunding Bonds,<br>\$5,605,000    | Nine months after<br>FYE<br>6/30<br>(3/31) | <p>(a) The audited financial statements of the County for the prior fiscal year prepared in accordance with generally accepted accounting principles in effect from time to time by the Governmental Accounting Standards Board to apply to governmental entities. If the audited financial statements are not available by the time the Annual Disclosure Report is required to be filed pursuant to Section 3(a), the Annual Disclosure Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Disclosure Report when they become available.</p> <p>(b) The following information with respect to the 2013 Bonds and the District:</p> <ol style="list-style-type: none"> <li>1. The principal amount of the 2013 Bonds outstanding.</li> <li>2. The balances of all funds and accounts established by the Fiscal Agent Agreement as of the end of the next preceding fiscal year.</li> <li>3. Total assessed value of all parcels subject to the Special Tax.</li> <li>4. Actual Special Tax levy for the most recent fiscal year, Special Tax and property tax delinquency rate for parcels in the District for the most recent year.</li> <li>5. Concerning delinquent parcels:               <ol style="list-style-type: none"> <li>(i) number of parcels delinquent in payment of Special Tax,</li> <li>(ii) amount of total delinquency and as a percentage of total Special Tax levy, and</li> <li>(iii) status of the County's foreclosure proceedings upon delinquent properties.</li> </ol> </li> <li>6. Identity of any delinquent tax payer obligated for more than 10% of the annual Special Tax levy and:</li> </ol> |



| EXHIBIT B:<br>REQUIRED INFORMATION FOR ANNUAL REPORTS OF COUNTY AND AUTHORITY |          |   |
|---|----------|---|
| Issue Description   | Due Date | Filing Requirements   |
|   |          | (i) assessed value of applicable properties, and<br>(ii) summary of results of foreclosure sales, if available.<br>7. Significant amendments to land use entitlements for property in the District known to the Director of the Department of Conservation and Development.<br>8. Status of any significant legislative, administrative, and judicial challenges to the construction of the development in the District known to the Director of the Department of Conservation and Development, without independent inquiry, for any year in which construction activity has occurred in the District. |



## **CONTRA COSTA COUNTY**

### **FINANCING POLICIES FOR COMMUNITY FACILITIES DISTRICTS**

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## SECTION I: GENERAL POLICY STATEMENT

Contra Costa County (the "County") has created these goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311 and following), as amended (the "Act") in providing adequate public services and public infrastructure improvements (the "Policies"). The Policies will apply to all Community Facilities Districts ("CFDs") and related debt financing. In those cases in which fixed lien special assessment or other types of land based financing is substituted for CFD financing, the County will apply the appropriate provisions of these Policies. These Policies are intended to serve as guidelines to assist all concerned parties in determining the County's approach to CFD financing, provide specific guidance for approval of public financing for provision of public services and public infrastructure improvements and establish the standards and guidelines for the review of proposed development financings. It is the County's intent to support projects which address a public need and provide a public benefit. These Policies are also designed to comply with Section 53312.7(a) of the Government Code.

### A. Community Facilities District Financings

1. The County encourages the development of residential, commercial and industrial property consistent with the adopted General Plan. The Board of Supervisors will consider the use of CFDs to assist these types of projects.
2. The County will consider the funding of services permitted under the Act if such funding does not create an unreasonable economic burden on the land and special taxpayers.
3. The County encourages the formation of CFDs as acquisition districts. In acquisition districts, a developer is reimbursed for projects only when discrete, useable facilities are deemed by the County to be completed. In construction districts, developers are provided progress payments during the construction of facilities. Acquisition districts provide stronger credit features, and better assure that the public facilities are completed.
4. While recognizing that public facilities proposed to be financed by a CFD are to benefit those properties within the boundaries of the proposed CFD, the Board of Supervisors finds that public benefit can only be "significant" when the benefit is also received by the community at large or are regional in nature but have a benefit to the properties within the proposed CFD.
5. The use of CFDs will be permitted to finance public facilities as described in Paragraph B below, whose useful life will be at least five (5) years and equal to or greater than the term of the bonds. Facilities which are, upon completion, owned, operated or maintained by public agencies will be considered public facilities. Limited exceptions may be made for facilities to be owned, operated or maintained by private utilities, or for facilities which could be owned by public agencies, or utilities.
6. The County is concerned that the proposed project that is to be financed is not premature for the area in which it is to be located. The proposed project must meet the land use approvals listed in Section D.
7. Extending public financing to a proposed project for identified public improvements cannot be



done without considering the aggregate public service needs for the project. Upon receipt of an application for public financing, the County will notify the other public entities having responsibility to serve the proposed project and request comment on the application. Periodic meetings, on a regional basis, with all affected public entities will be encouraged by the County to address the issues relative to overlapping debt

8. The Debt Affordability Advisory Committee (described in Section III below) may waive all or some of the provisions of these policies if unique and special circumstances apply to specific CFD financings.

## **B. Eligible Facilities**

Facilities eligible to be financed by a CFD, upon completion of the construction or acquisition thereof, are intended to be owned by the County, another public agency or a public utility and must have a useful life of five (5) years or more. The list of public facilities eligible to be financed by a CFD may include, but is not limited to the following: streets, highways, and bridges; water, sewer, and drainage facilities; parks; libraries; police and fire stations; traffic signals and street lighting; recreation facilities; governmental facilities; flood control facilities; environmental mitigation measures; and public rights-of-way landscaping.

Facilities to be financed must be legally eligible under the Act and federal tax law, if applicable, to the satisfaction of bond counsel. The Board of Supervisors will have the final determination as to the eligibility of any facility for financing under these Policies.

## **C. Eligible Services**

Services eligible to be funded through a CFD include: police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services, and services with respect to the removal or remedial action for the cleanup of any hazardous substance released or threatened to be released in to the environment. The Board of Supervisors will have the final determination as to the prioritization of funding such services. A CFD may not finance public services provided by any other public agency.

# **SECTION II: INITIATION OF THE FINANCING**

## **A. Application**

The proponent of a project must obtain and submit the required application to the initiating County department or related district or agency. The initiating County department with respect to CFD financings is the Department of Conservation and Development (the "Department").

Any application for the establishment of a CFD district will contain such information and be submitted in

such form as the Department may require. At a minimum each application must contain:

1. Proof of authorization to submit the application on behalf of the owner of the property proposed for new development for which the application is submitted if the applicant is not the owner of such property;
2. Evidence satisfactory to the Department that the applicant represents or has the consent of the owners of not less than 67% by area, of the property proposed to be subject to the levy of the special tax;
3. For any CFD financing to benefit new development, a business plan for the development of the property within the proposed CFD and such additional information as the Department may deem necessary to adequately review the financial feasibility of the CFD. For any CFD financing to benefit new development, the applicant must demonstrate to the satisfaction of the Department the ability of the owner of the property to be developed to pay the special tax installments for the CFD and any other assessments, special taxes and ad valorem on such property until full build out and sale or lease up of the property.

An application must be completed and the necessary information provided, as determined by the initiating County department or related district or agency, before any action will be taken to process the application and initiate financing for a project.

## **B. Processing and Formation Fees**

Applications are to be accompanied by a processing or formation fee. All costs to the County associated with the proceedings statutorily required to establish a CFD are to be advanced by the applicant and paid prior to the actual sale of any bonds. The applicant will be reimbursed solely from the proceeds of the bonds sold for all monies advanced.

An initial deposit in an amount of not less than \$35,000 for a CFD is to be attached to the completed application submitted. The initiating County department or related district or agency, in its discretion, may determine a larger deposit amount is appropriate. The deposit will be placed in a separate trust account held by the County. The deposit may be placed in an interest bearing account so long as it is directed to do so by the Board of Supervisors and is allowable under state law. All costs of the County and/or its consultants retained during the formation process are to be paid from this account.

If, in the judgment of the initiating County department or related district or agency, the costs incurred or projected will cause the balance in this account to fall below \$5,000, a written demand will be made to the applicant to advance monies sufficient to bring the account to a balance that is projected to meet remaining costs required to establish the CFD. Failure to advance the requested monies within ten (10) days of a written demand by the County will result in all processing of the application to cease and no further actions to be taken toward establishing the financing district until the monies have been received. Waiver of this requirement can be made only by formal action of the Board of Supervisors.

Monies held in the trust account are to be applied to pay the County and its staff in reviewing and processing the application as well as the costs of the special tax consultant, appraiser, absorption consultant, all publication expenses, and any other costs determined by the County to be necessary to



| establish the CFD.

Accompanying the application will be an agreement governing the processing or formation fee, its deposit in a trust account, the use of the monies, the return to the applicant of any unused portion of the fee or other monies advanced, and reimbursement of all monies advanced from bond proceeds.

### **C. Petition for Formation and Waiver of Time Requirements of the Election**

The Mello-Roos Community Facilities Act of 1982, as amended, (the "Act") states that one way to request the formation of a proposed community facilities district is through a Petition signed by landowners holding title to ten percent (10%) of the land by area within the proposed community facilities district. The Petition must be submitted to the County before formal action can be commenced to form the CFD. The form of the petition will be supplied by bond counsel once the completed application has been received and initial processing has been completed.

The Act also provides that the formation can be shortened if one hundred percent (100%) of the property owners within the proposed boundaries of the CFD execute a waiver regarding the timing of and certain procedures associated with the required special election. The applicant should indicate on the application whether this waiver can be secured.

### **D. Selection of the Financing Team**

The County will select the bond counsel, financial advisor, underwriter or placement agent or remarketing agent, and fiscal agent/trustee. It will require the retention of underwriter's counsel or disclosure counsel. Providers of letters of credit, liquidity supports and other types of credit enhancements are also subject to the approval of the County. Bond counsel and underwriter or disclosure counsel must be different firms.

In addition to the consultants that compose the financing team, as noted above, the County will select a special tax consultant to determine a fair and reasonable method to allocate the special tax required to meet debt service on the bonds and other related expenses of the proposed CFD.

Unless satisfactory and current information regarding land values for property within the proposed CFD and subject to the special tax is available, the County will require that a real estate appraiser of its choice be retained and an appraisal made. Additionally, an economist or real estate appraiser or other qualified independent third party may also be retained for the purpose outlined in Section IV.A.

In addition, the County reserves the right to retain additional professional consultants that it deems appropriate.

### SECTION III: DEBT AFFORDABILITY ADVISORY COMMITTEE

The Board of Supervisors established the Debt Affordability Advisory Committee (the "Committee") to review issues relevant to capital markets transactions and to make recommendations to the Board of Supervisors when appropriate. The Committee will be comprised of the County Auditor-Controller, the County Treasurer-Tax Collector, Director of the Department of Conservation and Development, and the Senior Deputy County Administrator/Finance Director. The Committee is charged with the task of reviewing and commenting upon all CFD financing as well as other types of financing proposed to be issued by the County or its related districts or agencies. The Committee is to review each proposed debt issue and provide comment on whether the proposed debt issue is consistent with these Policies. It is to comment on the economic viability and credit worthiness of the proposed debt issue. In performing its function the Committee may, in its sole discretion, review a matter more than once and retain additional consultants to assist in its review. The cost of such consultants is to be borne by the proponent of the debt issue. In addition, the Committee has an ongoing responsibility to monitor the status of debt issued by the County or related districts or agencies.

A written summary of the Debt Affordability Advisory Committee's review of the proposed financing is to be prepared and submitted to the Board of Supervisors after it considers the financing. The written summary will state the issues considered by the Committee, whether the financing and the issues considered were consistent with or at variance with these Policies, and its recommendation with regard to each issue and the financing. If the vote of the Committee is not unanimous, the written summary is to so indicate and summarize the position taken by the minority members of the Committee.

The following are those matters which at minimum the Debt Affordability Advisory Committee is to review and comment upon with regard to the CFD financings.

1. Prior to the Board of Supervisors considering the resolution of intention to establish a CFD, the Department is to determine that all land use approvals required for the project under Section IV.E. have been fulfilled and that the proposed rate and method of apportionment of the special tax is consistent with Section V.A. of these Policies. Any variation from these Policies is to be noted and a recommendation made to the Board of Supervisors with regard thereto.
2. Prior to the Board of Supervisors considering the resolution authorizing the sale and issuance of bonds, the Debt Affordability Advisory Committee is to determine that:
  - a) A current appraisal and any related absorption study have been prepared consistent with Section IV.A. and IV.B of these Policies and that satisfactory land value to lien ratios exist.
  - b) Each property owner responsible for twenty percent (20%) or more of the debt service on the bonded indebtedness to be incurred has supplied the financial security required by Section IV.C. and IV.D. of these Policies.
  - c) The rate and method of apportionment of the special tax is in compliance with Section V.A. of these Policies.
  - d) The structure of the proposed financing is consistent with the applicable subsections of Section VI of these Policies.



- e) Each property owner responsible for 20% or more of the debt service in connection with any series of bonds must be current with respect to payment of all general property taxes, and any assessments or special taxes levied.

As stated above, any variation from these Policies is to be noted and a recommendation made to the Board of Supervisors with regard thereto. In addition, the Debt Affordability Advisory Committee is to make any comment it deems relevant in determining the economic viability or credit worthiness of the proposed debt issue. The Committee is to make a recommendation to the Board of Supervisors as to whether or not to proceed with the sale and issuance of the bonds.

If the proposed financing contemplates that bonds are to be issued in series, then each series is to be reviewed and commented upon by the Debt Affordability Advisory Committee before that series of bonds is considered by the Board of Supervisors for issuance.

Any proposal for refunding or defeasing a particular CFD financing is to be reviewed for consistency with Section XI of these Policies and commented on by the Debt Affordability Advisory Committee prior to it being submitted to the Board of Supervisors for consideration.

Once issuance of bonds has been approved by the Board of Supervisors and the bonds have been sold, the County department or related district or agency having responsibility for the administration of the bond issue is to annually file with the Auditor Controller of the County a report regarding the status of the bond financing. The occurrence of a technical default, or the likelihood thereof, is to be reported immediately to the Auditor Controller of the County by the administering County department or related district or agency.

## **SECTION IV: ECONOMIC VIABILITY OF THE FINANCING**

In evaluating the application and the proposed debt issue, the County may require any or all of the following to determine the economic viability of the proposed project and the timing of the sale of any bonds or series thereof. The following requirements would apply to a Services CFD only to the extent determined by the Department.

### **A. Absorption Study**

Unless waived by the Debt Affordability Advisory Committee, an absorption study of the proposed project will be required for CFD financings. The absorption study will be used: (1) as a basis to verify proposed base pricing of the finished products (lots or completed buildings or dwelling units) subject to the levy of the special tax; (2) to determine the projected market absorption of such finished products and (3) as a basis for verification that the assumptions supporting the special tax formula are appropriate and sufficient revenues can be collected to support the bonded indebtedness to be incurred.

The absorption study will also be used to evaluate the timing consideration identified by the applicant and the financing team. The absorption study will be provided to the appraiser and the appraisal required below in Section IV.B. is to reflect consideration of the absorption study.

## B. Appraisal

### 1. Definition of Appraisal

An appraisal is a written self-contained report independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information. A qualified appraiser is a state certified real estate appraiser, as defined in Business and Professions Code Section 11340.

### 2. Standards of Appraisal

A detailed complete appraisal will be prepared to support any CFD financing. A detailed complete appraisal will reflect nationally recognized appraisal standards including, to the extent appropriate, the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation, the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute. An appraisal should also generally conform to the Appraisal Standards for Land - Secured Financings provided by the California Debt and Investment Advisory Commission ("CDIAC"). Appraisals undertaken to establish value-to-lien ratios in CFD's should value the fee simple estate, subject to special assessment and special tax liens. The estimate of Market Value should be refined to reflect the Retail Value of fully improved and occupied properties and the Bulk Sale Value of all vacant properties, including both unimproved properties and improved or partially improved but unoccupied properties. An appraisal must contain sufficient documentation including valuation data and the appraiser's analysis of the data to support his or her opinion of value. At a minimum, the appraisal will contain the following items:

- a) The purpose and/or function of the appraisal, an identification of the property being appraised, the intended use, the identity of the current and intended uses, and a statement of the assumptions and limiting conditions affecting the appraisal.
- b) An adequate description of the physical characteristics of the property being appraised, location, General Plan/zoning, present use, and an analysis of highest and best use.
- c) Relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. If a discounted cash flow analysis is used, it should be supported with at least one other valuation method, such as a market approach using sales that are at the same stage of land development, when possible. If more than one approach is utilized, there will be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.
- d) A description of comparable sales, including a description of all relevant physical, legal and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
- e) A statement of the value of real property.
- f) The effective date of valuation, date of appraisal, signature and certification of the appraiser.



3. Community Facilities District Appraisal Premises. The valuation of proposed special tax districts will be based on all of the following three premises:

- a) Raw Land Value. (Premise #1). The total land within the project will be valued "as is":
- (i) Without proposed infrastructure being financed or any future private improvements;
  - (ii) With existing parcel configuration and existing land use entitlements; and
  - (iii) Considering planned densities allowed by the General Plan, specific plan, zoning or other project approvals then in effect

This is a typical type of land valuation.

- b) Project Build-out value. (Premise #2). The total land within the project is valued under projected conditions:
- (i) With completion of proposed infrastructure being financed;
  - (ii) At the planned densities allowed by the General Plan, specific plan, zoning or other approvals then in effect; and
  - (iii) Land development is at the stage of being marketed to merchant builders or tentative tract maps ready to be filed.

This is a projected value based on project plans predicated on market conditions continuing as projected.

- c) Bulk Land Value. (Premise #3). The total land within the project is valued under projected conditions:
- (i) With completion of proposed infrastructure being financed;
  - (ii) With existing parcel configuration; and
  - (iii) Considering planned densities allowed by the General Plan, specific plan, zoning or other project approvals then in effect.

This premise should consider a discounted or "quick sale" valuation considering time, costs and the possibility of a pre unit value based on the total size of the project.

4. Timeliness of Information. To ensure that the opinion of value is current at the time of any bond sale, the valuation date of the appraisal or an update to the appraisal should be within three months of the bond sale.

### C. Financial Information Required of Applicant

Both at time of application and prior to the sale and issuance of any bonds, the applicant for a CFD debt issue and all property owners owning land within the boundaries of the proposed financing district that will be responsible for twenty percent (20%) or more of the debt service on the bonded indebtedness to be incurred will provide financial statements (preferably audited) for the current and prior two fiscal years. The applicant will also provide all other financial information related to the proposed project that may be requested by the County.

Subsequent to the sale and issuance of the bonds, federal and state statutes and/or regulations regarding



the financing may require the preparation of periodic reports. The applicant and all major participants in the project will be required to provide that information needed to complete such statutorily required reports. In addition, the County department or related district or agency responsible for the administration of the bonds may require information of the applicant or the major participants in the project to satisfy reporting demands of rating agencies or institutional buyers.

#### **D. Potential Third Party Guarantee of Special Tax Payments During Project Development**

The greatest exposure to default on CFD bonds is the period between the issuance of bonds and project stabilization. The risk of default is increased when only a single or a few property owners are responsible for the special assessment or special tax payments. While the County's credit is not pledged to support the bonds, a default on CFD bonds can negatively impact the investment community's perception of the County.

To minimize the risk of default, the County may require a third party guarantee for the annual special tax payments within a district while the project is being developed and until there is significant absorption of the new development. The need for, nature and duration of any third party guarantees will be evaluated by the County and its financing team on a case by case basis. However, a third party guarantee would be specifically required of a developer in each year in which the developer owns or leases property within the district which is responsible for 20% or more of the special taxes levied; the guarantee would provide for 100% of the special tax levy due in each applicable fiscal year for property owned or leased by such developer. If required, the commitment letter for the third party guarantee must be provided within five days of the Resolution of Issuance and the third party guarantee must be provided prior to printing the preliminary official statement for the financing.

Third party guarantees may include letters of credit ("LOCs"), surety bonds, or some other mechanism which assures payment of special taxes while the project is being developed. When LOCs are provided, they must be in form and substance acceptable to the County from a bank acceptable to the County.

#### **E. Land Use Approvals**

For CFD financings the County will require, at a minimum that the proposed project must

1. be consistent with the County's General Plan;
2. be reviewed by the Director of the Department or designee, and have satisfied or be able to satisfy, all of the relevant land use requirements specified by the Director; and,
3. have had the service levels for the required public facilities established or the exact public facilities required for the project identified.

A proposed project that requires: (i) a General Plan amendment, (ii) a change of zone that increases the density or intensity of land use, (iii) a specific plan, or (iv) a specific plan amendment that increases the

density or intensity of land use will be referred to the Department's Community Development Division for evaluation as to whether the project is premature.

An appropriate environmental review of the proposed project is to have been completed as part of land use entitlement proceedings that will have addressed all of the public facilities that are to be constructed through the proposed financing.

#### **F. Equity Participation by Applicant and Major Participants**

In evaluating the proposed debt issue, the Debt Affordability Advisory Committee will consider the equity participation of the applicant and the major participants in the proposed project. At the time the application for the proposed financing is received, an analysis will be made as to the equity interest that the applicant has in the proposed project. It will also be required of the applicant that in addition to the financing, the applicant will fund in-tract public infrastructure and may be expected to contribute to other public improvements related to the proposed project.

### **SECTION V: REVENUE SUPPORTING THE FINANCING**

CFD bonds are termed "limited obligations" whose primary repayment is secured by a special tax. The following are criteria that will be applied in evaluating the revenue stream that will be supporting a proposed CFD bond financing.

- A. The rate and method of apportionment of the special tax must be both reasonable and equitable in apportioning the costs of the public facilities and services to be financed to each of the parcels within the boundaries of the proposed CFD.
- B. The rate and method of apportionment must be structured to produce special taxes sufficient to pay scheduled debt service on all bonds (and provide coverage equal to 10% of debt service - see Section V.F. below), pay annual services or maintenance expenses (if applicable), establish or replenish any reserve fund for a bond issue, and pay reasonable and necessary administrative expenses of the CFD. In addition, the rate and method of apportionment may be structured to produce amounts to pay directly the costs of public facilities authorized to be financed by the CFD, the accumulation of funds reasonably required for future debt service, amounts equal to projected deficiencies in special tax payments, any remarketing, credit enhancement or liquidity fees and any other costs or payments permitted by law.
- C. The rate and method of apportionment of the special tax is to provide for the administrative expenses of the proposed CFD, including, but not limited to, those expenses necessary for the enrollment and collection of the special tax and bond administration.
- D. All property not otherwise exempted by the Act from taxation will be subject to the special tax. The rate and method of apportionment may provide for exemptions to be extended to parcels that are publicly-owned, held by property owners associations, used for a public purpose such as permanent



open space or wetlands, or affected by public utility easements making impractical their use for other than the purposes specified in the easement

- E. The annual special tax levy on each residential parcel developed to its final land use will not escalate, except that a variation for services and administrative expenses will be allowed. The County will allow an annual escalation factor, not to exceed two percent (2%) per year, on parcels to be developed for commercial or industrial uses.
- F. The maximum annual special tax, together with *ad valorem* property taxes, County Service Area charges, special assessments or taxes for an overlapping financing district, or any other charges, taxes or fees payable from and secured by the property, including potential charges, taxes, or fees relating to authorized but unissued debt of public entities other than the County, in relation to the expected assessed value of each parcel upon completion of the private improvements to the parcel is of great importance to the County in evaluating the proposed financing.

The objective of the County is to limit the total tax burden, including the *ad valorem* property taxes levied by the County, special taxes levied by any existing district for the payment of bonded indebtedness or ongoing services, assessments levied for any assessment district or maintenance district for the payment of bonded indebtedness or services and the assigned special tax for the proposed CFD, on any parcel to a maximum of two percent (2%) of the expected assessed value of the parcel upon completion of the private improvements. In evaluating whether this objective can be met, the County will consider the aggregate public service needs for the proposed project. It will consider what public improvements the applicant is proposing be financed in relation to these aggregate needs and decide what is an appropriate amount to extend in public financing to the identified public improvements.

- G. The total maximum annual special taxes that can be collected from taxable property in a district, taking into account any potential changes in land use or development density or rate, and less all projected administrative expenses, must be equal to at least one hundred ten percent (110%) of the gross annual debt service on any bonds issued by or on behalf of the CFD in each year that said bonds will remain outstanding.
- H. The rate and method of apportionment of the special tax will include a provision for a back up tax or other assurances to protect against any changes in development that would result in insufficient special tax revenues to meet the debt service requirements of the CFD. Such backup tax or other assurances will be structured in such a manner that it will not violate any provisions of the Act regarding cross-collateralization limitations for residential properties.
- I. A formula to provide for the prepayment of the special tax may be provided; however, neither the County nor the CFD will be obligated to pay for the cost of determining the prepayment amount which is to be paid by the requesting property owner.

## SECTION VI: STRUCTURING THE FINANCING

In structuring a CFD financing, the County and its financing team will insure that the following issues are addressed in connection with the CFD bond issue.

#### **A. Limited Obligations of the County**

Both the statutory authority providing for the issuance of CFD bonds as well as the proceedings resulting in the sale and issuance of the bonds must ensure the bonds are limited obligations of the County payable only from the revenue source identified and do not require the expenditure of the general funds or any other revenues of the County to satisfy debt service obligations or to replenish any reserve fund established for the bonds.

#### **B. Structuring of Debt Service**

While the County prefers that debt service be structured with approximately level debt service, CFD financings may be structured with level, escalating, or declining debt service. The bonds must mature within forty (40) years of the date of the initial bonds issued. No bonds will be issued with a maturity date greater than the expected useful life of the facilities being financed.

#### **C. Reserve Funds**

The County will require that for CFD financings a reserve fund be established at a required funding level as determined appropriate by the financing team.

#### **D. Capitalized Interest**

Interest will be capitalized for a bond issue only as long as necessary to place the special tax installments on the assessment roll; provided, however, that interest may be capitalized for a longer term to be established in the sole discretion of the County on a case by case basis, not to exceed an aggregate of 18 months, taking into consideration the value to lien ratio for such bonds, the expected timing of initial occupancies of residential dwelling units or nonresidential structures within the CFD, expected absorption and buildout of the property within the applicable Community Facilities District, expected construction and completion schedule for the facilities to be funded from the proceeds of the bonds, the size of the bond issue, the development pro forma and the equity position of the applicant and such other factors as the County may consider relevant.

#### **E. Foreclosure Covenant**

In collecting delinquent special taxes, the County seeks to balance the bondholders' right to receive timely payment with fairness to property owners within the CFD who, due to extenuating circumstances, may have difficulty paying their special taxes in a timely manner. Because CFD financings generally are repaid from special tax receipts and solely secured by liens against property within the CFD, the



investment market expects to see appropriate foreclosure covenants. Foreclosure covenants would compel the County to take action to file a foreclosure action against a parcel with certain delinquency thresholds are reached. For example, a covenant may require the County to institute foreclosure if an individual delinquency exceeds a certain threshold (e.g., \$5,000) or the total amount of delinquencies exceeds a specified percentage of the total special taxes to be received (e.g., 5%). Those standards may differ if the reserve fund for the issue remains fully funded.

For each bond issue, the County and its financing team will analyze key aspects of the district (e.g., number of parcels, special tax rates, and debt service) to structure foreclosure covenants in a manner that satisfies the bondholders' need to reduce the likelihood of a shortfall in special taxes to pay debt service with the desire to provide flexibility in treatment of individual special tax payers.

## **F. Underwriter and Original Issue Discount**

The underwriter's discount will be negotiated and determined solely by the County and will be competitive with and comparable to such discounts on similar financings being issued by the County and other public entities. The County will consider any other compensation the underwriter may be receiving in connection with the bond financing in determining the appropriate amount of the discount.

An original issue discount will be permitted only if the County determines that such discount results in a lower true interest cost on the bonds and that, for CFD financings, the use of an original issue discount will not adversely affect the ability of the CFD to construct public facilities identified by the bond documents.

## **SECTION VII: AGREEMENTS WITH AFFECTED PUBLIC ENTITIES**

### **A. County Initiated CFD Financings**

1. For CFDs, the joint community facilities agreement(s) required with other public entities which will own, maintain or operate the facilities to be financed must be adopted and approved by all parties at or prior to the adoption of the resolution establishing the CFD.
2. Should a CFD bond issue be for the construction of public facilities required to be sized to exceed the service needs of the properties within the boundaries of the financing district, the County will negotiate the following:
  - a) To the extent that the affected public entity's regulations allow, a credit against connection fees or other fees such that the credit will preclude the affected properties from contributing twice toward the cost of the identified public facilities.
  - b) To the extent that the affected public entity's regulations allow, a reimbursement for oversized facilities that will allow the CFD to balance the bonded indebtedness incurred with the level of benefit the properties are to receive from the public facilities that are to be financed.

- c) Any reimbursements for oversizing received from the affected public entity are to be paid to the CFD and, depending upon date of receipt, will be used either to augment construction proceeds or to reduce the outstanding bonded indebtedness of the financing district as determined appropriate by the County.

## B. CFD Financings Not Initiated by the County

An administrative review will be made by the Department of all non-county initiated CFD financings that will require a joint community facilities agreement with the County to ensure compliance with the following minimum requirements. Only those financings that do not satisfy these minimum requirements will be referred to the Debt Affordability Advisory Committee for review and comment.

1. For CFDs containing residential projects, the rate and method of apportionment of the special tax will not provide for an annually increasing maximum special tax for any residential classification. However, for commercial and industrial projects within the CFD, the County will accept a maximum special tax for such classifications that escalates at a rate not to exceed two percent (2%) per year.
2. For CFDs, the total projected annual special tax revenues, less estimated annual administrative expenses, must exceed the projected annual gross debt service on the bonds by ten percent (10%). In structuring the rate and method of apportionment of the special tax, projected annual interest earnings may also be included as part of the projected annual revenues to satisfy this coverage requirement. Annual bond reserve fund interest earnings will be calculated at a rate to be determined by the County but, in no event greater than the then current passbook savings rate.
3. Whether the projected *ad valorem* property tax and other direct and overlapping debt for the property within the proposed boundaries of the CFD, including the proposed maximum special tax, does meet the County's objective of not exceeding two percent (2%) of the anticipated assessed value of each improved parcel upon completion of the private improvements as articulated in Section V.E. will be reviewed. This review will include current or estimated County Service Area or Community Service District charges, benefit assessments, levies for authorized but unissued debt and any other anticipated charge which may be included on the property tax bill.
4. With regard to any bonds to be issued, there will be created a reserve fund that will be established for each series of bonds.
5. If the County or its related districts or agencies are to:
  - a) own, operate, or maintain a majority of the facilities to be financed, or,
  - b) be the single largest recipient of the facilities to be financed, or,
  - c) own, operate or maintain facilities having a combined construction cost of \$100,000 or more, including design, engineering, construction contingencies and related costs of the



construction project,

then the County will require that all of the appropriate Policies set forth herein will be adhered to before entering into a joint community facilities agreement.

## **SECTION VIII: CREDIT ENHANCEMENTS**

Credit enhancements, if required by the County, are to be utilized either to improve the credit worthiness of the proposed financing or to insure that the debt service requirements of the proposed debt issue are met in a timely manner. It is important to the County to minimize the possibility of a debt issue being placed in default and to insure that sufficient cash flows are available to meet debt service requirements. Section IV. D. contains a potential requirement for credit enhancement related to the ownership of 20% or more of the property within a CFD.

The County will examine carefully the provider of the required credit facility and the form that the credit facility will take. The rating of the provider, as well as the provider's capitalization, are of principal concern, and a reduction in either during the term of the credit facility to a level unacceptable to the County may require that an alternate credit facility be secured from an acceptable provider. The County reserves the right, in its sole discretion, to determine the acceptability of both the credit facility and its provider.

## **SECTION IX: OFFERING STATEMENTS AND DISCLOSURE**

It is the intent of the County to comply with all applicable federal or state requirements regarding disclosure to insure that fair and accurate descriptions of debt issues are provided to the purchasers of the bonds. The County and any owner of property within a CFD that has not reached its entitled development and that will be responsible for the payment of special taxes representing such portion (as determined by bond counsel) of annual debt service on an issue of bonds that would cause such person or entity to be an "obligated person" under federal securities law (each, an "Obligated Person") will use all reasonable means to ensure compliance with applicable federal securities laws in connection with the issuance of debt and the provision of financial information and operating data regarding any CFD established by the County with respect to which bonds have been issued.

The County will retain disclosure counsel for any particular land secured or conduit financing having an aggregate principal value of \$1,000,000 or more. Decisions as to the adequacy of the disclosure will be determined by the County, its counsel, bond counsel and disclosure counsel. No preliminary or final offering statement for a particular land secured or conduit financing will be released for circulation unless it is deemed final by the County on the advice of its counsel, bond counsel or disclosure counsel.

With regard to the initial disclosure, each Obligated Person will be required to provide for inclusion in the official statement or other offering materials distributed in connection with the offering and sale of such bonds, such information as may be required to satisfy any requirements of, or avoid any liability under, any applicable federal or state securities laws.

The proponent(s) of a particular land secured or conduit financing and all principal participants therein are expected to provide the information requested by the County, its counsel, the underwriter, its counsel,



disclosure counsel, or bond counsel that is deemed necessary for disclosure purposes. Failure on the part of the proponent and any principal participants to comply with such requests will jeopardize completion of the debt issue.

With regard to continuing disclosure, each Obligated Person will be required to enter into an Agreement pursuant to which such Obligated Person will agree to provide financial information and operating data, on an ongoing basis, as may be required for the underwriter of such bonds to satisfy the requirements imposed on such Obligated Person pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934.

The proponent of a particular land secured or conduit financing and all Obligated Persons will be required to execute those certificates and provide those written opinions of their respective counsel that are required by the terms of the bond purchase agreement. Failure to do so will result in the bonds not being sold and issued.

Failure of the proponent of a particular land secured or conduit financing or of any Obligated Person to comply with such proponent's or Obligated Person's initial or continuing disclosure obligations pertaining to bonds previously issued for any other CFD will be grounds for denial of the application for the formation of a CFD. Any such failure should be remedied by the time of providing the preliminary official statement and such failure will be disclosed in the preliminary and final official statements as required by bond counsel and/or disclosure counsel.

## **SECTION X: ADMINISTRATION**

All matters related to administration of issued bonds are to be handled consistent with the terms of the trust indenture or fiscal agent agreement pursuant to which the bonds were sold. Administrative responsibilities with regard to the bonds and the project being financed by bond proceeds will vary depending upon the nature of the project.

### **A. Debt Administration**

CFD bonds are issued pursuant to bond indentures or fiscal agent agreements which identify the Auditor-Controller of the County to have administrative responsibility for these debt issues. This includes, among other duties, the computation and enrollment of the special tax, payment of principal and interest on the bonds, initiation of foreclosure proceedings with regard to delinquent parcels, and management and investment of monies held in all funds and accounts created by the bond indentures or fiscal agent agreements.

### **B. Notice to Future Property Owners**

The Act requires that certain disclosure certificates regarding the existence of a CFD and the special tax obligation be provided to those individuals purchasing property within the CFD, including to interim purchasers and merchant builders. The County will require that the statutorily prescribed disclosure be

made to the initial purchaser of property within a CFD, and the proponent of the CFD and/or developer will make available the information necessary to complete the disclosure certificate required for secondary transfers. In its sole discretion, the County may require additional disclosure if such disclosure will aid subsequent purchasers to be made aware of the existence of the CFD and the lien obligations created by the special tax.

### **C. Annual Reporting**

The County departments or related districts or agencies identified in Section X. of these Policies as having responsibility for bond administration will prepare and timely file with the state and federal agencies all statutorily required reports.

Consistent with Section III of these Policies, County departments or related districts or agencies having responsibility for bond administration are to prepare and submit annually to the Auditor Controller of the County a report on the status of their respective debt issues on forms to be provided by the Debt Affordability Advisory Committee. The occurrence of technical default, or the likelihood thereof, is to be reported immediately to the Auditor Controller of the County by the administering department or related district or agency. For the purposes of these Policies, the term "technical default" will mean the occurrence of an event or omission that may result in the inability to make timely payment of debt service on the financing or would jeopardize the tax exempt status of the financing (e.g., the need to draw on a reserve fund, the insolvency or bankruptcy of a principal property owner, the insolvency of a provider of a credit enhancement, or insufficient funds to make a required rebate payment).

The information contained in these reports will allow the Auditor Controller of the County to prepare an analysis of the outstanding debt of the County and its related districts or agencies.

## **SECTION XI: REFUNDINGS**

The principal objective of the County in refunding an outstanding debt issue is to secure a public benefit which may include an interest rate savings that will result in both an annual and present value savings to the property owners responsible for paying debt service on the bonds. The actual value of the savings must significantly exceed the costs of the refunding and any increase in the principal amount of bonds that will be outstanding as a result of the refunding.

Refunding of a particular CFD financing must at minimum be structured to reflect the following:

1. The refunding bonds will mature on a date not later than the date on which the bonds being refunded (the "prior bonds") mature.
2. Annual debt service savings to be realized from the refunding are to be apportioned over the remaining life of the refunding bonds.
3. The prior bonds (or any portion thereof being refunded) are to be legally defeased in accordance

with the indenture or fiscal agent agreement authorizing their issuance. If there is no provision for their defeasance, a defeasance escrow will be established that will contain only cash or direct obligations of the United States.

4. A refunding that results in an increase in the principal amount of bonds outstanding must consider prepayments that have been received prior to the refunding.

The County will also consider refunding an outstanding land secured financing to address unacceptable or unworkable bond covenants, debt service schedules or bond maturities.

## **SECTION XII: AMENDMENTS AND EXCEPTIONS**

The County reserves the right to amend or modify these policies at any time and the right to make exceptions or grant waivers for specific financing projects, as facts and circumstances warrant.

**Contra Costa County  
Debt Management Policies  
For  
Multifamily Mortgage Revenue Bond Program**



## *I. SUMMARY*

This Appendix 5 provides specific policies and procedures for multifamily mortgage revenue bond (MFMRB) issues, which are in addition to those established by the County in the Contra Costa County, California Debt Management Policy (County Policy). The MFMRB is administered by the County's Department of Conservation and Development (DCD)<sup>1</sup>.

Federal, state and local legislation authorize issuance of mortgage revenue bonds by local governments to finance the development, acquisition and rehabilitation of multifamily rental housing projects pursuant to Section 52075 of the California Health and Safety Code, and applicable provisions of the Internal Revenue Code. The allocation of private activity bond authority is secured through the California Debt Limit Allocation Committee (CDLAC). The interest on the bonds can be exempt from federal and state taxation. As a result, bonds provide below market financing for qualified rental projects located within Contra Costa County (the "County")<sup>2</sup>. In addition the bonds issued under the program can qualify projects for allocations of federal low-income housing tax credits (LIHTC), that provide a significant portion of the funding necessary to develop affordable housing.

There is no direct legal liability to the County in connection with the repayment of bonds; there is no pledge of the County's faith, credit or taxing power and the bonds do not constitute general obligations of the issuer because the security for repayment of bonds is limited to project revenue and other sources specified under each financing. Project loans are, in most cases, secured by a first deed of trust on the bond-financed property. The program is completely self-supporting; developers must secure funding to pay for costs of issuance of the bonds and all other costs under each financing.

The bonds may be used for construction, rehabilitation and permanent financing. The effective mortgage rate is the aggregate of the applicable bond rate and the add-on fees charged under the program such as lender, trustee, issuer's fee, etc. The bond rate, for fixed rate bonds, is determined at the time of a bond sale, and the resulting mortgage rate is approximately 1.5-2 percent below conventional mortgage rates. The project loans generally have a 30-year amortization schedule.

The goals of the program include:

- Increase and preserve the supply of affordable rental housing;
- Encourage economic diversity within residential communities;
- Maintain a quality living environment for residents of assisted projects and surrounding properties; and
- In the event of provision of public funds towards the project, optimize the effectiveness of those funds by maximizing the leveraging of private sector funds.

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<sup>1</sup> DCD also manages a single-family mortgage revenue bond (SF MRB) program. It seeks an annual allocation of SFMRB funds and converts the allocation to Mortgage Credit Certificates (MCCs). MCC program information is available on the County website at <http://ca-contracostacounty2.civicplus.com/4768/Mortgage-Credit-Certificate-Program>.

<sup>2</sup> The County receives resolutions from the cities and towns for each transaction prior to seeking a reimbursement resolution from the Board of Supervisors.

## *II. ELIGIBILITY*

The project must be located within the County and consist of complete rental units, including full kitchens and bathrooms, and cannot be used for transient or student housing.

There is no limit on the minimum or maximum project size or number of units. However, smaller size projects (fewer than 40 units or less than \$2 million loan) may not find tax exempt financing economically efficient due to the costs of issuance, services of the financial team, rating fees, etc. Proposed combined or pooled projects will be considered on a case by case basis. For projects requiring bond financing greater than \$50 million, it will be necessary to obtain a waiver from CDLAC in order to receive an allocation.

Loan funds may be used for costs of property acquisition (no more than 25% of bond proceeds can be used for the acquisition of land), construction, rehabilitation, improvements, architectural and engineering services, construction interest, loan fees and other capital costs of the project incurred after the Bond Reimbursement date (specified in Section VII - Financing Process).

Pursuant to federal requirements, if bonds are used for acquisition and rehabilitation, at least 15 percent of the portion of the acquisition cost of the building and related equipment financed with the proceeds of the bonds must be used for rehabilitation of the project.

No more than two percent of any tax-exempt bond loan can be used to finance costs of issuance, such as the services of the financing team members, rating and printing of bonds, bond allocation, etc.

## *III. COUNTY COMPENSATION*

The County's fees are comprised of (1) a non-refundable application fee due prior to drafting a Reimbursement Resolution, (2) an issuance fee due upon bond closing, and (3) an annual fee due in advance to cover costs of monitoring compliance with State and federal law requirements as contained in a Regulatory Agreement. The annual fees may be negotiated, however the standard fee is 1/8 of 1 percent (or 0.125 percent) of the principal amount of bonds outstanding. Annual fees are charged for the full term of the Regulatory Agreement, generally 55 years. At the County's discretion, annual fees above a \$5,000 minimum may be subordinated to payment of debt service. The County fees are summarized in the table below:



### Issuer Fee Schedule

| <b>Application <sup>(1)</sup></b> | <b>Issuance Fee</b>  |                 | <b>Annual Fee <sup>(2)</sup></b> |                 |
|-----------------------------------|--|-----------------|----------------------------------|-----------------|
| <b>\$2,500</b>                    | <b>Rate <sup>(3)</sup></b>   | <b>0.125%</b>   | <b>Rate <sup>(3)</sup></b>       | <b>0.125%</b>   |
|                                   | <b>Minimum</b>   | <b>\$5,000</b>  | <b>Minimum</b>                   | <b>\$5,000</b>  |
|                                   | <b>Maximum</b>   | <b>\$75,000</b> | <b>Maximum</b>                   | <b>\$25,000</b> |
|                                   | (1) Payable upon request of a Reimbursement Resolution. Amount is applied to Issuance Fee at closing. DCD may waive this requirement in its sole discretion. |                 |                                  |                 |
|                                   | (2) Amounts above the minimum may be subordinated to bond debt service, at the County's option.  |                 |                                  |                 |
|                                   | (3) Percentage applied to the initial bond issuance amount.  |                 |                                  |                 |

#### **IV. TYPES OF BONDS**

The County may issue either tax-exempt or taxable bonds. Taxable bonds would generally be issued in combination with tax-exempt bonds. Tax-Exempt Private Activity Bonds (non-refunding) require an allocation of bond authority from CDLAC. To obtain the allocation the County must submit an application to CDLAC on behalf of the developer (Project Sponsor). Submittal of the application is at the discretion of the County, not the Project Sponsor. The Project Sponsor must pay all required CDLAC fees when due.

The interest on taxable bonds is not exempt from federal taxation. These bonds are not subject to federal volume "cap" limitations and therefore do not require allocation authority from CDLAC. Taxable bonds can be used in combination with low-income housing tax credits awarded by the Tax Credit Allocation Committee. Taxable bond issues must meet all applicable requirements of this Policy (including rating requirements) and any additional regulations that may be promulgated, from time to time, by the County or as set forth in the County Policy.

The County may issue 501(c)(3) bonds on behalf of qualified nonprofit organizations. 501(c)(3) bonds are tax-exempt and do not require an allocation from CDLAC, but cannot be used with the LIHTC Program.

Refunding Bonds will be allowed if the issuance meets the following conditions:

1. The Project Sponsor agrees to cover all costs of the issuer.
2. Projects originally financed by tax-exempt bonds prior to the 1986 Tax Act will have to make a minimum 10 percent of the units affordable to persons earning 50 percent of the median area income with the rents affordable at the same level.
3. The affordability restrictions of the existing bond regulatory agreement are subject to extension and/or additional restrictions. All specifics of refunding proposals must be approved by the County.
4. Default refunding applications require a default refunding analysis (to determine the eligibility for a default refunding). The County shall choose the firm to conduct the analysis. The Project Sponsor will deposit the cost for the study with the County before the study begins.

## **V. AFFORDABILITY REQUIREMENTS**

### **A. Term**

The project must remain as rental housing and continuously meet the affordability requirements for at least 55 years from the date of 50 percent occupancy of the project (the “Qualified Project Period” or “QPP”). At the conclusion of the regulatory period, rent of “in-place” tenants will continue to be governed by the applicable affordability restriction, so long as those tenants continue to live in the development.

### **B. Income Restrictions**

To be eligible for tax-exempt bond financing, federal and State law require that the project meet one of the following conditions:

1. A minimum of 20 percent of the units in the project must be set aside for occupancy by households whose income does not exceed 50 percent of area median income, as adjusted for family size; or
2. A minimum of 10 percent of the units in the project must be set aside for occupancy by households whose incomes do not exceed 50 percent of area median income, as adjusted for family size AND an additional 40 percent of the units in the project must be set aside for occupancy by households whose incomes do not exceed 60 percent of area median income, as adjusted for family size.

Project owners must certify their tenant’s eligibility annually. If at the annual certification it is found that a tenant’s income exceeds 140 percent of the current income limit, the owner must rent the next available unit of comparable size to a new income eligible tenant. The owner may raise the current tenant’s rent to market rent only upon renting the next available unit to a new low-income or very low-income household, as applicable. A unit occupied only by full time students does not count towards the set-aside requirement.

### **C. Rent Restrictions**

The maximum rents for all the affordable units are equal to 30 percent of the applicable monthly maximum income level, assuming one person in a studio, two persons in a one-bedroom, three persons in a two-bedroom and four persons in a three-bedroom unit. These assumptions differ for projects using LIHTC. In the event that both are used, the more restrictive rents apply. (If applicable, the County may use TCAC rents pursuant to AB 1714.) The maximum rents are further reduced by the amount of the utility allowance applicable to those units, based on unit size. Utility allowances are set by the Housing Authority of the County of Contra Costa (HACCC) and are based solely upon the utilities paid by the tenant. The utility allowance does not include phone, cable or internet connections.

The set-aside units must proportionately reflect the mix of all units in the project, be distributed throughout the project, and have the same floor area, amenities, and access to project facilities as market-rate units.

### **D. Regulatory Agreement**

The rental and affordability unit requirements will be contained in a regulatory agreement that is recorded against the property and must be complied with by



subsequent buyers for the minimum rental period. The requirements are terminated at the later of the end of the minimum rental period and repayment in full of the bonds or in the event of total casualty loss or foreclosure.

## *VI. FINANCING TEAM*

Bond counsel and a municipal advisor, if applicable, specifically represent the interests and concerns of the County in ensuring the integrity of the bond transaction. The Project Sponsor may, at its own expense, add additional members to the finance team to represent its interests.

### **A. Municipal Advisor**

If deemed necessary, the Municipal Advisor will be designated by DCD. They will prepare a feasibility study of whether it is economically advisable to proceed with the financing, including: evaluations of the financial strength of the project; assumptions regarding income and expenses; sources of security for bonds in addition to the project; Project Sponsors financial situation and experience in operating and managing rental projects; marketability of the bonds; rights and resources of parties to the transaction in the event of default; and provide financial advice on all relevant issues to best protect the interests of the County. The compensation for municipal advisory services to determine whether it is advisable to proceed with a financing will not be contingent on the sale of the bonds.

### **B. Bond Counsel**

Bond counsel will be designated for each financing by the County Board of Supervisors. Bond counsel will prepare the necessary legal documentation, including provisions regarding compliance with any applicable continuing disclosure requirements, provide an opinion regarding the validity of the bonds and their tax exemption, and provide legal advice on all relevant issues to best protect the interests of the County. (See also Section IV.B, Financing Team in the County Policy.)

### **C. Additional Parties**

The Bond Underwriter, Remarketing Agent, Private Placement Purchaser, Disclosure Counsel, if any, and Bond Trustee, if required, will be selected by the County in consultation with the project sponsor. The fees for such services will be paid solely out of bond proceeds or otherwise by the project sponsor.

## *VII. THE FINANCING PROCESS*

- A. Request for Financing (New or Refunding) – A letter of request must be sent to the DCD to review for consistency with County and CDLAC policy. The letter and accompanying information must state the desire to use the County's Multifamily Mortgage Revenue Bond Program. The letter should include:
1. Name of Development Project,
  2. Name of Project Sponsor, including the Project Sponsor's experience with multifamily housing development
  3. Location by street address and assessor's parcel number (if known);
  4. Estimated number units,
  5. Estimated development costs including land (bonds to be issued cannot exceed this amount),



6. Exact legal name of the ownership entity at the time of bond closing (e.g. name of individual, partnership, corporation, etc.,
  7. If different, name of the operating entity at the time of bond closing,
  8. Proposed management company with a statement of experience in managing income restricted housing,
  9. Non-refundable application fee of \$2,500 to cover the administrative costs of reviewing the project feasibility, Inducement and TEFRA Hearing processes.
- B. Board of Supervisor Approval of Reimbursement Resolution – The Reimbursement Resolution is a conditional statement of intent on the part of the County to provide tax-exempt financing for the project. The Resolution is non-binding, however it authorizes the submittal of the application to CDLAC by the County and it sets the date (which is 60-days earlier than the Reimbursement Date) from which costs related to the project are eligible for financing.
- C. Public Hearing/Section 147(f) Resolution (“TEFRA”) – Tax law requires that a public hearing be held to take comment on the nature of and location of the facility proposed to be financed with private activity bonds (Multifamily Mortgage Revenue Bonds included). The hearing must be noticed in a local newspaper of general circulation at least 14 days prior to the hearing. The legislative body then adopts a resolution approving the issuance of bonds pursuant to Section 147(f) of the Tax Code after the hearing is held. This is not the final approval of the bond issuance. The DCD holds the hearing administratively and the Board of Supervisors approves the Section 147(f) Resolution at a subsequent Board meeting. DCD may opt to schedule the required public hearing with the Board of Supervisors.
- D. Securement of CDLAC Allocation –CDLAC allocation of private activity bond authority is subject to an application process. The application must be submitted to the County for review and comment at least 10 days prior to the CDLAC deadline. The final application must include the current application fee for CDLAC and a performance deposit in the amount of 0.5 percent of the requested allocation amount to be held by the County. The deposit is returned according to CDLAC procedures, but is subject to reversion to CDLAC if the financing does not close according to their procedures. The CDLAC process includes approximately 60 days for review of applications prior to allocation.
- E. Bond Sale Resolution – When an allocation is received the County and financing parties have 90 days in which to complete the financing and sell and close on the issuance of the bonds. All real estate, lender and bond documents are completed. The Board of Supervisors must approve a Bond Sale Resolution, typically 30 days in advance of the proposed bond closing.

#### *VIII. BOND SALE MODES/ISSUING CRITERIA*

Under its tax exempt financing program the County, as a conduit issuer, facilitates loans secured by a first deed of trust. A fundamental requirement for financings is that the project have loan underwriting and credit enhancement from a third party institution that bears the



ultimate risk and responsibility of the loan. The County may consider unrated bonds on a case-by-case basis. Subordinate financing from other federal, state, or local agencies may be integrated into a plan of finance for the project. Early consultation with County staff is encouraged.

Any bonds issued under the program that are sold to the public should generally be rated "A", or its equivalent, or better from a nationally recognized rating agency. The same rating requirement applies in the case of a substitution of existing credit facility for bonds that are outstanding.

A preferred way of obtaining the required rating on the bonds is through the provision of additional, outside credit support for the bond issue provided by rated, financially strong private institutions, such as bond insurance companies; domestic and foreign banks and insurance companies; FHA mortgage insurance or co-insurance, etc. The rating on the bonds is based on the credit worthiness of the participating credit enhancement provider. The applicant is required to identify and obtain credit enhancement for each bond issuance. As the primary source of security for the repayment of bonds, the credit enhancement provider reviews and approves the borrower and the project and its feasibility, including the size of the loan and the terms of repayment using their own underwriting criteria.

Fixed rate bonds, or their portion, can be issued without credit enhancement if the proposed financing structure results in the required minimum rating on the bonds by a nationally recognized rating agency. Bonds issued without credit enhancement will be sold to institutional investors in minimum \$100,000 denominations.

#### **Private Placement Bonds**

Private Placement Bonds are allowed under the following conditions:

- The bonds are privately placed with "qualified institutional buyers" under Rule 144A of the Securities Act of 1933, or "accredited investors," as generally defined under Regulation D of the Securities Act of 1933.
- The bonds must be sold in minimum \$100,000 denominations.
- All initial and subsequent purchasers must be willing to sign a sophisticated investor letter in a form approved by the County. While the bonds remain unrated, their transferability will be restricted to qualified institutional buyers or accredited investors who sign an Investor Letter.
- The County may limit the number of investors.
- The owner must indemnify the County against any costs incurred by the County, including any lawsuit initiated by the bondholder or any other party, regardless of whether the developer is negligent, and if requested by the County, post a surety bond guaranteeing the same.

#### **IX. OTHER**

**Underwriter criteria:** See Section V. Method of Sale in the County Policy for underwriter selection criteria.

#### **X. OTHER ISSUERS**

Projects financed with subordinate financing from the County (CDBG, HOME, etc.) will be financed by bonds issued by the County. The County may consent to the use of statewide



issuers for private activity bonds (including 501c3 bonds) to finance projects located within the unincorporated County when such projects are part of a common plan of finance with one or more projects located within the County. DCD may waive the limitations on the use of statewide issuers.

## *XII POST-ISSUANCE*

See County Policy, Post-issuance Tax Compliance Procedures (Appendix 2) and Continuing Disclosure Procedures (Appendix 3). The following policies and procedures are in addition to those procedures and are specific to multifamily mortgage revenue bond issues. Project sponsors are also required to maintain compliance with the CDLAC resolution associated with each bond issuance.

### **A. Change of Ownership**

The County reserves the right to approve any voluntary change in ownership (i) that results in a transfer of 50% or more of the total equity interests in a developer or (ii) that results in a transfer of any general partner or managing member interest in the developer. Such approval to transfer ownership shall be at the discretion of the County. Transfers made by a limited partner tax credit investor to its affiliates may, at the County's discretion, be exempted from this requirement. The County shall review proposed owner management practices on current and previously owned properties, inspections, financial statements and credit histories.

### **B. Compliance**

Post-issuance compliance activities are carried out by DCD staff, including its Redevelopment Housing Specialist, under the supervision of the County's Assistant Deputy Director. The County currently has a license agreement with Compliance Services for its FOCUS program. Project Sponsors access information and submit reports through FOCUS at <http://www.housingcompliance.org/>. (The County reserves the right to change vendors at any time.)

1. Issuance Report: Following bond issuance, Bond Counsel submits the Report of Final Sale pursuant to CDIAC regulations.
2. Qualified Project Period: The QPP begins when the development has achieved 50 percent occupancy. Project Sponsor of new construction project are required to submit a recorded Certificate of Commencement of Qualified Project Period. For acquisition/rehabilitation projects which are at least 50 percent occupied at issuance, the QPP begins upon bond issuance.
3. Quarterly Reports: Upon commencement of the QPP, reports are due 15 days following the end of each quarter based on a calendar year using the form embedded in FOCUS.
4. Annual Reports: Annual reports using the CDLAC Self-Certification Compliance forms are due to the County 45 days prior to the CDLAC report deadline. The County submits its comprehensive reports on all developments prior to the CDLAC deadline.
5. Compliance Verification:
  - a. Rent and income limits are calculated annually and are available to the Project Sponsors through FOCUS. The HACCC utility allowance schedule is uploaded in FOCUS. The Project Sponsors supplies the tenant-paid utilities to the County and to FOCUS. The FOCUS program



automatically compares the project rent and income information with the current limits and flags any non-compliance issues.

- b. Service amenities are included in the CDLAC resolution and are verified by County staff at project completion, through annual reports, and during periodic site visits.
  - c. Site visits are conducted at least once every three years during the compliance period. Staff reviews tenant files to confirm rent and incomes are appropriate and consistent with the on-line reports. Staff also confirms that amenities included in the CDLAC resolution are being provided. Any findings or discrepancies are included in the annual compliance report submitted by the County to CDLAC.
  - d. Non-compliance is reported to CDLAC with the annual reports. The report will include the nature of the non-compliance and County staff's efforts to remedy the non-compliance. The County requires Regulatory Agreement for each development to include causes of default and enforcement actions.
6. Record Retention: The CDLAC application, County resolutions (TEFRA, reimbursement, and intent to issue), the bond legal documents, and compliance reports are retained for five years following the later of bond defeasance or expiration of the regulatory agreement.
7. Site-based Record Retention: Tenant income certification information for all initial tenants is retained for five years following the later of bond defeasance or expiration of the regulatory agreement. Tenant files for future tenants are retained for five years following tenant move-out.

**Contra Costa County  
Debt Management Policies  
For  
Successor Agency to the former Contra Costa County Redevelopment Agency**

This Appendix 6 provides specific policies and procedures for tax allocation bond (TAB) issues, which are in addition to those established by the County in the Contra Costa County, California Debt Management Policy (County Policy). The TABs are administered by the County's Department of Conservation and Development (DCD).

## **I. Purpose**

The purpose of this Successor Agency to the former Redevelopment Agency of Contra Costa County ("Agency") Debt Management Policy is to organize and formalize the Agency's debt-related policies and practices and establish a framework for administering and potentially refinancing the Agency's debt.

The primary objectives of the policy are to:

- Promote sound financial management
- Assist the Agency in evaluating debt refinancing options
- Ensure full and timely repayment of debt
- Maintain full and complete financial disclosure and good investor relations
- Ensure compliance with applicable state and federal laws

## **II. Responsibility/Approval Process**

The Director of the Department of Conservation and Development, or designee, shall be responsible for managing and coordinating all activities related to the administration and potential refinancing of the Agency's debt, including investment of bond proceeds, compliance with bond covenants, continuing disclosure, and arbitrage compliance.

## **III. Debt Issuance**

**Refinancing** The Agency may refinance all or a portion of an outstanding debt issue when such refinancing enables the Agency to realize significant debt service savings or other policy goals. In general, refinancing that produces a net present value savings of at least three percent of the refinanced debt, without extending the term of the refinanced debt, will be considered economically viable. Refinancing that produce a net present value savings of less than three percent will be considered on a case-by-case basis if there is a compelling public policy objective that is accomplished by retiring the debt. For example, the Agency may pursue a non-economic refinancing to eliminate undesirable legal covenants in outstanding bond documents, to restructure the debt service profile, or to change the tax status of the debt.

## **IV. Debt Structure**

**Debt Service Reserve Fund** The Agency may finance a debt service reserve fund from bond proceeds or other funds, consistent with federal tax law, to enhance the marketability of the bonds and/or to satisfy requirements of outstanding debt covenants. The Agency may purchase a reserve fund equivalent (such as a reserve fund surety) when such purchase is considered to be advantageous to the economics of the debt issuance.



**Bond Insurance** The Agency may purchase bond insurance (or secure a letter of credit) for any proposed financing if the economic benefit of the insurance realized through lower interest costs exceeds the cost of the insurance. The Director of the Department of Conservation and Development, or designee will solicit quotes from providers, and shall have the authority to select a provider whose bid is most cost effective, and whose terms and conditions are satisfactory to the County.

**Call Provisions** In general the bonds will include a call feature that is no longer than 10 years from the date of delivery of the bonds. The Agency will seek to avoid the sale of non-callable bonds absent careful evaluation by the Agency of the value of the call option.

**Original Issue Discount** An original issue discount will be permitted only if the Agency determines that such discount results in a lower true interest cost on the bonds and that the use will not adversely affect the projects to be financed.

**Interest Rate Mode** The Agency shall use only fixed-rate debt to refinance its bonds.

## **VI. Financing Team**

Bond counsel and a municipal advisor, if applicable, specifically represent the interests and concerns of the Agency in ensuring the integrity of the bond transaction.

### **A. Municipal Advisor**

If deemed necessary, the Municipal Advisor will be designated by DCD. They will prepare a feasibility study of whether it is economically advisable to proceed with the financing, including: evaluations of the financial strength of the project; assumptions regarding income and expenses; sources of security for bonds in addition to the project. The compensation for municipal advisory services to determine whether it is advisable to proceed with a financing will not be contingent on the sale of the bonds.

### **B. Bond Counsel**

Bond counsel will be designated for each financing by the County Board of Supervisors. Bond counsel will prepare the necessary legal documentation, including provisions regarding compliance with any applicable continuing disclosure requirements, provide an opinion regarding the validity of the bonds and their tax exemption, and provide legal advice on all relevant issues to best protect the interests of the Agency.

### **C. Additional Parties**

The Bond Underwriter, Remarketing Agent, Private Placement Purchaser, Disclosure Counsel, if any, and Bond Trustee, if required, will be selected by the Agency in consultation with the municipal advisor. The fees for such services will be paid solely out of bond proceeds or otherwise by the project sponsor.

(See also Section IV.B. – Financing Team in the County Policy)

## **VII. Method of Sale**

The Agency may select a method of sale that is most appropriate for a particular financing or debt program in light of the financial, market, transaction-specific, and Agency-related conditions. The Director of the Department of Conservation and Development, or designee shall be responsible for determining the appropriate manner in which to offer any securities to investors, and may consider negotiated sale, competitive bid or private placement, as appropriate. The Agency's bonds have traditionally been sold via negotiated sale. This has been reflective of a complex structure which has required significant up-front work by the bond underwriter, and a strong pre-marketing effort at sale. The Agency may elect to privately place its debt if it is demonstrated to result in a cost savings to the Agency relative to other methods of debt issuance.

## **VIII. Debt Administration**

**Investment of Bond Proceeds** Investments of bond proceeds shall be consistent with federal tax requirements, the County's adopted Investment Policy as modified from time to time, and with requirements contained in the governing bond documents.

**Continuing Disclosure** The Agency is committed to full and complete primary and secondary market financial disclosure in accordance with disclosure requirements established by the Securities and Exchange Commission and Municipal Securities Rulemaking Board, as may be amended from time to time. The Agency is also committed to cooperating fully with rating agencies, institutional and individual investors, other levels of government, and the general public to share clear, timely, and accurate financial information.

**Arbitrage Compliance** The Agency shall maintain a system of record keeping and reporting to meet the arbitrage compliance requirements of federal tax law or procure an outside contractor for such service.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: David Twa, County Administrator  
Date: March 20, 2018

Subject: REFERRAL TO FAMILY & HUMAN SERVICES COMMITTEE OF MENTAL HEALTH SERVICES  
ACT/PROPOSITION 63 FUNDING

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**RECOMMENDATION(S):**

REFER the issue of Contra Costa County Mental Health Services Act/Proposition 63 Funding to the Family and Human Services Committee.

**FISCAL IMPACT:**

Not applicable.

**BACKGROUND:**

A recent state audit appears to indicate that California counties are not spending money from a special tax on millionaires that should be spent on mental health programs. The audit found that county mental health programs had not spent \$231 million from the tax that should have been returned to the state by the end of the 2015-16 budget year.

Approved by California voters in November 2004, Proposition 63 imposes a 1% tax on incomes in excess of \$1 million and directs those collections to the provision of mental health services. The Mental Health Services Act (MHSA) has expanded mental health care programs for children, transition age youth, adults, and older adults. Services are client and family driven and include culturally and linguistically appropriate approaches to address the needs of underserved populations. They must include prevention and early intervention as well as innovative

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Enid Mendoza (925)  
335-1039

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Enid Mendoza, Senior Deputy County Administrator, Anna Roth, Director of Health Services



### BACKGROUND: (CONT'D)

approaches to increasing access, improving outcomes and promoting integrated service delivery. The MHSA added Section 5891 to the Welfare & Institutions Code, which reads in part, “The funding established pursuant to this Act shall be utilized to expand mental health services. These funds shall not be used to supplant existing state or county funds utilized to provide mental health services”.

The first yearly MHSA Program and Expenditure Plan for Community Services and Supports was approved by the Board of Supervisors and submitted to the State Department of Mental Health on December 22, 2005. The Prevention and Early Intervention component was added in 2009, and the remaining components of Innovation, Workforce Education and Training, and Capital Facilities/Information Technology were added in FY 2010-11. Each subsequent year an annual update was approved, which included program refinements, program changes when indicated, and the development of new programs identified by a local stakeholder-driven community program planning process. Contra Costa integrated the five components into the MHSA Three Year Program and Expenditure Plan for FYs 2014-17, and provided an annual plan update in FY 2015-16 and 2016-17.

The MHSA Three Year Program and Expenditure Plan for FYs 2017-20 was approved and published in June 2017.

It is timely and in the public interest to refer this issue to the Family and Human Services Committee.



**Contra  
Costa  
County**

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: March 20, 2018

Subject: APPROVAL OF HOME, HOPWA AND CDBG LEGAL DOCUMENTS FOR THE ST PAUL'S COMMONS  
DEVELOPMENT IN WALNUT CREEK

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**RECOMMENDATION(S):**

In the matter of making a loan of \$2,642,000 in HOME Investment Partnership Act (HOME) and \$232,681 in Housing Opportunities for Persons with HIV/AIDS, to SP Commons L.P., a California limited partnership, and a grant of \$1,000,000 in Community Development Block Grant funds to St. Paul's Episcopal Church and Resources for Community Development for the development of the St. Paul's Commons project in Walnut Creek:

1. FIND, as the responsible agency, that on the basis of the whole record before the County (including the CEQA review prepared by the City of Walnut Creek as the lead agency) that development is exempt under Sections 15192 and 15194 of the California Environmental Quality Act guidelines; and
2. APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute legal documents to effect the loan and grant; and
3. DIRECT the Director of Conservation and Development, or designee, to file a Notice of Exemption for the St. Paul's Commons with the County Clerk; and
4. DIRECT the Director of Conservation and Development, or designee, to arrange for payment of the \$50 handling fee to the County Clerk for filing such Notice of Determination.

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: Kara Douglas  
674-7880

, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

### FISCAL IMPACT:

No General Fund impact. HOME Investment Partnerships Act and Community Development Block Grant funds are provided to the County on a formula allocation basis through the U.S. Department of Housing and Urban Development (HUD). HOME - CFDA# 14.239. CDBG - CFDA# 14.218. Housing Opportunities for Persons with HIV/AIDS funds are provided to the County through an agreement with the City of Oakland, the HUD Grantee. - CFDA# 14.241

### BACKGROUND:

On February 13, 2018, the Board of Supervisors allocated \$1,600,000 of HOME funds in addition to previous allocations of \$1,042,000 of HOME, \$232,681 of HOPWA and \$1,000,000 of CDBG funds to Resources for Community Development (RCD) for the St. Paul's Commons development. RCD has formed a limited partnership, SP Commons L.P., to develop and own this project.

### HOME/HOPWA

The purpose of the St. Paul's Common development is to increase the supply of multi-family rental housing affordable to and occupied by lower income households in Central County through the construction of 45 units of affordable housing located on the property of St Paul's Episcopal Church (Church) at 1860 Trinity Avenue in Walnut Creek. The Church owns the land on which the improvements will be built. It will lease the land to SP Commons L.P. for at least 77 years.

Eighteen of the units will be designated as HOME/HOPWA-assisted, 11 of which will be affordable and available to households earning up to 30 percent of the area median income (AMI), and 2 of which will be affordable to households earning up to 35 percent AMI. One unit will be reserved for an on-site manager. The remaining units will be affordable and available to households earning up to 60 percent of AMI.

HOME and HOPWA funds will be provided in the form of a 55-year, residual receipt loan with a three percent interest rate. There may be some payments if the project has surplus cash flow. Affordability and use restrictions are incorporated into the County loan documents. The County will have a HOME/HOPWA Regulatory Agreement with a 20 year term and an additional County Regulatory Agreement that will maintain the affordability following the expiration of the HOME and HOPWA affordability term for an additional 35 years.

Due to the high construction costs and limited revenue from the restricted rents, the total amount of the financing provided to the project will likely exceed the value of the completed project. Even though the proposed equity investment from low income housing tax credits (LIHTC) is substantial compared to the amount of long term debt, the partnership agreement will have numerous safe guards of the investor's equity. These safe guards essentially subordinate the County's debt to the investor's equity. Therefore, the County funds may not be fully secured through the value of the property.

### CDBG

The ground floor of the apartment building will have a community center that SP Commons L.P. will lease to the Church for use as a social service agency. The Church will either directly provide CDBG-eligible services, or will sub-lease the space to an experienced service provider. It is anticipated that the existing tenant, Trinity Center, will continue to provide daytime services to extremely-low income and homeless individuals at this site. CDBG funds will be provided in the form of a grant to assist with the tenant improvements of a community center.

Additional financing for the development includes City of Walnut Creek (\$5,600,000), LIHTC (\$11,707,946 million), and \$300,000 in deferred developer fee and general partner equity.

The loan and grant documents are attached in their substantially final form and will be executed in a form approved by County Counsel. Through this action, the DCD Director is authorized to execute subordination agreements and estoppels that are consistent with the terms in the Loan Agreement.

National Environmental Policy Act (NEPA): HOME, HOPWA and CDBG projects are subject to NEPA and 24 CFR Part 58 review. The NEPA review for this project is complete and required mitigation actions are included in the loan agreement. The City of Walnut Creek, as the lead agency, completed the CEQA review and determined that the project is exempt under Sections 15192 and 15194 of the CEQA guidelines.

CONSEQUENCE OF NEGATIVE ACTION:

Without the approval and execution of the HOME and CDBG legal documents, the project will not be constructed. SP Commons L.P. must close the LIHTC transaction by April 9, 2018, or forgo the LIHTC allocation.

CHILDREN'S IMPACT STATEMENT:

St. Paul's Commons is consistent with Children's Report Card outcome #3: Families are Economically Self-Sufficient.

ATTACHMENTS

County Regulatory Agreement

CDBG Grant Agreement

HOME/HOPWA Regulatory Agreement

Loan Agreement

Leasehold Deed of Trust

Promissory Note

Intercreditor Agreement

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Contra Costa County  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Assistant Deputy Director

No fee for recording pursuant to  
Government Code Section 27383

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COUNTY REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS  
(St. Paul's Commons)

This County Regulatory Agreement and Declaration of Restrictive Covenants (the "County Regulatory Agreement") is dated March 1, 2018 and is between the County of Contra Costa, a political subdivision of the State of California (the "County"), and SP Commons, L.P., a California limited partnership ("Borrower").

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this County Regulatory Agreement.

B. The County has received Home Investment Partnerships Act ("HOME") funds from the United States Department of Housing and Urban Development ("HUD") pursuant to the Cranston-Gonzales National Housing Act of 1990 ("HOME Funds"). The HOME Funds must be used by the County in accordance with 24 C.F.R. Part 92.

C. The County has received Housing Opportunities for Persons with AIDS Program funds from HUD pursuant to the HOPWA program ("HOPWA Funds"). The HOPWA Funds are available to and administered by the County, as the subrecipient of the City of Oakland, which is the representative for the Alameda-Contra Costa County Eligible Metropolitan Area. The HOPWA Funds must be used by the County in accordance with 24 C.F.R. Part 574.

D. St. Paul's Episcopal Church in Walnut Creek, California ("St. Paul's") is the owner of that certain real property located at 1860 Trinity Avenue in the City of Walnut Creek, County of Contra Costa, State of California, as more particularly described in Exhibit A (the "Property"). Concurrently herewith Borrower is entering into a ground lease agreement with St. Paul's (the "Ground Lease"), pursuant to which Borrower will acquire a leasehold interest in the Property from St. Paul's for a period of seventy-seven (77) years (the "Leasehold Interest"). Borrower intends to demolish the existing improvements on the Property and construct forty-five (45)

multifamily housing units on the Property for rental to extremely low, very low and low income households, including one (1) manager's unit, and attendant site improvements (the "Housing Improvements"). The Property will also be improved with a social service facility that will be leased back to St. Paul's and will house a homeless day shelter and service program (the "Service Facility Improvements"). The Housing Improvements and the Service Facility Improvements are collectively, the "Improvements". Borrower's Leasehold Interest and Borrower's fee interest in the Improvements, are collectively, the "Development".

E. Pursuant to a HOME and HOPWA Loan Agreement by and between the County and Borrower of even date herewith (the "Loan Agreement"), the County is lending Borrower Two Million Six Hundred Forty-Two Thousand Four Hundred Dollars (\$2,642,400) of HOME Funds (the "HOME Loan") and Two Hundred Thirty-Two Thousand Six Hundred Eighty-One Dollars (\$232,681) of HOPWA Funds (the "HOPWA Loan") for a total loan amount of Two Million Eight Hundred Seventy-Five Thousand Eighty-One Dollars (\$2,875,081) (the "Loan").

F. The County has the authority to lend the Loan to Borrower pursuant to Government Code Section 26227, which authorizes counties to spend county funds for programs that will further a county's public purposes. In addition, the County has the authority to loan (i) the HOME Funds pursuant to 24 C.F.R. 92.205 and (ii) the HOPWA Funds pursuant to 24 C.F.R. 574.300.

G. The County has agreed to make the Loan on the condition that Borrower maintain and operate the Development in accordance with restrictions set forth in this County Regulatory Agreement and the HOME/HOPWA Regulatory Agreement, and in the related documents evidencing the Loan. Eighteen (18) of the Units are restricted by the County pursuant to this County Regulatory Agreement.

H. As it applies to the County-Assisted Units this County Regulatory Agreement will be in effect for the Term. The HOME/HOPWA Regulatory Agreement as it applies to the County-Assisted Units will be in effect for twenty-one (21) years from the Completion Date. Pursuant to Section 6.14 below, compliance with the terms of the HOME/HOPWA Regulatory Agreement will be deemed compliance with this County Regulatory Agreement during the term of the HOME/HOPWA Regulatory Agreement.

I. In consideration of receipt of the Loan at an interest rate substantially below the market rate, Borrower agrees to observe all the terms and conditions set forth below.

The parties therefore agree as follows:

## AGREEMENT

### ARTICLE 1 DEFINITIONS

#### 1.1 Definitions.

The following terms have the following meanings:



- (a) "Accessibility Requirements" has the meaning set forth in Section 2.1(d).
- (b) "Actual Household Size" means the actual number of persons in the applicable household.
- (c) "Adjusted Income" means with respect to the Tenant of each Unit, the Tenant's total anticipated annual income as defined in 24 CFR 5.609 and as calculated pursuant to 24 C.F.R. 5.611.
- (d) "Assumed Household Size" means the household size "adjusted for family size appropriate to the unit" as such term is defined in Health & Safety Code Section 50052.5(h), used to calculate Rent.
- (e) "City" means the City of Walnut Creek, California, a municipal corporation.
- (f) "Completion Date" means the date a final certificate of occupancy, or equivalent document is issued by the City to certify that the Housing Improvements may be legally occupied.
- (g) "County-Assisted Units" means the eighteen (18) Units constructed on the Development that are restricted to occupancy by Extremely Low Income Households and Thirty-Five Percent Income Households in compliance with Section 2.1 below.
- (h) "County Regulatory Agreement" has the meaning set forth in the first paragraph of this County Regulatory Agreement.
- (i) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing of even date herewith by and among Borrower, as trustor, North American Title Company, as trustee, and the County, as beneficiary, that encumbers the Development to secure repayment of the Loan and Borrower's performance of the Loan Documents.
- (j) "Development" has the meaning set forth in Paragraph D of the Recitals.
- (k) "Extremely Low Income Household" means a household with an Adjusted Income that does not exceed thirty percent (30%) of Median Income, adjusted for Actual Household Size.
- (l) "Extremely Low Income Rent" means the maximum allowable rent for an Extremely Low Income Unit pursuant to Section 2.2(a) below.
- (m) "Extremely Low Income Units" means the Units which, pursuant to Section 2.1(a) below, are required to be occupied by Extremely Low Income Households.
- (n) "Ground Lease" has the meaning set forth in Paragraph D of the Recitals.

- (o) "HOME" has the meaning set forth in Paragraph B of the Recitals.
- (p) "HOME Funds" has the meaning set forth in Paragraph B of the Recitals.
- (q) "HOME/HOPWA Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith, between the County and Borrower evidencing County requirements applicable to the Loan, to be recorded against the Development concurrently herewith.
- (r) "HOME Loan" has the meaning set forth in Paragraph E of the Recitals.
- (s) "HOME Term" has the meaning in Section 6.14.
- (t) "HOPWA" means the Housing Opportunities for Persons with AIDS Program pursuant to the AIDS Housing Opportunity Act (42 USC 12901 et. seq.), as amended by the Housing and Community Development Act of 1992 (42 USC 5301 et. seq.).
- (u) "HOPWA Funds" has the meaning set forth in Paragraph C of the Recitals.
- (v) "HOPWA Loan" has the meaning set forth in Paragraph E of the Recitals.
- (w) "Housing Improvements" has the meaning set forth in Paragraph D of the Recitals.
- (x) "HUD" has the meaning set forth in Paragraph B of the Recitals.
- (y) "Improvements" has the meaning set forth in Paragraph D of the Recitals.
- (z) "Intercreditor Agreement" means that certain intercreditor agreement of even date herewith among the City, the County, and Borrower.
- (aa) "Leasehold Interest" has the meaning set forth in Paragraph D of the Recitals.
- (bb) "Loan" has the meaning set forth in Paragraph E of the Recitals.
- (cc) "Loan Agreement" has the meaning set forth in Paragraph E of the Recitals.
- (dd) "Loan Documents" means the documents evidencing the Loan including this County Regulatory Agreement, the Note, the Loan Agreement, the Intercreditor Agreement, the HOME/HOPWA Regulatory Agreement, and the Deed of Trust.
- (ee) "Low Income Household" means a Tenant with an Adjusted Income that does not exceed eighty percent (80%) of Median Income, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than eighty percent

(80%) of Median Income on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(ff) "Low Income Rent" means a monthly Rent amount not exceeding one-twelfth (1/12) of thirty percent (30%) of sixty-five percent (65%) of Median Income, adjusted for Assumed Household Size.

(gg) "Maintenance Standards" has the meaning set forth in Section 5.6(a).

(hh) "Marketing Plan" has the meaning set forth in Section 4.3(a).

(ii) "Median Income" means the median gross yearly income, adjusted for Actual Household Size as specified herein, in the County of Contra Costa, California, as published from time to time by HUD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the County shall provide Borrower with other income determinations that are reasonably similar with respect to methods of calculation to those previously published by HUD.

(jj) "Note" means the promissory note that evidences Borrower's obligation to repay the Loan, as such may be amended from time to time.

(kk) "Operating Budget" has the meaning set forth in Section 2.6(a).

(ll) "Property" has the meaning set forth in Paragraph D of the Recitals.

(mm) "Rent" means the total monthly payments by the Tenant of a Unit for the following: use and occupancy of the Unit and land and associated facilities; any separately charged fees or service charges assessed by Borrower which are customarily charged in rental housing and required of all Tenants, other than security deposits; an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than Borrower, and paid by the Tenant.

(nn) "Rental Subsidy" has the meaning set forth in Section 2.6(a).

(oo) "Service Facility Improvements" has the meaning set forth in Paragraph D of the Recitals.

(pp) "Social Services Plan" has the meaning set forth in Section 4.3(c).

(qq) "St. Paul's" has the meaning set forth in Paragraph D of the Recitals.

(rr) "Subsidy Units" has the meaning set forth in Section 2.6(a).

(ss) "Tenant" means the tenant household that occupies a Unit in the Development.

(tt) "Tenant Selection Plan" has the meaning set forth in Section 4.3(b).

(uu) "Term" means the term of this County Regulatory Agreement which commences as of the date of this County Regulatory Agreement, and unless sooner terminated pursuant to the terms of this County Regulatory Agreement, expires on the fifty-fifth (55<sup>th</sup>) anniversary of the Completion Date; provided, however, if a record of the Completion Date cannot be located or established, the Term will expire on the fifty-seventh (57<sup>th</sup>) anniversary of this County Regulatory Agreement.

(vv) "Thirty-Five Percent Income Household" means a household with an Adjusted Income that does not exceed thirty-five percent (35%) of Median Income, adjusted for Actual Household Size.

(ww) "Thirty-Five Percent Income Rent" means the maximum allowable rent for a Thirty-Five Percent Income Unit pursuant to Section 2.2(b) below.

(xx) "Thirty-Five Percent Income Units" means the Units which, pursuant to Section 2.1(b) below, are required to be occupied by Thirty-Five Percent Income Households.

(yy) "Unit(s)" means one (1) or more of the units in the Development.

(zz) "Very Low Income Household" means a household with an Adjusted Income that does not exceed fifty percent (50%) of Median Income, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than fifty percent (50%) of Median Income on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes as set forth in 24 C.F.R. Section 92.2.

(aaa) "Very Low Income Rent" means a monthly Rent amount not exceeding one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of Median Income, adjusted for Assumed Household Size.

## ARTICLE 2 AFFORDABILITY AND OCCUPANCY COVENANTS

### 2.1 Occupancy Requirements.

(a) Extremely Low Income Units. During the Term Borrower shall cause eleven (11) Units to be rented to and occupied by or, if vacant, available for occupancy by, Extremely Low Income Households.

(b) Thirty-Five Percent Income Units. During the Term, Borrower shall cause seven (7) Units to be rented to and occupied by or, if vacant, available for occupancy by, Thirty-Five Percent Income Households.

(c) Intermingling of Units. Borrower shall cause the County-Assisted Units to be intermingled throughout the Development and of comparable quality to all other Units. All Tenants must have equal access to and enjoyment of all common facilities in the Development. The County-Assisted Units must be of the bedroom size set forth in the following chart:

|                   | Extremely Low<br>Income Units | 35% Income<br>Units |
|-------------------|-------------------------------|---------------------|
| Zero-Bd.<br>Units | 8                             | 4                   |
| One-Bd. Units     | 3                             | 3                   |
| <b>Total</b>      | <b>11</b>                     | <b>7</b>            |

(d) Disabled Persons Occupancy. Borrower shall cause the Development to be constructed and operated at all times in compliance with all applicable federal, state, and local disabled persons accessibility requirements including, but not limited to the applicable provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973, (iv) the United States Fair Housing Act, as amended, (v) the Americans With Disabilities Act of 1990, and (vi) Chapters 11A and 11B of Title 24 of the California Code of Regulations, which relate to disabled persons access (collectively, the "Accessibility Requirements"). In compliance with the Accessibility Requirements: (i) a minimum of three (3) Units must be construction to be fully accessible to households with a mobility impaired member and, (ii) an additional one (1) Unit must be fully accessible to hearing and/or visually impaired persons. In compliance with the Accessibility Requirements Borrower shall provide the County with a certification from the Development architect that to the best of the architect's knowledge, the Development complies with all federal and state accessibility requirements applicable to the Development. Borrower shall indemnify, protect, hold harmless and defend (with counsel reasonably satisfactory to the County) the County, and its board members, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of Borrower's failure to comply with the Accessibility Requirements. The provisions of this subsection will survive expiration of the Term or other termination of this County Regulatory Agreement, and remain in full force and effect.

## 2.2 Allowable Rent.

(a) Extremely Low Income Rent. Subject to Section 2.4 below, the Rent paid by a Tenant of an Extremely Low Income Unit may not exceed one-twelfth (1/12) of thirty percent (30%) of thirty percent (30%) of Median Income, adjusted for Assumed Household Size.

(b) Thirty-Five Percent Income Rent. Subject to Section 2.4 below, the Rent paid by a Tenant of a Thirty-Five Percent Income Unit, may not exceed one-twelfth (1/12<sup>th</sup>) of

thirty percent (30%) of thirty-five percent (35%) of Median Income, adjusted for Assumed Household Size.

(c) No Additional Fees. Borrower may not charge any fee, other than Rent, to any Tenant of the County-Assisted Units for any housing or other services provided by Borrower.

### 2.3 Rent Increases.

(a) Rent Amount. The initial Rent for all County-Assisted Units must be approved by the County prior to occupancy. The County will provide Borrower with a schedule of maximum permissible Rents for the County-Assisted Units and the maximum monthly allowances for utilities and services (excluding telephone) annually.

(b) Rent Increases. All Rent increases for all County-Assisted Units are subject to County approval. No later than sixty (60) days prior to the proposed implementation of any Rent increase affecting a County-Assisted Unit, Borrower shall submit to the County a schedule of any proposed increase in the Rent charged for County-Assisted Units. The Rent for such Units may be increased no more than once annually based upon the annual income certification described in Article 3. The County will disapprove a Rent increase if it violates the schedule of maximum permissible Rents for the County-Assisted Units provided to Borrower by the County, or is greater than a 5% increase over the previous year's Rent, provided that the County may approve a request from Borrower for a rent increase greater than 5% with a written explanation for the request from Borrower. Borrower shall give Tenants written notice at least thirty (30) days prior to any Rent increase, following completion of the County approval process set forth above.

### 2.4 Increased Income of Tenants.

(a) Increased Income of Extremely Low Income Household to Below the Very Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of an Extremely Low Income Unit, Borrower determines that the income of the Tenant has increased to below the qualifying limit for a Very Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent will remain at the Extremely Low Income Rent. Borrower shall then rent the next available Unit to an Extremely Low Income Household to comply with the requirements of Section 2.1(a) above, at a Rent not exceeding the Extremely Low Income Rent, or re-designate another comparable Unit in the Development with an Extremely Low Income Household an Extremely Low Income Unit, to comply with the requirements of Section 2.1(a) above. Upon renting the next available Unit in accordance with Section 2.1(a) or re-designating another Unit in the Development as an Extremely Low Income Unit, the Unit with the over-income Tenant will no longer be considered a County-Assisted Unit.

(b) Increased Income of Thirty-Five Percent Income Household to Below the Very Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of a Thirty-Five Percent Income Unit, Borrower determines that the income of the Tenant has increased to below the qualifying limit for a Very Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent will remain at the Thirty-Five



Percent Income Rent. Borrower shall then rent the next available Unit to a Thirty-Five Percent Income Household to comply with the requirements of Section 2.1(b) above, at a Rent not exceeding the Thirty-Five Percent Income Rent, or re-designate another comparable Unit in the Development with a Thirty-Five Percent Income Household a Thirty-Five Percent Income Unit, to comply with the requirements of Section 2.1(b) above. Upon renting the next available Unit in accordance with Section 2.1(b) or re-designating another Unit in the Development as a Thirty-Five Percent Income Unit, the Unit with the over-income Tenant will no longer be considered a County-Assisted Unit.

(c) Increased Income of Extremely Low Income Household to at or Above Very Low Income Limit but below Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of an Extremely Low Income Unit, Borrower determines that the income of the Tenant has increased to at or above the qualifying limit for a Very Low Income Household, but not above the qualifying income for a Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent may be increased to the Very Low Income Rent. Borrower shall then rent the next available Unit to an Extremely Low Income Household to comply with the requirements of Section 2.1(a) above, at a Rent not exceeding the Extremely Low Income Rent, or re-designate another comparable Unit in the Development with an Extremely Low Income Household an Extremely Low Income Unit, to comply with the requirements of Section 2.1(a) above. Upon renting the next available Unit in accordance with Section 2.1(a) or re-designating another Unit in the Development as an Extremely Low Income Unit, the Unit with the over-income Tenant will no longer be considered a County-Assisted Unit.

(d) Increased Income of Thirty-Five Percent Income Household to at or Above Very Low Income but below Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of a Thirty-Five Percent Income Unit, Borrower determines that the income of the Tenant has increased to at or above the qualifying limit for a Very Low Income Household, but not above the qualifying income for a Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent may be increased to the Very Low Income Rent. Borrower shall then rent the next available Unit to a Thirty-Five Percent Income Household to comply with the requirements of Section 2.1(b) above, at a Rent not exceeding the Thirty-Five Percent Income Rent, or re-designate another comparable Unit in the Development with a Thirty-Five Percent Income Household a Thirty-Five Percent Income Unit, to comply with the requirements of Section 2.1(b) above. Upon renting the next available Unit in accordance with Section 2.1(b) or re-designating another Unit in the Development as a Thirty-Five Percent Income Unit, the Unit with the over-income Tenant will no longer be considered a County-Assisted Unit.

(e) Non-Qualifying Household. If, upon the annual certification of the income a Tenant of a County-Assisted Unit, Borrower determines that the Tenant's income has increased above the qualifying limit for a Low Income Household, the Tenant may continue to occupy the Unit. Upon the expiration of such Tenant's lease, Borrower may:

(1) With 60 days' advance written notice, increase such Tenant's Rent to the lesser of (i) one-twelfth (1/12) of thirty percent (30%) of the actual Adjusted Income of the Tenant, and (ii) the fair market rent, and

(2) Rent the next available Unit to an Extremely Low Income Household or Thirty-Five Percent Income Household, as applicable, to comply with the requirements of Section 2.1 above, at a Rent not exceeding the maximum Rent specified in Section 2.2, or designate another comparable Unit that is occupied by an Extremely Low Income Household, or Thirty-Five Percent Income Household, as applicable, as a County-Assisted Unit, to meet the requirements of Section 2.1 above. On the day that Borrower complies with Section 2.1 in accordance with this Section 2.4(c), the Unit with the over-income Tenant will no longer be considered a County-Assisted Unit.

(f) Termination of Occupancy. Upon termination of occupancy of a County-Assisted Unit by a Tenant, such Unit will be deemed to be continuously occupied by a household of the same income level as the initial income level of the vacating Tenant, until such unit is reoccupied, at which time categorization of the Unit will be established based on the occupancy requirements of Section 2.1.

2.5 Compliance with TCAC Requirements. During the term of any regulatory agreement associated with the provision of low income housing tax credits by the California Tax Credit Allocation committee ("TCAC") recorded against the Development (the "TCAC Regulatory Agreement"), Borrower may use the occupancy standards, occupancy assumptions, income limits, and rent levels that are permitted by TCAC in the TCAC Regulatory Agreement, in place of such requirements imposed by this County Regulatory Agreement.

2.6 Loss of Subsidy.

(a) It is anticipated that certain Units in the Development (the "Subsidy Units") will receive Project-Based Section 8 or other rental subsidy payments (the "Rental Subsidy") throughout the Term, as reflected in the Approved Development Budget. Notwithstanding Section 2.3(b), if, after the expiration of the HOME Term, any change in federal law occurs, or any action (or inaction) by Congress or any federal or State agency occurs, which results in a reduction, termination or nonrenewal of the Rental Subsidy through no fault of the Borrower, such that the Rental Subsidy shown on the Approved Development Budget is no longer available, Borrower may increase the Rent on one or more of the County-Assisted Units that overlap with a Subsidy Unit, to the Very Low Income Rent and/or Low Income Rent as applicable, subject to the following requirements:

(1) At the time Borrower requests an increase in the Rent, Borrower shall provide the County with an operating budget for the Development for the County's approval pursuant to Section 4.4 of the Loan Agreement, showing the impact of the loss or reduction of the Rental Subsidy (the "Operating Budget").

(2) The number of County-Assisted Units subject to the Rent increase and the level of rent increase (i.e. Very Low Income Rent or Low Income Rent) may not be greater than the amount required to ensure that the Development generates sufficient income to

cover its operating costs and debt service as shown on the Operating Budget, and as is necessary to maintain the financial stability of the Development.

(3) Any such Rent increase must be pursuant to a transition plan approved by the County, consistent with remedial measures set forth in California Code of Regulations Title 4, Division 17, Chapter 1, Section 10337(a)(3) or successor regulation applicable to California's Federal and State Low Income Housing Tax Credit Program.

(b) Borrower shall use good faith efforts to obtain alternative sources of rental subsidies and shall provide the County with annual progress reports on efforts to obtain alternative sources of rental subsidies that would allow the rents on the County-Assisted Units to be reduced back to the Extremely Low Income Rent and the Thirty-Five Percent Income Rent, as applicable. Upon receipt of any alternative rental subsidies, Borrower shall reduce the rents on the County-Assisted Units back to the Extremely Low Income Rent and the Thirty-Five Percent Income Rent, as applicable, to the extent that the alternative rental subsidies provide sufficient income to cover the operating costs and debt service of the Development as shown on the Operating Budget.

### ARTICLE 3 INCOME CERTIFICATION; REPORTING; RECORDS

3.1 Income Certification. Borrower shall obtain, complete, and maintain on file, within one hundred twenty (120) days before expected occupancy and annually thereafter, income certifications from each Tenant renting any of the County-Assisted Units. Borrower shall make a good faith effort to verify the accuracy of the income provided by the applicant or occupying household, as the case may be, in an income certification. To verify the information, Borrower shall take two or more of the following steps: (i) obtain a pay stub for the most recent pay period; (ii) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (iv) obtain an income verification form from the applicant's current employer; (v) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (vi) if the applicant is unemployed and does not have a tax return, obtain another form of independent verification. Where applicable, Borrower shall examine at least two (2) months of relevant source documentation. Copies of Tenant income certifications are to be available to the County upon request.

#### 3.2 Reporting Requirements.

(a) Borrower shall submit to the County within one hundred eighty (180) days after the Completion Date, and not later than forty-five (45) days after the close of each calendar year, or such other date as may be requested by the County, a report that includes the following data for each Unit and specifically identifies which Units are County-Assisted Units: (i) Tenant income, (ii) the number of occupants, (iii) the Rent, (iv) the number of bedrooms, and (v) the initial address of each Tenant. To demonstrate continued compliance with Section 2.1 Borrower shall cause each annual report after the initial report to include a record of any subsequent Tenant substitutions and any vacancies in County-Assisted Units that have been filled.

(b) Borrower shall submit to the County within forty-five (45) days after receipt of a written request, or such other time agreed to by the County, any other information or completed forms requested by the County in order to comply with reporting requirements of HUD, the State of California, and the County.

3.3 Tenant Records. Borrower shall maintain complete, accurate and current records pertaining to income and household size of Tenants. All Tenant lists, applications and waiting lists relating to the Development are to be at all times: (i) separate and identifiable from any other business of Borrower, (ii) maintained as required by the County, in a reasonable condition for proper audit, and (iii) subject to examination during business hours by representatives of the County. Borrower shall retain copies of all materials obtained or produced with respect to occupancy of the Units for a period of at least five (5) years. The County may examine and make copies of all books, records or other documents of Borrower that pertain to the Development.

3.4 Development Records.

(a) Borrower shall keep and maintain at the principal place of business of the Borrower set forth in Section 6.11 below, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Development. Borrower shall cause all books, records and accounts relating to its compliance with the terms, provisions, covenants and conditions of the Loan Documents to be kept and maintained in accordance with generally accepted accounting principles consistently applied, and to be consistent with requirements of this County Regulatory Agreement. Borrower shall cause all books, records, and accounts to be open to and available for inspection and copying by HUD, the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. Borrower shall cause copies of all tax returns and other reports that Borrower may be required to furnish to any government agency to be open for inspection by the County at all reasonable times at the place that the books, records and accounts of Borrower are kept. Borrower shall preserve such records (including the records required under the HOME/HOPWA Regulatory Agreement) for a period of not less than five (5) years after their creation in compliance with all HUD records and accounting requirements. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Loan is pending at the end of the record retention period stated herein, then Borrower shall retain the records until such action and all related issues are resolved. Borrower shall cause the records to include all invoices, receipts, and other documents related to expenditures from the Loan funds. Borrower shall cause records to be accurate and current and in a form that allows the County to comply with the record keeping requirements contained in 24 C.F.R. 92.508, 24 C.F.R. 574.450, and 24 C.F.R. 574.530. Such records are to include but are not limited to:

(i) Records providing a full description of the activities undertaken with the use of the Loan funds;

(ii) Records demonstrating compliance with the maintenance requirements set forth in Section 5.6;

(iii) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;

(iv) Financial records; and

(v) Records demonstrating compliance with the marketing, tenant selection, social services, affordability, and income requirements.

(b) The County shall notify Borrower of any records it deems insufficient. Borrower has fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Borrower must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

#### ARTICLE 4 OPERATION OF THE DEVELOPMENT

4.1 Residential Use. Borrower shall operate the Housing Improvements for residential use only. No part of the Development may be operated as transient housing.

4.2 Compliance with Loan Documents and Program Requirements. Borrower's actions with respect to the Development shall at all times be in full conformity with: (i) all requirements of the Loan Documents; and (ii) any other regulatory requirements imposed on the Development.

4.3 Marketing Plan; Tenant Selection Plan; and Social Services Plan.

(a) Marketing Plan.

(1) No later than six (6) months prior to the date construction of the Development is projected to be complete, Borrower shall submit to the County for approval its plan for marketing the Development to income-eligible households as required by this County Regulatory Agreement (the "Marketing Plan"). The Marketing Plan must include information on affirmative marketing efforts and compliance with fair housing laws and 24 C.F.R. 92.351(a).

(2) Upon receipt of the Marketing Plan, the County will promptly review the Marketing Plan and will approve or disapprove it within fifteen (15) days after receipt. If the Marketing Plan is not approved, the County will give Borrower specific reasons for such disapproval and Borrower shall submit a revised Marketing Plan within fifteen (15) days of notification of the County's disapproval. Borrower shall follow this procedure for resubmission of a revised Marketing Plan until the Marketing Plan is approved by the County. If the Borrower does not submit a revised Marketing Plan that is approved by the County at least three (3) months prior to the date completion of the Development is projected to be complete, Borrower will be in default of this County Regulatory Agreement.

(b) Tenant Selection Plan.

(1) No later than six (6) months prior to the date construction of the Development is projected to be complete, Borrower shall submit to the County, for its review and approval, Borrower's written tenant selection plan (the "Tenant Selection Plan"). Borrower's Tenant Selection Plan must, at a minimum, meet the requirements for tenant selection set out in 24 C.F.R. 92.253(d), and any modifications thereto.

(2) Upon receipt of the Tenant Selection Plan, the County will promptly review the Tenant Selection Plan and will approve or disapprove it within fifteen (15) days after receipt. If the Tenant Selection Plan is not approved, the County will give Borrower specific reasons for such disapproval and Borrower shall submit a revised Tenant Selection Plan within fifteen (15) days of notification of the County's disapproval. Borrower shall follow this procedure for resubmission of a revised Tenant Selection Plan until the Tenant Selection Plan is approved by the County. If the Borrower does not submit a revised Tenant Selection Plan that is approved by the County at least three (3) months prior to the date construction of the Development is projected to be complete, Borrower will be in default of this County Regulatory Agreement.

4.4 Lease Provisions.

(a) No later than four (4) months prior to the date construction of the Development is projected to be complete, Borrower shall submit to the County for approval Borrower's proposed form of lease agreement for the County's review and approval. When leasing Units within the Development, Borrower shall use the form of lease approved by the County. The form of lease must comply with all requirements of this County Regulatory Agreement, the other Loan Documents and must, among other matters:

(1) provide for termination of the lease for failure to: (i) provide any information required under this County Regulatory Agreement or reasonably requested by Borrower to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, for occupancy in the Development in accordance with the standards set forth in this County Regulatory Agreement, or (ii) qualify as an Extremely Low Income Household, or Thirty-Five Percent Income Household as a result of any material misrepresentation made by such Tenant with respect to the income computation.

(2) be for an initial term of not less than one (1) year, unless by mutual agreement between the Tenant and Borrower, and provide for no increase in Rent during such year. After the initial year of tenancy, the lease may be month-to-month by mutual agreement of Borrower and the Tenant. Notwithstanding the above, any rent increases are subject to the requirements of Section 2.3 above.

(3) include a provision that requires a Tenant who is residing in a Unit required to be accessible pursuant to Section 2.1(d) and who is not in need of an accessible Unit to move to a non-accessible Unit when a non-accessible Unit becomes available and another Tenant or prospective Tenant is in need of an accessible Unit.



(b) Any termination of a lease or refusal to renew a lease for a County-Assisted Unit must be preceded by not less than sixty (60) days written notice to the Tenant by Borrower specifying the grounds for the action.

(c) During the Term, Borrower shall comply with the Marking Plan, Social Services Plan, and Tenant Selection Plan approved by the County.

## ARTICLE 5 PROPERTY MANAGEMENT AND MAINTENANCE

5.1 Management Responsibilities. Borrower is responsible for all management functions with respect to the Development, including without limitation the selection of Tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The County has no responsibility for management of the Development. Borrower shall retain a professional property management company approved by the County in its reasonable discretion to perform Borrower's management duties hereunder. An on-site property manager is also required.

5.2 Management Agent. Borrower shall cause the Development to be managed by an experienced management agent reasonably acceptable to the County, with a demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing (the "Management Agent"). The County has approved The John Stewart Company as the Management Agent. Borrower shall submit for the County's approval the identity of any proposed subsequent management agent. Borrower shall also submit such additional information about the background, experience and financial condition of any proposed management agent as is reasonably necessary for the County to determine whether the proposed management agent meets the standard for a qualified management agent set forth above. If the proposed management agent meets the standard for a qualified management agent set forth above, the County shall approve the proposed management agent by notifying Borrower in writing. Unless the proposed management agent is disapproved by the County within thirty (30) days, which disapproval is to state with reasonable specificity the basis for disapproval, it shall be deemed approved.

5.3 Periodic Performance Review. The County reserves the right to conduct an annual (or more frequently, if deemed necessary by the County) review of the management practices and financial status of the Development. The purpose of each periodic review will be to enable the County to determine if the Development is being operated and managed in accordance with the requirements and standards of this County Regulatory Agreement. Borrower shall cooperate with the County in such reviews.

5.4 Replacement of Management Agent. If, as a result of a periodic review, the County determines in its reasonable judgment that the Development is not being operated and managed in accordance with any of the material requirements and standards of this County Regulatory Agreement, the County shall deliver notice to Borrower of its intention to cause replacement of the Management Agent, including the reasons therefor. Within fifteen (15) days

after receipt by Borrower of such written notice, the County staff and Borrower shall meet in good faith to consider methods for improving the financial and operating status of the Development, including, without limitation, replacement of the Management Agent.

If, after such meeting, County staff recommends in writing the replacement of the Management Agent, Borrower shall promptly dismiss the then-current Management Agent, and shall appoint as the Management Agent a person or entity meeting the standards for a management agent set forth in Section 5.2 above and approved by the County pursuant to Section 5.2 above.

Any contract for the operation or management of the Development entered into by Borrower shall provide that the Management Agent may be dismissed and the contract terminated as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section constitutes a default under this County Regulatory Agreement, and the County may enforce this provision through legal proceedings as specified in Section 6.5 below.

5.5 Approval of Management Policies. Borrower shall submit its written management policies with respect to the Development to the County for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this County Regulatory Agreement.

5.6 Property Maintenance.

(a) Borrower shall maintain, for the entire Term of this County Regulatory Agreement, all interior and exterior Improvements, including landscaping in decent, safe and sanitary condition, and in good condition and repair. Borrower shall cause the Development to be: (i) maintained in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials; and (ii) free of all health and safety defects (collectively, the "Maintenance Standards"). Borrower shall correct any life-threatening maintenance deficiencies immediately upon notification.

(b) At the beginning of each year of the Term, Borrower shall certify to the County that the Development is in compliance with these Maintenance Standards.

5.7 Property Inspections.

(a) On-Site Physical Inspections. The County will perform on-site inspections of the Development during the Term to ensure compliance with the Maintenance Standards. The County will perform an on-site inspection within twelve months after completion of construction of the Development and at least once every three (3) years during the Term. If the Development is found to have health and safety violations, the County may perform more frequent inspections. Borrower shall cooperate in such inspections.

(b) Violation of Maintenance Standards. If after an inspection, the County determines that Borrower is in violation of the Maintenance Standards, the County will provide Borrower a written report of the violations. Borrower shall correct the violations set forth in the

report provided to Borrower by County. The County will perform a follow-up inspection to verify that the violations have been corrected. If such violations continue for a period of ten (10) days after delivery of the report to Borrower by the County with respect to graffiti, debris, waste material, and general maintenance, or thirty (30) days after delivery of the report to Borrower by the County with respect to landscaping and building improvements, then the County, in addition to whatever other remedy it may have at law or in equity, has the right to enter upon the Development and perform or cause to be performed all such acts and work necessary to cure the violation. Pursuant to such right of entry, the County is permitted (but is not required) to enter upon the Development and to perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Development, and to attach a lien on the Development, or to assess the Development, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the County and/or costs of such cure, which amount Borrower shall promptly pay to the County upon demand.

## ARTICLE 6 MISCELLANEOUS

### 6.1 Nondiscrimination.

(a) All of the Units must be available for occupancy on a continuous basis to members of the general public who are income eligible. Borrower may not give preference to any particular class or group of persons in renting or selling the Units, except to the extent that the Units are required to be leased to income eligible households pursuant to this County Regulatory Agreement and the HOME/HOPWA Regulatory Agreement. Borrower herein covenants by and for Borrower, assigns, and all persons claiming under or through Borrower, that there exist no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), ancestry, age, familial status (except for lawful senior housing in accordance with state and federal law) or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any unit nor will Borrower or any person claiming under or through Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any unit or in connection with the employment of persons for the construction, operation and management of any unit.

(b) Borrower shall accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. Borrower may not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor will Borrower apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of units by such prospective Tenants.

### 6.2 Application of Provisions. The provisions of this County Regulatory Agreement

apply to the Development for the entire Term even if the Loan is paid in full prior to the end of the Term. This County Regulatory Agreement binds any successor, heir or assign of Borrower, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by the County. The County is making the Loan on the condition, and in consideration of, this provision, and would not do so otherwise.

### 6.3 Notice of Expiration of Term.

(a) At least six (6) months prior to the expiration of the Term, Borrower shall provide by first-class mail, postage prepaid, a notice to all Tenants containing (i) the anticipated date of the expiration of the Term, (ii) any anticipated increase in Rent upon the expiration of the Term, (iii) a statement that a copy of such notice will be sent to the County, and (iv) a statement that a public hearing may be held by the County on the issue and that the Tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. Borrower shall also file a copy of the above-described notice with the County Assistant Deputy Director, Department of Conservation and Development.

(b) In addition to the notice required above, Borrower shall comply with the requirements set forth in California Government Code Sections 65863.10 and 65863.11. Such notice requirements include: (i) a twelve (12) month notice to existing tenants, prospective tenants and Affected Public Agencies (as defined in California Government Code Section 65863.10(a)) prior to the expiration of the Term, (ii) a six (6) month notice requirement to existing tenants, prospective tenants and Affected Public Agencies prior to the expiration of the Term; (iii) a notice of an offer to purchase the Development to "qualified entities" (as defined in California Government Code Section 65863.11(d)), if the Development is to be sold within five (5) years of the end of the Term; (iv) a notice of right of first refusal within the one hundred eighty (180) day period that qualified entities may purchase the Development.

6.4 Covenants to Run With the Land. The County and Borrower hereby declare their express intent that the covenants and restrictions set forth in this County Regulatory Agreement run with the land, and bind all successors in title to the Development, provided, however, that on the expiration of the Term said covenants and restrictions expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof, is to be held conclusively to have been executed, delivered and accepted subject to the covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the County expressly releases such conveyed portion of the Development from the requirements of this County Regulatory Agreement.

6.5 Enforcement by the County. If Borrower fails to perform any obligation under this County Regulatory Agreement, and fails to cure the default within thirty (30) days after the County has notified Borrower in writing of the default or, if the default cannot be cured within thirty (30) days, fails to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within sixty (60) days, the County may enforce this County Regulatory Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Calling the Loan. The County may declare a default under the Loan Documents, accelerate the indebtedness evidenced by the Note, and proceed with foreclosure under the Deed of Trust.

(b) Action to Compel Performance or for Damages. The County may bring an action at law or in equity to compel Borrower's performance of its obligations under this County Regulatory Agreement, and may seek damages.

(c) Remedies Provided Under Loan Documents. The County may exercise any other remedy provided under the Loan Documents.

The County shall provide notice of a default to Borrower's limited partner in the manner set forth in Section 6.5 of the Loan Agreement.

6.6 Attorneys' Fees and Costs. In any action brought to enforce this County Regulatory Agreement, the prevailing party must be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This section must be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

6.7 Recording and Filing. The County and Borrower shall cause this County Regulatory Agreement, and all amendments and supplements to it, to be recorded against the Development in the Official Records of the County of Contra Costa.

6.8 Governing Law. This County Regulatory Agreement is governed by the laws of the State of California.

6.9 Waiver of Requirements. Any of the requirements of this County Regulatory Agreement may be expressly waived by the County in writing, but no waiver by the County of any requirement of this County Regulatory Agreement extends to or affects any other provision of this County Regulatory Agreement, and may not be deemed to do so.

6.10 Amendments. This County Regulatory Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title that is duly recorded in the official records of the County of Contra Costa.

6.11 Notices. Any notice requirement set forth herein will be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, addressed to the appropriate party as follows:

County: County of Contra Costa  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Assistant Deputy Director

Borrower: SP Commons, L.P.  
c/o RCD GP III, LLC

2220 Oxford Street  
Berkeley, CA 94720  
Attention: Executive Director

Investor Limited  
Partner:

Bank of America, N.A.  
Community Development Banking Group  
MA1-225-02-02  
225 Franklin Street  
Boston, MA 02110  
Attention: Asset Management

With a copy to:

Buchalter, a Professional Corporation  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017  
Attention: Michael A. Williamson, Esq.  
Re: B0965-0363 (St. Paul Commons)

Such addresses may be changed by notice to the other party given in the same manner as provided above.

6.12 Severability. If any provision of this County Regulatory Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this County Regulatory Agreement will not in any way be affected or impaired thereby.

6.13 Multiple Originals; Counterparts. This County Regulatory Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

6.14 HOME/HOPWA Regulatory Agreement. The County and Borrower are entering into the HOME/HOPWA Regulatory Agreement concurrently with this County Regulatory Agreement. The HOME/HOPWA Regulatory Agreement will be in effect for twenty-one (21) years from the Completion Date (the "HOME Term") and include HOME and HOPWA requirements applicable to the use of HOME Funds and HOPWA Funds. Compliance with the terms of the HOME/HOPWA Regulatory Agreement will be deemed compliance with this County Regulatory Agreement during the HOME Term. In the event of a conflict between this County Regulatory Agreement and the HOME/HOPWA Regulatory Agreement during the HOME Term, the terms of the HOME/HOPWA Regulatory Agreement will prevail.

6.15 Revival of Agreement after Foreclosure. In the event there is a foreclosure of the Development, this County Regulatory Agreement will revive according to its original terms if, during the Term, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any



entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Development.

*[remainder of page intentionally left blank]*  
*[signatures on following page]*

WHEREAS, this County Regulatory Agreement has been entered into by the undersigned as of the date first written above.

**COUNTY:**

COUNTY OF CONTRA COSTA, a political  
subdivision of the State of California

By: \_\_\_\_\_  
John Kopchik  
Director, Department of Conservation and  
Development

Approved as to form:

SHARON L. ANDERSON  
County Counsel

By: \_\_\_\_\_  
Kathleen Andrus  
Deputy County Counsel

**BORROWER:**

SP Commons, L.P., a California limited  
partnership

By: RCD GP III LLC, a California limited  
liability company, its general partner

By: Resources for Community  
Development, a California nonprofit  
public benefit corporation, its sole  
member/manager

By: \_\_\_\_\_  
Daniel Sawislak, Executive  
Director

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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public

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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public

EXHIBIT A

Legal Description

The land is situated in the State of California, County of Contra Costa, and is described as follows:

CDBG REVOCABLE GRANT AGREEMENT  
St Paul's Social Services Facility

This CDBG Revocable Grant Agreement (the "Agreement") is dated March 1, 2018 and is among the County of Contra Costa, a political subdivision of the State of California (the "County"), Resources for Community Development, a California nonprofit public benefit corporation ("RCD") and St. Paul's Episcopal Church in Walnut Creek, California ("St. Paul's"); RCD and St. Paul's are collectively, the "Grantee."

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. The County has received funds from the United States Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974, as amended ("CDBG Funds"). The CDBG Funds must be used by the County in accordance with 24 C.F.R. Part 570.

C. St Paul's is the owner of that certain real property located at 1860 Trinity Avenue in the City of Walnut Creek, County of Contra Costa, State of California (the "Property"). Concurrently herewith SP Commons, L.P., a California limited partnership (the "Partnership") is entering into a ground lease agreement with St Paul's (the "Ground Lease"), pursuant to which the Partnership will acquire a leasehold interest in the Property from St. Paul's. The Partnership intends to demolish the existing improvements on the Property and construct a new building on the Property (the "New Building"). Within a portion of the New Building the Partnership intends to construct forty-five (45) multifamily housing units for rental to extremely low, very low and low income households, including one (1) manager's unit, and attendant site improvements.

D. Concurrently herewith RCD is entering into a master lease with the Partnership (the "Master Lease") to lease approximately 7,000 square feet of the ground floor of the New Building (the "Ground Floor Space"). Pursuant to the Master Lease, RCD is entering into a lease agreement with St. Paul's (the "Ground Floor Lease"), pursuant to which St. Paul's is leasing the Ground Floor Space, approximately 4,900 square feet of which will be used for CDBG-eligible uses (the "Premises"). Under the terms of the Ground Floor Lease, St. Paul's will cause the Premises to be built-out to create a social service facility that will house a homeless day shelter and service program and/or other CDBG-eligible uses (the "Center"). A diagram of the Center is attached to this Agreement as Exhibit A. Construction of the Center is the "Project."

E. Upon completion of the Project St. Paul's will enter into a sublease of the Premises (the "Sublease"). The subtenant under the Sublease (the "Service Provider") will operate the Center. St. Paul's anticipates that the initial Service Provider will be Trinity Center Walnut Creek, a California nonprofit public benefit corporation.

F. Grantee desires to obtain from the County One Million Dollars (\$1,000,000) of CDBG Funds (the "Grant").



G. Due to the assistance provided through the Grant, the County is requiring the Center to be operated in accordance with this Agreement for a period of five (5) years.

H. RCD and St. Paul's have agreed that RCD will perform the following role in connection with the Project: (i) enter into the construction contract with a general contractor for the Project and oversee the Project; (ii) act as fiscal agent for the receipt of the Grant from the County and disbursement of the Grant for approved costs; and (iii) transmit to the County all documentation required to be submitted by RCD to the County under this Agreement.

I. In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) ("NEPA"), the County has completed and approved all applicable environmental review for the activities proposed to be undertaken under this Agreement.

The parties therefore agree as follows:

## AGREEMENT

### ARTICLE 1 DEFINITIONS AND EXHIBITS

#### Section 1.1 Definitions.

The following terms have the following meanings:

- (a) "Accessibility Requirements" has the meaning set forth in Section 3.9.
- (b) "Agreement" means this CDBG Revocable Grant Agreement.
- (c) "Approved Development Budget" means the budget for the Project, including sources and uses of funds, as approved by the County, and attached hereto and incorporated herein as Exhibit B.
- (d) "Assistant Deputy Director" means the County's Assistant Deputy Director, Department of Conservation and Development, or his or her designee.
- (e) "Bid Package" means the package of documents RCD's general contractor is required to distribute to potential bidders as part of the process of selecting subcontractors for the Project. The Bid Package is to include the following: (i) an invitation to bid; (ii) copy of the proposed construction contract; (iii) a form of bid guarantee that is reasonably acceptable to the County that guarantees, at a minimum, an amount equal to five percent (5%) of the bid price; and (iv) all Construction Plans.
- (f) "CDBG" means the Community Development Block Grant Program, funded pursuant to Title I of the Housing and Community Development Act of 1974 (42 USC 5301, et seq.).
- (g) "CDBG Funds" has the meaning set forth in Paragraph B of the Recitals.
- (h) "Center" has the meaning set forth in Paragraph D of the Recitals.

- (i) "City" means the City of Walnut Creek, California, a municipal corporation.
- (j) "Commencement of Construction" has the meaning set forth in Section 3.5.
- (k) "Construction Plans" means all construction documentation upon which RCD and RCD's general contractor rely in constructing the Center and includes, but is not limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings").
- (l) "County" has the meaning set forth in the first paragraph of this Agreement.
- (m) "Event of Default" means a RCD Event of Default and/or a St. Paul's Event of Default.
- (n) "Grant" has the meaning set forth in Paragraph F of the Recitals.
- (o) "Grantee" has the meaning set forth in the first paragraph of this Agreement.
- (p) "Ground Floor Lease" has the meaning set forth in Paragraph D of the Recitals.
- (q) "Ground Floor Space" has the meaning set forth in Paragraph D of the Recitals.
- (r) "Ground Lease" has the meaning set forth in Paragraph C of the Recitals.
- (s) "HUD" has the meaning set forth in Paragraph B of the Recitals.
- (t) "Master Lease" has the meaning set forth in Paragraph D of the Recitals.
- (u) "NEPA" has the meaning set forth in Paragraph I of the Recitals.
- (v) "New Building" has the meaning set forth in Paragraph C of the Recitals.
- (w) "Partnership" has the meaning set forth in Paragraph C of the Recitals.
- (x) "Premises" has the meaning set forth in Paragraph D of the Recitals.
- (y) "Project" has the meaning set forth in Paragraph D of the Recitals.
- (z) "Property" has the meaning set forth in Paragraph C of the Recitals.
- (aa) "RCD" has the meaning set forth in the first paragraph of this Agreement.
- (bb) "RCD Event of Default" has the meaning set forth in Section 6.1(a).

(cc) "Retention Amount" means Fifty Thousand Dollars (\$50,000) of the Grant, the disbursement of which is described in Section 2.4.

(dd) "Service Provider" has the meaning set forth in Paragraph E of the Recitals.

(ee) "St. Paul's" has the meaning set forth in the first paragraph of this Agreement.

(ff) "St. Paul's Event of Default" has the meaning set forth in Section 6.1(b).

(gg) "Sublease" has the meaning set forth in Paragraph E of the Recitals.

(hh) "Term" means the period of time that commences on the date of this Agreement, and expires, unless sooner terminated in accordance with this Agreement, on the fifth (5th) anniversary of the date of initial use of the Center for its intended purpose, provided that any interim period where the Center is not being operated for its intended purpose will extend the five (5) year term by that period.

(ii) "Transfer" has the meaning set forth in Section 4.9 below.

#### Section 1.2 Exhibits

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A: Diagram of the Center  
Exhibit B: Approved Development Budget  
Exhibit C: NEPA Mitigation Requirements

### ARTICLE 2 GRANT PROVISIONS

#### Section 2.1 Grant.

Upon satisfaction of the conditions set forth in Section 2.3 and Section 2.4 of this Agreement, the County shall disburse the Grant to RCD as the fiscal agent for St. Paul's, for the purposes set forth in Section 2.2 of this Agreement.

#### Section 2.2 Use of Grant Funds.

(a) Grantee shall use the Grant for the Project, consistent with the Approved Development Budget. Grantee may not use the Grant proceeds for any other purposes without the prior written consent of the County. The use of the CDBG Funds for the construction of the Center is considered an eligible activity under 24 C.F.R. 570.201(e) – public services. The Grantee is prohibited from using the Grant or personnel employed in the administration of the Project for: political activities; religious activities; to promote religious interests; for the benefit of a religious organization; lobbying; political patronage; or nepotism activities.

(b) St. Paul's shall ensure that the operation of the Center meets a national objective under 24 C.F.R. 570.208(a)(2) as a "limited clientele activity" which "benefits low and moderate income persons." To meet this national objective, the Center must serve a population, at least fifty-one percent (51%) of which, are low or moderate income persons. "Low or moderate income person" means a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD.

Section 2.3            Conditions Precedent to Disbursement of Grant Funds.

The disbursements made pursuant to this Section 2.3 may not exceed Nine Hundred Fifty Thousand Dollars (\$950,000). The County is not obligated to disburse any portion of the Grant, or to take any other action under this Agreement unless all of the following conditions have been and continue to be satisfied:

(a) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement;

(b) St. Paul's and RCD have entered into the Ground Floor Lease;

(c) St. Paul's and RCD have provided the County with copies of their respective organizational documents and a copy of their respective authorizing resolution, approving the transactions contemplated under this Agreement, and authorizing their respective execution of this Agreement;

(d) There exists no material adverse change in the financial condition of St. Paul's and RCD from that shown by the financial statements and other data and information furnished by St. Paul's and RCD to the County prior to the date of this Agreement;

(e) St. Paul's and RCD have furnished the County with evidence of the insurance coverage meeting the requirements of Section 4.10 below;

(f) St. Paul's and RCD have executed and delivered to the County this Agreement and has caused all other documents, instruments, and policies required under this Agreement to be delivered to the County;

(g) All environmental review necessary for the Project has been completed, and RCD has provided the County evidence of planned compliance with all NEPA requirements and mitigation measures applicable to construction, and evidence of compliance with all NEPA requirements and mitigation measures applicable to preconstruction;

(h) Grantee has obtained all permits and approvals necessary for the Project;

(i) The County has received and approved the Bid Package for the subcontractors for the Project pursuant to Section 3.2 below;

(j) The County has received and approved the general contractor's construction contract that RCD has entered or proposes to enter for the Project pursuant to Section 3.3 below;

(k) The County has received and approved labor and material (payment) bonds and performance bonds as required pursuant to Section 3.4 below;

(l) RCD has provided the County a certification from the project architect or qualified accessibility specialist that the construction plans are in conformance with the Accessibility Requirements;

(m) The County has determined the undisbursed proceeds of the Grant, together with other funds or firm commitments for funds that Grantee has obtained in connection with the Project, are not less than the amount the County determines is necessary to pay for the Project and to satisfy all of the covenants contained in this Agreement; and

(n) The County has received a written draw request from RCD, including: (i) certification that the condition set forth in Section 2.3(a) continues to be satisfied; (ii) certification that the proposed uses of funds is consistent with the Approved Development Budget; (iii) the amount of funds needed; and, (iv) where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay any contractor in connection with the Project, the written request must be accompanied by: (1) certification by the Project architect reasonably acceptable to the County that the work for which disbursement is requested has been completed (although the County reserves the right to inspect the Premises and make an independent evaluation); and (2) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County.

#### Section 2.4 Conditions Precedent to Disbursement of Retention.

The County is not obligated to disburse the Retention Amount unless the following conditions precedent are satisfied:

(a) The County has received from RCD copies of the certificate of occupancy or equivalent final permit sign-offs for the Center;

(b) The County has received from St. Paul's and RCD current evidence of the insurance coverage meeting the requirements of Section 4.10 below;

(c) The County has approved the Service Provider;

(d) The County has approved the Sublease and received from St. Paul's a copy of the Sublease;

(e) The County has received from RCD all relevant contract activity information, including compliance with Section 3 requirements and minority-owned (MBE) and women-owned (WBE) business requirements;

(f) If Grantee was required to comply with relocation the County has received from RCD evidence of compliance with all applicable relocation requirements;

(g) The County has received from St. Paul's contact information for the Service Provider;

(h) If Grantee is required to pay prevailing wages under the Davis-Bacon Act (40 U.S.C. 3141-3148), the County has received confirmation that RCD has submitted all certified payrolls to the County, and any identified payment issues have been resolved, or RCD is working diligently to resolve any such issues;

(i) The County has received from RCD evidence of compliance with all NEPA mitigation requirements as set forth in Exhibit C; and

(j) The County has received a written draw request from RCD, including certification that the condition set forth in Section 2.3(a) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Approved Development Budget, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. RCD shall apply the disbursement for the purpose(s) requested.

Section 2.5        Repayment Obligation.

Subject to Sections 6.1 and 6.2, no repayment of the Grant is required for the Term.

ARTICLE 3    CONSTRUCTION OF THE CENTER

Section 3.1        Permits and Approvals.

Grantee shall obtain all permits or permit ready letter and approvals necessary for the construction of the New Building no later than March 31, 2018, or such later date that the County approves in writing.

Section 3.2        Bid Package.

Not later than thirty (30) days prior to RCD's proposed date for advertising the Bid Package, RCD shall submit to the County a copy of the Project general contractor's proposed Bid Package. The County, shall approve or disapprove the Bid Package within fifteen (15) days after receipt of the Bid Package. If the County rejects the proposed Bid Package the reasons therefore must be given to RCD. RCD will then have fifteen (15) days to revise the proposed Bid Package and resubmit it to the County. The County will then have fifteen (15) days to review and approve RCD's new or corrected Bid Package. The provisions of this Section will continue to apply until a proposed Bid Package has been approved by the County. RCD may not publish a proposed Bid Package until it has been approved by the County.

Section 3.3        Construction Contract.

(a) Not later than fifteen (15) days prior to the proposed Commencement of Construction, RCD shall submit to the County for approval a draft of the proposed construction contract for the Center. All construction work and professional services are to be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California. Each contract that RCD enters for the Project is to provide that at least ten percent (10%) of the costs incurred will be payable only upon completion of the construction, subject to early release of retention for specified subcontractors upon approval by



the County. The construction contract will include all applicable CDBG requirements set forth in Section 4.5. The County's approval of the construction contract may not be deemed to constitute approval of or concurrence with any term or condition of the construction contract except as such term or condition may be required by this Agreement.

(b) Upon receipt by the County of the proposed construction contract, the County shall promptly review same and approve or disapprove it within ten (10) days. If the construction contract is not approved by the County, the County shall set forth in writing and notify RCD of the County's reasons for withholding such approval. RCD shall thereafter submit a revised construction contract for the County's approval, which approval is to be granted or denied in ten (10) days in accordance with the procedures set forth above. Any construction contract executed by RCD for the Center is to be in the form approved by the County.

#### Section 3.4      Construction Bonds.

Not later than thirty (30) days prior to the proposed Commencement of Construction RCD shall deliver to the County copies of labor and material bonds and performance bonds for the Project in an amount equal to one hundred percent (100%) of the scheduled cost of the Project. Such bonds must name the County as a co-obligee.

#### Section 3.5      Commencement of Construction.

Commencement of Construction of the Center will occur subsequent to commencement of construction of the New Building. RCD shall provide the County notice of Commencement of Construction. For the purposes of this Agreement, "Commencement of Construction" means the date set for the start of the Project in the notice to proceed issued by RCD to the general contractor.

#### Section 3.6      Completion of Construction.

(a) RCD shall diligently prosecute the Project to completion, and shall cause the Project to be completed no later than July 30, 2019 or such later date that the County approves in writing.

(b) RCD shall give notice to the County upon completion of the Project. Upon receipt of such notice the County will perform an inspection of the Premises to determine if the Center was constructed in accordance with this Agreement. If the County determines the Center was not constructed in accordance with the terms of this Agreement, the County will provide RCD with a written report of the deficiencies. RCD shall correct such deficiencies within the timeframe set forth in the notice provided to RCD by the County.

#### Section 3.7      Changes; Construction Pursuant to Plans and Laws.

(a) Changes. RCD shall construct the Center in conformance with: (i) the plans and specifications approved by the Building Division of the City's Community and Economic Development Department; and (ii) the Approved Development Budget. RCD shall notify the County in a timely manner of any changes in the work required to be performed under this Agreement, including any additions, changes, or deletions to the plans and specifications

approved by the City. Written authorization from the County must be obtained before any of the following changes, additions, or deletions in work for the Project may be performed: (i) any change in the work the cost of which exceeds Twenty-Five Thousand Dollars (\$25,000); or (ii) any set of changes in the work the cost of which cumulatively exceeds Fifty Thousand Dollars (\$50,000) or ten percent (10%) of the Grant amount, whichever is less; or (iii) any material change in building materials or equipment, specifications, or the structural or architectural design or appearance of the Center as provided for in the plans and specifications approved by the City. The County's consent to any additions, changes, or deletions to the work does not relieve or release Grantee from any other obligations under this Agreement, or relieve or release Grantee or its surety from any surety bond.

(b) Compliance with Laws. RCD shall cause all work performed in connection with the Project to be performed in compliance with:

(i) all applicable laws, codes (including building codes and codes applicable to the mitigation of disasters such as earthquakes), ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter; and

(ii) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. RCD may permit the work to proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and RCD is responsible to the County for the procurement and maintenance thereof.

### Section 3.8 Prevailing Wages.

(a) Davis Bacon. RCD shall cause the Project to be in compliance with the prevailing wage requirements of the federal Davis-Bacon Act (40 U.S.C. 3141-3148). RCD shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including RCD, its contractor and subcontractors) to pay prevailing wages as determined pursuant to the prevailing wage provisions of the federal Davis-Bacon Act and implementing rules and regulations in connection with the Project or any other work undertaken or in connection with the Project. The requirements in this subsection survive the expiration of the Term.

(b) State Prevailing Wages.

(i) RCD shall:

(1) pay, and shall cause any consultants or contractors to pay, prevailing wages in the Project as those wages are determined pursuant to California Labor Code Section 1720 et seq.;

(2) cause any consultants or contractors to employ apprentices as required by California Labor Code Section 1777.5 et seq., and the implementing regulations

of the Department of Industrial Relations (the "DIR"), and to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., and implementing regulations of the DIR;

(3) keep and retain, and shall cause any consultants and contractors to keep and retain, such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed are required by California Labor Code Section 1777.5 et seq.;

(4) post at the Premises, or shall cause the contractor to post at the Premises, the applicable prevailing rates of per diem wages. Copies of the currently applicable current per diem prevailing wages are available from DIR;

(5) cause contractors and subcontractors constructing the Center to be registered as set forth in California Labor Code Section 1725.5 and provide the County evidence of such registration including all registration numbers, and the names of all contractors and subcontractors;

(6) cause all contracts to include the requirements set forth in California Labor Code Section 1720 et seq. including a copy of the California Labor Code Section Sections listed in California Labor Code Section 1775(b)(1);

(7) cause its contractors and subcontractors, in all calls for bids, bidding materials and the construction contract documents for the Project to specify that:

(A) no contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Project unless registered with the DIR pursuant to California Labor Code Section 1725.5; and

(B) the Project is subject to compliance monitoring and enforcement by the DIR.

(8) provide the County all information required by California Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within 2 days of the award of any contract (<https://www.dir.ca.gov/pwc100ext/>);

(9) cause its contractors to post job site notices, as prescribed by Title 8 California Code of Regulations 16451(d), or otherwise as required by the DIR; and

(10) cause its contractors to furnish payroll records required by California Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

(ii) RCD shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including RCD, its contractor and subcontractors) to pay prevailing wages as determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices pursuant to

California Labor Code Section 1777.5 et seq., to meet the conditions of California Labor Code Section 1771.4, and implementing regulations of the DIR, or to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and 1771.4, and the implementing regulations of the DIR, in connection with the Project. The requirements in this Section survive the expiration of the Term.

Section 3.9      Accessibility Requirements for Construction.

RCD shall cause the Center to be constructed in compliance with all applicable federal, state, and local disabled persons accessibility requirements including, but not limited to the applicable provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973, (iv) the United States Fair Housing Act, as amended, (v) the Americans With Disabilities Act of 1990, and (vi) Chapters 11A and 11B of Title 24 of the California Code of Regulations, which relate to disabled persons access (collectively, the "Accessibility Requirements"). RCD shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including RCD, its architect, contractor and subcontractors) to construct the Center in accordance with the Accessibility Requirements. The requirements in this Section survive the expiration of the Term.

Section 3.10      Equal Opportunity.

During the Project discrimination on the basis of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in the hiring, firing, promoting, or demoting of any person engaged in the construction work is not allowed.

Section 3.11      Minority and Women-Owned Contractors.

RCD shall use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the Project. RCD shall, at a minimum, notify applicable minority-owned and women-owned business firms located in Contra Costa County of bid opportunities for the Project. A listing of minority owned and women owned businesses located in the County and neighboring counties is available from the County. Documentation of such notifications must be maintained by RCD and available to the County upon request.

Section 3.12      Progress Reports.

Until such time as St. Paul's has received a certificate of occupancy from the City for the Center, RCD shall provide the County with quarterly progress reports regarding the status of the Project, including a certification that the actual construction costs to date conform to the Approved Development Budget, as it may be amended from time to time pursuant to Section 3.15 below.

Section 3.13      Construction Responsibilities.

(a) RCD is responsible for the coordination and scheduling of the work to be performed so that commencement and completion of the Project takes place in accordance with this Agreement.

(b) RCD is solely responsible for all aspects of RCD's conduct in connection with the Project, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the County with reference to the Project is solely for the purpose of determining whether RCD is properly discharging its obligations to the County, and may not be relied upon by RCD or by any third parties as a warranty or representation by the County as to the quality of the design or construction of the Center.

Section 3.14      Inspections.

Grantee shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection at the Premises by the County and by public authorities during reasonable business hours during the Term, for the purposes of determining compliance with this Agreement.

Section 3.15      Approved Development Budget; Revisions to Budget.

As of the date of this Agreement, the County has approved the Approved Development Budget set forth in Exhibit B. RCD shall submit any required amendments to the Approved Development Budget to the County for approval within five (5) days after the date RCD receives information indicating that actual costs of the Project vary or will vary from the costs shown on the Approved Development Budget. Written consent of the County will be required to amend the Approved Development Budget.

Section 3.16      NEPA Mitigation Requirements.

RCD shall comply with the NEPA mitigation requirements set forth in the attached Exhibit C in the Project.

ARTICLE 4      GRANT REQUIREMENTS

Section 4.1      Financial Accountings.

No later than sixty (60) days following completion of the Project, RCD shall provide to the County for review and approval, a financial accounting of all sources and uses of funds for the Project.

#### Section 4.2        Information.

St. Paul's and RCD shall provide any information reasonably requested by the County in connection with the Project and the Center, including (but not limited to) any information required by HUD in connection with the use of the Grant funds.

#### Section 4.3        Records.

(a)        RCD Records. RCD shall keep and maintain at its principal place of business set forth in Section 6.11 below, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Project. RCD shall cause all books, records and accounts relating to compliance with the terms, provisions, covenants and conditions of this Agreement to be kept and maintained in accordance with generally accepted accounting principles consistently applied, and to be consistent with requirements of this Agreement. RCD shall cause all books, records, and accounts of RCD to be open to and available for inspection and copying by HUD, the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. RCD shall cause copies of all tax returns and other reports that RCD may be required to furnish to any government agency to be open for inspection by the County at all reasonable times at the place that the books, records and accounts of the Center are kept. RCD shall preserve such records for a period of not less than five (5) years after their creation in compliance with all HUD records and accounting requirements. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Grant and the Project is pending at the end of the record retention period stated herein, then RCD shall retain the records until such action and all related issues are resolved. RCD shall cause the records to include all invoices, receipts, and other documents related to expenditures from the Grant funds. RCD shall cause records to be accurate and current and in a form that allows the County to comply with the record keeping requirements contained in 24 C.F.R. 570.506. Such records are to include but are not limited to:

- (i)                Records providing a full description of the construction activities undertaken with the use of the Grant funds;
- (ii)                Financial records as required by 24 C.F.R. 570.502 and 2 C.F.R. Part 200;
- (iii)                Records demonstrating compliance with MBE/WBE requirements;
- (iv)                Records demonstrating compliance with 24 C.F.R. Part 135 which implements Section 3 of the Housing Development Act of 1968; and
- (v)                Records demonstrating compliance with applicable relocation requirements, which must be retained for at least five (5) years after the date by which persons displaced from the Premises have received final payments.

(b)        St. Paul's Records. St. Paul's shall keep and maintain at its principal place



of business set forth in Section 6.11 below, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Center and the operation of the Center by the Service Provider. St. Paul's shall cause all books, records and accounts relating to compliance with the terms, provisions, covenants and conditions of this Agreement to be kept and maintained in accordance with generally accepted accounting principles consistently applied, and to be consistent with requirements of this Agreement. St. Paul's shall cause all books, records, and accounts of St. Paul's and the Service Provider to be open to and available for inspection and copying by HUD, the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. St. Paul's shall cause copies of all tax returns and other reports that St. Paul's and the Service Provider may be required to furnish to any government agency to be open for inspection by the County at all reasonable times at the place that the books, records and accounts of the Center are kept. St. Paul's shall preserve such records for a period of not less than five (5) years after their creation in compliance with all HUD records and accounting requirements. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the operation of the Center is pending at the end of the record retention period stated herein, then St. Paul's shall retain the records until such action and all related issues are resolved. St. Paul's shall cause records to be accurate and current and in a form that allows the County to comply with the record keeping requirements contained in 24 C.F.R. 570.506. The County agrees that if the Service Provider is required to provide the County records substantially similar to those listed in this Section 4.3 such as in relation to Emergency Solutions Grant funds provided to the Service Provider by the County, that provision of such records to the County will suffice for compliance with the corresponding requirements of this Section. Such records are to include but are not limited to:

(i) Records providing a full description of the operating activities undertaken with the use of the Grant funds;

(ii) Records demonstrating the eligibility of activities under the CDBG regulations set forth in 24 C.F.R. 570 et seq., and that use of the CDBG Funds meets one of the national objectives of the CDBG program set forth in 24 C.F.R. Section 570.208;

(iii) Financial records as required by 24 C.F.R. 570.502 and 2 C.F.R. Part 200;

(iv) Records demonstrating compliance with applicable relocation requirements, which must be retained for at least five (5) years after the date by which persons displaced from the Premises have received final payments; and

(v) Records demonstrating compliance with labor requirements including certified payrolls from the Project general contractor evidencing that applicable prevailing wages have been paid.

(c) The County shall notify Grantee of any records deemed insufficient. Grantee has fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Grantee must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

#### Section 4.4      County Audits.

(a) During the Project RCD shall provide the County with a copy of RCD's, annual audit, which is to include information on the use of the Grant. During the operation of the Center, St. Paul's shall provide the County with a copy of the Service Provider's annual audit, which is to include information on the Service Provider's activities pertaining to the Center. RCD shall, and St. Paul's shall cause the Service Provider to, follow the applicable audit requirements of 2 C.F.R. Part 200.

(b) In addition, the County may, at any time, audit all of RCD's, St. Paul's' and the Service Provider's books, records, and accounts pertaining to the Project and the operation of the Center as applicable. Any such audit is to be conducted during normal business hours at the principal place of business of Grantee and wherever records are kept. Immediately after the completion of an audit, the County shall deliver a copy of the results of the audit to Grantee.

#### Section 4.5      CDBG Requirements.

(a) RCD shall comply with all applicable laws and regulations governing the use of the CDBG Funds as set forth in 24 C.F.R. Part 570 in the Project. St. Paul's shall comply, and shall cause the Service Provider to comply with all applicable laws and regulations governing the use of the CDBG Funds as set forth in 24 C.F.R. Part 570 in the operation of the Center.

(b) The laws and regulations governing the use of the Grant funds and operation of the Center include (but are not limited to) the following:

(i) Environmental and Historic Preservation. 24 C.F.R. Part 58, which prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5;

(vi) Applicability of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The applicable policies, guidelines, and requirements of 2 C.F.R. Part 200;

(vii) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24;

(viii) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Construction Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608;

(ix) Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35;

(x) Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; 24 C.F.R. 570.606; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq. If and to the extent that development of the Center results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then Grantee shall comply with all applicable local, state, and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. Grantee shall prepare and submit a relocation plan to the County for approval. Grantee is solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. Grantee shall indemnify, defend (with counsel reasonably chosen by the County), and hold harmless the County against all claims that arise out of relocation obligations to residential tenants, homeowners, or businesses permanently or temporarily displaced by the Center;

(xi) Discrimination against the Disabled. The requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Section 504 of the Construction Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto;

(xii) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 1500, as amended from time to time;

(xiii) Uniform Administrative Requirements. The provisions of 24 C.F.R. 570.502 regarding cost and auditing requirements;

(xiv) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the Project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the Project. RCD agrees to include the following language in all subcontracts executed under this Agreement:

(1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended,

12 U.S.C. 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(2) The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(3) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause; and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

(5) The contractor will certify that any vacant employment positions, including training positions, that are filled (A) after the contractor is selected but before the contract is executed, and (B) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.

(6) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

(xv) Labor Standards. The labor requirements set forth in 24 C.F.R. Section 570.603; the prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 U.S.C. 3141-3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended;

(xvi) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24;

(xvii) Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 C.F.R. Part 87;

(xviii) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. Section 470) and the procedures set forth in 36 C.F.R. Part 800. If archeological, cultural, or historic period resources are discovered during construction, all construction work must come to a halt and Grantee shall immediately notify the County. Grantee shall not alter or move the discovered material(s) until all appropriate procedures for "post-review discoveries" set forth in Section 106 of the National Historic Preservation Act have taken place, which include, but are not limited to, consultation with the California State Historic Preservation Officer and evaluation of the discovered material(s) by a qualified professional archeologist;

(xix) Flood Disaster Protection. The requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234) (the "Flood Act"). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of the Flood Act, for use in an area identified by HUD as having special flood hazards which is not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of the Flood Act. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program is subject to the mandatory purchase of flood insurance requirements of Section 102(a) of the Flood Act. If the Property is located in an area identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq.*, the property owner and its successors or assigns must obtain and maintain, during the ownership of the Property, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of the Flood Act. Such provisions are required notwithstanding the fact that the construction on the Property is not itself funded with assistance provided under this Agreement;

(xx) Religious Organizations. If the Grantee is a religious organization, as defined by the CDBG requirements, the Grantee shall comply with all conditions prescribed by HUD for the use of CDBG Funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 C.F.R. 570.200(j), and CPD Notice 04-10;

(xxi) Violence Against Women. The requirements of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113-4, 127 Stat. 54) applicable to HUD-funded programs;

(xxii) Conflict of Interest. The conflict of interest provisions set forth in 24 C.F.R. 570.611; and

(xxiii) HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the Grant funds.

#### Section 4.6 Maintenance.

During the course of operation of the Center, St. Paul's shall and shall cause the Service Provider to maintain the Center in good repair and in a neat, clean and orderly condition.

#### Section 4.7 Operation of Center.

(a) St. Paul's shall and shall cause the Service Provider to operate the Center at all times during the Term in accordance with (i) all applicable laws, codes, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (ii) HUD's requirements for use of CDBG Funds. St. Paul's shall ensure that the Service Provider uses the Center only for CDBG eligible uses during the Term. St. Paul's shall cause the Sublease to include a requirement that the Center be operated in accordance with this Section 4.7 and that the Service Provider provide St. Paul's with the information pertaining to the Service Provider required by the County in this Agreement.

(b) St. Paul's shall cause the Center to be operated at all times during the Term in compliance with the Accessibility Requirements. St. Paul's shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including St. Paul's and the Service Provider) to operate the Center in accordance with the Accessibility Requirements. The indemnification requirement in this Section survives the expiration of the Term.

#### Section 4.8 Nondiscrimination.

St. Paul's covenants by and for itself and its successors and assigns that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age (except for lawful senior housing in accordance with state and federal law), familial status, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Center, nor may St. Paul's or any person claiming under or through St. Paul's establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number,



use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Center. The foregoing covenant will run with the land. St. Paul's shall cause the Sublease to include a requirement that the Service Provider operate the Center in accordance with this Section 4.8.

#### Section 4.9      Transfer.

(a) For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of: (i) any rights and/or duties under this Agreement; and/or (ii) any interest in the Center, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest (other than the Sublease), a security interest, or an interest evidenced by a land contract by which possession of the Center is transferred and St. Paul's retains title.

(b) No Transfer is permitted without the prior written consent of the County, which the County may withhold in its sole discretion. The Grant will automatically accelerate and be due in full upon any Transfer made without the prior written consent of the County.

(c) In the event the Sublease is terminated, St. Paul's shall diligently seek a replacement Service Provider. During the time that St. Paul's is seeking a replacement Service Provider the obligation to operate the Center is suspended. The selection of a new Service Provider is subject to the consent of the County. If within one hundred twenty (120) days of termination of the Sublease St. Paul's fails to enter into a sublease with a replacement Service Provider or fails to operate the Center itself, St. Paul's will be in default under this Agreement and the County may exercise its rights and remedies under this Agreement.

#### Section 4.10      Insurance Requirements.

(a) St. Paul's and RCD as applicable shall maintain the following insurance coverage throughout the Term of the Grant:

(i) Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

(ii) Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(iii) Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable.

(iv) Builders' Risk insurance during the course of construction, and upon completion of construction, property insurance covering the Center, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the County,

naming the County as a Loss Payee, as its interests may appear. Flood insurance must be obtained if required by applicable federal regulations.

(v) Commercial crime insurance covering all officers and employees, for loss of Grant proceeds caused by dishonesty, in an amount approved by the County, naming the County a Loss Payee, as its interests may appear.

(b) St. Paul's and RCD shall cause any general contractor, agent, or subcontractor working on the Center under direct contract with St. Paul's or RCD, or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (i), (ii), and (iii) above, except that the limit of liability for commercial general liability insurance for subcontractors must be One Million Dollars (\$1,000,000), and must require that such insurance will meet all of the general requirements of subsections (d) and (e) below.

(c) The required insurance must be provided under an occurrence form, and St. Paul's and RCD shall maintain the coverage described in subsection (a) continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit must be three times the occurrence limits specified above.

(d) Commercial General Liability, Automobile Liability and Property insurance policies must be endorsed to name as an additional insured the County and its officers, agents, employees and members of the County Board of Supervisors.

(e) All policies and bonds are to contain: (i) the agreement of the insurer to give the County at least thirty (30) days' notice prior to cancellation (including, without limitation, for non-payment of premium) or any material change in said policies; (ii) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the County; (iii) a provision that no act or omission of Grantee shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (iv) a waiver by the insurer of all rights of subrogation against the County and its authorized parties in connection with any loss or damage thereby insured against.

#### Section 4.11 Covenants Regarding Center.

(a) RCD shall promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by RCD under the Ground Floor Lease. RCD shall preserve at all times the full term and enforceability of the Ground Floor Lease, and not release, forego, alter, amend, cancel, surrender, or materially modify its rights under the Ground Floor Lease, or exercise any rights it may have to voluntarily terminate the Ground Floor Lease, or permit any termination material modification or surrender of the Ground Floor Lease without the County's prior written consent.

(b) St. Paul's shall promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by St. Paul's under the Ground Floor Lease and the Sublease, and to do all things necessary to preserve and to keep unimpaired its rights under the Ground Floor Lease and Sublease.

(c) St. Paul's shall preserve at all times the full term and enforceability of the Ground Floor Lease and the Sublease, and not release, forego, alter, amend, cancel, surrender, or materially modify its rights under the Ground Floor Lease or the Sublease, or exercise any rights it may have to voluntarily terminate the Ground Floor Lease or the Sublease, or permit any termination material modification or surrender of the Ground Floor Lease or the Sublease without the County's prior written consent.

(d) St. Paul's shall cause the Service Provider to perform and observe all of the terms, covenants and conditions required to be performed and observed by the Service Provider under the Sublease.

(e) St. Paul's shall promptly notify the County in writing of the existence of any default under the Ground Floor Lease or the Sublease, and provide the County copies of any notice of default.

(f) St. Paul's may not amend, modify, supplement, cancel or terminate the Ground Floor Lease or the Sublease without the prior written consent of the County. St. Paul's shall provide the County copies of all amendments, modifications, and supplements to the Ground Floor Lease or the Sublease.

(g) Neither RCD nor St. Paul's may encumber the Ground Floor Lease with any liens without the prior written consent of the County.

#### Section 4.12                      Anti-Lobbying Certification.

(a) St. Paul's and RCD certify, to the best of their respective knowledge or belief, that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(b) This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars

(\$100,000) for such failure.

## ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF GRANTEE

### Section 5.1 Representations and Warranties.

St. Paul's and RCD each hereby represent and warrant to the County as follows and acknowledge, understand, and agree that the representations and warranties set forth in this Article 5 are deemed to be continuing during all times when any portion of the Grant remains outstanding:

(a) Organization. Grantee is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Grantee. Grantee has full power and authority to execute and deliver this Agreement and to make and accept the Grant contemplated hereunder, to execute and deliver this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Grantee, and all actions required under Grantee's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and all other documents or instruments executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Grantee enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will: (i) conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever that is binding on Grantee, or conflict with any provision of the organizational documents of Grantee, or conflict with any agreement to which Grantee is a party; or (ii) result in the creation or imposition of any lien upon any assets or property of Grantee, other than liens established pursuant hereto.

(f) Compliance with Laws; Consents and Approvals. The Project will

comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Grantee is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Grantee, threatened against or affecting Grantee or the Project, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Grantee, materially affect Grantee's ability to perform under this Agreement.

(h) Financial Statements. The financial statements of Grantee and other financial data and information furnished by Grantee to the County fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Grantee from that shown by such financial statements and other data and information.

(i) Sufficient Funds. Grantee holds sufficient funds and/or binding commitments for sufficient funds to complete the Project in accordance with the terms of this Agreement.

## ARTICLE 6 DEFAULT AND REMEDIES

### Section 6.1 Events of Default.

(a) RCD Event of Default. Any one or more of the following constitutes a "RCD Event of Default" by RCD under this Agreement:

(i) Failure to Construct. If RCD fails to obtain permits, or to commence and prosecute the Project to completion, within the times set forth in Article 3 above.

(ii) Default under Leases. If there is a default by RCD under the Ground Floor Lease.

(iii) Breach of Covenants. If RCD fails to duly perform, comply with, or observe any other condition, term, or covenant contained in this Agreement that is an obligation of RCD (other than as set forth in Subsection (i) and (ii) and RCD fails to cure such default within thirty (30) days after receipt of written notice thereof from the County to RCD.

(b) St. Paul's Event of Default. Any one or more of the following constitutes a "St. Paul's Event of Default" by St. Paul's under this Agreement:

(i) Default under Leases. If there is a default by St. Paul's under the Ground Floor Lease or the Sublease.

(ii) Failure to Operate Center. If, within the time set forth in Section 4.9(c), St. Paul's fails to enter into a sublease with a replacement Service Provider or fails to

operate the Center itself.

(iii) Breach of Covenants. If St. Paul's fails to duly perform, comply with, or observe any other condition, term, or covenant contained in this Agreement that is an obligation of St. Paul's (other than as set forth in Subsection (i) and (ii) and St. Paul's fails to cure such default within thirty (30) days after receipt of written notice thereof from the County to St. Paul's.

#### Section 6.2 Remedies.

Upon the occurrence of a RCD Event of Default or a St. Paul's Event of Default as applicable, and until such Event of Default is cured or waived, the County is relieved of any obligation to disburse any portion of the Grant. In addition, upon the occurrence of a RCD Event of Default or a St. Paul's Event of Default as applicable, and following the expiration of all applicable notice and cure periods the County may proceed with any and all remedies available to it under law, and this Agreement. Such remedies include but are not limited to the following:

##### (a) Upon a RCD Event of Default.

(i) Repayment of Grant. The County may demand that RCD immediately repay the Grant to the County. RCD is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the County in connection with the collection of the Grant.

(ii) Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require RCD to perform its obligations and covenants under this Agreement or to enjoin acts on things that may be unlawful or in violation of the provisions of this Agreement.

##### (b) Upon a St. Paul's Event of Default.

(i) Repayment of Grant. The County may demand that St. Paul's immediately repay the Grant to the County. St. Paul's is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the County in connection with the collection of the Grant.

(ii) Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require St. Paul's to perform its obligations and covenants under this Agreement or to enjoin acts on things that may be unlawful or in violation of the provisions of this Agreement.

#### Section 6.3 Remedies Cumulative.

No right, power, or remedy given to the County by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy is cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Grantee and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies will operate as a waiver thereof, nor does any single or partial exercise



by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

## ARTICLE 7 GENERAL PROVISIONS

### Section 7.1 Relationship of Parties.

Nothing contained in this Agreement is to be interpreted or understood by any of the parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Grantee or its agents, employees or contractors, and Grantee will at all times be deemed an independent contractor and to be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Grantee has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regards to the construction and operation of the Center, Grantee is solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and must include requirements in each contract that contractors are solely responsible for similar matters relating to their employees. Grantee is solely responsible for its own acts and those of its agents and employees.

### Section 7.2 No Claims.

Nothing contained in this Agreement creates or justifies any claim against the County by any person that Grantee may have employed or with whom Grantee may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the construction or operation of the Center, and Grantee shall include similar requirements in any contracts entered into for the construction or operation of the Center.

### Section 7.3 Amendments.

No alteration or variation of the terms of this Agreement is valid unless made in writing by the parties. The County Director, Department of Conservation and Development is authorized to execute on behalf of the County amendments to this Agreement as long as any discretionary change in the amount or terms of this Agreement is approved by the County's Board of Supervisors.

### Section 7.4 Indemnification.

Grantee shall indemnify, defend and hold the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the development, construction, marketing and operation of the Center, except to the extent such claim arises from the gross negligence or willful

misconduct of the County, its agents, and its employees. The provisions of this Section will survive the expiration of the Term.

Section 7.5            Non-Liability of County Officials, Employees and Agents.

No member, official, employee or agent of the County is personally liable to Grantee in the event of any default or breach of this Agreement by the County or for any amount that may become due from the County pursuant to this Agreement.

Section 7.6            No Third Party Beneficiaries.

There are no third party beneficiaries to this Agreement.

Section 7.7            Discretion Retained By County.

The County's execution of this Agreement in no way limits any discretion the County may have in the permit and approval process related to the Project.

Section 7.8            Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Section 7.8(b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have a financial interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have immediate family or business ties, during, or at any time after, such person's tenure. Grantee shall exercise due diligence to ensure that the prohibition in this Section 7.8(a) is followed.

(b) The conflict of interest provisions of Section 7.8(a) above apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the County.

(c) In accordance with California Government Code Section 1090 and the Political Reform Act, California Government Code section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of Grantee, or immediate family member of any of the preceding, may make or participate in a decision, made by the County or a County board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Grantee. Interpretation of this section is governed by the definitions and provisions used in the Political Reform Act, California Government Code Section 87100 et seq., its implementing regulations manual and codes, and California Government Code Section 1090.

Section 7.9            Notices, Demands and Communications.

All notices required or permitted by any provision of this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by

express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

County: County of Contra Costa  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attention: Assistant Deputy Director

St. Paul's: St. Paul's Episcopal Church in Walnut Creek, California  
1924 Trinity Avenue  
Walnut Creek, CA 94596  
Attention: Parish Administrator

RCD: Resources for Community Development  
2220 Oxford Street  
Berkeley, CA 94720  
Attention: Executive Director

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section. Receipt will be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.10 Applicable Law.

This Agreement is governed by the laws of the State of California.

Section 7.11 Parties Bound.

Except as otherwise limited herein, this Agreement binds and inures to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors, and assigns.

Section 7.12 Attorneys' Fees.

If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees and costs of suit from the other party.

Section 7.13 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 7.14      Force Majeure.

In addition to specific provisions of this Agreement, performance by either party during the construction or operation of the Center will not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, quarantine restrictions, freight embargoes, lack of transportation, or court order. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other party within ten (10) days after receipt of the notice. In no event will the County be required to agree to cumulative delays in excess of one hundred eighty (180) days.

Section 7.15      County Approval.

The County has authorized the County Director, Department of Conservation and Development to execute this Agreement and to execute estoppel certificates concerning the status of the Grant and the existence of Grantee defaults under this Agreement. Where in this Agreement, information or documents are required to be provided to the County, and such information or documents are subject to the review, approval, or consent of the County, Grantee shall provide such information or documents to the Assistant Deputy Director, and the Assistant Deputy Director shall provide the review, approval, or consent required by the County under this Agreement.

Section 7.16      Waivers.

Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Grantee or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Grantee to perform any obligation under this Agreement does not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Grantee may not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

Section 7.17      Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Section 7.18      Entire Understanding of the Parties.

This Agreement constitutes the entire agreement of the parties with respect to the Grant.

Section 7.19      Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

The parties are executing this Agreement as of the date first written above.

**COUNTY:**

COUNTY OF CONTRA COSTA, a political subdivision of  
the State of California

By: \_\_\_\_\_  
John Kopchik  
Director, Department of Conservation and  
Development

APPROVED AS TO FORM:

SHARON L. ANDERSON  
County Counsel

By: \_\_\_\_\_  
Kathleen Andrus  
Deputy County Counsel

**ST. PAUL'S:**

ST. PAUL'S EPISCOPAL CHURCH IN WALNUT  
CREEK, CALIFORNIA

By: \_\_\_\_\_

**RCD:**

RESOURCES FOR COMMUNITY DEVELOPMENT, a  
California nonprofit public benefit corporation

By: \_\_\_\_\_  
Daniel Sawislak, Executive Director

EXHIBIT A

DIAGRAM OF THE CENTER



EXHIBIT B

APPROVED DEVELOPMENT BUDGET

EXHIBIT C

NEPA MITIGATION REQUIREMENTS



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# CDBG REVOCABLE GRANT AGREEMENT

Among

COUNTY OF CONTRA COSTA

And

ST. PAUL'S EPISCOPAL CHURCH IN WALNUT CREEK, CALIFORNIA

And

RESOURCES FOR COMMUNITY DEVELOPMENT

St Paul's Social Services Facility

dated March 1, 2018



RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Contra Costa County  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Assistant Deputy Director

No fee for recording pursuant to  
Government Code Section 27383

---

HOME/HOPWA REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS  
(St. Paul's Commons)

This HOME/HOPWA Regulatory Agreement and Declaration of Restrictive Covenants (the "HOME/HOPWA Regulatory Agreement") is dated March 1, 2018 and is between the County of Contra Costa, a political subdivision of the State of California (the "County"), and SP Commons, L.P., a California limited partnership ("Borrower").

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this HOME/HOPWA Regulatory Agreement.

B. The County has received Home Investment Partnerships Act ("HOME") funds from the United States Department of Housing and Urban Development ("HUD") pursuant to the Cranston-Gonzales National Housing Act of 1990 ("HOME Funds"). The HOME Funds must be used by the County in accordance with 24 C.F.R. Part 92.

C. The County has received Housing Opportunities for Persons with AIDS Program funds from HUD pursuant to the HOPWA program ("HOPWA Funds"). The HOPWA Funds are available to and administered by the County, as the subrecipient of the City of Oakland, which is the representative for the Alameda-Contra Costa County Eligible Metropolitan Area. The HOPWA Funds must be used by the County in accordance with 24 C.F.R. Part 574.

D. St. Paul's Episcopal Church in Walnut Creek, California ("St. Paul's") is the owner of that certain real property located at 1860 Trinity Avenue in the City of Walnut Creek, County of Contra Costa, State of California, as more particularly described in Exhibit A (the "Property"). Concurrently herewith Borrower is entering into a ground lease agreement with St. Paul's (the "Ground Lease"), pursuant to which Borrower will acquire a leasehold interest in the Property from St. Paul's for a period of seventy-seven (77) years (the "Leasehold Interest"). Borrower intends to demolish the existing improvements on the Property and construct forty-five

(45) multifamily housing units on the Property for rental to extremely low, very low and low income households, including one (1) manager's unit, and attendant site improvements (the "Housing Improvements"). The Property will also be improved with a social service facility that will be leased back to St. Paul's and will house a homeless day shelter and service program (the "Service Facility Improvements"). The Housing Improvements and the Service Facility Improvements are collectively, the "Improvements". Borrower's Leasehold Interest and Borrower's fee interest in the Improvements, are collectively, the "Development".

E. Pursuant to a HOME and HOPWA Loan Agreement by and between the County and Borrower of even date herewith (the "Loan Agreement"), the County is lending Borrower Two Million Six Hundred Forty-Two Thousand Hundred Dollars (\$2,642,000) of HOME Funds (the "HOME Loan") and Two Hundred Thirty-Two Thousand Six Hundred Eighty-One Dollars (\$232,681) of HOPWA Funds (the "HOPWA Loan") for a total loan amount of Two Million Eight Hundred Seventy-Four Thousand Six Hundred Eighty-One Dollars (\$2,874,681) (the "Loan").

F. The County has the authority to lend the Loan to Borrower pursuant to Government Code Section 26227, which authorizes counties to spend county funds for programs that will further a county's public purposes. In addition, the County has the authority to loan (i) the HOME Funds pursuant to 24 C.F.R. 92.205 and (ii) the HOPWA Funds pursuant to 24 C.F.R. 574.300.

G. The County has agreed to make the Loan on the condition that Borrower maintain and operate the Development in accordance with restrictions set forth in this HOME/HOPWA Regulatory Agreement and the County Regulatory Agreement, and in the related documents evidencing the Loan. Eighteen (18) of the Units are restricted by the County pursuant to this HOME/HOPWA Regulatory Agreement.

H. As it applies to the HOME/HOPWA Assisted Units this HOME/HOPWA Regulatory Agreement will be in effect for the HOME Term. The County Regulatory Agreement as it applies to the HOME/HOPWA Assisted Units will be in effect for fifty-five (55) years from the Completion Date which term overlaps with but is longer than the HOME Term. Pursuant to Section 6.15 below, compliance with the terms of this HOME/HOPWA Regulatory Agreement will be deemed compliance with the County Regulatory Agreement during the HOME Term.

I. In consideration of receipt of the Loan at an interest rate substantially below the market rate, Borrower agrees to observe all the terms and conditions set forth below.

The parties therefore agree as follows:

## AGREEMENT

### ARTICLE 1 DEFINITIONS

#### 1.1 Definitions.

The following terms have the following meanings:

- (a) "Accessibility Requirements" has the meaning set forth in Section 2.1(d).
- (b) "Actual Household Size" means the actual number of persons in the applicable household.
- (c) "Adjusted Income" means, (i) with respect to the Tenant of each HOPWA-Assisted Unit, the Tenant's total anticipated annual income as defined in 24 CFR 5.609 and calculated pursuant to 24 CFR 5.611, and as further referenced in 24 CFR 574.310(d)(1), and (ii) with respect to the Tenant of each HOME-Assisted Unit the Tenant's total anticipated annual income as defined in 24 CFR 5.609 and calculated pursuant to 24 CFR 5.611, and as further referenced in 24 CFR 92.203(b)(1).
- (d) "Assumed Household Size" means the household size adjusted for family size appropriate to the unit as such term is defined in Health & Safety Code Section 50052.5(h), provided that if a different calculation is required by the HOME regulations, such calculation must be used for the HOME-Assisted Units.
- (e) "City" means the City of Walnut Creek, California, a municipal corporation.
- (f) "Completion Date" means the date a final certificate of occupancy, or equivalent document is issued by the City to certify that the Housing Improvements may be legally occupied.
- (g) "County Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith, between the County and Borrower evidencing County requirements applicable to the Loan, to be recorded against the Development concurrently herewith.
- (h) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing of even date herewith by and among Borrower, as trustor, North American Title Company, as trustee, and the County, as beneficiary, that encumbers the Development to secure repayment of the Loan and Borrower's performance of the Loan Documents.
- (i) "Development" has the meaning set forth in Paragraph D of the Recitals.

(j) "Extremely Low Income Household" means a household with an Adjusted Income that does not exceed thirty percent (30%) of Median Income, adjusted for Actual Household Size.

(k) "Extremely Low Income Rent" means the maximum allowable rent for an Extremely Low Income Unit pursuant to Section 2.2(b) below.

(l) "Extremely Low Income Units" means the Units which, pursuant to Section 2.1(a) (1) below, are required to be occupied by Extremely Low Income Households.

(m) "Ground Lease" has the meaning set forth in Paragraph D of the Recitals.

(n) "High HOME Rent" means a monthly Rent that does not exceed the maximum rent published by HUD for a Low Income Household for the applicable bedroom size as set forth in 24 C.F.R. 92.252(a).

(o) "HOME" has the meaning set forth in Paragraph B of the Recitals.

(p) "HOME-Assisted Units" means the eighteen (18) Units to be constructed on the Leasehold Interest that are (i) restricted to occupancy by Extremely Low Income Households, and Thirty-Five Percent Income Households in compliance with Section 2.1(b) below, and (ii) are "floating" Units as defined in 24 C.F.R. 92.252(j).

(q) "HOME Funds" has the meaning set forth in Paragraph B of the Recitals.

(r) "HOME Loan" has the meaning set forth in Paragraph E of the Recitals.

(s) "HOME Term" means the term of this HOME/HOPWA Regulatory Agreement which commences as of the date of this HOME/HOPWA Regulatory Agreement, and unless sooner terminated pursuant to the terms of this HOME/HOPWA Regulatory Agreement, expires on the twenty-first (21<sup>st</sup>) anniversary of the Completion Date; provided, however, if a record of the Completion Date cannot be located or established, the HOME Term will expire on the twenty-third (23<sup>rd</sup>) anniversary of this HOME/HOPWA Regulatory Agreement.

(t) "HOME/HOPWA Assisted Units" means the HOME-Assisted Units and HOPWA-Assisted Units.

(u) "HOME/HOPWA Regulatory Agreement" has the meaning set forth in the first paragraph of this HOME/HOPWA Regulatory Agreement.

(v) "HOPWA" means the Housing Opportunities for Persons with AIDS Program pursuant to the AIDS Housing Opportunity Act (42 USC 12901 et. seq.), as amended by the Housing and Community Development Act of 1992 (42 USC 5301 et. seq.).

(w) "HOPWA-Assisted Units" means the two (2) Units to be constructed on the Leasehold Interest that are (i) restricted to occupancy by Extremely Low Income Households

in compliance with Section 2.1(a) below and (ii) restricted to occupancy by HOPWA-Eligible Households during the HOPWA Term.

(x) "HOPWA-Eligible Household" means a household that (i) includes at least one Person with HIV/AIDS, and (ii) satisfies the definition of an Extremely Low Income Household or Forty Percent Income Household in compliance with Section 2.1(a) below.

(y) "HOPWA Funds" has the meaning set forth in Paragraph C of the Recitals.

(z) "HOPWA Loan" has the meaning set forth in Paragraph E of the Recitals.

(aa) "HOPWA Regulations" means the regulations set forth in 24 C.F.R. Part 574.

(bb) "HOPWA Term" means the period of time that commences on the date of this HOME/HOPWA Regulatory Agreement and expires on the tenth (10<sup>th</sup>) anniversary of the Completion Date, unless earlier terminated pursuant to Section 2.5; provided, however, if a record of the Completion Date cannot be located or established, the HOPWA Term will expire on the twelfth (12<sup>th</sup>) anniversary of this HOME/HOPWA Regulatory Agreement.

(cc) "Housing Improvements" has the meaning set forth in Paragraph D of the Recitals.

(dd) "HUD" has the meaning set forth in Paragraph B of the Recitals.

(ee) "Improvements" has the meaning set forth in Paragraph D of the Recitals.

(ff) "Intercreditor Agreement" means that certain intercreditor agreement of even date herewith among the City, the County, and Borrower.

(gg) "Leasehold Interest" has the meaning set forth in Paragraph D of the Recitals.

(hh) "Loan" has the meaning set forth in Paragraph E of the Recitals.

(ii) "Loan Agreement" has the meaning set forth in Paragraph E of the Recitals.

(jj) "Loan Documents" means the documents evidencing the Loan including this HOME/HOPWA Regulatory Agreement, the Note, the Loan Agreement, the Intercreditor Agreement, the County Regulatory Agreement, and the Deed of Trust.

(kk) "Low HOME Rent" means a monthly Rent that does not exceed the maximum rent published by HUD for a Very Low Income Household for the applicable bedroom size as set forth in 24 C.F.R. 92.252(b).

(ll) "Low Income Household" means a Tenant (i) with an Adjusted Income that does not exceed eighty percent (80%) of Median Income, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than eighty percent (80%) of Median Income on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes, as such definition may be amended pursuant to 24 C.F.R. Section 92.2, and (ii) that is not an individual student not eligible to receive Section 8 assistance under 24 C.F.R. 5.612.

(mm) "Maintenance Standards" has the meaning set forth in Section 5.6(a).

(nn) "Marketing Plan" has the meaning set forth in Section 4.3(a).

(oo) "Median Income" means the median gross yearly income, adjusted for Actual Household Size as specified herein, in the County of Contra Costa, California, as published from time to time by HUD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the County shall provide Borrower with other income determinations that are reasonably similar with respect to methods of calculation to those previously published by HUD.

(pp) "Note" means the promissory note that evidences Borrower's obligation to repay the Loan, as such may be amended from time to time.

(qq) "Operating Budget" has the meaning set forth in Section 2.6(a).

(rr) "Person with HIV/AIDS" means a person with the disease of acquired immunodeficiency syndrome or any conditions arising from the etiological agent for acquired immunodeficiency syndrome, including infection with the human immunodeficiency virus (HIV), as confirmed by a certification of HIV-positive test status to be delivered to and maintained on file by Borrower as such definition may be amended as set forth in 24 C.F.R. 574.3.

(ss) "Property" has the meaning set forth in Paragraph D of the Recitals.

(tt) "Remainder Term" means the period that begins on the date the HOPWA Term expires or is terminated by the County pursuant to Section 2.5, and ends on the last day of the HOME Term.

(uu) "Rent" means the total monthly payments by the Tenant of a Unit for the following: use and occupancy of the Unit and land and associated facilities; any separately charged fees or service charges assessed by Borrower which are customarily charged in rental housing and required of all Tenants (subject to the limitations set forth in 24 C.F.R. 92.214(b)(3)), other than security deposits; an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than Borrower, and paid by the Tenant.



(vv) "Rental Subsidy" has the meaning set forth in Section 2.6(a).

(ww) "Service Facility Improvements" has the meaning set forth in Paragraph D of the Recitals.

(xx) "Social Services Plan" has the meaning set forth in Section 4.3(c).

(yy) "St. Paul's" has the meaning set forth in Paragraph D of the Recitals.

(zz) "Subsidy Units" has the meaning set forth in Section 2.6(a).

(aaa) "Tenant" means the tenant household that occupies a Unit in the Development.

(bbb) "Tenant Selection Plan" has the meaning set forth in Section 4.3(b).

(ccc) "Thirty-Five Percent Income Household" means a household with an Adjusted Income that does not exceed thirty-five percent (35%) of Median Income, adjusted for Actual Household Size.

(ddd) "Thirty-Five Percent Income Rent" means the maximum allowable rent for a Thirty-Five Percent Income Unit pursuant to Section 2.2(b) below.

(eee) "Thirty-Five Percent Income Units" means the Units which, pursuant to Section 2.1(b) below, are required to be occupied by Thirty-Five Percent Income Households.

(fff) "Unit(s)" means one (1) or more of the units in the Development.

(ggg) "Very Low Income Household" means a household (i) with an Adjusted Income that does not exceed fifty percent (50%) of Median Income, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than fifty percent (50%) of Median Income on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes as set forth in 24 C.F.R. Section 92.2, and (ii) that is not an individual student not eligible to receive Section 8 assistance under 24 C.F.R. 5.612.

ARTICLE 2  
AFFORDABILITY AND OCCUPANCY COVENANTS

2.1 Occupancy Requirements.

(a) HOPWA-Assisted Units. During the HOPWA Term, Borrower shall cause two (2) Units to be rented to and occupied by or, if vacant, available for occupancy by, Extremely Low Income Households which households are HOPWA-Eligible Households. The HOPWA-Assisted Units overlap with two (2) of the HOME-Assisted Units that are Extremely Low Income Units.

(b) HOME-Assisted Units.

(1) Extremely Low Income Units. During the HOME Term, Borrower shall cause eleven (11) Units to be rented to and occupied by or, if vacant, available for occupancy by Extremely Low Income Households.

(2) Thirty-Five Percent Income Units. During the HOME Term, Borrower shall cause seven (7) Units to be rented to and occupied by or, if vacant, available for occupancy by Thirty-Five Percent Income Households.

(c) Intermingling of Units. Borrower shall cause the HOME/HOPWA Assisted Units to be intermingled throughout the Development and of comparable quality to all other Units. All Tenants must have equal access to and enjoyment of all common facilities in the Development. The HOME/HOPWA Assisted Units must be of the bedroom size set forth in the following chart:

|                   | Extremely Low<br>Income Units | 35% Income<br>Units |
|-------------------|-------------------------------|---------------------|
| Zero-Bd.<br>Units | 8 (including 2<br>HOPWA)      | 4                   |
| One-Bd. Units     | 3                             | 3                   |
| <b>Total</b>      | <b>11</b>                     | <b>7</b>            |

(d) Disabled Persons Occupancy. Borrower shall cause the Development to be constructed and operated at all times in compliance with all applicable federal, state, and local disabled persons accessibility requirements including, but not limited to the applicable provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973, (iv) the United States Fair Housing Act, as amended, (v) the Americans With Disabilities Act of 1990, and (vi) Chapters 11A and 11B of Title 24 of the California Code of Regulations, which relate to disabled persons access (collectively, the "Accessibility Requirements"). In compliance with the Accessibility Requirements: (i) a minimum of three (3) Units must be construction to be fully accessible to households with a mobility impaired member and, (ii) an additional one (1) Unit must be fully accessible to hearing and/or visually impaired persons. In compliance with the Accessibility Requirements Borrower shall provide the County with a certification from the Development architect that to the best of

the architect's knowledge, the Development complies with all federal and state accessibility requirements applicable to the Development. Borrower shall indemnify, protect, hold harmless and defend (with counsel reasonably satisfactory to the County) the County, and its board members, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of Borrower's failure to comply with the Accessibility Requirements. The provisions of this subsection will survive expiration of the HOME Term or other termination of this HOME/HOPWA Regulatory Agreement, and remain in full force and effect.

(e) HOME-Assisted Unit Compliance Deadline. Each HOME-Assisted Unit must be rented to and occupied by an Extremely Low Income Household, or Thirty-Five Percent Income Household, as applicable, pursuant to Section 2.1(b) on or before the date that occurs eighteen (18) months after the Completion Date. If Borrower fails to comply with this requirement, Borrower shall repay a portion of the HOME Loan, with interest, in accordance with Section 2.8(c) of the Loan Agreement.

## 2.2 Allowable Rent.

### (a) HOPWA Rent.

(1) During HOPWA Term. Subject to the provisions of Section 2.4(a) below, the total monthly Rent paid by a Tenant of a HOPWA-Assisted Unit during the HOPWA Term may not exceed the amount that is equal to the greater of:

(A) thirty percent (30%) of the household's monthly Adjusted Income, as adjusted pursuant to 24 C.F.R. 574.310(d)(1);

(B) ten percent (10%) of the household's monthly gross income; and

(C) if the household is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the household's actual housing costs, is specifically designated by the agency to meet the household's housing costs, the portion of the payments that is so designated.

### (2) During Remainder Term.

(A) HOPWA-Eligible Household. Subject to the provisions of Section 2.4(a) below, the Rent paid by a HOPWA-Eligible Household that occupies a HOPWA-Assisted Unit during the HOPWA Term and that continues to reside in the Unit following the expiration of the HOPWA Term, must be equal to the amount specified in Section 2.2(a)(1).

(B) Extremely Low Income Household. After the expiration or termination of the HOPWA Term pursuant to Section 2.5 and subject to Section 2.4(a), the Rent paid by a new Tenant of a HOPWA-Assisted Unit that is an Extremely Low Income Household may not exceed the Extremely Low Income Rent.

(b) Extremely Low Income Rent. Subject to the provisions of Section 2.4(a) below, the Rent paid by a Tenant of an Extremely Low Income Unit may not exceed one-twelfth (1/12) of thirty percent (30%) of thirty percent (30%) of Median Income, adjusted for Assumed Household Size.

(c) Thirty-Five Percent Income Rent. Subject to Section 2.4 below, the Rent paid by a Tenant of a Thirty-Five Percent Income Unit, may not exceed one-twelfth (1/12<sup>th</sup>) of thirty percent (30%) of thirty-five percent (35%) of Median Income, adjusted for Assumed Household Size.

(d) No Additional Fees. Borrower may not charge any fee, other than Rent, to any Tenant of the HOME/HOPWA Assisted Units for any housing or other services provided by Borrower.

### 2.3 Rent Increases.

(a) Rent Amount. The initial Rent for all HOME/HOPWA Assisted Units must be approved by the County prior to occupancy. The County will provide Borrower with a schedule of maximum permissible Rents for the HOME/HOPWA Assisted Units and the maximum monthly allowances for utilities and services (excluding telephone) annually.

(b) Rent Increases. All Rent increases for all HOME/HOPWA Assisted Units are subject to County approval. No later than sixty (60) days prior to the proposed implementation of any Rent increase affecting a HOME/HOPWA Assisted Unit, Borrower shall submit to the County a schedule of any proposed increase in the Rent charged for HOME/HOPWA Assisted Units. The Rent for such Units may be increased no more than once annually based upon the annual income certification described in Article 3. The County will disapprove a Rent increase if it violates the schedule of maximum permissible Rents for the HOME/HOPWA Assisted Units provided to Borrower by the County, or is greater than a 5% increase over the previous year's Rent, provided that the County may approve a request from Borrower for a rent increase greater than 5% with a written explanation for the request from Borrower. Borrower shall give Tenants written notice at least thirty (30) days prior to any Rent increase, following completion of the County approval process set forth above.

### 2.4 Increased Income of Tenants.

#### (a) HOPWA-Assisted Units.

(1) Increased Income of HOPWA-Eligible Household During HOPWA Term. If upon the annual certification of the income of a HOPWA-Eligible Household during the HOPWA Term, Borrower determines that the Tenant has an Adjusted Income exceeding the maximum qualifying income of an Extremely Low Income Household the Tenant may continue to occupy the Unit and Borrower shall continue to charge such Tenant Rent consistent with Section 2.2(a)(1) above. Borrower shall then rent the next available comparable HOPWA-Assisted Unit to an Extremely Low Income Household that is also a HOPWA-Eligible Household, to comply with the requirements of Section 2.1(a) above. Any Rent increase is subject to Section 2.3 above.

(2) Increased Income of HOPWA-Eligible Household During Remainder Term. If upon the annual certification of the income of a HOPWA-Eligible Household during the Remainder Term, Borrower determines that the Tenant has an Adjusted Income exceeding the maximum qualifying income of an Extremely Low Income Household the Tenant may continue to occupy the Unit and Borrower shall continue to charge such Tenant Rent consistent with Section 2.2(a)(2)(A) above. Borrower shall then rent the next available comparable HOME/HOPWA Assisted Unit to an Extremely Low Income Household to comply with the requirements of Section 2.1(b) above. Any Rent increase is subject to Section 2.3 above.

(b) HOME-Assisted Units.

(1) Increased Income of Extremely Low Income Household to Above Extremely Low Income but Below the Very Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of an Extremely Low Income Unit, Borrower determines that the income of the Tenant has increased to above the qualifying limit for an Extremely Low Income Household but below the qualifying limit for a Very Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent will remain at the Extremely Low Income Rent. Borrower shall then rent the next available Unit to an Extremely Low Income Household to comply with the requirements of Section 2.1(b)(1) above, at a Rent not exceeding the Extremely Low Income Rent, or re-designate another comparable Unit in the Development with an Extremely Low Income Household an Extremely Low Income Unit, to comply with the requirements of Section 2.1(b)(1) above. Upon renting the next available Unit in accordance with Section 2.1(b)(1) or re-designating another Unit in the Development as an Extremely Low Income Unit, the Unit with the over-income Tenant will no longer be considered a HOME-Assisted Unit.

(2) Increased Income of Thirty-Five Percent Income Household to Above Thirty-Five Percent Income but Below the Very Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of a Thirty-Five Percent Income Unit, Borrower determines that the income of the Tenant has increased to above the qualifying limit for a Thirty-Five Percent Income Household but below the qualifying limit for a Very Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent will remain at the Thirty-Five Percent Income Rent. Borrower shall then rent the next available Unit to a Thirty-Five Percent Income Household to comply with the requirements of Section 2.1(b)(2) above, at a Rent not exceeding the Thirty-Five Percent Income Rent, or re-designate another comparable Unit in the Development with a Thirty-Five Percent Income Household a Thirty-Five Percent Income Unit, to comply with the requirements of Section 2.1(b)(2) above. Upon renting the next available Unit in accordance with Section 2.1(b)(2) or re-designating another Unit in the Development as a Thirty-Five Percent Income Unit, the Unit with the over-income Tenant will no longer be considered a HOME-Assisted Unit.

(3) Increased Income above Extremely Low Income Household at or Above Very Low Income Limit but below Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of an Extremely Low Income Unit,

Borrower determines that the income of the Tenant has increased to at or above the qualifying limit for a Very Low Income Household, but not above the qualifying income for a Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent may be increased to the Low HOME Rent. Borrower shall then rent the next available Unit to an Extremely Low Income Household to comply with the requirements of Section 2.1(b)(1) above, at a Rent not exceeding the maximum Rent specified in Section 2.2(b), or re-designate another comparable Unit in the Development with an Extremely Low Income Household an Extremely Low Income Unit, to comply with the requirements of Section 2.1(b)(1) above. Upon renting the next available Unit in accordance with Section 2.1(b)(1) or re-designating another Unit in the Development as an Extremely Low Income Unit, the Unit with the over-income Tenant will no longer be considered a HOME-Assisted Unit.

(4) Increased Income above Thirty-Five Percent Income Household at or Above Very Low Income Limit but below Low Income Limit. Subject to Section 2.3 above, if, upon the annual certification of the income of a Tenant of a Thirty-Five Percent Income Unit, Borrower determines that the income of the Tenant has increased to at or above the qualifying limit for a Very Low Income Household, but not above the qualifying income for a Low Income Household, the Tenant may continue to occupy the Unit and the Tenant's Rent may be increased to the Low HOME Rent. Borrower shall then rent the next available Unit to a Thirty-Five Percent Income Household to comply with the requirements of Section 2.1(b)(2) above, at a Rent not exceeding the maximum Rent specified in Section 2.2(c), or re-designate another comparable Unit in the Development with a Thirty-Five Percent Income Household a Thirty-Five Percent Income Unit, to comply with the requirements of Section 2.1(b)(2) above. Upon renting the next available Unit in accordance with Section 2.1(b)(2) or re-designating another Unit in the Development as a Thirty-Five Percent Income Unit, the Unit with the over-income Tenant will no longer be considered a HOME-Assisted Unit.

(c) Non-Qualifying Household. Subject to Section 2.4(a) above for HOPWA-Assisted Units, if, upon the annual certification of the income a Tenant of a HOME/HOPWA Assisted Unit, Borrower determines that the Tenant's income has increased above the qualifying limit for a Low Income Household, the Tenant may continue to occupy the Unit. Upon the expiration of such Tenant's lease, Borrower shall:

(1) With 60 days' advance written notice, increase such Tenant's Rent to the lesser of (i) one-twelfth (1/12) of thirty percent (30%) of the actual Adjusted Income of the Tenant, and (ii) the fair market rent (subject to 24 C.F.R. 92.252(i)(2) regarding low income housing tax credit requirements), and

(2) Rent the next available Unit to an Extremely Low Income Household, or Thirty-Five Percent Income Household, as applicable, to comply with the requirements of Section 2.1 above, at a Rent not exceeding the maximum Rent specified in Section 2.2, or designate another comparable Unit that is occupied by an Extremely Low Income Household, or Thirty-Five Percent Income Household, as applicable, as a HOME/HOPWA Assisted Unit, to meet the requirements of Section 2.1 above. On the day that Borrower complies with Section 2.1 in accordance with this Section 2.4(c), the Unit with the over-income Tenant will no longer be considered a HOME/HOPWA Assisted Unit.



(d) Termination of Occupancy. Upon termination of occupancy of a HOME/HOPWA Assisted Unit by a Tenant, such Unit will be deemed to be continuously occupied by a household of the same income level as the initial income level of the vacating Tenant, until such unit is reoccupied, at which time categorization of the Unit will be established based on the occupancy requirements of Section 2.1.

2.5 Cure for AIDS. If, in the sole determination of the County, there is a cure for AIDS and therefore no need for the HOPWA-Assisted Units, the County shall provide to Borrower a written notice that sets forth the termination date of the HOPWA Term.

2.6 Loss of Subsidy.

(a) It is anticipated that certain Units in the Development (the "Subsidy Units") will receive Project-Based Section 8 or other rental subsidy payments (the "Rental Subsidy") throughout the Term, as reflected in the Approved Development Budget. Notwithstanding Section 2.3(b), if any change in federal law occurs, or any action (or inaction) by Congress or any federal or State agency occurs, which results in a reduction, termination or nonrenewal of the Rental Subsidy through no fault of the Borrower, such that the Rental Subsidy shown on the Approved Development Budget is no longer available, Borrower may increase the Rent on one or more of the HOME-Assisted Units that overlap with a Subsidy Unit, to the Low HOME Rent and/or High HOME Rent as applicable, subject to the following requirements:

(1) At the time Borrower requests an increase in the Rent, Borrower shall provide the County with an operating budget for the Development for the County's approval pursuant to Section 4.4 of the Loan Agreement, showing the impact of the loss or reduction of the Rental Subsidy (the "Operating Budget");

(2) The number of HOME-Assisted Units subject to the Rent increase and the level of rent increase (i.e. Low HOME Rent and High HOME Rent) may not be greater than the amount required to ensure that the Development generates sufficient income to cover its operating costs and debt service as shown on the Operating Budget, and as is necessary to maintain the financial stability of the Development;

(3) The Rent of at least four (4) of the HOME-Assisted Units may not exceed the Low HOME Rent;

(4) Borrower shall use good faith efforts to ensure that the Tenants whose Rents are increased to the High HOME Rent have the highest incomes of the Tenants occupying the HOME-Assisted Units; and

(5) Any such Rent increase must be pursuant to a transition plan approved by the County, consistent with remedial measures set forth in California Code of Regulations Title 4, Division 17, Chapter 1, Section 10337(a)(3) or successor regulation applicable to California's Federal and State Low Income Housing Tax Credit Program.

(b) Borrower shall use good faith efforts to obtain alternative sources of rental subsidies and shall provide the County with annual progress reports on efforts to obtain alternative sources of rental subsidies that would allow the rents on the HOME Assisted Units to be reduced back to the Extremely Low Income Rent and the Thirty-Five Percent Income Rent, as applicable. Upon receipt of any alternative rental subsidies, Borrower shall reduce the rents on the County-Assisted Units back to the Extremely Low Income Rent and the Thirty-Five Percent Income Rent, as applicable, to the extent that the alternative rental subsidies provide sufficient income to cover the operating costs and debt service of the Development as shown on the Operating Budget.

(c) This Section does not apply to the Rent paid by Tenants of the HOPWA-Assisted Units during the HOPWA Term and any HOPWA-Eligible Household that occupies a HOPWA-Assisted Unit during the HOPWA Term and that continues to reside in the Unit following the expiration of the HOPWA Term. Such Rent must at all times be consistent with Section 2.2(a)(1).

### ARTICLE 3 INCOME CERTIFICATION; REPORTING; RECORDS

#### 3.1 Income Certification.

(a) Borrower shall obtain, complete, and maintain on file, within one hundred twenty (120) days before expected occupancy and annually thereafter, income certifications from each Tenant renting any of the HOME/HOPWA Assisted Units. Borrower shall make a good faith effort to verify the accuracy of the income provided by the applicant or occupying household, as the case may be, in an income certification. To verify the information, Borrower shall take two or more of the following steps: (i) obtain a pay stub for the most recent pay period; (ii) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (iv) obtain an income verification form from the applicant's current employer; (v) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (vi) if the applicant is unemployed and does not have a tax return, obtain another form of independent verification. Where applicable, Borrower shall examine at least two (2) months of relevant source documentation. Copies of Tenant income certifications are to be available to the County upon request.

(b) For each HOPWA-Assisted Unit during the HOPWA Term, Borrower shall obtain, complete, and maintain on file, immediately prior to initial occupancy and annually thereafter, a certification from the Tenant that the HOPWA-Assisted Unit is occupied by a HOPWA-Eligible Household.

#### 3.2 Reporting Requirements.

(a) Borrower shall submit to the County within one hundred eighty (180) days after the Completion Date, and not later than forty-five (45) days after the close of each calendar year, or such other date as may be requested by the County, a report that includes the following

data for each Unit and specifically identifies which Units are HOME/HOPWA Assisted Units: (i) Tenant income, (ii) the number of occupants, (iii) the Rent, (iv) the number of bedrooms, and (v) the initial address of each Tenant. To demonstrate continued compliance with Section 2.1 Borrower shall cause each annual report after the initial report to include a record of any subsequent Tenant substitutions and any vacancies in HOME/HOPWA Assisted Units that have been filled.

(b) Borrower shall submit to the County within forty-five (45) days after receipt of a written request, or such other time agreed to by the County, any other information or completed forms requested by the County in order to comply with reporting requirements of HUD, the State of California, and the County.

3.3 Tenant Records. Borrower shall maintain complete, accurate and current records pertaining to income and household size of Tenants. All Tenant lists, applications and waiting lists relating to the Development are to be at all times: (i) separate and identifiable from any other business of Borrower, (ii) maintained as required by the County, in a reasonable condition for proper audit, and (iii) subject to examination during business hours by representatives of the County. Borrower shall retain copies of all materials obtained or produced with respect to occupancy of the Units for a period of at least five (5) years. The County may examine and make copies of all books, records or other documents of Borrower that pertain to the Development.

### 3.4 Development Records.

(a) Borrower shall keep and maintain at the principal place of business of the Borrower set forth in Section 6.11 below, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Development. Borrower shall cause all books, records and accounts relating to its compliance with the terms, provisions, covenants and conditions of the Loan Documents to be kept and maintained in accordance with generally accepted accounting principles consistently applied, and to be consistent with requirements of this HOME/HOPWA Regulatory Agreement. Borrower shall cause all books, records, and accounts to be open to and available for inspection and copying by HUD, the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. Borrower shall cause copies of all tax returns and other reports that Borrower may be required to furnish to any government agency to be open for inspection by the County at all reasonable times at the place that the books, records and accounts of Borrower are kept. Borrower shall preserve such records for a period of not less than five (5) years after their creation in compliance with all HUD records and accounting requirements. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Loan is pending at the end of the record retention period stated herein, then Borrower shall retain the records until such action and all related issues are resolved. Borrower shall cause the records to include all invoices, receipts, and other documents related to expenditures from the Loan funds. Borrower shall cause records to be accurate and current and in a form that allows the County to comply with the record keeping requirements contained in 24 C.F.R. 92.508, 24 C.F.R. 574.450, and 24 C.F.R. 574.530. Such records are to include but are not limited to:

(i) Records providing a full description of the activities undertaken with the use of the Loan funds;

(ii) Records demonstrating that each activity undertaken with the HOPWA Funds meets one of the eligible activities of the HOPWA program set forth in 24 C.F.R. Section 574.300 and 24 C.F.R. Section 574.310;

(iii) Records demonstrating compliance with the HUD property standards and lead-based paint requirements including the property standards of 24 C.F.R. Section 574.310(b) and the lead-based paint requirements of 24 C.F.R. Section 574.635, and the maintenance requirements set forth in Section 5.6 (which implements 24 C.F.R. 92.251);

(iv) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;

(v) Financial records as required by 24 C.F.R. 92.505, and 2 C.F.R. Part 200, and during the HOPWA Term, financial records and other documents necessary to document compliance with the requirements of 24 C.F.R. Part 574 et seq;

(vi) Records demonstrating compliance with the HOPWA and HOME marketing, tenant selection, affordability, and income requirements;

(vii) Records demonstrating compliance with MBE/WBE requirements;

(viii) Records demonstrating compliance with 24 C.F.R. Part 135 which implements Section 3 of the Housing Development Act of 1968;

(ix) Records demonstrating compliance with applicable relocation requirements, which must be retained for at least five (5) years after the date by which persons displaced from the property have received final payments;

(x) Records demonstrating compliance with labor requirements including certified payrolls from Borrower's general contractor evidencing that applicable prevailing wages have been paid; and

(xi) Records documenting compliance with the Social Services Plan approved by the County.

(b) The County shall notify Borrower of any records it deems insufficient. Borrower has fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Borrower must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

ARTICLE 4  
OPERATION OF THE DEVELOPMENT

4.1 Residential Use. Borrower shall operate the Housing Improvements for residential use only. No part of the Development may be operated as transient housing.

4.2 Compliance with Loan Documents and Program Requirements. Borrower's actions with respect to the Development shall at all times be in full conformity with: (i) all requirements of the Loan Documents; (ii) all requirements imposed on projects assisted with HOME Funds as contained in 42 U.S.C. Section 12701, et seq., 24 C.F.R. Part 92, and other implementing rules and regulations; (iii) all requirements imposed on projects assisted under the HOPWA Program as contained in 42 U.S.C. Section 12901, et seq., 24 C.F.R. Part 574, and other implementing rules and regulations; and (iv) any other regulatory requirements imposed on the Development.

4.3 Marketing Plan; Tenant Selection Plan; and Social Services Plan.

(a) Marketing Plan.

(1) No later than six (6) months prior to the date construction of the Development is projected to be complete, Borrower shall submit to the County for approval its plan for marketing the Development to income-eligible households and HOPWA-Eligible Households as required by this HOME/HOPWA Regulatory Agreement (the "Marketing Plan"). The Marketing Plan must include information on affirmative marketing efforts and compliance with fair housing laws and 24 C.F.R. 92.351(a).

(2) Upon receipt of the Marketing Plan, the County will promptly review the Marketing Plan and will approve or disapprove it within fifteen (15) days after receipt. If the Marketing Plan is not approved, the County will give Borrower specific reasons for such disapproval and Borrower shall submit a revised Marketing Plan within fifteen (15) days of notification of the County's disapproval. Borrower shall follow this procedure for resubmission of a revised Marketing Plan until the Marketing Plan is approved by the County. If the Borrower does not submit a revised Marketing Plan that is approved by the County at least three (3) months prior to the date completion of the Development is projected to be complete, Borrower will be in default of this HOME/HOPWA Regulatory Agreement.

(3) If any HOME-Assisted Units have not been rented in accordance with Section 2.1(b) above on or before the date that is five (5) months after the Completion Date Borrower shall submit to the County a detailed report of ongoing marketing efforts, and if deemed appropriate by the County, any necessary amendments or updates to the Marketing Plan to cause the vacant HOME-Assisted Units to be rented in compliance with Section 2.1(b).

(4) If any HOME-Assisted Units have not been rented in accordance with Section 2.1(b) above on or before the date that is twelve (12) months after the Completion Date Borrower shall submit to the County a detailed report of ongoing marketing

efforts, and if deemed appropriate by the County, any necessary amendments or updates to the Marketing Plan to cause the vacant HOME-Assisted Units to be rented in compliance with Section 2.1(b).

(b) Tenant Selection Plan.

(1) No later than six (6) months prior to the date construction of the Development is projected to be complete, Borrower shall submit to the County, for its review and approval, Borrower's written tenant selection plan (the "Tenant Selection Plan").

Borrower's Tenant Selection Plan must, at a minimum, meet the requirements for tenant selection set out in 24 C.F.R. Part 574 and 24 C.F.R. 92.253(d), and any modifications thereto.

(2) Upon receipt of the Tenant Selection Plan, the County will promptly review the Tenant Selection Plan and will approve or disapprove it within fifteen (15) days after receipt. If the Tenant Selection Plan is not approved, the County will give Borrower specific reasons for such disapproval and Borrower shall submit a revised Tenant Selection Plan within fifteen (15) days of notification of the County's disapproval. Borrower shall follow this procedure for resubmission of a revised Tenant Selection Plan until the Tenant Selection Plan is approved by the County. If the Borrower does not submit a revised Tenant Selection Plan that is approved by the County at least three (3) months prior to the date construction of the Development is projected to be complete, Borrower will be in default of this HOME/HOPWA Regulatory Agreement.

(c) Social Services Plan.

(1) No later than six (6) months prior to the date construction of the Development is projected to be complete, Borrower shall submit to the County for approval its plan for providing social services from qualified service providers to the HOPWA-Eligible Households of the Development as required by 24 C.F.R. Section 574.310(a)(1) and this HOME/HOPWA Regulatory Agreement (the "Social Services Plan").

(2) Upon receipt of the Social Services Plan, the County will promptly review the Social Services Plan and will approve or disapprove it within fifteen (15) days after receipt. If the Social Services Plan is not approved, the County will give Borrower specific reasons for such disapproval and Borrower shall submit a revised Social Services Plan within fifteen (15) days of notification of the County's disapproval. Borrower shall follow this procedure for resubmission of a revised Social Services Plan until the Social Services Plan is approved by the County. If the Borrower does not submit a revised Social Services Plan that is approved by the County at least three (3) months prior to the date construction of the Development is projected to be complete, Borrower will be in default of this HOME/HOPWA Regulatory Agreement.

4.4 Lease Provisions.

(a) No later than four (4) months prior to the date construction of the Development is projected to be complete, Borrower shall submit to the County for approval Borrower's proposed form of lease agreement for the County's review and approval. When



leasing Units within the Development, Borrower shall use the form of lease approved by the County. Borrower may not permit the lease to contain any provision that is prohibited by 24 C.F.R. Section 92.253(b) and any amendments thereto. Borrower's form of lease must include any provisions necessary to comply with the requirements of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113-4, 127 Stat. 54) applicable to HUD-funded programs. The form of lease must comply with all requirements of this HOME/HOPWA Regulatory Agreement, the other Loan Documents and must, among other matters:

(1) provide for termination of the lease for failure to: (i) provide any information required under this HOME/HOPWA Regulatory Agreement or reasonably requested by Borrower to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, for occupancy in the Development in accordance with the standards set forth in this HOME/HOPWA Regulatory Agreement, (ii) qualify as an Extremely Low Income Household, or Thirty-Five Percent Income Household as a result of any material misrepresentation made by such Tenant with respect to the income computation, or (iii) qualify as a HOPWA-Eligible Household when and if applicable as a result of any material misrepresentation made by such Tenant with respect to HIV/AIDS status.

(2) be for an initial term of not less than one (1) year, unless by mutual agreement between the Tenant and Borrower, and provide for no increase in Rent during such year. After the initial year of tenancy, the lease may be month-to-month by mutual agreement of Borrower and the Tenant. Notwithstanding the above, any rent increases are subject to the requirements of Section 2.3 above.

(3) include a provision that requires a Tenant who is residing in a Unit required to be accessible pursuant to Section 2.1(d) and who is not in need of an accessible Unit to move to a non-accessible Unit when a non-accessible Unit becomes available and another Tenant or prospective Tenant is in need of an accessible Unit.

(b) During the HOME Term, Borrower shall comply with the Marking Plan, Social services Plan, and Tenant Selection Plan approved by the County.

4.5 HOPWA Tenant Requirements. During the HOPWA Term Borrower shall:

(a) ensure the confidentiality of the name of any individual requesting or receiving assistance through this project pursuant to 24 C.F.R. 574.440;

(b) ensure that qualified service providers in the area make available appropriate supportive services to HOPWA-Eligible Households pursuant to 24 C.F.R. 574.310(a)(1);

(c) conduct an ongoing assessment of the services required by HOPWA-Eligible Households pursuant to 24 C.F.R. 574.500(b)(2);

(d) comply with the Social Services Plan approved by the County detailing the services provided to HOPWA-Eligible Households; and

(e) ensure that the Development meets the Housing Quality Standards pursuant to 24 C.F.R. 574.310(b).

#### 4.6 Lease Termination.

(a) HOME Lease Termination Requirements. Any termination of a lease or refusal to renew a lease for a HOME-Assisted Unit within the Development must be in conformance with 24 C.F.R. 92.253(c) and the requirements of the Violence Against Women Reauthorization Act of 2013 ((Pub. L. 113–4, 127 Stat. 54) applicable to HUD-funded programs, and must be preceded by not less than sixty (60) days written notice to the Tenant by Borrower specifying the grounds for the action.

#### (b) HOPWA Lease Termination Requirements.

(1) Any termination of a lease or refusal to renew a lease for a HOPWA-Assisted Unit within the Development must be in conformance with 24 C.F.R. 574.310(e) during the HOPWA Term, and must be preceded by not less than sixty (60) days written notice to the Tenant by Borrower specifying the grounds for the action.

(2) During the HOPWA Term Borrower shall ensure that surviving members of a household that included a Person with HIV/AIDS at the time of his or her death is permitted to continue to occupy the unit and receive supportive services for a reasonable period of up to one (1) year from the time of the death, and is provided with notice of their grace period and with assistance to obtain information about other available housing assistance programs. In addition, in the event such surviving members of a household would be eligible for occupancy in one of the other units within the Development, upon approval from Borrower, such surviving members may remain in their current unit and the next available unit within the Development will become a HOPWA-Assisted Unit.

#### 4.7 HOME and HOPWA Requirements.

(a) Borrower shall comply with all applicable laws and regulations governing the use of the HOME Funds as set forth in 24 C.F.R. Part 92, and use of the HOPWA Funds, as set forth in 24 C.F.R. Part 574 et. seq. In the event of any conflict between this HOME/HOPWA Regulatory Agreement and applicable laws and regulations governing the use of the Loan funds, the applicable laws and regulations govern.

(b) The laws and regulations governing the use of the Loan funds include (but are not limited to) the following:

(i) Environmental and Historic Preservation. 24 C.F.R. Part 58, which prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5;

(ii) Applicability of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The applicable policies, guidelines, and requirements of 2 C.F.R. Part 200;

(iii) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24;

(iv) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608;

(v) Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35;

(vi) Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; 24 C.F.R. 92.353; 24 C.F.R. 574.630; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq. If and to the extent that development of the Development results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then Borrower shall comply with all applicable local, state, and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. Borrower shall prepare and submit a relocation plan to the County for approval. Borrower is solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. Borrower shall indemnify, defend (with counsel reasonably chosen by the County), and hold harmless the County against all claims that arise out of relocation obligations to residential tenants, homeowners, or businesses permanently or temporarily displaced by the Development;

(vii) Discrimination against the Disabled. The requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto;

(viii) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 1500, as amended from time to time;

(ix) Uniform Administrative Requirements. The provisions of 24 C.F.R. 92.505 and 24 C.F.R. 574.650 regarding cost and auditing requirements;

(x) Housing Quality Standards. The housing quality standards set forth in 24 C.F.R. Section 574.310(b);

(xi) Supportive Services. The supportive service requirements of 24 C.F.R. Section 574.310(a)(1). Borrower shall procure services to satisfy such service requirements;

(xii) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the project. Borrower agrees to include the following language in all subcontracts executed under this HOME/HOPWA Regulatory Agreement:

(1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(2) The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(3) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause; and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to

take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

(5) The contractor will certify that any vacant employment positions, including training positions, that are filled (A) after the contractor is selected but before the contract is executed, and (B) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.

(6) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

(xiii) Labor Standards. The labor requirements set forth in 24 C.F.R. 92.354; the prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 U.S.C. 3141-3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended;

(xiv) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24;

(xv) Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 C.F.R. Part 87;

(xvi) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. Section 470)

and the procedures set forth in 36 C.F.R. Part 800. If archeological, cultural, or historic period resources are discovered during construction, all construction work must come to a halt and Borrower shall immediately notify the County. Borrower shall not shall alter or move the discovered material(s) until all appropriate procedures for "post-review discoveries" set forth in Section 106 of the National Historic Preservation Act have taken place, which include, but are not limited to, consultation with the California State Historic Preservation Officer and evaluation of the discovered material(s) by a qualified professional archeologist;

(xvii) Religious Organizations. If the Borrower is a religious organization, as defined by the HOPWA and/or HOME requirements, the Borrower shall comply with all conditions prescribed by HUD for the use of HOME Funds and HOPWA Funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 C.F.R. 92.257 and 24 C.F.R. 574.300(c);

(xviii) Violence Against Women. The requirements of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113-4, 127 Stat. 54) applicable to HUD-funded programs;

(xix) Conflict of Interest. The conflict of interest provisions set forth in 24 C.F.R. 92.356 and 24 C.F.R. Section 574.625; and

(xx) HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the Loan funds.

## ARTICLE 5 PROPERTY MANAGEMENT AND MAINTENANCE

5.1 Management Responsibilities. Borrower is responsible for all management functions with respect to the Development, including without limitation the selection of Tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The County has no responsibility for management of the Development. Borrower shall retain a professional property management company approved by the County in its reasonable discretion to perform Borrower's management duties hereunder. An on-site property manager is also required.

5.2 Management Agent. Borrower shall cause the Development to be managed by an experienced management agent reasonably acceptable to the County, with a demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing (the "Management Agent"). The County has approved The John Stewart Company as the Management Agent. Borrower shall submit for the County's approval the identity of any proposed subsequent management agent. Borrower shall also submit such additional information about the background, experience and financial condition of any proposed management agent as is reasonably necessary for the County to determine whether the proposed management agent meets the standard for a qualified management agent set forth above. If the proposed management agent meets the standard for a qualified management agent set forth

above, the County shall approve the proposed management agent by notifying Borrower in writing. Unless the proposed management agent is disapproved by the County within thirty (30) days, which disapproval is to state with reasonable specificity the basis for disapproval, it shall be deemed approved.

5.3 Periodic Performance Review. The County reserves the right to conduct an annual (or more frequently, if deemed necessary by the County) review of the management practices and financial status of the Development. The purpose of each periodic review will be to enable the County to determine if the Development is being operated and managed in accordance with the requirements and standards of this HOME/HOPWA Regulatory Agreement. Borrower shall cooperate with the County in such reviews.

5.4 Replacement of Management Agent. If, as a result of a periodic review, the County determines in its reasonable judgment that the Development is not being operated and managed in accordance with any of the material requirements and standards of this HOME/HOPWA Regulatory Agreement, the County shall deliver notice to Borrower of its intention to cause replacement of the Management Agent, including the reasons therefor. Within fifteen (15) days after receipt by Borrower of such written notice, the County staff and Borrower shall meet in good faith to consider methods for improving the financial and operating status of the Development, including, without limitation, replacement of the Management Agent.

If, after such meeting, County staff recommends in writing the replacement of the Management Agent, Borrower shall promptly dismiss the then-current Management Agent, and shall appoint as the Management Agent a person or entity meeting the standards for a management agent set forth in Section 5.2 above and approved by the County pursuant to Section 5.2 above.

Any contract for the operation or management of the Development entered into by Borrower shall provide that the Management Agent may be dismissed and the contract terminated as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section constitutes a default under this HOME/HOPWA Regulatory Agreement, and the County may enforce this provision through legal proceedings as specified in Section 6.4 below.

5.5 Approval of Management Policies. Borrower shall submit its written management policies with respect to the Development to the County for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this HOME/HOPWA Regulatory Agreement.

5.6 Property Maintenance.

(a) Borrower shall maintain, for the entire HOME Term of this HOME/HOPWA Regulatory Agreement, all interior and exterior Improvements, including landscaping in decent, safe and sanitary condition, and in good condition and repair, in accordance with (i) 24 C.F.R. Section 92.251, and (ii) the maintenance standards provided by the County (the "Maintenance Standards"). The Maintenance Standards, which set forth inspectable items and areas, and this HOME/HOPWA Regulatory Agreement, implement 24 C.F.R. Section



92.251. Borrower shall cause the Development to be: (i) maintained in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, including but not limited to the lead-based paint requirements in 24 C.F.R. part 35; and (ii) free of all health and safety defects. Borrower shall correct any life-threatening maintenance deficiencies, including those set forth in the Maintenance Standards immediately upon notification.

(b) At the beginning of each year of the HOME Term, Borrower shall certify to the County that the Development is in compliance with the Maintenance Standards.

#### 5.7 Property Inspections.

(a) On-Site Physical Inspections. The County will perform on-site inspections of the Development during the HOME Term to ensure compliance with the Maintenance Standards. The County will perform an on-site inspection within twelve months after completion of construction of the Development and at least once every three (3) years during the HOME Term. If the Development is found to have health and safety violations, the County may perform more frequent inspections. Borrower shall cooperate in such inspections.

(b) Violation of Maintenance Standards. If after an inspection, the County determines that Borrower is in violation of the Maintenance Standards, the County will provide Borrower a written report of the violations. Borrower shall correct the violations set forth in the report provided to Borrower by County. The County will perform a follow-up inspection to verify that the violations have been corrected. If such violations continue for a period of ten (10) days after delivery of the report to Borrower by the County with respect to graffiti, debris, waste material, and general maintenance, or thirty (30) days after delivery of the report to Borrower by the County with respect to landscaping and building improvements, then the County, in addition to whatever other remedy it may have at law or in equity, has the right to enter upon the Development and perform or cause to be performed all such acts and work necessary to cure the violation. Pursuant to such right of entry, the County is permitted (but is not required) to enter upon the Development and to perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Development, and to attach a lien on the Development, or to assess the Development, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the County and/or costs of such cure, which amount Borrower shall promptly pay to the County upon demand.

### ARTICLE 6 MISCELLANEOUS

#### 6.1 Nondiscrimination.

(a) All of the Units must be available for occupancy on a continuous basis to members of the general public who are income eligible. Borrower may not give preference to any particular class or group of persons in renting or selling the Units, except to the extent that

the Units are required to be leased to income eligible households and to HOPWA-Eligible Households pursuant to this HOME/HOPWA Regulatory Agreement. Borrower herein covenants by and for Borrower, assigns, and all persons claiming under or through Borrower, that there exist no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), ancestry, age, familial status (except for lawful senior housing in accordance with state and federal law), or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any unit nor will Borrower or any person claiming under or through Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any unit or in connection with the employment of persons for the construction, operation and management of any unit.

(b) Borrower shall accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. Borrower may not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor will Borrower apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of units by such prospective Tenants.

6.2 Application of Provisions. The provisions of this HOME/HOPWA Regulatory Agreement apply to the Development for the entire HOME Term even if the Loan is paid in full prior to the end of the HOME Term. This HOME/HOPWA Regulatory Agreement binds any successor, heir or assign of Borrower, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by the County. The County is making the Loan on the condition, and in consideration of, this provision, and would not do so otherwise.

6.3 Covenants to Run With the Land. The County and Borrower hereby declare their express intent that the covenants and restrictions set forth in this HOME/HOPWA Regulatory Agreement run with the land, and bind all successors in title to the Development, provided, however, that on the expiration of the HOME Term said covenants and restrictions expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof, is to be held conclusively to have been executed, delivered and accepted subject to the covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the County expressly releases such conveyed portion of the Development from the requirements of this HOME/HOPWA Regulatory Agreement.

6.4 Enforcement by the County. If Borrower fails to perform any obligation under this HOME/HOPWA Regulatory Agreement, and fails to cure the default within thirty (30) days after the County has notified Borrower in writing of the default or, if the default cannot be cured within thirty (30) days, fails to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within sixty (60) days, the County may enforce this

HOME/HOPWA Regulatory Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Calling the Loan. The County may declare a default under the Loan Documents, accelerate the indebtedness evidenced by the Note, and proceed with foreclosure under the Deed of Trust.

(b) Action to Compel Performance or for Damages. The County may bring an action at law or in equity to compel Borrower's performance of its obligations under this HOME/HOPWA Regulatory Agreement, and may seek damages.

(c) Remedies Provided Under Loan Documents. The County may exercise any other remedy provided under the Loan Documents.

The County shall provide notice of a default to Borrower's limited partner in the manner set forth in Section 6.5 of the Loan Agreement.

#### 6.5 Anti-Lobbying Certification.

(a) Borrower certifies, to the best of Borrower's knowledge or belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(b) This certification is a material representation of fact upon which reliance was placed when the Loan Documents were made or entered into. Submission of this certification is a prerequisite for making or entering into the Loan Documents imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

6.6 Attorneys' Fees and Costs. In any action brought to enforce this HOME/HOPWA Regulatory Agreement, the prevailing party must be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This section must be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

6.7 Recording and Filing. The County and Borrower shall cause this HOME/HOPWA Regulatory Agreement, and all amendments and supplements to it, to be recorded in the Official Records of the County of Contra Costa.

6.8 Governing Law. This HOME/HOPWA Regulatory Agreement is governed by the laws of the State of California.

6.9 Waiver of Requirements. Any of the requirements of this HOME/HOPWA Regulatory Agreement may be expressly waived by the County in writing, but no waiver by the County of any requirement of this HOME/HOPWA Regulatory Agreement extends to or affects any other provision of this HOME/HOPWA Regulatory Agreement, and may not be deemed to do so.

6.10 Amendments. This HOME/HOPWA Regulatory Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title that is duly recorded in the official records of the County of Contra Costa.

6.11 Notices. Any notice requirement set forth herein will be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, addressed to the appropriate party as follows:

County: County of Contra Costa  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Assistant Deputy Director

Borrower: SP Commons, L.P.  
c/o RCD GP, LLC  
2220 Oxford Street  
Berkeley, CA 94720  
Attention: Executive Director

Investor Limited  
Partner: Bank of America, N.A.  
Community Development Banking Group  
MA1-225-02-02  
225 Franklin Street  
Boston, MA 02110  
Attention: Asset Management

With a copy to:

Buchalter, a Professional Corporation  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017

Attention: Michael A. Williamson, Esq.  
Re: B0965-0363 (St. Paul Commons)

Such addresses may be changed by notice to the other party given in the same manner as provided above.

6.12 Severability. If any provision of this HOME/HOPWA Regulatory Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this HOME/HOPWA Regulatory Agreement will not in any way be affected or impaired thereby.

6.13 Multiple Originals; Counterparts. This HOME/HOPWA Regulatory Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

6.14 Revival of Agreement after Foreclosure. In the event there is a foreclosure of the Development, this HOME/HOPWA Regulatory Agreement will revive according to its original terms if, during the HOME Term, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Development.

6.15 County Regulatory Agreement. The County and Borrower are entering into this HOME/HOPWA Regulatory Agreement concurrently with the County Regulatory Agreement. The County Regulatory Agreement as it applies to the HOME/HOPWA Assisted Units will be in effect for fifty-five (55) years from the Completion Date which term overlaps with but is longer than the HOME Term. Compliance with the terms of this HOME/HOPWA Regulatory Agreement will be deemed compliance with the County Regulatory Agreement during the HOME Term. In the event of a conflict between this HOME/HOPWA Regulatory Agreement and the County Regulatory Agreement during the HOME Term, the terms of this HOME/HOPWA Regulatory Agreement will prevail.

WHEREAS, this HOME/HOPWA Regulatory Agreement has been entered into by the undersigned as of the date first written above.

**COUNTY:**

COUNTY OF CONTRA COSTA, a political  
subdivision of the State of California

By: \_\_\_\_\_  
John Kopchik  
Director, Department of Conservation and  
Development

Approved as to form:

SHARON L. ANDERSON  
County Counsel

By: \_\_\_\_\_  
Kathleen Andrus  
Deputy County Counsel

**BORROWER:**

Riviera Family Apartments, L.P., a California  
limited partnership

By: RCD GP LLC, a California limited  
liability company, its general partner

By: Resources for Community  
Development, a California nonprofit  
public benefit corporation, its sole  
member/manager

By: \_\_\_\_\_  
Daniel Sawislak, Executive  
Director

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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: \_\_\_\_\_  
Notary Public



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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public

## EXHIBIT A

### Legal Description

The land is situated in the State of California, County of Contra Costa, and is described as follows:

HOME AND HOPWA LOAN AGREEMENT  
St. Paul's Commons

This HOME and HOPWA Loan Agreement (the "Agreement") is dated March 1, 2018, and is between the County of Contra Costa, a political subdivision of the State of California (the "County"), and SP Commons, L.P., a California limited partnership ("Borrower").

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. The County has received Home Investment Partnerships Act funds from the United States Department of Housing and Urban Development ("HUD") pursuant to the Cranston-Gonzales National Housing Act of 1990 ("HOME Funds"). The HOME Funds must be used by the County in accordance with 24 C.F.R. Part 92 (the "HOME Regulations").

C. The County has received Housing Opportunities for Persons with AIDS Program funds from HUD pursuant to the HOPWA Program ("HOPWA Funds"). The HOPWA Funds are available to and administered by the County, as a subrecipient of the City of Oakland, which is the representative for the Alameda-Contra Costa County Eligible Metropolitan Area. The HOPWA Funds must be used by the County in accordance with 24 C.F.R. Section 574 et seq.

D. St. Paul's Episcopal Church in Walnut Creek, California ("St. Paul's") is the owner of that certain real property located at 1860 Trinity Avenue in the City of Walnut Creek, County of Contra Costa, State of California, as more particularly described in Exhibit A (the "Property"). Concurrently herewith Borrower is entering into the Ground Lease agreement with St. Paul's, pursuant to which Borrower will acquire a leasehold interest in the Property from St. Paul's for a period of seventy-seven years (the "Leasehold Interest"). Borrower intends to demolish the existing improvements on the Property and construct forty-five (45) multifamily housing units on the Property for rental to extremely low, very low and low income households, including one (1) manager's unit, and attendant site improvements (the "Housing Improvements"). The Property will also be improved with a social service facility that will be leased back to St. Paul's and will house a homeless day shelter and service program (the "Service Facility Improvements"). The Housing Improvements and the Service Facility Improvements are collectively, the "Improvements." Borrower's Leasehold Interest and Borrower's fee interest in the Improvements, are collectively, the "Development."

E. Borrower desires to borrow from the County Two Million Six Hundred Forty-Two Thousand Dollars (\$2,642,000) of HOME Funds (the "HOME Loan"), and Two Hundred Thirty-Two Thousand Six Hundred Eighty-One Dollars (\$232,681) of HOPWA Funds (the "HOPWA Loan") for a total loan amount of Two Million Eight Hundred Seventy-Four Thousand Six Hundred Eighty-One Dollars (\$2,874,681) (the "Loan").

F. The Loan is evidenced by the Note, the Regulatory Agreements, and the Intercreditor Agreement, and is secured by the Deed of Trust.

G. The Loan is being made to finance predevelopment and construction costs of the Housing Improvements. Construction of the Housing Improvements is intended to maintain the supply of affordable rental housing in Contra Costa County. Due to the assistance provided Borrower through the Loan, the County is designating eighteen (18) units as HOME-assisted units (the "HOME-Assisted Units"), and two (2) units of the HOME-Assisted Units as HOPWA-Assisted Units.

H. In accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA") the City has found the Development categorically exempt pursuant to California Public Resources Code Sections 15192 and 15194.

I. In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) ("NEPA"), the County has completed and approved all applicable environmental review for the activities proposed to be undertaken under this Agreement.

The parties therefore agree as follows:

## AGREEMENT

### ARTICLE 1 DEFINITIONS AND EXHIBITS

#### Section 1.1 Definitions.

The following terms have the following meanings:

(a) "Accessibility Requirements" has the meaning set forth in Section 3.9 below.

(b) "Adjusted City Loan" means, to the extent less than the full amount of the City Loan is funded, an amount equal the actual principal amount loaned to Borrower by the City pursuant to the documents between Borrower and the City evidencing the City Loan. If the full amount of the City Loan is funded, and no portion is repaid as a Special City Loan Payment, the Adjusted City Loan is equal to the City Loan.

(c) "Adjusted HOME Loan" means, to the extent less than the full amount of the HOME Loan is funded, an amount equal the actual principal amount loaned to Borrower by the County pursuant to this Agreement. If the full amount of the HOME Loan is funded and no portion is repaid as a Special County Loan Payment, the Adjusted HOME Loan is equal to the HOME Loan.

(d) "Adjusted HOPWA Loan" means, to the extent less than the full amount of the HOPWA Loan is funded, an amount equal the actual principal amount loaned to Borrower by the County pursuant to this Agreement. If the full amount of the HOPWA Loan is funded, the Adjusted HOPWA Loan is equal to the HOPWA Loan.

(e) "Agreement" means this HOME and HOPWA Loan Agreement.

(f) "AHP" has the meaning set forth in Section 1.1(j)(iii).

(g) "AHP Loan" has the meaning set forth in Section 1.1(j)(iii).

(h) "Annual Operating Expenses" means for each calendar year, the following costs reasonably and actually incurred for operation and maintenance of the Development:

(i) ground rent payments in the amount set forth in the Ground Lease;

(ii) property taxes and assessments imposed on the Development;

(iii) debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Housing Improvements) on the Permanent Loan;

(iv) on-site service provider fees for tenant social services, provided the County has approved, in writing, the plan and budget for such services before such services begin;

(v) property management fees and reimbursements, on-site property management office expenses, and salaries of property management and maintenance personnel, not to exceed amounts that are standard in the industry and which are pursuant to a management contract approved by the County;

(vi) the Partnership/Asset Fee;

(vii) fees for accounting, audit, and legal services incurred by Borrower's general partner in the asset management of the Development, not to exceed amounts that are standard in the industry, to the extent such fees are not included in the Partnership/Asset Fee;

(viii) premiums for insurance required for the Improvements to satisfy the requirements of any lender of Approved Financing;

(ix) utility services not paid for directly by tenants, including water, sewer, and trash collection;

(x) maintenance and repair expenses and services;

(xi) any annual license or certificate of occupancy fees required for operation of the Development;

(xii) security services;

(xiii) advertising and marketing;

(xiv) cash deposited into the Replacement Reserve Account in the amount set forth in Section 4.2(a);

(xv) cash deposited into the Operating Reserve Account to maintain the amount set forth in Section 4.2(b) (excluding amounts deposited to initially capitalize the account);

(xvi) payment of any previously unpaid portion of Developer Fee (without interest), not to exceed the amount set forth in Section 3.17;

(xvii) extraordinary operating costs specifically approved in writing by the County;

(xviii) payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses approved in writing by the County and not listed above.

Annual Operating Expenses do not include the following: depreciation, amortization, depletion or other non-cash expenses, initial deposits to capitalize a reserve account, any amount expended from a reserve account, and any capital cost associated with the Development.

(i) "Annual Payment" has the meaning in Section 2.8(a).

(j) "Approved Development Budget" means the proforma development budget, including sources and uses of funds, as approved by the County, and attached hereto and incorporated herein as Exhibit B.

(k) "Approved Financing" means all of the following loans, grants and equity obtained by Borrower and approved by the County for the purpose of financing the acquisition of the Leasehold Interest and construction of the Improvements:

(i) the City Loan;

(ii) a construction loan from Bank of America, N.A., a national banking association (the "Bank") in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Bank Loan"), which will convert to a permanent loan in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Permanent Loan");

(iii) loan of affordable housing program funds from \_\_\_\_\_, administered by the Federal Home Loan Bank of San Francisco in the approximate amount of Four Hundred Forty Thousand Dollars (\$440,000) (the "AHP Loan");

(iv) the Low Income Housing Tax Credit investor equity funds in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Tax Credit Investor Equity") provided by the Investor Limited Partner; and

(v) the capital contribution from Borrower's general partner in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "GP Capital Contribution").

(l) "Available Net Proceeds" means the result obtained by multiplying the Net Proceeds of Permanent Financing by 0.75.

(m) "Bank" has the meaning set forth in Section 1.1(j)(ii).

(n) "Bank Loan" has the meaning set forth in Section 1.1(j)(ii).

(o) "Bid Package" means the package of documents Borrower's general contractor is required to distribute to potential bidders as part of the process of selecting subcontractors for the Development. The Bid Package is to include the following: (i) an invitation to bid; (ii) copy of the proposed construction contract; (iii) a form of bid guarantee that is reasonably acceptable to the County that guarantees, at a minimum, an amount equal to five percent (5%) of the bid price; and (iv) all Construction Plans.

(p) "Borrower" has the meaning set forth in the first paragraph of this Agreement.

(q) "CEQA" has the meaning set forth in Paragraph H of the Recitals.

(r) "City" means the City of Walnut Creek, California, a municipal corporation.

(s) "City Loan" means the Five Million Five Hundred Thousand Dollar (\$5,500,000) loan from the City to the Borrower.

(t) "Commencement of Construction" has the meaning set forth in Section 3.5.

(u) "Completion Date" means the date a final certificate of occupancy, or equivalent document is issued by the City to certify that the Housing Improvements may be legally occupied.

(v) "Construction Plans" means all construction documentation upon which Borrower and Borrower's general contractor rely in constructing all the Improvements (including the residential units, and landscaping, parking, and common areas serving the residential units) and includes, but is not limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings").

(w) "County" has the meaning set forth in the first paragraph of this Agreement.

(x) "County-Assisted Units" means the HOME-Assisted Units and the HOPWA Assisted Units.

(y) "County Loan Prorata Percentage" means the result, expressed as a percentage, obtained by dividing (1) the sum of the Adjusted HOME Loan and the Adjusted HOPWA Loan, by (2) the sum of the Adjusted HOME Loan, the Adjusted HOPWA Loan, and the Adjusted City Loan.



(z) "County Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith, between the County and Borrower evidencing County requirements applicable to the Loan, to be recorded against the Development.

(aa) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing of even date herewith among Borrower, as Trustor, North American Title Company, as trustee, and the County, as beneficiary, that will encumber the Development to secure repayment of the Loan and performance of the covenants of the Loan Documents.

(bb) "Default Rate" means the lesser of the maximum rate permitted by law and ten percent (10%) per annum.

(cc) "Developer Fee" has the meaning set forth in Section 3.17.

(dd) "Development" has the meaning set forth in Paragraph D of the Recitals.

(ee) "Event of Default" has the meaning set forth in Section 6.1.

(ff) "Fifteen Year Compliance Period" means the fifteen (15) year compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986, as amended.

(gg) "Final Cost Certification" has the meaning set forth in Section 4.3.

(hh) "Final Development Cost" means the total of the cost of acquisition of the Leasehold Interest and construction of the Improvements as shown on the Final Cost Certification.

(ii) "GP Capital Contribution" has the meaning set forth in Section 1.1(j)(vii).

(jj) "Gross Revenue" means for each calendar year, all revenue, income, receipts, and other consideration actually received from the operation and leasing of the Development. Gross Revenue includes, but is not limited to:

- (i) all rents, fees and charges paid by tenants;
- (ii) Section 8 payments or other rental subsidy payments received for the dwelling units;
- (iii) deposits forfeited by tenants;
- (iv) all cancellation fees;
- (v) price index adjustments and any other rental adjustments to leases or rental agreements;
- (vi) net proceeds from vending and laundry room machines;

(vii) the proceeds of business interruption or similar insurance not paid to senior lenders;

(viii) the proceeds of casualty insurance not used to rebuild the Development and not paid to senior lenders; and

(ix) condemnation awards for a taking of part or all of the Development for a temporary period.

Gross Revenue does not include tenants' security deposits, loan proceeds, unexpended amounts (including interest) in any reserve account, required deposits to reserve accounts, capital contributions or similar advances.

(kk) "Ground Lease" means the Ground Lease Agreement between Borrower and St. Paul's dated \_\_\_\_\_, 2018, pursuant to which Borrower is leasing the Property from St. Paul's for a period of seventy-seven (77) years.

(ll) "Hazardous Materials" means: (i) any substance, material, or waste that is petroleum, petroleum-related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical, and (ii) any waste, substance or material defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic materials", "toxic waste", "toxic substances," or words of similar import under any Hazardous Materials Law.

(mm) "Hazardous Materials Claims" means with respect to the Development (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or the Development pursuant to any Hazardous Materials Law; and (ii) all claims made or threatened by any third party against Borrower or the Development relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials.

(nn) "Hazardous Materials Law" means any federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, health, industrial hygiene, environmental conditions, or the regulation or protection of the environment, and all amendments thereto as of this date and to be added in the future and any successor statute or rule or regulation promulgated thereto.

(oo) "HOME" means the HOME Investment Partnership Act Program pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 (42 U.S.C. 12705 et seq.), as amended.

(pp) "HOME-Assisted Units" has the meaning set forth in Paragraph G of the Recitals.

(qq) "HOME Eligible Household" means a household qualified to occupy a HOME-Assisted Unit pursuant to Section 2.1 of the HOME/HOPWA Regulatory Agreement.

(rr) "HOME Funds" has the meaning set forth in Paragraph B of the Recitals.

(ss) "HOME Loan" has the meaning set forth in Paragraph E of the Recitals.

(tt) "HOME Regulations" has the meaning set forth in Paragraph B of the Recitals.

(uu) "HOME/HOPWA Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith, between the County and Borrower evidencing HUD requirements applicable to the Loan, to be recorded against the Development.

(vv) "HOPWA" means the Housing Opportunities for Persons with AIDS Program pursuant to the AIDS Housing Opportunity Act (42 USC 12901 et seq.), as amended by the Housing and Community Development Act of 1992 (42 USC 5301 et seq.).

(ww) "HOPWA Eligible Household" means a household that includes at least one Person with HIV/AIDS.

(xx) "HOPWA Funds" has the meaning set forth in Paragraph C of the Recitals.

(yy) "HOPWA Loan" has the meaning set forth in Paragraph E of the Recitals.

(zz) "HOPWA-Assisted Unit(s)" means a unit in the Development restricted to occupancy by a HOPWA-Eligible Household, which restrictions are more fully set forth in in the HOME/HOPWA Regulatory Agreement.

(aaa) "Housing Authority" means the Housing Authority of Contra Costa County.

(bbb) "Housing Improvements" has the meaning set forth in Paragraph D of the Recitals.

(ccc) "HUD" has the meaning set forth in Paragraph B of the Recitals.

(ddd) "Improvements" has the meaning set forth in Paragraph D of the Recitals.

(eee) "Intercreditor Agreement" means that certain intercreditor agreement of even date herewith entered into by and among the City, the County, and Borrower related to the Loan and the City Loan, to be recorded against the Development.

(fff) "Investor Limited Partner" means collectively, Bank of America, N.A., a national banking association, and Banc of America CDC Special Holding Company, Inc., a North Carolina corporation, and their successors and assigns.

(ggg) "Leasehold Interest" has the meaning set forth in Paragraph D of the Recitals.

(hhh) "Lenders' Share of Residual Receipts" means seventy-five percent (75%) of Residual Receipts.

(iii) "Loan Documents" means this Agreement, the Note, the Regulatory Agreements, the Intercreditor Agreement, and the Deed of Trust.

(jjj) "Loan" has the meaning set forth in Paragraph E of the Recitals.

(kkk) "NEPA" has the meaning set forth in Paragraph I of the Recitals.

(lll) "Net Proceeds of Permanent Financing" means the amount by which Permanent Financing exceeds the Final Development Costs.

(mmm) "Note" means the promissory note of even date herewith that evidences Borrower's obligation to repay the Loan.

(nnn) "Operating Reserve Account" has the meaning set forth in Section 4.2(b).

(ooo) "Partnership Agreement" means the Amended and Restated Agreement of Limited Partnership, dated on or about the date of recordation of the Deed of Trust, as may be amended from time to time, that governs the operation and organization of Borrower as a California limited partnership.

(ppp) "Partnership/Asset Fee" means: (i) partnership management fees (including any asset management fees) payable pursuant to the Partnership Agreement to any partner or affiliate of Borrower or any affiliate of a partner of Borrower, if any, during the Fifteen Year Compliance Period; and (ii) after the expiration of the Fifteen Year Compliance Period, asset management fees payable to Borrower, in the amounts approved by the County as set forth in Section 3.19.

(qqq) "Permanent Conversion" means the date the Bank Loan converts to the Permanent Loan.

(rrr) "Permanent Financing" means the sum of the following amounts: (i) the Permanent Loan; (ii) the Adjusted HOME Loan; (iii) the Adjusted HOPWA Loan; (iv) the Adjusted City Loan; (v) the Tax Credit Investor Equity; (vi) the GP Capital Contribution; and (vii) the AHP Funds.

(sss) "Permanent Loan" has the meaning set forth in Section 1.1(j)(ii).

(ttt) "Persons with HIV/AIDS" has the meaning set forth in the HOME/HOPWA Regulatory Agreement.

(uuu) "Property" has the meaning set forth in Paragraph D of the Recitals.

(vvv) "RCD" means Resources for Community Development, a California nonprofit public benefit corporation.

(www) "Regulatory Agreements" means the County Regulatory Agreement and

the HOME/HOPWA Regulatory Agreement.

(xxx) "Rental Shortfall Due Date" has the meaning set forth in Section 2.8(c).

(yyy) "Rental Shortfall Payment" has the meaning set forth in Section 2.8(c).

(zzz) "Replacement Reserve Account" has the meaning set forth in Section 4.2(a).

(aaaa) "Residual Receipts" means for each calendar year, the amount by which Gross Revenue exceeds Annual Operating Expenses.

(bbbb) "Retention Amount" means Fifty Thousand Dollars (\$50,000) of the HOME Loan, the disbursement of which is described in Section 2.7.

(cccc) "Service Facility Improvements" has the meaning set forth in Paragraph D of the Recitals.

(dddd) "Senior Loan" has the meaning set forth in Section 2.5.

(eeee) "Special City Loan Payment" has the meaning set forth in the Intercreditor Agreement.

(ffff) "Special County Loan Payment" has the meaning in Section 2.8(b).

(gggg) "Special County Loan Prorata Percentage" means the result, expressed as a percentage, obtained by dividing the County Loan by the sum of the County Loan and the City Loan.

(hhhh) "St. Paul's" has the meaning set forth in Paragraph D of the Recitals.

(iiii) "Statement of Residual Receipts" means an itemized statement of Residual Receipts.

(jjjj) "Tax Credit Investor Equity" has the meaning set forth in Section 1.1(j)(vi).

(kkkk) "TCAC" means the California Tax Credit Allocation Committee.

(llll) "Tenant" means the tenant household that occupies a unit in the Development.

(mmmm) "Term" means the period of time that commences on the date of this Agreement, and expires, unless sooner terminated in accordance with this Agreement, on the fifty-fifth (55<sup>th</sup>) anniversary of the Completion Date; provided, however, if a record of the Completion Date cannot be located or established, the Term will expire on the fifty-seventh (57<sup>th</sup>) anniversary of this Agreement.

(nnnn) "Transfer" has the meaning set forth in Section 4.13 below.

## Section 1.2 Exhibits

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A: Legal Description of the Property
- Exhibit B: Approved Development Budget
- Exhibit C: NEPA Mitigation Requirements

## ARTICLE 2 LOAN PROVISIONS

### Section 2.1 Loan.

Upon satisfaction of the conditions set forth in Section 2.6 and Section 2.7 of this Agreement, the County shall lend to Borrower the Loan for the purposes set forth in Section 2.3 of this Agreement. Borrower's obligation to repay the Loan is evidenced by the Note.

### Section 2.2 Interest.

(a) HOME Loan. Subject to the provisions of subsection (c) below, simple interest will accrue on the outstanding principal balance of the HOME Loan at a per annum rate of interest equal to three percent (3%), commencing on the date of disbursement.

(b) HOPWA Loan. Subject to the provisions of subsection (c) below, no interest will accrue on the outstanding principal balance of the HOPWA Loan.

(c) Default Interest. Upon the occurrence of an Event of a Default, interest on the outstanding principal balance of the Loan will begin to accrue, beginning on the date of such occurrence and continuing until the date the Loan is repaid in full or the Event of Default is cured, at the Default Rate.

### Section 2.3 Use of Loan Funds.

(a) HOME Loan. Borrower shall use the HOME Loan for construction costs, in amounts consistent with the Approved Development Budget. Use of the HOME Loan for reimbursement of costs incurred prior to the date of this Agreement is subject to Section 92.206(d)(1) of the HOME Regulations.

(b) HOPWA Loan. Borrower shall use the HOPWA Loan for soft costs, closing costs, and construction costs, in amounts consistent with the Approved Development Budget.

(c) Borrower may not use the Loan proceeds for any other purposes without the prior written consent of the County.

### Section 2.4 Security.

In consideration of the Loan, Borrower shall (i) secure its obligation to repay the Loan, as evidenced by the Note, by executing the Deed of Trust, and cause or permit it to be recorded as a

lien against the Development, and (ii) execute the Regulatory Agreements, and the Intercreditor Agreement, and cause or permit them to be recorded against the Development.

#### Section 2.5 Subordination.

(a) Any agreement by the County to subordinate the Deed of Trust and/or Regulatory Agreements to an encumbrance securing and/or evidencing the Bank Loan, Permanent Loan, or any loan obtained by Borrower to refinance the Bank Loan or Permanent Loan (the "Senior Loan") will be subject to the satisfaction of each of the following conditions:

(i) All of the proceeds of the Senior Loan, less any transaction costs, are used to provide acquisition, construction and/or permanent financing for the Development.

(ii) The lender of the Senior Loan is a state or federally chartered financial institution, a nonprofit corporation or a public entity that is not affiliated with Borrower or any of Borrower's affiliates, other than as a depositor or a lender.

(iii) Borrower demonstrates to the County's satisfaction that subordination of the Deed of Trust and the Regulatory Agreements is necessary to secure adequate acquisition, construction, and/or permanent financing to ensure the viability of the Development, including the operation of the Development as affordable housing, as required by the Loan Documents. To satisfy this requirement, Borrower must provide to the County, in addition to any other information reasonably required by the County, evidence demonstrating that the proposed amount of the Senior Loan is necessary to provide adequate acquisition, construction, and/or permanent financing to ensure the viability of the Development, and adequate financing for the Development would not be available without the proposed subordination.

(iv) The subordination agreement(s) is structured to minimize the risk that the Deed of Trust and the Regulatory Agreements will be extinguished as a result of a foreclosure by the Bank or other holder of the Senior Loan. To satisfy this requirement, the subordination agreement must provide the County with adequate rights to cure any defaults by Borrower, including: (1) providing the County or its successor with copies of any notices of default at the same time and in the same manner as provided to Borrower; and (2) providing the County with a cure period of at least sixty (60) days to cure any default.

(v) The subordination(s) of the Loan is effective only during the original term of the Senior Loan and any extension of its term that is approved in writing by the County.

(vi) The subordination does not limit the effect of the Deed of Trust and the Regulatory Agreements before a foreclosure, nor require the consent of the holder(s) of the Senior Loan prior to the County exercising any remedies available to the County under the Loan Documents.

(b) Upon a determination by the County's Director – Department of Conservation and Development that the conditions in Subsection (a) have been satisfied, the Director – Department of Conservation and Development or his/her designee will be authorized



to execute the approved subordination agreement without the necessity of any further action or approval.

(c) The County agrees to subordinate the Deed of Trust and the Regulatory Agreements to that certain Rental Assistance Demonstration (RAD) Use Agreement to be entered into between HUD and Borrower, pursuant to a form of subordination agreement provided by HUD and approved by the County.

Section 2.6 Conditions Precedent to Disbursement of Loan Funds for Construction.

Until the conditions set forth in Section 2.7 have been met, the disbursements made pursuant to this Agreement may not exceed Two Million Eight Hundred Twenty-Four Thousand Six Hundred Eighty-One Dollars (\$2,824,681). The County is not obligated to disburse any portion of the Loan, or to take any other action under the Loan Documents unless all of the following conditions have been and continue to be satisfied:

(a) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement;

(b) The County has approved the Ground Lease;

(c) There exists no default nor any act, failure, omission or condition that would constitute default under the Ground Lease;

(d) Borrower holds title to the Leasehold Interest or is acquiring title to the Leasehold Interest simultaneously with the disbursement of the Loan proceeds;

(e) Borrower has delivered to the County a copy of a corporate resolution authorizing Borrower to obtain the Loan and all other Approved Financing, and execute the Loan Documents;

(f) There exists no material adverse change in the financial condition of Borrower from that shown by the financial statements and other data and information furnished by Borrower to the County prior to the date of this Agreement;

(g) Borrower has furnished the County with evidence of the insurance coverage meeting the requirements of Section 4.14 below;

(h) Borrower has executed and delivered to the County the Loan Documents and has caused all other documents, instruments, and policies required under the Loan Documents to be delivered to the County;

(i) The Deed of Trust, the Regulatory Agreements, and the Intercreditor Agreement, have been recorded against the Leasehold Interest in the Office of the Recorder of the County of Contra Costa;

(j) A title insurer reasonably acceptable to the County is unconditionally and irrevocably committed to issuing an LP-10 2006 ALTA Lender's Policy of title insurance insuring the priority of the Deed of Trust in the amount of the Loan, subject only to such

exceptions and exclusions as may be reasonably acceptable to the County, and containing such endorsements as the County may reasonably require. The Borrower shall provide whatever documentation (including an indemnification agreement), deposits or surety is reasonably required by the title company in order for the County's Deed of Trust to be senior in lien priority to any mechanics liens in connection with any start of construction that has occurred prior to the recordation of the Deed of Trust against the Leasehold Interest in the Office of the Recorder of the County of Contra Costa;

(k) All environmental review necessary for the construction of the Improvements has been completed, and Borrower has provided the County evidence of planned compliance with all NEPA and CEQA requirements and mitigation measures applicable to construction, and evidence of compliance with all NEPA and CEQA requirements and mitigation measures applicable to preconstruction;

(l) The County has determined the undisbursed proceeds of the Loan, together with other funds or firm commitments for funds that Borrower has obtained in connection with the construction of the Improvements, are not less than the amount the County determines is necessary to pay for the construction of the Improvements and to satisfy all of the covenants contained in this Agreement and the Regulatory Agreements;

(m) Borrower has obtained all permits and approvals necessary for the construction of the Improvements;

(n) The County has received and approved the Bid Package for the subcontractors for the construction of the Improvements pursuant to Section 3.2 below;

(o) The County has received and approved the general contractor's construction contract that the Borrower has entered or proposed to enter for the construction of the Improvements pursuant to Section 3.3 below;

(p) The County has received and approved labor and material (payment) bonds and performance bonds as required pursuant to Section 3.4 below;

(q) Borrower has closed the loans and obtained the equity financings that comprise the Approved Financing described in Section 1.1(j)(i)-(v), and has already received, or is eligible to receive, the funds;

(r) The County has received a fully executed copy of the Partnership Agreement, in which the Investor Limited Partner is obligated to provide Borrower the Tax Credit Investor Equity;

(s) The County has received reasonable evidence that the local match requirements set forth in 24 C.F.R. Section 92.218 et seq., have been satisfied pursuant to Section 4.1 of this Agreement;

(t) Borrower has provided the County a certification from the Development architect or qualified accessibility specialist that the construction plans are in conformance with the Accessibility Requirements;

(u) The County has received a fully executed copy of the RAD Delayed Conversion Agreement between Borrower and the Housing Authority governing the commitment of project-based Section 8 rental assistance through the Rental Assistance Demonstration Program for five (5) units in the Housing Improvements by the Housing Authority;

(v) The County has received a fully executed copy of the Agreement to Enter Housing Assistance Payment Contract between Borrower and the Housing Authority governing the commitment of project-based Section 8 rental assistance for eighteen (18) units in the Housing Improvements by the Housing Authority; and

(w) The County has received a written draw request from Borrower, including: (i) certification that the condition set forth in Section 2.6(a) continues to be satisfied; (ii) certification that the proposed uses of funds is consistent with the Approved Development Budget; (iii) the amount of funds needed; and, (iv) where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay any contractor in connection with Improvements, the written request must be accompanied by: (1) certification by the Borrower's architect reasonably acceptable to the County that the work for which disbursement is requested has been completed (although the County reserves the right to inspect the Development and make an independent evaluation); and (2) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County.

#### Section 2.7 Conditions Precedent to Disbursement of Retention.

The County is not obligated to disburse the Retention Amount unless the following conditions precedent are satisfied:

(a) The County has received a completion report from Borrower setting forth: (i) the income, household size, race, and ethnicity of Tenants of the County-Assisted Units; (ii) and the unit address, unit size, rent amount and utility allowance for all County-Assisted Units;

(b) The County has received a Final Cost Certification for the Improvements from Borrower showing all uses and sources;

(c) The County has received from Borrower copies of the certificate of occupancy or equivalent final permit sign-offs for the Housing Improvements;

(d) The County has received from Borrower current evidence of the insurance coverage meeting the requirements of Section 4.14 below;

(e) The County has received from Borrower a form of Tenant lease;

(f) The County has received from Borrower a Marketing Plan, Tenant Selection Plan, and Social Services Plan as defined in the HOME/HOPWA Regulatory Agreement;

(g) The County has received from Borrower evidence of marketing for any vacant County-Assisted Unit in the Development such as copies of flyers, list of media ads, list of agencies and organizations receiving information on availability of such units, as applicable;

(h) The County has received from Borrower all relevant contract activity information, including compliance with Section 3 requirements as set forth in Section 4.7(b)(xii) of the HOME/HOPWA Regulatory Agreement, and MBE/WBE requirements;

(i) If Borrower was required to comply with relocation requirements as set forth in Section 4.7(b)(vi) of the HOME/HOPWA Regulatory Agreement, the County has received from Borrower evidence of compliance with all applicable relocation requirements;

(j) The County has received from Borrower a copy of the management agreement and contact information for the property manager of the Development and the name and phone number of the on-site property manager;

(k) If Borrower is required to pay prevailing wages under the Davis-Bacon Act (40 U.S.C. 3141-3148), the County has received confirmation that Borrower has submitted all certified payrolls to the County, and any identified payment issues have been resolved, or Borrower is working diligently to resolve any such issues;

(l) The County has received from Borrower evidence of compliance with all NEPA mitigation requirements as set forth in Exhibit C;

(m) The County has received from Borrower a fully executed copy of the Rental Assistance Demonstration Housing Assistance Payment Contract between Borrower and the Housing Authority governing the provision of project-based Section 8 rental assistance through the Rental Assistance Demonstration Program for five (5) units in the Housing Improvements by the Housing Authority;

(n) The County has received from Borrower a fully executed copy of the Housing Assistance Payment Contract between Borrower and the Housing Authority governing the provision of project-based Section 8 rental assistance for eighteen (18) units in the Housing Improvements by the Housing Authority; and

(o) The County has received a written draw request from Borrower, including certification that the condition set forth in Section 2.6(a) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Approved Development Budget, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. Borrower shall apply the disbursement for the purpose(s) requested.

## Section 2.8 Repayment Schedule.

(a) Annual Payments of Loan. Commencing on June 1, 2020 and on June 1 of each year thereafter during the Term, Borrower shall make a Loan payment in an amount equal to the County Loan Prorata Percentage of the Lenders' Share of Residual Receipts (each such payment, an "Annual Payment"). The County shall apply all Annual Payments first, to accrued interest; and second, to principal.

(b) Special Repayments of HOME Loan from Net Proceeds of Permanent Financing. No later than ten (10) days after the date Borrower receives its final capital contribution from the Investor Limited Partner, Borrower shall pay to the County as a special

repayment of the HOME Loan, an amount equal to the result obtained by multiplying the Special County Loan Prorata Percentage by the Available Net Proceeds (the "Special County Loan Payment"). No later than one hundred eighty (180) days following completion of construction of the Improvements, Borrower shall submit to the County for its review a preliminary calculation of the Net Proceeds of Permanent Financing and a draft of the Final Cost Certification as defined Section 4.3 below. The County shall approve or disapprove Borrower's determination of the amount of the Net Proceeds of Permanent Financing in writing within thirty (30) days after receipt. If Borrower's determination is disapproved by the County, Borrower shall re-submit documentation to the County until the County approval is obtained.

(c) Special Repayment of HOME Loan for Failure to Lease. If on or before the Rental Shortfall Due Date, Borrower fails to cause each of the HOME-Assisted Units to be rented to and occupied by a HOME Eligible Household in accordance with Section 2.1(b) of the HOME/HOPWA Regulatory Agreement, Borrower shall pay the County the Rental Shortfall Payment, plus accrued interest, on the Rental Shortfall Due Date.

(i) The "Rental Shortfall Due Date" is the date that occurs eighteen (18) months after the Completion Date.

(ii) The "Rental Shortfall Payment" is an amount equal to the result obtained by multiplying (1) the number of HOME-Assisted Units that have not been rented to and occupied by a HOME Eligible Household on or before the Rental Shortfall Due Date, by (2) a fraction, the numerator of which is the then-outstanding principal balance on the HOME Loan and the denominator of which is the number of HOME-Assisted Units.

(iii) Interest on the Rental Shortfall Payment will accrue in accordance with Section 2.2(a) through the Rental Shortfall Due Date. If the Rental Shortfall Payment is not paid on or before the Rental Shortfall Due Date, interest on the Rental Shortfall Payment will accrue at the Default Rate beginning on the day after the Rental Shortfall Due Date and continuing until the Rental Shortfall Payment is paid in full with interest.

(d) Payment in Full of Loan. Borrower shall pay all outstanding principal and accrued interest on the Loan, in full, on the earliest to occur of: (i) any Transfer other than as permitted pursuant to Section 4.13; (ii) an Event of Default; and (iii) the expiration of the Term.

(e) Prepayment. Borrower may prepay the Loan at any time without premium or penalty. However, the Regulatory Agreements and the Deed of Trust will remain in effect for the entire Term, regardless of any prepayment or Transfer.

## Section 2.9 Reports and Accounting of Residual Receipts.

(a) Borrower shall keep and maintain at the principal place of business of Borrower set forth in Section 7.9 below, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts necessary or prudent to evidence and substantiate in full detail Borrower's calculation of Residual Receipts and disbursements of Residual Receipts.

(b) In connection with the Annual Payment, Borrower shall furnish to the

County:

(i) The Statement of Residual Receipts for the relevant period. The first Statement of Residual Receipts will cover the period that begins on January 1, 2019 and ends on December 31st of that same year. Subsequent statements of Residual Receipts will cover the twelve-month period that ends on December 31 of each year;

(ii) A statement from the independent public accountant that audited the Borrower's financial records for the relevant period, which statement must confirm that Borrower's calculation of the Lenders' Share of Residual Receipts is accurate based on Gross Revenue and Annual Operating Expenses; and

(iii) Any additional documentation reasonably required by the County to substantiate Borrower's calculation of Lenders' Share of Residual Receipts.

(c) The receipt by the County of any statement pursuant to subsection (b) above or any payment by Borrower or acceptance by the County of any Loan repayment for any period does not bind the County as to the correctness of such statement or payment. The County may audit the Residual Receipts and all books, records, and accounts pertaining thereto pursuant to Section 4.6 below.

#### Section 2.10 Non-Recourse.

Except as provided below, neither Borrower, nor any partner of Borrower, has any direct or indirect personal liability for payment of the principal of, and interest on, the Loan. Following recordation of the Deed of Trust, the sole recourse of the County with respect to the principal of, or interest on, the Note will be to the property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability limits or impairs the enforcement of all the rights and remedies of the County against all such security for the Note, or impairs the right of County to assert the unpaid principal amount of the Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation to repay the principal and interest on the Note. Except as hereafter set forth; nothing contained herein is intended to relieve Borrower of its obligation to indemnify the County under the Loan Documents including but not limited to Sections 3.8, 3.9, 3.10, 4.7, and 7.4 of this Agreement and Sections 2.1(d) and 4.7(b)(vi) of the HOME/HOPWA Regulatory Agreement, or liability for: (i) loss or damage of any kind resulting from waste, fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges which may create liens on the Development that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; and (iv) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Development.

### ARTICLE 3 CONSTRUCTION OF THE IMPROVEMENTS

#### Section 3.1 Permits and Approvals.

Borrower shall obtain all permits and approvals necessary for the construction of the Improvements no later than March 31, 2018, or such later date that the County approves in writing.

#### Section 3.2 Bid Package.

Not later than thirty (30) days prior to Borrower's proposed date for advertising the Bid Package, Borrower shall submit to the County a copy of Borrower's general contractor's proposed Bid Package. The County's Assistant Deputy Director, Department of Conservation and Development, or his or her designee, shall approve or disapprove the Bid Package within fifteen (15) days after receipt of the Bid Package by the County. If the County rejects the proposed Bid Package the reasons therefore must be given to Borrower. Borrower will then have fifteen (15) days to revise the proposed Bid Package and resubmit it to the County. The County will then have fifteen (15) days to review and approve Borrower's new or corrected Bid Package. The provisions of this Section will continue to apply until a proposed Bid Package has been approved by the County. Borrower may not publish a proposed Bid Package until it has been approved by the County.

#### Section 3.3 Construction Contract.

(a) Not later than fifteen (15) days prior to the proposed Commencement of Construction, Borrower shall submit to the County for its approval a draft of the proposed construction contract for the Improvements. All construction work and professional services are to be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California. Each contract that Borrower enters for construction of the Improvements is to provide that at least ten percent (10%) of the costs incurred will be payable only upon completion of the construction, subject to early release of retention for specified subcontractors upon approval by the County. The construction contract will include all applicable HOME and HOPWA requirements set forth in Section 4.7 of the HOME/HOPWA Regulatory Agreement. The County's approval of the construction contract may not be deemed to constitute approval of or concurrence with any term or condition of the construction contract except as such term or condition may be required by this Agreement.

(b) Upon receipt by the County of the proposed construction contract, the County shall promptly review same and approve or disapprove it within ten (10) days. If the construction contract is not approved by the County, the County shall set forth in writing and notify Borrower of the County's reasons for withholding such approval. Borrower shall thereafter submit a revised construction contract for County approval, which approval is to be granted or denied in ten (10) days in accordance with the procedures set forth above. Any construction contract executed by Borrower for the Improvements is to be in the form approved by the County.



#### Section 3.4 Construction Bonds.

Not later than thirty (30) days prior to the proposed Commencement of Construction Borrower shall deliver to the County copies of labor and material bonds and performance bonds for the construction of the Improvements in an amount equal to one hundred percent (100%) of the scheduled cost of the construction of the Improvements. Such bonds must name the County as a co-obligee.

#### Section 3.5 Commencement of Construction.

Borrower shall cause the Commencement of Construction of the Improvements to occur no later than April 15, 2018, or such later date that the County approves in writing, but in no event later than 1 year from date of this Agreement. For the purposes of this Agreement, "Commencement of Construction" means the date set for the start of construction of the Improvements in the notice to proceed issued by Borrower to Borrower's general contractor.

#### Section 3.6 Completion of Construction.

(a) Borrower shall diligently prosecute construction of the Improvements to completion, and shall cause the construction of the Improvements to be completed no later than July 1, 2019, or such later date that the County approves in writing.

(b) Borrower shall give notice to the County upon completion of construction of the Improvements. Upon receipt of such notice the County will perform an inspection of the Improvements to determine if the Improvements were constructed in accordance with the HOME Regulations, including the property standards set forth in 24 C.F.R. 92.251. If the County determines the Improvements were not constructed in accordance with the HOME Regulations, the County will provide Borrower with a written report of the deficiencies. Borrower shall correct such deficiencies within the timeframe set forth in the notice provided to Borrower by the County. The Development may not be occupied until such deficiencies have been corrected to the satisfaction of the County.

#### Section 3.7 Changes; Construction Pursuant to Plans and Laws.

(a) Changes. Borrower shall construct the Improvements in conformance with (i) the plans and specifications approved by the City's Building Inspection Department, and (ii) the Approved Development Budget. Borrower shall notify the County in a timely manner of any changes in the work required to be performed under this Agreement, including any additions, changes, or deletions to the plans and specifications approved by the City. Written authorization from the County must be obtained before any of the following changes, additions, or deletions in work for the Improvements may be performed: (i) any change in the work the cost of which exceeds Fifty Thousand Dollars (\$50,000); or (ii) any set of changes in the work the cost of which cumulatively exceeds One Hundred Thousand Dollars (\$100,000) or ten percent (10%) of the Loan amount, whichever is less; or (iii) any material change in building materials or equipment, specifications, or the structural or architectural design or appearance of the Improvements as provided for in the plans and specifications approved by the County. The County's consent to any additions, changes, or deletions to the work does not relieve or release Borrower from any other obligations under this Agreement, or relieve or release Borrower or its

surety from any surety bond.

(b) Compliance with Laws. Borrower shall cause all work performed in connection with the Development to be performed in compliance with:

(i) all applicable laws, codes (including building codes and codes applicable to mitigation of disasters such as earthquakes), ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter;

(ii) the HOME Regulations including the property standards set out in 24 C.F.R. 92.251 as implemented by Section 5.6 of the HOME/HOPWA Regulatory Agreement, and 24 C.F.R. Section 574.310;

(iii) the requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35; and

(iv) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. Borrower may permit the work to proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and Borrower is responsible to the County for the procurement and maintenance thereof.

### Section 3.8 Prevailing Wages.

(a) Davis Bacon. Borrower shall cause construction of the Improvements to be in compliance with the prevailing wage requirements of the federal Davis-Bacon Act (40 U.S.C. 3141-3148). Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including the Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to the prevailing wage provisions of the federal Davis-Bacon Act and implementing rules and regulations in connection with the construction of the Improvements or any other work undertaken or in connection with the Development. The requirements in this subsection survive the repayment of the Loan, and the reconveyance of the Deed of Trust.

#### (b) State Prevailing Wages.

(i) To the extent required by applicable law Borrower shall:

(1) pay, and shall cause any consultants or contractors to pay, prevailing wages in the construction of the Improvements as those wages are determined pursuant to California Labor Code Section 1720 et seq.;

(2) cause any consultants or contractors to employ apprentices as required by California Labor Code Section 1777.5 et seq., and the implementing regulations

of the Department of Industrial Relations (the "DIR"), and to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR;

(3) keep and retain, and shall cause any consultants and contractors to keep and retain, such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed are required by California Labor Code Section 1777.5 et seq.;

(4) post at the Development, or shall cause the contractor to post at the Development, the applicable prevailing rates of per diem wages. Copies of the currently applicable current per diem prevailing wages are available from DIR;

(5) cause contractors and subcontractors constructing the Improvements to be registered as set forth in California Labor Code Section 1725.5;

(6) cause its contractors and subcontractors, in all calls for bids, bidding materials and the construction contract documents for the construction of the Improvements to specify that:

(A) no contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the construction of the Improvements unless registered with the DIR pursuant to California Labor Code Section 1725.5; and

(B) the construction of the Improvements is subject to compliance monitoring and enforcement by the DIR.

(7) provide the County all information required by California Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within 2 days of the award of any contract (<https://www.dir.ca.gov/pwc100ext/>);

(8) cause its contractors to post job site notices, as prescribed by regulation by the DIR; and

(9) cause its contractors to furnish payroll records required by California Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

(ii) Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices pursuant to California Labor Code Section 1777.5 et seq., to meet the conditions of California Labor Code Section 1771.4, and implementing regulations of the DIR, or to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and 1771.4, and the implementing regulations of the DIR, in connection with the construction of the Improvements or any other work undertaken or in connection with the Development. The

requirements in this Section survive the repayment of the Loan, and the reconveyance of the Deed of Trust.

### Section 3.9 Accessibility.

(a) Borrower shall cause the Development to be constructed and operated at all times in compliance with all applicable federal, state, and local disabled persons accessibility requirements including, but not limited to the applicable provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973, (iv) the United States Fair Housing Act, as amended, (v) the Americans With Disabilities Act of 1990, and (vi) Chapters 11A and 11B of Title 24 of the California Code of Regulations, which relate to disabled persons access (collectively, the "Accessibility Requirements").

(b) In compliance with the Accessibility Requirements: (i) a minimum of three (3) units must be construction to be fully accessible to households with a mobility impaired member and, (ii) an additional one (1) unit must be fully accessible to hearing and/or visually impaired persons. In compliance with the Accessibility Requirements Borrower shall provide the County with a certification from the Development architect that to the best of the architect's knowledge, the Development complies with all federal and state accessibility requirements applicable to the Development.

(c) Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its architect, contractor and subcontractors) to rehabilitate the Development in accordance with the Accessibility Requirements. The requirements in this Subsection survive repayment of the Loan and the reconveyance of the Deed of Trust.

### Section 3.10 Relocation.

If and to the extent that acquisition of the Leasehold Interest and construction of the Improvements will result in the permanent or temporary displacement of tenants, then Borrower shall comply with all applicable local, state, and federal statutes and regulations, (including without limitation the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq.) with respect to preparation of a relocation plan, relocation planning, advisory assistance, and payment of monetary benefits. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. Borrower shall indemnify, defend and hold harmless, (with counsel reasonably acceptable to the County), the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns against any claim for damages, compensation, fines, penalties, relocation payments or other amounts and expenses (including reasonable attorneys' fees) arising out of the failure or alleged failure of any person or entity (including Borrower, or the County) to satisfy relocation obligations related to the acquisition of the Leasehold Interest. This obligation to indemnify shall survive termination of this Agreement.

### Section 3.11 Equal Opportunity.

During the construction of the Improvements discrimination on the basis of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in the hiring, firing, promoting, or demoting of any person engaged in the construction work is not allowed.

### Section 3.12 Minority and Women-Owned Contractors.

Borrower shall use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the construction of the Improvements. Borrower shall, at a minimum, notify applicable minority-owned and women-owned business firms located in Contra Costa County of bid opportunities for the construction of the Improvements. A listing of minority owned and women owned businesses located in the County and neighboring counties is available from the County. Documentation of such notifications must be maintained by Borrower and available to the County upon request.

### Section 3.13 Progress Reports.

Until such time as Borrower has received a certificate of occupancy from the City for the Development, Borrower shall provide the County with quarterly progress reports regarding the status of the construction of the Improvements, including a certification that the actual construction costs to date conform to the Approved Development Budget, as it may be amended from time to time pursuant to Section 3.17 below.

### Section 3.14 Construction Responsibilities.

(a) Borrower is responsible for the coordination and scheduling of the work to be performed so that commencement and completion of the construction of the Improvements takes place in accordance with this Agreement.

(b) Borrower is solely responsible for all aspects of Borrower's conduct in connection with the Development, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the County with reference to the Development is solely for the purpose of determining whether Borrower is properly discharging its obligations to the County, and may not be relied upon by Borrower or by any third parties as a warranty or representation by the County as to the quality of the design or construction of the Improvements.

### Section 3.15 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Development or a stop notice affecting the Loan is served on the County or any other lender or other third party in connection with the Development, then Borrower shall, within twenty (20) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the County a surety bond in sufficient form and amount, or provide the County

with other assurance satisfactory to the County that the claim of lien or stop notice will be paid or discharged.

(b) If Borrower fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, the County may (but is under no obligation to) discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternately, the County may require Borrower to immediately deposit with the County the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The County may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

(c) Borrower shall file a valid notice of cessation or notice of completion upon cessation of construction work on the Development for a continuous period of thirty (30) days or more, and take all other steps necessary to forestall the assertion of claims of lien against the Development. Borrower authorizes the County, but the County has no obligation, to record any notices of completion or cessation of labor, or any other notice that the County deems necessary or desirable to protect its interest in the Development.

#### Section 3.16 Inspections.

Borrower shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection at the Development by the County and by public authorities during reasonable business hours during the Term, for the purposes of determining compliance with this Agreement.

#### Section 3.17 Approved Development Budget; Revisions to Budget.

As of the date of this Agreement, the County has approved the Approved Development Budget set forth in Exhibit B. Borrower shall submit any required amendments to the Approved Development Budget to the County for approval within five (5) days after the date Borrower receives information indicating that actual costs of the Development vary or will vary from the costs shown on the Approved Development Budget. Written consent of the County will be required to amend the Approved Development Budget.

#### Section 3.18 Developer Fee.

The maximum cumulative Developer Fee that may be paid to any entity or entities providing development services to the Development, whether paid up-front or on a deferred basis, is not to exceed the amount allowed by TCAC and as approved by the County. For the purposes of this Agreement "Developer Fee" has the meaning set forth in California Code of Regulations, Title 4, Section 10302(l). The County approves a total Developer Fee whether paid up-front out of development sources or on a deferred basis out of Annual Operating Expenses, in an amount not to exceed One Million Nine Hundred Thousand Dollars (\$1,900,000), provided that (i) Borrower's general partner is required to make a capital contribution of at least One Hundred Fifty-Seven Thousand Nine Hundred Dollars (\$157,900) prior to or at Permanent Conversion, and (ii) amount of Developer Fee payable to the Developer out of development sources is not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000).

### Section 3.19 Partnership/Asset Fee.

During the Fifteen Year Compliance Period, the Partnership/Asset Fee is not to exceed Thirty-Two Thousand Dollars (\$32,000) per year. After the expiration of the Fifteen Year Compliance Period, the Partnership/Asset Fee is not to exceed Twenty-Five Thousand Dollars (\$25,000) per year.

### Section 3.20 NEPA Mitigation Requirements.

Borrower shall comply with the NEPA mitigation requirements set forth in the attached Exhibit C in the construction of the Improvements.

## ARTICLE 4 LOAN REQUIREMENTS

### Section 4.1 Match Requirement.

The Borrower shall ensure that the Loan is matched with a minimum of Six Hundred Sixty Thousand Six Hundred Dollars (\$660,600) in other, non-federal sources, pursuant to and eligible under applicable HOME Regulations.

### Section 4.2 Reserve Accounts.

(a) Replacement Reserve Account. Borrower shall establish and maintain an account that is available for capital expenditures for repairs and replacement necessary to maintain the Development in the condition required by the Loan Documents (the "Replacement Reserve Account"). Borrower shall make annual deposits to the Replacement Reserve Account and replenish the Replacement Reserve Account in the amounts required in the Partnership Agreement and/or the documents evidencing the Permanent Loan, whichever is greater. In no event shall the annual amount deposited in the Replacement Reserve Account exceed Six Hundred Dollars (\$600) per unit, increasing by the applicable consumer price index every five (5) years, or such greater amount required in connection with the Partnership Agreement or any permanent financing, and approved by the County.

(b) Operating Reserve Account. Borrower shall establish and maintain an account that is available to fund operating deficits (which is the amount by which Annual Operating Expenses exceed Gross Revenue for any period) (the "Operating Reserve Account"). Borrower shall capitalize the Operating Reserve Account in the amount required by TCAC (currently three months of Annual Operating Expenses); provided, however that if the Partnership Agreement or the documents evidencing the Permanent Loan require the Operating Reserve Account to be capitalized and replenished in an amount greater than the TCAC requirement, Borrower shall capitalize and replenish the Operating Reserve Account as required by the Partnership Agreement or the documents evidencing the Permanent Loan, as applicable, for as long as the Partnership Agreement or the Permanent Loan, as applicable, is outstanding. In no event may the amount held in the Operating Reserve Account exceed six (6) months gross rent from the Development (as such rent may vary from time to time).



#### Section 4.3 Financial Accountings and Post-Completion Audits.

(a) No later than ninety (90) days following completion of construction of the Improvements, Borrower shall provide to the County for its review and approval a financial accounting of all sources and uses of funds for the Development.

(b) No later than one hundred twenty (120) days after Permanent Conversion, Borrower shall submit an audited financial report showing the sources and uses of all funds utilized for the Development. This requirement may be satisfied by providing the Final Cost Certification to the County. "Final Cost Certification" means the Final Cost Certification Sources and Uses of Funds prepared by Borrower for the Development that: (i) Borrower submits to TCAC; and (ii) has been prepared using generally accepted accounting standards in effect in the United States of America from time to time, consistently applied.

#### Section 4.4 Approval of Annual Operating Budget.

Thirty (30) days prior to the beginning of each year of the Term, Borrower shall provide to the County an annual budget for the operation of the Development. The County may request additional information to assist the County in evaluating the financial viability of the Development. Unless rejected by the County in writing within thirty (30) days after receipt of the budget, the budget will be deemed accepted. If rejected by the County in whole or in part, Borrower shall submit a new or corrected budget within thirty (30) calendar days after notification of the County's rejection and the reasons therefor. The provisions of this Section relating to time periods for resubmission of new or corrected budgets will continue to apply until such budget has been approved by the County.

#### Section 4.5 Information.

Borrower shall provide any information reasonably requested by the County in connection with the Development, including (but not limited to) any information required by HUD in connection with Borrower's use of the Loan funds.

#### Section 4.6 County Audits.

(a) Each year, Borrower shall provide the County with a copy of Borrower's annual audit, which is to include information on all of Borrower's activities and not just those pertaining to the Development.

(b) In addition, the County may, at any time, audit all of Borrower's books, records, and accounts pertaining to the Development including but not limited to the Residual Receipts of the Development. Any such audit is to be conducted during normal business hours at the principal place of business of Borrower and wherever records are kept. Immediately after the completion of an audit, the County shall deliver a copy of the results of the audit to Borrower.

(c) If it is determined as a result of an audit that there has been a deficiency in a loan repayment to the County then such deficiency will become immediately due and payable, with interest at the Default Rate from the date the deficient amount should have been paid. In addition, if the audit determines that Residual Receipts have been understated for any year by the

greater of: (i) Two Thousand Five Hundred Dollars (\$2,500); and (ii) an amount that exceeds five percent (5%) of the Residual Receipts, then, in addition to paying the deficiency with interest, Borrower shall pay all of the County's costs and expenses connected with the audit and review of Borrower's accounts and records.

Section 4.7     Hazardous Materials.

(a)     Borrower shall keep and maintain the Development (including but not limited to, soil and ground water conditions) in compliance with all Hazardous Materials Laws and may not cause or permit the Development to be in violation of any Hazardous Materials Law. Borrower may not cause or permit the use, generation, manufacture, storage or disposal of on, under, or about the Development or transportation to or from the Development of any Hazardous Materials, except such of the foregoing as may be customarily used in construction of projects like the Development or kept and used in and about residential property of this type.

(b)     Borrower shall immediately advise the County in writing if at any time it receives written notice of any Hazardous Materials Claims, and Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Development that could cause the Development or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Development under any Hazardous Materials Law including but not limited to the provisions of California Health and Safety Code, Section 25220 et seq., or any regulation adopted in accordance therewith.

(c)     The County has the right to join and participate in, as a party if it so elects, and be represented by counsel acceptable to the County (or counsel of its own choice if a conflict exists with Borrower) in any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Borrower.

(d)     Borrower shall indemnify and hold harmless the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, fine, penalty, judgment, award, settlement, expense or liability, directly or indirectly arising out of or attributable to: (i) any actual or alleged past or present violation of any Hazardous Materials Law; (ii) any Hazardous Materials Claim; (iii) any actual or alleged past or present use, generation, manufacture, storage, release, threatened release, discharge, disposal, transportation, or presence of Hazardous Materials on, under, or about the Development; (iv) any investigation, cleanup, remediation, removal, or restoration work of site conditions of the Development relating to Hazardous Materials (whether on the Development or any other property); and (v) the breach of any representation of warranty by or covenant of Borrower in this Section 4.7, and Section 5.1(l). Such indemnity shall include, without limitation: (x) all consequential damages; (y) the costs of any required or necessary investigation, repair, cleanup or detoxification of the Development and the preparation and implementation of any closure, remedial or other required plans; and (z) all reasonable costs and expenses incurred by the County in connection with clauses (x) and (y), including but not limited to reasonable attorneys' fees and consultant fees. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Development, (2) loss or restriction of use of rentable space on the

Development, (3) adverse effect on the marketing of any rental space on the Development, and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Development and surrounding properties). This obligation to indemnify will survive termination of this Agreement and will not be diminished or affected in any respect as a result of any notice, disclosure, knowledge, if any, to or by the County of Hazardous Materials.

(e) Without the County's prior written consent, which will not be unreasonably withheld, Borrower may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Development, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the County's judgment, impair the value of the County's security hereunder; provided, however, that the County's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Development either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the County's consent before taking such action, provided that in such event Borrower shall notify the County as soon as practicable of any action so taken. The County agrees not to withhold its consent, where such consent is required hereunder, if: (i) a particular remedial action is ordered by a court of competent jurisdiction; (ii) Borrower will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Borrower establishes to the satisfaction of the County that there is no reasonable alternative to such remedial action which would result in less impairment of the County's security hereunder; or (iv) the action has been agreed to by the County.

(f) Borrower hereby acknowledges and agrees that: (i) this Section is intended as the County's written request for information (and Borrower's response) concerning the environmental condition of the Development as required by California Code of Civil Procedure Section 726.5; and (ii) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Development is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(g) In the event that any portion of the Development is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the County's or the trustee's rights and remedies under the Deed of Trust, the County may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to: (i) waive its lien on such environmentally impaired or affected portion of the Development; and (ii) exercise, (1) the rights and remedies of an unsecured creditor, including reduction of its claim against Borrower to judgment, and (2) any other rights and remedies permitted by law. For purposes of determining the County's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Borrower will be deemed to have willfully permitted or acquiesced in a release or threatened release of Hazardous Materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of

Hazardous Materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Development and Borrower knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the County in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Development is environmentally impaired, plus interest thereon at the Default Rate, until paid, will be added to the indebtedness secured by the Deed of Trust and is due and payable to the County upon its demand made at any time following the conclusion of such action.

#### Section 4.8 Maintenance; Damage and Destruction.

(a) During the course of both construction and operation of the Development, Borrower shall maintain the Development in good repair and in a neat, clean and orderly condition, and in accordance with the Regulatory Agreements.

(b) Subject to the requirements of senior lenders, and if economically feasible in the County's judgment after consultation with Borrower, if any improvement now or in the future on the Property is damaged or destroyed, then Borrower shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the plans and specifications approved by the County with such changes as have been approved by the County. Such work or repair is to be commenced no later than the later of one hundred twenty (120) days, or such longer period approved by the County in writing, after the damage or loss occurs or thirty (30) days following receipt of the insurance or condemnation proceeds, and is to be complete within one (1) year thereafter. Any insurance or condemnation proceeds collected for such damage or destruction are to be applied to the cost of such repairs or restoration and, if such insurance or condemnation proceeds are insufficient for such purpose, then Borrower shall make up the deficiency. If Borrower does not promptly make such repairs then any insurance or condemnation proceeds collected for such damage or destruction are to be promptly delivered by Borrower to the County as a special repayment of the Loan, subject to the rights of the senior lenders, if any.

#### Section 4.9 Fees and Taxes.

Borrower is solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Development, and shall pay such charges prior to delinquency and at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Development. Borrower is also solely responsible for payment of all personal property taxes, and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, and shall pay such charges prior to delinquency and at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Development.

However, Borrower is not required to pay and discharge any such charge so long as: (i) the legality thereof is being contested diligently and in good faith and by appropriate proceedings; and (ii) if requested by the County, Borrower deposits with the County any funds or other forms of assurance that the County in good faith from time to time determines appropriate to protect the County from the consequences of the contest being unsuccessful.

In the event Borrower exercises its right to contest any tax, assessment, or charge against it, Borrower, on final determination of the proceeding or contest, will immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

Borrower shall not apply for a property tax exemption for the Development under any provision of law (except California Revenue and Taxation Section 214(g)) without the prior written consent of the County.

#### Section 4.10 Notice of Litigation.

Borrower shall promptly notify the County in writing of any litigation that has the potential to materially affect Borrower or the Development and of any claims or disputes that involve a material risk of such litigation.

#### Section 4.11 Operation of Development as Affordable Housing.

(a) Borrower shall operate the Development (i) in accordance with all applicable laws, codes, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (ii) as an affordable housing development consistent with: (1) HUD's requirements for use of HOPWA Funds and HOME Funds; (2) the Regulatory Agreements; and (3) any other regulatory requirements imposed on Borrower including but not limited to regulatory agreements associated with the City Loan, and Low Income Housing Tax Credits provided by TCAC and rental subsidies provided to the Development.

#### Section 4.12 Nondiscrimination.

(a) Borrower covenants by and for itself and its successors and assigns that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age (except for lawful senior housing in accordance with state and federal law), familial status, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development, nor may Borrower or any person claiming under or through Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Development. The foregoing covenant will run with the land.

(b) Nothing in this Section prohibits Borrower from requiring County-Assisted Units in the Development to be available to and occupied by income eligible households in accordance with the Regulatory Agreements, or from requiring the HOPWA-Assisted Units in the Development to be available to and occupied by HOPWA Eligible Households.

#### Section 4.13 Transfer.

(a) For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of: (i) any rights and/or duties under this

Agreement; and/or (ii) any interest in the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Development is transferred and Borrower retains title. The term "Transfer" excludes the leasing of any single unit in the Development to an occupant in compliance with the Regulatory Agreements. The County Director – Department of Conservation and Development is authorized to execute assignment and assumption agreements on behalf of the County to implement any approved Transfer.

(b) Except as otherwise permitted in this Section 4.13, no Transfer is permitted without the prior written consent of the County, which the County may withhold in its sole discretion. The Loan will automatically accelerate and be due in full upon any Transfer made without the prior written consent of the County.

(c) The County hereby approves the admission of the Investor Limited Partner to Borrower as a limited partner. The County hereby approves future Transfers of the limited partner interest of Borrower provided that: (i) such Transfers do not affect the timing and amount of the Investor Limited Partner capital contributions provided for in the Partnership Agreement; and (ii) in subsequent Transfers, the Investor Limited Partner or an affiliate thereof, retains a membership or partnership interest and serves as a managing member or managing general partner of the successor limited partner.

(d) The County hereby approves a Transfer of the Development from Borrower to RCD, or a non-profit affiliate of RCD, and an assumption of the Loan by such transferee at the end of the Fifteen Year Compliance Period, provided that: (i) such Transfer is pursuant to an option or right of first refusal agreement referenced in the Partnership Agreement, and (ii) the transferee expressly assumes the obligations of the Borrower under the Loan Documents, utilizing a form of assignment and assumption agreement provided by the County.

(e) The County hereby approves the Transfer of the Investor Limited Partner interest to RCD, or a non-profit affiliate of RCD at the end of the Fifteen Year Compliance Period, provided that such Transfer is pursuant to an option or right of first refusal agreement referenced in the Partnership Agreement.

(f) In the event the general partner of Borrower is removed by the limited partner of Borrower for cause following default under the Partnership Agreement, the County hereby approves the Transfer of the general partner interest to (i) a 501(c)(3) tax exempt nonprofit corporation or other entity with a 501(c)(3) tax exempt nonprofit corporation member or partner, that is selected by the Investor Limited Partner and approved by the County, and (ii) the Investor Limited Partner or an affiliate thereof, but only for a period not to exceed one hundred twenty (120) days from the date of removal of the general partner, during which time such entity shall diligently seek a replacement general partner meeting the requirements of subsection (i) above.

(g) The County hereby approves the grant of the security interests in the Development for Approved Financing.

Section 4.14 Insurance Requirements.

(a) Borrower shall maintain the following insurance coverage throughout the Term of the Loan:

(i) Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

(ii) Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(iii) Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable.

(iv) Builders' Risk insurance during the course of construction, and upon completion of construction, property insurance covering the Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the County, naming the County as a Loss Payee, as its interests may appear. Flood insurance must be obtained if required by applicable federal regulations.

(v) Commercial crime insurance covering all officers and employees, for loss of Loan proceeds caused by dishonesty, in an amount approved by the County, naming the County a Loss Payee, as its interests may appear.

(b) Borrower shall cause any general contractor, agent, or subcontractor working on the Development under direct contract with Borrower or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (i), (ii), and (iii) above, except that the limit of liability for commercial general liability insurance for subcontractors must be One Million Dollars (\$1,000,000), and must require that such insurance will meet all of the general requirements of subsections (d) and (e) below.

(c) The required insurance must be provided under an occurrence form, and Borrower shall maintain the coverage described in subsection (a) continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit must be three times the occurrence limits specified above.

(d) Commercial General Liability, Automobile Liability and Property insurance policies must be endorsed to name as an additional insured the County and its officers, agents, employees and members of the County Board of Supervisors.

(e) All policies and bonds are to contain: (i) the agreement of the insurer to



give the County at least thirty (30) days' notice prior to cancellation (including, without limitation, for non-payment of premium) or any material change in said policies; (ii) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the County; (iii) a provision that no act or omission of Borrower shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (iv) a waiver by the insurer of all rights of subrogation against the County and its authorized parties in connection with any loss or damage thereby insured against.

Section 4.15 Covenants Regarding Approved Financing and Partnership Agreement.

(a) Borrower shall promptly pay the principal and interest when due on any Approved Financing.

(b) Borrower shall promptly notify the County in writing of the existence of any default under any documents evidencing Approved Financing whether or not a default has been declared by the lender, and any defaults under the Partnership Agreement, and provide the County copies of any notice of default.

(c) Borrower may not amend, modify, supplement, cancel or terminate the Partnership Agreement or any documents related to any loan that is part of the Approved Financing without the prior written consent of the County except for amendments solely to effectuate Transfers permitted under Section 4.13 above.

(d) Borrower shall provide the County copies of all amendments, modifications, and supplements to the Partnership Agreement and any document related to any loan that is part of Approved Financing.

(e) Borrower may not incur any indebtedness of any kind other than Approved Financing or encumber the Development with any liens (other than liens for Approved Financing approved by the County) without the prior written consent of the County.

(f) To the extent the Partnership Agreement is inconsistent with this Agreement with respect to the repayment of the Loan including, without limitation, the Residual Receipts definition and the payment provisions of Section 2.9 above, this Agreement will control. Any payments made in conflict with the Residual Receipts definition and payment requirements of this Agreement will be considered an Event of Default.

Section 4.16 Covenants Regarding the Ground Lease.

Borrower hereby covenants and agrees, as to the Ground Lease:

(a) To promptly pay, when due and payable, any rent, taxes and all other sums and charges mentioned in and made payable pursuant to the Ground Lease.

(b) To promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by Borrower as lessee under the Ground Lease, within the period provided in the Ground Lease, or such lesser periods as are provided in the Loan Documents, and to do all things necessary to preserve and to keep unimpaired its rights

under the Ground Lease. Borrower specifically acknowledges the County's right, while any default by Borrower under any Ground Lease remains uncured, to perform the defaulted obligations and take all other actions which the County reasonably deems necessary to protect its interests with respect thereto.

(c) To preserve at all times the full term and enforceability of the Ground Lease, and not to release, forego, alter, amend, cancel, surrender, or materially modify its rights under the Ground Lease, or exercise any rights it may have to voluntarily terminate the Ground Lease, or permit any termination material modification or surrender of the Ground Lease without the County's prior written consent.

(d) To (i) promptly notify the County in writing of the receipt by Borrower of any notice from St Paul's and of any notice noting or claiming any default by Borrower in the performance or observance of any of the terms, covenants or conditions on the part of the Borrower to be performed or observed under the Ground Lease; (ii) promptly notify the County in writing of the receipt by Borrower of any notice from St Paul's to Borrower of termination of the Ground Lease pursuant to the provisions of the Ground Lease; (iii) promptly cause a copy of each such notice received by Borrower from St Paul's to be delivered to the County; provided, however, that no such delivery by Borrower to the County of any such notices shall be deemed to waive, release, or modify any obligation of St Paul's to separately provide such notice to the County pursuant to the terms of the Ground Lease; and (iv) promptly notify the County in writing of any default by St Paul's in the performance or observance of any of the terms, covenants or conditions on the part of St Paul's to be performed or observed.

(e) To, within thirty (30) days after written demand from the County, obtain from St Paul's and deliver to the County a certificate stating that the Ground Lease is in full force and effect, is unmodified, that no notice of termination thereon has been served on Borrower, stating that no default or event which with notice or lapse of time (or both) would become a default is existing under the Ground Lease (or specifying the nature of any defaults or events which with notice or lapse of time, or both, would become a default under the Ground Lease), stating the date to which net rent has been paid, and containing such other statements and representations as may be requested by the County.

## ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BORROWER

### Section 5.1 Representations and Warranties.

Borrower hereby represents and warrants to the County as follows and acknowledges, understands, and agrees that the representations and warranties set forth in this Article 5 are deemed to be continuing during all times when any portion of the Loan remains outstanding:

(a) Organization. Borrower is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Borrower. Borrower has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the Loan Documents and all other documents or instruments

executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Borrower, and all actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. The Loan Documents and all other documents or instruments executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of the Loan Documents or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will: (i) conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever that is binding on Borrower, or conflict with any provision of the organizational documents of Borrower, or conflict with any agreement to which Borrower is a party; or (ii) result in the creation or imposition of any lien upon any assets or property of Borrower, other than liens established pursuant hereto.

(f) Compliance with Laws; Consents and Approvals. The construction of the Improvements will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Borrower is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower's ability to repay the Loan or impair the security to be given to the County pursuant hereto.

(h) Title to Land. At the time of recordation of the Deed of Trust, Borrower will have good and marketable title to the Leasehold Estate and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and liens in favor of the County or approved in writing by the County.

(i) Financial Statements. The financial statements of Borrower and other financial data and information furnished by Borrower to the County fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Borrower from that shown by such financial statements and other data and information.

(j) Sufficient Funds. Borrower holds sufficient funds and/or binding commitments for sufficient funds to complete the acquisition of the Leasehold Interest and the construction of the Improvements in accordance with the terms of this Agreement.

(k) Taxes. Borrower and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or the Development otherwise due and payable, except those that are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Borrower or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect on the property, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Borrower and its subsidiaries, taken as a whole, or which could result in (i) a material impairment of the ability of Borrower to perform under any loan document to which it is a party, or (ii) a material adverse effect upon the legality, validity, binding effect or enforceability against Borrower of any Loan Document.

(l) Hazardous Materials. To the best of Borrower's knowledge, except as disclosed in writing by Borrower to the County prior to the date of this Agreement: (i) no Hazardous Material has been disposed of, stored on, discharged from, or released to or from, or otherwise now exists in, on, under, or around, the Development; (ii) neither the Development nor Borrower is in violation of any Hazardous Materials Law; and (iii) neither the Development nor Borrower is subject to any existing, pending or threatened Hazardous Materials Claims.

(m) Compliance with the Ground Lease. Borrower hereby represents and warrants that: (i) the Ground Lease is unmodified and is in full force and effect; (ii) all rents and other charges to be paid by Borrower as lessee under the Ground Lease are current; (iii) Borrower is not in default under any of the provisions of the Ground Lease and no circumstances exist which would constitute a default by Borrower under the Ground Lease or would otherwise permit St Paul's to cancel, terminate or otherwise limit the Ground Lease in any manner; (iv) Borrower is not aware of any default by St Paul's under the Ground Lease or the existence of circumstances which would constitute a default by St Paul's under the Ground Lease; (v) Borrower's interest in the Ground Lease is not subject to any liens or encumbrances except as previously disclosed to the County in writing; and (vi) Borrower owns and holds the Ground Lease and the entire leasehold estate created by the Ground Lease and has the right under the Ground Lease or has received all appropriate consents required in order for Borrower to execute the Loan Documents.

## ARTICLE 6 DEFAULT AND REMEDIES

### Section 6.1 Events of Default.

Any one or more of the following constitutes an "Event of Default" by Borrower under this Agreement:

(a) Failure to Construct. If Borrower fails to obtain permits, or to commence and prosecute construction of the Improvements to completion, within the times set forth in Article 3 above.

(b) Failure to Make Payment. If Borrower fails to make any payment when such payment is due pursuant to the Loan Documents.

(c) Failure to Submit Plans. If Borrower fails to submit a Marketing Plan, Tenant Selection Plan, or Social Services Plan that is approved by the County in accordance with the HOME/HOPWA Regulatory Agreement.

(d) Breach of Covenants. If Borrower fails to duly perform, comply with, or observe any other condition, term, or covenant contained in this Agreement (other than as set forth in Section 6.1(a) through Section 6.1(c), and Section 6.1(e) through Section 6.1(m)), or in any of the other Loan Documents, and Borrower fails to cure such default within thirty (30) days after receipt of written notice thereof from the County to Borrower.

(e) Default Under Other Loans. If a default is declared under any other financing for the Development by the lender of such financing and such default remains uncured following any applicable notice and cure period.

(f) Insolvency. If a court having jurisdiction makes or enters any decree or order: (i) adjudging Borrower to be bankrupt or insolvent; (ii) approving as properly filed a petition seeking reorganization of Borrower, or seeking any arrangement for Borrower under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower in bankruptcy or insolvency or for any of their properties; (iv) directing the winding up or liquidation of Borrower if any such decree or order described in clauses (i) to (iv), inclusive, is unstayed or undischarged for a period of ninety (90) calendar days; or (v) Borrower admits in writing its inability to pay its debts as they fall due or will have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the Events of Default in this paragraph will act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(g) Assignment; Attachment. If Borrower assigns its assets for the benefit of its creditors or suffers a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon is returned or released within ninety (90) calendar days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution. The occurrence of any of the events of default in this paragraph shall act to accelerate automatically, without the need for any action by the

County, the indebtedness evidenced by the Note.

(h) Suspension; Termination. If Borrower voluntarily suspends its business or, the partnership is dissolved or terminated, other than a technical termination of the partnership for tax purposes.

(i) Liens on the Development. If any claim of lien (other than liens allowed pursuant to the Loan Documents or approved in writing by the County) is filed against the Development or any part thereof, or any interest or right made appurtenant thereto, or the service of any notice to withhold proceeds of the Loan and the continued maintenance of said claim of lien or notice to withhold for a period of twenty (20) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to the County.

(j) Condemnation. If there is a condemnation, seizure, or appropriation of all or the substantial part of the Development other than by the County.

(k) Unauthorized Transfer. If any Transfer occurs other than as permitted pursuant to Section 4.13.

(l) Representation or Warranty Incorrect. If any Borrower representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the County in connection with any of the Loan Documents, proves to have been incorrect in any material respect when made.

(m) Ground Lease Default. If Borrower fails to comply with any term or condition of the Ground Lease or a default or an event of default occurs under the Ground Lease (subject to any notice and cure rights contained in the Ground Lease);

(n) Ground Lease Termination. If any event or circumstance occurs which gives St Paul's the right to terminate the Ground Lease.

(o) Applicability to General Partner. The occurrence of any of the events set forth in Section 6.1(f), through Section 6.1(h) in relation to Borrower's managing general partner, unless the removal and replacement of Borrower's managing general partner in accordance with Section 4.13(f), within the time frame set forth in Section 6.1(d) cures such a default.

## Section 6.2 Remedies.

Upon the occurrence of an Event of Default and until such Event of Default is cured or waived, the County is relieved of any obligation to disburse any portion of the Loan. In addition, upon the occurrence of an Event of Default and following the expiration of all applicable notice and cure periods the County may proceed with any and all remedies available to it under law, this Agreement, and the other Loan Documents. Such remedies include but are not limited to the following:

Section 6.3 Acceleration of Note. The County may cause all indebtedness of Borrower to the County under this Agreement and the Note, together with any accrued interest thereon, to

become immediately due and payable. Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the Deed of Trust. Borrower is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the County in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

Section 6.4 Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the Loan Documents.

Section 6.5 Right to Cure at Borrower's Expense. The County has the right (but not the obligation) to cure any monetary default by Borrower under a loan other than the Loan. Upon demand therefor, Borrower shall reimburse the County for any funds advanced by the County to cure such monetary default by Borrower, together with interest thereon from the date of expenditure until the date of reimbursement at the Default Rate.

Section 6.6 Right of Contest.

Borrower may contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute an Event of Default hereunder. Any such contest is to be prosecuted diligently and in a manner unprejudicial to the County or the rights of the County hereunder.

Section 6.7 Remedies Cumulative.

No right, power, or remedy given to the County by the terms of this Agreement or the other Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy is cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies will operate as a waiver thereof, nor does any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 6.8 Notice and Cure Rights of Limited Partner.

The County shall provide the Investor Limited Partner and any limited partner of Borrower who has requested written notice from the County ("Permitted Limited Partner") a duplicate copy of all notices of default that the County may give to or serve in writing upon Borrower pursuant to the terms of the Loan Documents, at the address set forth in Section 7.9, provided, the County shall have no liability to the Permitted Limited Partner for its failure to do so. The Permitted Limited Partner has the right, but not the obligation, to cure any default of Borrower set forth in such notice, during the applicable cure period described in the Loan Documents, and the County will accept tender of such cure as if delivered by Borrower. If the Permitted Limited Partner is unable to cure a default because Borrower's general partner is in bankruptcy and/or



because the cure requires removal of the general partner of Borrower and the Permitted Limited Partner is proceeding diligently to remove the general partner of Borrower in order to effect a cure of the Default, the cure period will be extended for such reasonable time as is necessary for the Permitted Limited Partner to effect a cure of the Default, but in no event longer than sixty (60) days after the date of receipt by the Permitted Limited Partner of written notice of the default.

## ARTICLE 7 GENERAL PROVISIONS

### Section 7.1 Relationship of Parties.

Nothing contained in this Agreement is to be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Borrower or its agents, employees or contractors, and Borrower will at all times be deemed an independent contractor and to be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Borrower has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regards to the construction and operation of the Development, Borrower is solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and must include requirements in each contract that contractors are solely responsible for similar matters relating to their employees. Borrower is solely responsible for its own acts and those of its agents and employees.

### Section 7.2 No Claims.

Nothing contained in this Agreement creates or justifies any claim against the County by any person that Borrower may have employed or with whom Borrower may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the purchase of the Leasehold Interest, the construction of the Improvements, or operation of the Development, and Borrower shall include similar requirements in any contracts entered into for the construction of the Improvements or operation of the Development.

### Section 7.3 Amendments.

No alteration or variation of the terms of this Agreement is valid unless made in writing by the Parties. The County Director, Department of Conservation and Development is authorized to execute on behalf of the County amendments to the Loan Documents or amended and restated Loan Documents as long as any discretionary change in the amount or terms of this Agreement is approved by the County's Board of Supervisors.

### Section 7.4 Indemnification.

Borrower shall indemnify, defend and hold the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made

against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the purchase of the Leasehold Interest, construction of the Improvements, and the development, marketing and operation of the Development, except to the extent such claim arises from the gross negligence or willful misconduct of the County, its agents, and its employees. The provisions of this Section will survive the expiration of the Term and the reconveyance of the Deed of Trust.

Section 7.5 Non-Liability of County Officials, Employees and Agents.

No member, official, employee or agent of the County is personally liable to Borrower in the event of any default or breach of this Agreement by the County or for any amount that may become due from the County pursuant to this Agreement.

Section 7.6 Third Party Beneficiaries.

There are no third party beneficiaries to this Agreement, provided, however the Investor Limited Partner is intended to be a direct beneficiary of the provisions set forth in Sections 4.13(c), 4.13(f), and 6.5.

Section 7.7 Discretion Retained By County.

The County's execution of this Agreement in no way limits any discretion the County may have in the permit and approval process related to the construction of the Improvements.

Section 7.8 Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Section 7.8(b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have a financial interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have immediate family or business ties, during, or at any time after, such person's tenure. Borrower shall exercise due diligence to ensure that the prohibition in this Section 7.8(a) is followed.

(b) The conflict of interest provisions of Section 7.8(a) above apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the County.

(c) In accordance with California Government Code Section 1090 and the Political Reform Act, California Government Code section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of Borrower, or immediate family member of any of the preceding, may make or participate in a decision, made by the County or a County board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Borrower. Interpretation of this section is governed by the definitions and provisions used in the Political Reform Act, California Government Code Section 87100 et seq., its

implementing regulations manual and codes, and California Government Code Section 1090.

Section 7.9 Notices, Demands and Communications.

All notices required or permitted by any provision of this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

County: County of Contra Costa  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attention: Assistant Deputy Director

Borrower: SP Commons, L.P.  
c/o RCD GP III, LLC  
2220 Oxford Street  
Berkeley, CA 94720  
Attention: Executive Director

Investor Limited  
Partner: Bank of America, N.A.  
Community Development Banking Group  
MA1-225-02-02  
225 Franklin Street  
Boston, MA 02110  
Attention: Asset Management

With a copy to:

Buchalter, a Professional Corporation  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017  
Attention: Michael A. Williamson, Esq.  
Re: B0965-0363 (St. Paul Commons)

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section. Receipt will be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.10 Applicable Law.

This Agreement is governed by the laws of the State of California.

#### Section 7.11 Parties Bound.

Except as otherwise limited herein, this Agreement binds and inures to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and to bind Borrower and its successors and assigns in the Development for the entire Term, and the benefit hereof is to inure to the benefit of the County and its successors and assigns.

#### Section 7.12 Attorneys' Fees.

If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees and costs of suit from the other party.

#### Section 7.13 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

#### Section 7.14 Force Majeure.

In addition to specific provisions of this Agreement, performance by either party will not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, quarantine restrictions, freight embargoes, lack of transportation, or court order. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other party within ten (10) days after receipt of the notice. In no event will the County be required to agree to cumulative delays in excess of one hundred eighty (180) days.

#### Section 7.15 County Approval.

The County has authorized the County Director- Department of Conservation and Development to execute the Loan Documents and deliver such approvals or consents as are required by this Agreement, and to execute estoppel certificates concerning the status of the Loan and the existence of Borrower defaults under the Loan Documents.

#### Section 7.16 Waivers.

Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Agreement does not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Borrower may not be construed to

be consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

Section 7.17 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Section 7.18 Entire Understanding of the Parties.

The Loan Documents constitute the entire agreement of the parties with respect to the Loan.

Section 7.19 Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

***[Remainder of Page Left Intentionally Blank]  
[Signatures on Following Page]***

The parties are entering into this Agreement as of the last date set forth below.

**COUNTY:**

COUNTY OF CONTRA COSTA, a political  
subdivision of the State of California

By: \_\_\_\_\_  
John Kopchik  
Director, Department of Conservation and  
Development

Date: March \_\_\_\_, 2018

**APPROVED AS TO FORM:**

SHARON L. ANDERSON  
County Counsel

By: \_\_\_\_\_  
Kathleen Andrus  
Deputy County Counsel

**BORROWER:**

SP Commons, L.P., a California limited partnership

By: RCD GP III LLC, a California limited  
liability company, its general partner

By: Resources for Community  
Development, a California nonprofit  
public benefit corporation, its sole  
member/manager

By: \_\_\_\_\_  
Daniel Sawislak, Executive  
Director

Date: March \_\_\_\_, 2018

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land is situated in the State of California, County of Contra Costa, and is described as follows:



EXHIBIT B

APPROVED DEVELOPMENT BUDGET

## EXHIBIT C

### NEPA MITIGATION REQUIREMENTS

| Air Quality  |   |   |              |
|--|---|---|--------------|
| AQ1. Consistent with the BAAQMD's preferred approach, the project developer shall ensure that the following measures are included in construction contracts and specifications to control fugitive dust emissions:   | City of Walnut Creek, Building Division | Contra Costa County – Dept. of Conservation & Development | Construction |
| <ul style="list-style-type: none"> <li>a. Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;</li> <li>b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard.</li> <li>c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;</li> <li>d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging area at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;</li> <li>e. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;</li> <li>f. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;</li> <li>g. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).</li> <li>h. Limit traffic speeds on unpaved roads to 15 mph;</li> <li>i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and</li> <li>j. Suspend excavation and grading activity whenever the wind is so high that it results in visible dust plumes despite control efforts.</li> </ul> |   |   |              |
| AQ1. The project developer shall ensure that emissions from construction equipment exhaust, and from workers commuting to the site, are reduced from implementation  |   |   |              |

of the following measures:

- a. Store construction tools on-site in secure facilities to encourage commuting by transit;
- b. Use alternative fueled construction equipment to the fullest extent possible;
- c. Minimize idling time (e.g., 5-minute maximum);
- d. Maintain properly tuned equipment according to equipment manufacturer's guidelines; and
- e. Limit hours of operation of heavy duty equipment to the hours between 7:00 A.M. and 7:00 P.M. Monday through Friday, and between 8:00 A.M. and 5:00 P.M. on Saturday, as specified in Walnut Creek Municipal Code Section 4-6.203.

#### Contamination and Toxic Substances

|  |   |   |              |
|--|---|---|--------------|
| CT1. Proper handling and disposal of asbestos and lead-based paint is required during demolition – see NESHAP Asbestos Survey and Lead Paint Screen by AEI Consultants and dated April 11, 2016. | City of Walnut Creek, Building Division | Contra Costa County – Dept. of Conservation & Development | Construction |
|--|---|---|--------------|

#### Endangered Species

|  |   |   |                  |
|--|---|---|------------------|
| ES1. If construction commences anytime during the nesting/breeding season of native bird species (typically February through August), a qualified biologist must conduct a preconstruction survey of the project vicinity for nesting/breeding birds at least 30 days prior to the start of construction activities. The intent of the survey is to determine if active raptor nests or other species protected by the Migratory Bird Treaty Act are present within the construction zone or within 250 feet of construction zone for raptors and 50 feet of the construction zone for other migratory birds. The survey area must include all trees and shrubs within zones that have the potential to support nesting birds. | City of Walnut Creek, Building Division | Contra Costa County – Dept. of Conservation & Development | Pre-Construction |
| ES2. If active nests are found in the area that could be directly affected or are within 250 feet of construction for raptors and 50 feet for other migratory birds, a no-   |   |   |                  |

disturbance buffer zone must be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. Once the young have fledged, tree removal and other construction activities may commence.

#### Geotechnical

**G1.** Follow all recommendations in the *Geotechnical Engineering Services Report* prepared for the project by Professional Service Industries, Inc. dated May 26, 2016.

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#### Historic Preservation

CR1. If during project construction activities previously unidentified archeological resources are discovered, all project activities in the immediate vicinity of the discovery would be halted and the procedures of 36 CFR Part 800.13(b) and (c) would be followed. [Paragraph I.A. Inadvertent Archeological Resource Discovery]

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CR2. Upon discovery of Native American human remains and associated or unassociated funerary objects, the City of Walnut Creek shall treat them in accordance with provisions of California Public Resources Code Section 5097.94, 5097.98, and 5097.99 and the California Health and Safety Code Section 7050.5 or as provided in federal implementing regulations found in 36 CFR 800.13(b)(2). [Paragraph I.B. Treatment of Native American human remains and cultural properties]

CR3. For any archaeological resources discovered during the excavation and construction phase, all project activities in the immediate vicinity of the discovery would halt. Procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.

CR4. If paleontological resources were found during site excavation and construction, work would be halted until a paleontologist could evaluate the nature and significance of the resources. If significant resources were confirmed, the OHP and the California Department of State Parks would be contacted for further guidance on documentation and preservation. Protocol for the discovery of paleontological resources during construction would be the same as that for archaeological resources: project activities in the immediate vicinity of the discovery would halt, and

procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.

#### Public Safety – Police Services

**PS1.** Applicant shall provide the following site security measures at the project as requested by the Walnut Creek Police Department:

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- a. Adequate lighting throughout the complex;
- b. Video surveillance cameras at access points, on the perimeter, any anywhere property is stored;
- c. Controlled access at entry and exit points;
- d. Emergency evacuation plans;
- e. An on-site apartment manager.

**PS2.** Applicant shall contact the Walnut Creek Police Department contact for this project, Lt. Seam Conley, Special Operations Unit, to partner with them on this project, at their request, to reduce impacts from the project on the neighborhood and Police services in the area.

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#### Stormwater

**SW1.** Submit a Stormwater Control Plan to the City of Walnut Creek per Municipal Code 9.16- 105 that meets C.3 requirements for development projects. Implement Best Management Practices (BMPs) and Low Impact Development (LID) measures to ensure post-development impacts to water quality are minimal.

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#### Water Supply

**WS1.** The project sponsor shall comply with Assembly Bill 325, “Model Water Efficiency Landscape Ordinance” (Division 2, Title 23, California Code of Regulation, Chapter 2.7, Sections 490 through 495), as a requirement of the provision of potable water to

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the development by EBMUD.

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# HOPWA AND HOME LOAN AGREEMENT

Between

COUNTY OF CONTRA COSTA

And

SP COMMONS, L.P.

St. Paul's Commons

dated March 1, 2018

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Contra Costa County  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Assistant Deputy Director

No fee for recording pursuant to  
Government Code Section 27383

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LEASEHOLD DEED OF TRUST WITH ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT, AND FIXTURE FILING  
(St. Paul's Commons)

THIS LEASEHOLD DEED OF TRUST WITH ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT, AND FIXTURE FILING ("Deed of Trust") is made as of March 1,  
2018, by and among SP Commons, L.P., a California limited partnership ("Trustor"), North  
American Title Company, a California corporation ("Trustee"), and the County of Contra Costa,  
a political subdivision of the State of California ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein  
recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby  
irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF  
SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions  
hereinafter set forth, Trustor's leasehold interest in the property located in the County of Contra  
Costa, State of California, that is described in the attached Exhibit A, incorporated herein by this  
reference, as created pursuant to that certain Ground Lease defined below (the "Property").

TOGETHER WITH all interest, estates or other claims, both in law and in equity which  
Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith  
or as a means of access thereto, including (without limiting the generality of the foregoing) all  
tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and  
description now or hereafter erected thereon, and all property of Trustor now or hereafter affixed  
to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to  
said property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter  
acquired, in and to any land lying within the right-of-way of any street, open or proposed,

adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent Beneficiary has an interest in such awards for taking as provided in Paragraph 4.1 herein;

TOGETHER WITH all of Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or will be, attached to said building or buildings in any manner; and

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing.

All of the foregoing, together with the Property, is herein referred to as the "Security." To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING THE FOLLOWING OBLIGATIONS (together, the "Secured Obligations"):

A. Payment to Beneficiary of all sums at any time owing under or in connection with (i) the Note (defined in Section 1.8 below) until paid in full or cancelled, and (ii) any other amounts owing under the Loan Documents (defined in Section 1.7 below). Principal and other payments are due and payable as provided in the Note or other Loan Documents, as applicable.

The Note and all its terms are incorporated herein by reference, and this conveyance secures any and all extensions thereof, however evidenced;

B. Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period, with interest thereon as provided herein;

C. Performance of every obligation, covenant or agreement of Trustor contained herein and in the Loan Documents; and

D. All modifications, extensions and renewals of any of the Secured Obligations (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

## ARTICLE 1 DEFINITIONS

In addition to the terms defined elsewhere in this Deed of Trust, the following terms have the following meanings in this Deed of Trust:

Section 1.1 The term "Default Rate" means the lesser of the maximum rate permitted by law and ten percent (10%) per annum.

Section 1.2 The term "Ground Lease" means that certain Ground Lease Agreement dated March \_\_\_\_, 2018, by and between Trustor as lessee and Ground Lessor pertaining to the Property.

Section 1.3 The term "Ground Lessor" means St. Paul's Episcopal Church in Walnut Creek, California.

Section 1.4 The term "Intercreditor Agreement" means that certain Intercreditor Agreement of even date herewith, among Trustor, Beneficiary, and the City of Walnut Creek.

Section 1.5 The term "Loan" means the loan made by Beneficiary to Trustor in the amount of Two Million Eight Hundred Seventy-Four Thousand Six Hundred Eighty-One Dollars (\$2,874,681).

Section 1.6 The term "Loan Agreement" means that certain HOME and HOPWA Loan Agreement between Trustor and Beneficiary, of even date herewith, as such may be amended from time to time, providing for the Beneficiary to loan to Trustor Two Million Eight Hundred Seventy-Four Thousand Six Hundred Eighty-One Dollars (\$2,874,681).

Section 1.7 The term "Loan Documents" means this Deed of Trust, the Note, the Loan Agreement, the Intercreditor Agreement, and the Regulatory Agreement, and any other agreements, debt, loan or security instruments between Trustor and Beneficiary relating to the Loan.

Section 1.8 The term "Note" means the promissory note in the principal amount of Two Million Eight Hundred Seventy-Four Thousand Six Hundred Eighty-One Dollars (\$2,874,681) of even date herewith, executed by Trustor in favor of Beneficiary, as it may be amended or restated, the payment of which is secured by this Deed of Trust. The terms and provisions of the Note are incorporated herein by reference.

Section 1.9 The term "Principal" means the amounts required to be paid under the Note.

Section 1.10 The term "Regulatory Agreement" means collectively, the County Regulatory Agreement and Declaration of Restrictive Covenants, and HOME/ HOPWA Regulatory Agreement and Declaration of Restrictive Covenants, both of even date herewith by and between Beneficiary and Trustor.

## ARTICLE 2 MAINTENANCE AND MODIFICATION OF THE PROPERTY AND SECURITY

### Section 2.1 Maintenance and Modification of the Property by Trustor.

The Trustor agrees that at all times prior to full payment and performance of the Secured Obligations, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals deemed proper and necessary by it. The Beneficiary has no responsibility in any of these matters or for the making of improvements or additions to the Security.

Trustor agrees to pay fully and discharge (or cause to be paid fully and discharged) all claims for labor done and for material and services furnished in connection with the Security, diligently to file or procure the filing of a valid notice of cessation upon the event of a cessation of labor on the work or construction on the Security for a continuous period of thirty (30) days or more, and to take all other reasonable steps to forestall the assertion of claims of lien against the Security or any part thereof. Trustor irrevocably appoints, designates and authorizes Beneficiary as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file for record any notices of completion or cessation of labor or any other notice that Beneficiary deems necessary or desirable to protect its interest in and to the Security or the Loan Documents; provided, however, that Beneficiary exercises its rights as agent of Trustor only in the event that Trustor fails to take, or fails to diligently continue to take, those actions as hereinbefore provided.



Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary specifies upon laborers, materialmen, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the Security. Nothing herein contained requires Trustor to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting provided that Trustor shall, within thirty (30) days after the filing of any claim of lien, record in the Office of the Recorder of Contra Costa County, a surety bond in an amount 1 and 1/2 times the amount of such claim item to protect against a claim of lien.

## Section 2.2 Granting of Easements.

Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those required by law, and as approved, in writing, by Beneficiary.

## Section 2.3 Assignment of Rents.

As part of the consideration for the indebtedness evidenced by the Note, Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents and revenues of the Property including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable, subject to the rights of senior lenders that are approved by the Beneficiary pursuant to the Loan Agreement. Trustor hereby authorizes Beneficiary or Beneficiary's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Beneficiary or Beneficiary's agents; provided, however, that prior to written notice given by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, Trustor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Trustor to apply the rents and revenues so collected to the Secured Obligations with the balance, so long as no such breach has occurred and is continuing, to the account of Trustor, it being intended by Trustor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section 2.3 as the same becomes due and payable, including but not limited to, rents then due and unpaid, and all such rents will immediately upon delivery of such notice be held by Trustor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Trustor of the breach by Trustor contains a statement that Beneficiary exercises its rights to such rents. Trustor agrees that commencing upon delivery of such written notice of Trustor's breach by Beneficiary to Trustor, each tenant of the Property shall make such rents payable to and pay such rents to Beneficiary or Beneficiary's agents on Beneficiary's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering

such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Trustor.

Trustor hereby covenants that Trustor has not executed any prior assignment of said rents, other than as security to senior lenders, that Trustor has not performed, and will not perform, any acts or has not executed and will not execute, any instrument which would prevent Beneficiary from exercising its rights under this Section 2.3, and that at the time of execution of this Deed of Trust, there has been no anticipation or prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Trustor further covenants that, so long as the Secured Obligations are outstanding, Trustor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.

Upon Trustor's breach of any covenant or agreement of Trustor in the Loan Documents, Beneficiary may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Beneficiary elects to seek the appointment of a receiver for the Property upon Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, Trustor hereby expressly consents to the appointment of such receiver. Beneficiary or the receiver will be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents are to be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor as lessor or landlord of the Property and then to the sums secured by this deed of Trust. Beneficiary or the receiver is to have access to the books and records used in the operation and maintenance of the Property and will be liable to account only for those rents actually received. Beneficiary is not liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this Section 2.3.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes will become part of the Secured Obligations pursuant to Section 3.3 hereof. Unless Beneficiary and Trustor agree in writing to other terms of payment, such amounts are payable by Trustor to Beneficiary upon notice from Beneficiary to Trustor requesting payment thereof and will bear interest from the date of disbursement at the rate stated in Section 3.3.

If the Beneficiary or the receiver enters upon and takes and maintains control of the Property, neither that act nor any application of rents as provided herein will cure or waive any default under this Deed of Trust or invalidate any other right or remedy available to Beneficiary under applicable law or under this Deed of Trust. This assignment of rents of the Property will terminate at such time as this Deed of Trust ceases to secure the Secured Obligations.

### ARTICLE 3 TAXES AND INSURANCE; ADVANCES

#### Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

Trustor shall pay, or cause to be paid, prior to the date of delinquency, all taxes, assessments, charges and levies imposed by any public authority or utility company that are or may become a lien affecting the Security or any part thereof; provided, however, that Trustor is not required to pay and discharge any such tax, assessment, charge or levy so long as (a) the legality thereof is promptly and actively contested in good faith and by appropriate proceedings, and (b) Trustor maintains reserves adequate to pay any liabilities contested pursuant to this Section 3.1. With respect to taxes, special assessments or other similar governmental charges, Trustor shall pay such amount in full prior to the attachment of any lien therefor on any part of the Security; provided, however, if such taxes, assessments or charges can be paid in installments, Trustor may pay in such installments. Except as provided in clause (b) of the first sentence of this paragraph, the provisions of this Section 3.1 may not be construed to require that Trustor maintain a reserve account, escrow account, impound account or other similar account for the payment of future taxes, assessments, charges and levies.

In the event that Trustor fails to pay any of the items required by this Section to be paid by Trustor, Beneficiary may (but is under no obligation to) pay the same, after the Beneficiary has notified the Trustor of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the maximum rate permitted by law, will become part of the Secured Obligations secured hereby, and Trustor agrees to pay all such amounts.

#### Section 3.2 Provisions Respecting Insurance.

Trustor agrees to provide insurance conforming in all respects to that required under the Loan Documents during the course of construction and following completion, and at all times until all amounts secured by this Deed of Trust have been paid, all Secured Obligations secured hereunder have been fulfilled, and this Deed of Trust has been reconveyed.

All such insurance policies and coverages are to be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, are to be delivered to the Beneficiary upon demand therefor at any time prior to Trustor's satisfaction of the Secured Obligations.

### Section 3.3 Advances.

In the event the Trustor fails to maintain the full insurance coverage required by this Deed of Trust or fails to keep the Security in accordance with the Loan Documents, the Beneficiary, after at least seven (7) days prior notice to Trustor, may (but is under no obligation to) (i) take out the required policies of insurance and pay the premiums on the same, and (ii) make any repairs or replacements that are necessary and provide for payment thereof. All amounts so advanced by the Beneficiary will become part of the Secured Obligations (together with interest as set forth below) and will be secured hereby, which amounts the Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, will bear interest from the date of the advance at the Default Rate.

## ARTICLE 4 DAMAGE, DESTRUCTION OR CONDEMNATION

### Section 4.1 Awards and Damages.

Subject to the rights of senior lenders, all judgments, awards of damages, settlements and compensation made in connection with or in lieu of (1) the taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain, (2) any damage to or destruction of the Property or any part thereof by insured casualty, and (3) any other injury or damage to all or any part of the Property (collectively, the "Funds") are hereby assigned to and are to be paid to the Beneficiary by a check made payable to the Beneficiary. The Beneficiary is authorized and empowered (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part to any indebtedness or obligation secured hereby, in such order and manner as the Beneficiary determines at its sole option, subject to the provisions of Section 4.8 of the Loan Agreement regarding restoration of improvements following damage or destruction. The Beneficiary is entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. Application of all or any part of the Funds collected and received by the Beneficiary or the release thereof will not cure or waive any default under this Deed of Trust.

## ARTICLE 5 AGREEMENTS AFFECTING THE PROPERTY; FURTHER ASSURANCES; PAYMENT OF PRINCIPAL AND INTEREST

### Section 5.1 Other Agreements Affecting Property.

Trustor shall duly and punctually perform all terms, covenants, conditions and agreements binding upon it under the Loan Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

### Section 5.2 Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Event of Default (as defined in Section 7.1) hereunder, and if the

Beneficiary employs attorneys or incurs other expenses for the collection of amounts due hereunder or the enforcement of performance or observance of an obligation or agreement on the part of the Trustor in this Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Beneficiary. Any such amounts paid by the Beneficiary will be added to the Secured Obligations, and will bear interest from the date such expenses are incurred at the Default Rate.

#### Section 5.3 Payment of the Principal.

The Trustor shall pay to the Beneficiary the Principal and any other payments as set forth in the Note in the amounts and by the times set out therein.

#### Section 5.4 Personal Property.

To the maximum extent permitted by law, the personal property subject to this Deed of Trust is deemed to be fixtures and part of the real property and this Deed of Trust constitutes a fixtures filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust constitutes a security agreement under the California Commercial Code.

#### Section 5.5 Financing Statement.

The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security. The Trustor shall perform all acts that the Beneficiary reasonably requests so as to enable the Beneficiary to maintain a valid perfected security interest in the Security in order to secure the payment of the Note in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it deems appropriate from time to time in order to protect the security interest established pursuant to this instrument.

#### Section 5.6 Operation of the Security.

The Trustor shall operate the Security (and, in case of a transfer of a portion of the Security subject to this Deed of Trust, the transferee shall operate such portion of the Security) in full compliance with the Loan Documents.

#### Section 5.7 Inspection of the Security.

At any and all reasonable times upon seventy-two (72) hours' notice, the Beneficiary and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, may inspect the Security, without payment of charges or fees.

#### Section 5.8 Nondiscrimination.

The Trustor herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there will be no discrimination against or segregation of, any person or group of persons on account of race, color, creed,

religion, age, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Security, nor will the Trustor itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Security. The foregoing covenants run with the land.

#### Section 5.9 Ground Lease Covenants.

Trustor hereby represents, warrants, covenants and agrees that:

(a) This Deed of Trust is duly executed and delivered in conformity with, and does not violate or breach any term of covenant of, the Ground Lease.

(b) Trustor will not do or permit to be done or omit to do or permit the omission of any act, which would impair the security of this Deed of Trust, or would constitute grounds for the termination of the Ground Lease or would entitle the Ground Lessor to declare a forfeiture or termination of the Ground Lease.

(c) Trustor will not, without the prior written consent of Beneficiary terminate, materially modify or surrender or suffer or permit any termination, material modification or surrender of the Ground Lease.

(d) Trustor will not consent to any waiver of Ground Lessor's obligations under the Ground Lease, nor to the subordination of the Ground Lease to any mortgage of the fee interest of the Ground Lessor.

(e) Trustor will not acquire the fee interest in the Property under the Ground Lease without the express prior written approval of Beneficiary. In the event that Trustor acquires such fee title to the Property, such interest shall be deemed to be subject to and covered by this Deed of Trust, and in confirmation thereof, Trustor shall promptly: (i) provide Beneficiary with notice of such further title interest of Trustor to the Property and (ii) execute, acknowledge, and deliver such other and further instruments, documents, and agreements as may be reasonably required by Beneficiary to ratify, confirm, re-affirm, and perfect Beneficiary's interest in such Property, including without limitation, any additional mortgage or amendment requested by Beneficiary to confirm Trustor's right, title and interest in and to the fee title of Trustor to the Property. Without the express prior written approval of Beneficiary, there shall be no merger of the leasehold estate created by the Ground Lease with the fee estate of the Property, and Trustor's leasehold estate created by the Ground Lease shall not merge, but shall always remain separate and distinct, notwithstanding any union of such estates in Ground Lessor, Beneficiary, or Trustor by purchase, operation of Law, or otherwise. In the event that Beneficiary shall acquire such fee title and leasehold estate by foreclosure of this Deed of Trust (or by conveyance or assignment in lieu thereof) or otherwise, then such estates shall not merge as a result thereof but shall remain separate and distinct for all purposes after such acquisition unless and until Beneficiary elects in writing to merge such estate.

## ARTICLE 6 HAZARDOUS WASTE

Trustor shall keep and maintain the Property (including, but not limited to, soil and ground water conditions) in compliance with all Hazardous Materials Laws and shall not cause or permit the Property to be in violation of any Hazardous Materials Law (defined below). Trustor may not cause or permit the use, generation, manufacture, storage or disposal of on, under, or about the Property or transportation to or from the Property of (i) any substance, material, or waste that is petroleum, petroleum-related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical, and (ii) any waste, substance or material defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic materials", "toxic waste", "toxic substances," or words of similar import under any Hazardous Materials Law (collectively referred to hereinafter as "Hazardous Materials"), except such of the foregoing as may be customarily used in construction or operation of a multi-family residential development.

Trustor shall immediately advise Beneficiary in writing if at any time it receives written notice of: (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Trustor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, health, industrial hygiene, environmental conditions, or the regulation or protection of the environment, and all amendments thereto as of this date and to be added in the future and any successor statute or rule or regulation promulgated thereto ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iii) Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" (as defined in California Health and Safety Code Section 25117.4) under the provision of California Health and Safety Code Section 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

Beneficiary has the right to join and participate in, as a party if it so elects, and be represented by counsel acceptable to Beneficiary (or counsel of its own choice if a conflict exists with Trustor) in, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims, and to have its reasonable attorneys' fees in connection therewith paid by Trustor.

Trustor shall indemnify and hold harmless Beneficiary and its boardmembers, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, fine, penalty, judgment, award, settlement, expense or liability, directly or indirectly arising out of or attributable to: (i) any actual or alleged past or present violation of any Hazardous Materials Law; (ii) any Hazardous Materials Claim; (iii) any actual or alleged past or present use, generation, manufacture, storage, release, threatened release, discharge, disposal, transportation,



or presence of Hazardous Materials on, under, or about the Property; (iv) any investigation, cleanup, remediation, removal, or restoration work of site conditions of the Property relating to Hazardous Materials (whether on the Property or any other property); and (v) the breach of any representation of warranty by or covenant of Trustor in this Article, and Section 5.1(l) of the Loan Agreement. Such indemnity must include, without limitation: (x) all consequential damages; (y) the costs of any required or necessary investigation, repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (z) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (x) and (y), including but not limited to reasonable attorneys' fees and consultant fees. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property; (2) loss or restriction of use of rentable space on the Property; (3) adverse effect on the marketing of any rental space on the Property; and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). This obligation to indemnify will survive reconveyance of this Deed of Trust and will not be diminished or affected in any respect as a result of any notice, disclosure, knowledge, if any, to or by Beneficiary of Hazardous Materials.

Without Beneficiary's prior written consent, which may not be unreasonably withheld, Trustor may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in Beneficiary's reasonable judgment, impairs the value of the Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain Beneficiary's consent before taking such action, provided that in such event Trustor notifies Beneficiary as soon as practicable of any action so taken. Beneficiary agrees not to withhold its consent, where such consent is required hereunder, if (i) a particular remedial action is ordered by a court of competent jurisdiction; (ii) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; or (iv) the action has been agreed to by Beneficiary.

The Trustor hereby acknowledges and agrees that (i) this Article is intended as the Beneficiary's written request for information (and the Trustor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Deed of Trust or any of the other Loan Documents (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the property is intended by the Beneficiary and the Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1), then, without otherwise limiting or in any way affecting the Beneficiary's or the Trustee's rights and remedies under this Deed of Trust, the Beneficiary may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against the Trustor to judgment, and (b) any other rights and remedies permitted by law. For purposes of determining the Beneficiary's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), the Trustor will be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and the Trustor knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the Beneficiary in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the Default Rate until paid, will be added to the indebtedness secured by this Deed of Trust and will be due and payable to the Beneficiary upon its demand made at any time following the conclusion of such action.

## ARTICLE 7 EVENTS OF DEFAULT AND REMEDIES

### Section 7.1 Events of Default.

The following are events of default following the expiration of any applicable notice and cure periods (each an "Event of Default"): (i) failure to make any payment to be paid by Trustor under the Loan Documents; (ii) failure to observe or perform any of Trustor's other covenants, agreements or obligations under the Loan Documents, including, without limitation, the provisions concerning discrimination; (iii) failure to make any payment or observe or perform any of Trustor's other covenants, agreements, or obligations under any Secured Obligations, which default is not cured within the times and in the manner provided therein; (iv) failure to observe or perform any of Trustor's covenants, agreement or obligations under the Ground Lease, and (v) failure to make any payments or observe or perform any of Trustor's other covenants, agreements or obligations under any other debt instrument or regulatory agreement secured by the Property, which default is not cured within the time and in the manner provided therein.

Beneficiary shall provide notice of an Event of Default in the manner set forth in the Loan Agreement.

## Section 7.2 Acceleration of Maturity.

If an Event of Default has occurred and is continuing, then at the option of the Beneficiary, the amount of any payment related to the Event of Default and all unpaid Secured Obligations are immediately due and payable, and no omission on the part of the Beneficiary to exercise such option when entitled to do so may be construed as a waiver of such right.

## Section 7.3 The Beneficiary's Right to Enter and Take Possession.

If an Event of Default has occurred and is continuing, the Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Property and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts that it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security will not cure or waive any Event of Default or Notice of Sale (as defined in Section 7.3(c), below) hereunder or invalidate any act done in response to such Event of Default or pursuant to such Notice of Sale, and, notwithstanding the continuance in possession of the Security, Beneficiary will be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of an Event of Default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold ("Notice of Sale"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of Contra Costa County; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing the Secured Obligations.

## Section 7.4 Foreclosure By Power of Sale.

Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall deliver to the Trustee the Notice of Sale and shall deposit with Trustee this Deed of Trust which is secured hereby (and the deposit of which will be deemed to constitute evidence that the Secured Obligations are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(a) Upon receipt of the Notice of Sale from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Sale as is then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after the lapse of

that amount of time as is then required by law and after recordation of such Notice of Sale as required by law, sell the Security, at the time and place of sale set forth in the Notice of Sale, whether as a whole or in separate lots or parcels or items, as Trustee deems expedient and in such order as it determines, unless specified otherwise by the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts will be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale.

(b) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (i) the unpaid Principal amount of the Note; (ii) all other Secured Obligations owed to Beneficiary under the Loan Documents; (iii) all other sums then secured hereby; and (iv) the remainder, if any, to Trustor.

(c) Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

#### Section 7.5 Receiver.

If an Event of Default occurs and is continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, may apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers will have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and will continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

#### Section 7.6 Remedies Cumulative.

No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy will be cumulative and concurrent and will be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

#### Section 7.7 No Waiver.

(a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default will exhaust or impair any such right, power or remedy, and may not be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary.

Beneficiary's express or implied consent to breach, or waiver of, any obligation of the Trustor hereunder will not be deemed or construed to be a consent to any subsequent breach, or further waiver, of such obligation or of any other obligations of the Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, will not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by the Trustor.

(b) If the Beneficiary (i) grants forbearance or an extension of time for the payment or performance of any Secured Obligation, (ii) takes other or additional security or the payment of any sums secured hereby, (iii) waives or does not exercise any right granted in the Loan Documents, (iv) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Loan Documents, (v) consents to the granting of any easement or other right affecting the Security, or (vi) makes or consents to any agreement subordinating the lien hereof, any such act or omission will not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of the Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor will any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary, will the lien of this Deed of Trust be altered thereby.

#### Section 7.8 Suits to Protect the Security.

The Beneficiary has the power to (a) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust, (b) preserve or protect its interest (as described in this Deed of Trust) in the Security, and (c) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

#### Section 7.9 Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Trustor, its creditors or its property, the Beneficiary, to the extent permitted by law, will be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount that becomes due and payable by the Trustor hereunder after such date.

#### Section 7.10 Waiver.

The Trustor waives presentment, demand for payment, notice of dishonor, notice of protest and nonpayment, protest, notice of interest on interest and late charges, and diligence in taking any action to collect any Secured Obligations or in proceedings against the Security, in

connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Deed of Trust.

## ARTICLE 8 MISCELLANEOUS

### Section 8.1    Amendments.

This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

### Section 8.2    Reconveyance by Trustee.

Upon written request of Beneficiary stating that all Secured Obligations have been paid or forgiven, and all obligations under the Loan Documents have been performed in full, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

### Section 8.3    Notices.

If at any time after the execution of this Deed of Trust it becomes necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication must be in writing and is to be served personally or by depositing the same in the registered United States mail, return receipt requested, postage prepaid and (1) if intended for Beneficiary is to be addressed to:

County of Contra Costa  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attention: Assistant Deputy Director

and (2) if intended for Trustor is to be addressed to:

SP Commons, L.P.  
c/o RCD GP III, LLC  
2220 Oxford Street  
Berkeley, CA 94720  
Attention: Executive Director

With a copy to:

Bank of America, N.A.  
Community Development Banking Group  
MA1-225-02-02  
225 Franklin Street  
Boston, MA 02110  
Attention: Asset Management

With a copy to:

Buchalter, a Professional Corporation  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017  
Attention: Michael A. Williamson, Esq.  
Re: B0965-0363 (St. Paul Commons)

Any notice, demand or communication will be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed in the manner herein specified, on the delivery date or date delivery is refused by the addressee, as shown on the return receipt. Either party may change its address at any time by giving written notice of such change to Beneficiary or Trustor as the case may be, in the manner provided herein, at least ten (10) days prior to the date such change is desired to be effective.

Section 8.4 Successors and Joint Trustors.

Where an obligation created herein is binding upon Trustor, the obligation also applies to and binds any transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an obligation of the Trustor and a transferee, such obligation will be deemed to be a joint and several obligation of the Trustor and such transferee. Where Trustor is more than one entity or person, all obligations of Trustor will be deemed to be a joint and several obligation of each and every entity and person comprising Trustor.

Section 8.5 Captions.

The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6 Invalidity of Certain Provisions.

Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity will not affect the balance of the terms and provisions hereof, which terms and provisions will remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, will be considered to have been first paid or applied to the full payment of that portion of the debt that is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7 Governing Law.

This Deed of Trust is governed by the laws of the State of California.



Section 8.8 Gender and Number.

In this Deed of Trust the singular includes the plural and the masculine includes the feminine and neuter and vice versa, if the context so requires.

Section 8.9 Deed of Trust, Mortgage.

Any reference in this Deed of Trust to a mortgage also refers to a deed of trust and any reference to a deed of trust also refers to a mortgage.

Section 8.10 Actions.

Trustor shall appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11 Substitution of Trustee.

Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter will be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution is to be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Property is situated, will be conclusive proof of proper appointment of the successor trustee.

Section 8.12 Statute of Limitations.

The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

Section 8.13 Acceptance by Trustee.

Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law, the Trustee is not obligated to notify any party hereto of a pending sale under this Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee is a party unless brought by Trustee.

Section 8.14 Tax Credit Provisions.

Notwithstanding anything to the contrary contained herein or in any documents secured by this Deed of Trust or contained in any subordination agreement, and to the extent applicable, the Beneficiary acknowledges and agrees that in the event of a foreclosure or deed-in-lieu of foreclosure (collectively, "Foreclosure") with respect to the Security encumbered by this Deed of Trust, the following rule contained in 26 U.S.C. Section 42(h)(6)(E)(ii), as amended, applies:

For a period of three (3) years from the date of Foreclosure, with respect to an existing tenant of any low-income unit, (i) such tenant may not be subject to eviction or termination of their tenancy (other than for good cause), (ii) nor may such tenant's gross rent with respect to

such unit be increased, except as otherwise permitted under Section 42 of the Internal Revenue Code.

Section 8.15 Subject to RAD Use Agreement.

This Deed of Trust is in all respects subject to and subordinate in priority to that certain Rental Assistance Demonstration (RAD) Use Agreement to be entered into between the U.S. Department of Housing and Urban Development and the Trustor recorded contemporaneously herewith in the Official Records of Contra Costa County.

*[Remainder of Page Left Intentionally Blank]*

*[Signature on Following Page]*

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

SP Commons, L.P., a California limited partnership

By: RCD GP III LLC, a California limited liability company, its general partner

By: Resources for Community Development, a California nonprofit public benefit corporation, its sole member/manager

By: \_\_\_\_\_  
Daniel Sawislak, Executive Director

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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public

EXHIBIT A

LEGAL DESCRIPTION

The leasehold interest in the land that is situated in the State of California, County of Contra Costa, and is described as follows:

PROMISSORY NOTE  
(HOME AND HOPWA Loan)

\$2,874,681

Martinez, California  
March 1, 2018

FOR VALUE RECEIVED, the undersigned SP Commons, L.P., a California limited partnership ("Borrower") hereby promises to pay to the order of the County of Contra Costa, a political subdivision of the State of California ("Holder"), the principal amount of Two Million Eight Hundred Seventy-Four Thousand Six Hundred Eighty-One Dollars (\$2,874,681) plus interest thereon pursuant to Section 2 below.

All capitalized terms used but not defined in this Note have the meanings set forth in the Loan Agreement.

1. Borrower's Obligation. This Note evidences Borrower's obligation to repay Holder the principal amount of Two Million Eight Hundred Seventy-Four Thousand Six Hundred Eighty-One Dollars (\$2,874,681) consisting of Two Hundred Thirty-Two Thousand Six Hundred Eighty-One Dollars (\$232,681) in HOPWA Funds and Two Million Six Hundred Forty-Two Thousand Dollars (\$2,642,000) in HOME Funds with interest for the funds loaned to Borrower by Holder to finance the construction of the Development pursuant to the HOME and HOPWA Loan Agreement between Borrower and Holder of even date herewith (the "Loan Agreement").

2. Interest.

(a) HOME Loan. Subject to the provisions of Subsection (c) below, the HOME Loan bears simple interest at a rate of three percent (3%) per annum from the date of disbursement until full repayment of the principal balance of the HOME Loan.

(b) HOPWA Loan. Subject to the provisions of Subsection (c) below, no interest will accrue on the outstanding principal balance of the HOPWA Loan.

(c) Default Interest. If an Event of Default occurs, interest will accrue on all amounts due under this Note at the Default Rate until such Event of Default is cured by Borrower or waived by Holder.

3. Term and Repayment Requirements. Principal and interest under this Note is due and payable as set forth in Section 2.8 of the Loan Agreement. The unpaid principal balance hereunder, together with accrued interest thereon, is due and payable no later than the date that is the fifty-fifth (55<sup>th</sup>) anniversary of the Completion Date; provided, however, if a record of the Completion Date cannot be located or established, the Loan is due and payable on the fifty-seventh (57<sup>th</sup>) anniversary of the date of this Note.

4. No Assumption. This Note is not assumable by the successors and assigns of Borrower without the prior written consent of Holder, except as provided in the Loan Agreement.

5. Security. This Note, with interest, is secured by the Deed of Trust. Upon execution, the Deed of Trust will be recorded in the official records of Contra Costa County, California. Upon recordation of the Deed of Trust, this Note will become nonrecourse to Borrower, pursuant to and except as provided in Section 2.10 of the Loan Agreement which Section 2.10 is hereby incorporated into this Note. The terms of the Deed of Trust are hereby incorporated into this Note and made a part hereof.

6. Terms of Payment.

(a) Borrower shall make all payments due under this Note in currency of the United States of America to Holder at Department of Conservation and Development, 30 Muir Road, Martinez, CA 94553, Attention: Assistant Deputy Director, or to such other place as Holder may from time to time designate.

(b) All payments on this Note are without expense to Holder. Borrower shall pay all costs and expenses, including re-conveyance fees and reasonable attorney's fees of Holder, incurred in connection with the enforcement of this Note and the release of any security hereof.

(c) Notwithstanding any other provision of this Note, or any instrument securing the obligations of Borrower under this Note, if, for any reason whatsoever, the payment of any sums by Borrower pursuant to the terms of this Note would result in the payment of interest that exceeds the amount that Holder may legally charge under the laws of the State of California, then the amount by which payments exceed the lawful interest rate will automatically be deducted from the principal balance owing on this Note, so that in no event is Borrower obligated under the terms of this Note to pay any interest that would exceed the lawful rate.

(d) The obligations of Borrower under this Note are absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

7. Event of Default; Acceleration.

(a) Upon the occurrence of an Event of Default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note and the Deed of Trust will, at the option of Holder, become immediately due and payable without further demand.

(b) Holder's failure to exercise the remedy set forth in Subsection 7(a) above or any other remedy provided by law upon the occurrence of an Event of Default does not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other Event of Default. The acceptance by Holder of any payment that is less than the total of all amounts due and payable at the time of such payment does not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of Holder, except as and to the extent otherwise provided by law.



8. Waivers.

(a) Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Borrower.

(b) Any extension of time for payment of this Note or any installment hereof made by agreement of Holder with any person now or hereafter liable for payment of this Note must not operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

9. Miscellaneous Provisions.

(a) All notices to Holder or Borrower are to be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as Holder and Borrower may therein designate.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note is governed by the laws of the State of California.

(d) The times for the performance of any obligations hereunder are to be strictly construed, time being of the essence.

(e) The Loan Documents, of which this Note is a part, contain the entire agreement between the parties as to the Loan. This Note may not be modified except upon the written consent of the parties.

IN WITNESS WHEREOF, Borrower is executing this Promissory Note as of the day and year first above written.

SP Commons, L.P., a California limited partnership

By: RCD GP III LLC, a California limited liability company,  
its general partner

By: Resources for Community Development, a California  
nonprofit public benefit corporation, its sole  
member/manager

By: \_\_\_\_\_  
Daniel Sawislak, Executive Director

RECORDING REQUESTED PURSUANT  
AND WHEN RECORDED MAIL TO:

Contra Costa County  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Assistant Deputy Director

No fee for recording pursuant to  
Government Code Section 27383

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INTERCREDITOR AGREEMENT

(St. Paul's Commons)

This Intercreditor Agreement (the "Agreement") is dated March 1, 2018, and is among the City of Walnut Creek, a California municipal corporation (the "City"), the County of Contra Costa, a political subdivision of the State of California (the "County"), and SP Commons, L.P., a California limited partnership ("Borrower"), with reference to the following facts:

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Section 1 of this Agreement.

B. St. Paul's Episcopal Church in Walnut Creek, California ("St. Paul's") is the owner of that certain real property located at 1860 Trinity Avenue in the City of Walnut Creek, County of Contra Costa, State of California, as more particularly described in Exhibit A (the "Property"). Concurrently herewith Borrower is entering into a ground lease agreement with St. Paul's (the "Ground Lease"), pursuant to which Borrower will acquire a leasehold interest in the Property from St. Paul's for a period of seventy-seven (77) years (the "Leasehold Interest"). Borrower intends to demolish the existing improvements on the Property and construct forty-five (45) multifamily housing units on the Property for rental to extremely low, very low and low income households, including one (1) manager's unit, and attendant site improvements (the "Housing Improvements"). The Property will also be improved with a social service facility that will be leased back to St. Paul's, and will house a homeless day shelter and service program (the "Service Facility Improvements"). The Housing Improvements and the Service Facility Improvements are collectively, the "Improvements." Borrower's Leasehold Interest and Borrower's fee interest in the Improvements, are collectively, the "Development."

C. The County is making a loan to Borrower of Two Million Six Hundred Forty-Two Thousand Dollars (\$2,642,000) of HOME Investment Partnerships Act Program funds (the "HOME Loan") and Two Hundred Thirty-Two Thousand Six Hundred Eighty-One Dollars (\$232,681) of Housing Opportunities for Persons with AIDS Program funds (the "HOPWA Loan"), for a combined total loan amount of Two Million Eight Hundred Seventy-Four

Thousand Six Hundred Eighty-One Dollars (\$2,874,681) (the "County Loan"). The County Loan is evidenced by the following documents (among others), each of even date herewith: (i) HOME and HOPWA Loan Agreement by and between Borrower and the County (the "County Loan Agreement"), (ii) Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower for the benefit of the County (the "County Deed of Trust"), and (iii) Promissory Note executed by Borrower for the benefit of the County in the amount of the County Loan (the "County Note").

D. The City is making a loan to Borrower of Five Million Five Hundred Thousand Dollars (\$5,500,000) (the "City Loan"). The City Loan is evidenced by the following documents (among others): (i) City Loan Agreement by and between Borrower and the City dated March 1, 2018 (the "City Loan Agreement"); (ii) Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower for the benefit of the City (the "City Deed of Trust"); and (iii) Promissory Note executed by Borrower for the benefit of the City in the amount of the City Loan (the "City Note").

E. The City and the County desire to cause the City Deed of Trust and the County Deed of Trust (together, the "Deeds of Trust") to be equal in lien priority. The City and the County also desire to divide (i) the proceeds of any foreclosure, condemnation or insurance claim, and (ii) the Lenders' Share of Residual Receipts, as described herein.

NOW, THEREFORE, the Parties agree as follows:

#### AGREEMENT

1. Definitions. The following terms have the following meanings:

(a) "Adjusted City Loan" means, to the extent less than the full amount of the City Loan is funded, an amount equal the actual principal amount loaned to Borrower by the City pursuant to the City Loan Agreement. If the full amount of the City Loan is funded and no portion repaid as a Special City Loan Payment, the Adjusted City Loan is equal to the City Loan.

(b) "Adjusted HOME Loan" means, to the extent less than the full amount of the HOME Loan is funded, an amount equal to the actual principal amount loaned to Borrower by the County pursuant to the County Loan Agreement. If the full amount of the HOME Loan is funded and no portion repaid as a Special County Loan Payment, the Adjusted HOME Loan is equal to the HOME Loan.

(c) "Adjusted HOPWA Loan" means, to the extent less than the full amount of the HOPWA Loan is funded, an amount equal to the actual principal amount loaned to Borrower by the County pursuant to the County Loan Agreement. If the full amount of the HOPWA Loan is funded, the Adjusted HOPWA Loan is equal to the HOPWA Loan.

(d) "AHP" has the meaning set forth in Section 1(i)ii.

(e) "AHP Loan" has the meaning set forth in Section 1(i)ii.

- (f) "Annual County Loan Payment" has the meaning in Section 2(a).
- (g) "Annual City Loan Payment" has the meaning in Section 2(b).
- (h) "Annual Operating Expenses" means for each calendar year, the following costs reasonably and actually incurred for operation and maintenance of the Development:
  - i. property taxes and assessments imposed on the Development;
  - ii. debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Housing Improvements) on the Permanent Loan;
  - iii. on-site service provider fees for tenant social services, provided the County and City have approved, in writing, the plan and budget for such services before such services begin;
  - iv. property management fees and reimbursements, on-site property management office expenses, and salaries of property management and maintenance personnel, not to exceed amounts that are standard in the industry and which are pursuant to a management contract approved by the County and the City;
  - v. the Partnership/Asset Fee;
  - vi. fees for accounting, audit, and legal services incurred by Borrower's general partner in the asset management of the Development, not to exceed amounts that are standard in the industry, to the extent such fees are not included in the Partnership/Asset Fee;
  - vii. premiums for insurance required for the Improvements to satisfy the requirements of any lender of Approved Financing;
  - viii. utility services not paid for directly by tenants, including water, sewer, and trash collection;
  - ix. maintenance and repair expenses and services;
  - x. any annual license or certificate of occupancy fees required for operation of the Development;
  - xi. security services;
  - xii. advertising and marketing;
  - xiii. cash deposited into the Replacement Reserve Account in the amount set forth in Section 4.2(a) of the County Loan Agreement;
  - xiv. cash deposited into the Operating Reserve Account to maintain the

amount set forth in Section 4.2(b) of the County Loan Agreement (excluding amounts deposited to initially capitalize the account);

xv. payment of any previously unpaid portion of Developer Fee (without interest), not to exceed the amount set forth in Section 3.17 of the County Loan Agreement;

xvi. extraordinary operating costs specifically approved in writing by the County and the City;

xvii. payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses approved in writing by the County and the City and not listed above.

Annual Operating Expenses do not include the following: depreciation, amortization, depletion or other non-cash expenses, initial deposits to capitalize a reserve account, any amount expended from a reserve account, and any capital cost associated with the Development.

(i) "Approved Financing" means all of the following loans, grants and equity obtained by Borrower and approved by the County and the City for the purpose of financing the acquisition of the Leasehold Interest and construction of the Improvements in addition to the County Loan and the City Loan:

i. a construction loan from Bank of America, N.A., a national banking association (the "Bank") in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Bank Loan"), which will convert to a permanent loan in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Permanent Loan");

ii. loan of affordable housing program ("AHP") funds from \_\_\_\_\_, administered by the Federal Home Loan Bank of San Francisco in the approximate amount of Four Hundred Forty Thousand Dollars (\$440,000) (the "AHP Loan");

iii. the Low Income Housing Tax Credit investor equity funds in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Tax Credit Investor Equity") provided by the Investor Limited Partner; and

iv. the capital contribution from Borrower's general partner in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "GP Capital Contribution").

(j) "Available Net Proceeds" means the result obtained by multiplying the Net Proceeds of Permanent Financing by 0.75.

(k) "Bank" has the meaning set forth in Section 1(i).

- (l) "Bank Loan" has the meaning set forth in Section 1(i).
- (m) "City Deed of Trust" has the meaning set forth in Paragraph D of the Recitals.
- (n) "City Loan" has the meaning set forth in Paragraph D of the Recitals.
- (o) "City Loan Agreement" has the meaning set forth in Paragraph D of the Recitals.
- (p) "City Loan Prorata Percentage" means the result, expressed as a percentage, obtained by dividing the Adjusted City Loan by the sum of the Adjusted HOME Loan, the Adjusted HOPWA Loan, and the Adjusted City Loan.
- (q) "City Note" has the meaning set forth in Paragraph D of the Recitals.
- (r) "Completion Date" means the date a final certificate of occupancy, or equivalent document is issued by the City to certify that the Housing Improvements may be legally occupied.
- (s) "County Deed of Trust" has the meaning set forth in Paragraph C of the Recitals.
- (t) "County Loan" has the meaning set forth in Paragraph C of the Recitals.
- (u) "County Loan Agreement" has the meaning set forth in Paragraph C of the Recitals.
- (v) "County Loan Prorata Percentage" means the result, expressed as a percentage, obtained by dividing the sum of (1) the Adjusted HOME Loan and the Adjusted HOPWA Loan, by (2) the sum of the Adjusted HOME Loan, the Adjusted HOPWA Loan, and the Adjusted City Loan.
- (w) "County Note" has the meaning set forth in Paragraph C of the Recitals.
- (x) "Deeds of Trust" has the meaning set forth in Paragraph E of the Recitals.
- (y) "Default Rate" means a rate of interest equal to the lesser of the maximum rate permitted by law and ten percent (10%) per annum.
- (z) "Developer Fee" has the meaning set forth in Section 3.18 of the County Loan Agreement.
- (aa) "Development" has the meaning set forth in Paragraph B of the Recitals.
- (bb) "Enforcing Party" has the meaning set forth in Section 6(b).

(cc) "Fifteen Year Compliance Period" means the fifteen (15)-year compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986, as amended.

(dd) "Final Cost Certification" means the Final Cost Certification Sources and Uses of Funds prepared by Borrower for the Development that (1) Borrower submits to the California Tax Credit Allocation Committee, and (2) has been prepared using generally accepted accounting standards in effect in the United States of America from time to time, consistently applied.

(ee) "Final Development Cost" means the total of the cost of acquisition of the Leasehold Interest and construction of the Improvements as shown on the Final Cost Certification.

(ff) "Foreclosure Net Proceeds" means the proceeds that result from a foreclosure, or any other action, whether judicial or non-judicial, less (i) all amounts paid to any senior lien holder, and (ii) expenses incurred by a lender that is a Party to this Agreement in connection with such foreclosure or other action.

(gg) "GP Capital Contribution" has the meaning set forth in Section 1(i)iv.

(hh) "Gross Revenue" means for each calendar year, all revenue, income, receipts, and other consideration actually received from the operation and leasing of the Development. Gross Revenue includes, but is not limited to:

- (i) all rents, fees and charges paid by tenants;
- (ii) Section 8 payments or other rental subsidy payments received for the dwelling units;
- (iii) deposits forfeited by tenants;
- (iv) all cancellation fees;
- (v) price index adjustments and any other rental adjustments to leases or rental agreements;
- (vi) net proceeds from vending and laundry room machines;
- (vii) the proceeds of business interruption or similar insurance not paid to senior lenders;
- (viii) the proceeds of casualty insurance not used to rebuild the Development and not paid to senior lenders; and
- (ix) condemnation awards for a taking of part or all of the Development for a temporary period.



Gross Revenue does not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

(ii) "Ground Lease" has the meaning set forth in Paragraph B of the Recitals.

(jj) "HOME Loan" has the meaning set forth in Paragraph C of the Recitals.

(kk) "HOPWA Loan" has the meaning set forth in Paragraph C of the Recitals.

(ll) "Housing Improvements" has the meaning set forth in Paragraph B of the Recitals.

(mm) "Improvements" has the meaning set forth in Paragraph B of the Recitals.

(nn) "Investor Limited Partner" means collectively, Bank of America, N.A., a national banking association, and Banc of America CDC Special Holding Company, Inc., a North Carolina corporation, and their successors and assigns.

(oo) "Leasehold Interest" has the meaning set forth in Paragraph B of the Recitals.

(pp) "Lenders' Share of Residual Receipts" means seventy-five percent (75%) of Residual Receipts.

(qq) "Net Proceeds of Permanent Financing" means the amount by which Permanent Financing exceeds the Final Development Costs.

(rr) "Parties" means the City, the County, and Borrower.

(ss) "Partnership Agreement" means the Amended and Restated Agreement of Limited Partnership, dated on or about the date of recordation of the Deeds of Trust, as may be amended from time to time, that governs the operation and organization of Borrower as a California limited partnership.

(tt) "Partnership/Asset Fee" means (i) partnership management fees (including any asset management fees) payable pursuant to the Partnership Agreement to any partner or affiliate of Borrower or any affiliate of a partner of Borrower, if any, during the Fifteen Year Compliance Period, and (ii) after expiration of the Fifteen Year Compliance Period, asset management fees payable to Borrower, in the amounts approved by the County as set forth in Section 3.19 of the County Loan Agreement.

(uu) "Permanent Financing" means the sum of the following amounts: (i) the Permanent Loan; (ii) the Adjusted HOME Loan; (iii) the Adjusted HOPWA Loan; (iv) the Adjusted City Loan; (v) the Tax Credit Investor Equity; (vi) the GP Capital Contribution; and (vii) the AHP Loan.

(vv) "Permanent Loan" has the meaning set forth in Section 1(i).

(ww) "Property" has the meaning set forth in Paragraph B of the Recitals.

(xx) "Residual Receipts" means for each calendar year, the amount by which Gross Revenue exceeds Annual Operating Expenses.

(yy) "Service Facility Improvements" has the meaning set forth in Paragraph B of the Recitals.

(zz) "Special City Loan Prorata Percentage" means the result, expressed as a percentage, obtained by dividing the City Loan by the sum of the County Loan and the City Loan.

(aaa) "Special City Loan Payment" has the meaning set forth in Section 3(b).

(bbb) "Special County Loan Prorata Percentage" means the result, expressed as a percentage, obtained by dividing the County Loan by the sum of the County Loan and the City Loan.

(ccc) "Special County Loan Payment" has the meaning set forth in Section 3(a).

(ddd) "Statement of Residual Receipts" means an itemized statement of Residual Receipts.

(eee) "Tax Credit Investor Equity" has the meaning set forth in Section 1(i)iii.

(fff) "Term" means the period of time that commences on the date of this Agreement, and expires, unless sooner terminated in accordance with this Agreement, on the fifty-fifth (55<sup>th</sup>) anniversary of the Completion Date; provided, however, if a record of the Completion Date cannot be located or established, the Term will expire on the fifty-seventh (57<sup>th</sup>) anniversary of this Agreement.

## 2. Annual Payments to County and City.

### (a) County Loan.

i. Commencing on June 1, 2020, and on June 1 of each year thereafter during the Term, Borrower shall make a loan payment to the County in an amount equal to the County Loan Prorata Percentage of the Lenders' Share of Residual Receipts (each such payment, an "Annual County Loan Payment"). A numerical example of the methodology to be used to calculate the Annual County Loan Payment is shown in Exhibit B attached hereto. In the event of a conflict between the text of this Section 2(a) and Exhibit B, the text of this Section 2(a) will prevail. The County shall apply all Annual County Loan Payments to the County Loan as follows: (1) first, to accrued interest, and (2) second, to principal.

ii. Borrower shall repay the County Loan pursuant to the terms of the County Loan Agreement and the County Note. In the event of any conflict between the repayment terms and provisions of the County Loan Agreement and this Agreement, the

provisions of this Agreement apply. The County may not consent to any amendment or waiver of the terms of the County Loan Agreement or the County Note if such amendment or waiver could reasonably be deemed to materially adversely affect the City, without the City's prior written approval, which the City may withhold in its sole discretion.

(b) City Loan.

i. Commencing on June 1, 2020, and on June 1 of each year thereafter during the Term, Borrower shall make a loan payment to the City in an amount equal to the City Loan Prorata Percentage of the Lenders' Share of Residual Receipts (each such payment, an "Annual City Loan Payment"). A numerical example of the methodology to be used to calculate the Annual City Loan Payment is shown in Exhibit B attached hereto. In the event of a conflict between the text of this Section 2(b) and Exhibit B, the text of this Section 2(b) will prevail. The City shall apply all Annual City Loan Payments as follows: (1) first, to accrued interest, and (2) second, to principal for the City Loan.

ii. Borrower shall repay the City Loan pursuant to the terms of the City Loan Agreement and the City Note. In the event of any conflict between the repayment terms of the City Loan Agreement and this Agreement, the provisions of this Agreement apply. The City may not consent to any amendment or waiver of the terms of the City Loan Agreement or the City Note, if such amendment or waiver could reasonably be deemed to materially adversely affect the County, without the County's prior written approval, which the County may withhold in its sole discretion.

3. Special Repayments from Net Proceeds of Permanent Financing.

(a) No later than ten (10) days after the date Borrower receives its final capital contribution from the Investor Limited Partner, Borrower shall pay to the County as a special repayment of the HOME Loan, an amount equal to the result obtained by multiplying the Special County Loan Prorata Percentage by the Available Net Proceeds (the "Special County Loan Payment").

(b) No later than ten (10) days after the date Borrower receives its final capital contribution from the Investor Limited Partner, Borrower shall pay to the City as a special repayment of the City Loan, an amount equal to the result obtained by multiplying the Special City Loan Prorata Percentage by the Available Net Proceeds (the "Special City Loan Payment").

(c) No later than one hundred eighty (180) days following completion of construction of the Development, Borrower shall submit to the County and the City a preliminary calculation of the Net Proceeds of Permanent Financing and a draft of the Final Cost Certification. The County and the City shall approve or disapprove Borrower's determination of the amount of the Net Proceeds of Permanent Financing in writing within thirty (30) days of receipt. If Borrower's determination is disapproved by the County or the City, Borrower shall re-submit documentation to the County and the City until approval of the County and the City is obtained.

4. Reports and Accounting of Residual Receipts.

(a) Annual Reports. In connection with the Annual County Loan Payment and the Annual City Loan Payment, Borrower shall furnish to the City and the County:

i. The Statement of Residual Receipts for the relevant period. The first Statement of Residual Receipts will cover the period that begins on January 1, 2019 and ends on December 31 of that same year. Subsequent statements of Residual Receipts will cover the twelve-month period that ends on December 31 of each year;

ii. A statement from the independent public accountant that audited Borrower's financial records for the relevant period, which statement must confirm that Borrower's calculation of the Lender's Share of Residual is accurate based on Operating Income and Annual Operating Expenses; and

iii. Any additional documentation reasonably required by the County or the City to substantiate Borrower's calculation of Lender's Share of Residual Receipts.

(b) Books and Records. Borrower shall keep and maintain at the principal place of business of Borrower set forth in Section 11 below, or elsewhere with the written consent of the County and the City, full, complete and appropriate books, record and accounts relating to the Development, including all books, records and accounts necessary or prudent to evidence and substantiate in full detail Borrower's calculation of Residual Receipts and disbursements of Residual Receipts. Borrower shall cause all books, records and accounts relating to its compliance with the terms, provisions, covenants and conditions of this Agreement to be kept and maintained in accordance with generally accepted accounting principles consistently applied, and to be consistent with requirements of this Agreement, which provide for the calculation of Residual Receipts on a cash basis. Borrower shall cause all books, records, and accounts to be open to and available for inspection by the County and the City, their auditors or other authorized representatives at reasonable intervals during normal business hours. Borrower shall cause copies of all tax returns and other reports that Borrower may be required to furnish to any government agency to be open for inspection by the County and the City at all reasonable times at the place that the books, records and accounts of Borrower are kept. Borrower shall preserve records on which any statement of Residual Receipts is based for a period of not less than five (5) years after such statement is rendered, and for any period during which there is an audit undertaken pursuant to subsection (c) below then pending.

(c) County and City Audits.

i. The receipt by the County or the City of any statement pursuant to subsection (a) above or any payment by Borrower or acceptance by the County or the City of any loan repayment for any period does not bind the County or the City as to the correctness of such statement or such payment. The County or the City or any designated agent or employee of the County or the City is entitled at any time to audit the Residual Receipts and all books, records, and accounts pertaining thereto. The County and/or the City may conduct such audit during normal business hours at the principal place of business of Borrower and other places where records are kept. Immediately after the completion of an audit, the County or the City, as the case may be, shall deliver a copy of the results of the audit to Borrower.

ii. If it is determined as a result of an audit that there has been a deficiency in a loan repayment to the County and/or the City, then such deficiency will become immediately due and payable, with interest at the Default Rate from the date the deficient amount should have been paid. In addition, if the audit determines that Residual Receipts have been understated for any year by the greater of (i) \$2,500, and (ii) an amount that exceeds five percent (5%) of the Residual Receipts, then, in addition to paying the deficiency with interest, Borrower shall pay all of the costs and expenses connected with the audit and review of Borrower's accounts and records incurred by the County and/or the City.

5. Deeds of Trust. Notwithstanding the fact that the City Deed of Trust may be recorded prior to the County Deed of Trust or that the County Deed of Trust may be recorded prior to the City Deed of Trust, the Deeds of Trust are equal in lien priority.

6. Notice of Default.

(a) The County and the City shall each notify the other promptly upon declaring a default or learning of the occurrence of any material event of default, or any event which with the lapse of time would become a material event of default, under its respective loan documents for the City Loan and the County Loan.

(b) The City and the County agree not to make a demand for payment from Borrower or accelerate the City Note or the County Note, as the case may be, or commence enforcement of any of the rights and remedies under the City Deed of Trust or the County Deed of Trust, as the case may be, until the date that is five (5) business days following delivery of written notice by the Party enforcing its rights (the "Enforcing Party") to the other Party stating that a "default" (as defined in the relevant Deed of Trust) has occurred and is continuing and that the Enforcing Party is requesting the other Party's assistance in foreclosure pursuant to Section 7.

7. Cooperation in Foreclosure.

(a) If there is a default under the City Loan and/or County Loan, after expiration of any applicable cure periods, the party who is the lender on the defaulted loan shall cooperate with the other lender that is a Party to this Agreement to coordinate any foreclosure proceedings or other appropriate remedies.

(b) Neither the County nor the City may contest the validity, perfection, priority, or enforceability of the lien granted to the other Party by a deed of trust secured by the Development. Notwithstanding any failure of a Party to perfect its lien on the Development or any other defect in the security interests or obligations owing to such Party, the priority and rights as between the lenders that are Parties to this Agreement are as set forth in this Agreement.

8. Foreclosure Proceeds. If there is a foreclosure, or any other action, whether judicial or nonjudicial, under any or both of the Deeds of Trust (including the giving of a deed in lieu of foreclosure), the proceeds resulting from such foreclosure or action will be first used to pay (i) all amounts paid to any senior lien holder, and (ii) expenses incurred by the County, the City, or both, in connection with such foreclosure or other action. After such payments (i) the City is entitled to the result obtained by multiplying the City Loan Prorata Percentage by the

Foreclosure Net Proceeds, and (ii) the County is entitled to the result obtained by multiplying the County Loan Prorata Percentage by the Foreclosure Net Proceeds.

9. Insurance and Condemnation Proceeds. If, as a result of having made the City Loan and the County Loan, the City and County are entitled to insurance or condemnation proceeds, they will share such proceeds as follows: (i) the City is entitled the result obtained by multiplying the City Loan Prorata Percentage by the available proceeds, and (ii) the County is entitled to the result obtained by multiplying the County Loan Prorata Percentage by the available proceeds.

10. Title to Development. If, as a result of having made the City Loan and the County Loan, either the City or the County is entitled to title to the Development as a consequence of Borrower's default, then title is to be held in tenancy in common by the City and the County in accordance with their respective prorata share of the Foreclosure Net Proceeds. Subsequent decisions to hold or sell the Development will be made by joint decision of the City and the County.

11. Notices. All notices required or permitted by any provision of this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

City: City of Walnut Creek  
1666 North Main Street  
Walnut Creek, CA 94596  
Attn: Housing Program Manager

County: County of Contra Costa  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Assistant Deputy Director

Borrower: SP Commons, L.P.  
c/o RCD GP, LLC  
2220 Oxford Street  
Berkeley, CA 94720  
Attention: Executive Director

Investor Limited  
Partner: Bank of America, N.A.  
Community Development Banking Group  
MA1-225-02-02  
225 Franklin Street  
Boston, MA 02110  
Attention: Asset Management

With a copy to:

Buchalter, a Professional Corporation  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017  
Attention: Michael A. Williamson, Esq.  
Re: B0965-0363 (St. Paul Commons)

Such written notices, demands, and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate as provided in this Section. Receipt will be deemed to have occurred on the date marked on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

12. Titles. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

13. California Law. This Agreement is governed by the laws of the State of California.

14. Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

15. Legal Actions. If any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach of this Agreement, then the Party prevailing in any such action shall be entitled to recover against the Party not prevailing all reasonable attorneys' fees and costs incurred in such action.

16. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the distribution of proceeds upon foreclosure of or other remedies under the Deeds of Trust, and the entire understanding and agreement of the Parties with respect to the equal lien priority of the City Deed of Trust and County Deed of Trust.

17. Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

18. Amendments. This Agreement may not be modified except by written instrument executed by and amongst the Parties.

***[Remainder of Page Left Intentionally Blank]***

***[Signatures on Following Page]***



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**BORROWER:**

SP Commons, L.P., a California limited partnership

By: RCD GP III LLC, a California limited liability company, its general partner

By: Resources for Community Development, a California nonprofit public benefit corporation, its sole member/manager

By: \_\_\_\_\_  
Daniel Sawislak, Executive Director

Approved as to form:

SHARON L. ANDERSON  
County Counsel

By: \_\_\_\_\_  
Kathleen Andrus  
Deputy County Counsel

**COUNTY:**

COUNTY OF CONTRA COSTA, a political subdivision of the State of California

By: \_\_\_\_\_  
John Kopchik  
Director, Department of Conservation and Development

Approved as to form

By: \_\_\_\_\_  
City Attorney

**CITY:**

CITY OF WALNUT CREEK, a California municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: \_\_\_\_\_  
Notary Public



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 \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the  
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: \_\_\_\_\_  
Notary Public

EXHIBIT A  
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B  
COUNTY/CITY  
RESIDUAL RECEIPTS NUMERICAL EXPLANATION



**Contra  
Costa  
County**

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: March 20, 2018

Subject: Multifamily Housing Revenue Bonds - Antioch Renovation, Pinecrest and Terrace Glen Apartments

---

**RECOMMENDATION(S):**

1.ADOPT Resolution No. 2018/106 authorizing the issuance of Multifamily Housing Revenue Bonds (the "Bonds") in an amount not to exceed \$12,000,000 to finance the acquisition and rehabilitation of Antioch Renovations - Pinecrest Apartments and Terrace Glen Apartments, a 56-unit residential rental housing development, including 24 units located at 1945 and 1949 Cavallo Road (APN 068-061-024 and 32 units located at 104-106 West 20th Street and 35-107 West 20th Street (APNs 067-251-015-3 and 067-252-011-1) in the City of Antioch, California (the "Development").

2.FIND and DECLARE that the recitals contained in the proposed Resolution are true and correct.

3.ACKNOWLEDGE that for purposes of Section 147(f) of the Internal Revenue Code of 1986, authorizing the issuance of the Bonds to finance the costs of the acquisition and construction of the Development is subject to Board of Supervisors approval of all documents related to the Bonds to which the County is a party.

4.ACKNOWLEDGE that adoption of this resolution does not relieve or exempt the project sponsor from obtaining required permits or approvals, nor obligate the County to incur any obligation or provide financial assistance with respect to the Bonds or the Development; and

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/20/2018** ☒ 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: March 20, 2018

Contact: Kara Douglas  
925-674-7880

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

By: , Deputy

cc:



## RECOMMENDATION(S): (CONT'D)

5. AUTHORIZE and DIRECT any authorized officer of the County to do any and all things, take any and all actions, and execute and deliver any and all certificates, agreements, and other documents, which the officer may deem necessary or advisable in order to effectuate the intent of the Resolution.

### FISCAL IMPACT:

No impact to the General Fund. In the event that the bonds are issued, the County is reimbursed for costs incurred in the issuance process. Annual expenses for monitoring of Regulatory Agreement provisions ensuring units in the Development will be rented to low income households are accommodated in the bond issue. The Bonds will be solely secured by and payable from revenues (e.g. Development rents, reserves, etc.) pledged under the bond documents. No County funds are pledged to secure the Bonds.

### BACKGROUND:

The recommended action is the adoption of a resolution by the Board, as the legislative body of the County, authorizing the issuance of Multifamily Housing Revenue Bonds (the "Bonds"), which will be used to finance the acquisition and construction of Antioch Renovations - Pinecrest Apartments and Terrace Glen Apartments, a 56-unit residential rental housing development, including 24 units located at 1945 and 1949 Cavallo Road (APN 068-061-024 and 32 units located at 104-106 West 20th Street and 35-107 West 20th Street (APNs 067-251-015-3 and 067-252-011-1) in the City of Antioch.

Through a limited partnership, Antioch Recap, LP., that it has sponsored, Resources for Community Development (RCD) will acquire the Development and proposes the use of the Bonds to rehabilitate the project. RCD, or a related entity, will be the Managing General Partner with a tax credit investor as the limited partner.

The proposed financing would implement City of Antioch and County policies to preserve the supply of existing affordable housing. At its February 27, 2018, meeting, the Board of Supervisors approved Reimbursement Resolution (Resolution number 2018/76) for the Development. The Reimbursement Resolution conditionally provided for the issuance of the Bonds.

The main purpose of the proposed resolution is to acknowledge that a public hearing was held by the Assistant Deputy Director on March 6, 2018 with no public comment, and to meet other bond issuance requirements which are specified in Section 147(f) of the Internal Revenue Code. The proposed bonds cannot be issued until a separate resolution is adopted by the Board of Supervisors specifically authorizing the sale of the Bonds. Such separate resolution to authorize the sale of bonds would come before the Board after receipt of an allocation from the State of California for Private Activity Bond Authority. An application for Private Activity Bond Authority was submitted to the California Debt Limit Allocation Committee on March 16, 2018. The expected timing for a Bond Sale Resolution would be summer 2018. The City of Antioch acknowledged its support of the County as the bond issuer by City Council resolution at its March 13, 2018 meeting.

The proposed resolution would not relieve RCD from obtaining other required permits or approvals required by law, nor obligate the County to incur any obligation or provide financial assistance with respect to the Bonds or the Development. Annual expenses of the County related to the monitoring of the Regulatory Agreement are accommodated in the bond issue.

### CONSEQUENCE OF NEGATIVE ACTION:

Negative action would prevent the County from meeting the public approval requirement of the Internal Revenue Code for issuing Multifamily Housing Revenue Bonds. As a result, the Multifamily Housing Revenue Bonds could not be issued by the County.

CHILDREN'S IMPACT STATEMENT:

The Development supports Children's Report Card outcome #3: Families are Economically Self-Sufficient

ATTACHMENTS

Resolution No. 2018/106

TEFRA transcript

TEFRA Proof of Publication

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

Adopted this Resolution on 03/20/2018 by the following vote:

**AYE:** ☐

**NO:** ☐

**ABSENT:** ☐

**ABSTAIN:** ☐

**RECUSE:** ☐



**Resolution No. 2018/106**

Resolution Authorizing the Issuance of Multifamily Housing Revenue Bonds in an Aggregate Principal Amount not to Exceed Twelve Million Dollars (\$12,000,000) for the Purpose of Providing Financing for Certain Multifamily Rental Housing Facilities in Antioch.

WHEREAS, the County of Contra Costa (the “County”) is authorized to issue multifamily housing revenue bonds pursuant to Section 52075 and following of the California Health and Safety Code; and

WHEREAS, the County desires to participate in financing costs of the acquisition and rehabilitation of 56 units of residential rental housing with 24 units currently identified as Pinecrest Apartments located at 1945 and 1949 Cavallo Road (APN No. 068-061-024) in Antioch, and 32 units currently identified as Terrace Glen Apartments located at 104-106 West 20th Street and 35-107 West 20th Street (APN Nos. 067-251-015-3 and 067-252-011-1) in Antioch (collectively, the “Development”), all of which will be initially owned at the time of the financing by Antioch Recap, L.P., a California limited partnership (the “Borrower”); and

WHEREAS, to assist in financing the Development, the County intends to sell and issue not to exceed \$12,000,000 principal amount of its multifamily housing revenue bonds (the “Bonds”) and to loan the proceeds of the Bonds to the Borrower, thereby assisting in providing housing for low income persons; and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), the issuance of the Bonds by the County must be approved by an applicable elected representative body with respect to the Development following the conduct of a public hearing on the proposed financing; and

WHEREAS, the Board of Supervisors of the County of Contra Costa (the “Board”), is the elected legislative body of the County and is one of the applicable elected representatives authorized to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the Assistant Deputy Director of the Department of Conservation and Development of the County has, following notice duly given, held a public hearing regarding the financing of the Development and the issuance of the Bonds, and a summary of any oral or written testimony received at the public hearing has been presented to the Board of Supervisors for its consideration; and

WHEREAS, the Board now desires to approve the issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Contra Costa, as follows:

Section 1. The Board hereby finds and declares that the foregoing recitals are true and correct.

Section 2. For purposes of Section 147(f) of the Code, the Board hereby authorizes the issuance of Bonds by the County to provide financing for costs of the Development. The sale and delivery of the Bonds shall be subject to the approval by the Board of all documents related to the Bonds to which the County is a party.

Section 3. The adoption of this Resolution does not (i) relieve or exempt the Borrower from obtaining any permits or approvals that are required by, or determined to be necessary from, the County in connection with the Development, nor (ii) obligate the County to incur any obligation or provide financial assistance with respect to the Bonds or the Development.

Section 4. All actions heretofore taken by the officers and agents of the County with respect to the financing of the Development and the sale and issuance of Bonds are hereby approved, ratified and confirmed, and any authorized officer of the County is

hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents, which any such officer may deem necessary or advisable in order to effectuate the purposes of this Resolution.

Section 5. This Resolution shall take effect upon its adoption.

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

**Contact: Kara Douglas 925-674-7880**

**ATTESTED: March 20, 2018**

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

By: , Deputy

**cc:**

**TRANSCRIPT FOR THE TEFRA HEARING****March 6, 2018      9:00 a.m.**

This noticed public hearing is required by Section 147(f) of the Internal Revenue Code of 1986, as amended. The hearing is on the proposed issuance by the County of Contra Costa of multifamily housing revenue bonds in an amount not to exceed twelve million dollars (\$12,000,000). Proceeds from the sale of the proposed bonds will be used to provide financing for costs of the acquisition and rehabilitation of 56 units of multifamily residential rental housing development by Antioch Recap, L.P., a California limited partnership. The housing units to be financed consist of 24 units currently identified as Pinecrest Apartments located at 1945 and 1949 Cavallo Road in Antioch (APN No. 068-061-24), and 32 units currently identified as Terrace Glen Apartments located at 104-106 West 20th Street and 35-107 West 20th Street in Antioch (APN Nos. 067-251-015-3 and 067-252-011-1).

The Board of Supervisors may consider adoption of a resolution approving the issuance of the bonds on March 20, 2018. Any comments provided at this hearing will be made available to the Board of Supervisors prior to their taking action on March 20th or on such later date as the matter may be considered by the Board of Supervisors.

If there are parties present who wish to voice their opinion and provide comments on the proposed financing of the development or the issuance of the bonds, I would ask that they be recognized now by raising their hand. I will then let each person provide any written or oral testimony that they may wish to provide on this matter.

Opened hearing: 9:00 am  
Speakers present: Ø  
Closed hearing: 9:20 am

By: Kara Douglas  
Kara Douglas,  
Assistant Deputy Director,  
Contra Costa County Department of  
Conservation and Development

Date: March 6, 2018

# East County Times

3260 Lone Tree Way, Suite 100  
Antioch, CA 94509  
925-779-7115

3697629

QUINT & THIMMIG LLP  
900 LARKSPUR LANDING, SUITE 270  
LARKSPUR, CA 94939

## PROOF OF PUBLICATION FILE NO. Pinecrest / Terrace Glen

In the matter of

### East County Times

I am a citizen of the United States. I am over the age of eighteen years and I am not a party to or interested in the above entitled matter. I am the Legal Advertising Clerk of the printer and publisher of the East County Times, a newspaper published in the English language in the City of Antioch, County of Contra Costa, State of California.

I declare that the East County Times is a newspaper of general circulation as defined by the laws of the State of California as determined by court decree dated January 6, 1919, Case Number 8268 and modified January 19, 2006, Case Number N05-1494. Said decree states that the East County Times is adjudged to be a newspaper of general circulation for the City of Antioch, County of Contra Costa and State of California. Said order has not been revoked.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

02/19/2018

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.  
On this 20th day of February, 2018.

  
\_\_\_\_\_  
Signature

Legal No.

0006107712

### NOTICE OF PUBLIC HEARING

Notice is hereby given that the Assistant Deputy Director of the Contra Costa County Department of Conservation and Development on Tuesday, March 6, 2018 at the hour of 9:00 a.m., or as soon thereafter as the matter may be heard, in the offices of the Contra Costa County Department of Conservation and Development, 30 Muir Road, Martinez, California, will hold a public hearing in accordance with Section 147(f) of the Internal Revenue Code of 1986 with respect to the proposed issuance by the County of Contra Costa (the "County") of multifamily housing revenue bonds in an aggregate principal amount not to exceed \$12,000,000, in order to finance costs of the acquisition and rehabilitation by Antioch Recap, L.P., a California limited partnership, of 56 units of multifamily rental housing with 24 units currently identified as Pinecrest Apartments located at 1945 and 1949 Cavallo Road (APN No. 068-061-024) in Antioch, and 32 units currently identified as Terrace Glen Apartments located at 104-106 West 20th Street and 35-107 West 20th Street (APN Nos. 067-251-015-3 and 067-252-011-1) in Antioch (collectively, the "Development"). All or a portion of the units in the Development will be rented to persons and families of very low or low income.

Notice is further given that at said hearing, all proponents and opponents of the Development will have an opportunity to be heard on the question as to whether or not such multifamily housing revenue bonds should be issued by the County and all interested parties will be given the opportunity to be heard. Written comments may also be submitted at or before the hearing to Kara Douglas, Assistant Deputy Director of the Contra Costa County Department of Conservation and Development, 30 Muir Road, Martinez, California 94553.

Publish East County Times  
Monday, February 19, 2018  
ECT# 6107712 Feb. 19, 2018



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Melinda Cervantes, County Librarian  
Date: March 20, 2018

Subject: Library Operating Hours

---

**RECOMMENDATION(S):**

ADOPT Resolution No. 2018/97 authorizing the operating hours for the El Cerrito Library to be updated from those approved under Resolution 2018/27 on January 16, 2018.

**FISCAL IMPACT:**

All costs of the modified operating schedule will be reimbursed by the City of El Cerrito.

**BACKGROUND:**

On May 8, 2012, the Board of Supervisors approved Resolution No. 2012/177 authorizing a change in operating hours for departments that deviated from the standard operating hours (8am-12 noon; 1 pm-5pm) set under County Ordinance Code 22-2.202. Resolution No. 2018/27 authorizes the County Ordinance Code 22-2.202 to reflect the Library's current operating hours at all libraries and Library Administration. This revision to Table A will correctly reflect the operating hours for the El Cerrito Branch of the Library. Contra Costa County provides each library in the County system with a basic 35 open hours per week, provided they fund all costs for maintenance. On June 6, 2017, the El Cerrito City Council voted to approve their proposed budget, which included the additional funding necessary to cover the costs of increasing the open hours of the library to 50 hours per week, an increase of 42% over current service levels. The library will now be open every day instead of the previous schedule of 5 open days per week.

---

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

---

Action of Board On: **03/20/2018** ☐ 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: March 20, 2018

Contact: Walt Beveridge  
925-608-7730

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

By: , Deputy

cc: W. Beveridge



BACKGROUND: (CONT'D)

The new library schedule will begin on April 2, 2018: Mon, Tues (Noon to 8pm), Wed, Thurs (10am to 6pm), Fri, Sat (10am to 5pm) and Sun (1pm to 5pm).

ATTACHMENTS

Resolution No. 2018/97

Attachment to Resolution No. 2018/97: Table A

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

Adopted this Resolution on 03/20/2018 by the following vote:

**AYE:** ☐

**NO:** ☐

**ABSENT:** ☐

**ABSTAIN:** ☐

**RECUSE:** ☐



**Resolution No. 2018/97**

**IN THE MATTER OF MODIFYING THE HOURS OF OPERATION FOR THE LIBRARY**

WHEREAS, On January 16, 2018, the Board of Supervisors approved Resolution No. 2018/27 authorizing a change in operating hours for the library that deviated from the standard operating hours (8am-12 noon; 1pm-5pm) set under County Ordinance Code 22-2.202;

WHEREAS, the Library wishes to continue its practice of offering office hours beyond what is prescribed in County Ordinance 22-2.202 (7:30 a.m. - 5:00 p.m., Monday-Friday, with no lunch breaks) to better accommodate the needs of the public;

WHEREAS, On June 6, 2017, the El Cerrito City Council voted to approve their proposed budget, which included the additional funding necessary to cover the costs of increasing the open hours of the library to 50 hours per week, an increase of 42% over current service levels;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors for the County of Contra Costa does hereby approve the request to update the hours of operation for the Library to the hours shown in the attached table (Table A); and

BE IT FURTHER RESOLVED that this Resolution supersedes and replaces Resolution No. 2018/27, which was adopted by the Board on January 16, 2018.

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 20, 2018**

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

**Contact: Walt Beveridge 925-608-7730**

By: , Deputy

**cc:** W. Beveridge

| Department Operating Hours Outside of County Statute                               |   |  |
|--|---|--|
| Library  |   |  |
| Library Address  | Hours Approved Resolution No. 2012/177  | Proposed Operating Hours   |
| <b>Antioch Library</b> 501 W. 18th Street 94509                                    | 12pm-8pm (Mon, Tues); 10am-5pm (Wed, Thurs); 12pm-5pm (Sat)                     | 12pm-8pm (Mon, Tues); 10am-6pm (Wed, Thurs); 12pm-5pm (Sat)                      |
| <b>Bay Point Library</b> 205 Pacifica Avenue 94565                                 | 2:30pm-6pm (Mon, Fri); 2:30pm-8pm (Tues, Thurs)                                 | NO CHANGE  |
| <b>Brentwood Library</b> 104 Oak Street 94513                                      | 10am-8pm (Mon-Thurs); 10am-6pm (Fri, Sat)                                       | 9am-5pm (Mon, Wed-Fri); 12pm-8pm (Tues)  |
| <b>Clayton Library</b> 6125 Clayton Road 94517                                     | 1pm-9pm (Mon, Wed); 10am-6pm (Tues, Thurs, Sat); 1pm-5pm (Sun)                  | NO CHANGE  |
| <b>Concord Library</b> 2900 Salvio Street 94519                                    | 12pm-9pm (Mon, Thurs); 10am-6pm (Tues, Wed); 10am-5pm (Fri, Sat); 1pm-5pm (Sun) | NO CHANGE  |
| <b>Crockett Library</b> 991 Loring Avenue 94525                                    | 11am-5pm (Mon, Wed, Fri); 10am-4pm (Sat)  | 2pm-8pm (Mon)11am-5pm (Wed, Fri); 10am-4pm (Sat)                                 |
| <b>Danville Library</b> 400 Front Street 94526                                     | 10am-8pm (Mon - Thurs); 10am-6pm (Fri, Sat); 1pm-5pm (Sun)                      | NO CHANGE  |
| <b>Dougherty Station Library</b> 17017 Bollinger Canyon Road, San Ramon, 94582     | 10am-8pm (Mon, Thurs); 12pm-8pm (Tues, Wed); 10am-5pm (Fri, Sat)                | NO CHANGE  |
| <b>El Cerrito Library</b> 6510 Stockton Avenue 94530                               | 12pm-8pm (Mon, Tues); 10am-6pm (Thurs); 1pm-5pm (Fri); 10am-5pm (Sat)           | 12pm-8pm (Mon, Tues); 10am-6pm (Wed, Thurs); 10am-5pm (Fri, Sat); 1pm-5pm (Sun). |
| <b>El Sobrante Library</b> 4191 Appian Way 94803                                   | 12pm-8pm (Mon, Thurs); 10am-6pm (Tues); 1pm-5pm (Fri); 10am-5pm (Sat)           | NO CHANGE  |
| <b>Hercules Library</b> 109 Civic Drive 94547                                      | 1pm-9pm (Mon, Tues); 10am-6pm (Wed, Thurs, Sat)                                 | 12pm-8pm (Mon, Tues); 10am-6pm (Wed, Thurs); 1pm-5pm (Fri); 10am-5pm (Sat)       |
| <b>Kensington Library</b> 61 Arlington Avenue 94707                                | 12pm-8pm (Mon, Tues); 10am-6pm (Thurs); 1pm-5pm (Fri); 10am-5pm (Sat)           | NO CHANGE  |
| <b>Lafayette Library</b> 3491 Mt. Diablo Boulevard 94549                           | 10am-8pm (Mon-Thurs); 10am-5pm (Fri, Sat); 1pm-5pm (Sun)                        | NO CHANGE  |
| <b>Martinez Library</b> 740 Court Street 94553                                     | 12pm-8pm (Mon); 10am-8pm (Tues); 12pm-5pm (Wed, Fri); 10am-5pm (Sat)            | NO CHANGE  |
| <b>Moraga Library</b> 1500 St. Mary's Road 94556                                   | 12pm-8pm (Tues, Thurs); 10am-6pm (Wed); 1pm-5pm (Fri); 10am-5pm (Sat)           | 12pm-8pm (Tues, Thurs); 10am-6pm (Wed); 1pm-5pm (Fri, Sun); 10am-5pm (Sat)       |
| <b>Oakley Library</b> 1050 Neroly Road 94561                                       | 12pm-8pm (Tues, Wed); 10am-6pm (Thurs-Sat)                                      | NO CHANGE  |
| <b>Orinda Library</b> 26 Orinda Way 94563  | 10am-8pm (Mon-Thurs); 10am-6pm (Fri, Sat); 1pm-5pm (Sun)                        | NO CHANGE  |
| <b>Pinole Library</b> 2935 Pinole Valley Road 94564                                | 10am-6pm (Mon); 2pm-8pm (Wed); 12pm-5pm (Fri, Sat)                              | NO CHANGE  |
| <b>Pittsburg Library</b> 80 Power Avenue 94565                                     | 12pm-8pm (Tues); 10am-6pm (Wed); 1pm-8pm (Thurs); 11am-5pm (Fri, Sat)           | NO CHANGE  |
| <b>Pleasant Hill Library</b> 1750 Oak Park Boulevard 94523                         | 11pm-8pm (Tues); 11am-6pm (Wed, Thurs); 10am-5pm (Fri, Sat)                     | 12pm-8pm (Mon); 1pm-8pm (Tues); 11am-6pm (Wed, Thurs); 10am-5pm (Fri, Sat)       |
| <b>Prewett Library</b> 4703 Lone Tree Way, Antioch 94531                           | 10am-7pm (Tues); 12pm-8pm (Wed, Thurs); 12pm-5pm (Fri, Sat)                     | NO CHANGE  |
| <b>Rodeo Library</b> 220 Pacific Avenue 94572                                      | 12am-5pm (Mon, Sat); 1pm-7pm (Tues, Thurs))                                     | 11am-5pm (Mon); 1pm-7pm (Tues, Thurs); 12pm-5pm (Sat)                            |
| <b>San Pablo Library</b> 13751 San Pablo Avenue 94806                              | 12pm-8pm (Mon, Tues); 10am-6pm (Wed, Thurs); 1pm-5pm (Fri, Sun); 10am-5pm (Sat) | 12pm-8pm (Mon, Tues); 10am-6pm (Wed); 1pm-5pm (Fri, Sun); 10am-5pm (Sat)         |
| <b>San Ramon Library</b> 100 Montgomery Street 94583                               | 10am-8pm (Mon-Thurs); 10am-5pm (Fri, Sat); 1pm-5pm (Sun)                        | NO CHANGE  |
| <b>Walnut Creek Library</b> 1644 North Broadway 94596                              | 10am-8pm (Mon-Thurs); 10am-6pm (Fri, Sat)                                       | NO CHANGE  |
| <b>Ygnacio Valley Library</b> 2661 Oak Grove Road, Walnut Creek 94598              | 10am-8pm (Mon-Thurs); 10am-6pm (Fri, Sat)                                       | NO CHANGE  |
| <b>Project Second Chance - Central</b> 1750 Oak Park Boulevard Pleasant Hill 94523 | 8:30am-5pm (Mon, Wed-Fri); 8:30am-8pm (Tues)                                    | NO CHANGE  |
| <b>Project Second Chance - East</b> 501 W. 18th Street Antioch 94509               |   | 12pm-8pm (Mon, Tues); 11am-6pm (Wed, Thurs)                                      |
| <b>Project Second Chance - West/San Pablo</b> 13751 San Pablo Avenue 94806         |   | 12pm-8pm (Mon, Tues); 10am-6pm (Wed)   |
| <b>Project Second Chance - West/Hercules</b> 109 Civic Drive 94547                 |   | 10am-6pm (Thurs)   |
| <b>Library Administration</b> 777 Arnold Drive, Martinez 94553                     |   | 6:00am-9pm (Mon-Fri); 6am-5:30pm (Sat)   |