

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

JOHN GIOIA, CHAIR, 1st DISTRICT
GAYLE B. UILKEMA, 2nd DISTRICT
MARY N. PIEPHO, 3rd DISTRICT
SUSAN A. BONILLA, 4th DISTRICT
FEDERAL D. GLOVER, 5th DISTRICT

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

The Board of Supervisors respects your time, and every attempt is made to accurately estimate when an item may be heard by the Board. All times specified for items on the Board of Supervisors agenda are approximate. Items may be heard later than indicated depending on the business of the day. Your patience is appreciated.

**AGENDA
January 26, 2010**

9:00 A.M. Convene and announcement adjournment to Closed Session in Room 101.

Present: District I Supervisor John Gioia
District II Supervisor Gayle B. Uilkema
District III Supervisor Mary N. Piepho
District IV Supervisor Susan A. Bonilla
District V Supervisor Federal D. Glover

Attendees: David J. Twa

Closed Session Agenda:

A. CONFERENCE WITH LABOR NEGOTIATORS

1. Agency Negotiators: Ted Cwiek and Keith Fleming.

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

2. Agency Negotiators: David Twa and Keith Fleming.

Unrepresented Employees: All unrepresented employees.

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

1. Letha Hackett v. Christopher Farnitano C.C.C. Superior Court No. MSC 08-00368

2. Loretta Walker v. Contra Costa County, C.C.C. Superior Court No. MSC 08-01531

C. PUBLIC EMPLOYEE APPOINTMENT

Title: Chief, Contra Costa County Fire Protection District

There were no reports out of Closed Session.

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

Inspirational Thought - *"Do not spoil what you have by desiring what you have not; but remember that what you now have was once among the things you only hoped for."*~ Epicurus (341 BC - 270 BC)

CONSIDER CONSENT ITEMS (Items listed as C.1 through C.45 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 this section will be considered with the Short Discussion Items.

PRESENTATIONS

PR. 1 PRESENTATION to declare January 2010 as National Blood Donor Month. (Supervisor Bonilla) (See C.10)

Vote: 5 - 0

PR. 2 PRESENTATION to declare January 29, 2010 as Earned Income Tax Credit (EITC) Awareness Day and to kick off the annual "Earn It!, Keep It!, Save It! (EKS) Contra Costa Campaign. (Joe Valentine, Employment and Human Services Director) (See C.11)

Vote: 5 - 0

PR. 3 PRESENTATION to commend Dr. Joseph Barger, Emergency Medical Services Medical Director, for his selection by the California Emergency Medical Services Authority as "EMS Medical Director of the Year" for 2009. (William Walker, M.D., Health Services Director) (See C.13)

Vote: 5 - 0

SHORT DISCUSSIONS ITEMS

SD. 1 PUBLIC COMMENT (3 Minutes/Speaker)

Soren Tjernell, Community Clinic Consortium, requesting all to remember the importance of health and human services and that they be given high priority in the upcoming budgeting process;

David Frey, Captain (USN, Retired), resident of Pleasant Hill, regarding improvements to the dental appointment system and urging support for a Single Payor healthcare system;

Marianna Moore, Human Services Alliance of Contra Costa, recognizing the success of an urging continuing County partnerships with non-profit community agencies;

Rollie Katz, PEU, Local One, noted that the employee organizations recognize the services of Health Services and the Employment and Human Services Department as an integral part of public safety.

SD. 2 CONSIDER Consent Items previously removed.

SD.3 HEARING on the itemized costs of abatement for property located at 1986 Murphy Dr., San Pablo, CA (Chanphanl Sovan-Keo, Owner), (Jason Crapo, Department of Conservation and Development).

Vote: 5 - 0

SD.4 HEARING on the itemized costs of abatement for property located at 616 Grove Ave., Richmond, CA (Estate of Fanny Wilson, Owner), (Jason Crapo, Department of Conservation and Development).

Vote: 5 - 0

SD.5 HEARING on the itemized costs of abatement for property located at 104 Market Ave., Richmond, CA (Donnell Dowell, Sr. Owner), (Jason Crapo, Department of Conservation and Development).

Vote: 5 - 0

SD.6 HEARING on the itemized costs of abatement for property located at 52 Willard Ave., Richmond, CA (Troika Development, Inc., Owner), (Jason Crapo, Department of Conservation and Development).

Vote: 5 - 0

SD.7 HEARING on the itemized costs of abatement for property located at 1922 5th St., Richmond, CA (Nathaniel & Mary Evans, Owners), (Jason Crapo, Department of Conservation and Development).

Chair Gioia requested a more complete description of the itemized abatement costs and CONTINUED the hearing to February 9, 2010 at 9:30 a.m.

Vote: 5 - 0

SD.8 HEARING on the itemized costs of abatement for property located at 1916 5th St., Richmond, CA (Nathaniel & Mary Evans, Owners), (Jason Crapo, Department of Conservation and Development).

CONTINUED the hearing to February 9, 2010 at 9:30 a.m.

Vote: 5 - 0

SD.9 HEARING on the itemized costs of abatement for property located at 208 Market Ave., Richmond, CA (Nathaniel & Mary Evans, Owner), (Jason Crapo, Department of Conservation and Development).

CONTINUED the hearing to February 9, 2010 at 9:30 a.m.

Vote: 5 - 0

SD. 10 HEARING to consider adoption of Ordinance No. 2010-01, which eliminates the requirement that an excess flow gas shut-off device must be installed at each connection of a gas appliance within a building. (No fiscal impact) (Jason Crapo, Conservation and Development Department) **NOTE: HEARING WILL BE CONTINUED TO FEBRUARY 9, 2010 AT 9:30 A.M.**

CONTINUED to February 9, 2010 at 9:30 a.m.

Vote: 5 - 0

SD.11 CONSIDER accepting Emergency Medical Services (EMS) report on the status of the County's ST-Elevation Myocardial Infarction (STEMI) program. (No fiscal impact) (Art Lathrop, EMS Director, Health Services Department)

Vote: 5 - 0

SD.12 CONSIDER accepting report from the Urban Counties Caucus entitled "State Budget Education Project: Enabling County Governments" and determining action to be taken. (Supervisor Gioia)

Vote: 5 - 0

SD.13 ADOPT Resolution No. 2010/78 designating West County as a Recovery Zone and designating the proceeds of the Recovery Zone Economic Development Bonds, in combination with proceeds of traditional lease revenue bonds, to be used toward project costs for the replacement of West County Clinic. (David Twa, County Administrator)

This item considered as item D.1 on today's 1:00 p.m Special Meeting

Vote: 5 - 0

Closed Session

DELIBERATION ITEMS

1:00 p.m.

D.1 HEARING on an appeal of the County Planning Commission's decision to approve a subdivision to divide a 1-acre parcel (Parcel #188-321-007) into one parcel and a remainder, for property located at 2450 Lunada Lane, Alamo area. (Aruna Bhat, Department of Conservation and Development)

Appeal WITHDRAWN, No action required.

D. 2 CONSIDER reports of Board members.

Supervisor Piepho attended the meeting of the Delta Five Coalition on January 21, 2010.

*Adjourn in memory of
Cecil Riley*

CONSENT ITEMS

Road and Transportation

C.1 APPROVE the Montalvin Manor Pedestrian and Transportation Access Improvements Project and AUTHORIZE the Public Works Director, or designee, to advertise the project, and make related findings under the California Environmental Quality Act (CEQA), San Pablo area. (Various Project Funds)

Vote: 5 - 0

C.2 APPROVE the Willow Lake Road Sidewalk Gap Closure project; AUTHORIZE the Public Works Director, or designee, to advertise the project, and make related findings under the California Environmental Quality Act (CEQA), Discovery Bay area. (100% Local Road Funds)

Vote: 5 - 0

C.3 APPROVE Pacheco Boulevard Sidewalk (Windhover Way to Goree Court) Project; AUTHORIZE the Public Works Director, or designee, to advertise the project, and make related findings under the California Environmental Quality Act (CEQA), Pacheco area. (100% Local Road Funds)

Vote: 5 - 0

C.4 ADOPT Traffic Resolution 2010/4306 establishing a 2-hour parking limit from 8 a.m. to 6 p.m. on the south side of Orchard Court (Road No. 4437B), beginning at a point 20 feet east of the east curb line of Danville Boulevard (Road No. 5301A) and extending easterly a distance of 120 feet, as recommended by the Public Works Director, Alamo area. (No Fiscal Impact)

Vote: 5 - 0

C.5 ADOPT Resolution No. 2010/66 approving and authorizing the Public Works Director, or designee, to fully close Marsh Creek Road between State Route 4 Bypass and Camino Diablo, for a sixty (60) consecutive day period between January 27, 2010 and April 30, 2010, 24 hours per day, for the purpose of completing the widening and realignment of Marsh Creek Road and AUTHORIZE the Public Works Director to extend the length of the closure should historical remains be found, Brentwood area. (No Fiscal Impact)

Vote: 5 - 0

C.6 ADOPT Resolution No. 2010/67 approving and authorizing the Public Works Director, or designee, to partially close a portion of Parker Avenue, on March 13, 2010 from 9:00 a.m. to 9:30 a.m., for the purpose of Opening Day Parade, Rodeo area. (No Fiscal Impact)

Vote: 5 - 0

C.7 ADOPT Resolution No. 2010/68 approving and authorizing the Public Works Director, or designee, to submit 2010/2011 Transportation Development Act Grant Applications to the Metropolitan Transportation Commission in the total amount of \$446,000 for Fiscal Year 2010/2011 for the Pacheco Boulevard Sidewalk, Montalvin Manor Pedestrian and Transit Access Improvements, and Willow Lake Road Sidewalk Gap Closure projects, Countywide. (No Fiscal Impact)

Vote: 5 - 0

Special Districts & County Airports

C.8 ACCEPT the Grant Deed of Development Rights for scenic easement from Janet Duchi, Successor Trustee of Robert M. Duchi and Janet M. Duchi Revocable Trust under Declaration of Trust dated December 23, 2003, in connection with Land Use Permit (LP) 97-2048; as recommended by the Public Works Director, Alamo area. (No Fiscal Impact)

Vote: 5 - 0

Claims, Collections & Litigation

C.9 DENY claim by Brenna Greaves and Challoner Greaves.

Vote: 5 - 0

Honors & Proclamations

C.10 ADOPT Resolution No. 2010/5 declaring January 2010 as National Blood Donor Month, as recommended by Supervisor Bonilla. (See PR.1)

Vote: 5 - 0

C.11 ADOPT Resolution No. 2010/48 declaring January 29, 2010 as Earned Income Tax Credit (EITC) Awareness Day and kicking off the annual "Earn It!, Keep It!, Save It! (EKS) Contra Costa Campaign. (Joe Valentine, Employment and Human Services Director) (See PR.2)

Vote: 5 - 0

C.12 ADOPT Resolution No. 2010/62 honoring Concord Police Officer of the Year, Cinda Stoddard, as recommended by Supervisor Bonilla.

Vote: 5 - 0

C.13 ADOPT Resolution No. 2010/71 commending Dr. Joseph Barger, Emergency Medical Services Medical Director, for his selection by the California Emergency Medical Services Authority as “EMS Medical Director of the Year” for 2009, as recommended by the Health Services Director. (See PR.3)

Vote: 5 - 0

Appointments & Resignations

C.14 ACCEPT resignation of Esther Nicastro-Campo, DECLARE a vacancy in Concord City seat on the Advisory Council on Aging, and DIRECT the Clerk of the Board to post the vacancy, as recommended by the Employment and Human Services Director.

Vote: 5 - 0

C.15 RE-APPOINT Matt Regan to the Iron Horse Corridor Management Program Advisory Committee representing the City of Pleasant Hill, as recommended by Supervisor Bonilla.

Vote: 5 - 0

C.16 APPOINT Chris Finetti, Town of Discovery Bay, and Robert Kenny, Bethel Island, to the East Contra Costa Fire Protection District (District), Board of Directors, as representatives for the unincorporated area within the District, as recommended by Supervisor Piepho and Supervisor Glover.

Vote: 5 - 0

Appropriation Adjustments

C.17 District Attorney (0242): APPROVE Appropriations and Revenue Adjustment No. 5050 authorizing new revenue in the District Attorney's Office in the amount of \$142,969 from the State of California, High Tech Task Force Grant and appropriating it for personnel costs.

Vote: 5 - 0

Intergovernmental Relations

C.18 APPROVE the Mental Health Commission's 2010 Legislative Platform, as recommended by the Commission and the Health Services Director. (No fiscal impact)

Vote: 5 - 0

Personnel Actions

C.19 ADOPT Position Adjustment Resolution No. 20768 to ADD one (1) Chief Assistant County Administrator and CANCEL one (1) Assistant County Administrator in the office of the County Administrator as recommended by the Assistant County Administrator-Human Resources Director (100% General Fund) (All Districts)

Vote: 5 - 0

C.20 ADOPT Resolution No. 2010/70 authorizing the deletion of certain positions and laying off employees in the Department of Information Technology. (County cost savings)

Vote: 5 - 0

Grants & Contracts

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

C.21 APPROVE and AUTHORIZE the Librarian, or designee, to apply for and accept a grant in the amount of \$15,000 from California State Library, Library Services and Technology Act Implementation Grant Program FY2009/10, to create an early literacy space, collections and program at the Concord Library, for the period January 1 through June 30, 2010. (No County match)

Vote: 5 - 0

C.22 APPROVE and AUTHORIZE the Librarian, or designee, to apply for and accept a grant in the amount of \$5,000 from the California State Library, Library Services and Technology Act Implementation Grant Program, to provide materials and services to adults with developmental disabilities, for the period January 1 through December 31, 2010. (No County match)

Vote: 5 - 0

C.23 APPROVE and AUTHORIZE the Health Services Director or designee, to implement a Pharmacy Discount Prescription Card Program, available to all Contra Costa County residents, and execute a contract with Financial Marketing Concepts, Inc., to pay the County an amount not to exceed \$500,000 to administer the program for the period January 1 through December 31, 2010. (No County match)

Vote: 5 - 0

C.24 APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract amendment with the California Department of Aging, to increase the amount paid to the County by \$34,847 to a new payment limit of \$309,041 for the Health Insurance Counseling and Advocacy Program, for the period of July 1, 2009 through June 30, 2010. (No County match)

Vote: 5 - 0

C.25 APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to apply for and accept funding from the Contra Costa Department of Conservation and Development in an amount not to exceed \$35,000 of Community Development Block Grant funding for playground construction at the Employment & Human Services Department's building at 151 Linus Pauling Drive, Hercules, for the period April 1, 2010 through March 31, 2011. (No County match)

RELISTED to an undetermined date.

Vote: 5 - 0

C.26 APPROVE and AUTHORIZE the Agricultural Commissioner, or designee, to execute a contract with the State of California, Department of Transportation, to pay the County an amount not to exceed \$14,000 for control of ground squirrels and other burrowing rodents within CalTrans right-of-way in Contra Costa County, for the period December 1, 2009 through November 30, 2011. (No County match)

Vote: 5 - 0

C.27 CORRECT the Board Order, which was approved by the Board of Supervisors on January 13, 2009 (C.27) and which authorized the Health Services Director to accept Community Development Block Grant funding from the County Conservation and Development Department, to increase the grant amount from \$400,000 to \$470,000, for the development of the Respite Interim Housing Program for fiscal year 2009/10. (No County General Funds required)

Vote: 5 - 0

C.28 APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a contract amendment with California Department of Education for the support of childcare and development programs, to update funding terms and conditions to include new program eligibility requirements, admissions policies and fee schedule, with no change to the payment limit of \$4,870,787 or term July 1, 2009 through June 30, 2010. (No County match)

Vote: 5 - 0

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

C.29 APPROVE and AUTHORIZE the Purchasing Agent, or designee, to execute, on behalf of the Animal Services Department, a purchase order with Butler Animal Health Supply, L.L.C., in the amount of \$107,852 for food for shelter animals for the period February 1, 2010 through January 31, 2012. (33% County General Fund, 67% fee and contract city revenue)

Vote: 5 - 0

C.30 APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Sheriff-Coroner, a purchase order with Night Flight Concepts, Inc., in an amount not to exceed \$148,175 for aviation night vision goggle equipment and associated aircraft modifications. (100% U.S. Department of Homeland Security, 2007 Port Security Grant funds)

Vote: 5 - 0

C.31 APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a second amendment with Nolte Associates, Inc., effective October 14, 2009, to increase the payment limit by \$1,460,000 to a new payment limit of \$2,888,500 to provide additional civil engineering design services for the Vasco Road Safety Improvements Project, Brentwood area. (100% Proposition 1B Funds)

Vote: 5 - 0

C.32 APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Epocrates, Inc., in an amount not to exceed \$31,500 to provide administration services for the Health Plan's Drug Formulary for the period January 1, 2010 through December 31, 2012. (100% Contra Costa Health Plan Enterprise II Fund)

Vote: 5 - 0

C.33 APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a novation contract with Family Stress Center, Inc., in an amount not to exceed \$106,000 to provide mental health services to recipients of the CalWORKs Program for the period July 1, 2009 through June 30, 2010, including a six-month automatic extension through December 31, 2010 in an amount not to exceed \$53,000. (100% State)

Vote: 5 - 0

C.34 APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with Seneca Residential and Day Treatment Center for Children in an amount not to exceed \$251,915 to provide school-based mental health services to seriously emotionally disturbed students for the period November 1, 2009 through June 30, 2010. (30% Federal Medi-Cal, 17% State Early and Periodic Screening, Diagnosis and Treatment, 50% Individuals with Disabilities Education Act, 3% County Mental Health Realignment)

Vote: 5 - 0

C.35 APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract with the Regents of the University of California, Davis, in an amount not to exceed \$18,768 to provide training for the County's Mental Health Division staff for the period September 1, 2009 through August 31, 2010. (100% Mental Health Services Act)

Vote: 5 - 0

C.36 APPROVE and AUTHORIZE the Health Services Director, or designee, to execute a contract amendment with Michael Gynn, M.D., effective October 1, 2009, to increase the payment limit by \$140,000 to a new payment limit of \$872,600 to provide additional administrative duties for the General Surgery Unit at the Contra Costa Regional Medical and Health Centers, with no change in the original term of June 4, 2007 through May 31, 2010. (100% Enterprise Fund I)

Vote: 5 - 0

Other Actions

C.37 APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute a non-financial Memorandum of Understanding with the Department of Rehabilitation as a host agency to the Title V Workforce Experience Program, to provide training and work experience services to Title V qualifying older adults in Contra Costa County, including mutual indemnification against any claim arising out of the performance of this agreement, for the period January 1, 2010 through March 31, 2011.

Vote: 5 - 0

C.38 REFER review of the Residential Rental Inspection Program to the Public Protection Committee, as recommended by the Conservation and Development Director. (No fiscal impact)

Vote: 5 - 0

C.39 APPROVE and AUTHORIZE the Auditor-Controller to establish, on behalf of the Department of Child Support Services, an Agency Fund for the purpose of collecting, holding, and disbursing funds received by outside agencies for services provided under the Delinquency Prevention Program, as recommended by the Child Support Services Director. (No fiscal impact)

Vote: 5 - 0

C.40 APPROVE the recommended changes to the specified medical privileges and the Medical Privileges Forms, which were approved by the Medical Executive Committee in December 2009, and as recommended by the Health Services Director. (No fiscal impact)

Vote: 5 - 0

C.41 RECEIVE 2009 Annual Report submitted by the Bay Point Municipal Advisory Council as recommended by Supervisor Glover.

Vote: 5 - 0

C.42 RECEIVE 2009 Annual Report submitted by the Bethel Island Municipal Advisory Council as recommended by Supervisor Glover.

Vote: 5 - 0

C.43 APPROVE and AUTHORIZE the County Administrator, or designee, and the acting East Contra Costa FPD Fire Chief to execute an agreement with the City of Oakley and the City of Oakley Redevelopment Agency for construction of a new fire station No. 93 in the City of Oakley; APPROVE and AUTHORIZE the conveyance of County-owned property at 215 Second Street in Oakley to the City or Redevelopment Agency upon completion of the fire station project; APPROVE and AUTHORIZE the conveyance of East Contra Costa Fire Protection District-owned property on Live Oak Avenue in Oakley to the City or Redevelopment Agency upon completion of the fire station project; and APPROVE and AUTHORIZE the transfer of \$850,000 from the East Contra Costa Fire Protection District-Oakley Developer Fee account to the City of Oakley upon execution of the agreement. (no fiscal impact)

Vote: 5 - 0

Redevelopment Agency

C.44 APPROVE and AUTHORIZE the Redevelopment Director to execute the Purchase and Sale Agreement between Contra Costa County Redevelopment Agency and Carl Koontz, Trustee Of The Carl Koontz Living Trust Dated November 20, 2002, ACCEPT the Grant Deed from Carl Koontz, Trustee Of The Carl Koontz Living Trust Dated November 20, 2002, and AUTHORIZE payment in the amount of \$550,000 for property rights for Assessor's Parcel No. 094-012-036 in connection with the Orbisonia Heights Redevelopment Project, Bay Point area. (100% Redevelopment Agency funds)

Vote: 5 - 0

C.45 APPROVE and AUTHORIZE the Redevelopment Director to execute the Purchase and Sale Agreement Between Contra Costa County Redevelopment Agency and John Koontz, Trustee Of The John L. Koontz Living Trust Dated April 20, 2004, ACCEPT the corresponding Grant Deed, and authorize payment for property rights for Parcel #094-015-012 in connection with the Orbisonia Heights Redevelopment Project, Bay Point. (100% Redevelopment Agency funds)

Vote: 5 - 0

GENERAL INFORMATION

The Board meets in all its capacities pursuant to Ordinance Code Section 24-2.402, including as the Housing Authority and 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 72 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 taped 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.

Applications for personal subscriptions to the weekly Board Agenda may be obtained by calling the Office of the Clerk of the Board, (925) 335-1900. The weekly agenda may also be viewed on the County's Internet Web Page: www.co.contra-costa.ca.us

STANDING COMMITTEES

The **Airport Committee** (Supervisors Susan A. Bonilla and Mary N. Piepho) meets on the third Monday of the month at 11:00 a.m. at Director of Airports Office, 550 Sally Ride Drive, Concord.

The **Family and Human Services Committee** (Supervisors Gayle B. Uilkema and Federal D. Glover) meets on the first Monday of the month at 1:00 p.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Finance Committee** (Supervisors Susan A. Bonilla and John Gioia) meets on the third Monday of the month at 9:00 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Internal Operations Committee** (Supervisors Mary N. Piepho and Susan A. Bonilla) meets on the first Monday of the month at 10:30 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

The **Legislation Committee** (Supervisors Susan A. Bonilla and Gayle B. Uilkema) meets on the first Monday of the month at 9:00 a.m. in Room 101, County Administration Building, 651 Pine Street, Martinez.

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

Airport Committee	February 15, 2010	Canceled	See above
Family & Human Services Committee	February 1, 2010		See above
Finance Committee	February 15, 2010	Canceled	See above
Internal Operations Committee	February 1, 2010		See above
Legislation Committee	February 1, 2010		See above
Public Protection Committee	February 15, 2010	Canceled	See above
Transportation, Water & Infrastructure Committee	February 15, 2010	Canceled	See above

<p>PERSONS WHO WISH TO ADDRESS THE BOARD MAY BE LIMITED TO THREE (3) MINUTES</p>

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

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

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

AB Assembly Bill
ABAG Association of Bay Area Governments
ACA Assembly Constitutional Amendment
ADA Americans with Disabilities Act of 1990
AFSCME American Federation of State County and Municipal Employees
AICP American Institute of Certified Planners
AIDS Acquired Immunodeficiency Syndrome
ALUC Airport Land Use Commission
AOD Alcohol and Other Drugs
BAAQMD Bay Area Air Quality Management District
BART Bay Area Rapid Transit District
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
CCCPCD (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 (CCCPCD) 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
EBMUD East Bay Municipal Utility District
ECCPCD East Contra Costa Fire Protection District
ECCRPC East Contra Costa Regional Planning Commission
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 Department of Health and Human Services
HIPAA Health Insurance Portability and Accountability Act
HIV Human Immunodeficiency Syndrome
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
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
SRVRPC San Ramon Valley Regional Planning Commission

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
VA Department of Veterans Affairs
vs. versus (against)
WAN Wide Area Network
WBE Women Business Enterprise
WCCTAC West Contra Costa Transportation Advisory Committee



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Cost Confirmation Hearing for 1986 Murphy Dr., San Pablo, CA

RECOMMENDATION(S):

OPEN the hearing on the attached itemized report on the costs of abating a public nuisance on the real property located at 1986 Murphy Drive, San Pablo, CA, Contra Costa County; APN 403-540-023; RECEIVE and CONSIDER the report and any objections from the property owner and other persons with a legal interest in the property; and CLOSE the hearing.

DETERMINE the costs of all abatement work and all administrative costs to be \$1452.58

ORDER the itemized report confirmed and DIRECT it to be filed with the Clerk of the Board of Supervisors.

ORDER the costs to be specially assessed against the above-referenced property and AUTHORIZE the recordation of a Notice Of Abatement Lien.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo 335-1108

cc:

FISCAL IMPACT:

The costs as determined above will be added to the tax roll as a special assessment and will be collected at the same time and in the same manner as ordinary county taxes are collected.

BACKGROUND:

Contra Costa County Ordinance Code Article 14-6.4 and Government Code Section 25845 authorize the recovery of abatement costs in public nuisance cases, the recordation of a Notice of Abatement Lien, and inclusion of abatement costs on the tax roll as a special assessment upon approval of the Board of Supervisors.

The Notice to Comply was posted on the above-referenced property for a vacant structure whose premises contain weeds and excessive vegetation over 18 inches in height and served on the property owner and all persons known to be in possession of the property by certified mail on August 26, 2009.

The property owner did not file an appeal. The County Abatement Officer abated the nuisance on October 20, 2009.

The property owner was billed for the actual cost of the abatement and all administrative costs. The bill was sent by certified and first-class mail to the property owner on October 21, 2009. The property owner did not pay the bill within 45 days of the date of mailing.

Notice of this Cost Hearing was sent to the property owner by certified mail by the Clerk of the Board – see Clerk of the Board's mailing confirmation.

ATTACHMENTS

Itemized Costs

CONTRA COSTA COUNTY

DATE: January 26, 2010
TO: Clerk of the Board
FROM: Building Inspection Division
By: Mark Alford, Building Inspector II
RE: Itemized Report of Abatement Costs

The following is an itemized report of the costs of abatement for the below described property pursuant to C.C.C. Ord. Code ' 14-6.428.

OWNER: Chanphanl Sovan-Keo

POSSESSOR: N/A

MORTGAGE HOLDER: N/A

ABATEMENT ORDERED DATE: August 26, 2009

ABATEMENT COMPLETED DATE: October 20, 2009

SITE ADDRESS: 1986 Murphy Dr., San Pablo, CA
APN #:403-540-023

PROPERTY DESCRIPTION: Residential property

AMOUNT OF ABATEMENT COSTS (CCC ORDINANCE CODE 14-6.428)

ITEM	EXPLANATION	COST
Notice to Comply		\$100.00
Pirt (Title Search)		\$150.00
Postage (Certified/regular)		\$ 15.96
Photos		\$ 13.50
Abatement Contractor		\$773.12
To view contract abatement		\$200.00
Cost Expense hearing		\$200.00

Total: \$ 1452.58

Abatement costs can be paid at or mailed to Department of Conservation and Development, Building Inspection Division, Property Conservation, 651 Pine Street, 4th Floor, Martinez, CA 94553.



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Cost Confirmation Hearing for 616 Grove Ave., Richmond, CA

RECOMMENDATION(S):

OPEN the hearing on the attached itemized report on the costs of abating a public nuisance on the real property located at 616 Grove Ave., Richmond, CA, Contra Costa County; APN 409-132-002; RECEIVE and CONSIDER the report and any objections from the property owner and other persons with a legal interest in the property; and CLOSE the hearing.

DETERMINE the costs of all abatement work and all administrative costs to be \$2,124.00

ORDER the itemized report confirmed and DIRECT it to be filed with the Clerk of the Board of Supervisors.

ORDER the costs to be specially assessed against the above-referenced property and AUTHORIZE the recordation of a Notice Of Abatement Lien.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo 335-1108

cc:

FISCAL IMPACT:

The costs as determined above will be added to the tax roll as a special assessment and will be collected at the same time and in the same manner as ordinary county taxes are collected.

BACKGROUND:

Contra Costa County Ordinance Code Article 14-6.4 and Government Code Section 25845 authorize the recovery of abatement costs in public nuisance cases, the recordation of a Notice of Abatement Lien, and inclusion of abatement costs on the tax roll as a special assessment upon approval of the Board of Supervisors.

The Notice an Order to Abate for vacant property whose premises contain waste, rubbish, debris and excessive vegetation was posted on the above-referenced property and served on the property owner and all persons known to be in possession of the property by certified mail on September 1, 2009.

The property owner did not file an appeal. The County Abatement Officer abated the nuisance on September 23, 2009.

The property owner was billed for the actual cost of the abatement and all administrative costs. The bill was sent by certified and first-class mail to the property owner on October 20, 2009. The property owner did not pay the bill within 45 days of the date of mailing.

Notice of this Cost Hearing was sent to the property owner by certified mail by the Clerk of the Board – see Clerk of the Board's mailing confirmation.

ATTACHMENTS

Itemized Costs

CONTRA COSTA COUNTY

DATE: January 26, 2010
TO: Clerk of the Board
FROM: Building Inspection Division
By: Conrad Fromme, Building Inspector II
RE: Itemized Report of Abatement Costs

The following is an itemized report of the costs of abatement for the below described property pursuant to C.C.C. Ord. Code ' 14-6.428.

OWNER: Estate of Fanny Wilson
c/o Tracey Warren

POSSESSOR: N/A

MORTGAGE HOLDER: N/A

ABATEMENT ORDERED DATE: September 1, 2009

ABATEMENT COMPLETED DATE: September 23, 2009

SITE ADDRESS: 616 Grove Ave., Richmond, CA
APN #:409-132-002

PROPERTY DESCRIPTION: Residential property

AMOUNT OF ABATEMENT COSTS (CCC ORDINANCE CODE 14-6.428)

ITEM	EXPLANATION	COST
Notice to Comply		\$ 100.00
Site Inspections (2 @ \$25.00 ea.)		\$ 50.00
Pirt (Title Search)		\$ 150.00
Postage (Certified/regular)		\$ 18.38
Photos		\$ 13.50
Abatement Contractor		\$1392.12
To view contract abatement		\$ 200.00
Cost Expense hearing		\$ 200.00

Total: \$ 2124.00

Abatement costs can be paid at or mailed to Department of Conservation and Development, Building Inspection Division, Property Conservation, 651 Pine Street, 4th Floor, Martinez, CA 94553.



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Cost Confirmation Hearing for 104 Market Ave., Richmond, CA

RECOMMENDATION(S):

OPEN the hearing on the attached itemized report on the costs of abating a public nuisance on the real property located at 104 Market Avenue, Richmond, CA, Contra Costa County; APN 409-200-004; RECEIVE and CONSIDER the report and any objections from the property owner and other persons with a legal interest in the property; and CLOSE the hearing.

DETERMINE the costs of all abatement work and all administrative costs to be \$1,023.96

ORDER the itemized report confirmed and DIRECT it to be filed with the Clerk of the Board of Supervisors.

ORDER the costs to be specially assessed against the above-referenced property and AUTHORIZE the recordation of a Notice Of Abatement Lien.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo 335-1108

cc:

FISCAL IMPACT:

The costs as determined above will be added to the tax roll as a special assessment and will be collected at the same time and in the same manner as ordinary county taxes are collected.

BACKGROUND:

Contra Costa County Ordinance Code Article 14-6.4 and Government Code Section 25845 authorize the recovery of abatement costs in public nuisance cases, the recordation of a Notice of Abatement Lien, and inclusion of abatement costs on the tax roll as a special assessment upon approval of the Board of Supervisors.

The Notice to Comply was posted on the above-referenced property for a vacant structure whose premises contain waste, rubbish, debris and excessive vegetation and served on the property owner and all persons known to be in possession of the property by certified mail on August 27, 2009.

The property owner did not file an appeal. The County Abatement Officer abated the nuisance on October 14, 2009.

The property owner was billed for the actual cost of the abatement and all administrative costs. The bill was sent by certified and first-class mail to the property owner on October 20, 2009. The property owner did not pay the bill within 45 days of the date of mailing.

Notice of this Cost Hearing was sent to the property owner by certified mail by the Clerk of the Board – see Clerk of the Board's mailing confirmation.

ATTACHMENTS

Itemized Costs

CONTRA COSTA COUNTY

DATE: January 26, 2010
TO: Clerk of the Board
FROM: Building Inspection Division
By: Conrad Fromme, Building Inspector II
RE: Itemized Report of Abatement Costs

The following is an itemized report of the costs of abatement for the below described property pursuant to C.C.C. Ord. Code ' 14-6.428.

OWNER: Donnell Dowell, Sr.

POSSESSOR: N/A

MORTGAGE HOLDER: N/A

ABATEMENT ORDERED DATE: August 27, 2009

ABATEMENT COMPLETED DATE: October 14, 2009

SITE ADDRESS: 104 Market Ave., Richmond, CA
APN #:409-200-004

PROPERTY DESCRIPTION: Residential property

AMOUNT OF ABATEMENT COSTS (CCC ORDINANCE CODE 14-6.428)

ITEM	EXPLANATION	COST
Notice to Comply		\$ 100.00
Site Inspections (3 @ \$25.00 ea)		\$ 75.00
Pirt (Title Search)		\$ 150.00
Postage (Certified/regular)		\$ 23.96
Photos		\$ 6.00
Abatement Contractor		\$ 269.00
To view abatement contract compliance		\$ 200.00
Cost Expense hearing		\$ 200.00

Total: \$1023.92

Abatement costs can be paid at or mailed to Department of Conservation and Development, Building Inspection Division, Property Conservation, 651 Pine Street, 4th Floor, Martinez, CA 94553.



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Cost Confirmation Hearing for 52 Willard Ave., Richmond, CA

RECOMMENDATION(S):

OPEN the hearing on the attached itemized report on the costs of abating a public nuisance on the real property located at 52 Willard Avenue, Richmond, CA, Contra Costa County; APN 409-021-004; RECEIVE and CONSIDER the report and any objections from the property owner and other persons with a legal interest in the property; and CLOSE the hearing.

DETERMINE the costs of all abatement work and all administrative costs to be \$1,487.92.

ORDER the itemized report confirmed and DIRECT it to be filed with the Clerk of the Board of Supervisors.

ORDER the costs to be specially assessed against the above-referenced property and AUTHORIZE the recordation of a Notice Of Abatement Lien.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo 335-1108

cc:

FISCAL IMPACT:

The costs as determined above will be added to the tax roll as a special assessment and will be collected at the same time and in the same manner as ordinary county taxes are collected.

BACKGROUND:

Contra Costa County Ordinance Code Article 14-6.4 and Government Code Section 25845 authorize the recovery of abatement costs in public nuisance cases, the recordation of a Notice of Abatement Lien, and inclusion of abatement costs on the tax roll as a special assessment upon approval of the Board of Supervisors.

The Notice to Comply was posted on the above-referenced property for a vacant structure whose premises contain waste, rubbish, debris and excessive vegetation and served on the property owner and all persons known to be in possession of the property by certified mail on August 19, 2009.

The property owner did not file an appeal. The County Abatement Officer abated the nuisance on October 13, 2009.

The property owner was billed for the actual cost of the abatement and all administrative costs. The bill was sent by certified and first-class mail to the property owner on October 15, 2009. The property owner did not pay the bill within 45 days of the date of mailing.

Notice of this Cost Hearing was sent to the property owner by certified mail by the Clerk of the Board – see Clerk of the Board's mailing confirmation.

ATTACHMENTS

Itemized Costs

CONTRA COSTA COUNTY

DATE: January 26, 2010
TO: Clerk of the Board
FROM: Building Inspection Division
By: Eduardo Franco, Building Inspector I
RE: Itemized Report of Abatement Costs

The following is an itemized report of the costs of abatement for the below described property pursuant to C.C.C. Ord. Code ' 14-6.428.

OWNER: Troika Development, Inc.

POSSESSOR: N/A

MORTGAGE HOLDER: N/A

ABATEMENT ORDERED DATE: August 19, 2009

ABATEMENT COMPLETED DATE: October 13, 2009

SITE ADDRESS: 52 Willard Ave., Richmond, CA
APN #:409-021-004

PROPERTY DESCRIPTION: Residential property

AMOUNT OF ABATEMENT COSTS (CCC ORDINANCE CODE 14-6.428)

ITEM	EXPLANATION	COST
Notice to Comply		\$ 100.00
Pirt (Title Search)		\$ 150.00
Postage (Certified/regular)		\$ 23.92
Photos		\$ 15.00
Abatement Contractor		\$ 799.00
To view contract abatement		\$ 200.00
Cost Expense hearing		\$ 200.00

Total: \$ 1487.92

Abatement costs can be paid at or mailed to Department of Conservation and Development, Building Inspection Division, Property Conservation, 651 Pine Street, 4th Floor, Martinez, CA 94553.



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Cost Confirmation Hearing for 1922 5th St., Richmond, CA

RECOMMENDATION(S):

OPEN the hearing on the attached itemized report on the costs of abating a public nuisance on the real property located at 1922 5th Street, Richmond, CA, Contra Costa County; APN 409-272-010; RECEIVE and CONSIDER the report and any objections from the property owner and other persons with a legal interest in the property; and CLOSE the hearing.

DETERMINE the costs of all abatement work and all administrative costs to be \$1,604.38.

ORDER the itemized report confirmed and DIRECT it to be filed with the Clerk of the Board of Supervisors.

ORDER the costs to be specially assessed against the above-referenced property and AUTHORIZE the recordation of a Notice Of Abatement Lien.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☐ APPROVED AS
RECOMMENDED

☒ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo 335-1108

cc:

FISCAL IMPACT:

The costs as determined above will be added to the tax roll as a special assessment and will be collected at the same time and in the same manner as ordinary county taxes are collected.

BACKGROUND:

Contra Costa County Ordinance Code Article 14-6.4 and Government Code Section 25845 authorize the recovery of abatement costs in public nuisance cases, the recordation of a Notice of Abatement Lien, and inclusion of abatement costs on the tax roll as a special assessment upon approval of the Board of Supervisors.

The Notice and Order to Abate was posted on the above-referenced property for a vacant structure whose premises contain waste, rubbish, debris and excessive vegetation and served on the property owner and all persons known to be in possession of the property by certified mail on August 20, 2009.

The property owner did not file an appeal. The County Abatement Officer abated the nuisance on September 18, 2009.

The property owner was billed for the actual cost of the abatement and all administrative costs. The bill was sent by certified and first-class mail to the property owner on September 28, 2009. The property owner did not pay the bill within 45 days of the date of mailing.

Notice of this Cost Hearing was sent to the property owner by certified mail by the Clerk of the Board – see Clerk of the Board's mailing confirmation.

CLERK'S ADDENDUM

Chair Gioia requested a more complete description of the itemized abatement costs and CONTINUED the hearing to February 9, 2010 at 9:30 a.m.

ATTACHMENTS

Itemized Costs

CONTRA COSTA COUNTY

DATE: January 26, 2010
TO: Clerk of the Board
FROM: Building Inspection Division
By: Eduardo Franco, Building Inspector I
RE: Itemized Report of Abatement Costs

The following is an itemized report of the costs of abatement for the below described property pursuant to C.C.C. Ord. Code ' 14-6.428.

OWNER: Nathaniel & Mary Evans

POSSESSOR: N/A

MORTGAGE HOLDER: N/A

ABATEMENT ORDERED DATE: August 20, 2009

ABATEMENT COMPLETED DATE: September 18, 2009

SITE ADDRESS: 1922 5th St., Richmond, CA
APN #:409-272-010

PROPERTY DESCRIPTION: Residential property

AMOUNT OF ABATEMENT COSTS (CCC ORDINANCE CODE 14-6.428)

ITEM	EXPLANATION	COST
Notice to Comply		\$ 100.00
Pirt (Title Search)		\$ 150.00
Postage (Certified/regular)		\$ 18.38
Photos		\$ 9.00
Abatement Contractor		\$ 927.00
To view contract abatement		\$ 200.00
Cost Expense hearing		\$ 200.00

Total: \$ 1604.38

Abatement costs can be paid at or mailed to Department of Conservation and Development, Building Inspection Division, Property Conservation, 651 Pine Street, 4th Floor, Martinez, CA 94553.



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Cost Confirmation Hearing for 1916 5th St., Richmond, CA

RECOMMENDATION(S):

OPEN the hearing on the attached itemized report on the costs of abating a public nuisance on the real property located at 1916 5th Street, Richmond, CA, Contra Costa County; APN 409-272-007; RECEIVE and CONSIDER the report and any objections from the property owner and other persons with a legal interest in the property; and CLOSE the hearing.

DETERMINE the costs of all abatement work and all administrative costs to be \$1,295.38.

ORDER the itemized report confirmed and DIRECT it to be filed with the Clerk of the Board of Supervisors.

ORDER the costs to be specially assessed against the above-referenced property and AUTHORIZE the recordation of a Notice Of Abatement Lien.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☐ APPROVED AS
RECOMMENDED

☒ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo 335-1108

cc:

FISCAL IMPACT:

The costs as determined above will be added to the tax roll as a special assessment and will be collected at the same time and in the same manner as ordinary county taxes are collected.

BACKGROUND:

Contra Costa County Ordinance Code Article 14-6.4 and Government Code Section 25845 authorize the recovery of abatement costs in public nuisance cases, the recordation of a Notice of Abatement Lien, and inclusion of abatement costs on the tax roll as a special assessment upon approval of the Board of Supervisors.

The Notice and Order to abate was posted on the above-referenced property for a vacant structure whose premises contain waste, rubbish, debris and excessive vegetation and served on the property owner and all persons known to be in possession of the property by certified mail on August 20, 2009.

The property owner did not file an appeal. The County Abatement Officer abated the nuisance on September 18, 2009.

The property owner was billed for the actual cost of the abatement and all administrative costs. The bill was sent by certified and first-class mail to the property owner on September 28, 2009. The property owner did not pay the bill within 45 days of the date of mailing.

Notice of this Cost Hearing was sent to the property owner by certified mail by the Clerk of the Board – see Clerk of the Board's mailing confirmation.

CLERK'S ADDENDUM

CONTINUED the hearing to February 9, 2010 at 9:30 a.m.

ATTACHMENTS

Itemized Costs

CONTRA COSTA COUNTY

DATE: January 26, 2010
TO: Clerk of the Board
FROM: Building Inspection Division
By: Eduardo Franco, Building Inspector I
RE: Itemized Report of Abatement Costs

The following is an itemized report of the costs of abatement for the below described property pursuant to C.C.C. Ord. Code ' 14-6.428.

OWNER: Nathaniel & Mary Evans

POSSESSOR: N/A

MORTGAGE HOLDER: N/A

ABATEMENT ORDERED DATE: August 20, 2009

ABATEMENT COMPLETED DATE: September 18, 2009

SITE ADDRESS: 1916 5th St., Richmond, CA
APN #:409-272-007

PROPERTY DESCRIPTION: Residential property

AMOUNT OF ABATEMENT COSTS (CCC ORDINANCE CODE 14-6.428)

ITEM	EXPLANATION	COST
Notice to Comply		\$ 100.00
Pirt (Title Search)		\$ 150.00
Postage (Certified/regular)		\$ 18.38
Photos		\$ 9.00
Abatement Contractor		\$ 618.00
To view contract abatement		\$ 200.00
Cost Expense hearing		\$ 200.00

Total: \$ 1295.38

Abatement costs can be paid at or mailed to Department of Conservation and Development, Building Inspection Division, Property Conservation, 651 Pine Street, 4th Floor, Martinez, CA 94553.



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Cost Confirmation Hearing for 208 Market Ave., Richmond, CA

RECOMMENDATION(S):

OPEN the hearing on the attached itemized report on the costs of abating a public nuisance on the real property located at 208 Market Ave., Richmond, CA, Contra Costa County; APN 409-192-002; RECEIVE and CONSIDER the report and any objections from the property owner and other persons with a legal interest in the property; and CLOSE the hearing.

DETERMINE the costs of all abatement work and all administrative costs to be \$797.20.

ORDER the itemized report confirmed and DIRECT it to be filed with the Clerk of the Board of Supervisors.

ORDER the costs to be specially assessed against the above-referenced property and AUTHORIZE the recordation of a Notice Of Abatement Lien.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☐ APPROVED AS
RECOMMENDED

☒ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo 335-1108

cc:

FISCAL IMPACT:

The costs as determined above will be added to the tax roll as a special assessment and will be collected at the same time and in the same manner as ordinary county taxes are collected.

BACKGROUND:

Contra Costa County Ordinance Code Article 14-6.4 and Government Code Section 25845 authorize the recovery of abatement costs in public nuisance cases, the recordation of a Notice of Abatement Lien, and inclusion of abatement costs on the tax roll as a special assessment upon approval of the Board of Supervisors.

The Notice and Order to Abate was posted on the above-referenced property for a substandard building with rubbish, garbage, trash and debris and served on the property owner and all persons known to be in possession of the property by certified mail on February 3, 2009.

The property owner did not file an appeal. The County Abatement Officer abated the nuisance on September 3, 2009.

The property owner was billed for the actual cost of the abatement and all administrative costs. The bill was sent by certified and first-class mail to the property owner on September 22, 2009. The property owner did not pay the bill within 45 days of the date of mailing.

Notice of this Cost Hearing was sent to the property owner by certified mail by the Clerk of the Board – see Clerk of the Board's mailing confirmation.

CLERK'S ADDENDUM

CONTINUED the hearing to February 9, 2010 at 9:30 a.m.

ATTACHMENTS

Itemized Costs

CONTRA COSTA COUNTY

DATE: January 26, 2010
TO: Clerk of the Board
FROM: Building Inspection Division
By: Conrad Fromme, Building Inspector II
RE: Itemized Report of Abatement Costs

The following is an itemized report of the costs of abatement for the below described property pursuant to C.C.C. Ord. Code ' 14-6.428.

OWNER: Nathaniel & Mary Evans

POSSESSOR: N/A

MORTGAGE HOLDER: N/A

ABATEMENT ORDERED DATE: February 2, 2009

ABATEMENT COMPLETED DATE: September 3, 2009

SITE ADDRESS: 208 Market Ave., Richmond, CA
APN #:409-192-002

PROPERTY DESCRIPTION: Residential property

AMOUNT OF ABATEMENT COSTS (CCC ORDINANCE CODE 14-6.428)

ITEM	EXPLANATION	COST
Notice to Comply		\$ 100.00
Site Inspections (10 @ \$25.00 ea)		\$ 250.00
Pirt (Title Search)		\$ 135.00
Postage (Certified/regular)		\$ 22.90
Photos		\$ 90.00
Cost Expense hearing		\$ 200.00

Total: \$ 797.90

Abatement costs can be paid at or mailed to Department of Conservation and Development, Building Inspection Division, Property Conservation, 651 Pine Street, 4th Floor, Martinez, CA 94553.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Report on Emergency Medical Services ST-Elevation Myocardial Infarction Program

RECOMMENDATION(S):

Accept Emergency Medical Services (EMS) report on the status of the County's ST-Elevation Myocardial Infarction (STEMI) program.

FISCAL IMPACT:

None.

BACKGROUND:

On August 12, 2008, your Board accepted a report from Contra Costa Health Services EMS on the planned implementation of an ST-elevation Myocardial Infarction, or STEMI, program. A STEMI is the most deadly form of heart attack. STEMI patients are most successfully treated when an invasive cardiac procedure, cardiac catheterization, is performed rapidly following the heart attack. Not all hospitals are staffed and equipped to undertake this procedure. Even in hospitals with cardiac catheterization capability, valuable time may be lost in assembling the cardiac team following diagnosis of the STEMI in the emergency department. In an EMS-based STEMI program, paramedics use specially programmed 12-lead cardiac monitors to identify STEMI patients in the field. An EMS-designated STEMI Receiving Facility is then notified of the patient's pending arrival before

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☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

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RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Art Lathrop, 646-4690

cc: Tasha Scott, Barbara Borbon, Juliene Latteri

BACKGROUND: (CONT'D)

ambulance transport begins and, in many cases, begins assembling the cardiac team and preparing the catheterization lab.

Contra Costa's STEMI program began in September 2008 with five designated STEMI Receiving Facilities – Doctors Medical Center in San Pablo, John Muir Medical Center – Concord Campus, John Muir Medical Center - Walnut Creek Campus, Kaiser Medical Center in Walnut Creek, and San Ramon Valley Medical Center. Sutter Delta Medical Center in Antioch was added as a STEMI Receiving Center in August 2009. All six STEMI Receiving Centers have entered into agreements with the County to maintain 24-hour, seven day per week coverage for the cardiac catheterization programs and to provide intervention times and outcomes for STEMI patients to EMS.

A national standard for hospital STEMI response times has been 90 minutes from patient arrival to intervention ("door-to-balloon" time). With advance notice by EMS, hospital response times have been found to be improved by 15 to 30 minutes, and faster response times translate into increased survival and better quality of life for survivors. As shown in the attached January 2010 Contra Costa EMS STEMI News, Contra Costa's STEMI Receiving Centers have well exceeded the national standards. Average (median) door-to-intervention (door-to-balloon) time for Contra Costa's STEMI Receiving Centers was just 48 minutes for the last three-month reporting period. Overall time from 9-1-1 call to cardiac intervention averaged a remarkable 85 minutes.

While we can be very proud of the performance of our STEMI program – both the performance of the field personnel and the physicians and staff in the STEMI Receiving Centers – the sad fact remains that over half of patients with serious heart attacks still fail to access the 9-1-1 system. This problem is not unique to Contra Costa. Failure of serious heart attack patients to access 9-1-1 delays treatment at best, and may result in a patient self-transporting to a hospital that does not have cardiac catheterization capability. EMS has taken steps to facilitate rapid transfer of STEMI patients who arrive at non-STEMI hospitals to a STEMI Receiving Center, but greater efforts are needed to educate the public to recognize the signs and symptoms of a heart attack and to call 9 1 1 immediately. Contra Costa EMS is currently working with the American Heart Association to develop a public education campaign to address this issue.

ATTACHMENTS

G:\C&G DIRECTORY\NON CONTRACTS\Jan 2010 STEMI News - JL.pdf



STEMI NEWS

January 2010

Contra Costa STEMI System Performance 2009 Quarter 3

Performance Criteria	Performance Benchmarks	Contra Costa Performance
EMS* to Intervention (PCI) Median Time	<90 minutes (National)	74 minutes
EMS* Scene Median Time	<15 minutes (Local EMS)	12 minutes
911 Call to Intervention (PCI) Median Time	<90 minutes (National)	85 minutes
Door to first PCI Time with Field Activation	<60 minutes (National)	48 minutes
Percentage of Time Door to PCI < 90 minutes	> 75% of time (National)	100%
EMS* = First contact with EMS provider		

July 1, 2009 to September 31, 2009

Team STEMI: Our System One Year Later

"48 minute Median Door to Intervention with Field Activation"



Hard to believe but it has been over a year since we launched the Contra Costa STEMI System. The program has been an incredible journey filled with challenges and successes. Our STEMI System has matured into one of the leading "high performance" STEMI systems in the nation. Breaking performance records of STEMI programs that have been established for years longer than ours. This tremendous success has benefited the entire community as well as the many patients rescued from significant disability and death.

At the STEMI Oversight meeting this summer, stakeholders met to review STEMI System performance and re-commit to making it even better. Active ongoing performance improvement efforts are happening at each EMS provider agency and STEMI Center. Every paramedic in the system has received additional training focused on reducing false positive activations caused by artifact and patient factors that can fool the 12-lead devices into flagging a STEMI when it isn't.

"...one of the leading high performance systems in the nation."

Sutter Delta joined the STEMI Center ranks filling a vital demographic gap in our system. As this newsletter is written EMS is being notified of a door to intervention time of 25 minutes at John Muir Concord. Kudos goes to the Kaiser Walnut Creek STEMI Center which has distinguished itself with remarkable saves of critical STEMI patients in full cardiac arrest. System-wide our third quarter median door to intervention time of 48 minutes with field activation is 17 minutes better than our cumulative ED door to intervention time of 65 minutes, reaffirming the life saving contributions of field activation. In 2010 our stakeholders are exploring 12-lead transmission, and direct to cath lab intervention from the field enabling rapid interfacility transport for walk-in patients from non-STEMI capable hospitals. EMS congratulates both John Muir campuses for their Society of Chest Pain accreditation. EMS fully participated in the visits and was told we had some of the best metrics in the United States! Awesome praise indeed.

EMS would like to credit each individual involved in STEMI patient care because system performance reflects individual performance.

Congratulations and BE PROUD BECAUSE...

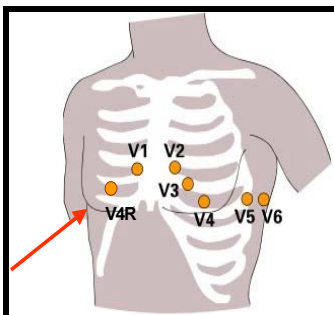
WE ARE TEAM STEMI!



Advancements in STEMI Management

by Dr. Barger EMS Medical Director

With use of 12-lead ECG, we can now determine more optimal treatment for some patients with chest pain, specifically those with inferior wall myocardial infarction who also have right ventricular infarction.



Inferior MI is usually caused by blockage of the right coronary artery or its tributaries, which supply blood to the inferior wall of the left ventricle. Depending upon the site of the blockage, the right ventricle (RV) may also be involved, perhaps 20-25% of the time with inferior MI.

So the first clue that a right-sided infarction is a possibility is when the ECG indicates a STEMI (**Acute MI** message) and ST-elevation is

present in the inferior distribution (II, III, and a VF). To check for right ventricular infarction, an ECG utilizing a V4R lead then needs to be done. This lead is placed in a similar place to V4, except on the right side. Presence of a 1 mm ST-segment elevation indicates RV infarction. The ECG needs to be manually labeled (because the monitor will not know this) and the patient's record should reflect the findings, most importantly if treatment is altered.

The importance of RV infarction is that when it occurs, the right-sided heart pump is affected, and delivery of blood through the lungs to the left side is impaired. Administration of nitroglycerin and morphine sulfate to patients with RV infarction may worsen the filling of the left heart, causing hypotension if not already existent, and our treatment guideline warns that these medications should not be given if a right ventricular infarction is detected. This is a reason that an ECG ideally should always be done before EMS administers NTG.

Patients with RV infarction may present with hypotension, distended neck veins (because the right-sided pump can't move the blood from the venous side), and clear lungs. Fluid boluses are often needed, and the fluid needs may be significant (more than 1 liter may be necessary). Fortunately, if patients survive this initial unstable period, they generally do well and do not have long-term problems with right heart dysfunction.

It is important to remember that not all inferior MI's are going to involve the RV, and that NTG and morphine are still reasonable treatments in these situations when the RV isn't involved. RV infarction is also not an issue with anterior or isolated lateral MI.

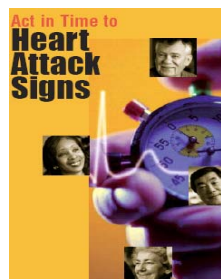
For all patients with chest pain, STEMI occurs in around 3-5%, and inferior MI is a little over half of these. RV infarction affects only a small proportion of the inferior MI's. So right ventricular MI is a rare occurrence, but because its treatment is so different than our usual care, we need to be looking for it using the V4R lead.

EMS Update Highlight! STEMI Activation

Just having the ***Acute MI Flag*** on 12-lead device is **NOT** enough to activate a STEMI Alert. Activate only if ECG is reasonably free of artifact in all 12 leads.

With alert let STEMI Center know if

- Patient has a pacer
- Suboptimal tracings
- Focal pattern of infarct seen or not



Public Education

"Act In Time!"

Over 50% of STEMI patients transport themselves to the hospital. Educate your friends, family and community that when chest pain occurs....**Act in Time and call 911.**

Contra Costa STEMI System Top Prehospital Improvement Goal! Get Rid of Artifact!

STEP I	<ul style="list-style-type: none"> • Check your own performance • Self review • Peer review • ED feedback
STEP II	<ul style="list-style-type: none"> • Review procedures • Get help from your trainers • Youtube.com: review Tim Phelan's outstanding 12-lead clips
STEP III	<ul style="list-style-type: none"> • Find a peer expert • Seek out "lessons learned" • Screen 12 leads for artifact and repeat as needed
STEP IV	<ul style="list-style-type: none"> • Practice skin prep! • Practice lead placement! • Control for patient movement!



Contra
Costa
County

To: Board of Supervisors
From: Supervisor John Gioia
Date: January 26, 2010

Subject: UCC Study on State Budget Impacts

RECOMMENDATION(S):

ACCEPT report for discussion from the Urban Counties Caucus, entitled "State Budget Education Project: Enabling County Governments" and DETERMINE action to be taken.

FISCAL IMPACT:

No direct impact to the County from the development of this report.

BACKGROUND:

Established in 1991, the Urban Counties Caucus (UCC) exists to further the interests of California's high-population counties. These 12 urban counties represented by UCC are geographically spread throughout the State – across Northern California, Southern California, and the Central Valley – and contain over three quarters of the State's population. They include the counties of : Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Ventura. For 2010, Supervisor Gioia serves as Vice Chair of the UCC Board of Directors.

Although diverse, urban counties face many similar problems. Notably, they experience the majority of the State's caseloads in the health, human services, and corrections areas. As a result, they operate large entitlement programs on behalf of the State. It is not surprising, then, that in recent years the State's dire fiscal position has dramatically affected urban counties. The State has had to significantly cut spending on health, human services, and corrections (as well as education).

According to the Legislative Analyst's Office, the State budget for FY 2009-10 contains General Fund and special

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COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: L. DeLaney, 5-1097

cc:

fund spending levels that are 15 percent lower than spending levels from just two years ago. Moreover, the State has redirected property taxes, transportation funds, redevelopment funds, and other money intended for counties to State uses.

UCC believes that it must take proactive steps to protect urban counties from future State budget cuts, especially since the State budget outlook for FY 2009-10 and 2010-11 continues to worsen. Research and analysis that illustrates how California counties have borne the brunt of State budget cuts could assist UCC in educating policymakers on the impacts of the cuts.

BACKGROUND: (CONT'D)

Project Scope

UCC wishes to demonstrate the burden that State budget cuts have placed on California counties in recent years. As part of this effort, UCC will answer the following questions:

- What is the total magnitude of State budget cuts to counties in the areas of health, human services, and corrections?
- What percentage of total county budgets do these cuts represent? What percentage of total state spending to these cuts represent?
- How have these cuts changed over the past five years?
- How much has the State diverted county resources or deferred payments, such as transportation, human services and redevelopment funds, to State ends?
- What percentage of total county budgets do these diversions represent? What percentage of total state spending to these diversions represent?
- How have these diversions changed over the past five years?

Although UCC and the counties maintain a considerable amount of budget program data, until now they have not had the opportunity to aggregate it into a coherent and easily referenced format. Chang & Adams Consulting has been retained to conduct research and analysis on State budget effects on counties to answer some or all of the above listed questions. This study could be used to share information with State and local policymakers on the significant impacts that State budget cuts have had on counties. It could also be used to help communicate the plight of counties to county stakeholders and the media.

At this time, the consultants have received information on programs and funding levels from 11 of the 12 urban counties. (Data from San Francisco County is expected shortly). A copy of the preliminary report is included as an attachment.

A question has come up regarding the data for IHSS from Los Angeles County. Looking at the budget detail shows total statewide appropriations of \$5.4 B for IHSS. The study reports closer to \$1.4 B. Since IHSS is broken into two parts (Services and Administration), the consultants believe that some counties may have only reported administration costs, while others reported a mix of admin and services. The consultants will be contacting counties directly to address this data issue.

An amended report may be provided at the Board of Supervisors meeting on Tuesday, January 26, 2010.

Key findings of the study include:

- Over the past 6 fiscal years, federal and state support for the social service programs has steadily decreased while the counties' support has increased. Since FY 2004-05, the urban counties' relative support for these programs grew by about 14 percent.
- The shift in responsibility for the social service programs has placed a substantial (and still growing) burden on counties. The counties' financial contributions are increasing by about 5.6 percent every year, compared with only a 2.8 percent annual growth in federal and state contributions.
- The decline in federal/state support for social service programs generally has meant an erosion in the real level of benefits over time for program recipients. Total contributions (federal/state and county) per caseload declined in real terms since Fiscal Year 2004-2005 for every program except Child Welfare.
- Child Welfare is a sizable program, totaling more than \$3.0 billion in 2009-2010, and over the last six years county funding responsibility has risen from 14.4 percent to 22.1 percent.
- California counties have experienced a transportation-funding deficit of at least \$135 million during the last six years.

CONSEQUENCE OF NEGATIVE ACTION:

CHILDREN'S IMPACT STATEMENT:

ATTACHMENTS

State Budget Education Report

Jan 22 UCC Report



**Urban Counties Caucus (UCC) State Budget Education Project:
Enabling County Governments**

January 2010

Prepared by:

Justin L. Adams, Ph.D.

Andrew J. Chang

Chang & Adams Consulting

About *Chang & Adams Consulting*:

We are Sacramento's premier management consulting firm, operating at the intersection of the public and private sectors. We specialize in applying cutting-edge quantitative analyses to help frame and solve issues pertaining to public policy and business strategy. We advise a range of clients, including government agencies, non-profit organizations, campaigns for initiatives and candidates, and Fortune 1000 companies. We provide them with the analytical insight to shape their strategic direction, improve their operations, and develop sound policies.

About the Authors:

Justin L. Adams, Ph.D. is a Director in Chang & Adams Consulting.

With over 11 years of experience as a consultant and an executive in state government, Justin is a seasoned political economist who brings a combination of theoretical and practical expertise in public policy and fiscal and economic analysis. From 2007 to 2009, Justin was the Director of Economics at Forward Observer, a political and public policy consulting firm. He oversaw the development of all of the firm's fiscal and economic studies, and has testified in front of the Legislative Analyst's Office. Between 2001 and 2007, Justin was an associate economist at the RAND Corporation specializing in domestic and international economic development, defense economics, and the economics of public-sector organizations. From 1994 to 1997, Justin served in multiple roles in California State government. He was a Special Assistant in the California Department of Transportation, an Assistant for Policy Development in the California Department of Housing and Community Development, and a staff economist in the California Governor's Office of Planning and Research. Justin received his Ph.D. in Political Economics from Stanford University's Graduate School of Business in 2000. He also received his A.M. in Political Science and his A.B. in Economics and Political Science from Stanford University.

Andrew J. Chang is the Managing Director of Chang & Adams Consulting.

Andrew Chang has extensive experience working with both high-level executives and operations staff on sensitive issues under tight deadlines in both the public and private sectors. Andrew has more than 10 years of public policy development and implementation experience, and more than seven years of strategy and operations consulting experience with Fortune 500 companies. Between 2007 and 2009, Andrew was Vice President of business strategy for Forward Observer, a Sacramento-based consulting firm where he led engagements in regards to public finance and market entry for technology and energy companies. Between 2004 and 2007, Andrew served as the Chief Deputy Director of the California Department of General Services where he was responsible for the day-to-day operations of 4000 employees. Between 2000 and 2004, Andrew was a management consultant at the global management consulting firm of A. T. Kearney, where he led a number of strategy and operations engagements for global IT and telecommunications firms. Between 1995 and 1998, Andrew served as Assistant Secretary for Policy and Operations at the State and Consumer Services Agency. Andrew received his A.B. from the University of California at Berkeley, his Masters in Public Policy at Georgetown University in Washington, DC and is a graduate of the University of Michigan's Executive MBA Center.

**Urban Counties Caucus (UCC) State Budget Education Project:
Enabling County Governments
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**Urban Counties Caucus (UCC) State Budget Education Project:
Enabling County Governments
(Key Findings)**

- The Urban Counties Caucus (UCC) surveyed urban California counties regarding trends in funding contributions for Medi-Cal, CalWORKs, Child Welfare, IHSS, Proposition 36, and Proposition 42.
- Based on data from eleven of the counties – Alameda, Contra Costa, Los Angeles, Orange County, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura – we found that the six major programs account for over \$10.3 billion in county spending annually.
- Over the past 6 fiscal years (FY 2004-05 to FY 2009-10), federal and state support for the six programs has steadily decreased while the counties' support has increased. Since FY 2004-05, the counties' support for these programs grew from 12.2 percent to 13.9 percent – a 14 percent increase in relative support.
- The shift in responsibility for the social service programs has placed a substantial (and still growing) burden on counties. The counties' financial contributions are increasing by about 5.6 percent every year, compared with only a 2.8 percent annual growth in federal and state contributions.
- The 2.8 percent growth in federal/state program support is anemic when compared against a handful of California socio-economic indicators such as inflation and the rate of economic growth in California.
- The decline in federal/state support for social service programs generally has meant an erosion in the real level of benefits over time for program recipients. Total contributions (federal/state and county) per caseload declined in real terms since FY 2004-05 for every program except Child Welfare.
- The Child Welfare Program is a particular area where the federal and state governments could take a larger role to help counties. Child Welfare is a sizable program, totaling over \$3.3 billion in FY 2009-10, and over the last six years county funding responsibility has gone from 14.4 percent to 22.1 percent.
- The federal and state governments can also help the counties with respect to transportation by taking on a larger and more stable share of responsibility. California counties have experienced an annual transportation-funding deficit averaging \$135 million during the past six years.

Urban Counties Caucus (UCC) State Budget Education Project: Enabling County Governments

1. Introduction

As California continues through the deepest recession since the Great Depression, the state's counties are facing severe challenges. The collapse of the state's housing market, for example, has reduced the amount of property tax revenue that counties receive – amazingly 2010 might be the first year since the passage of Proposition 13 in which “base year values” for real estate in California actually get adjusted downwards.¹ Taxable sales are also down. And at the same time, counties are facing higher costs in maintaining the basic services that county residents expect from them.

Because counties also provide critical services on behalf of the state and federal governments, counties are significantly impacted by state and federal funding decisions. Consequently, the dire fiscal position of state government in recent years has necessitated large spending cuts to programs in health, human services, corrections, and education. In fact, according to the Legislative Analyst's Office, the State budget for FY 2009-10 contains General Fund and special fund spending levels that are 15 percent lower than spending levels from just two years ago.²

Counties have already done much to help the state out of many of its budget crises. In prior years, for example, the counties have engaged with the state in “realignment,” in which many state programs were transferred to the county level; acquiesced to the suspension of Proposition 1A (2004), where the state was allowed to borrow \$1.9 billion from local government (cities, counties and special districts) during the 2009 Budget Revision; and weathered the \$1 billion human services funding deficit, which is the difference between the state's funding for eight human services programs (frozen at 2001 funding levels) and the actual costs incurred by counties to deliver the services.

As the state budget outlook for FY 2010-11 continues to worsen, steps must be taken to protect counties, particularly urban counties, from additional state budget cuts. The 12 urban counties represented by the Urban Counties Caucus (UCC) contain over three-quarters of California's population and experience the majority of the state's caseloads in the health, human services, and corrections areas. Legislators need to be made aware of the burden that state budget cuts have placed on California counties in recent years, especially in light of increasing caseloads, so that they can better set their budgetary priorities.

Chang & Adams consulting has been retained to provide an independent estimation of the magnitude of the burden placed on counties in California, particularly urban counties, from state budget cuts. Specifically, we have been asked to answer the following questions:

- Over the past five years, how have State budget cuts impacted counties for six major state programs in the areas of health and human services, transportation, and corrections? The programs include Medi-Cal, CalWORKs, Child Welfare, In-Home

¹ California State Board of Equalization, “Negative Inflation Spurs First Time Property Tax Reductions,” News Release, November 30, 2009.

² Legislative Analyst's Office, *The Budget Package: 2009-10 California Spending Plan*, October, 2009.

Supportive Services (IHSS), Proposition 42 (county transportation), and Proposition 36 (substance abuse treatment).

- How have county caseload and workload increased for these six programs over the past five years?
- How much have the responsibilities for these programs been shifted to the counties over time?

The UCC surveyed the 12 urban counties as to funding histories for the six programs. The next section describes the size and purpose of these programs. Section 3 analyzes the survey results to uncover federal, state, and county program trends. And Section 4 concludes with key observations.

2. County Program Descriptions

The UCC County Survey covered six major state programs in the areas of health and human services, corrections, and transportation: Medi-Cal, CalWORKs, Child Welfare, In-Home Supportive Services (IHSS), Proposition 36 (substance abuse treatment), and Proposition 42 (county transportation). We describe these programs briefly below:

Medi-Cal. The Medi-Cal Program (referred to as Medicaid at the federal level) provides health care for 6.5 million low-income individuals including members of families with children, seniors, persons with disabilities, those in foster care, pregnant women and people with specific diseases. Counties administer the Medi-Cal program for the state and federal governments. County welfare departments are responsible for determining Medi-Cal eligibility for all those except the aged, blind and disabled recipients of SSI/SSP. Counties also oversee the enrollment and recertification process and disburse benefits.

CalWORKs. The CalWORKs program provides monthly cash assistance to eligible families, and to low-income children whose parents are not able to provide basic necessities for them. CalWORKs requires parents to participate in welfare-to-work activities including training, education and other services designed to help families get back into the workforce. Counties are responsible for processing applications, interviewing candidates to verify eligibility, and conducting fingerprinting, among other requirements of the program. If the County determines that the applicants are eligible for CalWORKs, the family will receive monthly checks from the county welfare department until determined ineligible or they reach their statutory time limit.

Child Welfare. All counties are required to respond on a 24-hour basis to investigate any report of child abuse or child neglect. Counties are responsible for investigating the report of abuse, assessing the risk to the children, and taking action if necessary to protect the children from harm. County social workers may also link the family to services that may include therapy, drug treatment and domestic violence counseling. As part of this process, the courts could order the children to be removed from the home and placed in foster care.

In Home Supportive Services (IHSS). The IHSS Program is an alternative to out-of-home care and helps to pay for services so that the elderly, blind, or disabled residents can remain safely in their own home. The types of services authorized through IHSS are housecleaning, meal preparation, laundry, grocery shopping, personal care services, accompaniment to medical appointments, and protective supervision for the mentally impaired. Counties are responsible for enrolling beneficiaries and providers into the IHSS program, monitoring their timesheets, providing training and education to the enrollees as well as other administrative functions.

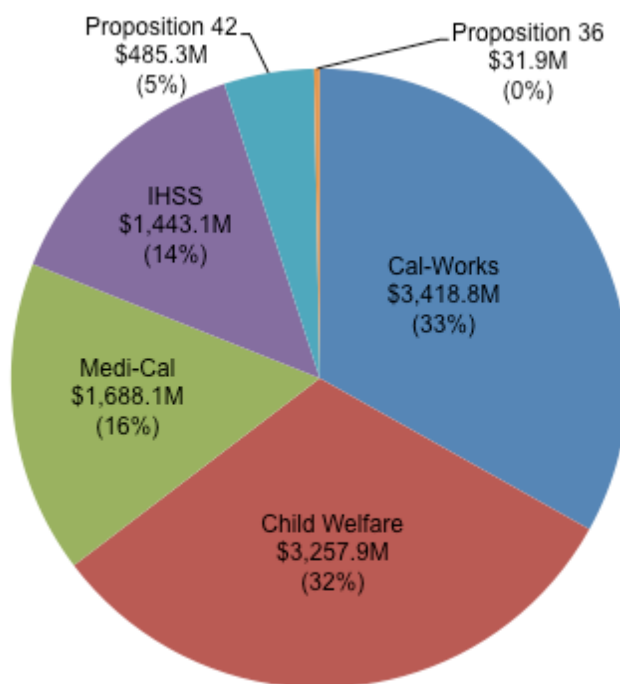
Proposition 36 (Substance Abuse and Crime Prevention Act). The Substance Abuse and Crime Prevention Act passed in 2000, and requires that individuals convicted of a nonviolent drug possession offense receive drug treatment in the community rather than prison or jail. These programs are operated by counties and most of the funding associated with Proposition 36 is used for treatment programs and prevention.

Proposition 42 (Transportation). In 2002, the voters passed Proposition 42, which constitutionally dedicates the state's share of the sales tax on gasoline to transportation programs, increasing transportation funding by more than \$1 billion a year. Proposition 42 was designed to provide a steady stream of transportation funding so that California would be able to

better keep up with growth in population and trade. The law allows Proposition 42 funds to be suspended and diverted during a state fiscal crisis – until the 2005-06 budget year, nearly all of Proposition 42 dollars were diverted to the General Fund. Counties are responsible for planning, designing, funding, building, operating and maintaining all roads, bridges, and transportation facilities within the unincorporated County territory.

The UCC County Survey of the six major health and human services, corrections, and transportation programs found that they currently account for over \$10.3 billion in county spending annually. Of these six programs, two health and human services programs account for nearly two-thirds of spending: CalWORKs at \$3.4 billion and Child Welfare at \$3.3 billion. Additionally, spending for Proposition 42 (transportation) and Proposition 36 (substance abuse treatment) represents only about 5.2 percent of the total. This is illustrated in Figure 2.1 below.

Figure 2.1
FY 2009-10 Projected Program Expenditures

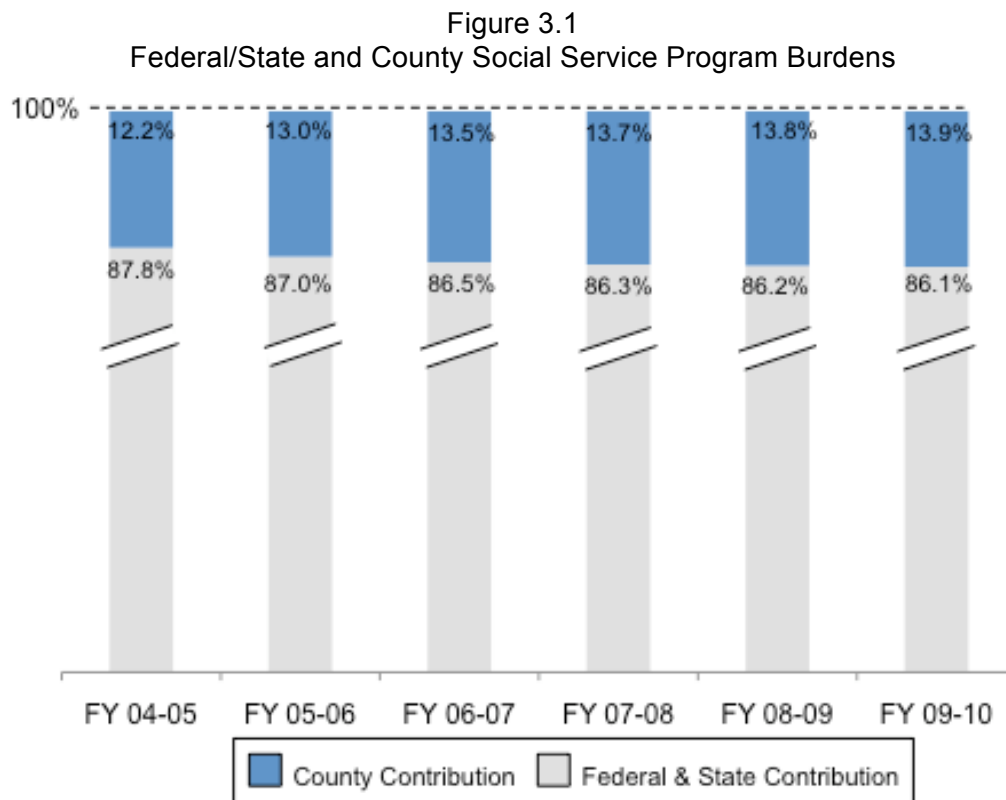


SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura.

These programs are all funded by a combination of state/federal and local funding. Five of them – CalWORKs, Child Welfare, IHSS, Medi-Cal, and Proposition 36 – are social service programs that are directed towards individuals and households. In that sense they are distinct from Proposition 42 funding which involves capital investment for roads. However, transportation funds have regularly been taken by the state and put to other purposes. Consequently we consider all six programs together in the analysis that follows.

3. County Program Trends

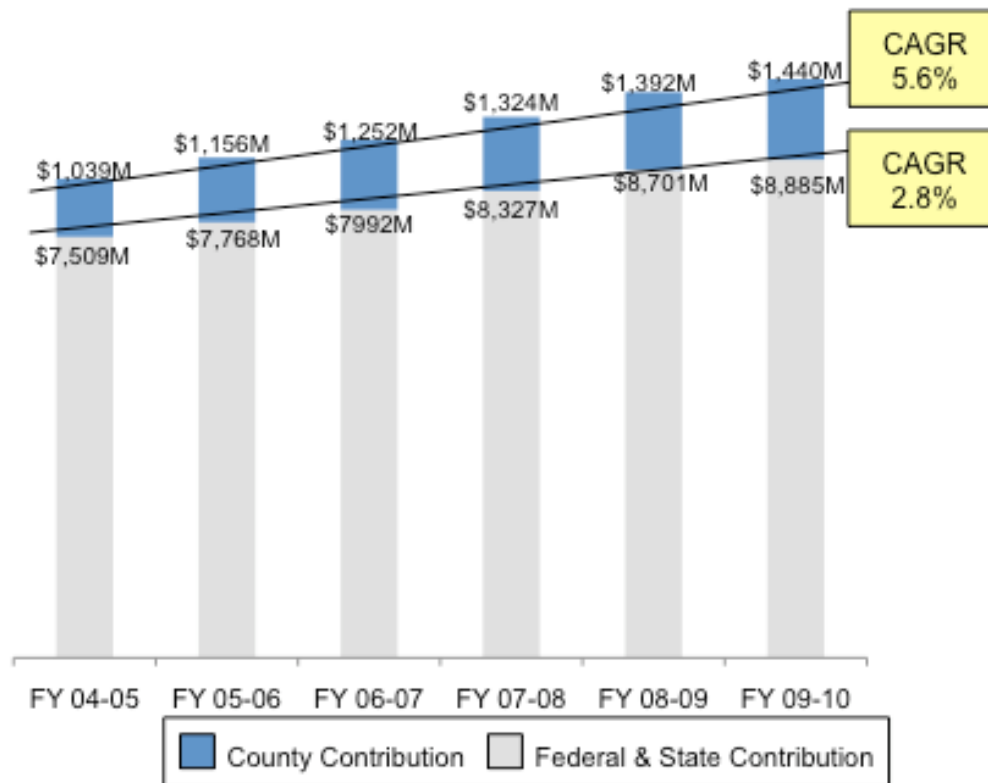
How has support for the six major programs changed over time? Looking at the last six fiscal years, federal and state support have steadily decreased while county responsibilities have increased. Figure 3.1 below shows federal/state and county burdens since FY 2004-05. In FY 2004-05, federal and state contributions supported 87.8 percent of the programs and counties were responsible for about 12.2 percent of program support. By FY 2009-10, the federal and state share was down to 86.1 percent while the county share climbed to 13.9 percent. Although 13.9 percent might seem small in absolute terms, it represents a 14 percent increase in the counties' relative burden over the past six years.



SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. Programs include CalWORKs, Child Welfare, IHSS, Medi-Cal, Proposition 36 and Proposition 42.

These programs have placed a substantial (and still growing) burden on the counties over the past six years. Since FY 2004-05, federal and state support for the six programs has increased from \$7.5 billion annually to \$8.9 billion. This increase reflects a Compounded Annual Growth Rate (CAGR) of federal/state support of 2.8 percent. By contrast, county support has gone from \$1.0 billion annually to \$1.4 billion over the same time period. This increase represents a county CAGR of 5.6 percent – that is twice the federal/state growth rate. Should these growth rates continue unchanged, counties will be responsible for over 20 percent of the programs within another ten years. That far surpasses the 12 percent level of county support seen just in FY 2004-05. This is shown in Figure 3.2 below.

Figure 3.2
Federal/State and County Social Service Program Burdens



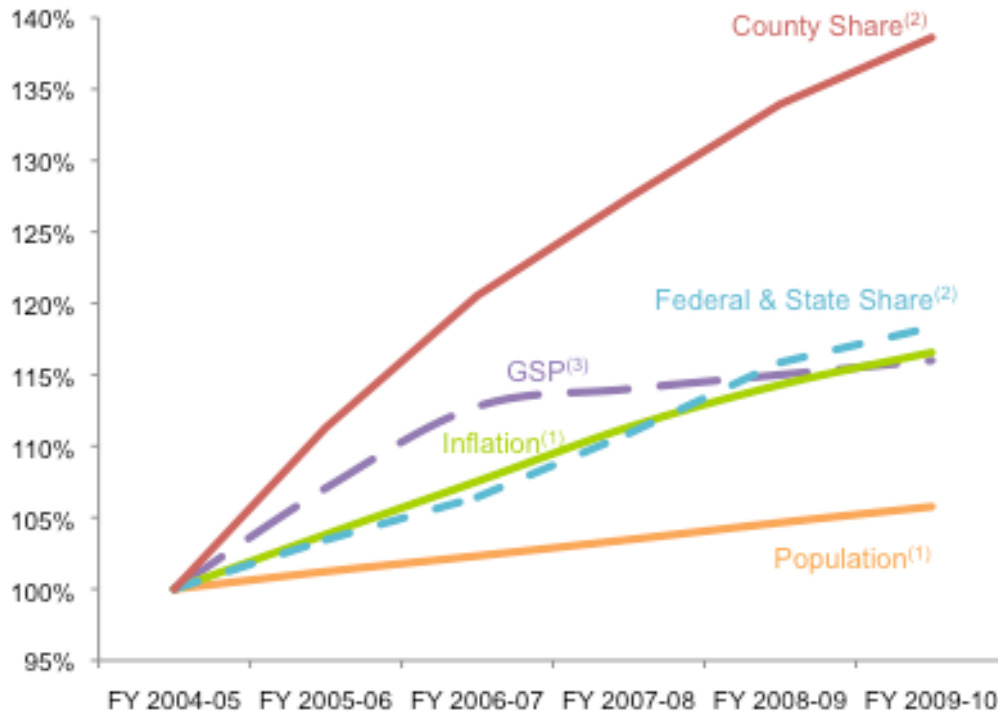
SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. Programs include CalWORKs, Child Welfare, IHSS, Medi-Cal, Proposition 36 and Proposition 42.

Figure 3.3 compares the growth in federal/state support for the six programs, as well as that of county support, against the growth in California's Gross State Product (GSP), California's population, and the Consumer Price Index (CPI). These socio-economic indicators are useful benchmarks for comparison: changes in GSP reflect the growth of the state's economy, changes in California's population proxy fluctuations in the size of program caseloads, and changes in CPI, used to measure inflation, suggests changes in the value of program benefits.

Figure 3.3 shows that the growth in federal/state support for the programs has been somewhat anemic over time. The 2.8 percent Compounded Annual Growth Rate of federal/state program support translates to an increase in funding of 18 percent since FY 2004-05. This does compare favorably to the growth in California population (6 percent) over the FY 2004-05 to FY 2009-10 timeframe. However, it only tracks the growth in Gross State Product (16 percent) or the growth in inflation (17 percent), meaning that it is not enough to maintain the real level of benefits received by program recipients (combining both caseload growth and inflation growth).

Note that at the same time, the level of county spending on these programs has increased by almost 40 percent over the past 6 years.

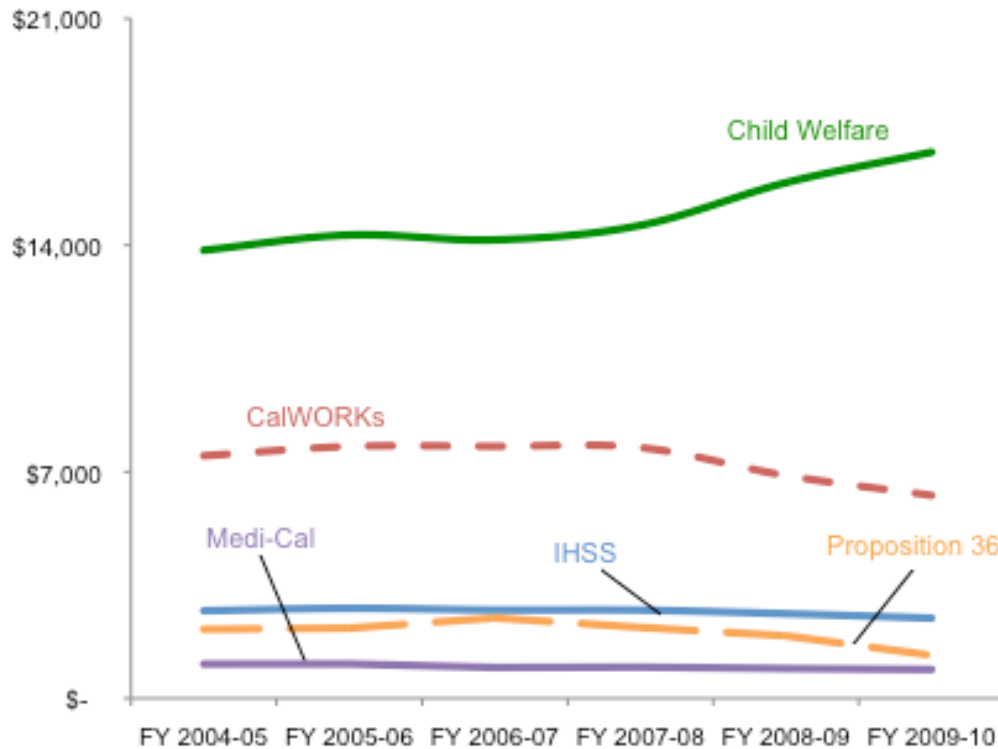
Figure 3.3
California Socio-Economic Indicators (2004-05=100%)



SOURCES: (1) California Department of Finance. (2) Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. Programs include CalWORKs, Child Welfare, IHSS, Medi-Cal, Proposition 36 and Proposition 42. (3) Chang & Adams Consulting GSP estimates for 2007-2010 based on latest Department of Finance data

Looking at the five social service programs in particular (all excluding Proposition 42), the decline in federal/state support generally has caused the real level of benefits to decrease or remain flat over time. That is, adjusting for inflation, the total contributions (federal/state and county) per caseload have decreased for four of the five programs over the last six years. As Figure 3.4 shows below, between FY 2004-05 and FY 2009-10 CalWORKs contributions dropped from \$7,496 to \$6,271 per caseload, Medi-Cal went from \$910 to \$892 per caseload, IHSS declined from \$2,702 to \$2,480 per caseload, and Proposition 36 dropped from \$2,134 to \$1,330 per caseload in 2009 dollars. Only Child Welfare shows a significant increase in total contributions between FY 2004-05 and FY 2009-10. Here, per caseload funding actually increased from \$13,845 to \$16,875, while accounting for inflation.

Figure 3.4
Total Funding per Social Service Caseload (in 2009 Dollars)

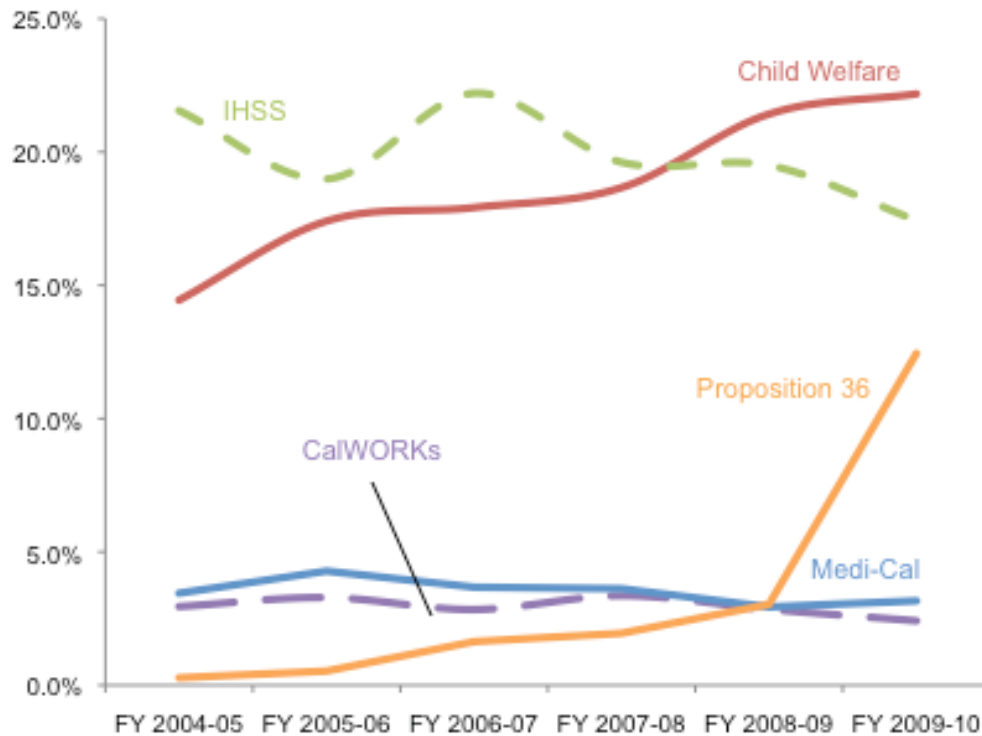


SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. Programs include CalWORKs, Child Welfare, IHSS, Medi-Cal and Proposition 36.

The Child Welfare Program is a particular area where the federal and state governments could take a larger role to help counties. As shown in Figure 3.5 below, the level of county support for CalWORKs and Medi-Cal has been relatively small and stable over time. The burden of Proposition 36 on counties began small, gradually increasing to 3.0 percent by FY 2008-09. And although it spiked to 12.4 percent in FY 2009-10 because of a significant drop in state support, the overall program size is still very small. And county support for IHSS has fluctuated somewhat over time, the level of support has decreased from 21.6 percent in FY 2004-05 to 17.4 percent in FY 2009-10.

That said, Figure 3.5 shows that the program whose relative burden on the counties has steadily increased over time is Child Welfare. County responsibility has gone from 14.4 percent in FY 2004-05 to 22.1 percent in FY 2009-10 – that is a 54 percent increase in its share. Moreover, Child Welfare is a large program, totaling \$3.3 billion in spending.

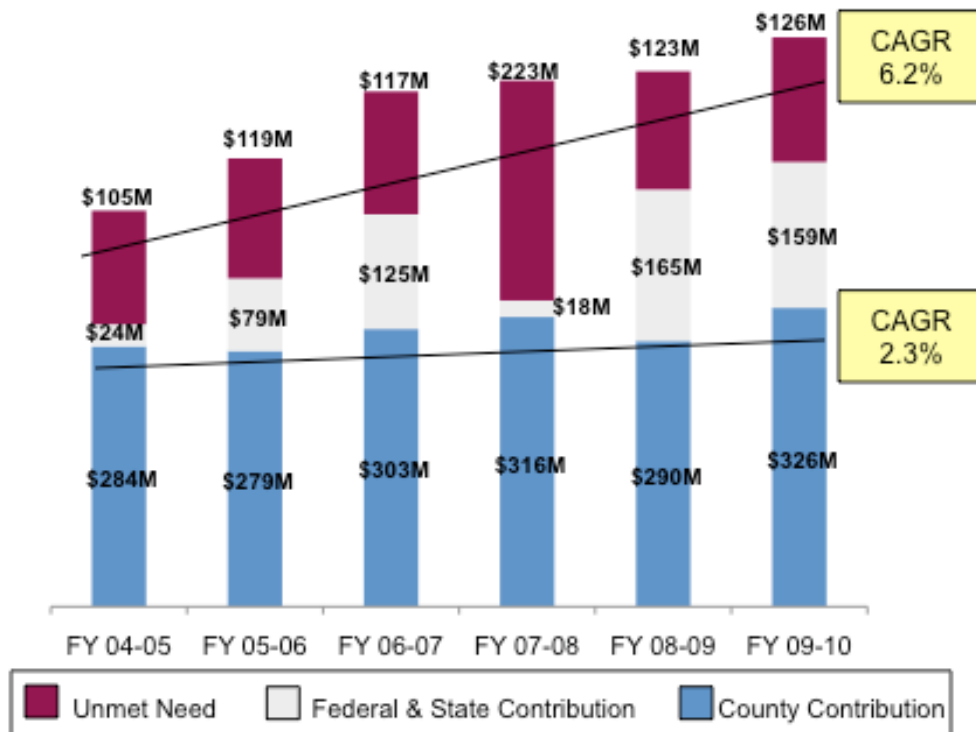
Figure 3.5
County Level of Social Service Program Support



SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. Programs include CalWORKs, Child Welfare, IHSS, Medi-Cal and Proposition 36.

Turning to transportation, the federal and state governments can also help the counties by taking on a larger and more consistent share of responsibility. Figure 3.6 below illustrates the federal/state and county burdens for Proposition 42 since FY 2004-05. It shows that the transportation workload for counties has grown from \$432 million in FY 2004-05 to \$621 million in FY 2009-10, translating to a CAGR of 6.2 percent over the six years. At the same time, total federal/state and county funding have been insufficient to meet this transportation workload. While county contributions have grown from \$284 million to \$326 million – a CAGR of 2.3 percent – federal/state contributions have been erratic. This primarily reflects the fact that the California Legislature has occasionally withheld transportation-related appropriations or loaned itself transportation funding to help balance the state budget.

Figure 3.6
Federal/State and County Proposition 42 Burdens



SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura.

4. Conclusion

The UCC survey of urban counties on funding contributions for six social service and transportation programs found that these programs are sizable, accounting for over \$10.3 billion in county spending annually. Over the past 6 fiscal years, federal and state support for the social service programs has steadily decreased while the counties' support has increased. In fact, the counties' financial contributions are increasing by about 5.6 percent every year, compared with only a 2.8 percent annual growth in federal and state contributions. With respect to transportation, federal and state support has been erratic.

The shift in responsibility for the social service programs has placed a substantial and growing burden on counties. And generally it has meant an erosion in the real level of benefits over time for program recipients.

What can the federal and state governments do to help? Specifically, they can take a larger role in the Child Welfare Program and Proposition 42. Child Welfare is a sizable program, totaling over \$3.3 billion in FY 2009-10, and over the last six years county funding responsibility has gone from 14.4 percent to 22.1 percent. At the same time, California counties have experienced an annual transportation-funding deficit averaging over \$135 million during the past six years.

Appendix A County Survey Results

Local Contributions Among Eleven Urban Counties

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
CalWORKs	\$91,157,889	\$101,600,616	\$86,093,861	\$106,641,908	\$94,253,954	\$82,516,934
Child Welfare	\$406,950,271	\$516,155,995	\$549,513,232	\$584,268,279	\$685,266,542	\$722,582,215
IHSS	\$212,473,786	\$200,132,562	\$258,678,616	\$255,895,112	\$271,085,752	\$251,622,859
Medi-Cal	\$43,905,670	\$59,115,455	\$53,600,349	\$58,863,512	\$48,938,673	\$53,417,969
Proposition 36	\$200,000	\$400,000	\$1,496,213	\$1,536,182	\$2,035,570	\$3,969,572
Proposition 42	\$284,298,967	\$279,010,084	\$303,016,642	\$316,382,222	\$290,099,252	\$326,000,000
Total	\$1,038,986,583	\$1,156,414,712	\$1,252,398,913	\$1,323,587,215	\$1,391,679,743	\$1,440,109,549

SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura.

Federal and State Contributions Among Eleven Urban Counties

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
CalWORKs	\$3,000,247,288	\$2,988,973,324	\$2,948,530,400	\$3,068,059,654	\$3,218,909,901	\$3,336,321,224
Child Welfare	\$2,410,430,670	\$2,448,793,806	\$2,517,625,914	\$2,546,261,742	\$2,513,665,152	\$2,535,315,209
IHSS	\$773,391,398	\$853,938,491	\$906,240,579	\$1,048,759,692	\$1,119,003,596	\$1,191,514,469
Medi-Cal	\$1,228,815,673	\$1,321,710,510	\$1,404,853,829	\$1,567,524,771	\$1,619,054,619	\$1,634,729,290
Proposition 36	\$72,305,637	\$75,247,084	\$90,097,075	\$77,385,534	\$65,109,970	\$27,924,272
Proposition 42	\$24,243,005	\$79,412,911	\$125,109,818	\$18,704,936	\$164,844,091	\$159,268,132
Total	\$7,509,433,671	\$7,768,076,126	\$7,992,457,615	\$8,326,696,329	\$8,700,587,329	\$8,885,072,596

SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura.

Caseloads Among Eleven Urban Counties

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
CalWORKs	463,042	462,857	422,506	428,991	490,902	545,150
Child Welfare	237,200	241,401	234,699	224,297	204,749	193,066
IHSS	424,450	441,672	462,277	501,085	541,879	581,857
Medi-Cal	1,397,867	1,511,727	1,655,977	1,762,032	1,843,319	1,891,903
Proposition 36	39,610	40,643	39,980	37,704	35,434	23,976
Proposition 42	\$432,246,370	\$489,882,104	\$562,382,116	\$575,563,605	\$584,438,465	\$621,355,423
Total	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.

SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura.

Appendix B Bibliography

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**Urban Counties Caucus (UCC) State Budget Education Project:
Enabling County Governments**

January 21, 2010

Prepared by:

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Andrew J. Chang

Chang & Adams Consulting

About *Chang & Adams Consulting*:

We are Sacramento's premier management consulting firm, operating at the intersection of the public and private sectors. We specialize in applying cutting-edge quantitative analyses to help frame and solve issues pertaining to public policy and business strategy. We advise a range of clients, including government agencies, non-profit organizations, campaigns for initiatives and candidates, and Fortune 1000 companies. We provide them with the analytical insight to shape their strategic direction, improve their operations, and develop sound policies.

About the Authors:

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With over 11 years of experience as a consultant and an executive in state government, Justin is a seasoned political economist who brings a combination of theoretical and practical expertise in public policy and fiscal and economic analysis. From 2007 to 2009, Justin was the Director of Economics at Forward Observer, a political and public policy consulting firm. He oversaw the development of all of the firm's fiscal and economic studies, and has testified in front of the Legislative Analyst's Office. Between 2001 and 2007, Justin was an associate economist at the RAND Corporation specializing in domestic and international economic development, defense economics, and the economics of public-sector organizations. From 1994 to 1997, Justin served in multiple roles in California State government. He was a Special Assistant in the California Department of Transportation, an Assistant for Policy Development in the California Department of Housing and Community Development, and a staff economist in the California Governor's Office of Planning and Research. Justin received his Ph.D. in Political Economics from Stanford University's Graduate School of Business in 2000. He also received his A.M. in Political Science and his A.B. in Economics and Political Science from Stanford University.

Andrew J. Chang is the Managing Director of Chang & Adams Consulting.

Andrew Chang has extensive experience working with both high-level executives and operations staff on sensitive issues under tight deadlines in both the public and private sectors. Andrew has more than 10 years of public policy development and implementation experience, and more than seven years of strategy and operations consulting experience with Fortune 500 companies. Between 2007 and 2009, Andrew was Vice President of business strategy for Forward Observer, a Sacramento-based consulting firm where he led engagements in regards to public finance and market entry for technology and energy companies. Between 2004 and 2007, Andrew served as the Chief Deputy Director of the California Department of General Services where he was responsible for the day-to-day operations of 4000 employees. Between 2000 and 2004, Andrew was a management consultant at the global management consulting firm of A. T. Kearney, where he led a number of strategy and operations engagements for global IT and telecommunications firms. Between 1995 and 1998, Andrew served as Assistant Secretary for Policy and Operations at the State and Consumer Services Agency. Andrew received his A.B. from the University of California at Berkeley, his Masters in Public Policy at Georgetown University in Washington, DC and is a graduate of the University of Michigan's Executive MBA Center.

**Urban Counties Caucus (UCC) State Budget Education Project:
Enabling County Governments
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**Urban Counties Caucus (UCC) State Budget Education Project:
Enabling County Governments
(Key Findings)**

- The Urban Counties Caucus (UCC) surveyed urban California counties regarding trends in funding contributions for Medi-Cal, CalWORKs, Child Welfare, IHSS, Proposition 36, and Proposition 42.
- Based on data from eleven of the counties – Alameda, Contra Costa, Los Angeles, Orange County, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura – we found that the six major programs account for over \$10.6 billion in county spending annually.
- Over the past 6 fiscal years (FY 2004-05 to FY 2009-10), federal and state support for the six programs has steadily decreased while the counties' support has increased. Since FY 2004-05, the counties' support for these programs grew from 12.2 percent to 14.1 percent – a 15.6 percent increase in relative support.
- The shift in responsibility for the social service programs has placed a substantial (and still growing) burden on counties. The counties' financial contributions are increasing by about 5.7 percent every year, compared with only a 3.0 percent annual growth in federal and state contributions.
- The 3.0 percent growth in federal/state program support is anemic when compared against a handful of California socio-economic indicators such as inflation and the rate of economic growth in California.
- The decline in federal/state support for social service programs generally has meant an erosion in the real level of benefits over time for program recipients. Total contributions (federal/state and county) per caseload declined in real terms since FY 2004-05 for every program except Child Welfare.
- The Child Welfare Program is a particular area where the federal and state governments could take a larger role to help counties. Child Welfare is a sizable program, totaling over \$3.3 billion in FY 2009-10, and over the last six years county funding responsibility has gone from 14.4 percent to 22.1 percent.
- The federal and state governments can also help the counties with respect to transportation by taking on a larger and more stable share of responsibility. California counties have experienced an annual transportation-funding deficit averaging \$135 million during the past six years.

Urban Counties Caucus (UCC) State Budget Education Project: Enabling County Governments

1. Introduction

As California continues through the deepest recession since the Great Depression, the state's counties are facing severe challenges. The collapse of the state's housing market, for example, has reduced the amount of property tax revenue that counties receive – amazingly 2010 might be the first year since the passage of Proposition 13 in which “base year values” for real estate in California actually get adjusted downwards.¹ Taxable sales are also down. And at the same time, counties are facing higher costs in maintaining the basic services that county residents expect from them.

Because counties also provide critical services on behalf of the state and federal governments, counties are significantly impacted by state and federal funding decisions. Consequently, the dire fiscal position of state government in recent years has necessitated large spending cuts to programs in health, human services, corrections, and education. In fact, according to the Legislative Analyst's Office, the State budget for FY 2009-10 contains General Fund and special fund spending levels that are 15 percent lower than spending levels from just two years ago.²

Counties have already done much to help the state out of many of its budget crises. In prior years, for example, the counties have engaged with the state in “realignment,” in which many state programs were transferred to the county level; acquiesced to the suspension of Proposition 1A (2004), where the state was allowed to borrow \$1.9 billion from local government (cities, counties and special districts) during the 2009 Budget Revision; and weathered the \$1 billion human services funding deficit, which is the difference between the state's funding for eight human services programs (frozen at 2001 funding levels) and the actual costs incurred by counties to deliver the services.

As the state budget outlook for FY 2010-11 continues to worsen, steps must be taken to protect counties, particularly urban counties, from additional state budget cuts. The 12 urban counties represented by the Urban Counties Caucus (UCC) contain over three-quarters of California's population and experience the majority of the state's caseloads in the health, human services, and corrections areas. Legislators need to be made aware of the burden that state budget cuts have placed on California counties in recent years, especially in light of increasing caseloads, so that they can better set their budgetary priorities.

Chang & Adams Consulting has been retained to provide an independent estimation of the magnitude of the burden placed on counties in California, particularly urban counties, from state budget cuts. Specifically, we have been asked to answer the following questions:

- Over the past five years, how have State budget cuts impacted counties for six major state programs in the areas of health and human services, transportation, and corrections? The programs include Medi-Cal, CalWORKs, Child Welfare, In-Home

¹ California State Board of Equalization, “Negative Inflation Spurs First Time Property Tax Reductions,” News Release, November 30, 2009.

² Legislative Analyst's Office, *The Budget Package: 2009-10 California Spending Plan*, October, 2009.

Supportive Services (IHSS), Proposition 42 (county transportation), and Proposition 36 (substance abuse treatment).

- How have county caseload and workload increased for these six programs over the past five years?
- How much have the responsibilities for these programs been shifted to the counties over time?

The UCC surveyed the 12 urban counties as to funding histories for the six programs. The next section describes the size and purpose of these programs. Section 3 analyzes the survey results to uncover federal, state, and county program trends. And Section 4 concludes with key observations.

2. County Program Descriptions

The UCC County Survey covered six major state programs in the areas of health and human services, corrections, and transportation: Medi-Cal, CalWORKs, Child Welfare, In-Home Supportive Services (IHSS), Proposition 36 (substance abuse treatment), and Proposition 42 (county transportation). We describe these programs briefly below:

Medi-Cal. The Medi-Cal Program (referred to as Medicaid at the federal level) provides health care for 6.5 million low-income individuals including members of families with children, seniors, persons with disabilities, those in foster care, pregnant women and people with specific diseases. Counties administer the Medi-Cal program for the state and federal governments. County welfare departments are responsible for determining Medi-Cal eligibility for all those except the aged, blind and disabled recipients of SSI/SSP. Counties also oversee the enrollment and recertification process and disburse benefits.

CalWORKs. The CalWORKs program provides monthly cash assistance to eligible families, and to low-income children whose parents are not able to provide basic necessities for them. CalWORKs requires parents to participate in welfare-to-work activities including training, education and other services designed to help families get back into the workforce. Counties are responsible for processing applications, interviewing candidates to verify eligibility, and conducting fingerprinting, among other requirements of the program. If the County determines that the applicants are eligible for CalWORKs, the family will receive monthly checks from the county welfare department until determined ineligible or they reach their statutory time limit.

Child Welfare. All counties are required to respond on a 24-hour basis to investigate any report of child abuse or child neglect. Counties are responsible for investigating the report of abuse, assessing the risk to the children, and taking action if necessary to protect the children from harm. County social workers may also link the family to services that may include therapy, drug treatment and domestic violence counseling. As part of this process, the courts could order the children to be removed from the home and placed in foster care.

In Home Supportive Services (IHSS). The IHSS Program is an alternative to out-of-home care and helps to pay for services so that the elderly, blind, or disabled residents can remain safely in their own home. The types of services authorized through IHSS are housecleaning, meal preparation, laundry, grocery shopping, personal care services, accompaniment to medical appointments, and protective supervision for the mentally impaired. Counties are responsible for enrolling beneficiaries and providers into the IHSS program, monitoring their timesheets, providing training and education to the enrollees as well as other administrative functions.

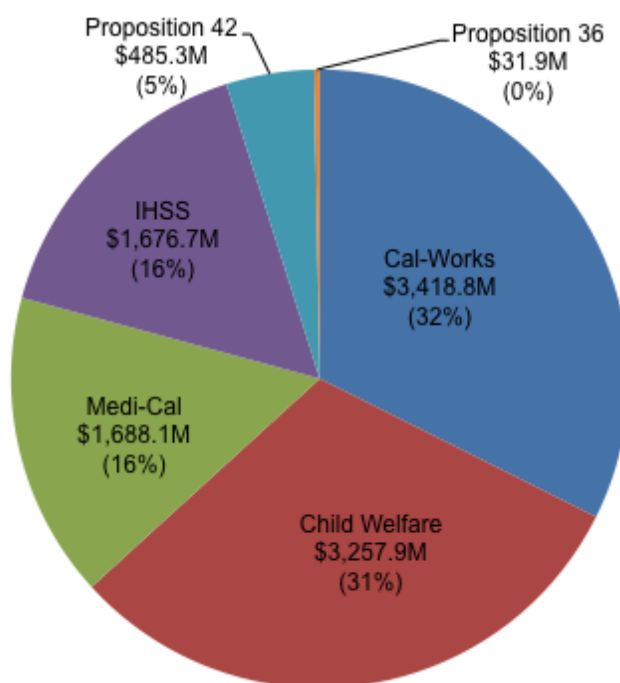
Proposition 36 (Substance Abuse and Crime Prevention Act). The Substance Abuse and Crime Prevention Act passed in 2000, and requires that individuals convicted of a nonviolent drug possession offense receive drug treatment in the community rather than prison or jail. These programs are operated by counties and most of the funding associated with Proposition 36 is used for treatment programs and prevention.

Proposition 42 (Transportation). In 2002, the voters passed Proposition 42, which constitutionally dedicates the state's share of the sales tax on gasoline to transportation programs, increasing transportation funding by more than \$1 billion a year. Proposition 42 was designed to provide a steady stream of transportation funding so that California would be able to better keep up with growth in population and trade. The law allows Proposition 42 funds to be

suspended and diverted during a state fiscal crisis – until the 2005-06 budget year, nearly all of Proposition 42 dollars were diverted to the General Fund. Counties are responsible for planning, designing, funding, building, operating and maintaining all roads, bridges, and transportation facilities within the unincorporated County territory.

The UCC County Survey of the six major health and human services, corrections, and transportation programs found that they currently account for over \$10.6 billion in county spending annually. Of these six programs, two health and human services programs account for nearly two-thirds of spending: CalWORKs at \$3.4 billion and Child Welfare at \$3.3 billion. Additionally, spending for Proposition 42 (transportation) and Proposition 36 (substance abuse treatment) represents only about 5.2 percent of the total. This is illustrated in Figure 2.1 below.

Figure 2.1
FY 2009-10 Projected Program Expenditures



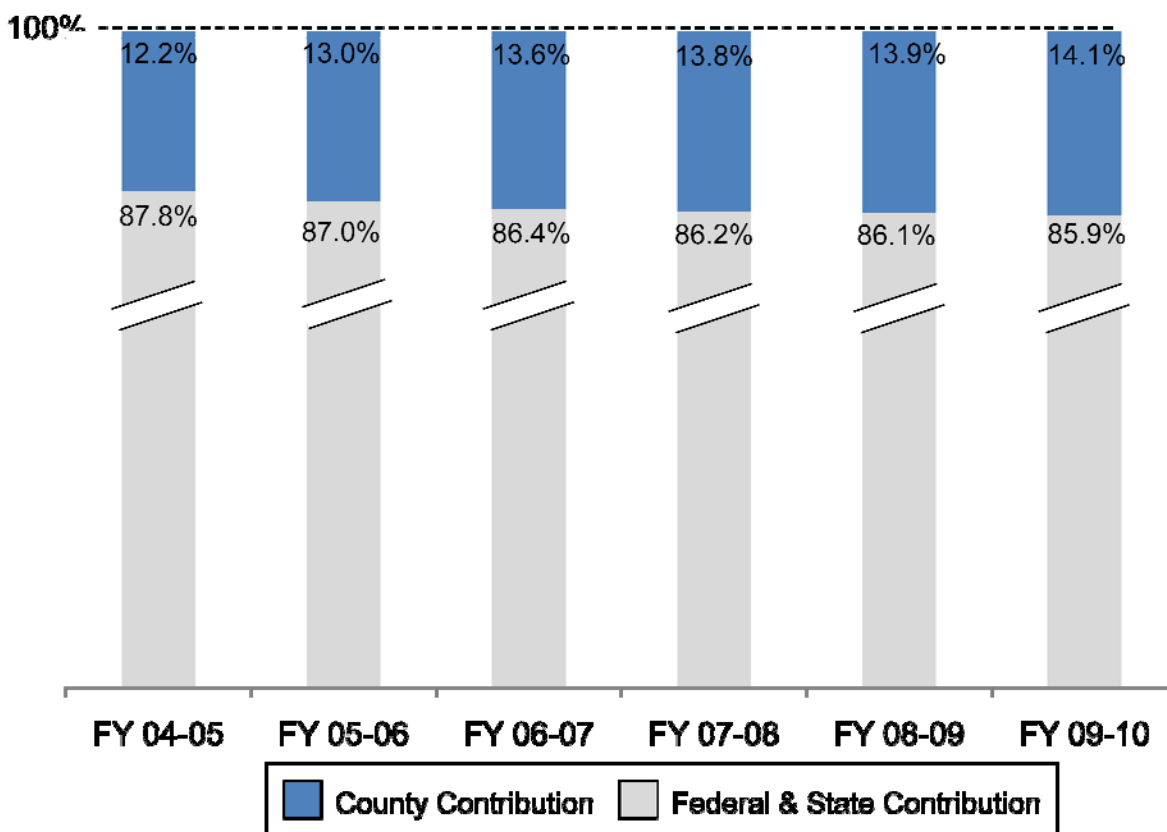
SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. For Orange County, San Bernardino and Sacramento, IHSS figures do not include funding for services; for Santa Clara, IHSS data for FY 04-05 is assumed to be that for FY 05-06, and for FY 09-10 is assumed to be that for FY 08-09.

These programs are all funded by a combination of state/federal and local funding. Five of them – CalWORKs, Child Welfare, IHSS, Medi-Cal, and Proposition 36 – are social service programs that are directed towards individuals and households. In that sense they are distinct from Proposition 42 funding which involves capital investment for roads. However, transportation funds have regularly been taken by the state and put to other purposes. Consequently we consider all six programs together in the analysis that follows.

3. County Program Trends

How has support for the six major programs changed over time? Looking at the last six fiscal years, federal and state support have steadily decreased while county responsibilities have increased. Figure 3.1 below shows federal/state and county burdens since FY 2004-05. In FY 2004-05, federal and state contributions supported 87.8 percent of the programs and counties were responsible for about 12.2 percent of program support. By FY 2009-10, the federal and state share was down to 85.9 percent while the county share climbed to 14.1 percent. Although 14.1 percent might seem small in absolute terms, it represents a 15.6 percent increase in the counties' relative burden over the past six years.

Figure 3.1
Federal/State and County Social Service Program Burdens

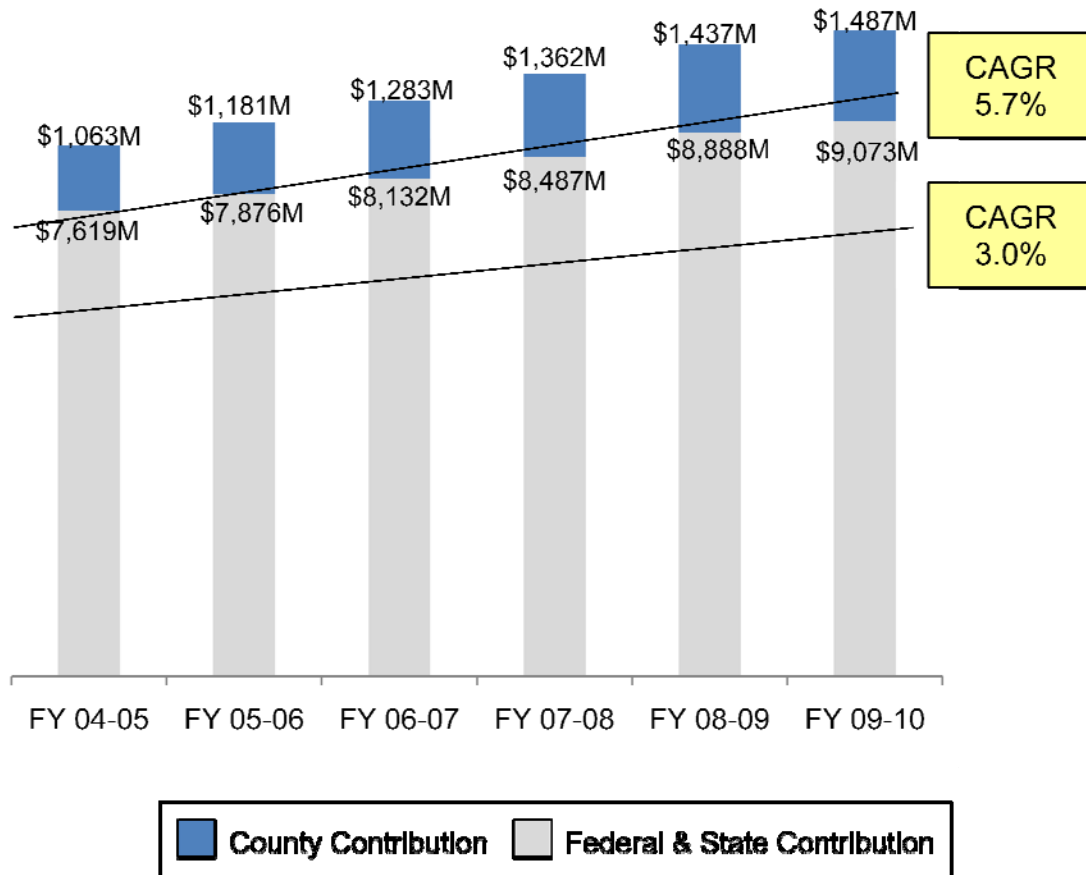


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These programs have placed a substantial (and still growing) burden on the counties over the past six years. Since FY 2004-05, federal and state support for the six programs has increased from \$7.6 billion annually to \$9.1 billion. This increase reflects a Compounded Annual Growth Rate (CAGR) of federal/state support of 3.0 percent. By contrast, county support has gone from \$1.1 billion annually to \$1.5 billion over the same time period. This

increase represents a county CAGR of 5.7 percent – that is twice the federal/state growth rate. Should these growth rates continue unchanged, counties will be responsible for over 20 percent of the programs within another ten years. That far surpasses the 12 percent level of county support seen just in FY 2004-05. This is shown in Figure 3.2 below.

Figure 3.2
Federal/State and County Social Service Program Burdens

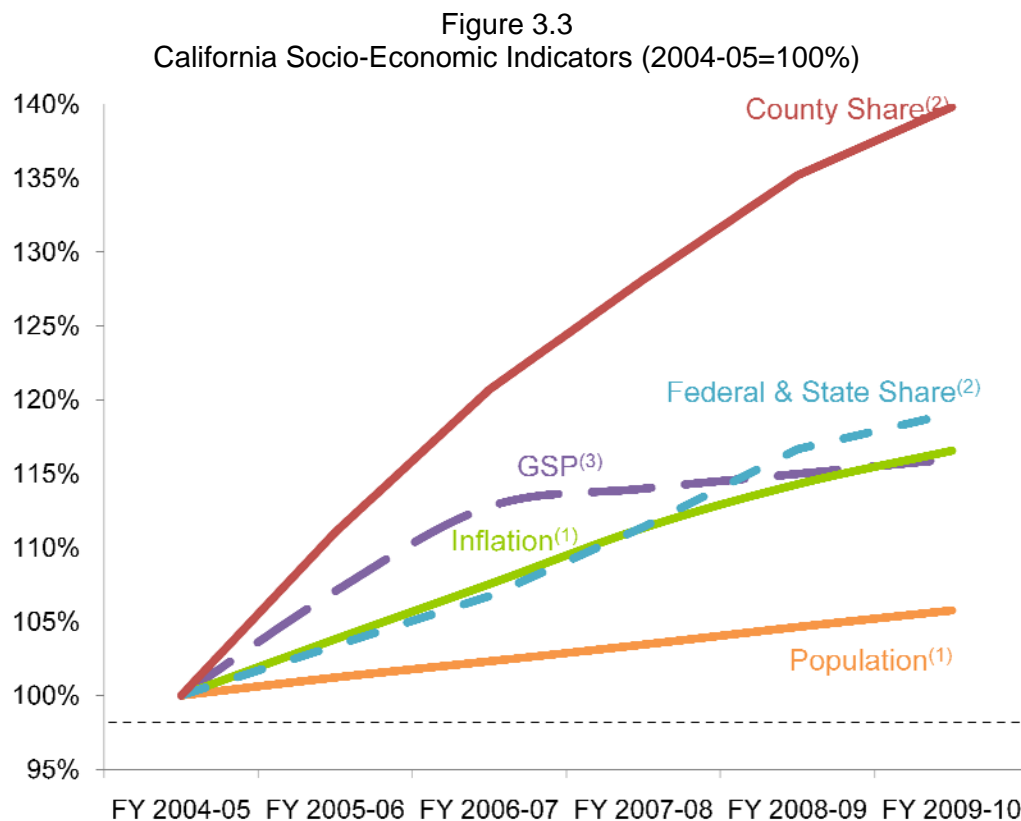


SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. For Orange County, San Bernardino and Sacramento, IHSS figures do not include funding for services; for Santa Clara, IHSS data for FY 04-05 is assumed to be that for FY 05-06, and for FY 09-10 is assumed to be that for FY 08-09.

Figure 3.3 compares the growth in federal/state support for the six programs, as well as that of county support, against the growth in California's Gross State Product (GSP), California's population, and the Consumer Price Index (CPI). These socio-economic indicators are useful benchmarks for comparison: changes in GSP reflect the growth of the state's economy, changes in California's population proxy fluctuations in the size of program caseloads, and changes in CPI, used to measure inflation, suggests changes in the value of program benefits.

Figure 3.3 shows that the growth in federal/state support for the programs has been somewhat anemic over time. The 3.0 percent Compounded Annual Growth Rate of federal/state program support translates to an increase in funding of 19 percent since FY 2004-05. This does compare favorably to the growth in California population (6 percent) over the FY 2004-05 to FY 2009-10 timeframe. However, it only tracks the growth in Gross State Product (16 percent) or the growth in inflation (17 percent), meaning that it is not enough to maintain the real level of benefits received by program recipients (combining both caseload growth and inflation growth).

Note that at the same time, the level of county spending on these programs has increased by almost 40 percent over the past 6 years.

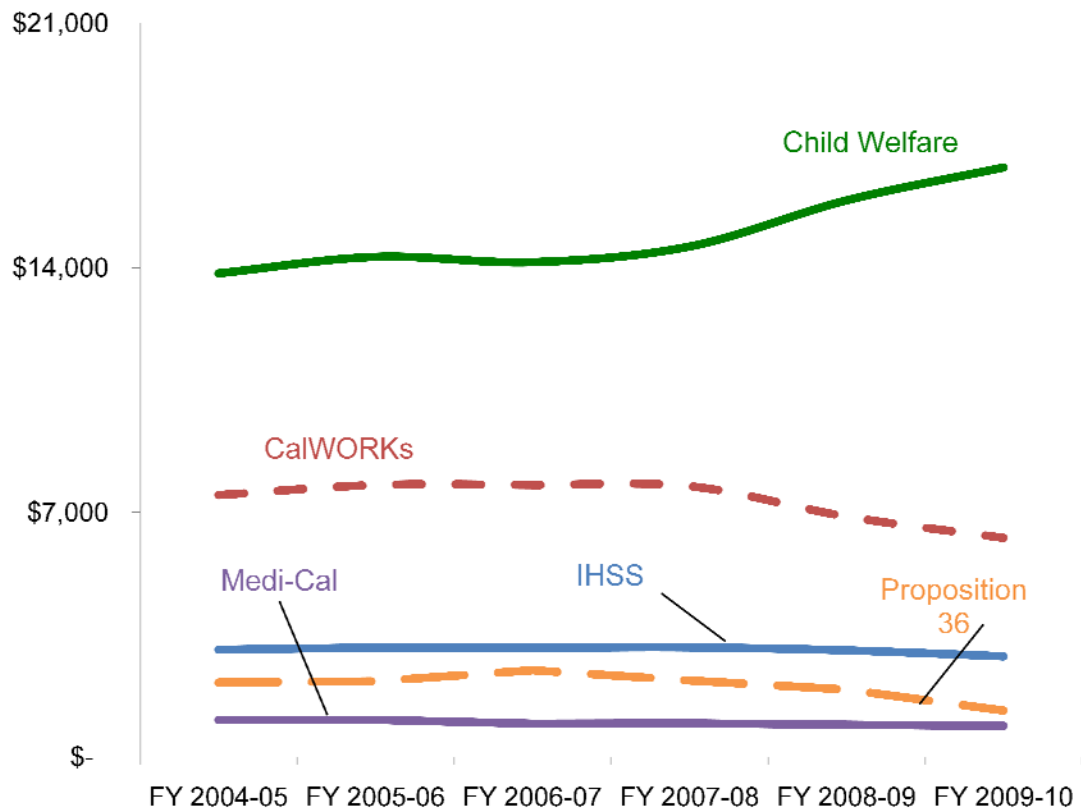


SOURCES: (1) California Department of Finance. (2) Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. For Orange County, San Bernardino and Sacramento, IHSS figures do not include funding for services; for Santa Clara, IHSS data for FY 04-05 is assumed to be that for FY 05-06, and for FY 09-10 is assumed to be that for FY 08-09. (3) Chang & Adams Consulting GSP estimates for 2007-2010 based on latest Department of Finance data.

Looking at the five social service programs in particular (all excluding Proposition 42), the decline in federal/state support generally has caused the real level of benefits to decrease or remain flat over time. That is, adjusting for inflation, the total contributions (federal/state and county) per caseload have decreased for four of the five programs over the last six years. As Figure 3.4 shows below, between FY 2004-05 and FY 2009-10 CalWORKs contributions dropped from \$7,496 to \$6,271 per caseload, Medi-Cal went from \$910 to \$892 per caseload,

IHSS declined from \$3,074 to \$2,882 per caseload, and Proposition 36 dropped from \$2,134 to \$1,330 per caseload in 2009 dollars. Only Child Welfare shows a significant increase in total contributions between FY 2004-05 and FY 2009-10. Here, per caseload funding actually increased from \$13,845 to \$16,875, while accounting for inflation.

Figure 3.4
Total Funding per Social Service Caseload (in 2009 Dollars)



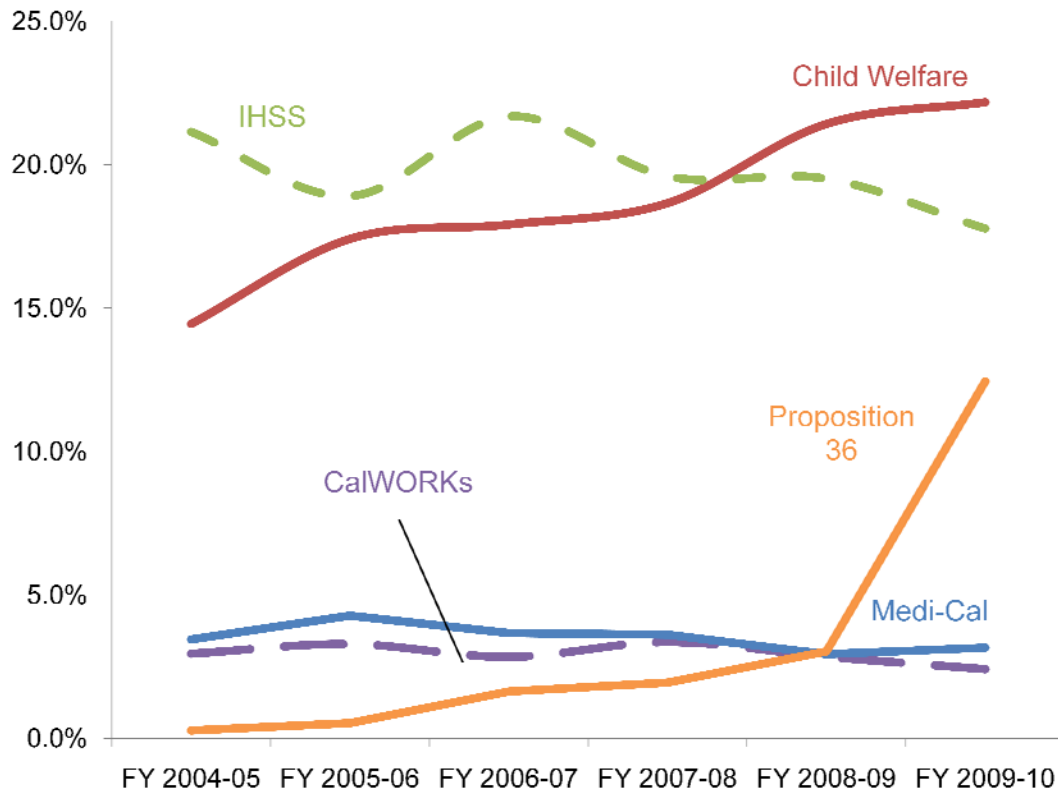
SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. For Orange County, San Bernardino and Sacramento, IHSS figures do not include funding for services; for Santa Clara, IHSS data for FY 04-05 is assumed to be that for FY 05-06, and for FY 09-10 is assumed to be that for FY 08-09. Programs include CalWORKs, Child Welfare, IHSS, Medi-Cal and Proposition 36.

The Child Welfare Program is a particular area where the federal and state governments could take a larger role to help counties. As shown in Figure 3.5 below, the level of county support for CalWORKs and Medi-Cal has been relatively small and stable over time. The burden of Proposition 36 on counties began small, gradually increasing to 3.0 percent by FY 2008-09. And although it spiked to 12.4 percent in FY 2009-10 because of a significant drop in state support, the overall program size is still very small. And county support for IHSS has fluctuated somewhat over time, the level of support has decreased from 21.1 percent in FY 2004-05 to 17.8 percent in FY 2009-10.

That said, Figure 3.5 shows that the program whose relative burden on the counties has steadily increased over time is Child Welfare. County responsibility has gone from 14.4 percent

in FY 2004-05 to 22.1 percent in FY 2009-10 – that is a 54 percent increase in its share. Moreover, Child Welfare is a large program, totaling \$3.3 billion in spending.

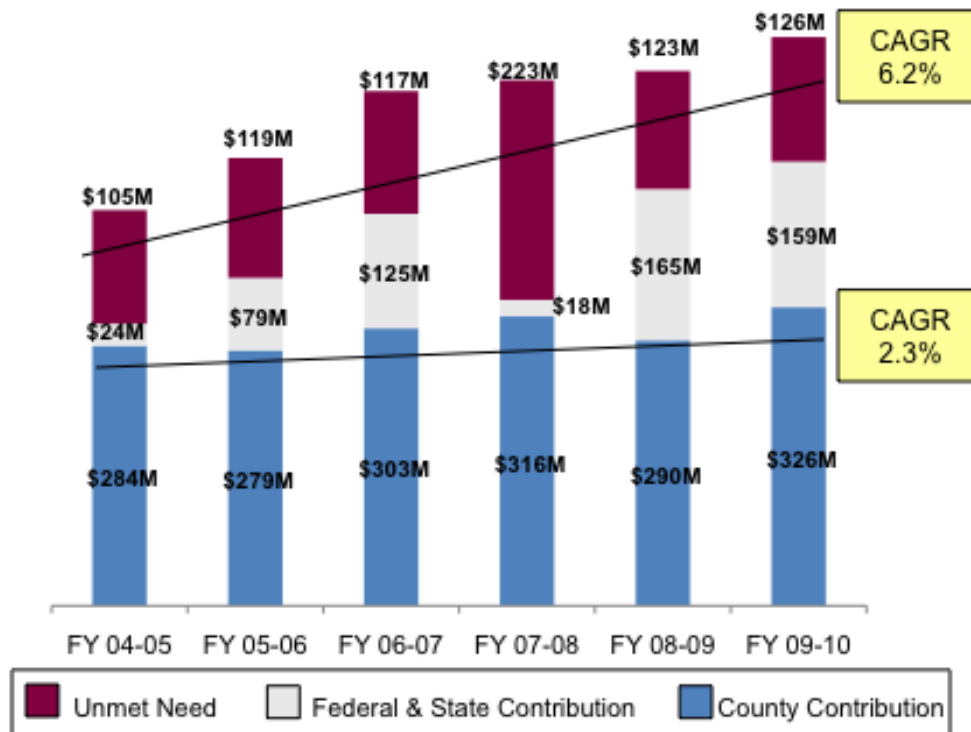
Figure 3.5
County Level of Social Service Program Support



SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. For Orange County, San Bernardino and Sacramento, IHSS figures do not include funding for services; for Santa Clara, IHSS data for FY 04-05 is assumed to be that for FY 05-06, and for FY 09-10 is assumed to be that for FY 08-09.

Turning to transportation, the federal and state governments can also help the counties by taking on a larger and more consistent share of responsibility. Figure 3.6 below illustrates the federal/state and county burdens for Proposition 42 since FY 2004-05. It shows that the transportation workload for counties has grown from \$432 million in FY 2004-05 to \$621 million in FY 2009-10, translating to a CAGR of 6.2 percent over the six years. At the same time, total federal/state and county funding have been insufficient to meet this transportation workload. While county contributions have grown from \$284 million to \$326 million – a CAGR of 2.3 percent – federal/state contributions have been erratic. This primarily reflects the fact that the California Legislature has occasionally withheld transportation-related appropriations or loaned itself transportation funding to help balance the state budget.

Figure 3.6
Federal/State and County Proposition 42 Burdens



SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura.

4. Conclusion

The UCC survey of urban counties on funding contributions for six social service and transportation programs found that these programs are sizable, accounting for over \$10.3 billion in county spending annually. Over the past 6 fiscal years, federal and state support for the social service programs has steadily decreased while the counties' support has increased. In fact, the counties' financial contributions are increasing by about 5.7 percent every year, compared with only a 3.0 percent annual growth in federal and state contributions. With respect to transportation, federal and state support has been erratic.

The shift in responsibility for the social service programs has placed a substantial and growing burden on counties. And generally it has meant an erosion in the real level of benefits over time for program recipients.

What can the federal and state governments do to help? Specifically, they can take a larger role in the Child Welfare Program and Proposition 42. Child Welfare is a sizable program, totaling over \$3.3 billion in FY 2009-10, and over the last six years county funding responsibility has gone from 14.4 percent to 22.1 percent. At the same time, California counties have experienced an annual transportation-funding deficit averaging over \$135 million during the past six years.

Appendix A County Survey Results

Local Contributions Among Eleven Urban Counties

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
CalWORKs	\$91,157,889	\$101,600,616	\$86,093,861	\$106,641,908	\$94,253,954	\$82,516,934
Child Welfare	\$406,950,271	\$516,155,995	\$549,513,232	\$584,268,279	\$685,266,542	\$722,582,215
IHSS	\$236,742,585	\$224,396,731	\$289,562,583	\$294,613,038	\$316,807,804	\$298,016,927
Medi-Cal	\$43,905,670	\$59,115,455	\$53,600,349	\$58,863,512	\$48,938,673	\$53,417,969
Proposition 36	\$200,000	\$400,000	\$1,496,213	\$1,536,182	\$2,035,570	\$3,969,572
Proposition 42	\$284,298,967	\$279,010,084	\$303,016,642	\$316,382,222	\$290,099,252	\$326,000,000
Total	\$1,038,986,583	\$1,156,414,712	\$1,252,398,913	\$1,323,587,215	\$1,391,679,743	\$1,440,109,549

SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. For Orange County, San Bernardino and Sacramento, IHSS figures do not include funding for services; for Santa Clara, IHSS data for FY 04-05 is assumed to be that for FY 05-06, and for FY 09-10 is assumed to be that for FY 08-09.

Federal and State Contributions Among Eleven Urban Counties

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
CalWORKs	\$3,000,247,288	\$2,988,973,324	\$2,948,530,400	\$3,068,059,654	\$3,218,909,901	\$3,336,321,224
Child Welfare	\$2,410,430,670	\$2,448,793,806	\$2,517,625,914	\$2,546,261,742	\$2,513,665,152	\$2,535,315,209
IHSS	\$882,746,354	\$962,315,071	\$1,045,702,740	\$1,209,113,713	\$1,306,804,554	\$1,378,638,443
Medi-Cal	\$1,228,815,673	\$1,321,710,510	\$1,404,853,829	\$1,567,524,771	\$1,619,054,619	\$1,634,729,290
Proposition 36	\$72,305,637	\$75,247,084	\$90,097,075	\$77,385,534	\$65,109,970	\$27,924,272
Proposition 42	\$24,243,005	\$79,412,911	\$125,109,818	\$18,704,936	\$164,844,091	\$159,268,132
Total	\$7,509,433,671	\$7,768,076,126	\$7,992,457,615	\$8,326,696,329	\$8,700,587,329	\$8,885,072,596

SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura. For Orange County, San Bernardino and Sacramento, IHSS figures do not include funding for services; for Santa Clara, IHSS data for FY 04-05 is assumed to be that for FY 05-06, and for FY 09-10 is assumed to be that for FY 08-09.

Caseloads Among Eleven Urban Counties

	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
CalWORKs	463,042	462,857	422,506	428,991	490,902	545,150
Child Welfare	237,200	241,401	234,699	224,297	204,749	193,066
IHSS	424,450	441,672	462,277	501,085	541,879	581,857
Medi-Cal	1,397,867	1,511,727	1,655,977	1,762,032	1,843,319	1,891,903
Proposition 36	39,610	40,643	39,980	37,704	35,434	23,976
Proposition 42	\$432,246,370	\$489,882,104	\$562,382,116	\$575,563,605	\$584,438,465	\$621,355,423
Total	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.

SOURCE: Urban Counties Caucus Survey 2009. Counties in survey include Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Mateo, Santa Clara and Ventura.

Appendix B Bibliography

California Department of Finance, *California Statistical Abstract*, 2009.

Legislative Analyst's Office, *The Budget Package: 2009-10 California Spending Plan*, October, 2009.

Urban Counties Caucus, Program Survey, (Counties in survey include Alameda, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego and Ventura), 2009.



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 26, 2010

Subject: CREATION OF A RECOVERY ZONE UNDER THE PROVISIONS THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FOR THE PURPOSE OF ISSUING RECOVERY ZONE ECONOMIC

RECOMMENDATION(S):

1. ACKNOWLEDGE that the American Reinvestment and Recovery Act of 2009 ("ARRA") provides, among other things, an opportunity for the County to take advantage of a special taxable bond structure known as Recovery Zone Economic Development Bonds ("RZEDBs");
- 2.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☐ APPROVED AS
RECOMMENDED

☒ OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

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

By: June McHuen, Deputy

RECOMMENDATION(S): (CONT'D)

ACKNOWLEDGE that the County would be eligible to receive a direct interest cost subsidy of 45% from the Federal government on an RZEDBs, thereby significantly reducing the net interest cost and making RZEDBs a very cost-effective borrowing tool;

- ACKNOWLEDGE that ARRA provides an allocation of \$10.7 million of RZEDBs to the County that will be forfeited if not used in 2010;
- ACKNOWLEDGE that ARRA requires the Board to designate a “Recovery Zone” in which eligible RZEDB projects will improve the local economy and employment situation;
- ACKNOWLEDGE that the economies in the cities of Richmond, San Pablo, El Cerrito and Hercules in West County would benefit from the replacement of the West County Clinic;
- ADOPT Resolution No. 2010/78 designating West County as a Recovery Zone and designating the proceeds of RZEDBs, in combination with proceeds of traditional lease revenue bonds, to be used toward project costs for the replacement of West County Clinic (attached).

FISCAL IMPACT:

None specifically from this action; however, the eventual overall financing cost versus using traditional lease revenue bonds for the West County Clinic will be reduced by utilizing Recovery Zone Economic Development Bonds.

BACKGROUND:

The County is currently in the process of replacing the Richmond Health Center, a 45 exam room, 32,000 square foot clinic, with a new 50,000 square foot clinic with 60 exam room and all supportive services to be located on leased property on the campus of the Doctors Medical Center in San Pablo, California. The structure is to be an outpatient facility and will include spaces for exam and treatment rooms, medical records, nurses stations, doctor work areas, patient registration, and ancillary services. The facility will be County run and will be independent of the Doctors Medical Center. The Contra Costa County Health Services Department is the largest provider of inpatient and outpatient safety-net services for the uninsured in the County and the Richmond Health Clinic is the largest Federally Qualified health center in the poorest part of the County.

In February 2009, President Obama signed into law the American Reinvestment and Recovery Act of 2009 (“ARRA”) that provides, among other things, a number of special bond structures to induce local governments to undertake shovel-ready projects as a means to create jobs and improve the local economy. One of the special bond structures is known as Recovery Zone Economic Development Bonds (“RZEDBs”). RZEDBs are taxable bonds but provide a direct Federal subsidy of 45% of the interest cost to the local agency. That means that the net interest cost is lower than traditional tax-exempt interest by about 75 to 100 basis points. In order to minimize the cost to the Federal government of funding such an attractive interest subsidy, ARRA provides only limited allocations to local governments and mandates that the allocations be used by the end of 2010. The County has an allocation of \$10.7 million. Also, on December 9, 2009, Contra Costa Health Services received an ARRA facility investment award of \$12 million to support the rebuilding of the Richmond Health Clinic on the campus of Doctor's Medical Center in San Pablo. Additional funding will come from the sale of the old facility, currently estimated to be in the \$5 to \$6 million range.

In order to take advantage of RZEDBs, the Board must adopt a resolution designating a so-called “Recovery Zone”. The Board has very broad discretion is designating a recovery zone and could, for example, declare the entire County as a Recovery Zone in much the same way that Hawaii designated its entire area a Recovery Zone. Because the replacement of the West County Clinic is a critical need, it would be advantageous to declare West County a Recovery Zone and use the RZEDBs to reduce the financing cost of the project. The \$10.7 million allocation will not be sufficient to fund the entire project, but it will be instrumental in reducing the overall financing cost versus using traditional lease revenue bonds for the entire project cost.

The County must deliver an approved resolution declaring a “Recovery Zone” to the California Debt Limit Allocation Committee by January 31, 2010 or the \$10.7 million allocation will revert to the State. The County would then be able to compete for the allocation but there is no guarantee it would win the competition. Thus, it is recommended that the Board adopt the resolution without delay. Staff will return to the Board with a separate proposal to approve the actual issuance of the RZEDBs and traditional lease revenue bonds to fund the West County Clinic.

CONSEQUENCE OF NEGATIVE ACTION:

CHILDREN'S IMPACT STATEMENT:

CLERK'S ADDENDUM

This item considered as item D.1 on today's 1:00 p.m Special Meeting

ATTACHMENTS

Resolution No. 2010/78

Certificate of Deputy Clerk

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

Adopted this Resolution on 01/26/2010 by the following vote:

AYES: ☐
NOES: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2010/78

IN THE MATTER OF:

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF CONTRA COSTA AUTHORIZING THE CREATION OF A
RECOVERY ZONE UNDER THE PROVISIONS THE AMERICAN
RECOVERY AND REINVESTMENT ACT OF 2009 FOR THE PURPOSE
OF ISSUING RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS;
DESIGNATION OF THE PROJECTS TO BE FINANCED WITH THE
RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS AND
RELATED MATTERS**

WHEREAS, Section 1401 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("ARRA"), added §§ 1400U-1 through 1400U-3 to the Internal Revenue Code of 1986 (the "Code"), authorizing state and local governments to issue recovery zone economic development bonds ("Recovery Zone Economic Development Bonds"); and

WHEREAS, Recovery Zone Economic Development Bonds may be issued by each state and counties and large municipalities within each state before January 1, 2011 under §§ 1400U-2 of the Internal Revenue Code ("Code"), as provided in § 1400U-1 of the Code to finance certain "qualified economic development purposes" for use within designated "recovery zones," as described; and

WHEREAS, for purposes of §§ 1400U-1 and 1400U-2 of the Code, the term "recovery zone" means: (1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress; (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and (3) any area for which a designation as an empowerment zone or renewal community is in effect as of the effective date of ARRA, which effective date is February 17, 2009; and

WHEREAS, Section 1400U-2(c) of the Code defines the term "qualified economic development purpose" for purposes of § 1400U-2 of the Code to mean any expenditures for purposes of promoting development or other economic activity in a recovery zone, including (1) capital expenditures paid or incurred with respect to property located in the recovery zone, (2) expenditures for public infrastructure and construction of public facilities, and (3) expenditures for job training and educational programs; and

WHEREAS, eligible issuers of Recovery Zone Economic Development Bonds include States and political subdivisions as defined for purposes of § 103 of the Code; and

WHEREAS, §1400U-1(b) of the Code requires, in part, that issuers "designate" eligible recovery zones based on certain specified criteria; and

WHEREAS, I.R.S. Notice 2009-50 ("Notice 2009-50") provides that for this purpose, any state, county, or large municipality that receives a volume cap allocation for Recovery Zone Economic Development Bonds may make these designations of recovery zones in any reasonable manner as it shall determine in good faith in its discretion; and

WHEREAS, due to a significant decline in assessed valuation and residential and commercial building, the western

portion of the County of Contra Costa, California within the geographical jurisdiction of the cities of Richmond, San Pablo, El Cerrito and Hercules (the "West County") has suffered significant general economic distress; and

WHEREAS, Section 1400U-1(a)(1)(A) of the Code provides that, subject to § 1400U-1(a)(1)(B) of the Code (relating to minimum allocations), generally, the Secretary of the Treasury (the "Secretary") shall allocate the \$10 billion national volume cap for Recovery Zone Economic Development Bonds among the states in the proportion that each state's 2008 state employment decline bears to the aggregate of the 2008 State employment declines for all of the States; and

WHEREAS, Section 1400U-1(a)(3)(A) of the Code provides generally that each state with respect to which an allocation is made under 1400U-1(a)(1) of the Code is required, without discretion, to reallocate such allocation among the counties and large municipalities in such state in the proportion that each county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such state (the "Volume Cap"); and

WHEREAS, for purposes of § 1400U-1(a)(3)(A) of the Code, the term "large municipality" means a municipality with a population of more than 100,000; and

WHEREAS, pursuant to Notice 2009-50, the Department of Treasury ("Treasury") and the Internal Revenue Service undertook to determine these required local suballocations of Volume Cap; and

WHEREAS, pursuant to Notice 2009-50, the local suballocation of volume cap determined by the Treasury to apply to the County of Contra Costa, California (the "County") is \$10,700,000;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Contra Costa, as follows:

Section 1. All of the recitals herein contained are true and correct and the Board of Supervisors of the County (the "Board") so finds.

Section 2. The Board hereby finds that the entire geographic area of the West County is experiencing significant poverty, unemployment, rate of home foreclosures, or general distress for purposes of §1400U-1(b) of the Code.

Section 3. The entire geographic area of West County is hereby designated as a recovery zone for purposes of §1400U-1(b) of the Code.

Section 4. The Board hereby approves the use of the County's local suballocation of volume cap determined by the Treasury in the amount of \$10,700,000 for the purposes of issuing recovery zone economic development bonds (the "Bonds") to finance a portion of the project costs of rebuilding a County-run health clinic in West County and/or other qualifying capital projects located within West County (the "Project").

Section 5. The Board hereby finds that the Project will promote development or other economic activity in such recovery zone.

Section 6. This Resolution shall take effect immediately 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: Lisa Driscoll, County Finance Director (925) 335-1023

ATTESTED: January 26, 2010

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

By: , Deputy

cc: Lisa Driscoll, County Finance Director, Patrick Godley, Chief Financial Officer/Health Services, Steve Ybarra, County Auditor-Controller, William Pollacek, Treasurer-Tax Collector, Jean Buckley, Financial Advisor

CERTIFICATE OF DEPUTY CLERK

The undersigned, Deputy Clerk of the Board of Supervisors of the County of Contra Costa, hereby certifies as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Board of Supervisors of said County duly and regularly held at the regular meeting place thereof on the ____th day of January, 2010, of which meeting all of the members of said Board of Supervisors had due notice and at which a majority thereof were present; and at said meeting said resolution was adopted by the following vote:

AYES:

NOES:

An agenda of said meeting was posted at least 96 hours before said meeting at the County Administration Building, 651 Pine Street, Martinez, California, a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

The foregoing resolution is a full, true and correct copy of the original resolution adopted at said meeting; said resolution has not been amended, modified or rescinded since the date of its adoption; and the same is now in full force and effect.

WITNESS my hand and the seal of the County of Contra Costa this ____th day of January, 2010.

[Seal]

Deputy Clerk of the Board of Supervisors
of the County of Contra Costa,
State of California

**AIR-3012****Deliberation 19.****BOS Agenda****Meeting Date:** 01/26/2010**Time (Duration):** 30 Minutes

Hearing on an Appeal Filed by Tom & Erin Newlin of a County Planning Commission approval of a minor subdivision (Konrad). 2450 Lunada Lane, Alamo

Submitted By: Catherine Kutsuris, Conservation & Development Director**Department:** Conservation & Development**Division:** CD - Advance & Current Planning**Noticed Public Hearing:** Yes**Official Body:** Board of Supervisors**Presenter/Phone, if applicable:****Audio-Visual Needs:** Flat Art Camera**Handling Instructions:****District:** District III**Contact Person, Phone:** Francisco Avila (925) 335-1266**Recommendation(s):**

After accepting any public testimony, and closing of the public hearing:

A. FIND on the basis of the whole record before the Board of Supervisors that there is no substantial evidence that the project will have a significant effect on the environment, and that the proposed Negative Declaration reflects the County's independent judgment and analysis, and that the proposed Negative Declaration is adequate for the purpose of compliance with CEQA.

B. ADOPT the proposed Negative Declaration determination for the project.

C. DENY the appeal of Tom & Erin Newlin.

D. SUSTAIN the County Planning Commission approval of the proposed vesting tentative map application (County File #MS07-00024), as conditioned.

E. ADOPT the findings contained in Board of Supervisor's Resolution No. 2009/536 as the basis for this decision.

F. DIRECT the Department of Conservation and Development to post a Notice of Determination with the County Clerk.

Fiscal Impact:

None. The applicant has paid the necessary application processing fees, and is obligated to pay supplemental fees to recover any and all additional staff time and material costs associated with the application processing.

Background:

This staff report has been prepared on an appeal filed by neighbors of a County Planning Commission decision to approve a minor subdivision application, County File #MS07-00024. The application includes a vesting tentative map which divides the subject one-acre lot into a parcel and a remainder, removal of 15 code-protected trees and installation of the necessary access and stormwater control improvements. The appellants have expressed concerns regarding the aesthetics, tree impacts and Zoning Code compliance of the project. Prior to filing the current appeal, the appellants have previously presented those concerns to both the Zoning Administrator and County Planning Commission. After completing its hearing, the County Planning Commission determined that the conditions of approval for the project that were imposed by the Zoning Administrator are reasonable, and sustained the Zoning Administrator approval decision. The Commission also determined that the neighbors' appeal did not have merit and denied it.

ENVIRONS AND SITE DESCRIPTION

The site is within an area of Alamo, which consists of lots zoned for single-family residential use. Lots in this area tend to be

20,000 square feet or larger. The site is approximately one-acre (43,560 square feet) in size and is rectangular in shape. Site access is provided by Lunada Lane which is a public road. The site's topography ranges between steep slopes on the far northwestern corner to relatively flat where the potential new lot/residence would be located. Twenty nine trees are reported to be on the site, totaling seven different species and varying sizes. A row of valley oak trees and a redwood fence provide a visual break between the rear of the property and the Iron Horse Trail. Onsite development currently consists of one single-family residence, an accessory structure, and two small sheds.

MARCH 9th & 23rd 2009, ZONING ADMINISTRATOR HEARINGS

This subdivision application was initially heard at the March 9, 2009 Zoning Administrator hearing. After opening the public hearing, the Zoning Administrator took testimony from the applicant's legal representative (applicant) as well as the appellant. After completion of the public testimony, the Zoning Administrator closed the hearing and continued the matter to March 23, 2009 for a decision.

At the March 23rd hearing, the Zoning Administrator approved the subdivision request subject to modified conditions of approval (attached). As part of those modifications, the Zoning Administrator elected to add several tree protective measures to the project. Additionally, the Zoning Administrator required that those conditions be met prior to the filing of the parcel map.

Following that decision, two neighbors (Newlins and Zarlings) appealed that decision to the County Planning Commission. It should be noted that the applicant, reached a settlement with the Zarlings prior to the scheduled October 13, 2009 hearing. However, no settlement was reached with the Newlins, and staff scheduled a hearing on their appeal.

OCTOBER 13, 2009 COUNTY PLANNING COMMISSION HEARING AND DECISION ON NEIGHBORS' APPEAL

At the October 13, 2009 County Planning Commission hearing, staff reviewed the appeal of the Zoning Administrator decision, but recommended that it be denied and that the Zoning Administrator decision be sustained. The staff report reviewed several arborist reports that had been prepared on the project.

The Commission considered this appeal acting in its role as the Appeals Board. The Commission received testimony from the applicant's legal counsel, and then from the appellant, Mr. Newlin. Mr. Newlin objected to:

- The project's potential negative effect of soil compaction on the root system of his two valley oak trees due to the installation of the proposed driveway to serve Parcel A;
- The area encompassed by the proposed driveway should not be counted toward the overall area calculation of the two resulting parcels;
- That a Cedar tree (#578 in Hobbs Arborist Report, attached), is actually on his (Mr. Newlin's) property although on the Konrad's side of their common fence, and should not be removed as part of this application.

After accepting the public testimony and closing the hearing, the Commission concurred with the staff recommendation, and unanimously voted to deny the appeal and sustain the Zoning Administrator's approval of the minor subdivision application.

APPEAL OF THE COUNTY PLANNING COMMISSION DECISION

Following the Commission's decision, the Newlins filed an appeal of that decision. In the appeal letter dated October 23, 2009, the appellants reiterate the points presented during the 2009 Zoning Administrator and County Planning Commission hearings. Below is a summation of the appeal points and staff's response to those appeal points:

1. Summary of Appeal Point "Tree Protection": *The appellant contends that the planned driveway will be detrimental to the two large valley oak trees directly north of the proposed driveway. As part of the appeal package, the appellant included an arborist report dated March 19, 2009, prepared by E.L. Hobbs Company. In that report, Mr. Hobbs states that the valley oak trees are in good health. He concludes that the planned improvements will be particularly stressful to Trees #1 (18-inch Western Red Cedar) and #2 (21.5-inch Coastal Redwood), which are located on the appellants' property.*

Staff Response: Two separate arborists retained by the applicant have evaluated and reported on the potential impacts that the proposed driveway may have on Trees #1 and #2. The arborist report prepared by Mr. Yniguez included several mitigation measures that are intended to specifically reduce the likelihood that installation of the driveway may damage the appellants' trees. Two examples of protective measures are: the use of a pervious driveway material which allows water to reach the tree's root system, and secondly, the use of an "air spade". An "air spade" allows a contractor to expose roots safely to prevent unnecessary damage to the tree.

The County Planning Commission concurred with the Zoning Administrator and required these measures to be added to the improvement plans for this subdivision as a condition of approval. In addition, the conditions required that a qualified arborist be present to oversee any construction activity within the area surrounding the two valley oak trees. It was determined by the County Planning Commission that these measures were sufficient to protect the subject trees and that no other tree protection measures were required.

2. Summary of Appeal Point "R-20 Minimum Requirements": *The Appellants contend the area within the proposed access easement should be deducted from the overall square-footage of parcel A and remainder parcel.*

Staff Response: County Code Section 82-4.244(c), states "Right of way Excluded. No part, nor all, of a lot within a public road, street, highway, right-of-way, or easement, for vehicles or pedestrians, existing or proposed, shall be used to satisfy minimum area, yard, dimensional or coverage requirements." As highlighted, this section of the County Code strictly applies to roads that are maintained by a public entity. A privately-maintained road such as the one proposed with this project does not constitute a public road. Rather, the private road would be limited to accessing Parcel A and is

not a public right of way. Thus, the square-footage of the access easement is not subtracted from the gross area calculation of either lot.

3. Summary of Appeal Point "Vegetative Screening/Landscape Plan": *The Appellants contend that the required landscaping plan is insufficient for the project.*

Staff Response: No analysis or evidence is offered to support this appeal point. The Zoning Administrator and County Planning Commission have both reviewed the requirements of the Planting and Irrigation Plan (COA #8 (a)) and have determined that the required six 15-gallon coast live oak trees and eight 1-gallon shrubs, are sufficient as mitigation for the project's effects on existing plants. Additionally, the Zoning Administrator modified this condition to require that the Landscape and Irrigation Plan be prepared by a licensed arborist or Landscape architect. The plan would have to be submitted for review and approval of the Zoning Administrator prior to the filing of the Parcel Map.

ADDITIONAL CONCERNS OF THE APPELLANT

As part of the appeal package, Mr. Newlin included a written statement that was submitted to the County Planning Commission at the October 13, 2009 public hearing. Within that letter, the appellant raises the following concerns:

1. Concern "Restitution for Tree Damage": *The appellant is concerned that the effects to oak tree number one and two may take up to five years to be evident after the installation of the driveway. The appellant proposes to extend the time period for restitution (should the trees be damaged) to at least 5 years (currently 2 years).*

Staff Response: Both the Zoning Administrator and Planning Commission approved the two year tree restoration bond length requirement which is consistent with the landscape improvement security provisions in the County Tree Protection Ordinance.

2. Concern "Supervising Arborist": *The appellant requests that a mutually agreed upon arborist be present at the site during construction activities and impose specific penalties if construction continues when no arborist is supervising.*

Staff Response: Imposing this condition would not be appropriate insofar as it may give control over the project to the neighbor and not keep the administration of the project between the County and the applicant.

APPELLANTS' HERITAGE TREE NOMINATION APPLICATION, COUNTY FILE #HT08-0003

Mr. Newlin has filed a Heritage Tree Nomination application with the County, File #HT08-0003, in an attempt to affect the processing of this minor-subdivision application. That Heritage Tree application refers to two valley oak trees on Mr. Newlin's property (Trees #1 & #2) and one other valley oak tree (Tree #3) at the subdivision site (see attached tree location map). The three Valley Oak trees range from 25 to 45-inches in diameter and are reported to be in good health. Tree #1 and #2 are located on the Appellants' property and Tree #3 is located at the northeast corner of Mr. Konrad's property (see attached tree map).

Provisions of the Subdivision Map Act Pertinent to this Application

As detailed in the attached Zoning Administrator and County Planning Commission staff reports, Section 66474.2 (a) of the Subdivision Map Act requires that the "local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete". This subdivision application was filed with the County in November of 2007 and was deemed complete on March 28, 2008 (four months prior to the filing of Mr. Newlin's Heritage Tree application, July 30, 2008).

Furthermore, Mr. Newlin's Heritage Tree application was not approved by the Board of Supervisors prior to this subdivision application being deemed complete. Thus, the Heritage Tree application is not applicable to the review of this subdivision application per state law.

It should also be noted that the three valley oak trees are considered protected under the County's 1998 Tree Protection Ordinance. That protected status provides the subject trees with an equivalent degree of protection that a Heritage Tree designation would provide. Hence, there is no material difference in the County's review of the project as the trees are currently protected and are not proposed to be removed.

County Planning Commission 10/13/2009 Hearing on Heritage Tree Nomination

Per the Heritage Tree Preservation District Ordinance, the County Planning Commission must first determine if there is merit in a Heritage Tree application and if the Commission makes that determination, nominate the designation to the Board of Supervisors. On October 13, 2009, the County Planning Commission conducted a hearing on Mr. Newlin's Heritage Tree application.

It should be noted that this hearing was scheduled for the same meeting that the County Planning Commission heard and denied Mr. Newlin's appeal of this minor subdivision. As a result of that decision, Mr. Newlin left the hearing chambers prior to his heritage tree nomination application being opened for public comment. Nevertheless, the applicant of this subdivision application remained at the hearing. He testified that Mr. Konrad supports the nomination of Trees #1 and #2, but is in opposition to the nomination of Tree #3 which is located on his property. The Applicant testified that Tree #3 has been severely trimmed in the past and has begun to lean precariously toward Mr. Konrad's property. Mr. Konrad's concern is that, if the tree were to receive a heritage status and becomes a safety hazard in the future, that Heritage status would make it more difficult to address.

Upon the conclusion of public testimony on that Heritage Tree application, the Commission continued the hearing to January 26 to allow Mr. Newlin an opportunity to testify on behalf of his request.

DISCUSSION

The subdivision request:

- Is consistent with the Single Family Residential - Low General Plan designation and the Single Family Residential, R-20 Zoning standards for the site;
- As conditioned, contains tree protection measures aimed at specifically preserving the health of the three valley oak trees near the project site; and
- Includes conditions that require the applicant to produce a landscaping plan intended to provide additional vegetative screening between the appellant's property and the subject site.

Staff also understands that the Applicant and Appellants were trying to see if a settlement could be reached. However, at the time of preparation of this report, staff has received no word on from these parties that a settlement has been reached.

Statutory Time Limits that Apply to Processing of Appeals of Subdivision Decisions, and Caution Should be Exercised Prior to the Board Considering Closing the Hearing on this Appeal

The Map Act imposes time limits on the County and other local agencies on the processing of appeals of subdivision decisions. Government Code section 66452.5 (d)(1) provides that any interested person adversely affected by a decision of the appeal board (Planning Commission) may file an appeal with the Board of Supervisors concerning any decision of the appeal board. Normally, the State law would require that this appeal be scheduled for hearing within 30 days of the receipt of the appeal (in this case, by November 22, 2009). However, pursuant to Government Code section 66451.1 (a), the Applicant and the County mutually agreed to delay an initial hearing on this appeal to January 26, 2010.

Government Code section 66452.5 (d)(2) provides that upon conclusion of the hearing on an appeal, the Board of Supervisors *shall, within 10 days declare its findings* based upon the testimony and documents produced before it. Pursuant to Government Code section 66452.5 (c)(2), if the Board fails to act upon an appeal within this time limit, this law provides that the tentative map, insofar as it complies with applicable requirements of the Map Act and the Subdivision Ordinance, shall be deemed approved or conditionally approved as last conditionally approved by the Planning Commission, and it shall be the duty of the Clerk of the Board to certify or state that approval.

The Board may sustain, modify, reject or overrule any ruling of the appeal board and may make any findings that are not inconsistent with the Map Act or the County Subdivision Ordinance. The Board may also continue the hearing on the appeal.

To avoid a potentially undesirable and automatic approval, the Board should exercise caution prior to closing the hearing on this appeal.

CONCLUSION

The appeal points are similar to what were presented to the Zoning Administrator and County Planning Commission and offer little new information. The project as proposed conforms to the development standards as required by the R-20 Zoning District and SL-General Plan designations. Therefore, staff recommends that the Board of Supervisors deny the appeal and sustain the County Planning Commission's decision.

Consequence of Negative Action:

Not Applicable

Children's Impact Statement:

Not Applicable

In The Matter Of:

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, REGARDING THE APPLICATION BY KB CONSULTING & MANAGEMENT (APPLICANTS), MICHAEL KONRAD (OWNER), TOM & ERIN NEWLIN (APPELLANT); REQUESTING APPROVAL OF A VESTING TENTATIVE MAP TO SUBDIVIDE A 1-ACRE PARCEL INTO ONE PARCEL AND A REMAINDER, (COUNTY FILE #MS07-00024), AT 2450 LUNADA LANE IN THE ALAMO AREA.

Body:

WHEREAS, On November 26, 2007, KB Consulting & Management (Applicants), Michael Konrad (Owner) filed a minor subdivision application with the Department of Conservation and Development, Community Development Division, requesting approval of a vesting tentative map to subdivide a 1-acre parcel into one parcel and a remainder in the unincorporated Alamo area of Contra Costa County; and

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines, a Negative Declaration was prepared and circulated for review and comment between May 29, 2008 and June 18, 2008; and

WHEREAS, after notice having been lawfully given, the County Zoning Administrator held a public hearing on two dates, March 9, 2009 and March 23, 2009, at which time all persons interested were provided the opportunity to testify on the application to modify the application; and,

WHEREAS, on March 23, 2009, the County Zoning Administrator having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter, approved the subdivision application; and

WHEREAS, on April 2, 2009, two neighbors, the Newlins and Zarlings filed an appeal of the Zoning Administrator's approval of this minor subdivision application, County File #MS07-00024; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the County Planning Commission on Tuesday, October 13, 2009, at which time the applicant and appellant testified and all persons interested therein might appear and be heard; and

WHEREAS, on October 13, 2009, the County Planning Commission having fully considered all testimony and evidence presented in this matter, by a vote 5-0, DENIED the appeal and SUSTAINED the Zoning Administrator's approval of the vesting tentative map allowing for one parcel and a remainder (County File MS07-00024), subject to the recommended conditions of approval; and

WHEREAS, there was an appeal of the County Planning Commission's decision filed by a neighbor, Tom & Erin Newlin on October 22, 2009; and

WHEREAS, the Applicant and the County on two occasions mutually agreed to extend the initial hearing date on the Newlin Appeal, the latter extension of time for the initial hearing was made on December 8, 2009, which agreed to extend the date of the initial hearing to January 26, 2010; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the Board of Supervisors on Tuesday, January 26, 2010, at which time all persons interested therein might appear and be heard; and

Now, Therefore, Be It Resolved:

BE IT RESOLVED that the Board of Supervisors makes the following findings with respect to General Plan and ordinance provisions:

A. Growth Management Findings:

1. *Traffic*: The future development of the one parcel will not generate a significant amount of additional AM and PM peak hour trips. Therefore, the applicant is not required to prepare a traffic report pursuant to the 1988 Measure C requirements.
2. *Water*: Water service is available to the site by EBMUD. Once the property is subdivided, separate services for each lot will be required. A main extension, at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department.
3. *Sanitary Sewer*: Sewer service will be provided by Central Sanitary District.
4. *Fire Protection*: The project site is within the San Ramon Valley Fire Protection District. The slight increase in demand for fire protection services would be mitigated by the tax assessment of the property.
5. *Public Protection*: The Growth Management Element standard is 155 square feet of Sheriff's facilities per 1,000 members of the population. The population increase associated with this subdivision is insignificant. The impact to police services is mitigated by a fee prior to issuance of the residential building permit for the one additional parcel.
6. *Park & Recreation*: The proposed subdivision would have a minor cumulative effect on demand for park and recreation facilities. The impact to park and recreation facilities is mitigated by a fee prior to issuance of the residential building permits for the new parcel.
7. *Flood Control & Drainage*: The project is subject to Division 914 of the County Ordinance Code, which requires all stormwater entering and/or originating on this property to be collected and conveyed without diversion and within an adequate storm drainage system. The nearest drainage facility is

located immediately northeast of the subject site within the Iron Horse Trail corridor. The Public Works Department has indicated that the applicant is required to verify the adequacy of this facility prior to discharging stormwater runoff.

B. Findings to Approve a Tentative Map:

1. Required Finding: *The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable General and specific plans required by law.*

Project Finding: The land use designation is Single-Family Residential Low-Density (SL), which limits density to 1.0 to 2.9 units per net acre. The tentative map provides for two residential lots within the 1.0 acre parcel, thereby meeting the density limitation. The applicant is not proposing to rezone the project site. The proposed lots conform to all the area and dimensional requirements for the R-20 zoning district. Thus, the project is consistent with the Alamo-Diablo-Blackhawk Area policies stated in the Land Use Element of the General Plan. To be consistent with Policy #3-120, which requires that development in the Alamo area be reviewed to ensure the continued rural character of the area, future development of a residence on Parcel A shall be restricted to a height of 28 feet. The design of the proposed off-site drainage line shall minimize any adverse effect on existing trees within the Iron Horse Trail Corridor. An Initial Study has been prepared for the project, which concluded that the proposed project should not have a significant effect on the environment.

2. Required Finding: *The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.*

Project Finding: The proposed project only requires construction for the necessary access improvements. The Public Works Department has indicated that the applicant is required to verify the adequacy of the intended drainage facility prior to discharging storm water runoff. It is anticipated that one new residence will be constructed as a result of this application. The applicant will be required to comply with all applicable Building Codes at the time of Building Permit issuance.

C. Criteria for Review of the Tree Permit:

1. Required Factors for Granting Permit. The Zoning Administrator is satisfied that the following factors, as provided by County Code Section 816-6.8010 for granting a tree permit, have been satisfied as marked:

- ☐ A. The arborist report indicates that the subject 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.
- ☐ C. The tree is in danger of falling and cannot be saved by some other means.
- ☐ 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.
- ☒ G. Reasonable development of the property would require the alteration or removal of the trees 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.
- ☐ J. None of the above factors apply.

2. Required Factors for Denying a Tree Permit. The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:

- ☐ 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 non-discretionary permits).
- ☐ B. It is reasonably likely that alteration or removal of a healthy tree will cause problems with drainage, erosion control, land suitability, 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 of Conservation and Development.
- ☒ G. None of the above factors apply.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors ("this Board") take the following actions:

1. SUSTAINS the decision of the County Planning Commission to approve the vesting tentative map.
2. FINDS on the basis of the whole record before the Board that there is no substantial evidence that the project will have a significant effect on the environment, and that the Negative Declaration reflects the County's independent judgment and

analysis, and that the proposed Negative Declaration is adequate for the purpose of compliance with CEQA and ADOPTS the Negative Declaration for the project. In support of these actions and conclusions, this Board ADOPTS the CEQA findings. This Board adopts these findings specifically for each of the approvals and entitlements it approves or recommends for approval for the project.

3. APPROVES the proposed vesting tentative map and subdivision application, (County File #MS07-00024), subject to conditions.

4. DIRECTS the Department of Conservation and Development to post the Notice of Determination with the County Clerk.

Fiscal Impact

Attachments

[CPC Resolution 22-2009](#)

[Appeal Letter](#)

[Conditions of Approval](#)

[CPC Staff Report](#)

[ZA Staff Report](#)

[Tree Location Map](#)

[Yniguez Report](#)

[Brennon Report](#)

[Hobbs Report](#)

[Maps](#)

[Tentative Map](#)

Minutes Attachments

No file(s) attached.

**COUNTY PLANNING COMMISSION
RESOLUTION NO. 22-2009**

RESOLUTION NO. 22-2009

RESOLUTION OF THE COUNTY PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, OF AN APPROVAL OF A VESTING TENTATIVE MAP TO SUBDIVIDE A 1-ACRE PARCEL INTO ONE PARCEL AND A REMAINDER. KB CONSULTING AND MANAGEMENT (APPLICANTS), MICHAEL KONRAD (OWNER), TOM & ERIN NEWLIN (APPELLANTS) (County File #MS07-00024) AT 2450 LUNADA LANE IN THE ALAMO AREA.

WHEREAS, on November 26, 2007, KB Consulting & Management submitted a Minor Subdivision application requesting approval of a vesting tentative map to subdivide a 1-acre parcel into one parcel and a remainder in the Alamo area of Contra Costa County; and

WHEREAS, after a notice having been lawfully given, a public hearing on the request for a approval of a vesting tentative map was scheduled before the County Zoning Administrator on Monday, March 9, 2009, at which time public testimony was taken from the applicant, as well as all interested parties then continued to Monday, March 23, 2009; and

WHEREAS, on Monday, March 23, 2009, the County Zoning Administrator having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter; approved the vesting tentative map request subject to conditions of approval; and

WHEREAS, on Thursday, April 2, 2009, two neighbors, the Newlins and Zarlings filed an appeal of the Zoning Administrator's approval of the subdivision request; and

WHEREAS, after a notice having been lawfully given, a public hearing on the appeal of the Zoning Administrator's approval of the Minor Subdivision request was scheduled before the County Planning Commission on Tuesday, October 13, 2009, at which time all persons interested were provided the opportunity to testify on the Minor Subdivision application; and

NOW, THEREFORE BE IT RESOLVED that the County Planning Commission:

1. Denies the appeal filed by Tom & Erin Newlin (Appellants).
2. In accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the County CEQA Guidelines (together "CEQA"), finds the proposed Negative Declaration is adequate for the project. In support of these actions and conclusions, this Commission ADOPTS the CEQA findings. This Commission adopts these findings specifically for each of the approvals and entitlements it approves or recommends for approval for the project.

This Commission certifies that it has been presented with the Initial Study and has reviewed and considered the information contained in the Initial Study and the other information in the record prior to making the following recommendations, determinations and findings. The Commission further certifies that the Initial Study reflects the lead agency's independent judgment and analysis, and that the Initial Study has been completed in compliance with the CEQA regulations.

3. SUSTAINS the Zoning Administrator's decision and APPROVES the vesting tentative map allowing for the minor subdivision, File #MS07-00024, subject to conditions of approval.

BE IT FURTHER RESOLVED, that the County Planning Commission makes the following findings with respect to ordinance provisions:

A. Growth Management Findings:

1. Traffic: The future development of the one parcel will not generate a significant amount of additional AM and PM peak hour trips. Therefore, the applicant is not required to prepare a traffic report pursuant to the 1988 Measure C requirements.
2. Water: Water service is available to the site by EBMUD. Once the property is subdivided, separate services for each lot will be required. A main extension, at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department.
3. Sanitary Sewer: Sewer service will be provided by Central Sanitary District.
4. Fire Protection: The project site is within the San Ramon Valley Fire Protection District. The slight increase in demand for fire protection services would be mitigated by the tax assessment of the property.
5. Public Protection: The Growth Management Element standard is 155 square feet of Sheriff's facilities per 1,000 members of the population. The population increase associated with this subdivision is insignificant. The impact to police services is mitigated by a fee prior to issuance of the residential building permit for the one additional parcel.
6. Park & Recreation: The proposed subdivision would have a minor cumulative effect on demand for park and recreation facilities. The impact to park and recreation facilities is mitigated by a fee prior to issuance of the residential building permits for the new parcel.

7. Flood Control & Drainage: The project is subject to Division 914 of the County Ordinance Code, which requires all stormwater entering and/or originating on this property to be collected and conveyed without diversion and within an adequate storm drainage system. The nearest drainage facility is located immediately northeast of the subject site within the Iron Horse Trail Corridor. The Public Works Department has indicated that the applicant is required to verify the adequacy of this facility prior to discharging stormwater runoff.

B. Findings to Approve a Tentative Map:

1. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable General and specific plans required by law.

Project Finding: The land use designation is Single-Family Residential Low-Density (SL), which limits density to 1.0 to 2.9 units per net acre. The tentative map provides for two residential lots within the 1.0 acre parcel, thereby meeting the density limitation. The applicant is not proposing to rezone the project site. The proposed lots conform to all the area and dimensional requirements for the R-20 zoning district. Thus, the project is consistent with the Alamo-Diablo-Blackhawk Area policies stated in the Land Use Element of the General Plan. To be consistent with Policy #3-120 which requires that development in the Alamo area be reviewed to ensure the continued rural character of the area, future development of a residence on Parcel A shall be restricted to a height of 28 feet. The design of the proposed off-site drainage line shall minimize any adverse effect on existing trees within the Iron Horse Trail Corridor. An Initial Study has been prepared for the project, which concluded that the proposed project should not have a significant effect on the environment.

2. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: The proposed project only requires construction for the necessary access improvements. The Public Works Department has indicated that the applicant is required to verify the adequacy of the intended drainage facility prior to discharging stormwater runoff. It is anticipated that one new residence will be constructed as a result of this application. The applicant will be required to comply with all applicable Building Codes at the time of Building Permit issuance.

C. Criteria for Review of the Tree Permit:

1. **Required Factors for Granting Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied as marked:
- ☐ A. The arborist report indicates that the subject 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.
 - ☐ C. The tree is in danger of falling and cannot be saved by some other means.
 - ☐ 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.
 - ☒ G. Reasonable development of the property would require the alteration or removal of the trees 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.
 - ☐ J. None of the above factors apply.

2. **Required Factors for Denying a Tree Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:

- ☐ 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 non-discretionary permits).
- ☐ B. It is reasonably likely that alteration or removal of a healthy tree will cause problems with drainage, erosion control, land suitability, 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 Department of Conservation and Development Director.
- ☒ G. None of the above factors apply.

BE IT FURTHER RESOLVED that the Secretary of the County Planning Commission will sign and attest the certified copy of this resolution and deliver the same to the Board of Supervisors, all in accordance with the Government Code of the State of California.

The instructions by the County Planning Commission to prepare this resolution were given by motion of the County Planning Commission on Tuesday, October 13, 2009, by the following vote:

AYES: Commissioners - Terrell, Clark, Battaglia, Gaddis, Snyder, Wong and Murray

NOES: Commissioners - None

ABSENT: Commissioners - None


ABSTAIN: Commissioners - None

Whereas, following the October 13, 2009 decision of the County Planning Commission to approve the requested Minor Subdivision application, on October 22, 2009, Tom & Erin Newlin filed an appeal of the County Planning Commission's decision to the Board of Supervisors.

Michael Murray,
Chairman of the County Planning Commission,
County of Contra Costa, State of California

I, Catherine O. Kutsuris, Secretary of the County Planning Commission, certify that the foregoing was duly called and Approved on October 13, 2009.

ATTEST:



Catherine Kutsuris, Secretary
County Planning Commission
County of Contra Costa
State of California

NEWLIN APPEAL LETTER,
(DATED OCTOBER 23, 2009)

October 23, 2009

Tom & Erin Newlin
2444 Lunada Lane
Alamo, Ca 94507

File#MS07-0024

Appeal of Decision by County Planning Commission on October 13, 2009

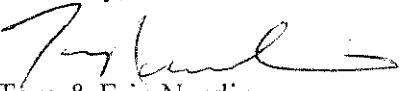
This letter is to formally appeal the decision of the County Planning Commission to deny our appeal of the decision of the county planner.

The reasons for our appeal include:

- Tree Protection for old growth oaks on our property and adjacent property
- R-20 minimum requirements being met
- Vegetative screening to be done in replacement of the code protected trees to be removed.

For all three of these points, please refer to the attached materials in support of our appeal.

Sincerely,


Tom & Erin Newlin



CENTRA COSTA
2009 OCT 23 PM 3:05
APPLICATION & PERMIT CENTER

October 13, 2009

To: Board of Appeals, County Planning Commission

From: Tom & Erin Newlin
2444 Lunada Lane
Alamo, Ca 94507

RE: Appeal to allow subdivision at 3450 Lunada Lane, Alamo MS0700024

Our original opposition to the subdivision was stated at the March 9, 2009 hearing, and then after the sub division was approved on March 23, 2009, we submitted an appeal on April 1, 2009.

It must first be noted that county staff has had the appeal for six months. We were notified of the October 13 hearing date by mail on October 3. I contacted Francisco Avila on Monday, October 5 to ascertain the procedures for the hearing. He indicated that a document package had been mailed to us with all the information. We received that package on Thursday, October 8.

This gave us only three working days to review the documents, gather information and prepare our response. This was further complicated by the fact that the county offices were on furlough on Monday, October 12. We feel this is unfair to the appellants and biased toward the applicant.

Some of the points of our appeal were responded to by county staff. Our rebuttal is as follows:

1. Tree Protection: Staff elected to side with the reports from the applicant's arborists reports rather than our arborist's report. We state again that ANY construction around these trees will be detrimental to them. Attached are the original documents we supplied and a report from the University of Minnesota that "soil compaction is one of the most common killers of urban trees." Regardless of the type of material used for the proposed driveway, soil compaction will be required to properly construct the driveway. In addition, the county has required another project to revamp their plans because the proposed cottage encroached less than six (6) feet on the drip line of an oak tree (Diddion application, 3327 Freeman Rd, Lafayette). The proposed driveway for this subdivision will be within six to eight feet of the trunks of the oaks in question.

2. Heritage Tree Application: Staff suggests that the heritage Tree application "does not appear to be a legal binding consideration" since the application for the subdivision was completed before the Heritage Tree application. We do not feel this is valid since both were in the application stage and nothing had been approved. In fact, the Heritage Tree application was submitted on July 30, 2008 and has been held up by county staff to this point.

3. R-20 Minimum Requirements: Staff concludes from County Code section 82-4.244(c) that the driveway should be included in the calculation for the minimum square footage requirement for the R-20 lot. We dispute this with the letter from Mr. David Bowie, attorney which is attached. We also enter into record the possibility of a prescriptive easement as described in the same letter which would further reduce the lot size and not meet the R-20 requirement.

4. Vegetative Screening: Staff concludes that six 15 gallon oak trees and eight 1 gallon shrubs are sufficient screening for both the north and south properties. We restate our objection to this, specifically that there are 15 code protected trees to be removed for the project. Most of these are on the Newlin Konrad property line and are mature trees 40 to 50 feet tall. The replacement of six 15-gallon oak trees and eight 1-gallon shrubs does not nearly compensate for the removal of the code protected trees on the Newlin-Konrad property line, let alone any screening for the Zarling-Konrad property line.

Staff also indicates that applicant will “remain amiable to meeting with the neighbors to address their concern.” Again, we take exception to this since we met with the applicant in May and presented a landscape plan that applicant indicated seemed to be a viable plan that could be implemented. As of this date, the plan is still with the minimal landscaping and no further negotiations have been planned.

The last three points of our appeal were not addressed by the staff report.

Restitution for Tree Damage:

Section 9 of the COA states the specifics for the restitution for damaged trees. This section only allows for a two year time period. Mr. Hobbs as well as Mr. Mike Cleary of Cleary Brothers Landscape Construction Company both stated to us that the type of construction that is to be done could take as many as five years or more to show detrimental effects to the trees. We feel that the time period for restitution should be increased to at least 5 years.

Also, the restitution to replace these trees is woefully inadequate for the trees in question. Mr. Hobbs stated that there is an accepted guideline by the American Society of Arborists to determine the value of a specific tree. We would like to have this calculation done at the expense of the applicant and to be included in the COA.

Also, the cost for removal of the damaged tree, plus any property or personal damage caused by the falling of the tree or parts of the tree due to its deterioration should also be included in the COA.

Supervising Arborist:

Section 29. A. of the COA requires that a licensed arborist “shall review the plans to determine how the drainage line can be designed so as to avoid any significant damage to existing trees . . .” The next paragraph also states “an arborist shall have responsibility for supervising construction . . .”

We request that the arborist be a mutually agreed upon individual who has not previously prepared reports for this project. Also, if the arborist is not on site, it should be stated that no construction work can be done and specific penalties imposed if construction continues when no arborist is supervising.

Tree Removal:

There is a Cedar tree (#578 in Hobbs report) that is currently on the south side of the existing fence. This tree is tagged with #578 and may be included in the plan to be removed (we never received a list of the trees to be removed). According to the parcel map submitted by the applicant, the fence is actually in the wrong location and this tree is actually on the property of 2444 Lunada Lane.

If this project is to be approved, before any trees are removed, we request that all lot lines be verified and that we be notified of such before any work is to begin.

March 9, 2009

Contra Costa County Community Development Division
RE: Minor Subdivision #MS0700024

We oppose this subdivision for the following reasons:

1. We take exception to the Evaluation of Environmental Impacts report that indicates "No Impact" on the aesthetics of the immediate area. Section I. a., I. b., and I. c. on page 5. By removing 15 code protected trees there will be a significant impact on the scenic vista from our property (section I. a.) and degrade the visual character of the site and its surroundings (section I.c.) We originally stated this concern in a letter dated June 11, 2008 that was sent to the Community Development Department within the prescribed time. However, our letter was not addressed in the "County Zoning Report" as were letters from other neighbors.
2. We take exception to the Findings & Conditions of Approval, section B Required Factors For Denying a Tree Permit (page 3) which is marked # 7. None of the above factors apply. We feel that several of the factors listed do apply including #1 – the driveway could be put on the other side of the property where only one of two trees would be removed; #2 removal of the trees will cause problems with privacy that cannot be mitigated. We also feel that items 4 and 5 also apply. (copy attached)
3. Allowing the height of the new structure to be 28 feet will obstruct our current views of the Iron Horse trail and Mt. Diablo.
4. We are extremely concerned about any work that would be done around the old growth Valley Oak Trees on our property and the Iron Horse Trail. We take exception to the arborist report prepared by Mr. Dennis Yniquez that states work should be allowed around these trees. I spoke with Mr. Ed Hobbs of EI Hobbs Company, a certified arborist, and Mr. Mike Cleary of Cleary Brothers Landscape Construction Company. Both of these gentlemen indicated to me that no work should be done within the drip zone of the trees. Any heavy equipment use, compaction of soil, or trenching within the drip zone of the trees would be very damaging to the trees. I called Mr. Yniquez to question him about his report and he refused to discuss it with me. Also attached is an article from Tree Care Industry magazine which is published by the National Arborists Association. This article titled "A Team Approach to Avoiding and Mitigating Construction Damage to Trees" specifically states "The tree protection zone (TPZ) is the area around the tree or groups of trees in which no grading, excavation, or construction activity is to occur." The article includes a chart showing how to calculate the TPZ for a specific tree. The generally accepted practice is one foot for every inch of diameter of the tree. The Valley Oaks in question are several feet in diameter and the proposed driveway will be laid within 10 feet of these trees. Also, a drainage trench is proposed to be dug within just a few feet of other Valley Oaks at the rear of our property and on the Iron Horse Trail. Because of time constraints, we were unable to secure written reports from Mr. Hobbs and Mr. Cleary. We were never sent the reports and plans. We only got a copy of the reports and plans on March 4th from our neighbor, Mr. Zarling.
5. Should the plan be approved, there is not sufficient compensation required if any trees that are to remain are damaged or destroyed due to the construction. The statement in section 9.A. of the Findings & Conditions of Approval is vague and does not specifically address any damage to large trees that cannot be replaced in kind and size. A construction plan for the California Memorial Stadium at UC Berkeley (copy enclosed)

includes in section 02335 - Tree Protection and Arboriculture a specific statement for restitution for damaged trees on page 3 of the section. This calls for compensation of \$1,000 per inch of diameter for any damaged trees. Also, section 9.A. of the Findings & Conditions of Approval does not specifically state who would be liable for damage to the trees. What happens if the trees die in a year or two after the construction?

Another point of contention is that we have been routinely left off of any mailings or notifications of this project. We were never notified of the original meeting with the Alamo Improvement Association, a previous public hearing, and also never received the reports and plans just recently sent out.

Tom & Erin Newlin
2444 Lunada Lane
Alamo, Ca 94507

EVALUATION OF ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. <u>AESTHETICS</u> - Would the project:				
a. Have a substantial adverse effect on a scenic vista? (Sources:1,3,5)	_____	_____	_____	X
b. Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Source: 1,3,5)	_____	_____	_____	X
c. Substantially degrade the existing visual character or quality of the site and its surroundings? (Sources: 1,3,5)	_____	_____	_____	X
d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area? (Sources:1,3,5)	_____	_____	X	_____

Summary: *LESS THAN SIGNIFICANT*. The property is not within an area classified by the Contra Costa County General Plan as a scenic vista. The project will create new sources of glare and light predominantly during the dusk and night hours of any given day as a result of the proposed new buildings, surface parking and/or other improvements on site. This type of alteration of visual character is consistent with the surrounding properties and would be a less than significant impact.

II. AGRICULTURAL RESOURCES

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (Source: 3,5,6)	_____	_____	_____	X
b. Conflict with existing zoning for agricultural use, or a Williamson Act Contract? (Sources: 1, 2, 5, 6, 10)	_____	_____	_____	X
c. Involve other changes in the existing environment, which due to their location or nature, could result in conversion of farmland, to non-agricultural use? (Source:3,5,6)	_____	_____	_____	X

Summary: *NO IMPACT*. The project as submitted is not proposing to rezone the site nor does it lie within an agricultural preserve. The zoning is proposed to remain R-20, which is a single-family residential district and is consistent with the addition of one potential residence.

III. AIR QUALITY

a. Conflict with or obstruct implementation of the applicable air quality plan? (Sources:1,3, 5)	_____	_____	_____	X
b. Violate any air quality standard or contribute to an existing or projected air quality violation?	_____	_____	_____	X

June 11, 2008

Community Development Division
Francisco Avila
Contra Costa County
651 Pine St. North Wing, 4th Floor
Martinez, Ca 94553

We are writing this letter in hope that the Zoning Administrator will not allow a subdivision of the property listed below:

2450 Lunada Lane,
Alamo, Ca. 94507
APN #188-321-007

The plan calls for the removal of fifteen code protected trees. We feel this will adversely affect our environment. Also, on page 5, Evaluation Of Environmental Impacts, Section I AESTHETICS, you have listed items a, b, and c as having "No Impact."

We feel this is totally incorrect. There will be a significant impact on the scenic vista, damage to scenic resources, and substantially degrade the existing visual character of its surroundings.

The survival of our planet and the community we live in is dependent upon the survival of our large protected trees providing us with the oxygen we need to survive. The trees provide shelter and homes to many native animals. Also, one of the trees slated for removal is a giant Eucalyptus tree that is a nesting ground for Red Tailed Hawks. In addition, the grading and construction will adversely affect several large oak and redwood trees on the adjacent property

Thank you for your consideration.

Sincerely,

Tom & Erin Newlin

A TEAM APPROACH TO AVOIDING AND MITIGATING

CONSTRUCTION

DAMAGE TO TREES

By Nelda Matheny and Jim Clark

Property development is a difficult process that can become even more complex when tree preservation is involved. Yet, trees offer valuable benefits – environmental, economic and social. With increasing frequency, trees on development sites become symbols of the commitment of a developer to the environment and the community.

Successful tree preservation is measured over the long term, when trees continue to thrive for many years after development. Successful tree preservation occurs when:

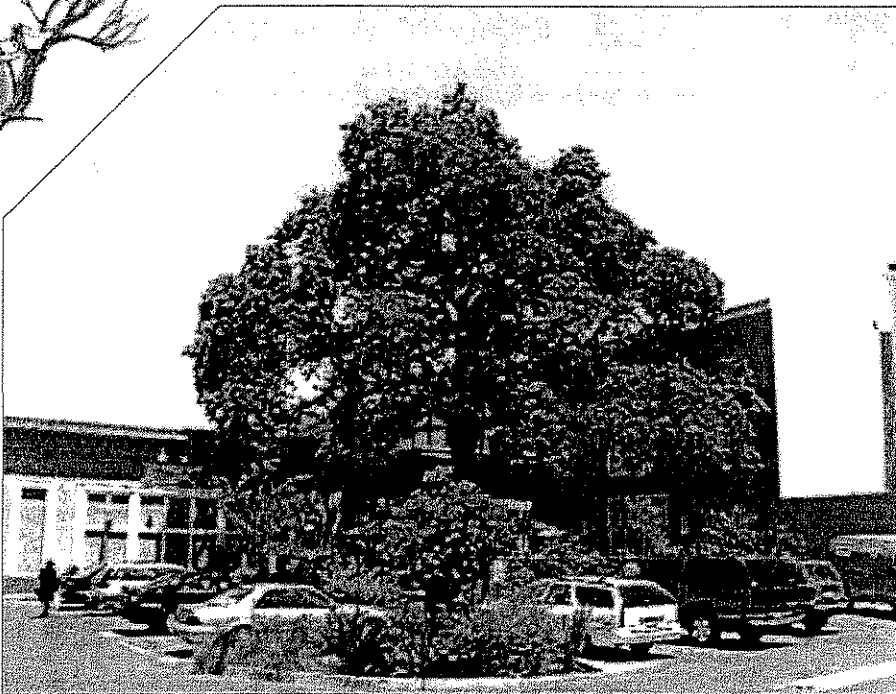
- ▶ healthy, structurally sound trees are selected for preservation;
- ▶ adequate space is planned for tree protection during the project design phase;
- ▶ trees are protected from damage during construction;
- ▶ everyone involved in the project is committed to protecting trees.

If tree preservation is to be successful, the arborist needs to be involved as part of the development team. The arborist's job is to bring knowledge about the tree resource and how it will respond to site development to the planning and design table. This requires interacting with the developer, engineers, architects and construction personnel, and reviewing and responding to plans throughout the development processes.

The tree preservation process

The sequence of events that results in successful tree preservation is intimately linked to the development process itself. From an arboricultural standpoint, the preservation process consists of the following steps:

1. Select healthy, structurally sound trees.
2. Design the "right space."
3. Prepare the trees for site change.
4. Protect from excessive damage during construction.



High density projects often do not allow for as much space as we would like. However, with a healthy, construction-tolerant species, specialized construction techniques, stringent controls and monitoring during construction, optimum tree care, success is possible. This is a native valley oak in a downtown area. Previous use was a bank and parking lot. Site was demolished and rebuilt. All images courtesy of HortScience, Inc.

5. Maintain trees with long-term, low-intensity treatments.

Select healthy, structurally sound trees

Evaluating the suitability of individual trees or stands for preservation is one of the most important tasks for the arborist. Furthermore, this analysis is needed very early in the planning process. Designing projects around trees not suitable for preservation can waste considerable time and expense.

An assessment of suitability for preservation integrates tree health, structure, age and species factors. Trees that are structurally unsound, in poor health or unable to survive construction impacts are a liability to a project rather than an asset. When identifying trees that are suitable for preservation, consider the following four factors:

▶ Tree health

Healthy, vigorous trees are better able to tolerate impacts such as root injury, demolition of existing structures, changes in soil grade and moisture, and soil compaction than are non-vigorous trees.



Avoid retaining trees with significant structural defects where damage or injury would occur if they failed. The extensive trunk cavity at the junction of the scaffold branches is a defect that makes this tree unsuitable for preservation.

▶ Tree structure

Trees that contain significant defects that cannot be managed and are likely to lead to failure should not be preserved in areas where damage to people or property could occur.

▶ Species

Tree species vary both in their tolerance to construction activities and their ability to adapt to site changes. For instance, holly oak (*Quercus ilex*) and plane (*Platanus x acerifolia*) are relatively tolerant of construction impacts while European beech (*Fagus sylvatica*) is not.

Another species consideration is its potential to become an invasive weed. Where natural habitats are at risk from degradation should the exotic tree escape into nearby wild lands, replacement with non-invasive species should be considered. As an example, it may be unwise to plant tree-of-heaven (*Ailanthus altissima*) in locations where it is likely to spread.

► Potential longevity

Over-mature trees are less able to tolerate construction impacts than are young and mature individuals.

Declining and structurally unstable trees often have habitat value, but those trees should be retained only in areas where their structural failure would not impact people and structures.

Design the “right space”

The “right space” is one that provides adequate space and site conditions to sustain tree health and structural stability over time. The “right space” considers how the tree size and form will change over time as the tree grows. The “right space” must be planned for during the design phase of the project.

Project design is at first conceptual in nature, and becomes more detailed as plans are refined. The arborist participates in the design effort at first by identifying which trees are suitable for retention and the amount of space needed for adequate protection. The next step is to determine what impacts will occur and how the tree will respond. Then, if development constraints will not allow as much space as advised, the arborist may suggest design modifications to reduce the impacts. If impacts cannot be reduced, the arborist must determine whether the tree is unlikely to survive and should be removed.

Communicating with design professionals

If we are to be successful in preserving trees we must understand how development occurs. The simple fact is that

structures, be they buildings, roads, patios or utility trenches, must be built in such a way that they are stable and safe. Therefore, specific engineering standards regarding soil compaction, footing and foundation design, and depth and separation of utilities must be attained. In many situations, the building standards and local codes allow limited flexibility for modification. The arborist usually must work within these requirements.

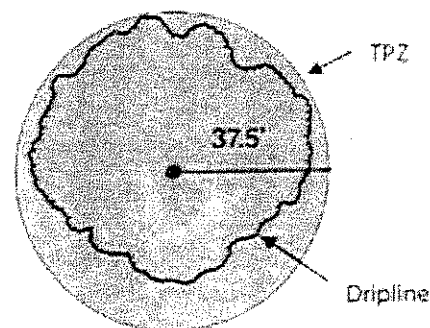
The most important aspects of construction for the consultant to understand are those that occur below ground. The soil (or geotechnical) engineer and the civil engineer largely determine requirements for these activities. The arborist should become familiar with common terminology and work procedures involved in these processes.

Identifying a tree protection zone

The tree protection zone (TPZ) is the area around the tree or groups of trees in which no grading, excavation or construction activity is to occur. The size and conformation of the TPZ depends on several factors including:

- species sensitivity to impact
- health and age of the tree
- root and crown conformation
- development constraints

In some situations the canopy form may dictate the conformation of the tree protection zone. Where large, low limbs are present that cannot be removed without disfiguring or damaging the tree, the tree protection zone must encompass



those limbs.

Root conformation is typically the hardest component to assess. Our model of tree root systems describes roots as being shallow – most within 3 feet of the surface – and extending far beyond the dripline. Actual root systems often deviate from this model. Some trees root quite deeply depending on the genetic makeup of the tree and the soil profile. In built environments, underground utilities and structures affect root distribution. It may be necessary to determine where roots actually are growing when defining a tree protection zone. Excavating with hydraulic or pneumatic tools can help identify root conformation so adequate space can be designed.

Tree Protection Zone guidelines based on tree size, age and species tolerance are provided in Table 1. When applying these guidelines, the usual variables must be considered – crown density, tree height, exposure to wind, lean, presence of other defects such as decay, soil depth and strength. A larger area than that calculated may be needed for stressed trees or those with low branches that extend outside the zone that need to be protected by temporary fencing.

Try as we might, projects usually are not designed with space for trees as the primary consideration. Space is at a premium on development sites, and compromises may have to be made with tree protection zones. It seems generally accepted that roots up to 1 to 2 inches in diameter may be cut without causing irreparable damage. It is unacceptable to cut into the buttress flare.

The guideline for maintaining health has been that we can remove 30 to 50 percent of the roots of most trees. Determining when that point is reached requires know-

Table 1:
Guidelines for adequate tree preservation zones for healthy, structurally stable trees.

Species tolerance to impacts	Tree age	Distance from trunk feet/inch trunk diameter
Good	Young	0.5
	<¼ life expectancy	
	Mature	0.75
	¼-½ life expectancy	
	Overmature	1.0
Moderate	>½ life expectancy	
	Young	0.75
	Mature	1.0
	Overmature	1.25
Poor	Young	1.0
	Mature	1.25
	Overmature	1.5



Pneumatic or hydraulic tools can be used to remove soil around tree roots to determine their number and size, to expose them so they can be cut with a saw, or to thread pipes or conduit under them rather than cutting.

ing the full extent of the root system, which is difficult to accurately assess. In our experience, the minimum tolerated is highly species dependent. For instance, ash will tolerate much more root removal than walnut.

To calculate the optimum tree protection zone:

1. Evaluate the species tolerance of the tree: good, moderate or poor

2. Identify tree age: young, mature, over-mature

3. In Table 1, find the distance from the trunk that should be protected per cm of trunk diameter.

4. Multiply the distance by the trunk diameter to calculate the optimum radius (in meters) for the tree protection zone.

5. Plot the radius on the tree preservation plan.

Example:

Healthy, mature, 30-inch diameter black walnut

1. Species tolerance = poor
2. Age = mature
3. Distance = 1.25'
4. 1.25 ft. x 30 in. = 37.5' radius
5. Plot radius

Evaluation of impacts to trees

It is virtually impossible to retain trees on a construction site without the trees incurring some degree of either injury or change in their environment. A reasonable goal, however, is to hold the impacts to the minimum that the trees can tolerate. When impacts are too severe, either the plans must be changed or the tree removed.

The type of construction that will occur around existing trees and how it will be executed has a great influence of tree survival and growth. By thoroughly exam-

ining construction plans and specifications, communicating with the project's design professionals, and corroborating the information in the field, the arborist can get a clear picture of what changes to the site will occur. In fact, the arborist must understand those changes long before construction begins. Once plans are finalized there is limited opportunity to significantly reduce impacts around trees.

Impacts to trees are cumulative. Rarely does the tree experience just one impact that affects its growth. Rather, a series of changes occur to which the tree must respond and adapt. The challenge for the arborist is to determine when impacts will be too severe for the tree to survive, not only in the short term, but also in the long term. That point depends on several factors including the severity of the cumulated impact and the ability of the individual tree to survive them, given the species, age and condition of the tree.

Minimizing tree impacts

Because in most cases we cannot completely eliminate construction impacts to trees, our goal is to minimize injury to a tolerable level. There are a number of ways this can be accomplished, depending on the specific conditions and requirements at the site. First, and foremost, *the goal is to protect trees rather than repair injury.*

Following are a few techniques to minimize tree injury during construction:

- Fence trees prior to demolition or grubbing

The most effective fencing is chain link with posts sunk into the ground. Fences should enclose the tree protection zone, and remain until all construction activity is completed.

- Minimize soil compaction

Limit traffic and storage areas
Protect soil surface with deep mulch
Specify minimum compaction on non-load bearing areas
Use extra reinforcement in paving materials
Avoid use of heavy equipment around trees

- Minimize excavation

Maintain natural grade around tree
Use discontinuous footings on retaining walls
Modify paving materials to reduce

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depth of section

Route utilities around trees, combine utilities in one trench

Lay irrigation lines on soil surface, cover w/ mulch

Tunnel lines rather than trench

Use pier foundations with grade beams above grade rather than slab foundations

► *Minimize changes in water supply and drainage*

If there are changes, attempt to reproduce 'natural' conditions through maintenance

► *Minimize pruning*

Consider location of low limbs when designing structures/uses under trees

► *Minimize competition*

Avoid planting and irrigation under sensitive native trees.

Control growth of competitive plants (e.g. vines, understory plants)

Prepare the trees for site change

Preparing the trees for site change involves two types of activities: alleviating stresses that degrade health and vitality, and providing clearance for construction.

Alleviating stresses

Trees may be under stress before construction even begins. The property may have received minimal or no maintenance prior to project approval. When evaluating trees before construction begins, the arborist should assess whether trees are affected by drought stress, limited nutrition and pests. By alleviating these stresses before construction begins, the trees are better able to respond to site changes. Consider if irrigation, fertilization, mulching or pest management are needed and discuss treatments with the owner/developer.

Provide clearance for construction

Crown and/or root pruning may be needed to allow access for construction equipment and activities. It is better for the arborist to prune properly before construction begins to avoid "pruning," either accidental or intentional, by construction workers.

Crown pruning should be performed according to standards — ANSI Z133 and

A300 standards, and the associated ISA Best Management Practices — Tree Pruning. Where only temporary clearance is required, for instance for access by equipment, it may be possible to tie back branches rather than remove them. At least 5 feet of clearance from structures usually is required for construction. The amount of vertical clearance needed varies, but usually it is approximately 8 feet over sidewalks and 14 feet over roads. Required distance will vary with the type of construction equipment to be used, so discuss needs with the project superintendent.

Root pruning before grading or excavation for foundations or footings will avoid wrenching and shattering roots by grading and construction equipment. This is accomplished by cutting roots outside the tree protection zone to the necessary depth. Roots can be cut by digging a trench (manually or with high pressure air or water) and cutting exposed roots with a saw, a vibrating knife, rock saw, narrow trencher with sharp blades or other root pruning equipment. Cut the roots at right angles. After the roots are severed, grading and construction equipment can operate outside the tree protection zone without further damage. Avoid cutting sinker roots or roots larger than 2 inches in diameter.

Protect from excessive damage during construction.

We have limited ability to repair damage done to trees, so we must focus on protecting them from damage. The single most important tree protection treatment is a sturdy fence located at the limits of the tree protection zone that excludes construction activity from the tree.

The arborist's role during construction

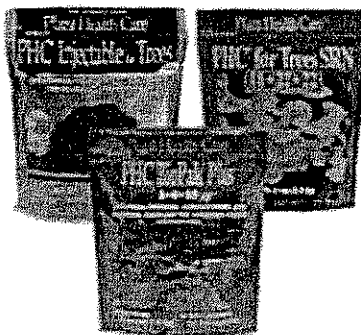
The players present on a project change as it moves from design to construction. The arborist can provide important continuity among these changes.

The amount of time the arborist should spend on the site during construction varies widely. If, for instance, large tree protection zones have been established and defined with sturdy fencing, there may be little need for the consultant to be at the site. On the other hand, if equipment must maneuver close to trees, the consultant may need to be present to help determine appropriate work procedures and protection measures.

A few suggestions about working with superintendents...

► Schedule the site visit in advance. Unless there is a good reason to do so, avoid just "dropping in." There may be

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other activities that prevent the superintendent from spending time with you.

► Check in with the superintendent when you first arrive on-site.

► Direct comments and suggestions about sub-contractors to the superintendent. Managing the subs is the superintendent's responsibility.

► Whenever possible, accentuate the positive.

Arborists commonly have five tasks during the construction phase:

1. Protect the Tree Protection Zone.

Maintenance of the TPZ may be the most significant activity associated with the post-design phase. Space is often at a premium on construction sites and the open areas defined by the TPZ are attractive locations for all sorts of activities.

2. Assist with changes in the field.

Few projects proceed without changes in the field. This occurs for a variety of reasons. For example, plans and field situations may not match. Or, an item may have escaped notice or was not discovered until construction. The consultant must

participate in the decisions when conditions or plans change.

A note about availability: most construction projects don't have the luxury of time. Problems must be addressed and resolved quickly. For this reason, we must be responsive to requests for our time.

3. Monitor injury to trees and provide corrective action.

Few projects proceed without some injury to trees. Plans and changes may require work within the TPZ. The consultant must be prepared to recommend mitigations and corrective actions where damage has occurred, be it pruning, irrigation or other treatment. For example, the inadvertent piling of soil within the TPZ can quickly be corrected by removing it, without long-term consequences to the tree.

4. Communicate with the project superintendent.

In our experience, one of the most critical factors in the success of a tree preservation project is the commitment of the project superintendent. The arborist must help him/her understand the need for

tree protection. We must also acknowledge the range of demands placed on the superintendent to complete the project and be respectful of the challenges they face.

5. Facilitate completion of the project.

Once the project has been approved by the public agency, consultants and arborists should be assisting in its completion in a timely manner.

What to look for during monitoring

► Ensure the integrity of the tree protection zone

- Tree protection fences intact
- No storage of materials
- No parking
- No dumping
- No evidence of soil or understory disturbance in protected area

► Note any tree injury that occurred

- Damaged branches from equipment
- Cut, injured or exposed roots
- Unapproved activity near trees

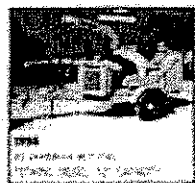
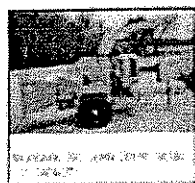
► Look for unusual changes in tree appearance. Provide recommendations for treatment

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- Leaf color, density
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- Checking, bleeding on bark
- Pest activity

► *Confirm that previously recommended treatments have been applied*

- Tree care (irrigation, pruning, mulching)
- Work procedures (root pruning, demolition & excavation methods)
- Design changes

► *Address new questions/conflicts*

- Additional pruning for clearance
- Design changes
- Work procedure changes

► *List new action items*

- Tree treatments
- Fence repair
- Soil projection

Maintain trees with long-term, low-intensity treatments

At some point the developer will relinquish ownership/control of the project. The new managers may be individual property owners, a community association, the public agency or some other group. The transfer usually is preceded by an on-site inspection, often with remedial action required.

The arborist may be asked to update information in the tree survey or report, provide a list of actions taken during construction, or prepare a detailed post-construction maintenance plan. The nature of any work is determined by the needs of the new owners, specific tree condition and needs, and location regulations.

The effects of construction activity on tree health and stability may not be evident for some time. Trees must be inspected regularly for vigor, pests and structure. Follow-up treatments may include:

- Pruning
- Irrigation
- Mulching
- Pest management
- Fertilization
- Fire management (fuel loads, ladders)
- Removal of damaged or unstable trees.
- Replanting

While arborists like to think of common tree care practices as being solely positive, the reality is that some of our efforts may have negative effects on trees. Treatments



Determining root distribution in build environments can be difficult. Pavements, walls and foundations affect root distribution of trees near them. The roots of this pine are confined by the retaining walls surrounding it.

such as transplanting, excessive fertilization, over-irrigation, pruning and some pest management treatments can be stress factors.

Therefore, our programs of care should minimize sudden change around the tree to the extent possible. Treatments should be tailored to the needs of the tree and provided in small doses over the long-term. Think about providing a stable environment.

Anticipate a slow response by the tree.

Conclusion

Successful tree preservation occurs when the goals of the project are achieved with minimal impact to trees designated for preservation. Success is measured over the long-term, when trees continue to thrive for many years after development is completed. For that to happen, arborists making decisions about tree preservation must be knowledgeable in several areas. First, they must understand how trees grow, as individuals and in groups. Second, they must understand the process of development and methods of construction. Third, they must understand how trees respond to changes in the environment imposed by development of the land. Finally, everyone involved on a project must acknowledge that tree preservation requires a commitment by members of the community and the project team.

The authors are principals of HortScience, Inc., an arboricultural consulting firm located in California. They are authors of Trees and Development: A Technical Guide to Preserving Trees during Land Development, published by the I.S.A. This article is based on a presentation by Nelda Matheny at TCI EXPO 2006 in Baltimore, Md.

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- ☐ 8. 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.
- ☒ 9. 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.
- ☐ 10. None of the above factors apply.

B. **Required Factors for Denying a Tree Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:

- ☐ 1. 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 non-discretionary permits). *OTHER SIDE*
- ☐ 2. It is reasonably likely that alteration or removal of a healthy tree will cause problems with drainage, erosion control, land suitability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree.
- ☐ 3. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.
- ☐ 4. 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.
- ☐ 5. 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.
- ☐ 6. Any other reasonable and relevant factors specified by the Community Development Director.
- ☒ 7. None of the above factors apply.

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B. Tree Protection and Arboriculture Schedule:

1. Submit schedule for performance of work to University Representative.
2. Qualification Data.
3. Certification.

C. Arborist's Report: Submit photographs labeled by tree number of roots 2-1/2 inches or more in diameter, cut during trenching operations within drip line of trees, and photographed by certified Arborist. Submit report prepared by Arborist, including the following:

1. Quantity of roots 2-1/2 inches or more in diameter, cut for each tree, indicating depth of root location.
2. Commentary about soil moisture encountered at depth where roots were cut.

1.6 WARRANTY

A. Contractor shall replace any damaged trees scheduled to remain. Damage is defined as injury that affects the long-term health or appearance of the tree, as determined by University's Representative. Contractor is responsible for all expenses related to tree replacement including locating, tagging, additional fees for the University's consultants, purchasing, transporting, installing and other associated expenses:

1. Damaged trees less than or equal to 10 inches in diameter shall be replaced with a tree of equal caliper or the largest commercially available tree of the same species (and variety if applicable) and habit.
2. Damaged trees greater than ten inches in diameter shall be compensated for by the contractor at \$1,000.00 per inch of diameter, i.e. damaged 50-inch tree = \$50,000.00.
3. Since age and size of some existing trees prohibit replacement of the same size tree, the difference in caliper size between damaged tree and replacement tree shall be compensated by Contractor. If replacement tree found is not greater or equal to the caliper of the damaged tree, the Contractor shall be responsible for replacing (including all expenses mentioned above) with the largest size available at no additional cost to University and shall be determined in accordance with the Tree Evaluation Formula as described in "A Guide to the Professional Evaluation of Trees, Shrubs, and Evergreens" published by the International Society of Arboriculture.
4. If the same species of tree is not commercially available at the necessary size, but is available at the necessary size of another species, the Contractor may submit a request for a species substitution to the University's Representative and Landscape Architect.

B. Diameters of all trees to be preserved have been recorded by the University's arborist prior to construction and shall be the basis for assessment of damages.

C. At the option of University's Representative, remedial activity to repair damage may be substituted for per inch penalty.

1.7 REGULATORY REQUIREMENTS

A. Comply with rules, regulations, laws and ordinances of government authorities having jurisdiction.

E. L. Hobbs Company

Certified Arborists

6680 Alhambra Ave. #342

Martinez, CA 94553-6105

Date: March 19, 2009

-----ARBORIST REPORT-----

Purpose of this report:

To document the results of a tree inspection and evaluation in regards to a proposed development on a neighboring residential property.

Person requesting this report:

Thomas Newlin, 2444 Lunada Lane, Alamo, CA 94507 Tel: 925 282-0151; Fax: 925-681-1575; email comresfr@aol

Site: 2450 Lunada Lane, Alamo (Adjoining 2444 Lunada to the south.)

Ownership: Thomas and Erin Newlin.

Site Description:

These residential properties were developed several decades ago and have existing houses and various out buildings. The terrain is gently sloped to the east and abuts to the Iron Horse Trail. Currently a redwood fence separates the properties.

Date of inspection: March 18, 2009

Subject Trees:

1. Tag: 578
Species: Thuja plicata, Western red cedar
Size: 18" in diameter as measured at 4.5' above average grade, within inches of the fence.
Location: At the front of the property, on the south side of the existing fence
Characteristics: The trunk is initially straight but bifurcates at approx. 30'
Crown is abnormally shaped, predominate to the south due to competition.
Condition: Good, except for trunk structure. (Can be corrected.)
2. Tag: 579
Species: Sequoia sempervirens. Coastal redwood
Size: 21.5" in diameter.
Location: Towards the mid-way point from front to rear and 8' - 6" from the existing fence.
Characteristics: The trunk is straight and the limbs have been removed up to 15'

The canopy is one-sided, predominately shaped to the north due to competition.

3. Tag 580
Species: Quercus lobata, Valley oak
Size: 26.2" in diameter
Location: East of Tree #2 at a distance of 8' from the existing fence.
Characteristics: The lower trunk is curved to the north due to competition. It bifurcates at approx' 12' above grade. There is an old branch removal wound 6' above grade that has been covered with callous tissue.
Condition: Good, except for the unusual structure.
4. Tag 581
Species: Quercus lobata, Valley oak
Size: 45" diameter.
Location: To the east of Tree #3 at a distance of 8' from the existing fence.
Characteristics: Large spreading canopy in all direction. The trunk divides into 4 trunks at approximately 12' above grade. There are 3 old branch removal wounds approximately 8" in diameter at an approximate height of 10'.
Condition: Good except for trunk structure.

Note: The existing fence does not represent the true property line. See Exhibit A of the "Stormwater Control Plan" for tree locations.

Reporting Party's statement:

One of Mister Newlin's concerns is the effect of the proposed construction as illustrated on the "Stormwater Control Plan" to the existing trees on their property, particularly to trees #3 & #4. They have contacted several arborists and have received mixed opinions on the planned hardscape that encroaches upon the driplines of these trees. In addition to this, the planned trench and drain pipe installation is within the driplines of other large oak trees on the east side of their property. A landscape authority was contacted and this person's opinion was that the planned roadway installation next to the property line would be detrimental to the Subject Trees in so far as soil compaction and aeration within the root zone of said trees are concerned. He further stated that the effects upon the health of these trees might not be evident for 5 years after completion of the planned construction.

Opinions:

It is my opinion based upon 40 years of personal experience in the tree and landscape business, plus the data supplied by the International Society of Arboriculture over the years, that the planned roadway and trenching construction will be stressful particularly to these old oak trees.

Photographs:

Several images of the Subject Trees are attached to this report showing the Tag numbers, etc..

Report prepared by:

E. L. Hobbs
Certified Arborist, ISA-WE 0353A

encl: Arborist Qualifications

April 1, 2009

To: Community Development Division
Application and Permit Center
651 Pine Street, 2nd Floor, North Wing
Martinez, Ca 94553

From: Tom & Erin Newlin 925-935-6844 (H) 925-382-0191 (cell)
2444 Lunada Lane
Alamo, Ca 94507

RE: Appeal to allow the subdivision at 2450 Lunada Lane, Alamo
MS0700024

On March 23, 2009, the county planner approved the minor sub division at 2450 Lunada Lane, Alamo, CA. We are appealing this decision on following grounds:

Tree Protection:

On our property directly north of the proposed sub-division, there are two very large Valley Oak trees that will be within a few feet of the proposed driveway/road for the new lot. At the initial hearing on March 9, 2009, we presented an article from "Tree Care Industry" magazine titled "A Team Approach to Avoiding and Mitigating Construction Damage to Trees." This article specifically states "The tree protection zone (TPZ) is the area around the tree or groups of trees in which no grading, excavation, or construction activity is to occur." The article (enclosed) includes a chart showing how to calculate the TPZ for a specific tree. The generally accepted practice is one foot for every inch of diameter of the tree. The Valley Oaks in question are several feet in diameter and the proposed driveway/road would have to be constructed within a few feet of these trees. In addition, we had an independent arborist, Mr. Ed L Hobbs, do a report concerning these trees and the proposed construction. His report (enclosed) states that the proposed construction will be detrimental to these trees. This report was hand delivered to the county planner's office on March 20, 2009. As was stated in the hearing on March 9, 2009, we were only given notice of the hearing a few days prior and never did receive the plans that were supposedly mailed out.

In his decision to approve the subdivision, the county planner referred to the applicant's arborists' reports but completely ignored the information listed above. We feel that the Hobbs arborist report and the article from the industry magazine should be given equal weight in the decision.

Heritage Tree Application HT080003:

In July 2008, we submitted to the county an application to nominate three trees as Heritage Oaks. To date, this application has not been acted on and has yet to be presented to the Board of Supervisors. In his decision, the county planner referred to this application and stated that it had no bearing on his decision since the application was submitted after the application for the sub division was completed.

We feel that our application has been delayed and held up by the planning department. In a phone conversation with county employee Demian Hardman, he stated to me that because of the proposed lot split next to my property, "he had to keep all parties happy" before submitting the application to the Board of Supervisors. The fact that the Heritage Tree application was submitted after the application for the sub division was completed should have no bearing. The Heritage Tree application was properly submitted prior to the approval of the project and should have standing in the decision of approval.

R-20 Zoning Requirement

According to the county planner, the paved area to be constructed to Parcel A is considered a road. Since this is a road, it should not be considered in the square footage of the lot. It does not appear that after the square footage of the road is deducted from the lot, that Parcel A meets the 20,000 square foot requirement.

Should the sub division still be approved the following is at issue:

Landscape Plan:

The COA, page 6, section 8 states "The plan shall provide for the planting of a minimum of six Coast Live Oak trees, minimum 15 gallon in size and appropriate eight 1-gallon shrubs. The intent of this requirement is to provide additional landscape screening for the properties immediately north and south of the approved parcel A."

The planned sub division calls for the removal of 15 code protected trees, most of which run along the northern border of 2450 Lunada Lane. Some of these trees are more than 40 ft tall. We do not feel that six 15-gallon trees and eight 1-gallon shrubs are near enough of a replacement for the border of the northern property let alone for both the northern and southern property.

Restitution for Tree Damage:

Section 9 of the COA states the specifics for the restitution for damaged trees. This section only allows for a two year time period. Mr. Hobbs as well as Mr. Mike Cleary of Cleary Brothers Landscape Construction Company both stated to us that the type of construction that is to be done could take as many as five years or more to show detrimental effects to the trees. We feel that the time period for restitution should be increased to at least 5 years.

Also, the restitution to replace these trees is woefully inadequate for the trees in question (see photos showing trees numbered 580 and 581 of the report from Mr. Hobbs). Mr. Hobbs stated that there is an accepted guideline by the American Society of Arborists to determine the value of a specific tree. We would like to have this calculation done at the expense of the applicant and to be included in the COA

Also, the cost for removal of the damaged tree, plus any property or personal damage caused by the falling of the tree or parts of the tree due to its deterioration should also be included in the COA.

Construction Activities – Sections 15 to 25 of COA:

For each of the conditions listed, actual penalties should be specified should any of the conditions not be adhered to.

Supervising Arborist:

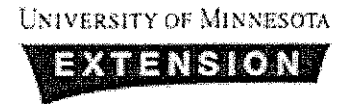
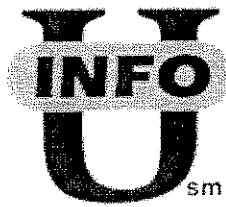
Section 29. A. of the COA requires that a licensed arborist “shall review the plans to determine how the drainage line can be designed so as to avoid any significant damage to existing trees . . .” The next paragraph also states “an arborist shall have responsibility for supervising construction . . .”

We request that the arborist be a mutually agreed upon individual who has not previously prepared reports for this project. Also, if the arborist is not on site, it should be stated that no construction work can be done and specific penalties imposed if construction continues when no arborist is supervising.

Tree Removal:

There is a Cedar tree (#578 in Hobbs report) that is currently on the south side of the existing fence. This tree is tagged with #578 and may be included in the plan to be removed (we never received a list of the trees to be removed). According to the parcel map submitted by the applicant, the fence is actually in the wrong location and this tree is actually on the property of 2444 Lunada Lane.

If this project is to be approved, before any trees are removed, we request that all lot lines be verified and that we be notified of such before any work is to begin.



Tree Protection from Construction Damage

Trees can be damaged or killed by a wide variety of construction activities. It's not always easy to save trees, but your efforts will help. This document describes measures to minimize construction impact.

PROTECTED ROOT ZONE

First, protect roots that lie in the path of construction. Approximately 90 to 95 percent of a tree's root system is in the top three feet of soil, and more than half is in the top one foot. Construction activities should be avoided in this area. Protect as much of the area beyond the tree's dripline as possible. Some healthy trees survive after losing half of their roots. However, other species are extremely sensitive to root damage even outside the dripline.

If possible, do not disturb the Protected Root Zone (PRZ). The PRZ is defined by its "critical root radius." It is more accurate than the dripline for determining the PRZ of trees growing in forests or that have narrow growth habits. To calculate critical root radius, measure the tree's diameter (dbh) 4.5 feet above the ground. Measure in inches. For each inch, allow for 1 to 1.5 feet of critical root radius. If a tree's dbh is ten inches, its critical root radius is 10 to 15 feet.

STEPS TO CREATE A SUCCESSFUL LANDSCAPE PROTECTION PLAN:

- **Mark construction zone boundaries at the edge of the protected root zone.** Use measuring tape, stakes and string to mark them.
- **Inventory trees on the site.** Record the location, size, and health of each tree. Trees that are overmature, display poor form, lean heavily over buildings, or have insect or disease problems should be removed prior to construction. Also mark trees that need pruning.
- **Select the trees to be saved.** Note how each tree fits into the landscape. If the PRZ falls inside the construction zone, seriously consider changing the original design, adding protection measures or removing the tree before construction begins.
- **Protect the trees you plan to save.** Develop a map while working with the builder showing the location of trees to be protected and the safest route for access to the building zone. Then install bright orange polypropylene fencing and post "Off Limits" signs at the PRZ of the trees you plan to save. **SOIL COMPACTION IS ONE OF THE MOST COMMON KILLERS OF URBAN TREES.** Stockpiled materials, heavy machinery and excessive foot traffic damage soil structure and reduces soil pore space. Roots suffocate.
- **Make sure all construction workers know that nothing inside this area is to be**

disturbed. A landscape protection contract will help ensure compliance. Take several photographs of the site before construction begins.

- **Prepare trees for construction disturbance.** You'll boost your trees' chance for survival if they're vigorous. Regularly water if rainfall is not adequate. Fertilize if trees are nutrient stressed. Prune branches that are dead, diseased, hazardous or detrimental to natural form.
- **Monitor the construction process.** Visit the site regularly and inspect the trees. Should damage occur, begin repairs as soon as possible. Water trees throughout the construction process.
- **Make final inspection of the site.** After construction has been completed, evaluate the remaining trees. Look for signs and symptoms of damage or stress. It may take several years for severe problems to appear.

Other considerations during construction include site clearing, soil damage, grade changes, soil excavation and pavement installation. Work with an experienced professional urban forester or arborist, certified with the International Society of Arboriculture.

Title: **Tree Protection from Construction Damage**
Script writer: Gary Johnson
Date: 1999/2004

Number: 443
Source: U of MN Pub. FO-6135 *Protecting
Trees from Construction Damage*
Reviewer: Patrick Weicherding



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University of Minnesota Extension Home Page

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Via email comresfr@aol.com

October 13, 2009

Tom Newlin
2444 Lunada Ln
Alamo, CA 94507

Re: Michael Konrad/2450 Lunada Ln
APN: 188-321-007

Dear Mr. Newlin:

You contacted me recently regarding a lot split proposal by your neighbor, Michael Konrad. The neighbor's property by address and assessor's parcel number is as set forth above. Apparently, the original lot of 43,560 square feet is to be divided into Parcel A, a flag lot of approximately 21,250 feet and the remnant parcel of 22,310 square feet. The remnant parcel is currently improved with an existing home. The access driveway for Parcel A passes through the remnant parcel and consists of an easement appurtenant to Parcel A 20 feet in width and 137 feet in depth. The area comprising the easement is therefore approximately 2,740 square feet.

The underlying Zoning District for your neighborhood is R-20. Pursuant to County Code Section 84-14.602, no lot may be created with less than 20,000 square feet in area. There are also minimum dimension requirements for lots within the Zoning District which do not appear to be at issue relative to this application. County Code Section 82-4.244(c) excludes from lot area calculations, public roads, and rights of way. County staff apparently acknowledges that exclusion but has taken the position that the residual lot area of the remnant parcel meets minimum requirements of the Zoning District because private easements may be included in area calculations. This does not appear to be correct given the plain language of the County Ordinance.

In contrast to the opinion of County staff, Section 82-4.244(c) excludes any "easement" from minimum area calculations. While the word "public" is found in the Ordinance as a modifier to "roads", that same modifier has no apparent application to an "easement". I might note that easements—whether public or private—are excluded from lot area calculations by both the Lafayette and Orinda Municipal Codes. Since both of those cities' codes derive largely from

the County Code (and in fact incorporate portions of the latter), I am quite confident that my construction of the referenced County Code is accurate.

If one excludes the area of the remnant parcel contained within the easement appurtenant to Parcel A, the area of the remnant parcel becomes less than 20,000 square feet. It might be noted that the foregoing comments do not take into account a turnaround which has a further impact upon lot area of approximately 625 square feet.

In our telephone discussions, you have advised me that there is a deviation between the record description of the common boundary line between your lot and that owned by Michael Konrad and the long term use and enjoyment of those respective properties. Thus, the boundary line fence is not located on the actual boundary line separating the properties; instead, it neanders in a line which sometimes encroaches on your lot and at other times encroaches upon the Konrad property. You have indicated to me that overall that there is a net loss of approximately 400 square feet to the Konrad property if the fence line is treated as the actual agreed boundary line between properties. As I understand it, the fence line has been observed by the respective ownerships for a period in excess of your 16 years of ownership of your property. By virtue of several separate and distinct legal doctrines, this means that the actual lot area of the original Konrad lot should probably be further reduced by approximately 400 square feet.

The Planning Commission has before it an application indicating a gross square footage of 43,560 square feet—approximately 3,560 square feet more than minimally required to create two lots by means of subdivision. If the easement, turnaround, and encroachment areas are all excluded from the calculation of available lot area, then the net remaining is insufficient to support a two lot subdivision as it would amount to only approximately 39,795 square feet. (As presently proposed, the exclusion of the easement area from the remnant parcel by itself would drop the lot area below that minimally required; accordingly, the current application cannot be approved without a variance, as configured.)

I understand that this particular application also poses difficulties for you in terms of the care and maintenance of certain Heritage Oak Trees and the provision of appropriate landscape screening designed to maintain privacy. It appears that this application is marginal and that there are constraints which need to be incorporated into any potential subdivision approval. Obviously, a Variance Application could be granted if legal findings in support thereof might be made. Since no Variance Application is presently pending even though it appears to be required simply by virtue of the minimum lot area regulation requirements, an approval of subdivision cannot be granted.

Please call should you have any questions.

Very truly yours,

David J. Bowie

**COUNTY PLANNING COMMISSION
CONDITIONS OF APPROVAL FOR COUNTY
FILE #MS07-00024.**

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #MS07-00024, KB CONSULTING & MANAGEMENT (APPLICANT), MICHAEL KONRAD (OWNER) IN THE ALAMO AREA, PER MARCH 23, 2009 ZONING ADMINISTRATOR APPROVAL.

FINDINGS

I. Growth Management Findings:

- A. Traffic: The future development of the one parcel will not generate a significant amount of additional AM and PM peak hour trips. Therefore, the applicant is not required to prepare a traffic report pursuant to the 1988 Measure C requirements.
- B. Water: Water service is available to the site by EBMUD. Once the property is subdivided, separate services for each lot will be required. A main extension, at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department.
- C. Sanitary Sewer: Sewer service will be provided by Central Sanitary District.
- D. Fire Protection: The project site is within the San Ramon Valley Fire Protection District. The slight increase in demand for fire protection services would be mitigated by the tax assessment of the property.
- E. Public Protection: The Growth Management Element standard is 155 square feet of Sheriff's facilities per 1,000 members of the population. The population increase associated with this subdivision is insignificant. The impact to police services is mitigated by a fee prior to issuance of the residential building permit for the one additional parcel.
- F. Park & Recreation: The proposed subdivision would have a minor cumulative effect on demand for park and recreation facilities. The impact to park and recreation facilities is mitigated by a fee prior to issuance of the residential building permits for the new parcel.
- G. Flood Control & Drainage: The project is subject to Division 914 of the County Ordinance Code which requires all storm water entering and/or originating on this property to be collected and conveyed without diversion and within an adequate storm drainage system. The nearest drainage facility is located immediately northeast of the subject site within the Iron Horse Trail corridor. The Public Works Department has indicated that the applicant is required to verify the adequacy of this facility prior to discharging storm water runoff.

II. Findings to Approve a Tentative Map:

- A. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and

improvement, is consistent with the applicable General and specific plans required by law.

Project Finding: The land use designation is Single-Family Residential Low-Density (SL), which limits density to 1.0 to 2.9 units per net acre. The tentative map provides for two residential lots within the 1.0 acre parcel, thereby meeting the density limitation. The applicant is not proposing to rezone the project site. The proposed lots conform to all the area and dimensional requirements for the R-20 zoning district. Thus, the project is consistent with the Alamo-Diablo-Blackhawk Area policies stated in the Land Use Element of the General Plan. To be consistent with Policy #3-120 which requires that development in the Alamo area be reviewed to ensure the continued rural character of the area, future development of a residence on Parcel A shall be restricted to a height of 28 feet. The design of the proposed off-site drainage line shall minimize any adverse effect on existing trees within the Iron Horse Trail Corridor. An Initial Study has been prepared for the project which concluded that the proposed project should not have a significant effect on the environment.

- B. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: The proposed project only requires construction for the necessary access improvements. The Public Works Department has indicated that the applicant is required to verify the adequacy of the intended drainage facility prior to discharging storm water runoff. It is anticipated that one new residence will be constructed as a result of this application. The applicant will be required to comply with all applicable Building Codes at the time of Building Permit issuance.

III. Criteria for Review of the Tree Permit:

- A. **Required Factors for Granting Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied as marked:

- 1. The arborist report indicates that the subject tree is in poor health and cannot be saved.
- 2. 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.
- 3. The tree is in danger of falling and cannot be saved by some other means.
- 4. The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.
- 5. The tree is a species known to be highly combustible and is determined to be a fire hazard.

- ☐ 6. The proposed tree species or the form of the tree does not merit saving.
- ☒ 7. Reasonable development of the property would require the alteration or removal of the trees and this development could not be reasonably accommodated on another area of the lot.
- ☐ 8. 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.
- ☒ 9. 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.
- ☐ 10. None of the above factors apply.

B. Required Factors for Denying a Tree Permit. The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:

- ☐ 1. 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 non-discretionary permits).
- ☐ 2. It is reasonably likely that alteration or removal of a healthy tree will cause problems with drainage, erosion control, land suitability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree.
- ☐ 3. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.
- ☐ 4. 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.
- ☐ 5. 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.
- ☐ 6. Any other reasonable and relevant factors specified by the Community Development Director.
- ☒ 7. None of the above factors apply.

CONDITIONS OF APPROVAL

Project Approval

1. _____ This approval is based on upon the exhibits received on November 26, 2007 by the Department of Conservation and Development for two lots on the one acre site:
 - A. *Vesting Tentative Map* prepared by Terra Firma, proposing two parcels of 21,250 square feet and 22,310 square feet, revised Map received by the Department of Conservation and Development on April 10, 2008.
 - B. *Tree Preservation Report* prepared by Ed Brennan, Consulting Arborist, dated September 14, 2007. Supplemental report provided by, Dennis Yniguez, Consulting Arborist, dated December 29, 2008
 - C. CEQA Initial Study and Negative Declaration prepared by Contra Costa County Department of Conservation and Development, posted by the Contra Costa County Clerk on May 29, 2008.

Removal of Livestock From the Property

2. Prior to filing a subdivision map, the applicant shall remove all livestock from the property in order to comply with the requirements of the zoning district, and provide a letter attesting to their removal to the Department of Conservation & Development, Community Development Division.

CONDITIONS TO BE SATISFIED PRIOR TO FILING OF THE PARCEL MAP

Payment of Any Supplemental Processing Fees that May Be Due

3. _____ This application is subject to an initial application fee of \$5,513.00 that was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial fee. **Any additional fee due must be paid within 60 days of the permit effective date or prior to exercising the permit, whichever occurs first.** The fees include costs through permit issuance plus five working days for file preparation. The applicant may obtain current costs by contacting the project planner. If the applicant owes additional fees, a bill will be sent to the applicant shortly after permit issuance.

Indemnification

4. _____ **Prior to filing of the Parcel Map, issuance of grading permits, or issuance of building permits, whichever occurs first**, pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall submit a letter indicating that it will defend, indemnify, and hold harmless the County and its agents, officers, and employees from any claim, action or proceeding against the Department (the County) or its agents, officers, or employees to attack, set aside, void or annul the Department approval concerning this subdivision map application, which action is brought within the time period provided for in Government Code Section 66499.37. The County will promptly notify the applicant or subdivider of any such claim, action, or proceeding and cooperate fully in the defense.

Condition of Approval Compliance Review

5. _____ **Prior to filing of the Parcel Map, issuance of grading permits, or issuance of building permits, whichever occurs first**, the applicant shall submit an application for Condition of Approval Compliance Review. The deposit for this application is \$500.00 that is subject to time and materials costs. Should staff costs exceed the deposit, additional payment will be required.

This application requires submittal of materials showing how each condition of approval has been satisfied (i.e. documentation, plans, photographs, etc.). This application will remain active throughout the life of the project and additional submittals will be required to ensure compliance with each phase of development (grading, building), as described within this document.

GENERAL CONDITIONS

Deed Restrictions on Development of Parcel "A"

6. _____ Prior to filing a parcel map, the applicant shall submit a proposed deed restriction that shall apply to future development of Parcel 'A,' with the following restrictions, subject to the review and approval of the Zoning Administrator:
- A. Buildings on Parcel 'A' shall be limited to **28 feet in height as measured from finished grade**, except that there shall be no height limit on any proposed chimneys.

- B. Construction plans for a residence submitted for a building permit shall include the below listed Construction Activity and Archaeology conditions of approval.

The approved deed restriction shall be recorded concurrently with the approved Parcel Map. The subdivider shall provide a copy of the recorded deed restriction to the Department of Conservation and Development, Community Development Division.

Approved Tree Removal

7. . _____ The proposed removal of fifteen trees as described in the September 14, 2007 Tree Preservation Report Prepared by Ed Brennan is approved.

Required Restitution for Approved Tree Removal

8. _____ The following measures are intended to provide restitution for the removal of fifteen code protected trees and the work within the dripline of four other code protected trees.

- A. Planting and Irrigation Plan: **Prior to filing a Parcel Map**, the applicant shall submit a tree/shrub planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the Zoning Administrator. The plan shall provide for the planting a minimum of six Coast Live Oak trees, minimum 15-gallon in size and appropriate eight 1-gallon shrubs. The intent of this requirement is to provide additional landscape screening for the properties immediately north and south of the approved parcel 'A'. The plan shall be accompanied by an estimate prepared by a licensed landscape architect, arborist or landscape contractor of the materials and labor costs to complete the improvements shown on the plan. The plan shall be implemented prior to final building inspection. Any replacement tree that dies within the first two years of being planted shall be replaced by another tree of the same size.
- B. Determination of Security Amount: The security shall provide for all of the following:
- Labor and material costs for planting the required number of trees and installing related irrigation improvements as determined in the estimate required in section 9A above; and
 - An additional 20% of the total of the above amounts to address inflation costs.
- C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$100.

- D. Duration of Security: The security shall be retained by the County for up to 24 months beyond the date when evidence is provided that the plan has been implemented. At 12 months following the completion of implementation of the plan, the applicant shall arrange for the consulting arborist to inspect the trees for any damage resulting from construction activity and to prepare a report on the trees' health. The report shall be submitted for the review of the Zoning Administrator and it shall include any additional measures necessary for preserving the health of the trees.

Required Restitution for Possible Damage to Trees Intended for Preservation

9. _____ Work is authorized within the drip lines of 4 trees intended for preservation. Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity damages trees that are to be preserved, the applicant shall provide the County with a security (e.g., bond, cash deposit) prepared by a licensed landscape architect, arborist or landscape contractor to allow for replacement of trees that are significantly damaged or destroyed by construction activity. **Prior to filing a Parcel Map**, the security shall be submitted for the review and approval of the Zoning Administrator. The security shall be based on:
- A. Extent of Possible Restitution Improvements: The planting of up to four Coast Live Oak trees, minimum 15-gallons in size, in the vicinity of any trees that are damaged, or an equivalent planting contribution, as determined appropriate by the Zoning Administrator.
- B. Determination of Security Amount: The security shall provide for all of the following costs:
- Preparation of a landscape and irrigation plan by a licensed landscape architect or arborist;
 - A labor and materials estimate for planting the potential number of trees and related irrigation improvements that may be required; and
 - An additional 20% of the total of the above amounts to address inflation costs.
- C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$100.
- D. Duration of Security: The security shall be retained by the County for up to 24 months following the completion of work within the drip lines of the trees to be preserved. At 12 months following the completion of work within the drip lines, the applicant shall arrange for the consulting arborist to inspect the trees for any damage resulting from construction activity and to prepare a report on the trees' health. The report shall be submitted for the

review of the Zoning Administrator and it shall include any additional measures necessary for preserving the trees' health.

In the event that the Zoning Administrator determines that trees intended for preservation have been damaged by development activity, and that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then the Zoning Administrator may require that all or part of the security be used to provide for mitigation of the tree damaged.

10. _____ At least 30 days prior to issuance of a grading/building permit, or establishment of the use for the site, the applicant shall submit a landscape plan conforming to the County's Water Conservation policies.
11. _____ Landscape plans for all landscape areas shall be prepared by a licensed landscape architect. Plans shall be certified for compliance with the Water Conservation in new Developments Ordinance (No. 9059). Proposed shrubs shall be a minimum 5-gallons in size; proposed trees a minimum 15-gallons in size. Landscaping shall be designed so as to minimize landscape maintenance costs. Approved landscaping shall be installed prior to occupancy of the structure.

Park Dedication Payment

12. _____ Prior to the issuance of the building permits for a new residence on Parcels 'A', the applicant shall pay a park dedication fee as established by the Board of Supervisors. The remainder parcel shall be exempt from this fee requirement due to the existing residence on that site.

Child Care Payment

13. _____ Prior to the issuance of building permits for a new residence on Parcel 'A' the applicant shall pay a fee toward childcare facility needs in the area as established by the Board of Supervisors. The remainder parcel shall be exempt from this fee requirement due to the existing residence on that site.

Police Service District

14. _____ The following requirements shall be met prior to filing a Parcel Map or issuance of a building permit as specified below:
 - A. Prior to filing a Parcel Map, the applicant shall submit two copies of a proposed disclosure statement for the review and approval of the Zoning Administrator. The approved statement shall be used to notify prospective buyers of parcel 'A'. The disclosure statement shall advise prospective buyers of the parcel that prior to issuance of a building permit, they will be required to contribute to the County \$1,000.00 for police services mitigation. The fee may be paid to the Contra Costa County Application & Permit Center.

The approved deed disclosure statement(s) shall be recorded with the parcel map.

Construction Activities

15. _____ **At least one week prior to commencement of construction activity**, the applicant shall mail to the owners of property adjacent to the driveway, notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number, and area of responsibility (dust control, noise control, traffic control, etc.). The names of individuals responsible for noise and litter control, construction traffic and vehicles and the 24-hour emergency number shall be expressly identified on the notice.

16. _____ All construction activities, including transportation of equipment and materials, shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and shall be prohibited on Saturday, Sunday and the following state and federal holidays:

New Year's Day (State and Federal)
Martin Luther King, Jr. Day (State and Federal)
Washington's Birthday/Presidents' Day (State and Federal)
Lincoln's Birthday (State)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (State and Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

These restrictions shall be stated on the face of all construction drawings. The following websites provide details on the dates that the state and federal holidays occur:

Federal Holidays: <http://www.opm.gov/fedhol/>

California Holidays: <http://www.edd.ca.gov/eddstholiday.htm>

17. _____ All internal combustion engines shall be fitted with mufflers which are in good working order. This requirement shall be stated on the face of all construction drawings.

18. _____ Stationary noise-generating equipment such as air compressors and concrete pumpers shall be located as far away from existing residences as possible. This requirement shall be stated on the face of all construction drawings.

19. _____ Construction-related debris found offsite shall be collected immediately. This

requirement shall be stated on the face of all construction drawings.

20. _____ The applicant shall make a good faith effort to avoid interference with existing neighborhood traffic flows. Construction equipment shall be parked onsite and materials shall be stored onsite. These requirements shall be stated on the face of all construction drawings.
21. _____ The site shall be maintained in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be removed as necessary. Following cessation of construction activity, all construction materials and debris shall be removed. These requirements shall be stated on the face of all construction drawings.
22. _____ The site shall be watered throughout the day in order to minimize the amount of dust and particulates in the air resulting from construction. This requirement shall be stated on the face of all construction drawings.
23. _____ Dump trucks entering and exiting the site shall be covered when hauling loose materials. This requirement shall be stated on the face of all construction drawings.
24. _____ Unnecessary idling of internal combustion engines is prohibited. This prohibition shall be stated on the face of all construction drawings.
25. _____ Noisy equipment shall be located as far from adjacent residences as is practical. This requirement shall be stated on the face of all construction drawings.

Archaeology

26. _____ Should archaeological materials be uncovered during grading, trenching or other on-site activity, earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary. These requirements shall be stated on the face of all construction drawings.
27. _____ Should human remains be discovered, construction work shall be stopped and the coroner shall be contacted immediately, per Section 7050.5 of the California Health and Safety Code and Public Resources Code Section 15064.5(e). These requirements shall be stated on the face of all construction drawings.

PUBLIC WORKS RECOMMENDED CONDITIONS OF APPROVAL FOR SUBDIVISION MS 07-0024

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exception(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the Vesting Tentative Map submitted to Community Development on April 10, 2008.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO FILING OF THE PARCEL MAP.

General Requirements

28. _____ In accordance with Section 92-2.006 of the Ordinance Code, this subdivision shall conform to all applicable provisions of the Subdivision Ordinance (Title 9). Any exceptions there from must be specifically listed in this conditional approval statement. The drainage, road and utility improvements outlined below shall require the review and approval of the Public Works Department and are based on the Vesting Tentative Map received by the Community Development Department on April 10, 2008.

29. _____ Improvement plans prepared by a registered Civil Engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signing and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

- A. Impact to Existing Trees - Prior to submittal to the Public Works Department, a licensed arborist shall review the plans to determine how the drainage line can be designed so as to avoid any significant damage to existing trees within the Iron Horse Trail Right-of-Way, with particular attention to the two mature oak trees in the vicinity of the northeast corner of the site. The improvement plans shall designed in accord with any recommendations of the arborist, including any measures recommended by the arborist.

The plans shall also include the tree survey information of existing trees from the Brennan Arborist Report (trunk and dripline location, species, assigned identifying tree number, species, trunk diameter, and whether the tree has been approved for removal. The improvement plans shall also include the protection measures recommended in both arborist reports (Brennan & Yniguez) for the trees to be preserved, except that the plans shall state that an arborist shall have responsibility for supervising construction activity in the vicinity of any trees that are to be preserved. The

arborist shall attest that the above measures have been implemented.

- B. Plans Shall Include the Construction Activities and Archaeology Conditions of Approval – The improvement plans shall include the above listed Construction Activities and Archaeology Conditions of Approval.
- C. ***Prior to submittal of improvement plans to the Public Works Department***, two copies of the plans shall be submitted to the Department of Conservation and Development, Community Development Division for the review and final approval of the Zoning Administrator.

Private Access:

30. _____ Applicant shall construct the private driveway serving proposed Parcel A to meet current County driveway standards with a minimum width of 16 feet.
31. _____ Applicant shall construct an adequate paved turnaround at the end of the proposed on-site private driveway serving proposed Parcel A, if required by the Fire District.
32. _____ Property owner(s) shall record a private access easement over a portion of the Remainder Parcel for the benefit of proposed Parcel A. The private access easement shall be a minimum of 20 feet in width.

Access to Adjoining Property:

Proof of Access

33. _____ Applicant shall furnish proof to Public Works of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.

Encroachment Permit

34. _____ Applicant shall obtain an encroachment permit from the Application and Permit Center, if necessary, for construction of driveways or any improvements within the rights of way of Lunada Lane and the Iron Horse Trail Corridor.

Sight Distance

35. _____ Applicant shall provide sight distance at the intersection of the on-site private driveways with Lunada Lane for a through traffic design speed of 25 miles per hour. The applicant shall trim vegetation, as necessary, to provide sight distance at these intersections, and any new landscaping, fencing, retaining walls, or other obstructions proposed at these intersections shall be setback to ensure that the sight line is clear of any obstructions.

Pedestrian Facilities:

36. _____ The applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act.

Utilities/Undergrounding:

37. _____ All new utility distribution services shall be installed underground.

Street Lights:

38. _____ Property owner shall apply for annexation to County Service Area L-100 Lighting District by submitting: a letter of request; a metes and bounds description; and pay the current LAFCO fees, or apply for annexation to another street light financing mechanism approved by the Public Works Department. Annexation shall occur prior to filing of the Parcel Map. The applicant shall be aware that this annexation process must comply with State Proposition 218 requirements, which state that the property owner must hold a special election to approve the annexation. This process may take approximately 4-6 months to complete. Annexation into a street light service area does not include the transfer of ownership and maintenance of street lighting on private roads.

Maintenance of Facilities:

39. _____ Property Owner(s) shall record a Statement of Obligation in the form of a deed notification, to inform all future property owners of their legal obligation to maintain the private driveway, private storm drainage facilities, clean water facilities, and any private street lights.

Drainage:

Collect and Convey

40. _____ The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having

definable bed and banks, or to an existing adequate public storm drainage system which conveys the storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.

41. _____ The nearest man-made drainage facility in Drainage Area 13 is Line D located along the Iron Horse Trail Corridor. Applicant shall verify its adequacy prior to discharging run-off to Line D.

Miscellaneous Drainage Requirements:

42. _____ The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Design Standards.
43. _____ Applicant shall prevent storm drainage from draining across the sidewalk(s), as necessary, and driveway(s) in a concentrated manner.
44. _____ A private storm drain easement, conforming to the width specified in Section 914-14.004 of the County Ordinance Code, shall be dedicated over any proposed storm drain line traversing the site.
45. _____ This development is within the San Ramon Creek watershed. To reduce the impact of additional storm water run-off from this development on San Ramon Creek, one cubic yard of channel excavation material will be removed from the inadequate portion of San Ramon Creek for each 50 square feet of new impervious surface area created by the development. All excavated material shall be disposed of off-site by the developer, at his cost. The site selection, land rights, and construction staking will be by the Contra Costa County Flood Control District and Water Conservation District.

OR

Upon written request, the applicant may make a cash payment in lieu of actual excavation and removal of material from the inadequate portion of San Ramon Creek. The cash payment will be calculated at the rate of \$0.10 per square foot of new impervious surface area created by the development. The added impervious surface area created by the development will be based on the Flood Control District's standard impervious surface area ordinance. The Flood Control District will use these funds to work on San Ramon Creek annually.

National Pollutant Discharge Elimination System (NPDES):

46. _____ The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as

promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay - Region II, or Central Valley - Region IV).

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMPs in accordance with the Contra Costa Clean Water Program for the site's storm water drainage:

- Offer pavers for household driveways and/or walkways as an option to buyers.
- Minimize the amount of directly connected impervious surface area.
- Stenciling all storm drains ("No Dumping, Drains to Creek") using thermoplastic tape.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Shallow roadside and on-site swales.
- Distribute public information items regarding the Clean Water Program to buyers.
- Other alternatives comparable to the above as approved by Public Works.

Provision "C.3" of the NPDES Permit:

47. _____ This project shall fully comply with the County's Stormwater Management and Discharge Control Ordinance, the Stormwater C.3 Guidebook, and the requirements of the Regional Water Quality Control Board. As part of these requirements, the applicant shall incorporate Integrated Management Practices (IMPs) or Best Management Practices (BMPs) to the maximum extent practicable into the design of this project, implement them, and provide for perpetual operation and maintenance for all treatment IMP/BMPs.

48. _____ A Stormwater Control Plan received on April 10, 2008 by the Community Development Department was reviewed and determined to be preliminarily complete. Although the Stormwater Control Plan has been determined to be preliminarily complete, it is subject to revision during the preparation of improvement plans, as necessary, to bring it into full compliance with C.3 stormwater requirements. The applicant shall submit to the Public Works Department a *final* Stormwater Control Plan that has been certified and stamped by a licensed Civil Engineer, Architect, or Landscape Architect for the review and approval of the Public Works Department.

49. _____ All construction plans (including, but not limited to, site, improvement, structural, mechanical, architectural, building, grading and landscaping plans) shall comply with the preliminarily approved Stormwater Control Plan (SWCP) or any subsequently revised SWCP, the County's Stormwater Management and Discharge Control Ordinance, the "C.3 Guidebook" and the requirements of the Regional Water Quality Control Board. All construction plans shall include details and specifications necessary to implement all measures of the SWCP, subject to the review and approval of the County. To insure conformance with the SWCP, the applicant shall submit a completed "Construction Plan C.3 Checklist" indicating the location on the construction plans of all elements of the SWCP as described in the "C.3 Guidebook".
50. _____ Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.
51. _____ Applicant shall provide a Stormwater Control Operation and Maintenance (O&M) Plan for the review of the Public Works Department, and record an Operation and Maintenance Agreement, including any necessary rights-of-entry, prior to filing of the Parcel Map.
52. _____ Applicant shall annex into any financing mechanisms (e.g. Community Facilities District) formed to insure that all costs associated with the perpetual Operation & Maintenance, administration and reporting of these water quality features (including costs associated with all required County administration and reporting) are paid for by the property owner(s) that are or will be benefiting from this development.

Advisory Notes:

THE FOLLOWING INFORMATION DOES NOT CONSTITUTE CONDITIONS OF APPROVAL. IT IS PROVIDED TO ALERT THE APPLICANT TO LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES TO WHICH THIS PROJECT MAY BE SUBJECT.

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90-day period after the project is approved.

The ninety (90) day period in which you may protest the amount of any fee or the imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Department of Conservation and Development Department within 90 days of the approval date of this permit.

- B. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Alamo, SCC Regional, and Tri-Valley Transportation Areas of Benefit, as adopted by the Board of Supervisors. These fees must be paid prior to issuance of building permits.
- C. The applicant shall be required to comply with the drainage fee requirements for Drainage Area 13 as adopted by the Board of Supervisors. This fee shall be paid prior to filing of the Parcel Map.
- D. Although the Stormwater Control Plan has been determined to be preliminarily complete, it remains subject to future revision, as necessary, during preparation of improvement plans in order to bring it into full compliance with C.3 stormwater requirements. Failure to update the SWCP to match any revisions made in the improvement plans may result in a substantial change to the County approval, and the project may be subject to additional public hearings. Revisions to California Environmental Quality Act (CEQA) documents may also be required. This may significantly increase the time and applicant's costs associated with approval of the application.
- E. **Comply with the requirements of the following local agencies:**
 - San Ramon Valley Fire Protection District
 - Contra Costa County Environmental Health
 - East Bay Municipal Utility District
 - Central Contra Costa Sanitary District
 - Contra Costa County Dept. of Conservation & Development, Building Inspection Division.
- F. The project is subject to the development fees in effect under County Ordinance as of, the date March 27, 2008, the vesting tentative map application was accepted as complete by the Department of Conservation and Development. These fees are in addition to any other development fees which may be specified in the condition of approval.

The fees include but are not limited to the following:

In –Lieu Park Dedication	\$2000 per residence
Child Care	\$400.00 per residence

- G. Vesting Tentative Map Rights – The approval of this vesting tentative map confers a vested right to proceed with development in substantial compliance with ordinances, policies, and standards in effect as of March 27, 2008, the date the vesting tentative map application was accepted as complete by the Department of Conservation and Development. The vested rights also apply to development fees, which the County has adopted by ordinance. These fees are in addition to any other development fees, which may be specified in the conditions of approval. The vesting rights shall last two years beyond the recording of the Parcel Map, and as otherwise provided pursuant to Government Code Section 66498.5.

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Rev. 3-23-2009 - rd

**OCTOBER 13, 2009, COUNTY PLANNING
COMMISSION'S STAFF REPORT**

BOARD OF APPEALS
COUNTY PLANNING COMMISSION
TUESDAY, OCTOBER 13, 2009

I. INTRODUCTION

MICHAEL KONRAD, KB CONSULTING & MANAGEMENT (Owner, Applicant), NEWLIN and ZARLING (Joint Appellants), County File #MS07-00024: This is a hearing on an appeal of the Zoning Administrator's decision to approve a subdivision to divide a 1-acre parcel into one parcel and a remainder (Parcel A will equal 21,250 square feet and the remainder will equal 22,310 square feet). The property is located at 2450 Lunada Lane, in the Alamo area. (R-20) (CT:3440.00) (Parcel #188-321-007).

II. RECOMMENDATION

- A. Staff recommends that the Board of Appeals deny the appeal and sustain the Zoning Administrator's approval of County File #MS07-00024.
- B. For purposes of compliance with the California Environmental Quality Act, find that the Initial Study is adequate for the project and adopt the Negative Declaration, finding that no substantial evidence has been presented indicating that the project might result in a significant environmental impact.

III. BACKGROUND INFORMATION

On Monday, March 9, 2009, the Zoning Administrator conducted a hearing on the applicant's subdivision request. The Zoning Administrator took testimony and continued the hearing to March 23, 2009, to allow sufficient time for the Zoning Administrator to consider the testimony and make a decision. At that hearing the Zoning Administrator approved the subdivision request with modifications to the Conditions of Approval.

On April 2, 2009, the County received a joint appeal from two neighbors of the Zoning Administrator's decision. This hearing is a result of that joint appeal.

IV. GENERAL INFORMATION

- A. General Plan: Single-Family Residential Low-Density (SL).

B. Zoning: Single-Family Residential District, R-20.

C. CEQA Status: An Initial Study (attached – see March 9, 2009, Staff Report) has been prepared for the project and no significant environmental impacts were identified. A Negative Declaration for this project was posted on May 29, 2008. The comment period for that Negative Declaration expired on June 18, 2008. No comments were received during the comment period; however, several letters from neighbors were received after the deadline had passed. These letters did not discuss the adequacy of the environmental review.

D. Regulatory Programs

- Flood Hazard Area: The site is located in Flood Zone B & C, and improvements to the property will require compliance with the Floodplain Management Ordinance.
- 60-dB Noise Control: Interstate 680 is approximately 1,500 feet east of the nearest exterior wall of the main residence on the subject property. It has been determined that this site is within the 65 dB noise contour delineated in the Noise Element of the General Plan. Title 24, Part 2, of the California Code of Regulations and the General Plan requires all new single-family housing projects shall provide an interior DNL of 45 dB or less. Any new or reconstructed residential buildings on this site would be required to meet all State and County acoustical standards.

V. SITE AND AREA DESCRIPTION

The project is located roughly 0.3 miles west of Interstate 680 and directly east of Lunada Lane, 562 feet southwest of the Hilgrade/Lunada intersection. The site is within an area comprised entirely of lots zoned for single-family residential use. Lots in the unincorporated Alamo area tend to be 20,000 square feet or larger. Many lots in the area also have irregular shapes due to varying topography and that they were established prior to application of zoning regulations.

The site is rectangular in shape and encompasses approximately one acre (43,560 square feet). The site is accessed via Lunada Lane. An iron rod gate is positioned where the proposed remainder parcel abuts the southeastern side of Lunada Lane. The site's topography ranges between 50% slopes on the far northwestern corner to relatively flat where the potential new residence would be located. Twenty nine trees are reported to be on the site, totaling seven different species and varying sizes. A row of Valley Oak trees and a redwood fence are located directly east of the Iron Horse Trail.

Onsite development currently consists of one single-family residence, an accessory structure, and two small sheds. According to information from the County Assessor's office, the original residence was constructed in 1946.

VI. PROPOSED PROJECT

- A. Proposed Division: The applicant requests approval of a Vesting Tentative Map (attached) to subdivide approximately a 1-acre parcel into one parcel and a remainder. Parcel A would have an area of 21,250 square feet, an average lot width of 150 feet, and a lot depth of approximately 150 feet. The remainder parcel would have an area of 22,310 square feet, an average lot width of 120 feet, and a lot depth of approximately 200 feet.
- B. Private Access Improvements: The private access easement/driveway is proposed to be approximately 20-feet wide and 220-feet in length, and would spur off of Lunada Lane. The Contra Costa County Fire Protection District is requiring the pavement within this access easement to be at least 20-feet wide in order to adequately accommodate emergency equipment. In addition, a paved turnaround must be installed near the entrance to parcel 'A'.
- C. Tree Impacts: Approval is requested to allow removal of 15 trees and to work within the drip lines of four other trees in order to construct the necessary access and stormwater control improvements. Of the fifteen trees, seven are Catalina Cherrys, one is an Incense Cedar, three are Coast Redwoods, two are Manna Gums and one is a Valley Oak tree.

VII. POSITION OF THE ALAMO IMPROVEMENT ASSOCIATION (AIA)

In a memorandum, dated March 30, 2008, the AIA recommended approval with three recommended conditions of approval (See attached – March 9, 2009 Staff Report, Agency Comments/CEQA). As stated in that letter, condition one would require the applicant to plant three 24-inch box trees as replacements for the one valley oak proposed to be removed. Secondly, the association recommended a 28-foot height limit for the potential residence on parcel 'A'. Lastly, it was recommended that the applicant should be required to develop a landscape plan which addresses the proposed stormwater control improvements. The intent of the plan would be to incorporate the stormwater control improvements along the Iron Horse Trail as well as to mitigate any potential future impacts as a result of the construction of a new residence on Parcel 'A'.

VIII. APPLICATION FOR HERITAGE TREE NOMINATION FILED BY NEIGHBOR

In response to this minor subdivision application, the property owners of 2444 Lunada Lane (Newlin Family) submitted a heritage tree application to the County on July 30, 2008 (County File#HT08-0003), four months after this subdivision application was deemed complete by the County. The intent of this heritage tree application is to protect the three large valley oak trees adjacent to the subject property and to affect the filing and recordation of a Parcel Map for the proposed subdivision.

IX. SUBDIVISION MAP ACT

Pursuant to section 66452.5 (a) (3), of the Subdivision Map Act, “*Upon the filing of an appeal, the appeal board or legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of the request filed by the subdivider or the appellant.*” In this case, the applicant was provided the time necessary to contact the appellants and attempt to resolve their concerns and have the appeal rescinded. As a result, the applicant informed County staff that meetings between the appellants and the applicant were promising but had not yielded a clear resolution. Nevertheless, the 30-day time period for scheduling the appeal before the commission was not met. The applicant has not elected to exercise this section of State Law, but rather, the applicant has chosen to continue with the appeal process.

X. MARCH 9, 2009 ZONING ADMINISTRATOR HEARING

At the March 9, Zoning Administrator hearing, two neighbors, Mr. & Ms. Zarling (property owners of 33 Lunada Glen) and Mr. & Ms. Newlin (property owners of 2444 Lunada Lane) testified in opposition to this application (See Exhibit C - Aerial Photo). The concerns of the two sets of neighbors were very similar:

1. Both parties expressed concerns regarding the potential visual impact to their properties.
2. Both parties were also concerned that the project could negatively affect a number of valley oak trees (ranging in size from 25 inches in diameter to 46 inches in diameter). The Newlins testified that several arborists advised them that installation of the proposed driveway would be stressful on the trees within the construction zone.
3. The neighbors testified that the driveway should be relocated to the southern portion of the subject property to avoid the potential impacts to the trees.
4. Additionally, both parties stated that the required landscaping plan is insufficient for the area.
5. The Zarlings requested an independent survey of the subject property and requested that the height limit be reduced to 27 feet instead of the 28 feet recommended by staff.
6. The Zarlings also expressed concern about the timing of the County’s processing of the heritage tree application, which was filed with the County on July 30, 2008.

The applicant stated the developer is willing to plant vegetative screening and continue to work with the neighbors on the matter to achieve some sort of resolution. The applicant testified that relocating the proposed driveway to avoid any potential tree impacts presents additional challenges (topography and width). At that time, their consulting tree arborist testified that the installation of the driveway adjacent to the valley oak trees would have a minor or nearly insignificant impact on these trees. He went on to submit photographic examples of similar projects which have been completed in the area (attached). At the Zoning Administrator's request, the arborist agreed to have his recommendations attached to any future improvement plans as a condition of approval. After completion of the public testimony, the Zoning Administrator closed the hearing for decision and continued the matter until March 23, 2009.

XI. MARCH 23, 2009 ZONING ADMINISTRATOR HEARING

At that hearing, the Zoning Administrator addressed the height, potential tree impacts, landscaping, independent survey request, and timing of several conditions of approval:

Height: The Zoning Administrator indicated that the staff recommended height limit of 28 feet from grade is consistent with the neighborhood and conditions of approval for other similar projects in the area. To add, the Zoning Administrator cited policy 3-120 of the 2005-2020 Contra Costa County General Plan. That policy ensures consistency for all development in Alamo to preserve the rural character of that area. Thus, the Zoning Administrator determined that the 28-foot height limit is consistent with that provision of the General Plan (see condition of approval #6).

Trees: The Zoning Administrator then acknowledged the additional correspondence provided to the County by the Newlins, dated March 20, 2009 and Zarlings, dated March 23, 2009 (attached). The Newlins included an Arborist Report dated March 19, 2009, which was prepared by E.L. Hobbs Company (Certified Arborists). The report described the health of trees number 1, 2 & 3 as "Good" and concluded that installation of the driveway will be stressful on the trees. After reviewing the reports submitted by the appellants and applicant, the Zoning Administrator determined that the recommendations provided by the applicant's consulting arborist (Dennis Yniguez) (attached) were sufficient to protect the three trees in question (see condition of approvals # 7, 9, & 29 (A)).

Landscape Plan: After the Zoning Administrator hearing was closed on March 9, and prior to the continued closed hearing on March 23, in correspondence to the Zoning Administrator, the two neighbors reiterated that the proposed landscape plan was not sufficient. As part of the Zarling letter, they included several photos of the subject property as seen from the rear of their residence. The Zarlings included an estimate for the installation of 18, 24 inch-box trees and 18, 5-gallon shrubs. They recommended that the burden of installation of that landscaping plan be the applicant's and that the vegetative screening be placed on the Konrad's property. Additionally, the Zarling's recommended that a five-year performance bond be required of the applicant to ensure the replacement of the proposed vegetation if it should fail (see condition of approval #8, 10, & 11).

Access: The Zoning Administrator outlined the difficulties of relocating the proposed access to parcel 'A' to the southern portion of the subject property. In particular, that portion of the applicant's property does not have the necessary 20-foot width required to record a private road access easement, nor would that alternative meet the Fire District's requirements. Additionally, it is unclear if the applicant's existing garage would have to be removed as part as that alternative.

Heritage Tree Application: In regards to the heritage tree application, the Zoning Administrator referred to section 66474.2 of the Subdivision Map Act. This section essentially states "*that the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete*". In this case, the minor subdivision application was *deemed complete on March 27, 2008*. The heritage tree application was submitted to the County on *July 30, 2008*. Thus, the heritage tree application is not legally applicable to the County's review of this subdivision request.

Additionally, a nominated tree does not officially receive heritage tree status until the Board of Supervisors has approved the nomination. However, it should be noted that the subject trees are considered code-protected trees per the 1998 Tree Protection Ordinance. Consequently, the subject trees are essentially given an equal level of protection whether having a heritage tree or protected status pursuant to the 1998 Tree Protection Ordinance.

Zoning Administrator's Changes to Conditions of Approvals: After reviewing staff's recommended Conditions of Approval for this project and consideration of all the testimony, the Zoning Administrator implemented the following changes (see attached Zoning Administrator's Marked Text Changes):

- Finding #II. A, - (page #COA-2), The Zoning Administrator added the following language: "*To be consistent with Policy #3-120 which requires that development in the Alamo area be reviewed to ensure the continued rural character of the area, future development of a residence on Parcel A shall be restricted to a height of 28 feet. The design of the proposed off-site drainage line shall minimize any adverse effect on existing trees within the Iron Horse Trail Corridor.*"
- COA #2 - (page #COA-4), The Zoning Administrator replaced the original condition with "*Prior to filing a subdivision map, the applicant shall remove all livestock from the property in order to comply with the requirements of the zoning district, and provide a letter attesting to their removal to the Department of Conservation & Development, Community Development Division.*"

- COA #4, 5, 8, and 9 – (page #COA-4 through 8), The Zoning Administrator changed the timing requirements for these conditions. As described by the Zoning Administrator, there is the filing stage, the approval stage, and the recording stage. The Zoning Administrator required these conditions be met at the earliest stage possible, which is prior to the filing of the parcel map.
- COA #6 – (page #COA-6), This revised condition requires a deed restriction to be recorded on the property, which limits the potential residence on parcel 'A' to 28-feet height in height.
- COA #7, - (page #COA-7), The Zoning Administrator added the following language: *"The proposed removal of fifteen trees as described in the September 14, 2007 Tree Preservation Report Prepared by Ed Brennan is approved."*
- COA #15, - (page #COA-9), Condition of approval number 15 originally addressed construction activities related to the proposed driveway. The Zoning Administer deleted the words "on the driveway", thus making the condition applicable to all construction activity related to this project.
- COA #29, - (page #COA-11), This revised condition requires the arborist's recommendations to be printed on the improvement plans. As part of this condition, the arborist is required to be present at the site to supervise the work within the dripline of trees 1, 2 & 3.

After modifying the conditions of approval and considering all of the testimony/evidence for this project, the Zoning Administrator approved the subdivision request.

XII. JOINT APPEAL FROM NEIGHBORS AND STAFF RESPONSE

In the joint appeal letters dated April 2, 2009, the Zarlings and Newlins reiterate the points presented during the March 9, 2009, Zoning Administrator hearing. Below is a summation of the appeal points and staff's discussion:

1. **Summary of Appeal Point "Tree Protection"**: *The appellants contend that the planned driveway and stormwater control improvements will be detrimental to the two large valley oak trees directly north of the proposed driveway, as well as the large valley oak tree located at the southeast corner of the applicant's property. As part of the appeal package, the appellants included an arborist report dated March 19, 2009, prepared by E.L. Hobbs Company (certified arborist) (attached). In that report, Mr. Hobbs states that the valley oak trees are in good health. He concludes that the planned improvements will be particularly stressful to trees number 1 and 2, which are located on the Newlin property.*

Staff Response: As noted in the applicant's response to the appeal letters (attached), the applicant has hired two separate arborists to evaluate the potential impacts the construction of the access improvements could have on the subject trees. The proposed access to parcel 'A' is along the northern property line of the subject site. The Newlins would prefer to have that driveway relocated to the southern portion of the Konrad property to avoid working within the dripline of their large valley oak trees (tree number 1 & 2). However, the recordation and installation of the access easement/driveway would require a minimum of 20 feet in width. Thus, relocating the access easement to the southern portion of the Konrad's property poses a more difficult alternative as there is only 15 feet from that property line to the Konrad's existing garage. Pursuing that alternative would also require the granting of a variance to the Zoning Code. Additionally, taking access from that portion of the property would be further complicated as the grade steepens dramatically to roughly 50 percent in that area of the lot.

The arborist report supplied by Mr. Yniguez recommended several mitigation measures that are intended to reduce the likelihood any adverse impact to the valley oak trees should occur during the construction of the proposed driveway, such as:

- A. Provide protective fencing to establish a defined Tree Protection Zone,
- B. Utilize a pneumatic "air spade" to safely remove the soil surrounding roots,
- C. Potentially incorporate a pervious type of concrete to further mitigate the potential construction effects and to improve the natural water percolation for the subject valley oaks

The Zoning Administrator required these measures to be added to the improvement plans for this subdivision. In addition, the Zoning Administrator has required that a qualified arborist be present to oversee any construction activity within the area surrounding the two valley oak trees. Thus, it was determined by the Zoning Administrator, that these measures were sufficient to protect the subject trees and that no other tree protection measures were required.

2. **Summary of Appeal Point "Heritage Tree Application":** *In the Newlin appeal letter, they contend that their Heritage Tree application should have standing in the review and decision making process for this application.*

Staff Response: According to Section 66474.2 (a) of the Subdivision Map Act: "the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete". This subdivision application was deemed complete on March 27, 2008, and the Newlins filed their heritage tree application on July 30, 2008.

Thus, the heritage tree application does not appear to be a legal binding consideration in regards to the County's review of this application. Regardless of this state law, the three valley oak trees are considered protected under the County's 1998 Tree Protection Ordinance. That protected status provides the subject trees with an equivalent degree of protection that a Heritage Tree designation would require.

3. **Summary of Appeal Point "R-20 Single-Family Residential District (R-20)":** *The Zarling letter claims the area within the proposed access easement should be deducted from the overall square footage of lot 'A'.*

Staff Response: As proposed, the access to parcel 'A' would be considered a "private appurtenant access easement". County Code Section 82-4.244(c), states "Right of way Excluded. No part, nor all, of a lot within a **public** road, street, highway, right-of-way, or easement, for vehicles or pedestrians, existing or proposed, shall be used to satisfy minimum area, yard, dimensional or coverage requirements." As highlighted, this section of the County Code strictly applies to public related roads. Driveways such as the one proposed with this project are not considered public. Rather, the driveway would be limited to accessing parcel 'A' and is not considered a public right of way. Thus, the square footage of the access easement is not subtracted from the gross area calculation.

4. **Summary of Appeal Point "Privacy/Vegetative Screening":** *The appellants have stated that the landscaping requirements are not sufficient for the intended area.*

Staff Response: The Zoning Administrator has reviewed the requirements of the Planting and Irrigation Plan (COA #8 (a)) and has determined that the required six 15-gallon valley oak trees and eight 1-gallon shrubs, was sufficient for the project. Additionally, the Zoning Administrator modified this condition to require that the Landscape and Irrigation Plan be prepared by a licensed arborist or Landscape architect. The plan would have to be submitted for review and approval of the Zoning Administrator prior to the filing of the Parcel Map. To add, the applicant has indicated to staff that they remain amiable to meeting with the neighbors to address their concerns.

5. **Summary of Appeal Point "Property Survey":** *The appellants have expressed concern regarding the accuracy of the property survey which was performed by Nicolas G. Speros, a state licensed engineer.*

Staff Response: The Zoning Administrator addressed this issue at the March 23, 2009, Zoning Administrator hearing. At that meeting, the Zoning Administrator informed the appellants that the project is at the tentative map stage. This essentially means the property would be re-surveyed at the time the parcel map was being prepared and ready to be considered for approval by the County. The Zoning Administrator also offered to make arrangements for the appellants to review the survey results at the public works department at that time.

XIII. APPLICANT'S CONCERNS REGARDING THE ZONING ADMINISTRATOR'S CHANGES TO THE CONDITIONS OF APPROVAL

The Zoning Administrator modified the language for condition of approval number 6 which establishes the height limitation for parcel 'A'. Although the applicant did not officially submit an appeal of the Zoning Administrator's decision, the applicant has informed staff of their disagreement with the height restriction language. Additionally, the applicant is not in agreement with Advisory Note C, which is administered by the Public Works Department (attached – Zoning Administrator's Marked Text, page #COA-17). Below is the applicant's position regarding the height restriction language, Advisory Note C and staff's response:

1. **Summary of Concern:** The applicant is proposing to limit the height of any future structures on parcel 'A' to 28-feet in height, with a provision to petition the Zoning Administrator for a taller structure. The proposed language is: *"A deed restriction shall be recorded that states the area shown as Lot 'A' will have structures limited to 28 feet in height, but that the owners of Lot 'A' may construct a residence on the property to a maximum height of 35 feet, as allowed the County Ordinance Code, subject to the review and approval of the Zoning Administrator. Review by the Zoning Administrator shall be for the limited purpose of determining whether an increased height above 28 feet would have an unreasonably adverse impact on the neighbors' views."*

Staff Response: The Zoning Administrator reviewed the applicant's proposed language and did not agree with that language. Additionally, the applicant's proposed language does not meet the intent of the Alamo Improvement Association's height limit recommendation which strictly limits the height of structures on parcel 'A' to 28-feet in height.

2. **Summary of Concern:** *The applicant requests that the payment of the Drainage Area 13 fees should occur when the applicant commits to physical development of the site (i.e. issuance of a building permit).*

Staff Response: According to County Ordinance Number 86-36, Section VI. *"the subdivider shall pay the drainage fee on the entire proposed subdivision or on each individual unit for which a final or parcel map is filed prior to recordation of said map."* This ordinance is administered by the County Public Works Department and is not subject to modifications without the approval of the Board of Supervisors. Thus, staff recommends that the Board of Appeals adopt the conditions of approval as approved by the Zoning Administrator.

XIV. STAFF ANALYSIS

The appellant's offer very little new information. The appeal points are similar to what has previously been discussed at the Zoning Administrator's level. Additionally, the Zoning Administrator was able to make the required findings necessary to grant approval of the tentative map for the subdivision. The appellant has failed to provide substantial evidence showing that the findings cannot be made. The conditions of approval for this project are similar to those approved for other similar projects in the area. The applicant has made a good faith effort to meet with the appellants to address their concerns.

This subdivision request complies with the R-20 Single Family Residential District's development standards and is consistent with the Single Family Low Density General Plan designation for this area. The proposed driveway and stormwater improvements will be within the dripline of several code protected trees, and the arborist's recommendations have been deemed adequate to protect the health of the trees to be preserved.

XV. CONCLUSION

The project as proposed conforms to the development standards as required by the R-20 Zoning District and SL General Plan designations. Therefore, staff recommends that the County Planning Commission deny the appeal of the appellants and sustain the Zoning Administrator's decision.

**MARCH 9, 2009, ZONING ADMINISTRATOR'S
STAFF REPORT**

THE HISTORY OF THE CITY OF NEW YORK

FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME

BY
JOHN B. HENRY

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COUNTY ZONING ADMINISTRATOR
MONDAY, MARCH 9, 2009

I. INTRODUCTION

KB Consulting & Management (Applicant), Michael Konrad (Owner), County File #MS0700024: Applicant requests approval of a vesting tentative map to subdivide a 1 acre parcel into two lots. In addition, approval is requested to allow removal of 15 Code Protected trees and to work within the drip lines of four other trees in order to construct access improvements. The subject site is located at 2450 Lunada Lane, in the Alamo area. (Zoning: R-20) (General Plan:SL) (CT: 3440.00) (Assessor Parcel Number: 188-321-007).

II. RECOMMENDATION

- A. For the purposes of compliance with the California Environmental Quality Act, find that the Initial Study is adequate for the project and adopt the Negative Declaration, finding that no substantial evidence has been presented indicating that the project might result in a significant environmental impact.
- B. Approve the Vesting Tentative Map received by the Department of Conservation and Development, Community Development Division, April 10, 2008 with modifications, subject to the attached findings and conditions of approval.
- C. Approve the tree permit to remove 15 code protected trees and to work within the dripline of four additional trees for the purposes of access improvements.
- D. Direct staff to file a Notice of Determination.

III. GENERAL INFORMATION

- A. General Plan: Single-Family Residential Low-Density (SL).
- B. Zoning: R-20 Single-Family Residential District.
- C. CEQA Status: An Initial Study has been prepared for the project and no significant environmental impacts were found. A Negative Declaration was posted May 29, 2008. The comment period expired on June 18, 2008. No comments were received during the comment period; however, several letters from neighbors were received after the deadline had pasted (see attached letters).
- D. Previous Applications: None

E. Regulatory Programs

- Redevelopment Area: The subject site is not located within a redevelopment area.
- Active Fault Zone: The subject site is not located within an active fault zone.
- Flood Hazard Area: The site is located in Flood Zone C, thus improvements to the property will not require a Flood Plain Permit.
- 60-dB Noise Control: Interstate 680 is approximately 1,500 feet east of the nearest exterior wall of the main residence on the subject property. This site is within the 65 dB noise contour delineated in the Noise Element of the General Plan. Title 24, Part 2, of the California Code of Regulations and the General Plan requires all new single-family housing projects to provide an interior DNL of 45 dB or less. Any new or reconstructed residential buildings would be required to meet all State and County acoustical standards.

IV. SITE/AREA DESCRIPTION

The project is located roughly 0.3 miles west of Interstate 680 and directly east of Lunada Lane, 562 ft. southwest of the Hilgrade/Lunada intersection. The site is within an area comprised entirely of lots zoned for single-family residential use. Lots in the unincorporated Alamo area tend to be 20,000 square feet or larger. Many lots in the area also have irregular shapes due to varying topography and the fact that they were established prior to application of zoning regulations.

The site is rectangular in shape and encompasses approximately 1 acre (43,560 square feet), where a minimum lot area of 20,000 square feet is required. The site is accessed via Lunada Lane and a private access easement (yet to be named). The easement provides access for parcel 'A' of the proposed subdivision. An Iron Rod gate is positioned where the remainder parcel abuts the southeastern side of Lunada Lane. The site's topography ranges from roughly 50% slope on the far northwestern corner to relatively flat where the potential new residence would be located. Twenty nine trees are reported to be on the site, totaling seven different species and varying sizes. A row of Valley Oak trees and a redwood fence screen parcel 'A' from the Iron Horse Trail located directly east of the project site.

Onsite development currently consists of one single-family residence, an accessory structure, and two small sheds on the proposed parcel 'A' which undoubtedly would have to be removed for access improvements. According to information from the County Assessor's office, the residence was constructed in 1946.

V. PROPOSED PROJECT

- A. 2-Lot Subdivision: The applicant requests approval of a Vesting Tentative Map to subdivide approximately 1 acre into two lots. Parcel A would have an area of 21,250 square feet, an average lot width of 150 feet, and a lot depth of approximately 150

feet. The remainder parcel would have an area of 22,310 square feet, an average lot width of 120 feet, and a lot depth of approximately 200 feet.

- B. Private Access Improvements: The private access road is proposed to be approximately 20 feet wide and 220 feet in length, which spurs off of Lunada Lane. The Contra Costa County Fire Protection District is requiring the pavement within the access easement to be at least 20 feet wide in order to adequately accommodate their emergency equipment. In addition, a paved turnaround must be installed near the entrance to parcel 'A'.
- C. Tree Impacts: Approval is requested to allow removal of 15 trees and to work within the drip lines of four other trees in order to construct the necessary access improvements. Of the fifteen trees, seven are Catalina Cherrys, one is a Incense Cedar, three are Coast Redwoods, two are Manna Gums and one is a Valley Oak tree.

VI. AGENCY COMMENTS

All comment letters and memos are attached. No comments were received from the following agencies: Central Contra Costa Sanitary District, US Fish & Game, Region III, and the CA Native American Heritage Commission.

- A. Building Inspection Department: Comments dated December 21, 2007 state "Tentative map should include a road profile of the proposed roadway to verify grades and percentages." The revised tentative map, dated March 26, 2008, provides the requested road profile information.
- B. Public Works Department – Engineering Services: The Public Works Department returned an agency comment request form dated May 6, 2008. In the memorandum, they included a list of recommended conditions of approval.
- C. California Historical Resources Information System: Comments dated April 4, 2007 stated that there was no record of any previous cultural resource studies for the project area. In addition, they concluded the site has a low possibility of containing unrecorded archaeological site(s). Therefore, no further study for archaeological resources was recommended.
- D. Contra Costa County Fire Protection District: Comments dated December 19, 2007, state 13 conditions of approval. These conditions have been included in the Advisory Notes. The conditions related to access improvements, weed abatement, and Residential Automatic Fire Extinguishing Sprinkler Systems. The District also indicated that access gates must comply with fire code requirements.
- E. East Bay Municipal Utilities District: Comments dated December 13, 2007, state separate meters for each lot will be required and also indicated that a main extension, at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department.
- F. Alamo Improvement Association (AIA): The AIA provided comments on this application dated March 30, 2008. The comments recommended approval with three

conditions. Condition 1 (Planting of three 24" box trees) will be implemented through the County's conditions of approval. Secondly, the AIA letter states that the "Height limit for any new structures will be limited to 28ft. from finished grade". It is also stated in the AIA letter that "the applicant is expected to develop a coordinated landscape plan including shrubs, trees, etc. with the C-3 Drainage improvements along the property border with the Iron Horse Trail easement to mitigate future impact of a residence constructed on Parcel A".

VII. TRAFFIC/CIRCULATION AND DRAINAGE

- A. Traffic & Circulation: The subject site fronts Lunada lane, a public road, which has a current right of way width of 50 feet, which the Public Works Department has deemed adequate. The existing pavement width along the project frontage of Lunada lane is approximately 18 feet, where the ultimate planned pavement width for Lunada lane is 32 feet.

The applicant will be required to widen Lunada lane along the project frontage to provide for a half width of 16 feet, and construct concrete curb and gutters. However, due to the entire project frontage being located along the proposed Remainder Parcel; the applicant will not be required to construct frontage improvements along Lunada lane at this time.

- B. Drainage: Division 914 of the County Ordinance Code requires all storm water entering and/or originating on this property to be collected and conveyed without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a definable bed and banks, or to an existing adequate public storm drainage system which conveys the storm waters to an adequate natural watercourse.

A revised Stormwater Control Plan received on April 10, 2008 was reviewed and determined to be preliminarily complete by the Public Works Department. Although the Stormwater Control Plan has been determined to be preliminarily complete, it remains subject to revision based on changes made during the preparation of improvement plans, as necessary, to better address compliance with C.3 stormwater requirements.

- C. Annexation to Lighting District: The subject property is not currently annexed into a lighting district. The applicant will be required to apply for annexation to County Service Area L-100 Lighting District by submitting a letter of request, a metes and bounds description, and pay the current LAFCO fees, or apply for annexation to another street light financing mechanism approved by the Public Works Department.

VIII. NEIGHBORHOOD COMMENTS

- A. Sharon Keane, 2441 Lunada Lane, Alamo: In a letter (attached) dated June 16, 2008, Ms. Keane, opposes the subdivision application. Ms. Keane's primary concern is aesthetics and contends the removal of the 15 trees for site access improvements will not be easily replaced. She also contends that the subject trees act as a sound barrier to the noise generated by the traffic associated with I-680.

Staff Response: *As conditioned, the applicant is required to replant three 24" boxed trees along the proposed access improvements. These trees are intended to provide additional visual screening for the neighbors directly to the north. No code protected trees are proposed to be removed along the property's frontage.*

- B. Earl & Francesca Cothran, 2461 Lunada Lane, Alamo: In a letter (attached) dated July 7, 2008, the Cothran's, do not contest the subdivision; however, they express several concerns regarding the potential negative impacts to several Oak Trees along the proposed access improvements.

Staff Response: *The project proponent submitted a Tree Preservation Report, dated September 14, 2007, with the submission of the subdivision application. This report detailed the health of the subject trees and recommended several tree preservation guidelines to ensure the trees long term health.*

Since the submission of the original Tree Preservation Report, prepared by Ed Brennan, the applicant has contracted Dennis Yniguez of Tree Decisions to conduct an additional investigation specifically for the subject Oak trees. In Mr. Yniguez's report, he describes the health of the two Oak trees adjacent to the proposed access improvements and evaluates the potential impacts the construction may have on their overall health and longevity. Mr. Yniguez proposes the use of an air spade to excavate the soil surrounding the subject Oaks' root structures. The report's conclusion stated that "both trees are sufficiently vigorous to respond with little or no change in their appearance, and no lasting detriment to their health or stability.

- C. John Zarling, 33 Lunada Glen, Alamo: In a letter (attached) dated June 23, 2008, Mr. Zarling states that he is opposed to the proposed subdivision. He contends that the adjacent Iron Horse corridor which is used by many families in the area will be substantially changed aesthetically. Mr. Zarling also addresses a potential discrepancy with the accuracy of the property lines reflected on the proposed subdivision map. Lastly, Mr. Zarling notes that his property is approximately 2' lower in elevation than the property which is proposed to be subdivided. In conclusion, he requests that site mitigation measures, an adequate drainage plan and accurate property boundaries all be included as part of the project.

Staff Response: *The application is consistent with the development patterns in the area and does not request any variances to the R-20 development standards. Currently, six mature Valley Oak trees screen the proposed parcel 'A' from the Iron Horse Trail. As recommended by the AIA, condition of approval #7 limits the height of structures on parcel 'A' to 28'. This condition is aimed at keeping the size and bulk of an eventual residence consistent with the current surrounding homes. As conditioned, the applicant will be required to install three 24" boxed trees on the northern property line to provide additional screening to the nearest neighbors; however, the project proponents have indicated a willingness to collaborate with*

neighbors to the south on a mutually acceptable landscaping plan that softens the change in scenery.

Additionally, Mr. Zarling has concerns regarding the potential increase in stormwater runoff. The applicant has diligently worked with the Public Works Department to comply with the County's Stormwater Management and Discharge Control Ordinance, the Stormwater "C.3" Guidebook, and the requirements of the Regional Water Quality Control Board. A revised Stormwater Control Plan received on April 10, 2008 was reviewed and determined by the Public Works Department to be preliminarily complete. As conditioned, and with the implementation of the proposed drainage plan, the project should not cause any significant alterations to the existing drainage conditions in the area surrounding the proposed subdivision.

STAFF ANALYSIS/DISCUSSION

- A. General Plan & Zoning Compliance: The General Plan land use designation for the site is Single-Family Residential Low-Density, which allows a density of 1.0-2.9 units per net acre. The proposed project is consistent with the density requirement, is also consistent with the policies for the Alamo-Diablo-Blackhawk area, and is consistent with the overall goals and policies of the General Plan.

The site is zoned R-20 Single-Family Residential District. The proposed lot areas, average widths and lot depths comply with the required minimums for the R-20 District. No change to the existing land use is proposed. The property currently has one residence that was built in 1946. The proposed subdivision would result in one home per lot, and would therefore remain in compliance with current R-20 Zoning Code requirements.

- B. Site Plan Analysis: No buildings or structures are proposed and two small sheds in the southern portion of the site would be removed to make access improvements. The most significant change involves construction of a turnaround in the southern portion of the site as required by the Fire District and the establishment of an access easement for the benefit of Parcel A.

- Access Easement

The proposed access easement to Parcel A would span the entire length of the remainder parcel. As proposed, the easement would contain a driveway and Emergency Vehicle Turn-around.

- C. Trees/Heritage Tree Nominations: The only development proposed with this application would be the required right-of-way improvements. Fifteen trees would be affected: seven Catalina Cherry, one Incense Cedar, one London Plane, three Coast Redwoods and one Valley Live Oak tree would be removed for the construction of the proposed access to parcel 'A'. Additionally, two Valley Oak trees which are located on 2444 Lunada Lane (property immediately north) would be slightly affected by the construction of the access improvements (work within the dripline).

In response to this subdivision application, the property owners of 2444 Lunada Lane submitted a Heritage Tree Nomination application on July 30, 2008. The application was later amended to include a third tree at the rear of 2450/2444 Lunada Lane. The focus of the nomination application is to protect three Valley Oak trees adjacent to the proposed driveway and drainage improvements. The Heritage Tree application is currently under review. As recommended by staff, the proponents of this subdivision application contacted a second licensed arborist. The purpose of this focused evaluation was aimed at obtaining the potential adverse effects of the proposed access improvements to the two oak trees located on 2444 Lunada Lane. According to the Tree Preservation Report, prepared by Dennis Yniguez (Registered Consulting Arborist), *"construction of an entrance driveway can be done in the location indicated on the tentative vesting map with no consequential detriment to the health or stability of the two subject valley oaks. Only a small percentage of the mass and utility of the existing root system would be disturbed, and any disruption to the root system would be localized and limited. Both trees are sufficiently vigorous to respond with little or no change in their appearance and no lasting detriment to their health or stability"*.

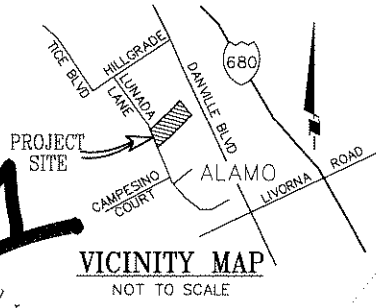
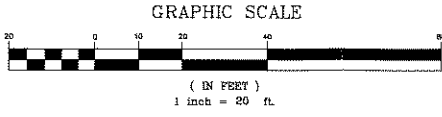
As previously stated, Mr. Yniguez's report included several recommendations for the protection of the two subject valley oak trees. The recommendations are as follows: provide protective fencing to establish a defined Tree Protection Zone; utilize a pneumatic "air spade" to safely remove the soil surrounding roots; and to potentially incorporate pervious type of concrete to further mitigate the potential construction effects and to improve the natural water percolation for the subject valley oaks. The incorporation of these recommendations into the proposed project should adequately protect the subject trees and safely allow construction within the driplines of the trees.

IX. CONCLUSION

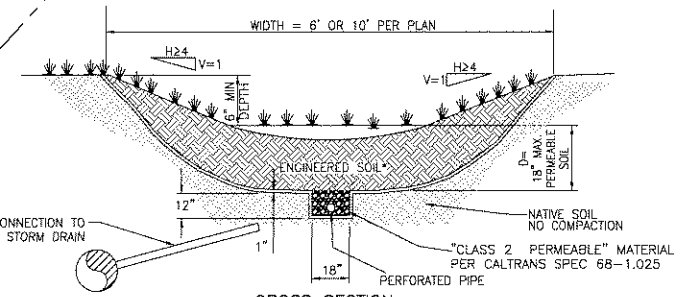
The proposed project is consistent with the General Plan designation of Single Family-Low Density and the R-20 zoning regulations. The project would result in two lots consistent with properties in the area. The Initial Study concluded that the proposed project would not result in any significant environmental impacts. Therefore, staff recommends that the Zoning Administrator approve County File #MS07-00024 based on the attached findings and subject to the recommended conditions of approval.

TREE LOCATION MAP

STORMWATER CONTROL PLAN
"2450 LUNADA LANE"
ALAMO, CONTRA COSTA COUNTY, CALIFORNIA
SUBDIVISION MS 07-0024



- SWCP NOTES:
1. ALL DMA'S DRAIN TO TREATMENT FACILITIES (THERE ARE NO SELF TREATING OR SELF-RETAINING DMA'S)
 2. THE REMAINDER PARCEL IS EXISTING/PREVIOUSLY DEVELOPED AND IMP 2 IS TREATMENT ONLY (NO FLOW CONTROL)
 3. PARCEL 'A' QUALIFIES FOR TREATMENT ONLY DESIGN. AS A CONDITION OF APPROVAL THE APPLICANT WILL MEET THE "COLLECT AND CONVEY" REQUIREMENT OF ORDINANCE 914-2 OF THE COUNTY CODE. FOR THE PURPOSE OF TENTATIVE MAP APPROVAL, THE CURRENT DESIGN FOR PARCEL 'A' IS HMP (FLOW CONTROL PLUS TREATMENT). DEPENDING ON THE RESULTS OF THE ANALYSIS OF THE "COLLECT AND CONVEY" REQUIREMENT DURING CONSTRUCTION PLAN APPROVAL, THE APPLICANT RESERVES THE OPTION OF CHANGING THE C.3 DESIGN FOR PARCEL 'A' TO TREATMENT ONLY.



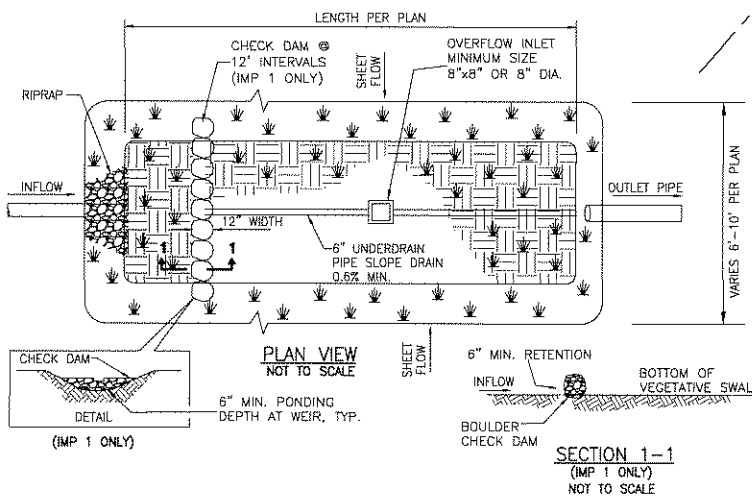
- NOTES:
1. SWALE SHALL BE GRADED TO DRAIN TOWARD OUTLET AT A MINIMUM SLOPE 0.2%
 2. ALL PERFORATED PIPE SHALL HAVE A MINIMUM OF THREE 3/4" DIA. HOLES EVENLY SPACED ALONG THE CIRCUMFERENCE OF THE PIPE AND NOT LESS THAN THREE HOLES PER LINEAL FOOT OF PIPE.
 3. DETERMINE DIMENSIONS FROM (LxWxD) Voids Ratio= INFILTRATION DESIGN VOLUME.
 4. PLANTING MAY INCLUDE TREES, MINIMUM INFILTRATION RATE 5"/HR.
- *FOR THE SOIL/FILTER/PLANTING MATERIAL IN FLOW-THROUGH PLANTERS, IN GROUND (INFILTRATION) PLANTERS, BIOTRETENTION AREAS, AND VEGETATED OR GRASSY "DRY" SWALES, USE A UNIFORM MIX OF SAND AND ORGANIC MATERIAL SUCH AS COMPOST. OMIT "TOPSOIL" OR OTHER SOIL THAT INCLUDES SILTS OR CLAYS. FOR THE MOST RECENT RECOMMENDATIONS FOR PLANTING MATERIAL - INCLUDING MIX PROPORTIONS, SPECIFICATIONS, AND SOURCES - THE CONTRACTOR SHALL CONTACT PUBLIC WORKS/WATERSHED MANAGEMENT OR WWW.CCCLEANWATER.ORG

DRAINAGE MANAGEMENT AREAS DRAINING TO IMP'S

NAME	TYPE	SOIL GROUP	RAIN ADJ. FACTOR	SIZING FACTOR	DIM 1 (FT)	DIM 2 (FT)	MIN. SIZE (LF & SF)	PLANNED SIZE (LF & SF)	MAX UNDERDRAIN FLOW (GFS)
IMP 1	VEGETATED SWALE (FLOW CONTROL)	D	0.88	350	2.0	1.0	148 LF 1,480 SF	148 LF 1,480 SF	0.1257
IMP 2	VEGETATED SWALE (TREATMENT ONLY)	D	N/A	N/A	2.0	0.5	57 LF 342 SF	59 LF 354 SF	N/A

DMA/IMP BOUNDARY:

NAME	SURFACE TYPE	AREA (S.F.)	RUNOFF FACTOR /SIZING FACTOR	MIN. IMP SIZE (LF & SF)
DMA 1	ROOFS	10,664	1.0	76 LF, 760 SF
DMA 2	CONVENTIONAL CONCRETE OR ASPHALT PAVING	4,852	1.0	35 LF, 350 SF
DMA 6	LANDSCAPING	7,387	0.7	37 LF, 370 SF
DMA 3	ROOFS	3,837	1.0	28 LF, 156 SF
DMA 4	CONVENTIONAL CONCRETE OR ASPHALT PAVING	2,945	1.0	20 LF, 120 SF
DMA 5	LANDSCAPING	15,714	0.1	11 LF, 66 SF



YNIGUEZ REPORT

F.A.

K B C M
PO Box 487
ORINDA, CA 94563

03 DEC 31 PM 1:04

December 29, 2008

To: Francisco Avila, Contra Costa County Department of Conservation & Development

SUBJ: Konrad Minor Sub-Division

File: MS07-0024

Encl: (1) Tree Decisions Arborist Evaluation Report dated December 29, 2008

Ref: (1) Newlin/Heritage Tree Application #1 dated July 30, 2008 (File HT08-0003)
(2) Newlin/Heritage Tree Application #2 dated September 18, 2008 (File HT08-0003)

Francisco,

Dennis Yniguez of Tree Decision (a registered consulting arborist) was engaged to provide a professional analysis (Enclosure 1) of the impact of the Konrad development, specifically as it applied to the two large oak trees, that the Newlin's have submitted a heritage tree nomination application for (Reference 1). His report and analysis concludes that the Konrad development will *"...have no significant detrimental effects on the health or stability of two native valley oaks on an adjacent property."*

Subsequently, the Newlins submitted an addition to the original heritage tree nomination application (Reference 2) to include an additional tree at the rear of, but apparently beyond, their property line as it abuts on Iron Horse trail. It appears that this tree identified for heritage nomination was singled out among a number of trees of similar variety and size because of its proximity to a "proposed" storm water drain line that is part of the Konrad's C-3 Storm Water control plan.

The inclusion of this tree in the Newlins heritage tree nomination is curious. However, the drain line that is proposed to pass in proximity of the subject tree simply represents the project engineers' preliminary assessment of the most efficient means of providing drainage from the site. While a drainage pipe in proximity of the subject tree, in all likelihood, will not create any detrimental effects on the health or stability of this tree, the site and the flexibility of the C-3 Storm water control plan accommodates variations in the path of the drain line, that can avoid the subject tree all together, and can be explored as part of the final improvement plans.

Please direct any questions or comments to me at (925) 250-6743.

Sincerely,



Kevin Bertelsen

Dennis Yniguez

Registered Consulting Arborist
Dennis@TreeDecisions.com

TREE DECISIONS



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Berkeley, CA 94709

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PRESERVATION OF NATIVE OAKS DURING CONSTRUCTION OF A DRIVEWAY IN ALAMO, CALIFORNIA

RE

PERMIT FOR CONSTRUCTION NEAR PROTECTED OAKS AT
2450 LUNADA LANE
ALAMO, CALIFORNIA

FOR

KEVIN BERTELSEN, APPLICANT
KB CONSULTING
P. O. BOX 487
ORINDA, CA 94563

BY

DENNIS YNIGUEZ, CONSULTING ARBORIST
TREE DECISIONS, BERKELEY, CALIFORNIA
treedec@aol.com

DECEMBER 29, 2008

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3. Air Spade Excavation
4. Significance of Root Severance on Performance
Of Established Trees
5. Discoloration and Decay in Severed Tree Roots

EXECUTIVE SUMMARY

Proper construction of a private driveway alongside two homes in Alamo, California, would have no significant detrimental effects on the health or stability of two native valley oaks on an adjacent property. Tree root protection, drainage design, appropriate landscaping, and other measures referenced in this report would ensure the continued good health of the oaks.

BACKGROUND AND ASSIGNMENT

Michael and Almudena Konrad reside on a property at 2450 Lunada Lane in Alamo, California, in an unincorporated area of Contra Costa County. They retained Mr. Kevin Bertelsen of KB Consulting to manage their application for a permit to subdivide the Konrad property into two residential lots. The application process requires a thorough review by the Contra Costa County Department of Conservation and Development.

The Konrad's property is zoned R-20 and consists of a residence, outbuildings, and a pasture with several horses. If the property is subdivided, the newly created lot will require construction of an entrance driveway that is adjacent to a boundary fence. Although the entrance driveway will be constructed entirely on the Konrad property, it will be installed beneath the encroaching branches of two mature oaks that belong to an adjacent neighbor.

Two countywide ordinances have been enacted to provide a review process when certain trees could be threatened with damage or destruction (Title 8 Zoning, Chapter 816-4 *Heritage Tree Preservation (HTP) District* and Chapter 816-6 *Tree Protection and Preservation*). An applicant for a discretionary permit must submit an arborist report to address the likely effects of construction on the health of "protected" or "heritage" trees, and to establish procedures for reasonable development and tree protection. After reviewing an arborist report, the County will establish requirements that must be implemented as Conditions of Approval for development.

In July, 2007, Mr. Bertelsen retained Ed Brennan, an independent consulting arborist, to conduct a thorough tree survey. Mr. Brennan's report evaluated 27 trees on the Konrad property, as well as several off-site oaks, for condition, suitability for preservation, and possible impacts by proposed construction. Mr. Brennan's report included guidelines for tree preservation and an appraisal of the monetary value of each tree.

In September, 2008, I was retained by Mr. Brian Mulry, an attorney with the Gagen McCoy law firm, to assist Mr. Bertelsen with the tree-related section of the subdivision application. I was not asked to re-evaluate the size, condition, or appraised value of all 29 trees described in the Brennan report, but rather to limit my evaluation to the potential effects of driveway construction on the health of two native oaks on the adjacent property. I agreed to review the proposed specifications for installation of an entry driveway, visit the site, and prepare an independent report of my impressions and recommendations.

OBSERVATIONS AND DISCUSSION

On September 10, 2008, accompanied by an associate, I met with Mr. Bertelsen at 2450 Lunada Lane in Alamo. I evaluated the apparent health of two mature oaks in an adjoining yard, took relevant measurements of the surroundings, and thoroughly photographed the site. We reviewed specifications for installation of a driveway and discussed measures for protecting both neighboring oaks.

Condition of Two Native Oaks on an Adjacent Property

The two native trees that are the subject of this report are valley oaks (*Quercus lobata*). Their trunks are indicated as Tree A and Tree B on the included tree survey map (Exhibit 1).

Tree measurements were estimated by observing the trees from the Konrad property. Trees A and B have respective trunk diameters of about 28 inches and 24 inches, as measured 4.5 feet aboveground. This height indicates the trees' "DBH" (Diameter Breast Height), a standard height often used by arborists and foresters when measuring trunk diameters.

Crown Density

Both trees appear to be in very good health, as evidenced by the length of new shoots and by vigorous leaf density and distribution throughout the crown. They appear to have an abundance of carbohydrate reserves and would be expected to respond well to moderate alterations of their environment.

Lower limbs have been removed over the years to provide "high shade" while allowing clearance and visibility beneath the trees. I observed no evidence of significant fungal infection or insect infestation in the leaves, branches, or trunk.

Leaves are the "fuel factories" of a tree. They contain chlorophyll, an organic molecule that captures the energy of sunlight to form carbohydrates (glucose) during the process of photosynthesis. A dense crown of leaves creates an abundance of glucose, which provides energy for the life processes of a tree.

When trees such as these valley oaks have vigorous, leafy crowns relative to their size, they are said to have a high "source-to-sink" ratio. This means that the trees have an abundance of photosynthetic (source) tissue in the leaves in comparison with the mass of living non-photosynthetic (sink) tissue in the limbs, trunk, and roots. Carbohydrates produced by the leafy crowns are stored as energy reserves throughout the trees, in the limbs and trunks aboveground as well as in the roots belowground. These energy reserves are used to create and maintain living cells. Healthy trees with high carbohydrate reserves are considered to be vigorous, that is, well equipped to fight infection and to resist environmental stress.

Structural Integrity

My visual examination of both oaks from the Konrad property revealed no obvious conditions in either tree that might indicate imminent structural failure.

Tools are available for the invasive examination of a tree's internal condition, ranging from specialized small-diameter bits powered by a portable drill, to a Resistograph, which is an electronic instrument that uses a small-diameter, constant velocity probe that is up to 20 inches long. The instrument creates a printed record that represents the relative soundness of the wood wherever the probe spins into the tree.

Without external signs of internal structural weakness, arborists are often hesitant about inserting probes deep into an apparently sound tree. The probes may breach internal physical barriers to decay and leave a tree more susceptible to fungal infection. Arboricultural literature is inconclusive about the relative risks and advantages of invasive testing, and the choice of whether and how to test is ultimately left to the informed tree owner. I was not asked to use invasive diagnostic techniques to examine or test either oak for structural integrity.

Special Considerations for Native Oaks

Both oaks are vigorous specimens that should live in good health for decades. However, native oaks, even if vigorous, require special protection in developed environments. Even well-established oaks can be damaged by careless or uninformed changes to their surroundings, especially severe compaction or overwatering (Exhibit 2).

RECOMMENDATIONS FOR TREE PROTECTION

Protective Tree Fencing

On many construction projects where certain trees are protected by local ordinance, Tree Protection Zones (TPZs) are delineated by temporary fences made of polyethylene or wire mesh. In this project, apparent boundary fences are already in place—the “Tree Protection Zone” would simply be defined as that property northwest of the apparent boundary fence beneath the driplines of the two subject oaks.

There would be no reason for the applicant to undertake construction activities beyond the existing fence during or after construction activities. No parking or storing of vehicles, construction trailers, equipment, machinery, or construction materials would be permitted, nor would dumping of chemicals be allowed within the defined Tree Protection Zone.

Grading

Grading must conform to all the County's technical and safety requirements, and will not encroach or be necessary within the Tree Protection Zone as described above.

Appropriate Drainage Design

This project is required to be in compliance with the County's Storm Water Management and Discharge Control Ordinance, the Storm Water "C-3" Guidebook (third edition), and the requirements of the Regional Water Quality Board. A revised Storm Water Control Plan (SWCP) (received by the County on April 10th, 2008) was reviewed and determined to be preliminarily complete. It is understood that the SWCP will be subject to changes recommended as part of the final improvement plans for the project. The SWCP will be instrumental for conserving natural water drainage and minimizing sheet flow from the Konrad property.

Appropriate Driveway Design and Installation

The driveway would be situated on the Konrad property several feet within the apparent boundary fence. Root pruning would be carefully evaluated and implemented only as necessary to construct a driveway that meets the requirements of the Contra Costa County Community Development Department and the San Ramon Valley Fire Protection District.

Techniques are available to determine the location of encroaching oak roots so that root disruption can be minimized. Within the last decade, tree research has provided arborists with a valuable tool for viewing the location and condition of roots. This tool is a pneumatic device, sometimes called an "air spade," which is used to remove soil surrounding living roots without injuring them. It augments the standard practice of relying on inferences about the condition of roots beneath the surface.

An air spade consists of a metal pipe several feet long, with a trigger grip handle and several interchangeable heads, that is connected by a high-pressure pneumatic hose to an air compressor. The operator first ensures that the ground has been saturated with water and then allowed to drain for about 24 hours to a state of moisture called "field capacity." The operator wears vision and hearing protection equipment, sets up plywood panels to limit the spread of excavated earth, and uses compressed air to remove soil without injuring roots. (Exhibit 3)

Roots can be further examined to help determine an appropriate depth of excavation for the subbase of a new entrance driveway. Alteration or cutting of surface roots should be done by or under the supervision of a competent arborist.

Mr. Kevin Bertelsen, the applicant for this project, has indicated that there is room for flexibility in the precise location of the entrance driveway. If necessary, it can be located about two feet further in from the apparent boundary fence beneath the driplines of the two

oaks on the adjacent property. The depth of excavation of the subbase can be adjusted in response to the location of encroaching oak roots.

In any case, both trees are quite vigorous and any disruption of the root system would be localized and limited. Only a small percentage of the mass and utility of the existing root system would be disturbed. Both oaks are sufficiently vigorous to respond with little or no visible change in their appearance, and no lasting significant detriment to their health. (Exhibits 4 and 5).

Potential Use of Pervious Concrete

I was asked by the Konrads to explore the possibility of using pervious concrete as a possible alternative technique to further mitigate construction effects and improve and maintain natural water percolation for neighboring trees, and to determine whether such material would be feasible and/or acceptable in lieu of a standard asphalt, concrete or paver driveway. These materials and methods are not necessary to protect adjacent trees and would add extra cost and time to the application. Mr. Konrad is examining this alternate technique in the spirit of being a good neighbor and steward of his community's environmental well-being and in an effort to explore construction techniques that provide for storm water management and the greatest long-term health of surrounding trees. This examination of alternatives is not meant to override the preliminarily approved recommendations of the project civil engineer, nor does it represent a commitment to this construction technique. To my knowledge, installation of pervious concrete has never been mandated by the Contra Costa County Community Development Department as a condition of approval for a residential land use application.

Mr. Kevin Bertelsen and I met with Ian Hardage, the plans examiner for the San Ramon Valley Fire Protection District (SRVFPD), along with industry expert Paulette Salisbury of the California Nevada Cement Association, to review the potential for use of pervious concrete for the proposed driveway.

Ms. Salisbury indicated that pervious concrete applications have been used in other states for decades, and that elsewhere in California pervious concrete has been used successfully for fire stations and other commercial and residential settings. She explained that pervious concrete allows water to percolate through the concrete, and to store in the subbase material before gradual release back into the water table. This water management feature could substitute for or augment other hydrologic conservation requirements such as sills, inclined roadways, and drainage swales.

Specifications for pervious concrete thickness are based on the number of daily truck traffic incidents that would be expected of a roadway installation. In this case, heavy trucks would seldom use a residential entrance driveway designed for emergency fire access, and average daily truck usage would fall into a category of zero to twenty incidents.

The SRVFPD indicated that a pervious concrete option was acceptable to them as a suitable alternative to existing standard roadway applications for asphalt, impervious concrete, or pavers, so long as pervious concrete meets the 40,000 lb. (20,000 lbs. per axle) strength standards for fire emergency vehicles.

Specifications for a Pervious Concrete Driveway with
Zero to 20 Average Daily Truck Traffic Incidents

Soil Type	Thickness of Pervious Concrete
Sandy	6" on native soil
Silty with low clay	6" on 3-6" drain rock with filter fabric
Moderate clay	6" on 6-12" drain rock with filter fabric
Heavy clay	6" on 12" drain rock with filter fabric and (optional) Darcy Columns

CONCLUSION

Construction of an entrance driveway can be done in the location indicated on the tentative vesting map with no consequential detriment to the health or stability of the two subject valley oaks. Only a small percentage of the mass and utility of the existing root system would be disturbed, and any disruption to the root system would be localized and limited. In my professional opinion, both trees are sufficiently vigorous to respond with little or no change in their appearance, and no lasting detriment to their health or stability.

Respectfully submitted,



Dennis Yniguez
Registered Consulting Arborist



1. Blue and red arrows indicate the trunks of Tree A and Tree B.



2. Note the lush and healthy crowns of both trees.



3. The high branches of Trees A and B extend over the Konrad property from beyond the fence visible in this photo. These branches are above the mandated clearance height for emergency vehicle access.



4. Lower branches of Trees A and B have been removed over the years to create "high shade" beneath the mature trees.



5. Trees A and B are both vigorous oaks with an abundance of stored carbohydrates. Older pruning cuts have been effectively closed over by the formation of new callus and woundwood.

QUALIFICATIONS, ASSUMPTIONS, AND LIMITING CONDITIONS

Any legal description provided to the consultant is assumed to be correct. Any titles or ownership of properties are assumed to be valid and marketable. All property is appraised or evaluated as though free and clear, under responsible ownership and competent management.

All property is presumed to be in conformance with applicable codes, ordinances, statutes, or other regulations.

Care has been taken to obtain information from reliable sources. However, the consultant cannot be responsible for the accuracy of information provided by others.

The consultant shall not be required to give testimony or to attend meetings, hearings, conferences, mediations, arbitrations, or trials by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services.

This report represents the opinion of the consultant, and the consultant's fee is not contingent upon making any particular recommendation.

Sketches, drawings, and photographs in this report are intended for use as visual aids, are not necessarily to scale, and should not be construed as engineering or architectural reports or surveys. The reproduction of information generated by architects, engineers, or other consultants on any sketches, drawings, or photographs is only for coordination and ease of reference. Inclusion of said information with any drawings or other documents does not constitute a representation by Dennis Yniguez or Tree Decisions as to the sufficiency or accuracy of said information.

Unless otherwise expressed: a) this report covers only the examined items and their condition at the time of inspection; and b) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that structural problems or deficiencies of plants or property may not arise in the future.

EXHIBIT 1



1 inch = 20 fl.

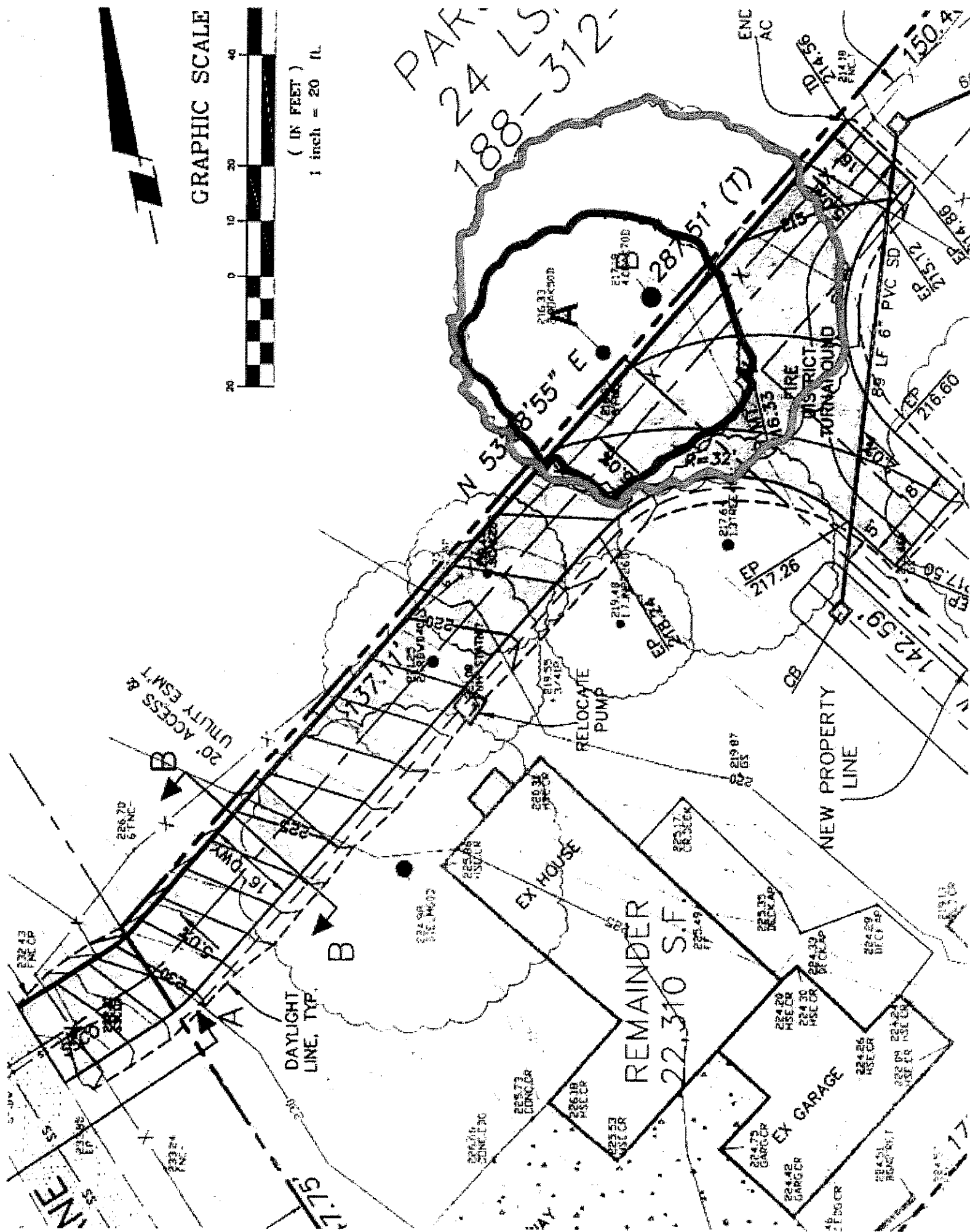


EXHIBIT 2

EXHIBIT 2

Special Considerations for Native Oaks

Two of the greatest threats to well-established native oaks are heavily compacted soils and chronically saturated soils. It is imperative to prevent these conditions before, during, and after construction of the proposed game court.

Compacted soil

Soil compaction is the reduction of the space between soil particles. It usually occurs when heavy construction equipment is driven repeatedly over soil. Compaction can restrict oxygen diffusion through soil, reducing the ability of roots to absorb sufficient water to keep a tree in vigorous health.

Restoring adequate space between soil particles by remedial soil treatment can be difficult. The best way to eliminate soil compaction adjacent to these oaks is to prevent it by keeping protective fencing in place before and during construction.

Saturated soil

Native oaks have adapted to climatic fluctuations in water availability. In this area of Northern California, oaks often survive entire summers with little or no rainfall. However, homeowners often don't realize this and over-irrigate within the driplines of native oaks to the detriment of the trees.

When soil becomes chronically saturated, oxygen no longer diffuses efficiently through the soil and root functioning is impaired. The spaces between soil particles fill with water, beneficial soil microorganisms die, and anaerobic bacteria proliferate. Roots are then forced to shift from aerobic to anaerobic respiration, producing toxic chemical compounds that destroy fine roots.

If a native oak has become stressed from sustained drought, a moderate amount of water can help it to retain a leafy crown and to resist biotic and abiotic environmental pressures. However, irrigation must be minimal to moderate, soil must not remain saturated, and sprinklers must not be directed against the trunk.

Phytophthora Root Rot (*Phytophthora cinnamomi*)

One byproduct of chronically saturated soil is a dramatic increase in the population of *Phytophthora cinnamomi*, a prevalent soil fungus that is found in minute concentrations under normal soil-moisture conditions. Chronically saturated soil encourages a massive,

rapid, and sustained increase in the soil population of this fungus, which then destroys the delicate roots that are essential for the efficient uptake of water.

This destruction of fine roots causes a paradoxically stressful condition: despite an overabundance of water, the tree cannot obtain enough moisture! The leafy crown continues to lose water through transpiration, but the lost water cannot be replaced through root absorption. The leaves increase their production of waxy cuticle (surface cells) to decrease transpiration, and also curl to avoid the drying effects of sunlight. The tree drops leaves prematurely, and newer leaves are smaller and less plentiful.

Fortunately, this condition can often be reversed. When the soil returns to a non-saturated condition, the population of pathogenic *Phytophthora* fungi “crashes” and newly formed absorption roots can survive. The tree can again sustain a lush crown of leaves by constantly replenishing the moisture that is lost through leaf transpiration.

Oak Root Fungus (*Armillaria mellea*)

Oaks that have been weakened by excess summer irrigation are also often most susceptible to oak root fungus, a soil microorganism that is found in low concentrations in normal soils. Sprinklers should not spray directly against the trunk of an oak, because saturated soil is an ideal environment for the proliferation of this fungus, especially during summer months. The fungus will grow into living tissues until significant amounts of wood are weakened and destroyed. The vascular system of the tree is increasingly disrupted, making it ever more difficult for the tree to continue functioning as a homeostatic system. Once the tree begins to exhibit symptoms of advanced infection, such as massive leaf loss throughout the crown, it may well be too late to save the tree.

Appropriate Understory Landscaping

To avoid the damage and destruction of native oaks that can be caused by overwatering, the applicant and tree owner are advised to plant only drought-tolerant plant species within ten feet of the subject trees, or to minimally water plants as necessary to maintain their health.

An excellent booklet, *Compatible Plants Under and Around Oaks*, is available from the California Oak Foundation at 1212 Broadway, Suite 810, Oakland, California 94612. Their telephone number is (510) 763-0282.

EXHIBIT 3

Air Excavation:

The Next Arboricultural Frontier

*Excavation tools are providing
new ways to develop applications
that will reduce labor and
complete jobs that were never
practical in the past.*

by E. Thomas Smiley, Ph.D.

Simply stated, air excavation is the removal of soil using large quantity volumes of high-pressure air. Excavation tools are now readily available for use by tree care professionals. With the wide spread use of these tools, many new applications are being developed. Air excavation can reduce the labor required for many jobs that are traditionally done in arboriculture and will allow us to do things that were never practical in the past.

Root Collar Excavation

Root collar excavations are an essential part of plant health and risk management. Trees with soil against the lower trunk are more

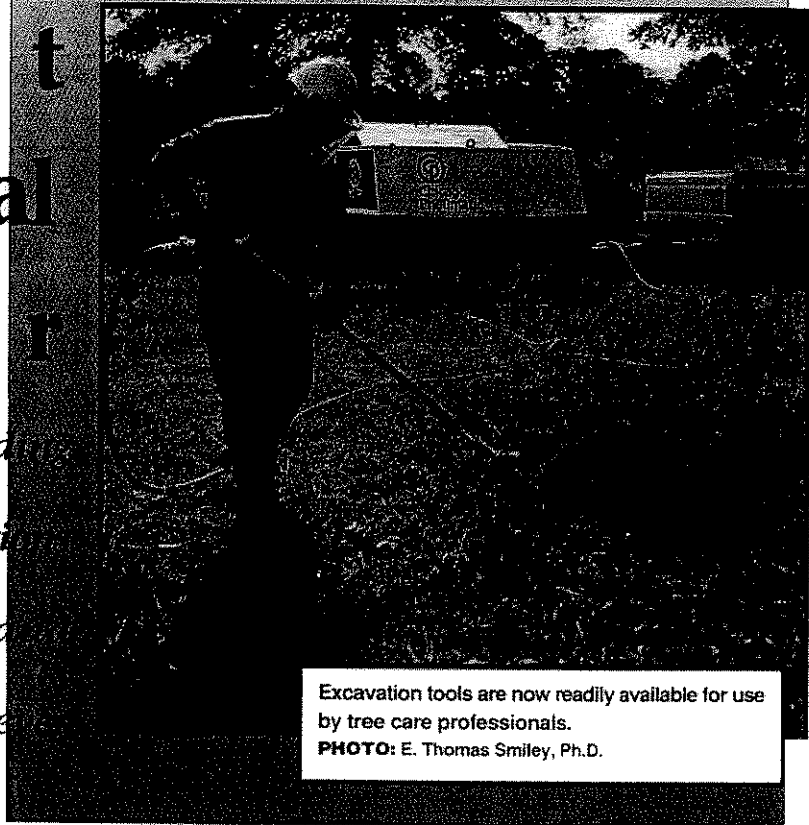
susceptible to pest problems, especially Phytophthora and Armillaria. Soil against the trunk can lead to serious decay of the buttress roots that in turn lead to tree failure. A study of root failures following Hurricane Fran in North Carolina found that one-third of the failed trees have fill soil against the root collar versus only eight percent of the surviving control group. Excavation of the soil can allow dramatic recoveries if performed before the plant reaches irreversible decline. The benefits of this treatment are widely known, however, very few arborists consider this a standard treatment. One of the reasons for this is the difficulty of conducting excavations, especially on large trees.

Air excavation has revolutionized

large-scale root collar excavations. Times for excavation generally are reduced by 50 to 75 percent or more. For example, a five-inch diameter tree buried 12-inches deep in moist clay loam soil can typically be excavated in about 15 minutes. Trees of equal size would often take an hour to excavate by hand. Since the worker does not need to spend the entire excavation time bending over and kneeling, the chance of back injury is greatly reduced. This translates to more trees being excavated at lower cost with greater worker satisfaction.

Soil Compaction Relief

Studies at the Bartlett Tree Research Laboratory and other locations has found that replacing large



Excavation tools are now readily available for use by tree care professionals.

PHOTO: E. Thomas Smiley, Ph.D.

quantities of compacted soil with lower density, organically-rich soil will greatly benefit root growth, and therefore tree health. Soil replacement has traditionally been done by augering holes in the soil and filling them with organic matter. This treatment was only slightly effective because of the small percentage of the primary rooting area that was affected. Dramatic results have been obtained with radial trenching, but this was more time consuming and had the potential to damage a large number of roots if done improperly.

Air excavation of compacted soil is certainly slower than excavating low-density soil, but if the soil moisture is adequate, compacted soil can be excavated very successfully from around root systems with virtually no root damage. This allows excavation of a greater percentage of the primary rooting area. That should result in even higher fine root growth than with radial trenching. The pattern of excavation can also be modified to treat the area closer to the trunk that has a higher percentage of fine roots. This was not practical with mechanical trenching, due to the root damage that would occur.

Diagnosis

Many tree and shrub disorders are ultimately caused by a problem with the roots. When diagnosing plant problems, this is the area that is easiest to overlook. Common examples that are encountered regularly include root rotting pathogens, root feeding insects, nematodes, saturated soils, and restricted rooting areas.

Now that root excavations can be conducted economically with little damage to the tree, a complete diagnosis of plant problems can include a careful look at a significant portion of the root system and the rooting environment. Root samples for pest

analysis can be collected after visually examining a large number of roots, rather than just taking those roots that are easily dug up. Natural or artificial root barriers such as rock ledges, saturated horizons, or old foundations can also be discovered.

Trenching

Trenching around trees is usually done with picks and shovels, when work is close to the trunk. Or, it can be done with trenching machines, when root density is lower or faster excavation is required. This has left many trees in a very poor state of health after significant roots were severed. After the trench is dug, lightning protection ground conductors or public utilities can be installed. Some cities now require tunneling beneath tree trunks to avoid damage to the roots from trenching. With lightning protection, this is often the most time-consuming, and therefore expensive portion of the labor.

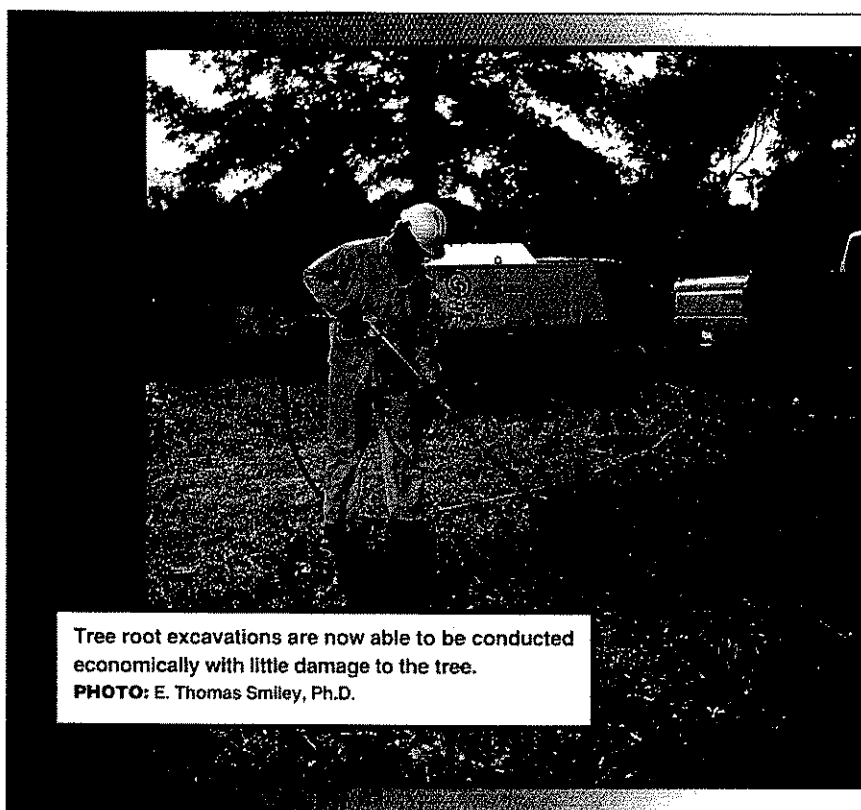
With air excavation, the installa-

tion of lightning protection ground conductor is going to be far easier and less damaging to the tree roots. Trenches can be quickly dug around larger roots or beneath large roots with no damage to the bark. Once outside the dripline, the receiving pit for the ground rod can be dug in less than a minute if grass is not present.

For utility trenches, it is possible to excavate at least 18-inches deep around and beneath tree roots. While it would not be cost effective to trench adjacent to or beneath a large tree trunk, trenching a few feet away may be practical. And, since most roots are in the upper 12-inches of soil, utility pipe can be inserted beneath the roots without cutting the roots. Time comparisons with trenching will need to be made to determine how competitive this service will be.

Root Pruning

Root pruning is often done prior to or during construction. The main goal is to provide a clean cut on



Tree root excavations are now able to be conducted economically with little damage to the tree.

PHOTO: E. Thomas Smiley, Ph.D.

roots that would otherwise be severed with the ripping action of a backhoe or excavator. Pruning with a hand saw or chain saw is often done after a cut is made with a trencher or rock cutter.

With air excavation, a trench can be dug and the location on the root can be selected for cutting. This will allow a more sensitive selection of cut location. For example, if the root branches, it may be possible to locate the cut so as to save the branch of the root that does not travel toward the area to be excavated. It may also be possible to relocate small roots by excavating around them and replanting them inside the retained rooting area.

Root Structure Analysis

Decay in a tree's root system often leads to tree failure. If the exact amount and location of root decay can be quantified, then a more accurate prediction of the risk of tree failure can be made. Currently, only a few arborists will go to the trouble of excavating the tops of buttress roots to assess them for health and decay problems.

With air excavation, entire buttress roots from top to bottom can be excavated. This will allow careful visual examination, and allow drilling to determine the extent of decay from more than one side of the root. The extent of excavation along the root will be limited only by a client's tolerance to excavation and their willingness to find the extent of decay.

Transplanting

One of the major limitations with current ball and burlap or boxing methods of transplanting medium or large trees is the weight of the soil. At more than 100 pounds per cubic foot, root balls get extremely heavy.

Instead of burlaping or boxing the root ball, another technique that you could use involves blowing the soil out, leaving only the roots. This greatly reduces the weight. Bare root planting is used extensively on small trees with the knowledge that most fine roots will be lost and will regenerate. Bare rooting bigger trees will allow the use of much smaller equipment to move the tree and, if done carefully should be successful.

Root and Soil Research and Education

There have been many misconceptions about how and where tree roots grow over the years. Using air excavation, it is now easy to excavate the entire root system of a small tree to show people what the roots look like. Researchers are finding this a great way to sample test plots. Root treatments can be applied, and then instead of collecting small samples, entire root systems can be exposed to obtain a better understanding of the effect of treatment.

Conclusion

Air excavation is a great new tool for the arboricultural industry. In addition to the uses listed here, there are other potential uses for air excavation including fertilization, stump removal, and root pest management. The more the tool is used, the more uses we will find for it. While not all of these uses are going to be economically feasible, it will provide the arborist with more options for getting the job done.

Since the technology is new, expect to encounter problems as we refine our use techniques. Soil moisture levels are critical — either too wet or too dry — and excavation is messy and slow. There will be technical problems with the tool, and complaints of roots drying out and dying after excavation. As we get more skilled, these problems will be solved.

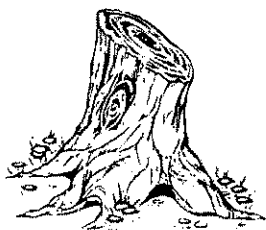
So, the future of air excavation is bright. It will be the fastest growing service over the next five years.

Acknowledgments:

Thanks to Dr. Bruce Fraedrich, Rob Gross, Andy Jarabak and Richard Nathenson for their contributions to this article.

Editor's Note: E. Thomas Smiley is a plant pathologist and soil scientist at the Bartlett Tree Research Laboratory in Charlotte, NC.

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EXHIBIT 4

SIGNIFICANCE OF ROOT SEVERANCE ON PERFORMANCE OF ESTABLISHED TREES¹

by W. Douglas Hamilton

Abstract. There are many factors to consider when severing the roots of established trees. Factors governing root growth are discussed. Acceptable survival following severe root severance is interdependent with the condition of the top. It is important to know the location of various kinds of roots—large lateral, sinker, heart, non-woody. Key factors to successful results from severe root-pruning include: a tree species with adequate vigor, adequate moisture in the root area, healthy carbohydrate reserves, proper timing in climates with temperature extremes and knowing how to judge a tree that should not be severely root pruned. Many landscape trees appear to have a wide tolerance to root removal.

Résumé. Il a plusieurs facteurs à considérer lorsque les racines d'arbres à maturité doivent être endommagées. Les facteurs influençant la croissance des racines sont discutés. Une bonne survie d'un arbre après des dommages aux racines est dépendante de la condition de la cime. Il est important de connaître l'emplacement des divers types de racines - les racines primaires, secondaires et les radicelles. Les facteurs-clés afin d'avoir des résultats positifs après des dommages aux racines incluent: une espèce d'arbre avec une bonne vigueur, une humidité adéquate dans la zone racinaire, de bonnes réserves d'hydrate de carbone, le choix de la période appropriée dans les climats avec des températures extrêmes et savoir reconnaître les arbres dont les racines ne devraient pas être endommagées. Plusieurs arbres d'ornement semblent avoir une grande tolérance à la taille des racines.

Several questions about tree roots have been dealt with in the past few years: pest problems, sidewalk-curb breaking and some relating to how and where they grow. To my knowledge, the question of severity of root removal has not been addressed. There is little question that root loss affects tree growth, appearance, and stability. But how significant are the effects and are there guidelines for management? There is a need to adjust our standards of expected performance of established trees as a result of severe root loss (greater than 50%). Root pruning has become an important arboriculture practice.

Essential root growth is a summation of casual factors:

- The type and quantity of wood formed in a root depends on the growth conditions of the stem.

- The location of the root or root part is dependent on growth of the stem. There is greater growth of roots near the base of trees than on roots further out.

- Carbohydrate (food) storage has priority over growth in roots. Root growth may not occur until a threshold of reserves has been stored in the root. Radial growth of roots begins after "food" reserves have been stored in existing woody roots.

- If there is a depletion of food reserves and a delay in their replenishment, there is a delay in recovery of root growth and a slower growth of shoots.

- Tree stress indirectly affects root growth through the adverse influence on photosynthesis. Stress reduces the amount of carbohydrates available in roots for use and storage.

It is apparent then that condition of the leaves, stems, and roots are all interdependent. Roots have a priority over top growth for the accumulation of food reserves, and that can affect the canopy. A delay in the recovery from root pruning can stress the leaf canopy. If the food-storage reserves in the roots have not been met, root enlargement is delayed. If there is a concentration of roots near the base of the tree, vigor can be retained even though root pruning may be quite close to the trunk, perhaps up to ten feet from the trunk. If carbohydrate reserves are high, chances are enhanced for acceptable recovery and general performance. It makes sense to strengthen carbohydrate reserves before root removal.

Should we thin the top when pruning roots? The purpose is to reduce demands on a damaged root system. Reducing the photosynthetic area reduces the supply of carbohydrates moving to the roots. We all have seen trees survive acceptably well when 50% of the root system has been severed, with little observed reduction in leaf sur-

1. Presented at the annual conference of the International Society of Arboriculture in Vancouver, B.C. in August of 1988.

face.

The availability of carbohydrates to support new root growth is limited during active shoot growth in the spring. We should avoid root pruning during that time. The worst time to root prune is just prior to bud break. Initiation of cambial activity in roots is a continuation of that in the stem, proceeding from the trunk towards the root tip. Activation of the vascular cambium in the root depends upon the arrival of hormonal substances. One is auxin, much of which is synthesized in the buds, but may also be formed in root tips. It moves downward to the base and outward to the root tips. High concentrations of auxin are necessary for root initiation and it is important in the formation of compression wood in roots. Evidence from Japan suggests that pruning shoot tips stops or delays root growth, an interruption in the supply of auxin. Research from California casts doubt on the advisability of pruning newly planted young trees, probably for this reason. Rapid recovery following the shock of severe root removal is dependent not only on the rapid initiation of new roots, but on the initiation of cambial activity and the movement of auxin from the buds. Top pruning should be limited to removal of weak and shaded leaf surfaces on vigorous trees.

Gibberellin, another naturally occurring plant hormone, stimulates cell elongation. It is produced in roots as well as in leaves and seeds. In roots, it moves through new wood. Rapid elongation of new roots is important to shorten the period of shock after root pruning. Where rapid growth is desired after root removal such as in utility trenching, stimulation through applications of gibberellins may be desirable.

Cytokinins in high concentrations inhibit lateral root formation. Root pruning removes the root tip which contains the highest concentrations of cytokinins and allows callus tissue to close the cut. Thus, root pruning is beneficial to root branching. Nurserymen who root prune and transplant, benefit from this. To the arborist or landscaper who wants rapid branching of roots, high concentrations of cytokinins may be undesirable. Future research will bring more light on how these and perhaps other hormones influence root growth.

Tissue structure is important to root growth. In

general, roots are less dense than stems. There is a high percentage of thin-walled parenchyma cells in the large and surface-growing roots. These cells store most of the food, so, removal of large lateral roots can remove large amounts of starch which puts the tree under stress, sometimes escalating to decline and death. The diameter and length of cells in vertical (sinker) and heart roots tend to be smaller than those in lateral roots at a similar distance from the tree-base. These have a high tensile strength which is important when large horizontal roots close to the trunk are cut.

The entire woody cylinder of the root transports water and nutrients, so reduction in root diameter over a long time may not be critical for survival. Some arborists shave large roots on one side to reduce the rates of radial expansion. This appears to work without significantly impairing tree performance, if the shaving is not done too close to the tree trunk.

Long-term soil moisture levels affect the distribution of roots. Some studies suggest that soil moisture has more influence on root distribution than on root size. Under drought conditions, root growth tends to shift towards the root tip rather than to increase in diameter, so severe root pruning in desert areas may be quite harmful. Infrequent irrigation produces poor root growth in surface soils, but more roots in the deeper layers. Growth of deep roots begins later than growth of surface roots. Under droughty conditions, large roots may be deep and may escape pruning. Experience in the West indicates this to be true.

Root growth continues longer at the base of the trunk than further out. Cessation of cambial activity proceeds from root tip to the tree base and thence to the shoot tip. This means that most root activity is near the tree base and for a long part of the growing season.

Temperature effects are also important. There are temperature minimums for root growth which vary with the species. Warm temperatures (68 °F) on shoots can accelerate starch reduction in fibrous roots. At a cooler 50 °F, there can be an increase in soluble sugars in the larger roots. The effects of severe root pruning are probably more drastic in cool-cold climates, especially when soil temperatures are lowering or are below minimum for root growth, due to more food being stored

and not used in growth of new roots.

After the roots have been pruned, the regeneration of roots proceeds most rapidly when top growth is least rapid. New root generation, even though rapid, does not require as much energy as is required for shoot growth. In the summer and fall assimilates from the leaves are likely to go to the roots and to the severed ends of roots.

The location of the large roots is arbitrary. They grow where their requirements for air, water, temperature, nutrition, and freedom from toxic substances are satisfied. Tree roots commonly grow outward $1\frac{1}{2}$ to 2 times the height of the tree, yet, arborists consider the risk small if tree roots are cut off at the drip line. If done on one tangential side, about 15% of the roots will be cut. If a single straight-line cut is made midway between the drip line and the trunk, it has been estimated that 30% of the roots will have been severed, and that trees of reasonable vitality should withstand this. In my opinion, adhering to the recommendation of not pruning closer than midway between the drip line and the trunk is, in many situations, more conservative than necessary. It is frequently violated without serious consequences. In California, mature olive trees are transported any time of the year with a 2' X 2' X $1\frac{1}{2}$ ' root balls and Washington fan palms are transported during the summer with closely cropped roots. I have seen 75% to 80% of the root system of mature southern magnolias in a compacted clay soil destroyed by rototiller, yet resulting in no top thinning. After a short period of severe leaf fall, the trees returned to acceptability in a city government complex. Results of a recent controlled study in Ohio on root pruning of young apple trees indicate that vegetative growth of young apple trees can be reduced by root pruning, but root pruning must be severe and the reduction of growth is only temporary. Growth reductions are likely related to the changed moisture status of the trees. Later reductions in shoot growth, however, can be attributed to an increased allocation of photosynthates to the roots and to hormonal imbalances. Trees re-establish their root-shoot balance by enhancing root growth at the expense of shoot growth. With the development of new roots, water relations in the tree improve and photosynthesis and shoot growth rates

increase.

In this apple tree study, water stress was most severe one to six hours after treatment. Leaf wilting was observed for the first seventy-two hours in severe treatments. One day after root pruning, photosynthesis was reduced 35% to 50%. Photosynthesis and transpiration generally followed similar patterns. Both started to recover after ten days. Shoot growth was reduced 25% one month after treatment on the more severe treatments and leaf area was reduced about one-third. Although significant amounts of roots were removed in pruning, no difference in root weight was observed four weeks after treatment. More new roots were produced on root-pruned trees than on trees unpruned. Similar observations have been noted for several other kinds of trees. This illustrates that the effects of severe root loss can be temporary and that root pruning can stimulate production of new roots.

Several years ago, I conducted a test to determine why 65 uniform 3-year-old iron bark eucalyptus trees (*Eucalyptus sideroxylon*) grew vigorously after being severely potbound in one-gallon containers. I trenched 5 feet deep and 18 inches from the trunk on one side. I then directed

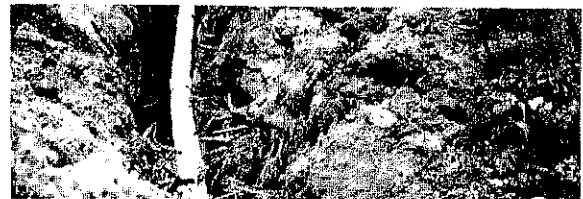


Fig. 1. Trenching within two feet of this *Quercus agrifolia* in Berkeley, California is risky in this year of drought.

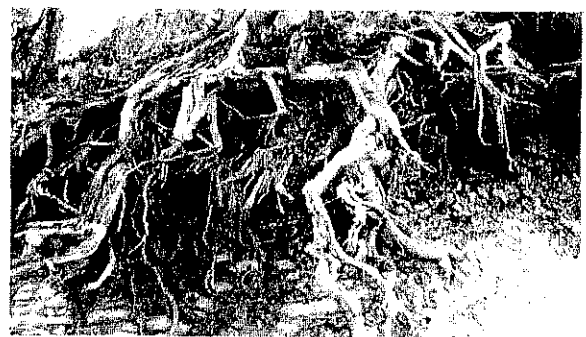


Fig. 2. A high percentage of the tree's roots are located close to the trunk even though some extend outward several times the tree height.

a water jet at 200 psi to blast the soil from the roots. Much of the root bark was removed in the process. The trees were left exposed for several weeks, until after the appearance of new-shoot growth. All the trees remained in their original position and most amazing was the rapid growth of new roots and top growth in the weeks following soil replacement.

How can landscape trees survive such a loss of roots? A very high percentage of water-absorbing roots are under and close to the tree stem. I suggest that a high percentage of water-nutrient-absorbing roots are not disturbed. Many, if not most, of the sinker roots originate from the primary roots within four feet of the trunk; these vertically descending roots are minimally disturbed. Downward-growing heart-roots also originate from the buttress of the trunk. So, many trees with adequate vigor and vitality can withstand severe root pruning. Adequate tree vigor and vitality are the key words.

Some arborists use a rule of thumb for transplanting trees which is radical root pruning: a soil ball of 12-inch diameter for each inch of trunk diameter. In practice, this appears fairly realistic for root pruning in the established landscape. When we observe practices in large-tree container-nurseries and the practices of successful tree movers, these figures appear realistic. Trees should not be moved during rapid shoot growth and tree stresses should be alleviated *before* severance.

The effect of root pruning on the stability of the tree is a major factor of concern. This is most important when the tree is very large, very tall, old for the species, has a dense canopy for the root volume (a low root:shoot ratio), or is wounded near the soil line. Unusually strong winds and strong winds from a non-prevailing direction are also important. This excludes small-sized trees, open and naturally grown trees, most trees having adequate vigor and vitality and trees that have been thinned to allow a body of air to blow through. It does not exclude young evergreen trees with a heavy top which are spring-planted and/or stimulated to excessive growth.

In the San Francisco Bay area of California, an informal survey of supervisors responsible for street-tree maintenance indicates that less than

1% of trees fall over as a result of root pruning, planting, being too close to buildings, or being surrounded by pavement. But even that may be unacceptable if substantial damage occurs. City Forester Gary Nauman of Palo Alto recorded the failure of 25 to 50 pink flowering locust (*Robinia* sp.) after root pruning. Gordon Mann in Redwood City cites several storm-damage problems to the following trees which had been root pruned: *Acacia melanoxylon* (black acacia), *Schinus molle* (California pepper), and *Fraxinus velutina* "Modesto" (Modesto ash). Those safe to root prune include: *Cinnamomum camphora* (Camphor tree), *Ulmus americana* (American elm), *Ulmus pumila* (Siberian elm), *Populus* sp. (poplars), *Liquidambar styraciflua* (sweet gum), and *Platanus acerifolia* (London plane). In nearby Burlingame, the problem appears to lie with certain tree species: *Acacia melanoxylon* (black acacia), *Ulmus* sp., *Juglans nigra* (black walnut), and *Morus alba* (fruitless mulberry) in soft soils. Results from 35 locations surrounding San Francisco Bay with regards to tree failure during severe storms of November-December, 1982, indicated no failure attributed to root pruning, although many trees went down.

Plant Pathologist Terry Tatter, at the University of Massachusetts, says that the probability of tree failure increases with the amount of root system cut. Trees in exposed locations are especially at risk. He advises to remove trees that have lost 50% or more of their root system during construction.

Lee Payne, retired researcher from the Pacific Southwest Forest and Range Experiment Station,



Fig. 3. The downward growing sinker roots are important to tree survival after root severance.

in discussing California forest campground trees, says there is an increasingly high probability of tree failure for trees greater than 30 inches in diameter, leaning trees, trees in winds over 30 miles per hour, and in trees with internal rot.

The root system of northern red oaks was studied by Walter H. Lyford, Harvard University. He notes that by the time the trees are 30 to 40 years old and 4 to 5 inches in diameter, the roots can be divided into central and peripheral systems. The central system at the base of the tree extends 3½ to 7 feet and consists of main laterals, numerous vertically and obliquely descending woody and non-woody roots. These provide the support and anchoring system. Although large in diameter at the juncture with the trunk, they taper rapidly to a small diameter of 1 to 2 inches where they lose much of their strength and where they tend to break in storms. Also noted was the fact that sinker roots were found only within 3½ to 7 feet of the trunk.

In his book, *Arboriculture*, Richard Harris says that "if you want to lower the soil grade near the trunk, you will, in many cases, encounter no large horizontal roots or sinker roots until you are within 6 to 10 feet of the trunk. For tree stability, do not cut sinker roots unless they are a considerable distance from the trunk. Horizontal roots can usually be safely cut up to the point where their caliper begins to increase markedly near the trunk".

Severe root pruning of landscape trees does not adversely affect the value of the tree to the general public. Growth reduction and unacceptable appearance from root severance can be of a relatively short duration if the tree has strong vigor and vitality. Trees re-establish their root-shoot balance by enhancing root generation at the expense of shoot growth. With the development of new roots, water imbalances in the tree improve and photosynthesis and shoot growth rates increase.

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EXHIBIT 5



Discoloration and Decay in Severed Tree Roots

Gary Watson

Abstract. Roots of honeylocust (*Gleditsia triacanthos* var. *inermis*), pin oak (*Quercus palustris*), tuliptree (*Liriodendron tulipifera*), and green ash (*Fraxinus pennsylvanica*) trees were severed at the root flare and 1, 2, or 3 m (3.3, 6.6, and 9.9 ft) from the trunk. After 5 years, the severed roots were excavated and all discolored and decayed portions were removed. The furthest extent of decay development ranged between 4.5 cm (1.8 in) in green ash and 10.8 cm (4.3 in) in honeylocust. The furthest extent of discoloration also varied between 6.3 cm (2.5 in) in green ash and 77.1 cm (30.8 in) in honeylocust. The root severing location producing the greatest decay or discoloration varied among species. Natural defect development as a result of severing roots of any size root at any distance is not likely to result in a threat to the health or stability of a tree.

Key Words. Compartmentalization; defect; *Fraxinus pennsylvanica*; *Gleditsia triacanthos* var. *inermis*; *Liriodendron tulipifera*; *Quercus palustris*; root severing.

Root injury is common in urban trees. Nursery production, transplanting, construction activity, and utility installation frequently result in root injury. Introduction of extensive discoloration and decay defects through injury to tree trunks and branches is well known by arborists. This awareness has led to widespread concern that similar mechanical root injury can introduce extensive decay into tree root systems and that it could eventually spread to the trunk and lead to major tree health and stability problems.

Even in nature, without human activity, root injury is common. Formation of lateral roots creates injury when outer layers of cells (endodermis, cortex, and epidermis) are ruptured as the new root emerges from the pericycle layer in the interior of the root where it is initiated (Esau 1960). Insects, compression, animal trampling, excessive moisture, abrasion against stone surfaces, breakage of small laterals by movement resulting from frost heaving and the root plate rocking in the wind, and dieback response to root stress or root disease all produce injuries to roots (Redmond 1957; Whitney 1961; Stone 1977; James et al. 1980). Root dieback can also result from crown stresses such as defoliation (Redmond 1957). When secondary roots die, they leave natural openings that can act as infection courts for decay fungi (Redmond 1957; Shigo 1979b; Robinson and Morrison 2001).

Discoloration and decay are the principal defects associated with injuries to trees (Shigo 1991). Wood discoloration is caused by invasion of bacteria and nonhymenomycetous fungi. The discolored wood area is often larger than pathogen-colonized area (Shigo and Hillis 1973; Garboletto et al. 1997).

Compartmentalization Of Decay In Trees (CODIT; Shigo 1977) principles apply to roots as well as stems (Shigo 1972; Shigo 1979b; Tippet and Shigo 1981; White and Kile 1993; Robinson and Morrison 2001), although roots have not been as extensively studied. Because root injuries are common, and injuries serve as infection courts for root-rotting organisms (Tippet et al. 1982), roots have evolved to be strong compartmentalizers (Shigo 1986). Dead roots are of less significance than dead tops in providing courts of entry for decay (Redmond 1957).

There is evidence that decay of root wood blocks is greater than stems in laboratory tests and was attributed to higher nitro-

gen and carbohydrates (Platt et al. 1965). Rate of decay development in live roots after inoculation with root rot fungi is slower than in stems and may reflect the higher proportion of living cells in roots (White and Kile 1993).

Literature reports on rates of root wood decay development are dominated by inoculation experiments with aggressive root rotting fungi such as *Heterobasidium annosum* and *Armillaria mellea* on commercially valuable conifers. In nature, it is unlikely for wood to be decomposed completely by one organism (Shigo 1967).

Average values of longitudinal extension of decay columns after inoculation have been reported from 10 to 53 cm/yr⁻¹ (4 to 21 in/yr⁻¹) (White and Kile 1993; Morrison and Redfern 1994; Garboletto et al. 1997; Piri 1998). Colonization often progresses faster in the proximal direction (toward the stem) from the wound (Yokota 1962; Shigo 1979b; Garboletto et al. 1997). Decay introduced experimentally through root wounds within a meter of the trunk can extend into the trunk (Redmond 1957; Garboletto et al. 1997). In one report, trunk wood discoloration and decay were observed only when the root cambium had died back to, or above, the soil surface (Santamour 1985).

Colonization rate can be increased by drought stress (Towers and Stambaugh 1968; Lindberg and Johansson 1992). Fertilization has been reported to both increase (Piri 1998) and decrease (Singh 1983) decay fungal colonization. Stimulation or inhibition of decay fungus colonization by stress seems to be dependent on level of the stress factor as well as host and pathogen species (Wahlstrom and Barklund 1994; Desprez-Loustau et al. 2006).

Root size and proximity to the trunk has been reported to affect decay development rate. Root decay increased as root size increased on hardwoods (Whitney 1967; Santamour 1985; Balder et al. 1995) and conifers (Garboletto et al. 1997; Piri 1998; Tian and Ostrofsky 2007). Injury to roots closer to the trunk resulted in more extensive defects on hardwoods (Balder et al. 1995).

In the only previous study of defect development after wounding roots of landscape trees, roots of 7-year-old sweetgum (*Liquidambar orientalis* × *L. styraciflua*) and plane hybrids (*Plata-*

nus occidentalis × *P. orientalis*) were severed by simulated digging and harvested 4 years later. There was no decay or discoloration in the trunk from root severing and no decay more than 7 cm (2.8 in) from the cut (Santamour 1985).

Santamour (1985) also reported differences between species in their ability to resist trunk decay and discoloration after root severance. Four years after severing roots within 0.5 m (1.7 ft) of the trunk, there was no discoloration or decay in trunk tissues in red maples (*Acer rubrum*) and 6 cm (2.4 in) maximum in the roots. Discoloration and decay were present in trunk tissues of two of ten black oaks (*Quercus velutina*) and four of ten white oaks (*Q. alba*) after similar root severance. All of these individual trees were weak Wall 2 compartmentalizers, but not all weak Wall 2 compartmentalizers developed discoloration and decay in trunk tissues.

The objective of this study was to investigate whether severing deciduous hardwood tree roots of any size or at distance from the trunk could lead to defect development that could threaten the health or stability of the tree.

METHODS

The trees available for this study were planted as blocks of seedlings in 1956 on an Askum silty clay loam soil at the Morton Arboretum in northern Illinois, U.S. Supplemental irrigation was not provided at any time after the plot was established. Four species of trees included in the study were honeylocust (*Gleditsia triacanthos* var. *inermis*), pin oak (*Quercus palustris*), tulip-tree (*Liriodendron tulipifera*), and green ash (*Fraxinus pennsylvanica*). The individual trees selected for this study were the more vigorous individuals in a moderately crowded block (4.5 m [14.9 ft] centers). All exhibited typical twig growth for healthy trees of their species and age. Average diameter at breast height of trees used in the study was 30, 30.7, 35.4, and 34.3 cm (12, 12.3, 14.2, and 13.7 in), respectively.

Roots were severed at four distances from the trunk in November 1998: on the root flare where the root becomes visible at the soil surface and 1, 2, or 3 m (3.3, 6.6, and 9.9 ft) from the trunk. Roots were traced to the appropriate distance without excavating using a tile probe. All roots were no more than 30 cm (12 in) deep. There were five roots severed at each distance. In most cases, different roots were severed at each of the four distances on a single tree. Occasionally, when not enough roots could be found on a single tree, a second nearby tree had to be used to complete the set, most often for the root flare cut. No roots could be successfully traced to 3 m (9.9 ft) on pin oaks because of the small diameter of the roots of this species.

A chain saw with carbide teeth was used to cut the flare root. A stump grinder was used at the other three distances. The diameter of the severed root end was measured from the face of the cut. Two perpendicular diameter measurements were averaged. To facilitate finding the roots later, locations of the cut roots were mapped and a steel nail was buried approximately 10 cm (4 in) below grade to mark the exact location of the severed root end. Root wounds were exposed to natural decay fungi present in the soil, but no inoculations were performed.

After 5 years, the severed ends of the roots were relocated using the maps and a metal detector. All discolored and decayed portions of the cut roots were excavated with an air tool and removed. The excavated roots were cut into sections. The first 10 cm (4 in) was split longitudinally and sanded to measure the extent of discoloration and decay. If discoloration and decay

extended beyond the first 10 cm (4 in), additional 5 cm (2 in) sections were cut and sanded until discoloration and decay were no longer present in the cross-section.

The cross-section of the stump (approximately 10 to 15 cm [4 to 6 in] above grade) was examined when the tree was cut down. If any discoloration was present, additional cross-sections of the trunk were cut at 30 cm (12 in) intervals until discoloration was no longer visible. Stumps were excavated and a longitudinal section of the severed flare root was removed with a chain saw and sanded smooth.

Discoloration was quantified by measuring the proximal extent of visibly discolored wood from the severed root end. Decay in living trees has been described as a softening or weakening of the woody xylem tissues (Hartman et al. 2000). Methods used in similar situations have involved noting color change (Whitney 1997) along with simple techniques to estimate mechanical resistance such as probing with a sharp object (Tokuda et al. 2007) or drilling (Costello and Quarles 1999; Fraedrich and Smiley 2002). A similar method of detecting decayed wood in the dissected roots was devised using change in color and mechanical resistance of the wood tissue on the longitudinal sections of roots. The sample was placed on a Homs Model 40 spring scale (Douglas Homs Corp., Belmont, CA) and a blunt dissecting needle was pressed into the wood until the scale read 1.8 kg (4 lbs) to develop consistent pressure each time. In unaffected and discolored wood, the depression made by the blunt tip was barely detectable. At the border between discolored and decayed wood (identifiable by color change), the tip abruptly began to penetrate deeper. When the tip penetrated more than 1 mm (0.04 in), the wood was considered decayed. The transition zone was always less than 10 mm (0.4 in) and often less than 5 mm (0.2 in). The extent of decayed wood from the severed end was recorded. If some wood had completely decayed away, the position of the original cut was estimated as accurately as possible from the new sound wood formed around the decayed wood. This method was much more precise than 5 cm (2 in) resolution obtained by methods using culture and identification of decay fungi (Lindberg and Johansson 1992; Garboletto et al. 1997).

Each species was considered a separate experiment. One-way analysis of variance ($P \leq 0.05$), with separation of means by the Student-Newman-Keuls Method (SigmaStat 3.0; SPSS Science, Chicago, IL) was used to compare extent of discoloration and decay among root-severing distances.

RESULTS AND DISCUSSION

After 5 years, the furthest extent of decay development ranged between 4.5 cm (1.8 in) in green ash and 10.8 cm (4.3 in) in honeylocust. The furthest extent of discoloration development also varied from 6.3 cm (2.5 in) in green ash to 77.1 cm (30.8 in) in honeylocust. Typical examples are shown in Figure 1. The cut location with the greatest decay or discoloration varied widely among species (Table 1).

The annual rate of decay development was very slow at 0.9 to 2.2 cm/yr⁻¹ (0.4 to 0.9 in/yr⁻¹), compared with rates of 10 to 53 cm/yr⁻¹ (4 to 21.2 in/yr⁻¹) reported after inoculation of aggressive root rot fungi in conifers (White and Kile 1993; Morrison and Redfern 1994; Garboletto et al. 1997; Piri 1998). Santamour (1985) observed an even slower maximum rate of decay progression of 1.5 cm/yr⁻¹ (0.6 in/yr⁻¹) resulting from natural infection in response to severing roots of hardwoods 0.5 m (1.7 ft) from the trunk and also with variation in species response.

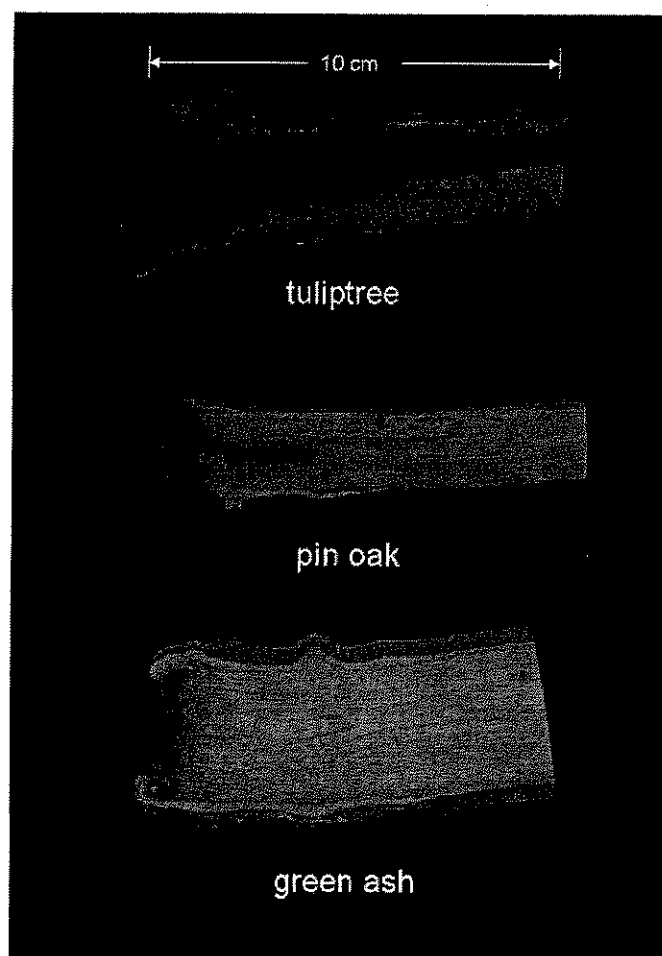


Figure 1. Typical discoloration and decay from severing roots.

Root injury close to the trunk would pose the greatest threat for development of basal defects that would threaten tree stability and health. Wounds inflicted at the base of the trunk have been found to be resistant to decay (Shigo 1991). Decay extended a short distance from the root flare cuts into the root flare wood (10.3 cm [4.1 in] maximum in tuliptree), but it never extended into trunk wood (stump cut) on any tree. A small discoloration streak in the outermost wood present at the time of the flare cut did sometimes extend into the base of the trunk (stump cut or beyond) in three of the four species (Figure 2). In the CODIT model, Wall 1 directly above and below the wound is the weakest. The discoloration was never more than a few square centimeters (less than a square inch) in the cross-sectional area. Santamour (1985) reported discoloration and decay in the trunk only when there was cambium dieback to or beyond the root flare after roots were severed a half meter from the trunk. In our study, the flare roots were damaged directly and cambium dieback was unnecessary for discoloration to progress into trunk wood.

Defects never penetrated the stronger Wall 2 (Shigo 1977) and developed toward the center of the trunk. There was no indication that even such a severe wound at the base of the trunk would routinely lead to deterioration in health or stability of any of these species. The data from this study do not agree with an

earlier report describing root flare injury as causing extensive columns of decay in the trunk (Shigo 1979a).

Defects resulting from any of the more distant cuts never extended into the root flare or trunk wood. When roots were cut 1 m (3.3 ft) from the trunk, discoloration never extended closer than 70 cm (28 in) to the trunk in honeylocust. The distance was even greater for the other species. More distant cuts resulted in even greater separation between the defect development and the trunk. Root injury 1 m (3.3 ft) or more from the trunk does not seem to be a cause of decay in the major roots or trunk.

To investigate the effect of root size on discoloration and decay, roots of each species were grouped into 5 cm (2 in) size classes. The diameter of the severed roots had no effect, except that discoloration was greater on pin oak and tuliptree roots larger than 10 cm (4 in) diameter (data not shown). All of these larger roots were flare cut roots, and the large root flare cuts developed significantly more decay than the other locations in pin oak (Table 1). The difference may have been attributable as much to location as to size. Balder et al. (1995) reported that injury to both larger roots and roots closer to the trunk resulted in more extensive defects.

Roots were injured in November, when dormant, and potentially the time of year most conducive to discoloration and decay development. Balder et al. (1995) reported that injuries of oak and linden roots in winter lead to poorer compartmentalization than injuries at the beginning of the season. Santamour (1985) reported no difference between groups of sweetgums and planetrees dug during the dormant and growing seasons.

Table 1. Average severed root diameter and extent of discoloration and decay defects in roots of four different species severed at four distances from the trunk.^z

	Diameter of severed root (mm)	Average extent of decay (cm) ^y	Average extent of discoloration (cm) ^y
Green ash			
Flare	17.8	1.0 a	3.2 a
1 m	4.0	1.5 a	4.2 a
2 m	2.3	1.8 a	7.2 a
3 m	3.4	4.5 a	6.3 a
Honeylocust			
Flare	12.0	3.6 a	35.1 b
1 m	6.6	10.8 a	30.1 b
2 m	4.4	6.4 a	58.3 ab
3 m	3.5	4.5 a	77.1 a
Pin oak			
Flare	22.0	6.5 a	43.9 a
1 m	3.5	1.0 b	14.0 b
2 m	2.4	2.2 b	13.3 b
3 m	—	—	—
Tuliptree			
Flare	17.1	10.3 a	68.9 a
1 m	6.1	4.4 a	15.3 b
2 m	3.4	3.6 a	11.3 b
3 m	2.5	6.9 a	10.6 b

^zEach value is the average of five replications.

^yFor each species, values in the same column followed by the same letter are not significantly different at $P \leq 0.05$.

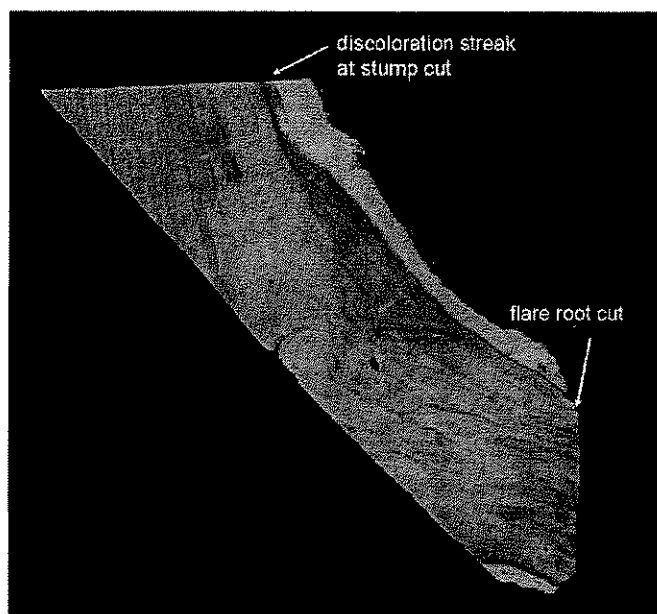


Figure 2. Example of discoloration and decay pattern from root flare cut. Discoloration in trunk wood was never more than a small streak.

CONCLUSIONS

Roots are good compartmentalizers. Severed roots of all sizes, located throughout the root system, showed only minimal discoloration and decay defects after 5 years. In these four species, there is minimal risk of introducing serious decay through injury of tree roots. Unlike branches, in which leaving a stub can lead to more extensive decay, "leaving a root stub" did not result in substantial decay and deterioration of the roots.

A 5-year study may not be entirely conclusive but does give a strong indication that root injury does not typically lead to extensive basal decay in trees. Based on the rate of decay observed in the first 5 years after severing the roots, extensive decay is not likely to develop in urban trees with a lifespan estimated at 5 to 45 years (Nowak et al. 2004). A long-term study of branch wounds showed that there was little difference in the area of discoloration between the first and ninth year after wounding (Dujesiefken and Stobbe 2002). If the same is true of roots, decay may have essentially stopped by the fifth year sampling date and pose no threat at all to the long-term health and stability of the trees.

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Résumé. Les racines de féviersnerme (*Gleditsia triacanthos* var. *inermis*), de chêne des marais (*Quercus palustris*), de tulipier de Virginie (*Liriodendron tulipifera*) et de frêne de Pennsylvanie (*Fraxinus penn-*

sylvanica) ont été cernées à 1, 2 et 3 m de distance du tronc. Après cinq ans, toutes les parties contenant du bois décoloré ou carié provenant des racines coupées ont été excavées et recueillies. La plus grande étendue de carie provenant de n'importe quelle coupe faite variait de moins de 5 cm de distance (depuis la surface de coupe) pour le frêne de Pennsylvanie à un peu moins de 11 cm dans le cas du tulipier de Virginie et du févier inerme. L'étendue de bois décoloré était plus grande que celle du bois carié pour toutes les espèces, allant jusqu'à 50 cm de distance sauf dans le cas du frêne. Les coupes en biais de racines, qui étaient aussi les plus grosses racines coupées, produisaient plus de bois décoloré et de bois carié à n'importe quel endroit chez le chêne des marais, et plus de bois décoloré chez le tulipier de Virginie, mais pas dans le cas du frêne de Pennsylvanie et du févier inerme. Dans tous les cas, la carie était limitée à de petites poches et n'affectait pas réellement la santé ou la stabilité de l'arbre.

Zusammenfassung. Die Wurzeln von Gleditschie, Pin-Eiche, Tulpenbaum und Grüner Esche wurden in 1, 2 oder 3 m Abstand vom Baum gekappt. Nach fünf Jahren wurden alle verfärbten und verfäulenden Wurzelteile ausgegraben und entfernt. Der weiteste Abstand der Fäule zur Schnittkante betrug weniger als 5 cm bei der Esche und ca. 11 cm bei der Gleditschie und dem Tulpenbaum. Die weiteste Ausdehnung von Verfärbungen war in allen Spezies größer als die Fäule und betrug ohne die Esche ca. 50 cm. Weite Schnitte, die auch die größten Wurzelschnitte darstellten, verursachten an jeder Stelle größere Verfärbung und Fäule bei der Eiche und größere Verfärbung bei den Tulpenbäumen, aber nicht bei den Eschen und Gleditschien. In allen Fällen war die Fäule auf schmale Taschen begrenzt und konnte die Gesundheit oder Stabilität der Bäume nicht beeinflussen.

Resumen. Las raíces de árboles de acacia (*Gleditsia triacanthos* var. *inermis*), encino (*Quercus palustris*), tulipan (*Liriodendron tulipifera*) y encino (*Fraxinus pennsylvanica*) fueron cortadas a 1, 2 y 3 m del tronco. Después de 5 años todas las porciones decoloradas y decaídas de las raíces cortadas fueron excavadas y removidas. La porción descompuesta en todos los árboles fue menor de 5 cm en fresno a levemente menor a 11 cm en tulipán y acacia. La extensión de la decoloración fue mayor que el decaimiento en todas las especies, excediendo 50 cm en todos menos en fresno. Los cortes en la corona de la raíz, lo cuales fueron también las cortas más grandes, produjeron mayor decoloración y decaimiento en los encinos, y también en el tulipán, pero no en fresno y acacia. En todos los casos, el decaimiento estuvo limitado a pequeñas bolsas y no pareció amenazar la salud y estabilidad e los árboles.

BRENNAN REPORT

TREE PRESERVATION REPORT


Konrad Residence Subdivision

2450 Lunada Lane

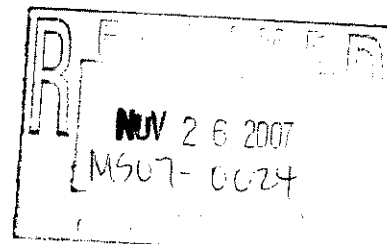
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TREE PRESERVATION REPORT

Konrad Residence Subdivision

Alamo, California

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Attachments

Tree Survey Map

Tree Survey

Introduction and Overview

Mr. and Mrs. Konrad are planning to subdivide their residential property, located at 2450 Lunada Lane, in Alamo, an unincorporated portion of Contra Costa County, California. Ed Brennan, Consulting Arborist, was asked to prepare a Tree Preservation Report for the site for review by Contra Costa County.

This report provides the following information:

1. A survey of trees within the proposed project area.
2. An evaluation of each tree's suitability for preservation.
3. An evaluation of the impacts of proposed development on the trees.
4. An appraisal of the monetary value of each tree.
5. Guidelines for tree preservation during the design and construction phases of development.

Survey Methods

Trees were surveyed on July 12, 2007. The survey included trees six (6) inches and greater in diameter. The survey procedure consisted of the following steps:

1. Identifying the tree as to species;
2. Tagging each tree with an identifying number and recording its location on a map;
3. Measuring the trunk diameter at a point 54" above grade;
4. Evaluating the health and structural condition using a scale of 1 – 5:
 - 5 - A healthy, vigorous tree, reasonably free of signs and symptoms of disease, with good structure and form typical of the species.
 - 4 - Tree with slight decline in vigor, small amount of twig dieback, minor structural defects that could be corrected.
 - 3 - Tree with moderate vigor, moderate twig and small branch dieback, thinning of crown, poor leaf color, moderate structural defects that might be mitigated with regular care.
 - 2 - Tree in decline, epicormic growth, extensive dieback of medium to large branches, significant structural defects that cannot be abated.
 - 1 - Tree in severe decline, dieback of scaffold branches and/or trunk; most of foliage from epicormics; extensive structural defects that cannot be abated.
5. Rating the suitability for preservation as "good", "moderate" or "poor". Suitability for preservation considers the health, age and structural condition of the tree, and its potential to remain an asset to the site for years to come.

Good: Trees with good health and structural stability that have the potential for longevity at the site.

Moderate: Trees with somewhat declining health and/or structural defects than can be abated with treatment. The tree will require more intense management and monitoring, and may have shorter life span than those in 'good' category.

Poor: Trees in poor health or with significant structural defects that cannot be mitigated. Tree is expected to continue to decline, regardless of treatment. The species or individual may have characteristics that are undesirable for landscapes, and generally are unsuited for use areas.

Description of Trees

Twenty-nine (29) trees were evaluated. Descriptions of each tree are found in the **Tree Survey** and locations are plotted on the **Tree Survey Map** (see Attachments). A summary is provided in Table 1.

Seven (7) species were included in the surveyed trees. One of these, valley oak, is native to the area and may be indigenous to the site.

Valley oak was the most commonly occurring species, with nine (9) trees. Six (6) of these were in fair condition, due to their having been pruned to clear overhead utility lines that run along the east border of the property where it meets the Iron Horse Trail. The other three (3) valley oaks were in good condition. Two (2) were growing on the adjacent property to the north, and were included because their crowns encroached on the Konrad property (#20 & 21).

Catalina cherry was the second most commonly occurring species with seven (7) trees. These are small stature trees that grow just inside the fence that runs along Lunada Lane. All were in fair condition.

The five (5) London planes grew in a row along the front-yard patio of the home. These were mature trees and all were in good condition.

There were also three (3) coast redwoods and two (2) incense cedars growing along the north border, two (2) mature manna gums, and a single Siberian elm.

Table 1: Condition ratings and frequency of occurrence of trees.

Common Name	Scientific Name	Condition Rating			No. of Trees
		Poor (1-2)	Fair (3)	Good (4-5)	
Incense cedar	<i>Calocedrus decurrens</i>	--	2	--	2
Manna gum	<i>Eucalyptus viminalis</i>	--	--	2	2
London plane	<i>Platanus x acerifolia</i>	--	--	5	5
Catalina cherry	<i>Prunus lyonii</i>	--	7	--	7
Valley oak	<i>Quercus lobata</i>	--	6	3	9
Coast redwood	<i>Sequoia sempervirens</i>	--	1	2	3
Siberian elm	<i>Ulmus pumilla</i>	--	1	--	1
Total		0 0%	17 59%	12 41%	29 100%

Protected Trees

Contra Costa County's Tree Protection and Preservation Ordinance (Article 816-6) defines **Protected Trees** as any tree of various native species (including valley oak) with a trunk diameter of 6.5 inches or greater. All nine (9) valley oaks met the criteria to be Protected Trees (Table 2, page 3). None of the other trees met the criteria.

Table 2: Protected Trees

Tree No.	Species	Trunk diameter (inches)
17	Valley oak	10
20	Valley oak	28
21	Valley oak	24
22	Valley oak	46
23	Valley oak	10
24	Valley oak	9
25	Valley oak	19
26	Valley oak	10

Suitability for Preservation

Before evaluating the impacts that will occur during development, it is important to consider the quality of the tree resource itself, and the potential for individual trees to function well over an extended length of time. Trees that are preserved on development sites must be carefully selected to make sure that they may survive development impacts, adapt to a new environment and perform well in the landscape.

My goal is to identify trees that have the potential for long-term health, structural stability and longevity. For trees growing in open fields, away from areas where people and property are present, structural defects and/or poor health presents a low risk of damage or injury if they fail. However, we must be concerned about safety in use areas. Therefore, where development encroaches into existing plantings, we must consider their structural stability as well as their potential to grow and thrive in a new environment. Where development will not occur, the normal life cycles of decline, structural failure and death should be allowed to continue.

Evaluation of suitability for preservation considers several factors:

- **Tree health**
Healthy, vigorous trees are better able to tolerate impacts such as root injury, demolition of existing structures, changes in soil grade and moisture, and soil compaction than are non-vigorous trees.
- **Structural integrity**
Trees with significant amounts of wood decay and other structural defects that cannot be corrected are likely to fail. Such trees should not be preserved in areas where damage to people or property is likely.
- **Species response**
There is a wide variation in the response of individual species to construction impacts and changes in the environment. In our experience, for example, incense cedar is sensitive to construction impacts, while coast redwood is more tolerant of site disturbance.
- **Tree age and longevity**
Old trees, while having significant emotional and aesthetic appeal, have limited physiological capacity to adjust to an altered environment. Young trees are better able to generate new tissue and respond to change.

Each tree was rated for suitability for preservation based upon its age, health, structural condition and ability to safely coexist within a development environment (Table 3).

I consider trees with good suitability for preservation to be the best candidates for preservation. We do not recommend retention of trees with low suitability for preservation in areas where people or property will be present. Retention of trees with moderate suitability for preservation depends upon the intensity of proposed site changes.

Table 3: Tree Suitability for Preservation

Good	These are trees with good health and structural stability that have the potential for longevity at the site. Ten (10) trees were rated as having good suitability for preservation. These included five (5) London planes, three (3) valley oaks, and two (2) coast redwoods. The three (3) valley oaks are Protected Trees.
Moderate	Trees in this category have fair health and/or structural defects that may be abated with treatment. Trees in this category require more intense management and monitoring, and may have shorter life-spans than those in the "good" category. Nineteen (19) trees were rated as having moderate suitability for preservation. These included seven (7) Catalina cherries, six (6) valley oaks, two (2) incense cedars, two (2) manna gums, and one (1) each of coast redwood and Siberian elm. The six (6) valley oaks are Protected Trees.
Poor	Trees in this category are in poor health or have significant defects in structure that cannot be abated with treatment. These trees can be expected to decline regardless of management. The species or individual tree may possess either characteristics that are undesirable in landscape settings or be unsuited for use areas. No (0) trees were rated as having poor suitability for preservation.

Evaluation of Impacts and Recommendations for Preservation

Appropriate tree retention develops a practical match between the location and intensity of construction activities and the quality and health of trees. The **Tree Survey** was the reference point for tree condition and quality. Potential impacts from construction were evaluated using the Tentative Map, prepared by Terra Firma, Antioch.

Potential impacts from construction were estimated for each tree. The most significant impacts to the trees would occur as a result of the grading and construction of an access driveway on the north side of the property. Additional impacts would be from the construction of drainage swales and a storm drain.

My analysis of the project plan indicates that it would allow 14 trees to be preserved (Table 4). Eight of these are Protected Trees (valley oaks #20-27). Preservation of these trees is predicated on establishing a **Tree Protection Zone** and other preservation activities described in the Tree Preservation Guidelines that follow.

Implementation of the proposed project plan would require the removal of the remaining 15 trees. Of these, 13 are located along the north side of the property where the driveway is planned. Two, the manna gums, are in the center of the lot and would likely be within a building envelope. One (1) of the trees requiring removal, the valley oak (#17), is a Protected Tree.

Tree Appraisals

The trees were appraised using the trunk formula method found in the Guide for Plant Appraisal, 9th edition (Champaign IL:2000, International Society of Arboriculture). A regional companion publication, Species Classification and Group Assignment (2004, Western Chapter-International Society of Arboriculture), was also used. The value of landscape trees and plants is based upon four factors: size, species, condition, and location. Size is measured as trunk diameter, at 54" above grade. The species factor considers the adaptability and appropriateness of the plant in the region. Condition reflects the health and structural integrity of the individual tree. The location factor considers the site, placement, and contribution of the tree in the surrounding landscape.

Applying the above-described method to the 29 trees surveyed on the 2450 Lunada Lane site yielded an aggregate total value of \$183,000.00. Values for individual trees are shown in Table 4.

Table 4: Action recommendation and appraisal

Tree No.	Species	Trunk diameter	Protected ?	Action	Appraised Value
1	Catalina cherry	5	No	Remove-impacted by driveway	\$450
2	Catalina cherry	6	No	Remove-impacted by driveway	\$600
3	Catalina cherry	6	No	Remove-impacted by driveway	\$600
4	Catalina cherry	6,5,4	No	Remove-impacted by driveway	\$1,200
5	Catalina cherry	6,5	No	Remove-impacted by driveway	\$950
6	Catalina cherry	6,5	No	Remove-impacted by driveway	\$950
7	Catalina cherry	7,4	No	Remove-impacted by driveway	\$1,000
8	Incense cedar	23	No	Remove-impacted by driveway	\$4,650
9	London plane	27	No	Remove-impacted by driveway	\$6,450
10	London plane	28	No	Preserve	\$7,000
11	London plane	17,11	No	Preserve	\$3,650
12	London plane	16,13	No	Preserve	\$3,800
13	London plane	32	No	Preserve	\$9,000
14	Coast redwood	20,14	No	Remove-impacted by driveway	\$5,900
15	Coast redwood	22	No	Remove-impacted by driveway	\$4,800
16	Coast redwood	22	No	Remove-impacted by driveway	\$3,450
17	Valley oak	10	Yes	Remove-impacted by driveway	\$2,000
18	Incense cedar	22	No	Preserve	\$4,300
19	Siberian elm	18	No	Preserve	\$400
20	Valley oak	28	Yes	Preserve	\$21,000
21	Valley oak	24	Yes	Preserve	\$15,450
22	Valley oak	46	Yes	Preserve	\$56,550
23	Valley oak	10	Yes	Preserve	\$2,000
24	Valley oak	9	Yes	Preserve	\$1,600
25	Valley oak	19	Yes	Preserve	\$6,950
26	Valley oak	10	Yes	Preserve	\$2,000
27	Valley oak	11	Yes	Preserve	\$2,350
28	Manna gum	41	No	Remove-within probable building pad	\$8,850
29	Manna gum	31	No	Remove-within probable building pad	\$5,100

Tree Preservation Guidelines

Certain trees may be designated for preservation based on their suitability for preservation and location relative to the development plan. Once those decisions have been made, the following recommendations will help reduce impacts to trees from development and maintain and improve their health and vitality through the clearing, grading and construction phases.

The goal of tree preservation is not merely tree survival during development but maintenance of tree health and beauty for many years. Trees retained on sites that are either subject to extensive injury during construction or are inadequately maintained become a liability rather than an asset. The response of individual trees will depend on the amount of excavation and grading, the care with which demolition is undertaken, and the construction methods. Coordinating any construction activity inside the Tree Protection Zone can minimize these impacts.

Design recommendations

1. A **TREE PROTECTION ZONE** shall be established around each tree. No grading, excavation, construction or storage of materials shall occur within that zone. When trunks are accurately located and development plans refined, the Consulting Arborist will identify specific **TREE PROTECTION ZONES** for each tree.
2. No underground services including utilities, sub-drains, water or sewer shall be placed in the **TREE PROTECTION ZONE**.
3. **Tree Preservation Notes**, prepared by the Consulting Arborist, should be included on all plans.

Pre-construction treatments and recommendations

1. The construction superintendent shall meet with the Consulting Arborist before beginning work to discuss work procedures and tree protection.
2. Fence all trees to be retained to completely enclose the **TREE PROTECTION ZONE** prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by Consulting Arborist. Fences are to remain until all grading and construction is completed.
3. Prune trees to remove dead branches and mitigate structural defects. Pruning specifications shall be written by the Consulting Arborist.

Recommendations for tree protection during construction

1. No grading, construction, demolition or other work shall occur within the **TREE PROTECTION ZONE**. Any modifications must be approved and monitored by the Consulting Arborist.
2. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the Consulting Arborist. Trenching for the installation of the storm drain within the dripline areas of trees #21 and 22 is likely to encounter roots larger than 3" in diameter. These roots should be carefully exposed and retained if possible.
3. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.
4. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the **TREE PROTECTION ZONE**.

5. Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel.

Ed Brennan

Ed Brennan
Certified Arborist WE-0105A
Registered Consulting Arborist #373

Tree Survey Map

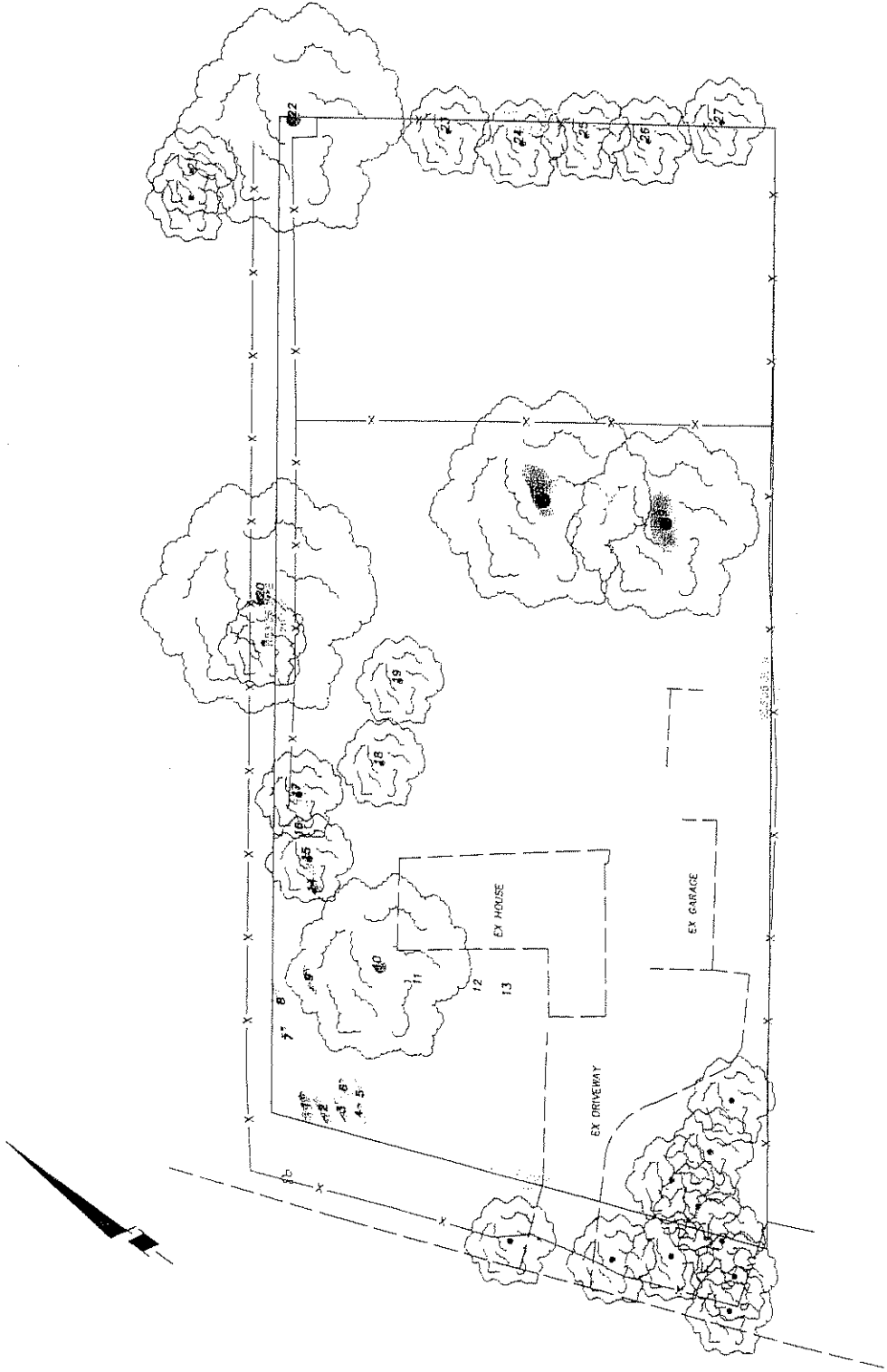
2450 Lunada Lane
Alamo, California

prepared for
K. B. Consulting

prepared by
Ed Brennan,
Consulting Arborist

base map provided by
Terra Firma
Antioch, California

September, 2007





Ed Brennan
Consulting Arborist

KB Consulting
Konrad Residence
Contra Costa County, California
July 2007

Tree Survey

TREE SPECIES No.	TRUNK DIAMETER (inches)	CONDITION 1=POOR 5=EXCELLENT	SUITABILITY FOR PRESERVATION	PROTECTED TREE?	COMMENTS
1 Catalina cherry	5	3	Moderate	No	Upright form.
2 Catalina cherry	6	3	Moderate	No	Leaning trunk.
3 Catalina cherry	6	3	Moderate	No	Leaning trunk.
4 Catalina cherry	6,5,4	3	Moderate	No	Multi-stemmed.
5 Catalina cherry	6,5	3	Moderate	No	Leaning trunks.
6 Catalina cherry	6,5	3	Moderate	No	Trunks attach at 4'.
7 Catalina cherry	7,4	3	Moderate	No	Trunks attach at base.
8 Incense cedar	23	3	Moderate	No	Trunk divides at 25'.
9 London plane	27	4	Good	No	Trunk divides at 10'.
10 London plane	28	4	Good	No	3 main stems.
11 London plane	17,11	4	Good	No	3 main stems.
12 London plane	16,13	4	Good	No	Trunks attach at 4'.
13 London plane	32	4	Good	No	Trunks attach at 6'.
14 Coast redwood	20,14	4	Good	No	Trunks attach at 4'.
15 Coast redwood	22	4	Good	No	Single trunk, high crown.
16 Coast redwood	22	3	Moderate	No	Branch dieback, poor lcolor.
17 Valley oak	10	3	Moderate	Yes	Crook in trunk.
18 Incense cedar	22	3	Moderate	No	Crown bare on NE side.
19 Siberian elm	18	3	Moderate	No	Several branch failures.
20 Valley oak	28	4	Good	Yes	Trunk 5' north of fence, encroaches 30'.
21 Valley oak	24	4	Good	Yes	Trunk 15' north of fence, encroaches 25'.
22 Valley oak	46	4	Good	Yes	Leaning trunk, pruned to clear utility lines.
23 Valley oak	10	3	Moderate	Yes	Pruned to clear utility lines.



KB Consulting
Konrad Residence
Contra Costa County, California
July 2007

Tree Survey

TREE SPECIES No.	TRUNK DIAMETER (inches)	CONDITION 1=POOR 5=EXCELLENT	SUITABILITY FOR PRESERVATION	PROTECTED TREE?	COMMENTS
24 Valley oak	9	3	Moderate	Yes	Trunk wounds, pruned to clear utility lines.
25 Valley oak	19	3	Moderate	Yes	Pruned to clear utility lines.
26 Valley oak	10	3	Moderate	Yes	Pruned to clear utility lines.
27 Valley oak	11	3	Moderate	Yes	Pruned to clear utility lines.
28 Manna gum	41	4	Moderate	No	Trunk divides at 18'.
29 Manna gum	31	4	Moderate	No	Good form and health.

HOBBS REPORT

E. L. Hobbs Company

Certified Arborists

6680 Alhambra Ave. #342

Martinez, CA 94553-6105

Date: March 19, 2009

-----ARBORIST REPORT-----

Purpose of this report:

To document the results of a tree inspection and evaluation in regards to a proposed development on a neighboring residential property.

Person requesting this report:

Thomas Newlin, 2444 Lunada Lane, Alamo, CA 94507 Tel: 925 282-0151; Fax: 925-681-1575; email comresfr@aol

Site: 2450 Lunada Lane, Alamo (Adjoining 2444 Lunada to the south.)

Ownership: Thomas and Erin Newlin.

Site Description:

These residential properties were developed several decades ago and have existing houses and various out buildings. The terrain is gently sloped to the east and abuts to the Iron Horse Trail. Currently a redwood fence separates the properties.

Date of inspection: March 18, 2009

Subject Trees:

1. Tag: 578
Species: Thuja plicata, Western red cedar
Size: 18" in diameter as measured at 4.5' above average grade, within inches of the fence.
Location: At the front of the property, on the south side of the existing fence
Characteristics: The trunk is initially straight but bifurcates at approx. 30' Crown is abnormally shaped, predominate to the south due to competition.
Condition: Good, except for trunk structure. (Can be corrected.)
2. Tag: 579
Species: Sequoia sempervirens. Coastal redwood
Size: 21.5" in diameter.
Location: Towards the mid-way point from front to rear and 8'- 6" from the existing fence.
Characteristics: The trunk is straight and the limbs have been removed up to 15'

The canopy is one-sided, predominately shaped to the north due to competition.

3. Tag 580

Species: Quercus lobata, Valley oak

Size: 26.2" in diameter

Location: East of Tree #2 at a distance of 8' from the existing fence.

Characteristics: The lower trunk is curved to the north due to competition.

It bifurcates at approx' 12' above grade. There is an old branch removal wound 6' above grade that has been covered with callous tissue.

Condition: Good, except for the unusual structure.

4. Tag 581

Species: Quercus lobata, Valley oak

Size: 45" diameter.

Location: To the east of Tree #3 at a distance of 8' from the existing fence.

Characteristics: Large spreading canopy in all direction. The trunk divides into 4 trunks at approximately 12' above grade. There are 3 old branch removal wounds approximately 8" in diameter at an approximate height of 10'.

Condition: Good except for trunk structure.

Note: The existing fence does not represent the true property line. See Exhibit A of the "Stormwater Control Plan" for tree locations.

Reporting Party's statement:

One of Mister Newlin's concerns is the effect of the proposed construction as illustrated on the "Stormwater Control Plan" to the existing trees on their property, particularly to trees #3 & #4. They have contacted several arborists and have received mixed opinions on the planned hardscape that encroaches upon the driplines of these trees. In addition to this, the planned trench and drain pipe installation is within the driplines of other large oak trees on the east side of their property. A landscape authority was contacted and this person's opinion was that the planned roadway installation next to the property line would be detrimental to the Subject Trees in so far as soil compaction and aeration within the root zone of said trees are concerned. He further stated that the effects upon the health of these trees might not be evident for 5 years after completion of the planned construction.

Opinions:

It is my opinion based upon 40 years of personal experience in the tree and landscape business, plus the data supplied by the International Society of Arboriculture over the years, that the planned roadway and trenching construction will be stressful particularly to these old oak trees.

Photographs:

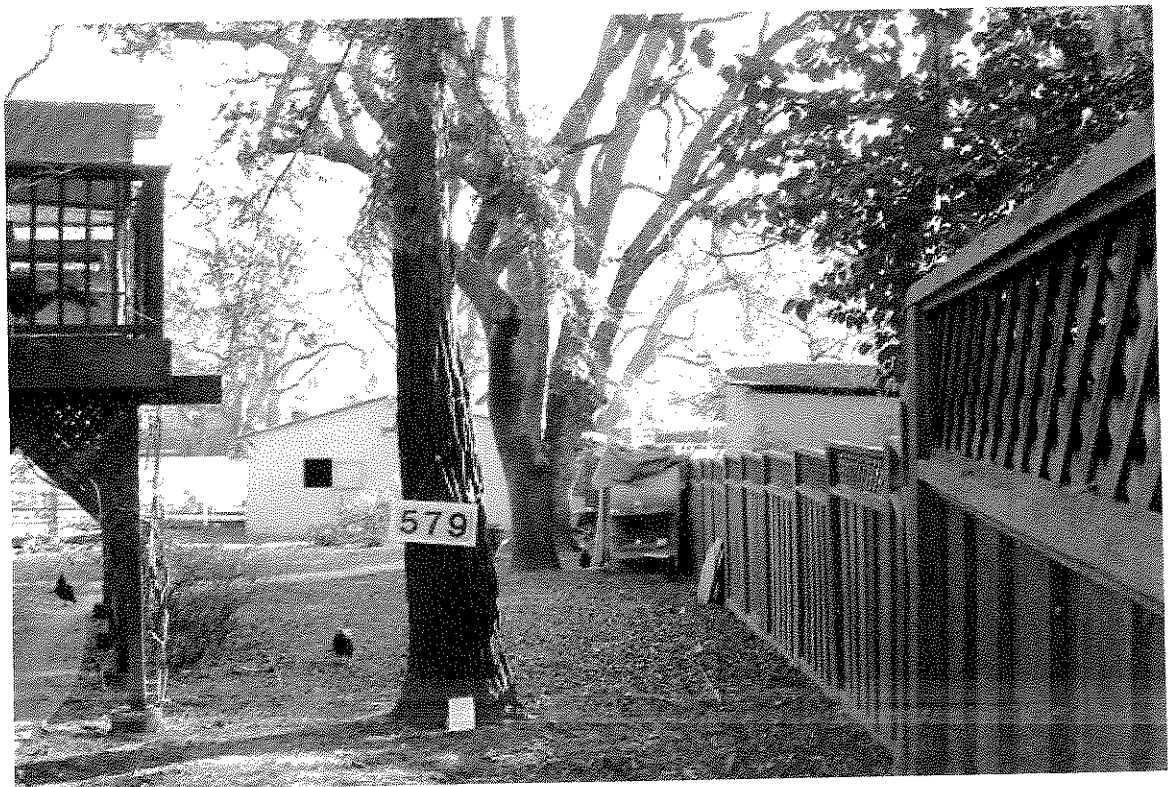
Several images of the Subject Trees are attached to this report showing the Tag numbers, etc..

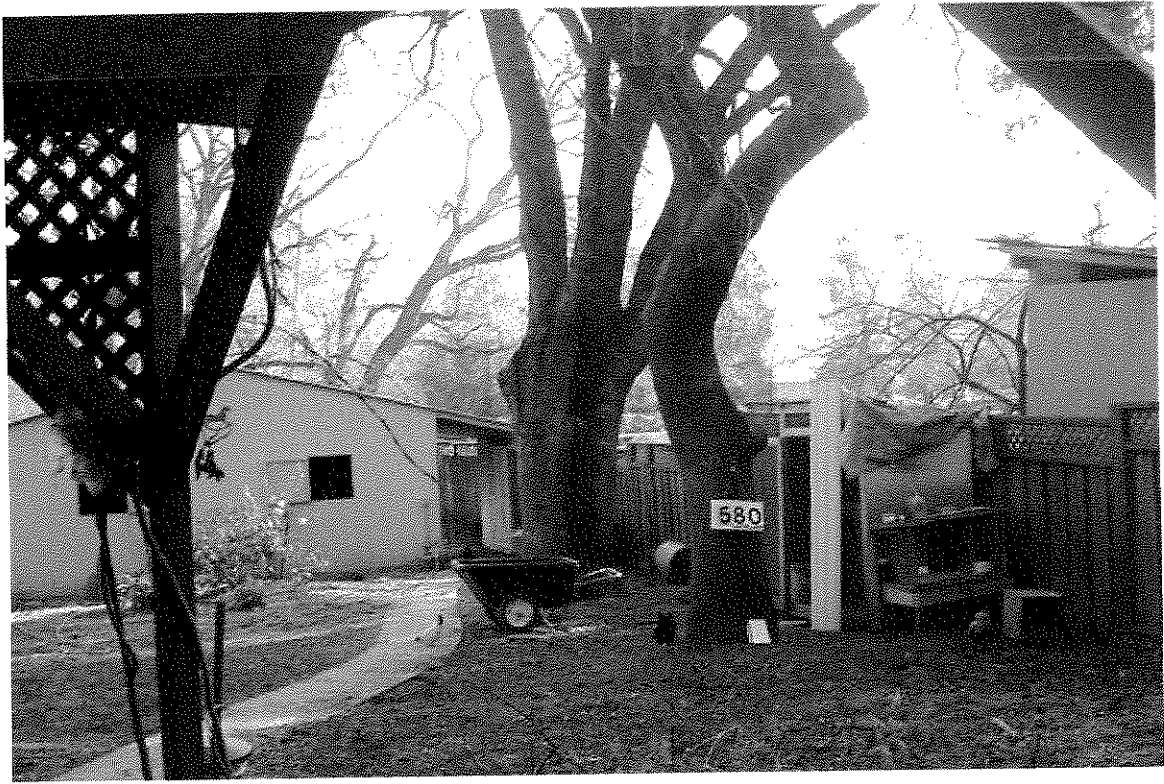
Report prepared by:

E. L. Hobbs
Certified Arborist, ISA-WE 0353A

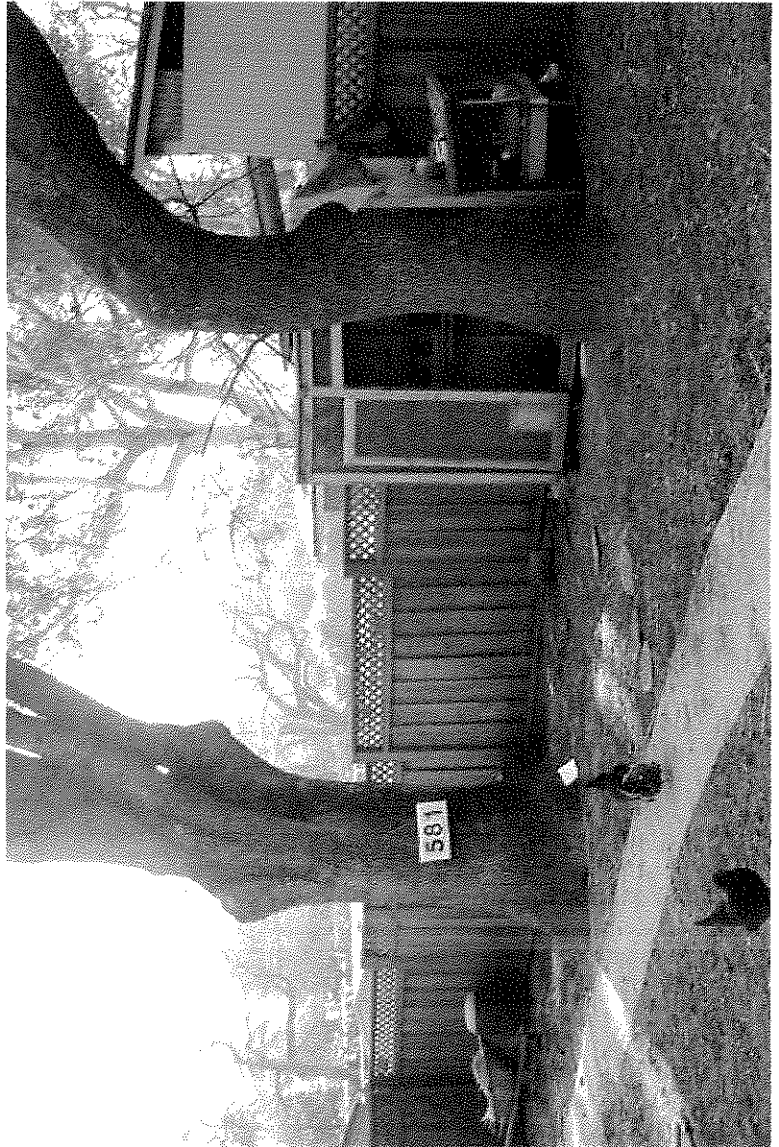
encl: Arborist Qualifications

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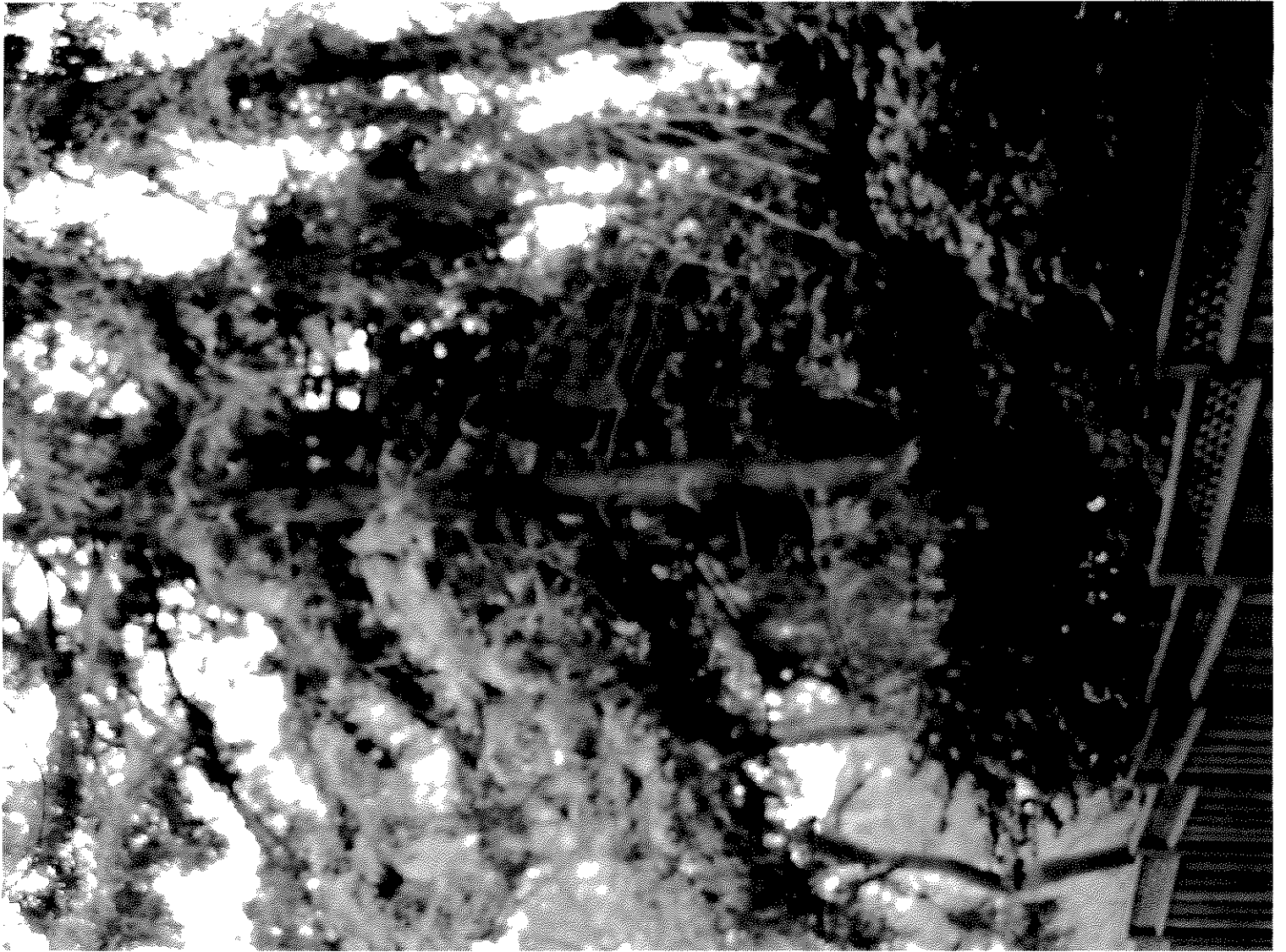












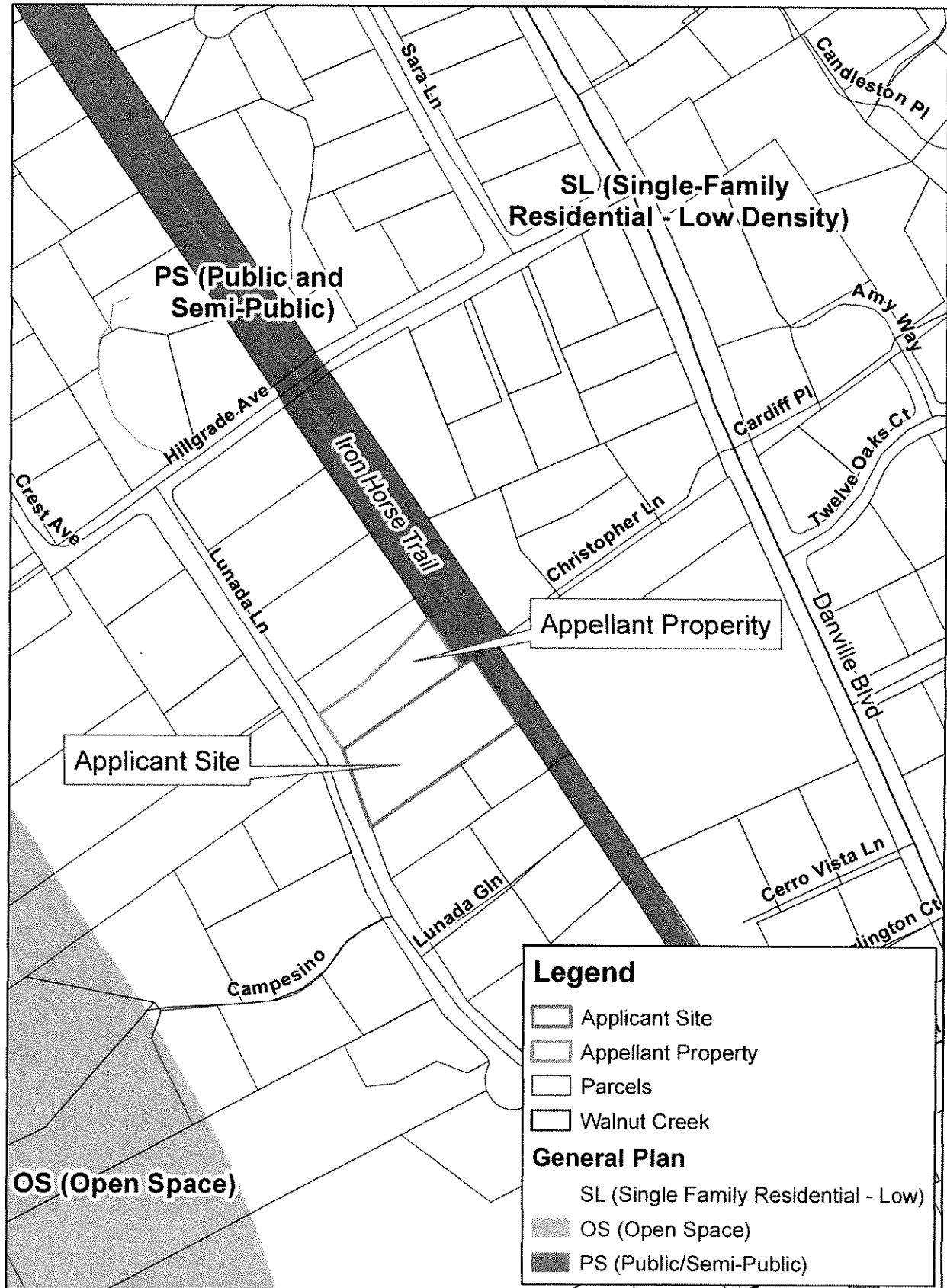


APPELLANT PROXIMITY MAP

And

ZONING MAPS

MS0700024 General Plan Map



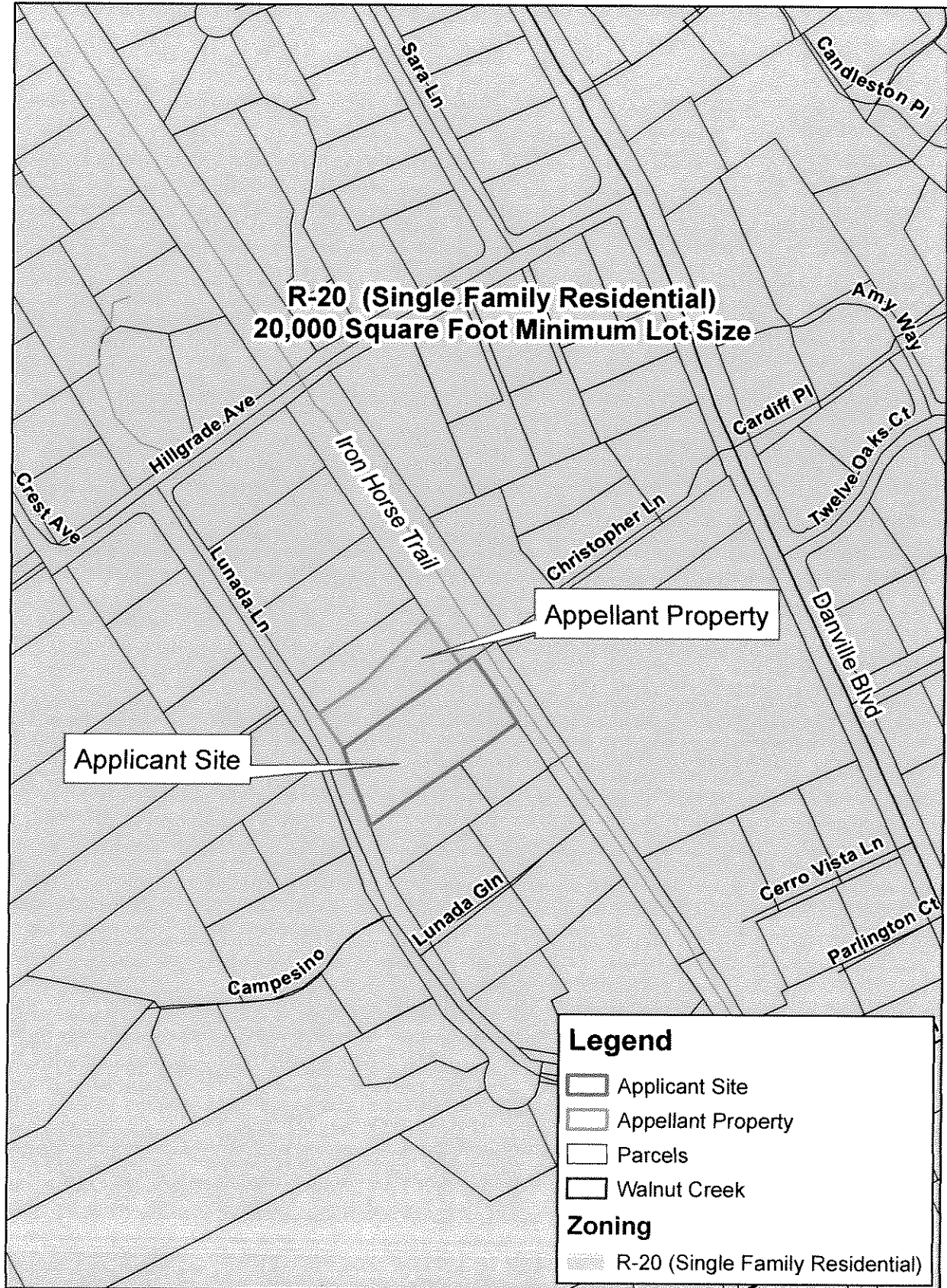
0 65 130 260 390 520 Feet

Map created 9/24/2009
by Contra Costa County Department Conservation and Development
Community Development Division-GIS Group
651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095
37:59:48.455N 122:06:35.384W

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MS0700024 Zoning Map



0 65 130 260 390 520 Feet

Map created 9/24/2009
 by Contra Costa County Department Conservation and Development
 Community Development Division-GIS Group
 651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095
 37°59'48.45"N 122°08'35.38"W

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MS0700024 Aerial Photograph



Legend

- Applicant Site
- Appellant Property
- Parcels

0 20 40 80 120 160 Feet

Map created 9/24/2009
by Contra Costa County Department Conservation and Development
Community Development Division-GIS Group
651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095
37:59:48.455N 122:36:35.384W

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TENTATIVE MAP

DATE STAMPED, APRIL 10, 2008

January 26, 2010

Tom Newlin
2444 Lunada Lane
Alamo, Ca 94507

To Whom It May Concern:

This letter to inform the Board of Supervisors that I formally withdraw my appeal of the minor sub division at 2450 Lunada Lane, Alamo, Ca


Tom Newlin

CONTRA COSTA
2010 JAN 26 PM 4:51

APPLICATION & PERMIT CENTER



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: APPROVE the Montalvin Manor Pedestrian and Transportation Access Improvements Project

RECOMMENDATION(S):

APPROVE the Montalvin Manor Pedestrian and Transportation Access Improvements Project and AUTHORIZE the Public Works Director, or designee, to advertise the project [DCD-CP#09-93] Project No.: 0662-6R4109, and

FIND the project is a California Environmental Quality Act (CEQA), Class 3d Categorical Exemption, pursuant to Article 19, Section 15303(d) of the CEQA Guidelines, and

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

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

FISCAL IMPACT:

There is no impact to the County General Fund. This project is funded by RDA, STIP and other Local Funds (100%).



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



APPROVED AS
RECOMMENDED



OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Hillary Heard (925)
313-2022

BACKGROUND:

The purpose of this project is to improve mobility in the Montalvin Manor Area by closing sidewalk gaps on San Pablo Avenue between Shamrock Drive to Kay Road and on Kay Road from San Pablo Avenue to Rachel Road, providing Class II bike lanes and bus shelters along the west side of San Pablo Avenue. San Pablo Avenue is a heavily traveled roadway that serves the Cities of Richmond, San Pablo, and Pinole, as well as the unincorporated communities of El Sobrante, Tara Hills, and Montalvin Manor. This project will improve pedestrian circulation along San Pablo Avenue by providing a dedicated sidewalk for pedestrians. This project will also provide additional pavement width needed for a Class II bike facility along the west side of San Pablo Avenue.

The following design elements are included in this project: construction of 1,800 feet of 5-foot sidewalk on the west side of San Pablo Avenue from Kay Road to Shamrock Drive; construction of 750 feet of 5-foot sidewalk on the north side of Kay Road from San Pablo Avenue to Rachel Road; construction of 60 feet of 5-foot sidewalk on the south side of Shamrock Drive between San Pablo Avenue and Madeline to close sidewalk gaps; pave and stripe a Class II bike lane along the west side San Pablo Avenue from Kay Road to Shamrock Drive by widening the existing 2.5-foot shoulder to 5 feet; construction of two new bus shelters on 25-foot long by 5-foot wide concrete pads (5 feet behind the 5-foot sidewalk) on San Pablo Avenue; extend the right-turn lane from San Pablo Avenue to Kay Road from 105 feet to 215 feet; add a split rail fence at the back of the new sidewalk that is adjacent to existing steep slopes on San Pablo Avenue and upgrade sidewalk facilities in the project area to comply with the Americans with Disabilities Act (ADA) by modifying the existing curb ramps to present standards.

New drainage facilities will be constructed to collect and convey storm water within the project limits, which includes storm drains, inlets, concrete valley gutters and outfall structures. Where the storm drain will cross the 53-foot wide earth strip near the intersection of San Pablo Avenue and Kay Road, the excavation could be up to 18+ feet deep to avoid conflict with the existing utility lines. At the intersection of Kay Road with Rachel Road an 18-inch storm drain will be constructed to outfall into an existing drainage ditch. Approximately two non-native trees along Kay Road will need to be removed as a result of the drainage improvements.

Near the intersection of Kay Road with Rachel Road, approximately a 3 to 4-foot tall, 75 to 125-foot long segmental retaining wall will be constructed to support the uphill slope of the single family home on APN 405-122-001.

Real Property transactions, including right of way acquisition, may be necessary in support of this project. At least one lane of traffic will be open at all times during construction activities. Emergency vehicle access will be allowed at all times. Additionally, utilities will need to be relocated.

CONSEQUENCE OF NEGATIVE ACTION:

Delay in approving the project will result in a delay of design and construction and may jeopardize funding.

ATTACHMENTS

G:\engsvc\ENVIRO\BO\2010\BO 1-26-2010\Notice of Exemption Montalvin Manor MPTAI 1-26-10.pdf

:\engsvc\ENVIRO\BO\2010\BO 1-26-2010\Initial Study of Environmental Significance 1-26-10 MMPTAI.pdf

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Notice of Exemption

CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION AND DEVELOPMENT
651 PINE STREET 2ND FLOOR NORTH WING MARTINEZ, CALIFORNIA 94553

Telephone: (925) 313-2022

Contact Person: Hillary P Heard - Public Works Dept.

Project Description, Common Name (if any) and Location: **Montalvin Manor Pedestrian & Transportation Access Improvements** Project No. **0662-6R4109**, County File #**CP 09-93**

Project Description: The purpose of this project is to improve mobility in the Montalvin Manor Area by closing sidewalk gaps on San Pablo Avenue between Shamrock Drive to Kay Road and on Kay Road from San Pablo Avenue to Rachel Road, providing Class II bike lanes and bus shelters along the west side of San Pablo Avenue. San Pablo Avenue is a heavily traveled roadway that serves the Cities of Richmond, San Pablo, and Pinole, as well as the unincorporated communities of El Sobrante, Tara Hills, and Montalvin Manor. This project will improve pedestrian circulation along San Pablo Avenue by providing a dedicated sidewalk for pedestrians. This project will also provide additional pavement width needed for a Class II bike facility along the west side of San Pablo Avenue.

The following design elements are included in this project: construction of 1,800 feet of 5-foot sidewalk on the west side of San Pablo Avenue from Kay Road to Shamrock Drive; construction of 750 feet of 5-foot sidewalk on the north side of Kay Road from San Pablo Avenue to Rachel Road; construction of 60 feet of 5-foot sidewalk on the south side of Shamrock Drive between San Pablo Avenue and Madeline to close sidewalk gaps; pave and stripe a Class II bike lane along the west side San Pablo Avenue from Kay Road to Shamrock Drive by widening the existing 2.5-foot shoulder to 5 feet; construction of two new bus shelters on 25-foot long by 5-foot wide concrete pads (5 feet behind the 5-foot sidewalk) on San Pablo Avenue; extend the right-turn lane from San Pablo Avenue to Kay Road from 105 feet to 215 feet; add a split rail fence at the back of the new sidewalk that is adjacent to existing steep slopes on San Pablo Avenue and upgrade sidewalk facilities in the project area to comply with the Americans with Disabilities Act (ADA) by modifying the existing curb ramps to present standards.

New drainage facilities will be constructed to collect and convey storm water within the project limits, which includes storm drains, inlets, concrete valley gutters and outfall structures. Where the storm drain will cross the 53-foot wide earth strip near the intersection of San Pablo Avenue and Kay Road, the excavation could be up to 18+ feet deep to avoid conflict with the existing utility lines. At the intersection of Kay Road with Rachel Road an 18-inch storm drain will be constructed to outfall into an existing drainage ditch. Approximately two non-native trees along Kay Road will need to be removed as a result of the drainage improvements.

Near the intersection of Kay Road with Rachel Road, approximately a 3 to 4-foot tall, 75 to 125-foot long segmental retaining wall will be constructed to support the uphill slope of the single family home on APN 405-122-001.

General Plan Conformance has been requested from the City of Richmond.

Real Property transactions, including right of way acquisition, may be necessary in support of this project. At least one lane of traffic will be open at all times during construction activities. Emergency vehicle access will be allowed at all times. Additionally, utilities will need to be relocated.

Location: The project is located in West Contra Costa County, in the unincorporated area of San Pablo, along the north side of San Pablo Avenue (Figs. 1-3).

This activity is not subject to the California Environmental Quality Act (CEQA) Guidelines, as a:

<input type="checkbox"/> Ministerial Project (Sec. 15268)	<input checked="" type="checkbox"/> Categorical Exemption, Class 3(d)
<input type="checkbox"/> Declared Emergency (Sec. 15269(a))	<input type="checkbox"/> Other Statutory Exemption, Section
<input type="checkbox"/> Emergency Project (Sec. 15269(b) or (c))	<input type="checkbox"/> General Rule of Applicability /Section 15061 (b) (3)

for the following reason(s): The project consists of construction of limited small new structures, pursuant to CEQA Guidelines (15303 Class 3d). The project will not result in the removal of any scenic resources.

Date: _____ By: _____

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: Hillary Heard Environmental Section	Department of Fish and Game Fees Due <input type="checkbox"/> EIR - \$2,606. ⁷⁵ <input type="checkbox"/> Neg. Dec. - \$1,876. ⁷⁵ <input checked="" type="checkbox"/> County Clerk - \$50 <input checked="" type="checkbox"/> Department of Conservation and Development - \$25	Total Due: \$ 75.⁰⁰ Total Paid \$ _____ Receipt #: _____
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PROJECT NAME: Montalvin Manor Pedestrian & Transportation Access Improvements

PREPARED BY: Hillary Heard

DATE: December 28, 2009

APPROVED BY: Marguerite Jones

DATE: 12/28/09

RECOMMENDATIONS:

- ☒ **Categorical Exemption** (Class 3d) ☐ 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 construction of limited small new structures, pursuant to CEQA Guidelines (15303 Class 3d). The project will not result in the removal of any scenic resources.

What changes to the project would mitigate the identified impacts: N/A

USGS Quad Sheet: *Mare Island* Base Map Sheet #: *G5* Parcel #: *N/A*

GENERAL CONSIDERATIONS:

1. Location: The project is located in West Contra Costa County, in the unincorporated area of San Pablo, along the north side of San Pablo Avenue (Figs. 1-3)

2. Project Description: The purpose of this project is to improve mobility in the Montalvin Manor Area by closing sidewalk gaps on San Pablo Avenue between Shamrock Drive to Kay Road and on Kay Road from San Pablo Avenue to Rachel Road, providing Class II bike lanes and bus shelters along the west side of San Pablo Avenue. San Pablo Avenue is a heavily traveled roadway that serves the Cities of Richmond, San Pablo, and Pinole, as well as the unincorporated communities of El Sobrante, Tara Hills, and Montalvin Manor. This project will improve pedestrian circulation along San Pablo Avenue by providing a dedicated sidewalk for pedestrians. This project will also provide additional pavement width needed for a Class II bike facility along the west side of San Pablo Avenue.

The following design elements are included in this project: construction of 1,800 feet of 5-foot sidewalk on the west side of San Pablo Avenue from Kay Road to Shamrock Drive; construction of 750 feet of 5-foot sidewalk on the north side of Kay Road from San Pablo Avenue to Rachel Road; construction of 60 feet of 5-foot sidewalk on the south side of Shamrock Drive between San Pablo Avenue and Madeline to close sidewalk gaps; pave and stripe a Class II bike lane along the west side San Pablo Avenue from Kay Road to Shamrock Drive by widening the existing 2.5-foot shoulder to 5 feet; construction of two new bus shelters on 25-foot long by 5-foot wide concrete pads (5 feet behind the 5-foot sidewalk) on San Pablo Avenue; extend the right-turn lane from San Pablo Avenue to Kay Road from 105 feet to 215 feet; add a split rail fence at the back of the new sidewalk that is adjacent to existing steep slopes on San Pablo Avenue and upgrade sidewalk facilities in the project area to comply with the Americans with Disabilities Act (ADA) by modifying the existing curb ramps to present standards.

New drainage facilities will be constructed to collect and convey storm water within the project limits, which includes storm drains, inlets, concrete valley gutters and outfall structures. Where the storm drain will cross the 53-foot wide earth strip near the intersection of San Pablo Avenue and Kay Road, the excavation could be up to 18+ feet deep to avoid conflict with the existing utility lines. At the intersection of Kay Road with Rachel Road an 18-inch storm drain will be constructed to outfall into an existing drainage ditch. Approximately two non-native trees along Kay Road will need to be removed as a result of the drainage improvements.

Near the intersection of Kay Road with Rachel Road, approximately a 3 to 4-foot tall, 75 to 125-foot long segmental retaining wall will be constructed to support the uphill slope of the single family home on APN 405-122-001.

Real Property transactions, including right of way acquisition, may be necessary in support of this project. At least one lane of traffic will be open at all times during construction activities. Emergency vehicle access will be allowed at all times. Additionally, utilities will need to be relocated.

- 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 (Department of Fish and Game, Army Corps of Engineers, Regional Water Quality Control Board, City of Richmond General Plan Conformance)
- 5. Is the project within the Sphere of Influence of any city?** City of Pinole and the City of Richmond.

CONTRA COSTA COUNTY CALIFORNIA

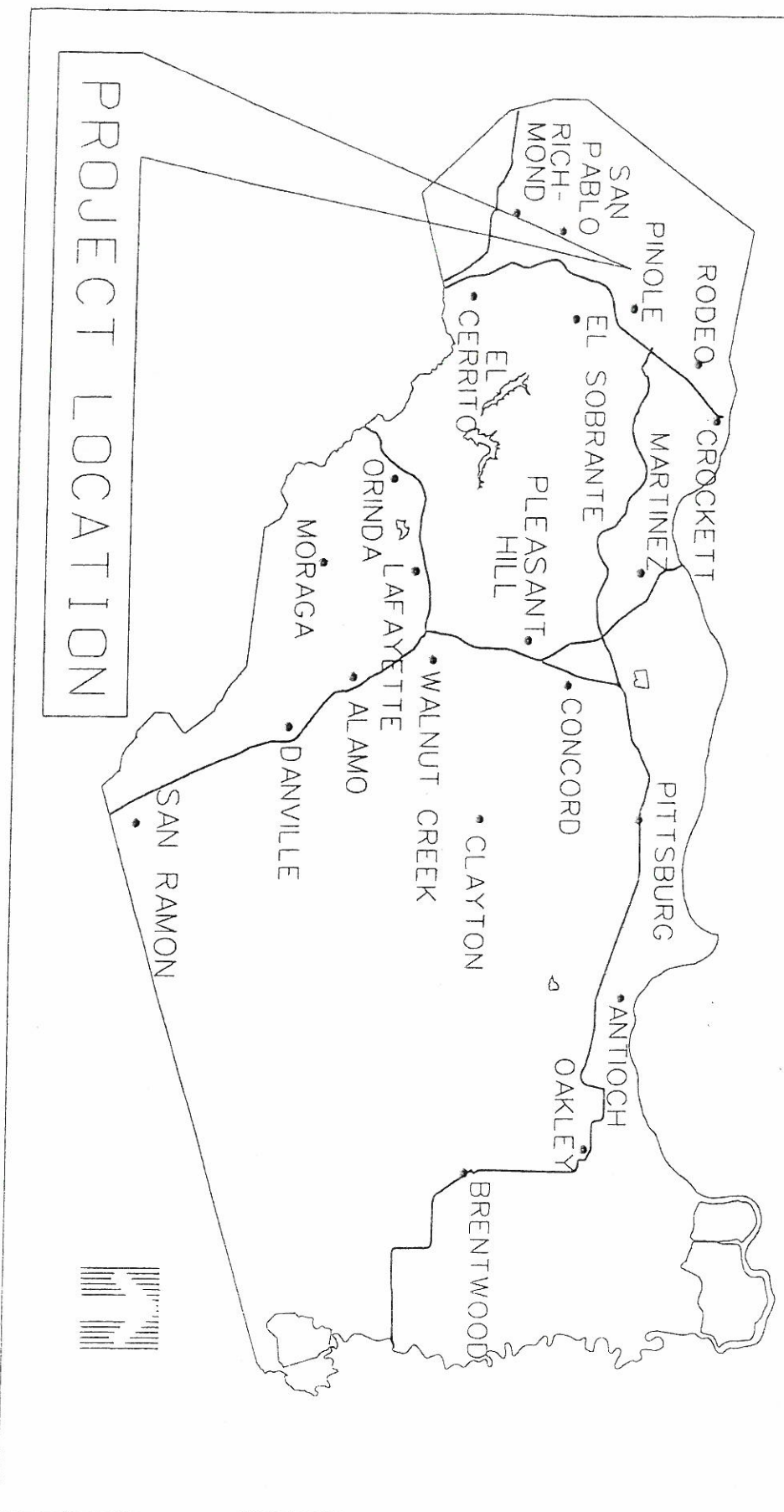


Figure 1

Figure 2

569 MAP

SEE 549 MAP

1:22,600
1 in. = 1900 ft
0 0.25 0.5
miles

Vicinity Map

Montalvin Manor Pedestrian and
Transportation Access Improvements

CONTRA COSTA

SEE 568 MAP

Project Limits

MONTALVIN MANOR

TARA HILLS

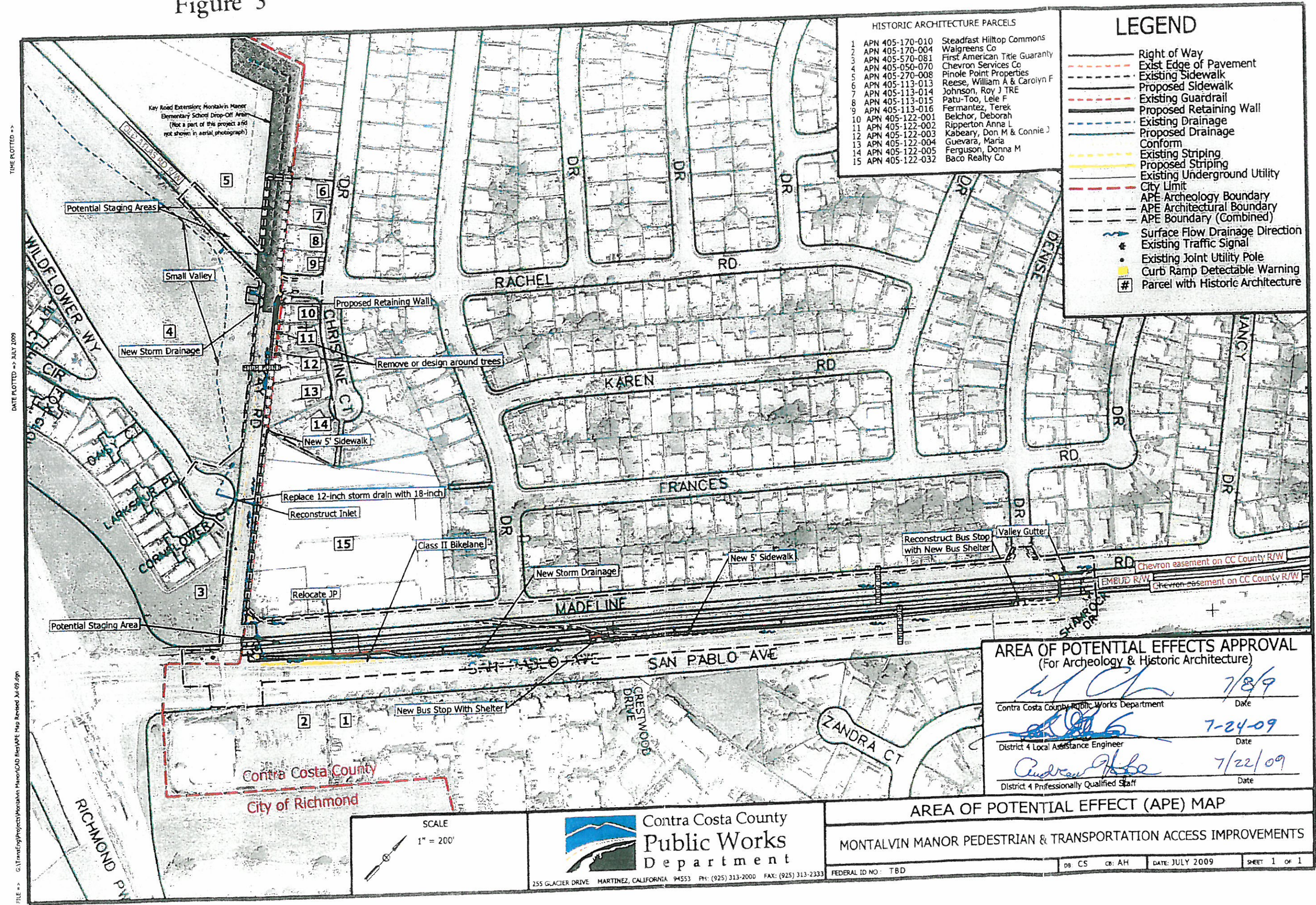
GATELEY

SAN PABLO BAY

Richmond

SEE 589 MAP

Figure 3





**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: APPROVE the Willow Lake Road Sidewalk Gap Closure Project.

RECOMMENDATION(S):

APPROVE the Willow Lake Road Sidewalk Gap Closure Project (Discovery Bay Area) and AUTHORIZE the Public Works Director, or designee, to advertise the project. [DCD-CP#09-92] Project No.: 0676-6P1025, and

FIND the project is a California Environmental Quality Act (CEQA), Class 1(c) Categorical Exemption, pursuant to Section 15301(c) of the CEQA Guidelines, and

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

AUTHORIZE the Public Works Director 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:

There is no impact to the County General Fund. This project is funded by Local Road Funds (100%).

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Kimani Birden (925)
313-2190

BACKGROUND:

Contra Costa County Public Works Department (CCCPWD) is planning to implement the Willow Lake Road Sidewalk Gap Closure Project to close the last sidewalk gap on the south side of Willow Lake Road and provide pedestrians with standard facilities at every approach to Discovery Bay Elementary School.

CONSEQUENCE OF NEGATIVE ACTION:

Delay in approving the project will result in a delay of design and construction and may jeopardize funding.

ATTACHMENTS

G:\engsvc\ENVIRO\BO\2010\BO 1-26-2010\Notice of Exemption Willow Lake 1-26-10 WL.pdf

G:\engsvc\ENVIRO\BO\2010\BO 1-26-2010\Initial Study of Environmental Significance 1-26-10 WL.pdf

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Notice of Exemption

Contra Costa County Community Development Department
651 Pine Street, 4th Floor - North Wing, McBrien Administration Building
Martinez, CA 94553-0095

Telephone: (925) 313-2190

Contact Person: Kimani Birden - Public Works Dept.

Project Description, Common Name (if any) and Location: **Willow Lake Road Sidewalk Gap Closure, County**
File: 0676- 6P1025 CP# 09-92

Project Description: Contra Costa County Public Works Department (CCCPWD) is planning to implement the Willow Lake Road Sidewalk Gap Closure Project to close the last sidewalk gap on the south side of Willow Lake Road and provide pedestrians with standard facilities at every approach to Discovery Bay Elementary School. The project will begin approximately 200 feet west of River Lake Road and will extend approximately 550 feet along the south side of Willow Lake Road to the midblock cross walk on the south side of Discovery Bay Elementary School. The project will remove 200 feet of existing non-standard pavement that is 3 feet wide and replace it with 5 foot wide standard concrete sidewalk. In addition, the project will also add 350 feet of new 5 foot wide concrete sidewalk. Existing irrigation heads, utility boxes (two), and a utility vault will be adjusted to the new sidewalk grade. To protect the newly created sidewalk, tree root barriers will be placed along select sections of the project. In order to minimize damage to any trees, any roots exposed during excavation will be cut cleanly and tree branches will be trimmed. To maintain traffic flow and provide emergency vehicle access, at least one lane will remain open at all times during construction activities.

Real property transactions and utility relocations, may be necessary in support of this project.

This project is exempt from CEQA as a:

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| <input type="checkbox"/> Ministerial Project (Sec. 15268) | <input checked="" type="checkbox"/> Categorical Exemption, Class 15301 (c) |
| <input type="checkbox"/> Declared Emergency (Sec. 15269(a)) | <input type="checkbox"/> Other Statutory Exemption, Section |
| <input type="checkbox"/> Emergency Project (Sec. 15269(b) or (c)) | <input type="checkbox"/> General Rule of Applicability [Section 15061(b)(3)] |

for the following reason(s): The project consists of the minor alteration of existing public facilities; pursuant to section 15301 (c) of the CEQA guidelines.

Date: _____ By: _____

Community Development Department Representative

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: Kimani Birden
Environmental Section

Department of Fish and Game Fees Due

- | |
|------------------------------------------------------------------------|
| <input type="checkbox"/> EIR - \$2,500 |
| <input type="checkbox"/> Neg. Dec. - \$1,800 |
| <input type="checkbox"/> DeMinimis Findings - \$0 |
| <input checked="" type="checkbox"/> County Clerk - \$50 |
| <input checked="" type="checkbox"/> Community Development Dept. - \$25 |

Total Due: \$ _____

Total Paid \$ _____

Receipt # _____

PUBLIC WORKS DEPARTMENT
INITIAL STUDY OF
ENVIRONMENTAL SIGNIFICANCE

PROJECT # 0676-6P1025
CP# 09-92

PROJECT NAME: Willow Lake Road Sidewalk Gap Closure

PREPARED BY: Kimani Birden

DATE: December 29, 2009

APPROVED BY: Maurice Jerns

DATE: 12/29/09

RECOMMENDATIONS:

☒ Categorical Exemption (Class 1(c))

☐ Negative Declaration

☐ Environmental Impact Report Required

☐ Conditional Negative Declaration

The project will not have a significant effect on the environment. The recommendation is based on the following: The project consists of the minor alteration of existing public facilities; pursuant to section 15301 (c) of the CEQA guidelines.

What changes to the project would mitigate the identified impacts: N/A

USGS Quad Sheet:
Woodward Island

Base Map Sheet #:
N-29

Parcel #:
n/a

GENERAL CONSIDERATIONS:

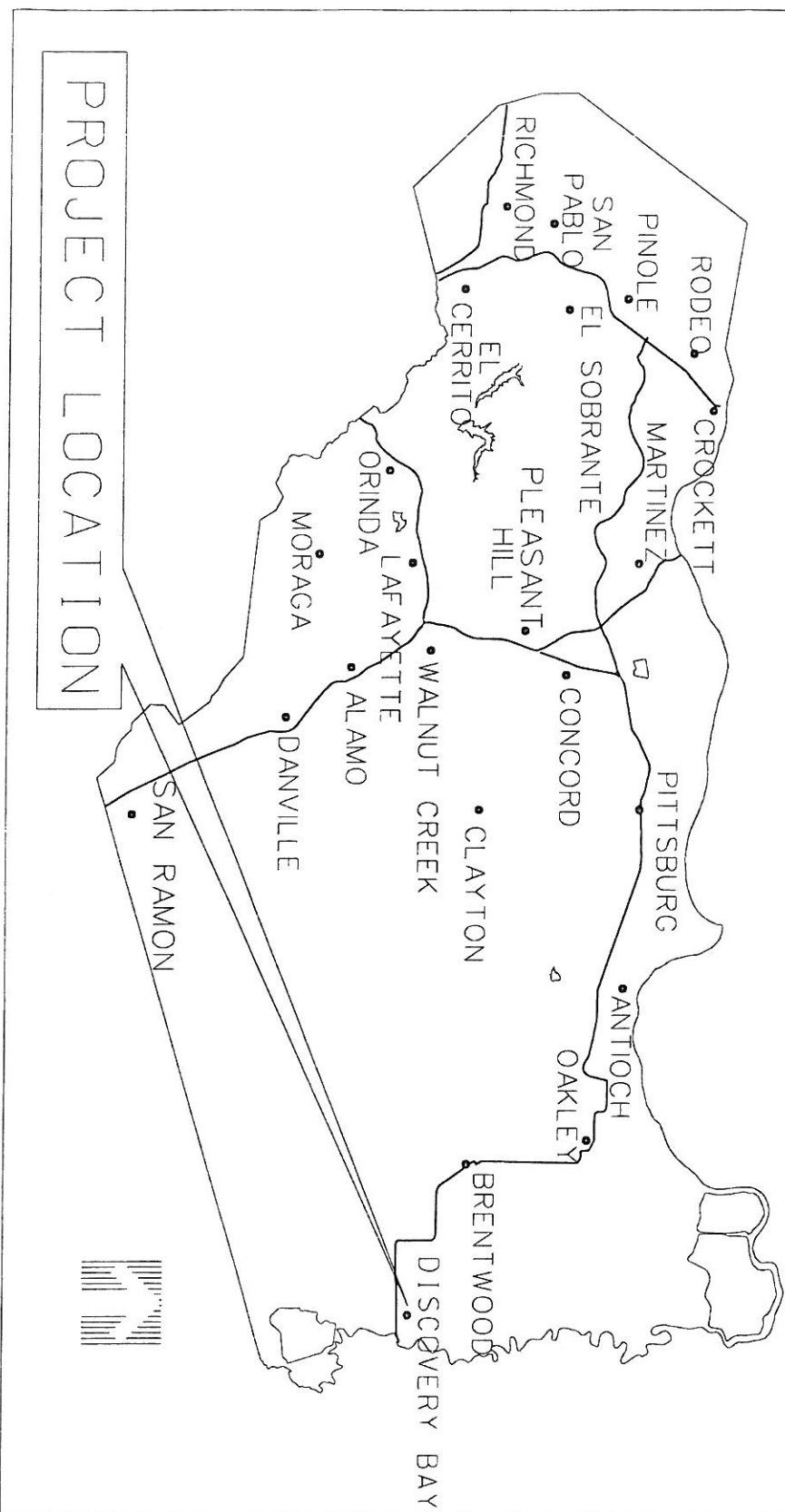
- 1. Location:** The project is located in unincorporated East Contra Costa County, near the Town of Discovery Bay. (Figs.1-3)
- 2. Project Description:** Contra Costa County Public Works Department (CCCPWD) is planning to implement the Willow Lake Road Sidewalk Gap Closure Project to close the last sidewalk gap on the south side of Willow Lake Road and provide pedestrians with standard facilities at every approach to Discovery Bay Elementary School.

The project will begin approximately 200 feet west of River Lake Road and will extend approximately 550 feet along the south side of Willow Lake Road to the midblock cross walk on the south side of Discovery Bay Elementary School. The project will remove 200 feet of existing non-standard pavement that is 3 feet wide and replace it with 5 foot wide standard concrete sidewalk. In addition, the project will also add 350 feet of new 5 foot wide concrete sidewalk. Existing irrigation heads, utility boxes (two), and a utility vault will be adjusted to the new sidewalk grade. To protect the newly created sidewalk, tree root barriers will be placed along select sections of the project. In order to minimize damage to any trees, any roots exposed during excavation will be cut cleanly and tree branches will be trimmed. To maintain traffic flow and provide emergency vehicle access, at least one lane will remain open at all times during construction activities.

Real property transactions and utility relocations, may be necessary in support of this project.

- 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 (Agency Name/s):
- 5. Is the project within the Sphere of Influence of any city?** No

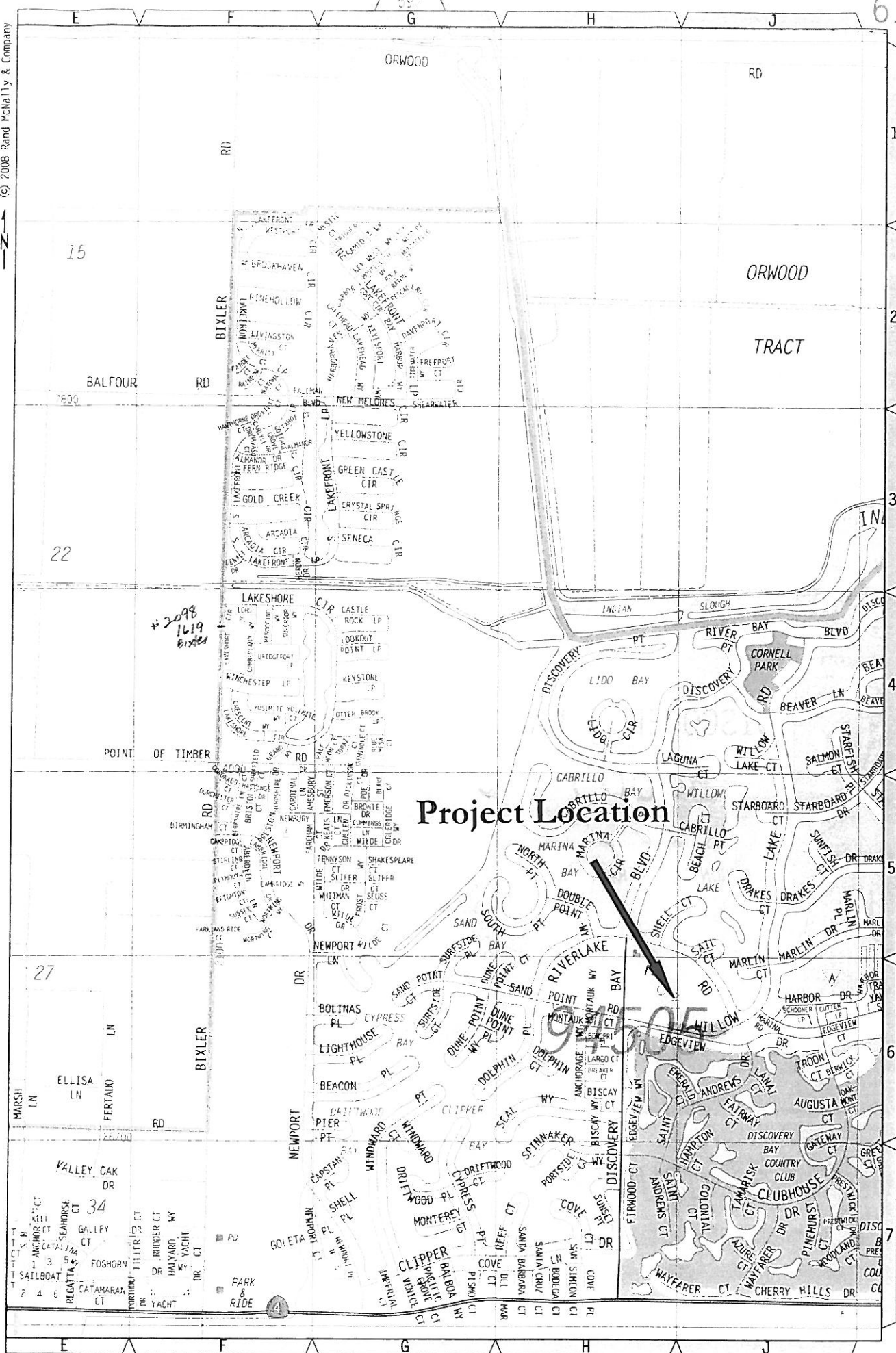
CONTRA COSTA COUNTY CALIFORNIA

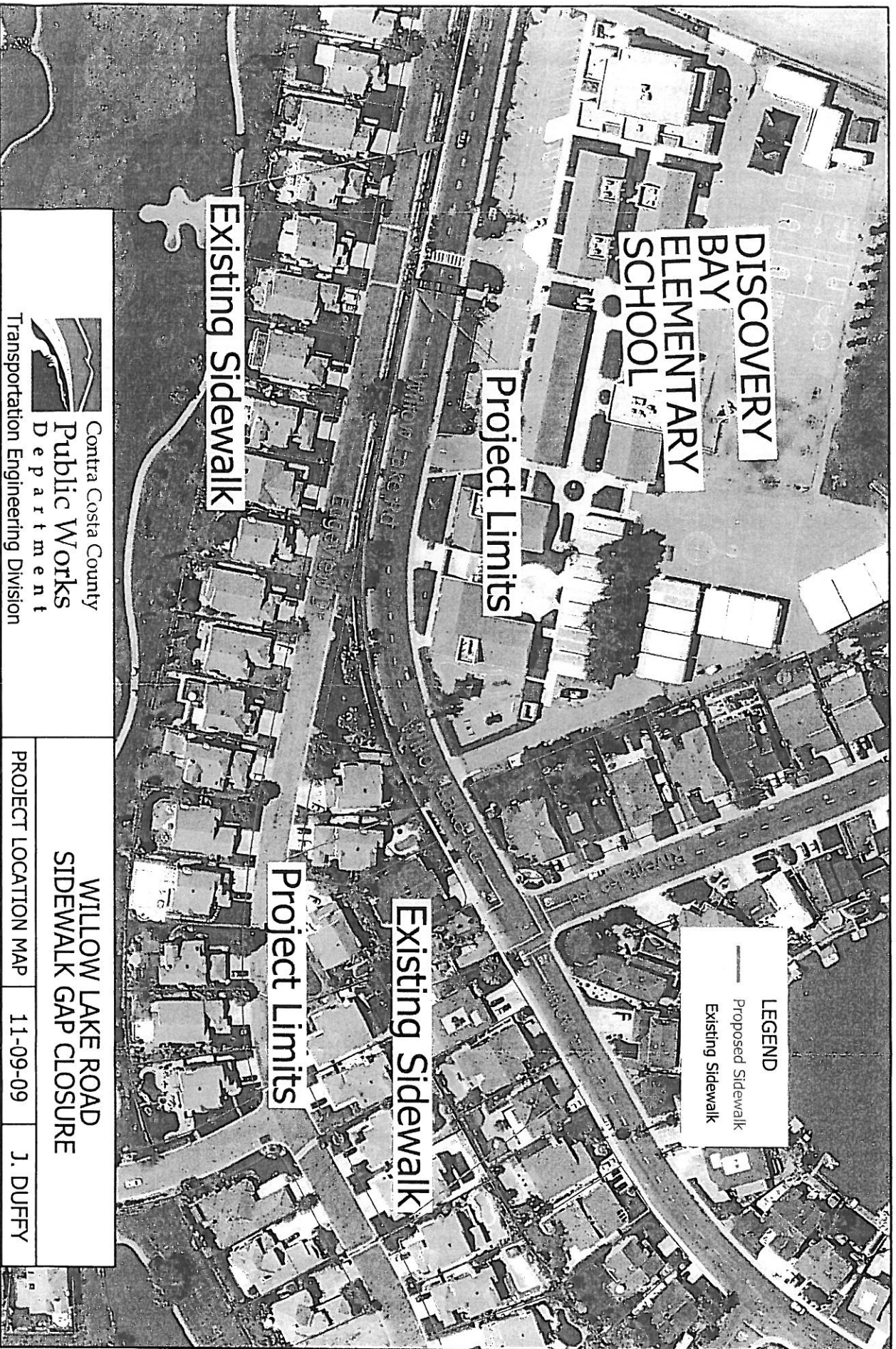


Willow Lake Road Sidewalk Gap Closure, Discovery Bay

NO SCALE

Project Location





Contra Costa County
Public Works
Department
Transportation Engineering Division

WILLOW LAKE ROAD
SIDEWALK GAP CLOSURE
PROJECT LOCATION MAP 11-09-09 J. DUFFY



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: APPROVE Pacheco Boulevard Sidewalk (Windhover Way to Goree Court) Project.

RECOMMENDATION(S):

APPROVE the Pacheco Boulevard Sidewalk (Windhover Way to Goree Court) Project and AUTHORIZE the Public Works Director, or designee, to advertise the project [DCD-CP#09-94] Project No.: 0676-6P1025.

FIND the project is a California Environmental Quality Act (CEQA), Class 1(c) Categorical Exemption, pursuant to Section 15301(c) of the CEQA Guidelines, and

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

AUTHORIZE the Public Works Director 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:

There is no impact to the County General Fund. This project is funded by Local Road Funds (100%).



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



APPROVED AS



OTHER

RECOMMENDED

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Ave Brown (925) 313 - 2311

BACKGROUND:

This project is necessary to provide pedestrian and bicycle facilities along Pacheco Boulevard between Windhover Way and Goree Court. These improvements are also needed to provide access for the mobility impaired.

CONSEQUENCE OF NEGATIVE ACTION:

Delay in approving the project will result in a delay of design and construction and may jeopardize funding.

ATTACHMENTS

:\engsvc\ENVIRO\BO\2010\BO 1-26-2010\Notice of Exemption 1-26-09 Pacheco.pdf

G:\engsvc\ENVIRO\BO\2010\BO 1-26-2010\Initial Study of Environmental Significance 1-26-09 P.pdf

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Notice of Exemption

CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION AND DEVELOPMENT
651 PINE STREET 2ND FLOOR NORTH WING MARTINEZ, CALIFORNIA 94553

Telephone: (925) 313 - 2311

Contact Person: Ave Brown - Public Works Dept.

Project Title, Description, Common Name (if any) and Location: *Pacheco Blvd. Sidewalk (Windhover Way to Goree Court)*, **Project No.** 0676-6P1025 County File **CP# 09-94**

Project Description: The project is located in central Contra Costa County (County) in the unincorporated community of Pacheco. The proposed roadway improvements would occur on the north side of Pacheco Boulevard approximately 1,300 feet west of Las Juntas Elementary School between Goree Court and Windhover Way in the Vine Hill area of unincorporated Contra Costa County. The purpose of this project is to provide pedestrian facilities along Pacheco Boulevard. The project will extend the distance of uninterrupted sidewalk, provide safe pedestrian access to students and the mobility impaired, and provide more paved area for bicyclists.

The project will construct 480 linear feet of 6.5-foot wide concrete sidewalk along the north side of Pacheco Boulevard between Windhover Way and Goree Court. Three ADA compliant curb ramps, a Class II bike lane, and ADA compliant driveway conforms will be installed. Roadway widening will occur along two sections of the project roadway. The project will install a drainage inlet at the corner of Goree Court and Pacheco Boulevard and relocate three utility poles, a roadway sign, and water meters. The project requires removal of two existing sidewalk segments, excavation, placement and compaction of aggregate base, and paving and restriping. Right of way acquisition in two separate locations is needed to provide for the sidewalk alignment.

A dirt mound along the shoulder will be excavated and re-graded to conform to roadway and sidewalk elevations and a three-foot-high retaining wall will be installed. The project may require removal of one non-native tree and one native shrub. In order to minimize damage to any other nearby trees, any roots exposed during excavation will be cut cleanly and tree branches will be trimmed.

Real property transactions and utility relocations will be necessary in support of this project. At least one lane of traffic will be open at all times during construction activities. Emergency vehicles will have access at all times.

This project is exempt from **CEQA** as a:

- ☐ Ministerial Project (Sec. 15268) ☒ **Categorical Exemption, Class 1c**
☐ Declared Emergency (Sec. 15269(a)) ☐ Other Statutory Exemption, Section
☐ Emergency Project (Sec. 15269(b) or (c)) ☐ General Rule of Applicability [Section 15061(b)(3)]

for the following reason(s): The project consists of operation, repair, maintenance, or minor alteration of existing public structures or facilities, involving negligible or no expansion of use beyond what is previous existing. The project will not result in the removal of any scenic resources.

Date: _____

By: _____
Dept. of Conservation & Development Representative**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:	Department of Fish and Game Fees Due	
Public Works Department 255 Glacier Drive Martinez, CA 94553 Attn: Ave Brown Environmental Section	<input type="checkbox"/> EIR - \$2,768. ²⁵ <input type="checkbox"/> Neg. Dec. - \$1,993. ⁰⁰ <input checked="" type="checkbox"/> County Clerk - \$50 <input checked="" type="checkbox"/> Department of Conservation and Development -\$25	Total Due: \$ 75.00 Total Paid \$ _____ Receipt #: _____

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Notice of Exemption

CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION AND DEVELOPMENT
651 PINE STREET 2ND FLOOR NORTH WING MARTINEZ, CALIFORNIA 94553

Telephone: (925) 313 - 2311

Contact Person: Ave Brown - Public Works Dept.

Project Title, Description, Common Name (if any) and Location: *Pacheco Blvd. Sidewalk (Windhover Way to Goree Court)*, **Project No.** 0676-6P1025 County File **CP#** 09-94

Project Description: The project is located in central Contra Costa County (County) in the unincorporated community of Pacheco. The proposed roadway improvements would occur on the north side of Pacheco Boulevard approximately 1,300 feet west of Las Juntas Elementary School between Goree Court and Windhover Way in the Vine Hill area of unincorporated Contra Costa County. The purpose of this project is to provide pedestrian facilities along Pacheco Boulevard. The project will extend the distance of uninterrupted sidewalk, provide safe pedestrian access to students and the mobility impaired, and provide more paved area for bicyclists.

The project will construct 480 linear feet of 6.5-foot wide concrete sidewalk along the north side of Pacheco Boulevard between Windhover Way and Goree Court. Three ADA compliant curb ramps, a Class II bike lane, and ADA compliant driveway conforms will be installed. Roadway widening will occur along two sections of the project roadway. The project will install a drainage inlet at the corner of Goree Court and Pacheco Boulevard and relocate three utility poles, a roadway sign, and water meters. The project requires removal of two existing sidewalk segments, excavation, placement and compaction of aggregate base, and paving and restriping. Right of way acquisition in two separate locations is needed to provide for the sidewalk alignment.

A dirt mound along the shoulder will be excavated and re-graded to conform to roadway and sidewalk elevations and a three-foot-high retaining wall will be installed. The project may require removal of one non-native tree and one native shrub. In order to minimize damage to any other nearby trees, any roots exposed during excavation will be cut cleanly and tree branches will be trimmed.

Real property transactions and utility relocations will be necessary in support of this project. At least one lane of traffic will be open at all times during construction activities. Emergency vehicles will have access at all times.

This project is exempt from **CEQA** as a:

- ☐ Ministerial Project (Sec. 15268) ☒ **Categorical Exemption, Class 1c**
☐ Declared Emergency (Sec. 15269(a)) ☐ Other Statutory Exemption, Section
☐ Emergency Project (Sec. 15269(b) or (c)) ☐ General Rule of Applicability [Section 15061(b)(3)]

for the following reason(s): The project consists of operation, repair, maintenance, or minor alteration of existing public structures or facilities, involving negligible or no expansion of use beyond what is previous existing. The project will not result in the removal of any scenic resources.

Date: _____

By: _____
Dept. of Conservation & Development Representative**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:	Department of Fish and Game Fees Due	
Public Works Department 255 Glacier Drive Martinez, CA 94553 Attn: Ave Brown Environmental Section	<input type="checkbox"/> EIR - \$2,768. ²⁵ <input type="checkbox"/> Neg. Dec. - \$1,993. ⁰⁰ <input checked="" type="checkbox"/> County Clerk - \$50 <input checked="" type="checkbox"/> Department of Conservation and Development -\$25	Total Due: \$ 75.00 Total Paid \$ _____ Receipt #: _____

Contra
Costa
County

PUBLIC WORKS DEPARTMENT
INITIAL STUDY OF
ENVIRONMENTAL SIGNIFICANCE

PROJECT # 0676-6P1025

CP# 09-94

PROJECT NAME: *Pacheco Blvd. Sidewalk (Windhover Way to Goree Court)*

PREPARED BY: *Avé Brown*

DATE: *December 21, 2009*

APPROVED BY: *Mauricio Vazquez*

DATE: *Dec 28, 2009*

RECOMMENDATIONS:

☒ **Categorical Exemption (Class 1c)**

☐ 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 operation, repair, maintenance, or minor alteration of existing public structures or facilities, involving negligible or no expansion of use beyond what is previous existing. The project will not result in the removal of any scenic resource.

What changes to the project would mitigate the identified impacts: N/A

USGS Quad Sheet: *Vine Hill*

Base Map Sheet #: *F-13*

Parcel #: *N/A*

GENERAL CONSIDERATIONS:

- 1. Location:** The project is located in central Contra Costa County (County) in the unincorporated community of Pacheco. The proposed roadway improvements would occur on the north site of Pacheco Boulevard approximately 1,300 feet west of Las Juntas Elementary School between Goree Court and Windhover Way in the Vine Hill area of unincorporated Contra Costa County (Figs. 1-4).
- 2. Project Description:** The purpose of this project is to provide pedestrian facilities along a segment of Pacheco Boulevard which students from Las Juntas Elementary use to walk to and from school. The project will extend the distance of uninterrupted sidewalk, provide safe access to the mobility impaired, and provide more paved area for bicyclists. Accordingly, this project will improve safety for children walking and biking to school, residents of the surrounding neighborhood, and the general public. (Fig. 4).

The project will construct 480 linear feet of 6.5-foot wide concrete sidewalk along the north side of Pacheco Boulevard between Windhover Way and Goree Court. Three ADA compliant curb ramps and a Class II bike lane will be installed as part of the project. Also included are ADA compliant driveway conforms at the properties fronting the project roadway. In addition to construction of pedestrian facilities, the project will include the installation of a drainage inlet at the corner of Goree Court and Pacheco Boulevard, relocation of three utility poles, relocation of a roadway sign, relocation of water meters, and roadway widening. The project will require removal of two segments of existing sidewalk, excavation, placement and compaction of aggregate base, and paving and restriping. Right of way acquisition will be needed in two separate locations to provide for the sidewalk alignment.

A dirt mound along the shoulder, approximately 70 feet long and up to 5 feet high, will be excavated and re-graded to conform to roadway and sidewalk elevations and a three-foot-high wooden retaining wall will be installed to contain the remaining slope. Additionally, limited tree and vegetation removal may be necessary to accommodate the proposed improvements. If needed, vegetation and tree removal will consist of one non-native tree and one native shrub. In order to minimize damage to any other nearby trees, any roots exposed during excavation will be cut cleanly and tree branches will be trimmed.

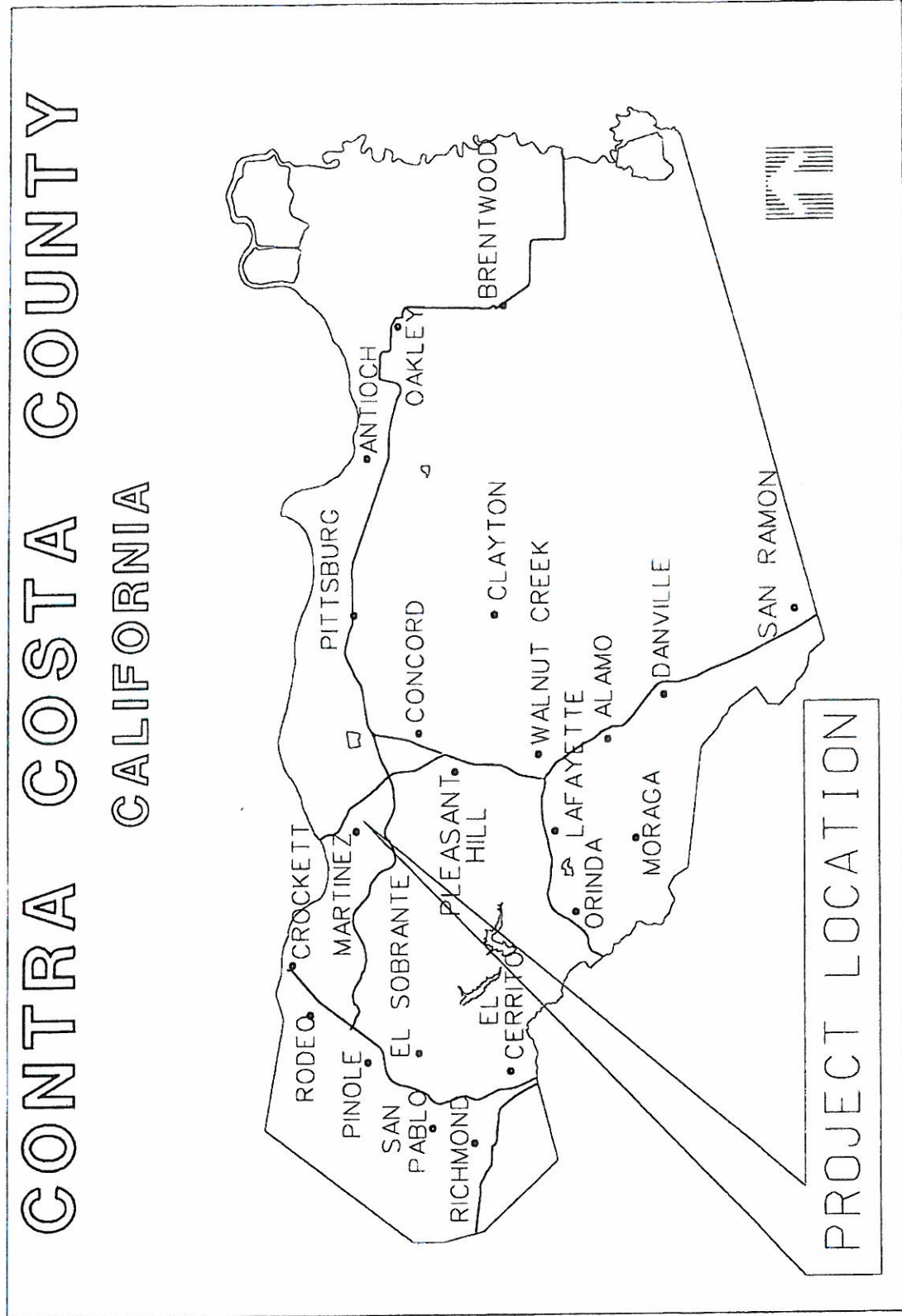
Real property transactions and utility relocations will be necessary in support of this project. At least one lane of traffic will be open at all times during construction activities. Emergency vehicles will have access at all times.

tt:

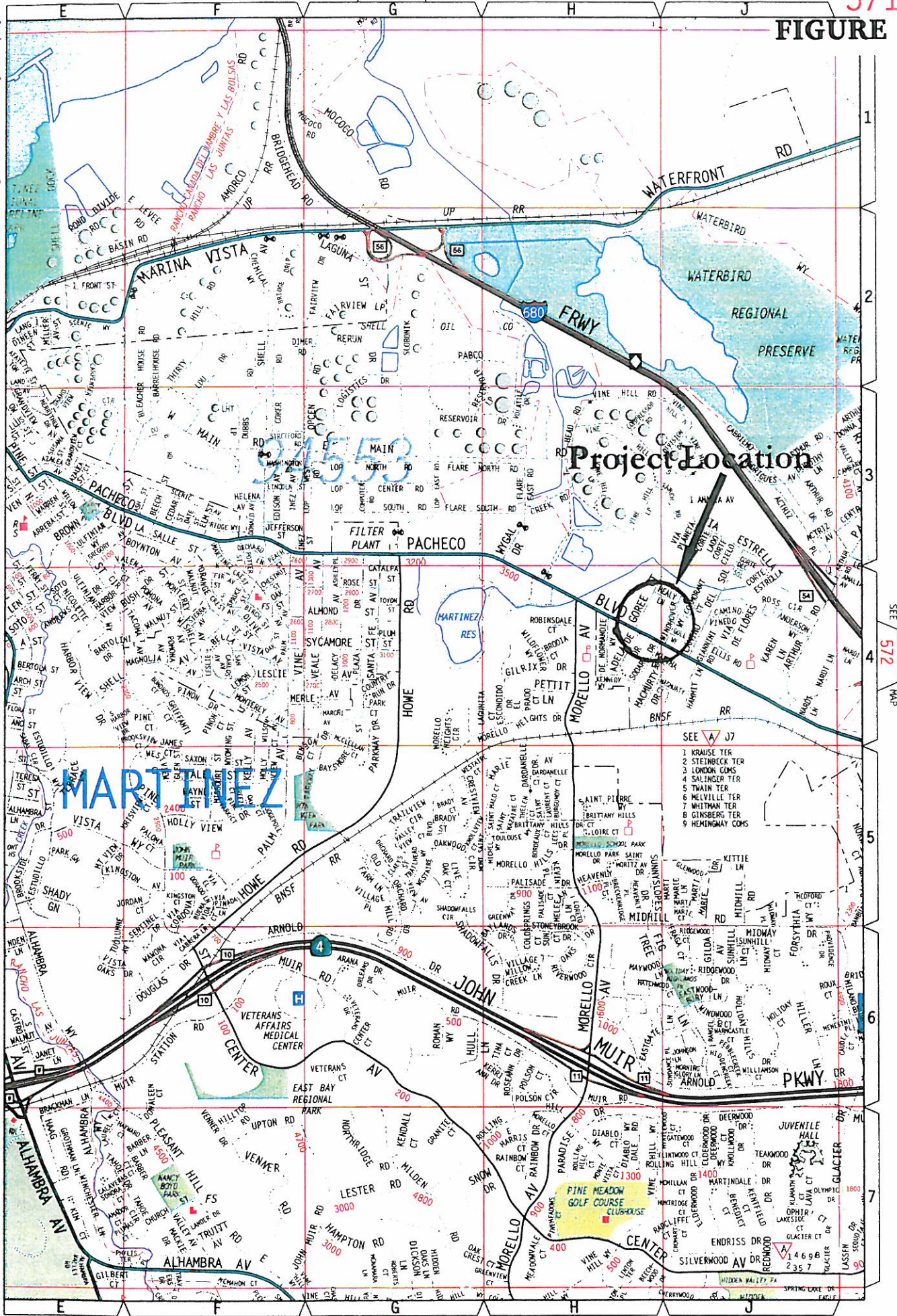
G:\engsvc\ENVIRO\TransEng\Pacheco Boulevard Sidewalk 2010- (WO 1025)\CEQA\Cat Ex IS\Pacheco Boulevard Sidewalk IS.doc
Form Updated: July 21, 2006

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 (Agency Name/s):
5. Is the project within the Sphere of Influence of any city? **Yes; Martinez**

FIGURE 1



LOCATION MAP: Pacheco Boulevard Sidewalk Project
MARTINEZ, CA



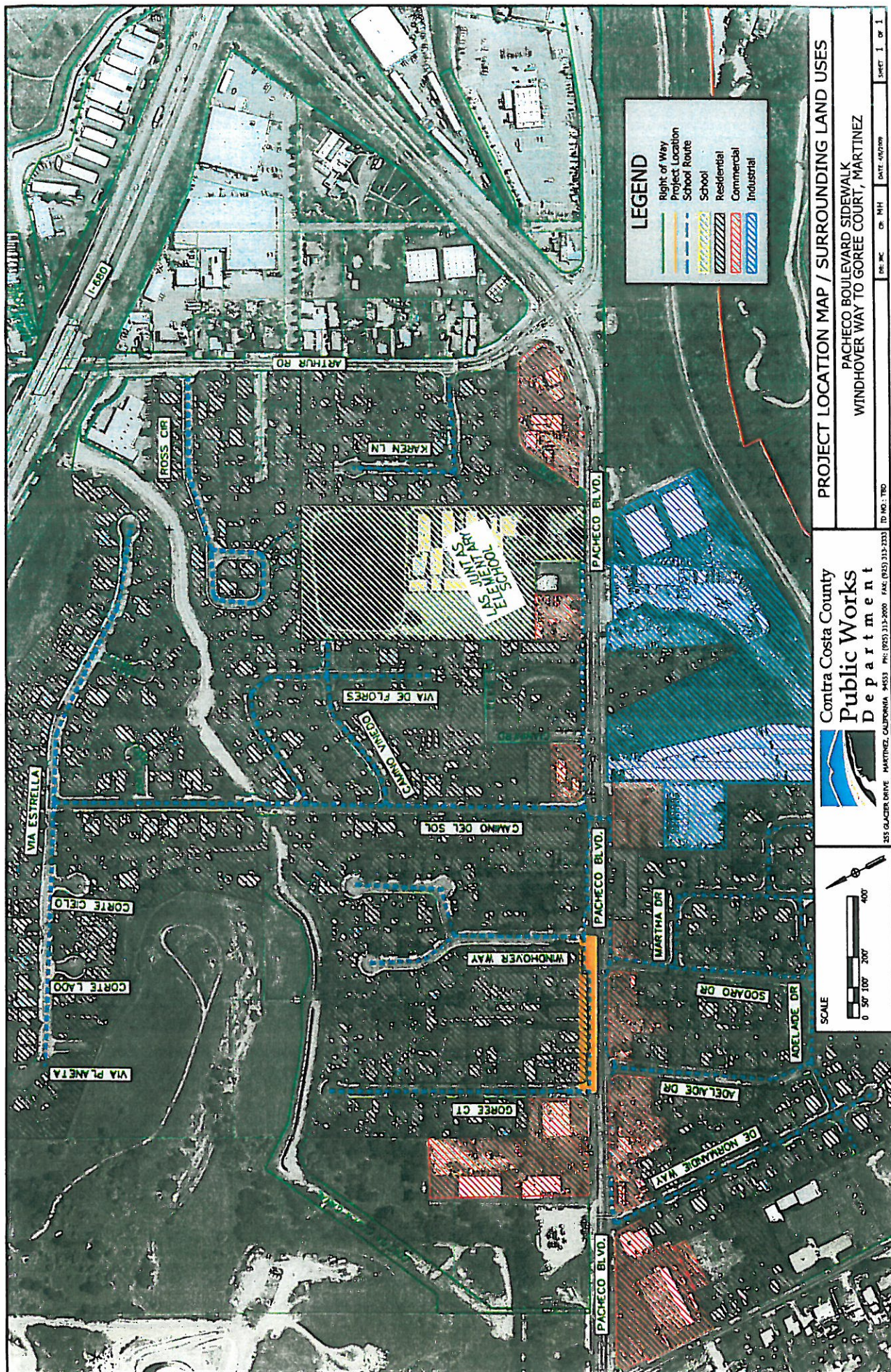
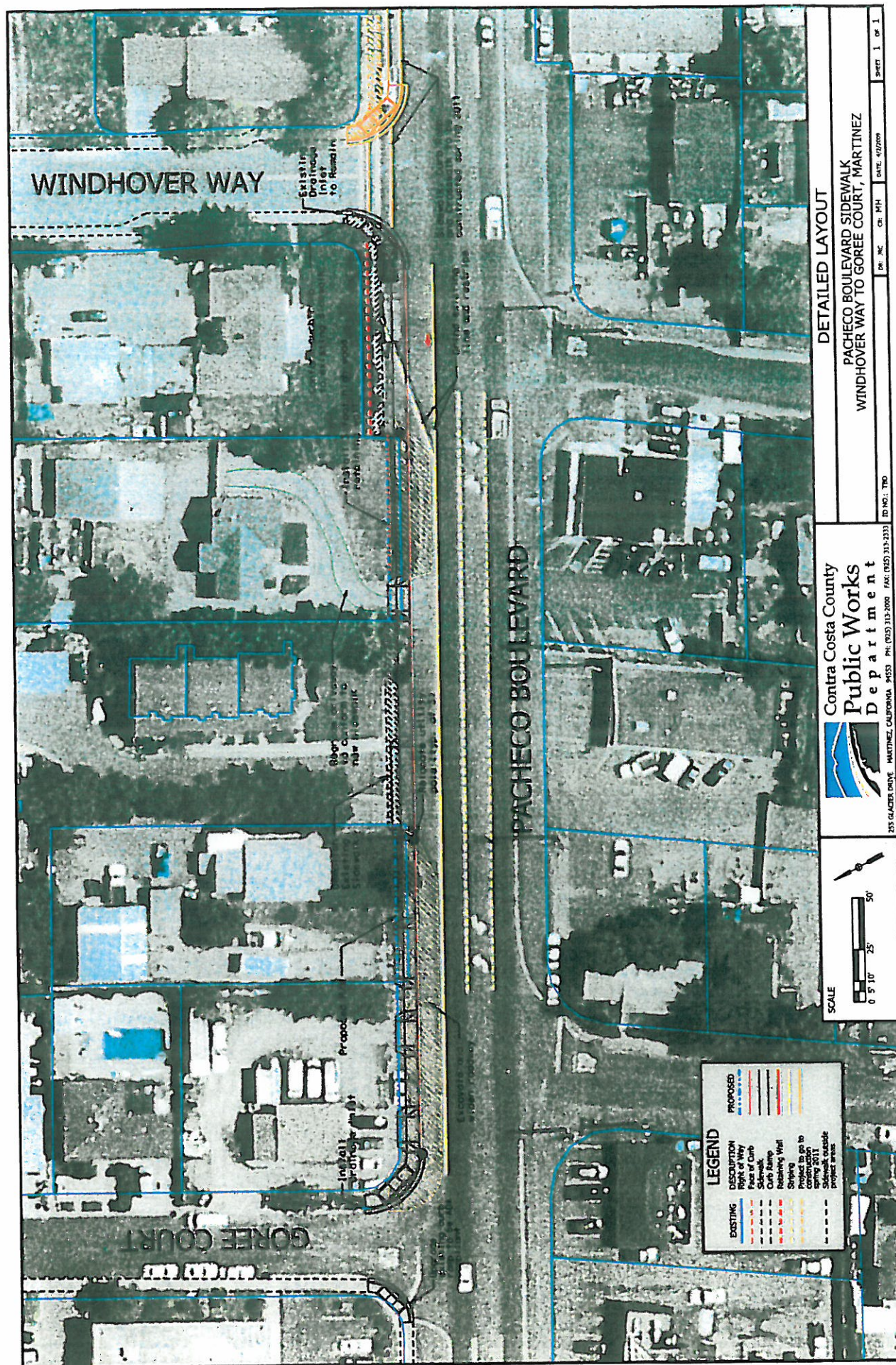


FIGURE 4





Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: Establishing a 2-hour parking limit from 8 a.m. to 6 p.m. on the south side of Orchard Court, Alamo area

RECOMMENDATION(S):

ADOPT Traffic Resolution No. 2010/4306 establishing a 2-hour parking limit from 8 a.m. to 6 p.m. on the south side of Orchard Court (Road No. 4437B), as recommended by the Public Works Director, Alamo area.

FISCAL IMPACT:

No Fiscal Impact to the general fund.

BACKGROUND:

To establish parking limits in a business area as requested by the fronting property owner.

CONSEQUENCE OF NEGATIVE ACTION:

Unable to use local authorities' powers to enforce the California Vehicle Code.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jerry Fahy,
925-313-2276

cc:

ATTACHMENTS

Traffic Resolution
2010-4306

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

Adopted this Traffic Resolution on January 26, 2010 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

TRAFFIC RESOLUTION NO. 2010/4306
Supervisory District III

SUBJECT: Establishing a 2-hour parking limit from 8 a.m. to 6 p.m. on the south side of Orchard Court (Road No. 4437B), Alamo area. (District III)

The Contra Costa Board of Supervisors **RESOLVES** that:

Based on the recommendations by the County Public Works Department's Transportation Engineering Division and pursuant to County Ordinance Code Sections 46-2.002 - 46-2.012, the following traffic regulation is established:

Pursuant to Section 22507 of the California Vehicle Code declaring parking to be limited to 2 hours from 8 a.m. to 6 p.m. on the south side of Orchard Court (Road No. 4437B), beginning at a point 20 feet east of the east curb line of Danville Boulevard (Road No. 5301A) and extending easterly a distance of 120 feet, Alamo area.

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

MDO:jcw
G:\transeng\2010\BO-TR\2010-4306.doc

Orig. Dept.: Public Works (Traffic)
Contact: Jerry Fahy (313-2276)
cc: California Highway Patrol
Sheriff's Department

ATTESTED: _____
DAVID TWA, Clerk of the Board of Supervisors and
County Administrator

By _____,
Deputy

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 01/26/2010 by the following vote:

AYES: ☒ 5
NOES: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐

John Gioia
Gayle B. Uilkema
Mary N. Piepho
Susan A. Bonilla
Federal D. Glover



Resolution No. 2010/70

In the Matter of Abolishing positions and laying off certain County employees in the Department of Information Technology.

WHEREAS, the Board has considered the financial impact on the Department of Information Technology of reduced funding and increased funding requirements, and has considered the position and staff reduction/retention plans submitted by the departments; and

WHEREAS, department head has issued layoff or displacement notices, as the case may be, and have given notice to the affected employees of the Board's action; and

WHEREAS, to the extent that the subjects of this Resolution are within the scope of representation pursuant to the Meyers-Milias-Brown Act (Government Code Section 3500 et seq.), this Board has offered to meet with recognized employee organizations upon request concerning this resolution,

THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS, in its capacity as governing Board of the County and all of its dependent districts RESOLVES THAT: In order to keep expenditures within available funding, it is necessary to make position adjustments, including abolishing the positions set forth in the list attached hereto (Attachment A) and to lay off employees accordingly. Said list is incorporated herein by reference, and said positions are hereby abolished effective on the dates indicated.

I hereby certify that this 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: Barbara Riveira 335-1018

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

cc:

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 01/26/2010 by the following vote:

AYES: ☒ 5
NOES: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐

John Gioia
Gayle B. Uilkema
Mary N. Piepho
Susan A. Bonilla
Federal D. Glover



Resolution No. 2010/70

In the Matter of Abolishing positions and laying off certain County employees in the Department of Information Technology.

WHEREAS, the Board has considered the financial impact on the Department of Information Technology of reduced funding and increased funding requirements, and has considered the position and staff reduction/retention plans submitted by the departments; and

WHEREAS, department head has issued layoff or displacement notices, as the case may be, and have given notice to the affected employees of the Board's action; and

WHEREAS, to the extent that the subjects of this Resolution are within the scope of representation pursuant to the Meyers-Milias-Brown Act (Government Code Section 3500 et seq.), this Board has offered to meet with recognized employee organizations upon request concerning this resolution,

THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS, in its capacity as governing Board of the County and all of its dependent districts RESOLVES THAT: In order to keep expenditures within available funding, it is necessary to make position adjustments, including abolishing the positions set forth in the list attached hereto (Attachment A) and to lay off employees accordingly. Said list is incorporated herein by reference, and said positions are hereby abolished effective on the dates indicated.

I hereby certify that this 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: Barbara Riveira 335-1018

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: Approve and authorize the Public Works Director to close Marsh Creek Road between State Route 4 Bypass and Camino Diablo for 60 days.

RECOMMENDATION(S):

ADOPT Resolution No. 2010/66 approving and authorizing the Public Works Director, or designee, to fully close Marsh Creek Road between State Route 4 Bypass and Camino Diablo, for a sixty (60) consecutive day period between January 27, 2010 and April 30, 2010, 24 hours per day, for the purpose of completing the widening and realignment of Marsh Creek Road and AUTHORIZE the Public Works Director to extend the length of the closure should historical remains be found, Brentwood area.

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



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



APPROVED AS
RECOMMENDED



OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Bob Hendry - 335-1575

cc:

ATTACHMENTS

Resolution No.
2010/66

Adopted this Resolution on 01/26/2010 by the following vote:

NOES:	
ABSENT:	
ABSTAIN:	
RECUSE:	



Approving and Authorizing the Public Works Director, or designee, to fully close Marsh Creek Road between State Route 4 Bypass and Camino Diablo, for a sixty (60) day consecutive day period between January 27, 2010 and April 30, 2010, 24 hours per day, for the purpose of completing the widening and realignment of Marsh Creek Road and Authorize the Public Works Director to extend the length of the closure should historical remains be found, Brentwood area.

IT IS BY THE BOARD RESOLVED that permission is granted to Trilogy Vineyards, LLC to fully close Marsh Creek Road between State Route 4 Bypass and Camino Diablo, except for emergency traffic, for sixty (60) consecutive day period between January 27, 2010 and April 30, 2010, subject to the following conditions:

1. Traffic will be detoured via neighboring streets per plan reviewed by Public Works Department and the City of Brentwood.
2. All signing to be in accordance with the California Manual on Uniform Traffic Control Devices.
3. Trilogy Vineyards, LLC 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.

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

cc:

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 01/26/2010 by the following vote:

AYES: ☒ 5 **John Gioia**
Gayle B. Uilkema
Mary N. Piepho
Susan A. Bonilla
Federal D. Glover

NOES: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2010/66

Approving and Authorizing the Public Works Director, or designee, to fully close Marsh Creek Road between State Route 4 Bypass and Camino Diablo, for a sixty (60) day consecutive day period between January 27, 2010 and April 30, 2010, 24 hours per day, for the purpose of completing the widening and realignment of Marsh Creek Road and Authorize the Public Works Director to extend the length of the closure should historical remains be found, Brentwood area.

RC-09-7

IT IS BY THE BOARD RESOLVED that permission is granted to Trilogy Vineyards, LLC to fully close Marsh Creek Road between State Route 4 Bypass and Camino Diablo, except for emergency traffic, for sixty (60) consecutive day period between January 27, 2010 and April 30, 2010, subject to the following conditions:

1. Traffic will be detoured via neighboring streets per plan reviewed by Public Works Department and the City of Brentwood.
2. All signing to be in accordance with the California Manual on Uniform Traffic Control Devices.
3. Trilogy Vineyards, LLC 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 - 335-1575

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

cc:



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: Approve and authorize the Public Works Director to close a portion of Parker Avenue on March 13, 2010.

RECOMMENDATION(S):

ADOPT Resolution No. 2010/67 approving and authorizing the Public Works Director, or designee, to partially close a portion of Parker Avenue, on March 13, 2010 from 9:00 AM through 9:30 AM, for the purpose of Opening Day Parade, Rodeo area.

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: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Bob Hendry - 335-1575

cc:

ATTACHMENTS

Resolution No.

2010/67

Adopted this Resolution on 01/26/2010 by the following vote:

NOES:	
ABSENT:	
ABSTAIN:	
RECUSE:	



Approving and Authorizing the Public Works Director, or designee, to partially close a portion of Parker Avenue, on March 13, 2010 from 9:00 AM through 9:30 AM, for the purpose of Opening Day Parade, Rodeo area.

IT IS BY THE BOARD RESOLVED that permission is granted to Rodeo Baseball Association to partially close Parker Avenue, except for emergency traffic, on March 13, 2010 for the period of 9:00 AM through 9:30 AM, subject to the following conditions:

1. Traffic will be detoured via neighboring streets per traffic control plan reviewed by Public Works.
2. All signing to be in accordance with the California Manual on Uniform Traffic Control Devices.
3. Rodeo Baseball Association 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.

Contact: Bob Hendry - 335-1575

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

cc:

C.6

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 01/26/2010 by the following vote:

AYES: ☒ 5
NOES: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐

John Gioia
Gayle B. Uilkema
Mary N. Piepho
Susan A. Bonilla
Federal D. Glover



Resolution No. 2010/67

Approving and Authorizing the Public Works Director, or designee, to partially close a portion of Parker Avenue, on March 13, 2010 from 9:00 AM through 9:30 AM, for the purpose of Opening Day Parade, Rodeo area.

RC-09-18

IT IS BY THE BOARD RESOLVED that permission is granted to Rodeo Baseball Association to partially close Parker Avenue, except for emergency traffic, on March 13, 2010 for the period of 9:00 AM through 9:30 AM, subject to the following conditions:

1. Traffic will be detoured via neighboring streets per traffic control plan reviewed by Public Works.
2. All signing to be in accordance with the California Manual on Uniform Traffic Control Devices.
3. Rodeo Baseball Association 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 - 335-1575

ATTESTED: January 26, 2010

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

By: , Deputy

cc:



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: Transportation Development Act Grant Applications for Various Projects, Countywide.

RECOMMENDATION(S):

ADOPT Resolution No. 2010/68 approving and authorizing the Public Works Director, or designee, to submit 2010/2011 Transportation Development Act Grant Applications to the Metropolitan Transportation Commission in the total amount of \$446,000 for Fiscal Year 2010/2011 for the Pacheco Boulevard Sidewalk, Montalvin Manor Pedestrian and Transit Access Improvements, and Willow Lake Road Sidewalk Gap Closure projects.

FISCAL IMPACT:

There is no fiscal Impact to the general fund.

BACKGROUND:

Applying for and obtaining grants allows the County to construct more improvements than would be possible without obtaining these grants.

The projects listed above were submitted to the Countywide Bicycle Advisory Committee (CBAC) for their review and comments. The following is a brief description of the projects:

The Pacheco Boulevard Sidewalk project will install sidewalk on the north side of Pacheco Boulevard approximately 1,300

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jessi Duffy,
925-313-2263

cc:

BACKGROUND: (CONT'D)

feet west of Las Juntas Elementary School between Goree Court and Windhover Way in the Vine Hill area of unincorporated Contra Costa County. This project will close the 480-foot gap in sidewalk and provide an uninterrupted pathway from Las Juntas Elementary School to just west of Goree Court, a distance of approximately 2,000 feet. This project includes construction of 480 feet of 6.5-foot wide sidewalk and curb, construction and modification of wheelchair curb ramps, widening of AC roadway and re-striping of roadway shoulder to accommodate a Class II bike lane.

Montalvin Manor Pedestrian and Transit Access Improvements project will close sidewalk gaps, provide Class II bike lanes and bus shelters along the west side of San Pablo Avenue from Shamrock Drive to Kay Road and on Kay Road from San Pablo Avenue to Rachel Road. As the land use surrounding Montalvin Manor changed from industrial uses to residential uses, the City of Richmond realigned surrounding roads, which left Kay Road as a substandard remnant that serves as an access point to the Montalvin Manor Elementary School and as a gateway into the western portion of the Montalvin Manor residential subdivision. The narrow north shoulder (right side when facing the bay) is heavily traveled by pedestrians, and the addition of the five foot sidewalk would promote safety and encourage a walking option for the school commute. Kay Road is located in the City of Richmond; however, this project will be constructed by the County under an encroachment permit from the City.

The Willow Lake Road Sidewalk project will close the last remaining sidewalk gap on the south side of Willow Lake Road and provide pedestrians with standard facilities at every approach to Discovery Bay Elementary School. This project will construct a total of 550 feet of 5-foot wide sidewalk. Utility boxes and a utility vault will be adjusted to the new sidewalk grade to eliminate tripping hazards. The project will also remove roots and shrubbery and place a tree-root barrier prior to construction of the sidewalk.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to approve the submittal of these applications will eliminate a potential funding source.

CHILDREN'S IMPACT STATEMENT:

ATTACHMENTS

Resolution No. 2010/68

TDA Attachment A

TDA Attachment B

Adopted this Resolution on 01/26/2010 by the following vote:

AYES: 5

NOES:

ABSENT:

ABSTAIN:

RECUSE:



IN THE MATTER OF approving and authorizing the Public Works Director, or designee, to submit 2010/2011 Transportation Development Act Grant Applications to the Metropolitan Transportation Commission in the total amount of \$446,000 for Fiscal Year 2010/2011 for the Pacheco Boulevard Sidewalk, Montalvin Manor Pedestrian and Transit Access Improvements, and Willow Lake Road Sidewalk Gap Closure projects.

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 875, Revised, entitled “Transportation Development Act, Article 3, Pedestrian/Bicycle Projects,” which delineates procedures and criteria for submission of requests for the allocation of “TDA Article 3” funding; and

WHEREAS, the COUNTY OF CONTRA COSTA desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists;

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

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

Contact: Jessi Duffy, 925-313-2263

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

By: , Deputy

cc:

Attachment A

Re: Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2010/2011 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding

Findings

Page 1 of 1

1. That the COUNTY OF CONTRA COSTA is not legally impeded from submitting a request to the Metropolitan Transportation Commission for the allocation of Transportation Development Act (TDA) Article 3 funds, nor is the COUNTY OF CONTRA COSTA legally impeded from undertaking the project(s) described in “Attachment B” of this resolution.
2. That the COUNTY OF CONTRA COSTA has committed adequate staffing resources to complete the project(s) described in Attachment B.
3. A review of the project(s) described in Attachment B has resulted in the consideration of all pertinent matters, including those related to environmental and right-of-way permits and clearances, attendant to the successful completion of the project(s).
4. Issues attendant to securing environmental and right-of-way permits and clearances for the projects described in Attachment B have been reviewed and will be concluded in a manner and on a schedule that will not jeopardize the deadline for the use of the TDA funds being requested.
5. That the project(s) described in Attachment B will be done in compliance with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.).
6. That as portrayed in the budgetary description(s) of the project(s) in Attachment B, the sources of funding other than TDA are assured and adequate for completion of the project(s).
7. That the project(s) described in Attachment B are for capital construction and/or design engineering; and/or for the maintenance of a Class I bikeway which is closed to motorized traffic; and/or for the purposes of restriping Class II bicycle lanes; and/or for the development or support of a bicycle safety education program; and/or for the development of a comprehensive bicycle and/or pedestrian facilities plan, and an allocation of TDA Article 3 funding for such a plan has not been received by the COUNTY OF CONTRA COSTA within the prior five fiscal years.
8. That the project(s) described in Attachment B which are bicycle projects have been included in a detailed bicycle circulation element included in an adopted general plan, or included in an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.).
9. That any project described in Attachment B that is a “Class I Bikeway,” meets the mandatory minimum safety design criteria published in Chapter 1000 of the California Highway Design Manual.
10. That the project(s) described in Attachment B are ready to commence implementation during the fiscal year of the requested allocation.
11. That the COUNTY OF CONTRA COSTA agrees to maintain, or provide for the maintenance of, the project(s) and facilities described in Attachment B, for the benefit of and use by the public.

TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2010/2011

Applicant: Contra Costa County Public Works

Contact person: Jessi Duffy

Mailing Address: 255 Glacier Drive, Martinez, CA 94553

E-Mail Address: jduff@pw.cccounty.us

Telephone: (925) 313-2263

Secondary Contact (in event primary not available) Mary Halle

E-Mail Address: mhall@pw.cccounty.us

Telephone: (925) 313-2327

Short Title Description of Project: Pacheco Boulevard Sidewalk – Windhover Way to Goree Court, Martinez

Amount of claim: \$ 183,000

Functional Description of Project:

This project will install 480 linear feet of 6.5-foot wide sidewalk on the north side of Pacheco Boulevard between Windhover Way and Goree Court including driveway conforms and three ADA compliant curb ramps. The roadway pavement will be widened and a Class II bike lane will be installed. This project will lengthen the stretch of uninterrupted sidewalk from Las Juntas Elementary west along Pacheco Boulevard to a total of 2,000 feet.

Financial Plan:

List the project elements for which TDA funding is being requested (e.g., planning, environmental, engineering, right-of-way, construction, inspection, contingency, audit). Use the table below to show the project budget. Include prior and proposed future funding of the project. If the project is a segment of a larger project, include prior and proposed funding sources for the other segments.

Project Elements: Planning, Engineering, Construction Management and Contingencies

Funding Source	All Prior FYs	Application FY	Next FY	Following FYs	Totals
TDA Article 3	\$0	\$183,000	\$0	\$0	\$183,000
list all other sources:					
1. Martinez AOB		\$183,000	\$0		\$183,000
2.					
3.					
4.					
Totals	\$0	\$366,000	\$0	\$0	\$366,000

Project Eligibility:	YES?/NO?
A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated).	PENDING
B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page.	NO
C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov).	YES
D. Has the project been reviewed by a Bicycle Advisory Committee? (If "NO," provide an explanation).	PENDING
E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction).	PENDING
F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) <u>June, 2012</u>	YES
G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: _____)	YES

TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2010/2011

Applicant: Contra Costa County Public Works Department

Contact person: Craig Standafer

Mailing Address: 255 Glacier Drive, Martinez, CA 94553

E-Mail Address: cstan@pw.cccounty.us

Telephone: (925) 313-2018

Secondary Contact (in event primary not available) Mary Halle

E-Mail Address: mhall@pw.cccounty.us

Telephone: (925) 313-2327

Short Title Description of Project: Montalvin Manor Pedestrian and Transit Access Improvements

Amount of claim: \$ 200,000

Functional Description of Project:

The project will construct approximately 2,600 LF of new sidewalk along San Pablo Ave., Kay Rd., & Shamrock Dr., and it adds Class II bike lanes and (2) new bus shelters along San Pablo Avenue. This project improves pedestrian circulation and connectivity within the Montalvin Manor subdivision and improves pedestrian access to the Montalvin Manor Elementary School.

Financial Plan:

List the project elements for which TDA funding is being requested (e.g., planning, environmental, engineering, right-of-way, construction, inspection, contingency, audit). Use the table below to show the project budget. Include prior and proposed future funding of the project. If the project is a segment of a larger project, include prior and proposed funding sources for the other segments.

Project Elements: (Construction, Construction Management, and Contingencies)

Funding Source	All Prior FYs	Application FY	Next FY	Following FYs	Totals
TDA Article 3	\$0	\$200,000	\$0	\$0	\$200,000
list all other sources:					
1. STIP-TE	\$30,000	\$335,000			\$365,000
2. RDA	\$431,000	\$495,000			\$926,000
3.					
4.					
Totals	\$461,000	\$1,030,000	\$0	\$0	\$1,491,000

Project Eligibility:	YES?/NO?
A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated).	YES
B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page.	NO
C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov).	YES
D. Has the project been reviewed by a Bicycle Advisory Committee? (If "NO," provide an explanation).	NO
E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction).	NO
F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) June, 2011_____	YES
G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: City of Richmond for Kay Road; Contra Costa County for San Pablo Avenue_____)	YES

TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2010/2011

Applicant: Contra Costa County Public Works Department

Contact person: Jessi Duffy

Mailing Address: 255 Glacier Drive, Martinez, CA 94553

E-Mail Address: jduff@pw.cccounty.us

Telephone: (925) 313-2263

Secondary Contact (in event primary not available) Mary Halle

E-Mail Address: mhall@pw.cccounty.us

Telephone: (925) 313-2327

Short Title Description of Project: Willow Lake Road Sidewalk Gap Closure, Discovery Bay

Amount of claim: \$ 63,000

Functional Description of Project:

This project will install approximately 550 linear feet of 5-foot wide sidewalk along the south side of Willow Lake Road from midblock crosswalk at Discovery Bay Elementary School to approximately 200 feet west of the intersection with Riverlake Road. This project will help close the last remaining gap in sidewalk on the south side of Willow Lake Road providing continuous sidewalk from Discovery Bay Boulevard to Riverlake Road.

Financial Plan:

List the project elements for which TDA funding is being requested (e.g., planning, environmental, engineering, right-of-way, construction, inspection, contingency, audit). Use the table below to show the project budget. Include prior and proposed future funding of the project. If the project is a segment of a larger project, include prior and proposed funding sources for the other segments.

Project Elements: (Planning, Engineering, Construction Management and Contingencies)

Funding Source	All Prior FYs	Application FY	Next FY	Following FYs	Totals
TDA Article 3	\$0	\$63,000	\$0	\$0	\$63,000
list all other sources:					
1. Local Road Funds		\$63,000	\$0		\$63,000
2.					
3.					
4.					
Totals	\$0	\$126,000	\$0	\$0	\$126,000

Project Eligibility:	YES?/NO?
A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated).	YES
B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page.	NO
C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov).	N/A
D. Has the project been reviewed by a Bicycle Advisory Committee? (If "NO," provide an explanation).	N/A
E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction).	PENDING
F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) <u>June 2012</u>	YES
G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: _____)	YES

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 01/26/2010 by the following vote:

AYES: ☒ 5 **John Gioia**
Gayle B. Uilkema
Mary N. Piepho
Susan A. Bonilla
Federal D. Glover

NOES: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2010/68

IN THE MATTER OF approving and authorizing the Public Works Director, or designee, to submit 2010/2011 Transportation Development Act Grant Applications to the Metropolitan Transportation Commission in the total amount of \$446,000 for Fiscal Year 2010/2011 for the Pacheco Boulevard Sidewalk, Montalvin Manor Pedestrian and Transit Access Improvements, and Willow Lake Road Sidewalk Gap Closure projects.

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99400 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 875, Revised, entitled "Transportation Development Act, Article 3, Pedestrian/Bicycle Projects," which delineates procedures and criteria for submission of requests for the allocation of "TDA Article 3" funding; and

WHEREAS, MTC Resolution No. 875, Revised requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the COUNTY OF CONTRA COSTA desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists;

NOW THEREFORE BE IT RESOLVED that the COUNTY OF CONTRA COSTA declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code, and furthermore, be it

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

RESOLVED, that the COUNTY OF CONTRA COSTA attests to the accuracy of and approves the statements in Attachment A to this resolution; and furthermore, be it

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

I hereby certify that this 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: Jessi Duffy, 925-313-2263

ATTESTED: January 26, 2010

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

By: , Deputy

A handwritten signature in cursive script, appearing to read "June McLean", is written over a horizontal line.



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: January 26, 2010

Subject: ACCEPT the Grant Deed of Development Rights in connection with LP 97-2048; Alamo area.

RECOMMENDATION(S):

ACCEPT the Grant Deed of Development Rights for scenic easement from Janet Duchi, Successor Trustee of Robert M. Duchi and Janet M. Duchi Revocable Trust under Declaration of Trust dated December 23, 2003.

DIRECT the Real Property Division to record the Grant Deed of Development Rights and a certified copy of this Board Order in the office of the County Recorder.

FISCAL IMPACT:

There is no fiscal impact.

BACKGROUND:

Department of Conservation and Development received an application from Bob Duchi for Land Use Permit (LP 97-2048) to expand an existing commercial and horse stable facility in Alamo. Condition of Approval No. 6 required the applicant to submit a proposed Grant Deed of Development Rights for the review and approval of

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: L. Lucy Owens,
313-2222

cc:

BACKGROUND: (CONT'D)

the Zoning Administrator. The Grant Deed of Development Rights has been reviewed and approved, and it is recommended that it be accepted by the Board.

A Notice of Determination for Negative Declaration was issued on October 21, 1997, indicating that preparation of an Environmental Impact Report is not required.

CONSEQUENCE OF NEGATIVE ACTION:

The applicant will not be able to move forward with improvements.

ATTACHMENTS

Grant Deed of Dev. Rights

Return to:
Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Attn.: L. Lucy Owens
Portion of APN: 193-190-028

GRANT DEED OF DEVELOPMENT RIGHTS

To meet condition of approval numbers 6 and 7, of LP#97-2048, Janet Duchi, Trustee of the Survivor's Trust of the Robert M. Duchi and Janet M. Duchi Revocable Trust under Declaration of Trust dated December 23, 2003, and Janet M. Duchi, Trustee of the Marital Trust of the Robert M. Duchi and Janet M. Duchi Revocable Trust under Declaration of Trust dated December 23, 2003, (Owner), hereby grants to the County of Contra Costa, a political subdivision of the State of California (Grantee) and governmental successors or successor of said county, the future development rights, as defined herein below, over a portion of that real property known as Lot 2 as described in Deed Series Number 2008-0277957 recorded December 30, 2008, Contra Costa County Records, situated in the City of Alamo, County of Contra Costa, State of California and more particularly described in Exhibit "A" and shown on Exhibit "B" which is made a part hereof.

Development rights are defined to mean and refer to the right to approve or disapprove of any proposed construction, development or improvement within the areas marked "restricted development area." The development rights are and shall be a form of covenant, which shall run with the said property and shall bind the current Owner and any future Owner of all or any portion of said property. In the event of a disapproval of proposed construction by Grantee or successor, said proposed construction shall not be performed. Grantee, or successor, may condition the approval of any proposed construction upon prior or subsequent performance of such conditions as Grantee, or successor, may deem appropriate.

The undersigned executed this instrument on JAN 8, 2010 (Date).

Owner

Janet Duchi, Trustee
Janet Duchi, Successor Trustee
Robert M. Duchi and Janet M. Duchi Revocable Trust
under Declaration of Trust dated December 23, 2003

Janet Duchi, Trustee
Janet Duchi, Successor Trustee of the Marital Trust
Robert M. Duchi and Janet M. Duchi Revocable Trust
under Declaration of Trust dated December 23, 2003

State of California

County of Mendocino

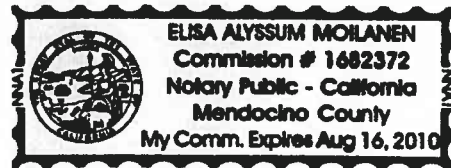
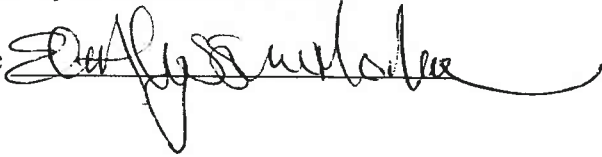
On January 8th, 2010 before me, Elisa Alyssum Moilanen a Notary Public in and for
said state, personally appeared Janet Marie Duchi ~~and~~

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





Contra
Costa
County

To: Board of Supervisors

From: Clerk of the Board

Date: January 26, 2010

Subject: Claims for January 26, 2010

RECOMMENDATION(S):

DENY claim by Brenna Greaves and Challoner Greaves.

FISCAL IMPACT:

.

BACKGROUND:

.

CONSEQUENCE OF NEGATIVE ACTION:

CHILDREN'S IMPACT STATEMENT:

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

, County Administrator and Clerk of the Board of Supervisors

Contact: EMELDA SHARP (925)
335-1900

By: EMY L. SHARP, Deputy

cc:



Contra
Costa
County

To: Board of Supervisors
From: Susan A. Bonilla, District IV Supervisor
Date: January 26, 2010

Subject: Declaring January 2010 National Blood Donor Month

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: Katherine Sinclair, Deputy

Contact: Laura Case 521-7100

cc:

ATTACHMENTS

Resolution No.
2010/5

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2010/5

Declaring January 2010 National Blood Donor Month.

WHEREAS, donating blood is a potentially lifesaving gift that millions of Americans can give; and
WHEREAS, there is a need to ensure an adequate blood supply and to stress the importance of giving the “Gift of Life” through the donation of blood; and
WHEREAS, there is a need for additional healthy, regular volunteer donors to join the ranks of those who already give of themselves so generously; and
WHEREAS, one blood donation may help save three lives; and
WHEREAS, everyday blood is needed in hospitals and emergency treatment facilities for patients with cancer and other diseases, for organ transplant recipients, and to help save the lives of accident victims; and
WHEREAS, the need for blood is constant, especially during the winter months when blood is traditionally in short supply due to a reduction in donor turnout because of the holidays, busy travel schedules, inclement weather and illness, which can put blood inventory at a critical low; and
WHEREAS, The American Red Cross Northern California Blood Services Region distributes more than 130,000 pints of blood per year to help save local patients, yet fewer than 100,000 pints of blood are collected in the region annually; and
WHEREAS, some 38 percent of the public is eligible to donate, yet fewer than 8 percent of these individuals present to donate blood; and
WHEREAS, there is a need for civic and service organizations and businesses to sponsor blood drives.
NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors proclaims the month of January as “National Blood Donor Month” for Contra Costa County and urge all citizens to pay tribute to those among us who donate for others in need and encourage citizens in good health to donate regularly.

JOHN GIOIA

Chair,
District I Supervisor

GAYLE B. UILKEMA

District II Supervisor

MARY N. PIEPHO

District III Supervisor

SUSAN A. BONILLA

District IV Supervisor

FEDERAL D. GLOVER

District V Supervisor

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

ATTESTED: January 26, 2010

David J. Twa,

By: _____, Deputy

The Board of Supervisors of Contra Costa County, California

In the matter of Declaring January 2010 as
National Blood Donor Month

RESOLUTION NO. 2010/5

WHEREAS, donating blood is a potentially lifesaving gift that millions of Americans can give; and

WHEREAS, there is a need to ensure an adequate blood supply and to stress the importance of giving the "Gift of Life" through the donation of blood; and

WHEREAS, there is a need for additional healthy, regular volunteer donors to join the ranks of those who already give of themselves so generously; and

WHEREAS, one blood donation may help save three lives; and

WHEREAS, everyday blood is needed in hospitals and emergency treatment facilities for patients with cancer and other diseases, for organ transplant recipients, and to help save the lives of accident victims; and

WHEREAS, the need for blood is constant, especially during the winter months when blood is traditionally in short supply due to a reduction in donor turnout because of the holidays, busy travel schedules, inclement weather and illness, which can put blood inventory at a critical low; and

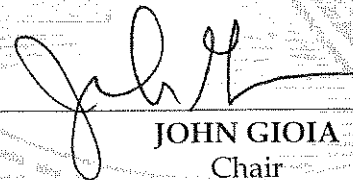
WHEREAS, the American Red Cross Northern California Blood Services Region distributes more than 130,000 pints of blood per year to help save local patients, yet fewer than 100,000 pints of blood are collected in the region annually; and

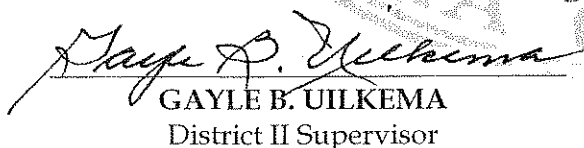
WHEREAS, some 38 percent of the public is eligible to donate, yet fewer than 8 percent of these individuals present to donate blood; and

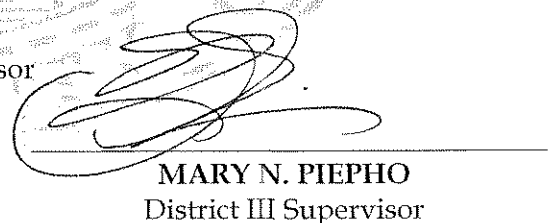
WHEREAS, there is a need for civic and service organizations and businesses to sponsor blood drives;

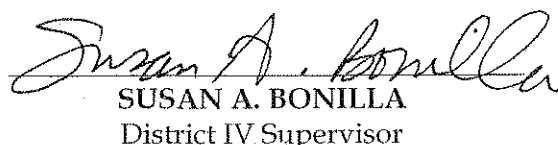
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors proclaims the month of January as "National Blood Donor Month" for Contra Costa County and urges all citizens to pay tribute to those among us who donate for others in need, and encourages citizens in good health to donate regularly.

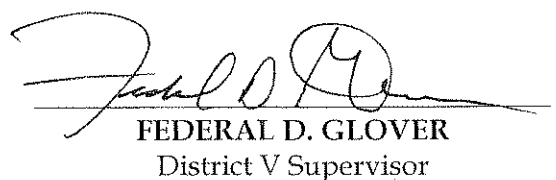
PASSED by a unanimous vote of the Board of Supervisors members present this 26th day of January, 2010.

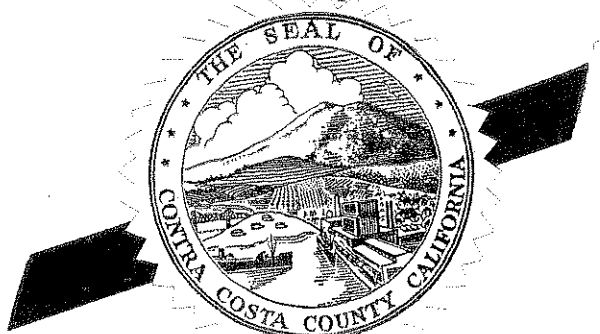

JOHN GIOIA
Chair
District I Supervisor


GAYLE B. UILKEMA
District II Supervisor


MARY N. PIEPHO
District III Supervisor


SUSAN A. BONILLA
District IV Supervisor


FEDERAL D. GLOVER
District V Supervisor



Introduced by Supervisor Susan A. Bonilla

I hereby certify that this 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: January 26, 2010

DAVID TWA, Clerk of the Board of Supervisors and County Administrator

By , Deputy



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 26, 2010

Subject: Declaring January 29, 2010 Earned Income Tax Credit (EITC) Day in Contra Costa County

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: Katherine Sinclair, Deputy

Contact: Kevin Corrigan 5-1022

cc:

ATTACHMENTS

Resolution No.
2010/48

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2010/48

**DECLARING JANUARY 29, 2010 AS EARNED INCOME TAX CREDIT (EITC) AWARENESS DAY AND
KICKING-OFF THE ANNUAL EARN IT! KEEP IT! SAVE IT! CONTRA COSTA CAMPAIGN**

WHEREAS, the Earned Income Tax Credit (EITC), created in 1975, helps offset Social Security taxes and provides an incentive for work, and

WHEREAS, the EITC assists low income residents including people with limited English proficiency, rural residents, Native Americans, people with disabilities and nontraditional families, and

WHEREAS, the Earned Income Tax Credit is widely recognized as the most effective federal antipoverty program, and

WHEREAS, National EITC Awareness Day is an event organized by the IRS and its community partners to educate the public about the Earned Income Tax Credit and Free Tax Preparation Services, and

WHEREAS, there were 31 free tax preparation sites in Contra Costa County sponsored by the Earn It! Keep It! Save It! Contra Costa campaign (EKS) that assisted 8,657 tax payers claim federal refunds totaling over \$8.6 million including over \$2 million in Earned Income Tax Credits, and

WHEREAS, the total federal tax refunds received by low-income residents in 2009 through the Contra Costa County EKS sites increased by 37% countywide over the previous year.

NOW, THEREFORE BE IT RESOLVED THAT, the Contra Costa County Board of Supervisors on behalf of Contra Costa County, do hereby proclaim January 29, 2010 as “Earned Income Tax Credit Awareness Day” in Contra Costa County and the kick-off of the Earn It! Keep It! Save It! Contra Costa Campaign.

JOHN GIOIA

Chair,
District I Supervisor

GAYLE B. UILKEMA

District II Supervisor

MARY N. PIEPHO

District III Supervisor

SUSAN A. BONILLA

District IV Supervisor

FEDERAL D. GLOVER

District V Supervisor

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

ATTESTED: January 26, 2010

David J. Twa,

By: _____, Deputy

The Board of Supervisors of Contra Costa County, California

In the matter of Declaring January 29, 2010 as
Earned Income Tax Credit Awareness Day

RESOLUTION NO. 2010/48

WHEREAS, the Earned Income Tax Credit (EITC), created in 1975, helps offset Social Security taxes and provides an incentive for work, and

WHEREAS, the EITC assists low income residents including people with limited English proficiency, rural residents, Native Americans, people with disabilities and nontraditional families, and

WHEREAS, the Earned Income Tax Credit is widely recognized as the most effective federal antipoverty program, and

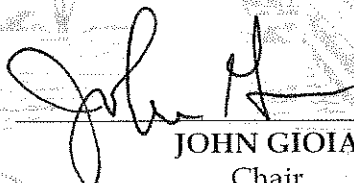
WHEREAS, National EITC Awareness Day is an event organized by the IRS and its community partners to educate the public about the Earned Income Tax Credit and Free Tax Preparation Services, and

WHEREAS, there were 31 free tax preparation sites in Contra Costa County sponsored by the Earn It! Keep It! Save It! Contra Costa campaign (EKS) that assisted 8,657 tax payers claim federal refunds totaling over \$8.6 million including over \$2 million in Earned Income Tax Credits, and

WHEREAS, the total federal tax refunds received by low-income residents in 2009 through the Contra Costa County EKS sites increased by 37% countywide over the previous year.

NOW, THEREFORE BE IT RESOLVED that the Contra Costa County Board of Supervisors does hereby proclaim January 29, 2010 as "Earned Income Tax Credit Awareness Day" in Contra Costa County and the kick-off of the Earn It! Keep It! Save It! Contra Costa Campaign.

PASSED by a unanimous vote of the Board of Supervisors members present this 26th day of January, 2010.


JOHN GIOIA
Chair

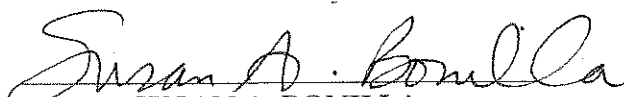
District I Supervisor


GAYLE B. ULKEMA

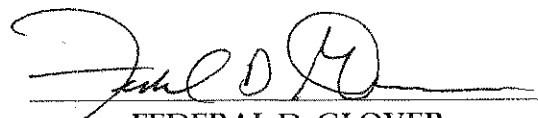
District II Supervisor


MARY N. PIEPHO

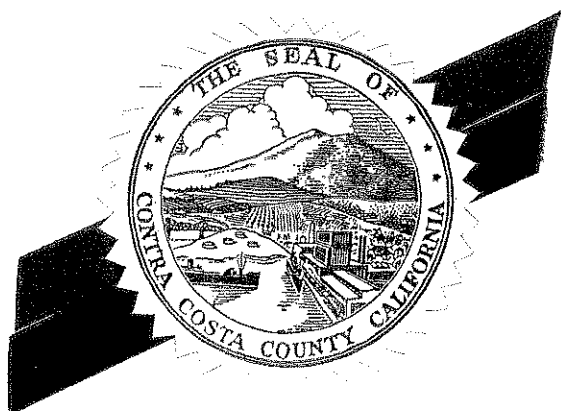
District III Supervisor


SUSAN A. BONILLA

District IV Supervisor


FEDERAL D. GLOVER

District V Supervisor



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

ATTESTED: January 26, 2010

DAVID TWA, Clerk of the Board of Supervisors and County Administrator

By  Deputy



Contra
Costa
County

To: Board of Supervisors
From: Susan A. Bonilla, District IV Supervisor
Date: January 26, 2010

Subject: Honoring Concord Police Officer of the Year, Cinda Stoddard

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: Katherine Sinclair, Deputy

Contact: Laura Case 521-7100

cc:

ATTACHMENTS

Resolution No.
2010/62

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2010/62

IN THE MATTER OF HONORING THE KIWANIS CLUB OF GREATER CONCORD 2009 POLICE OFFICER OF THE YEAR.

WHEREAS, Cinda Stoddard obtained her Bachelor's Degree in Psychology with a minor in Athletic Coaching from the University of California, Santa Barbara; and
WHEREAS, while at UCSB Cinda participated in NCAA, Division 1 Softball, NCAA Soccer and was a member of the Alpha Phi Sorority; and
WHEREAS, Cinda Stoddard joined the Concord Police Department in August of 1999; and
WHEREAS, in March of 2002 Officer Stoddard became a Financial Crimes Detective and is qualified to testify as a an expert in the area of Fraud and Forgery in Contra Costa Superior Court; and
WHEREAS, Cinda is a member of the California Financial Crimes Investigators Association and has investigated thousands of financial crimes which include theft, forgery, embezzlement, real estate fraud, and financial elder abuse; and
WHEREAS, Officer Stoddard has gone above and beyond the call of duty by serving the citizens of Contra Costa as a member of the Officer Involved Fatal Incidents Protocol Team as well as being selected to be a member of the Tactical Negotiations Team serving as a hostage negotiator.
NOW, THEREFORE, BE IT RESOLVED that the Contra Costa Board of Supervisors hereby recognizes the invaluable contributions of Concord Police Officer, Cinda Stoddard, and congratulates her on being honored as the 2009 Police Officer of the Year.

JOHN GIOIA

Chair,
District I Supervisor

GAYLE B. UILKEMA

District II Supervisor

MARY N. PIEPHO

District III Supervisor

SUSAN A. BONILLA

District IV Supervisor

FEDERAL D. GLOVER

District V Supervisor

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

ATTESTED: January 26, 2010

David J. Twa,

By: _____, Deputy

C.12

The Board of Supervisors of Contra Costa County, California

In the matter of honoring the Kiwanis Club of
Greater Concord 2009 Police Officer of the Year

RESOLUTION NO. 2010/62

WHEREAS Cinda Stoddard obtained her Bachelor's Degree in Psychology with a minor in Athletic Coaching from the University of California, Santa Barbara; and

WHEREAS, while at UCSB Cinda participated in NCAA, Division 1 Softball, NCAA Soccer and was a member of the Alpha Phi Sorority; and

WHEREAS Cinda Stoddard joined the Concord Police Department in August of 1999; and


WHEREAS, in March of 2002, Officer Stoddard became a Financial Crimes Detective and is qualified to testify as an expert in the area of Fraud and Forgery in Contra Costa Superior Court; and


WHEREAS Cinda is a member of the California Financial Crimes Investigators Association and has investigated thousands of financial crimes which include theft, forgery, embezzlement, real estate fraud, and financial elder abuse; and

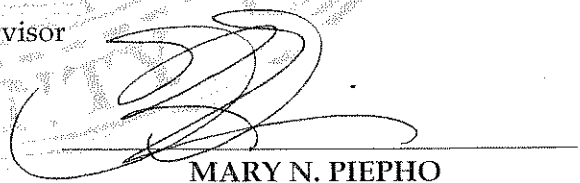
WHEREAS, Officer Stoddard has gone above and beyond the call of duty by serving the citizens of Contra Costa as a member of the Officer Involved Fatal Incidents Protocol Team as well as being selected to be a member of the Tactical Negotiations Team serving as a hostage negotiator.

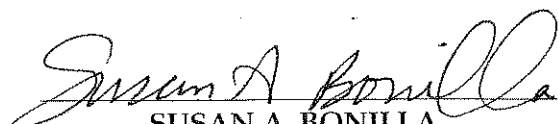
NOW, THEREFORE, BE IT RESOLVED that the Contra Costa Board of Supervisors hereby recognizes the invaluable contributions of Concord Police Officer Cinda Stoddard, and congratulates her on being honored as the 2009 Police Officer of the Year.

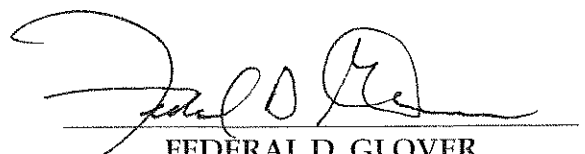
PASSED by a unanimous vote of the Board of Supervisors members present this 26th day of January, 2010.


JOHN GIOIA
Chair
District I Supervisor


GAYLE B. UILKEMA
District II Supervisor


MARY N. PIEPHO
District III Supervisor


SUSAN A. BONILLA
District IV Supervisor


FEDERAL D. GLOVER
District V Supervisor



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

ATTESTED: January 26, 2010

DAVID TWA, Clerk of the Board of Supervisors and
County Administrator

By  Deputy



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Recognition of Contra Costa Emergency Medical Services (EMS) Medical Director Dr. Joseph Barger as California
"EMS Medical Director of the Year"

RECOMMENDATION(S):

Adopt Resolution #2010/71 commending Dr. Joseph Barger, Emergency Medical Services Medical Director, for his selection by the California Emergency Medical Services Authority as "EMS Medical Director of the Year" for 2009.

FISCAL IMPACT:

None.

BACKGROUND:

In a ceremony held December 1, 2009 at the California Emergency Medical Service Commission meeting, Commission Chair Bruce Lee and State EMS Authority Director Dr. Steve Tharratt presented Contra Costa EMS Medical Director Dr. Joseph Barger with the award of "EMS Medical Director of the Year." That award was presented to Dr. Barger in recognition for his contributions to the betterment of EMS care statewide, including his service as chair of the Statewide EMS Scope of Practice Committee that advises the California EMS Authority on matters related to Emergency Medical Technician and Paramedic scope of practice and on approval of trial studies undertaken by local EMS agencies to advance emergency medical care in the field.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Art Lathrop, 646-4690

cc: Tasha Scott, Barbara Borbon, Juliene Latteri

BACKGROUND: (CONT'D)

Dr. Barger joined the Contra Costa Health Services in 1980 where he has served as an emergency physician, as Chief of Emergency, and continues to serve as a Deputy Health Officer. In 1996, Dr. Barger was appointed as Contra Costa's EMS Medical Director where he has provided continuous high quality medical leadership to the EMS program, including initiation of the County's highly successful ST-Elevation Myocardial Infarction (STEMI) program. This EMS program helps assure that victims of serious heart attacks receive rapid intervention at a hospital with cardiac catheterization capability. Dr. Barger also serves as Medical Director for each of the County's fire first responder paramedic programs, including Contra Costa County Fire Protection District, El Cerrito Fire Department, Moraga-Orinda Fire Protection District, Pinole Fire Department, Rodeo-Hercules Fire Protection District, and San Ramon Valley Fire Protection District.

ATTACHMENTS

Resolution No. 2010/71

*The Board of Supervisors of
Contra Costa County, California*

In the matter of:

Resolution No. 2010/71

Recognizing Joseph B. Barger, MD as California Local Emergency Medical Services Medical Director of the Year

WHEREAS, Dr. Joseph B. Barger joined Contra Costa Health Services in 1980 where he has served as an emergency department physician and as Chief of Emergency and continues to serve as a Deputy Health Officer;

WHEREAS, Dr. Joseph B. Barger has served as the Contra Costa Emergency Medical Services (EMS) Medical Director since 1996;

WHEREAS, Dr. Barger also serves as the Medical Director for paramedic first responder programs for Contra Costa County Fire Protection District, El Cerrito Fire Department, Moraga-Orinda Fire Protection District, Pinole Fire Department, Rodeo-Hercules Fire Protection District, and San Ramon Valley Fire Protection District;

WHEREAS, Dr. Barger was instrumental in establishing Contra Costa EMS's highly successful ST-Elevation Myocardial Infarction (STEMI) program to assure that victims of serious heart attacks receive rapid intervention at hospitals with cardiac catheterization capability;

WHEREAS, Dr. Barger has provided active medical leadership to both the local Contra Costa County EMS system and to EMS statewide through the Emergency Medical Directors Association of California (EMDAC); and

WHEREAS, Dr. Barger received recognition at the December 2, 2009 meeting of the California Emergency Medical Services Commission as "EMS Medical Director of the Year" for his contributions to the Statewide EMS Scope of Practice Committee;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors recognizes Dr. Joseph B. Barger for his contributions in emergency medical services to the people of Contra Costa County and to the people of California.

JOHN GIOIA

Chair,
District I Supervisor

GAYLE B. UILKEMA

District II Supervisor

MARY N. PIEPHO

District III Supervisor

SUSAN A. BONILLA

District IV Supervisor

FEDERAL D. GLOVER

District V Supervisor

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

ATTESTED: January 26, 2010

David J. Twa,

By: _____, Deputy

The Board of Supervisors of Contra Costa County, California

**In the matter of Recognizing Joseph B. Barger, M.D., RESOLUTION NO. 2010/71
as California Local Emergency Medical Services
Medical Director of the Year**

WHEREAS, Dr. Joseph B. Barger joined Contra Costa Health Services in 1980, where he has served as an emergency department physician and as Chief of Emergency, and continues to serve as a Deputy Health Officer; and

WHEREAS, Dr. Joseph B. Barger has served as the Contra Costa Emergency Medical Services (EMS) Medical Director since 1996; and

WHEREAS, Dr. Barger also serves as the Medical Director for paramedic first responder programs for Contra Costa County Fire Protection District, El Cerrito Fire Department, Moraga-Orinda Fire Protection District, Pinole Fire Department, Rodeo-Hercules Fire Protection District, and San Ramon Valley Fire Protection District; and

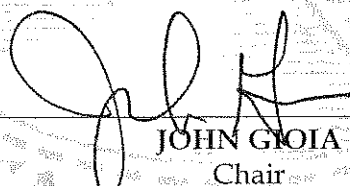
WHEREAS, Dr. Barger was instrumental in establishing Contra Costa EMS's highly successful ST-Elevation Myocardial Infarction (STEMI) program to assure that victims of serious heart attacks receive rapid intervention at hospitals with cardiac catheterization capability; and


WHEREAS, Dr. Barger has provided active medical leadership to both the local Contra Costa County EMS system and to EMS statewide through the Emergency Medical Directors Association of California (EMDAC); and


WHEREAS, Dr. Barger received recognition at the December 2, 2009 meeting of the California Emergency Medical Services Commission as "EMS Medical Director of the Year" for his contributions to the Statewide EMS Scope of Practice Committee;


NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors recognizes Dr. Joseph B. Barger for his contributions in emergency medical services to the people of Contra Costa County and to the people of California.

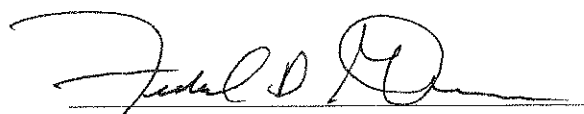
PASSED by a unanimous vote of the Board of Supervisors members present this 26th day of January, 2010.

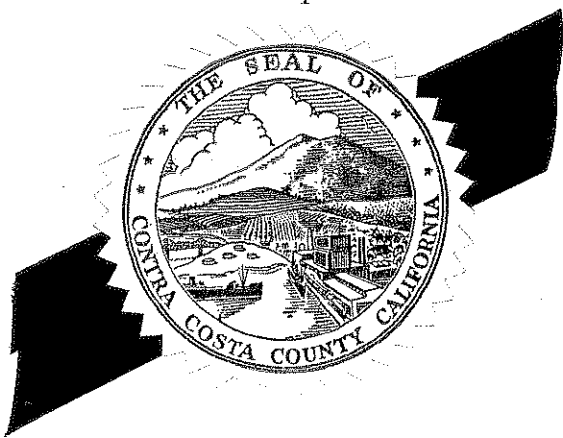

JOHN GIOIA
Chair
District I Supervisor


GAYLE B. UILKEMA
District II Supervisor


MARY N. PIEPHO
District III Supervisor


SUSAN A. BONILLA
District IV Supervisor


FEDERAL D. GLOVER
District V Supervisor



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

ATTESTED: January 26, 2010

DAVID TWA, Clerk of the Board of Supervisors and
County Administrator

By  Deputy



**Contra
Costa
County**

To: Board of Supervisors
From: Joe Valentine, Employment & Human Services Director
Date: January 26, 2010

Subject: Declare Vacancy on Advisory Council on Aging

RECOMMENDATION(S):

ACCEPT resignation of Esther Nicastro-Campo, DECLARE a vacancy in the Concord City Seat on the Advisory Council on Aging, and DIRECT the Clerk of the Board to post the vacancy, as recommended by the Director of Employment and Human Services.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

Ms. Nicastro-Capon has resigned from the Advisory Council on Aging effective January 21, 2010 due to relocating to the Sacramento area.



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



APPROVED AS



OTHER

RECOMMENDED

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Gayle B. Uilkema, District II
Supervisor

Mary N. Piepho, District III
Supervisor

Susan A. Bonilla, District IV
Supervisor

Federal D. Glover, District V
Supervisor

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

ATTESTED: January 26, 2010

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

By: Katherine Sinclair, Deputy

Contact: 925.313.1648

cc: Susan Brown, John Cottrell, Earl Maciel



Contra
Costa
County

To: Board of Supervisors
From: Susan A. Bonilla, District IV Supervisor
Date: January 26, 2010

Subject: Reappointment to the Iron Horse Corridor Management Advisory Committee

RECOMMENDATION(S):

RE-APPOINT the following individual to the Iron Horse Corridor Management Advisory Committee representing the City of Pleasant Hill to a term expiring on January 1, 2012:

Matt Regan
1590 Terry Way
Pleasant Hill, CA 94523

FISCAL IMPACT:

None

BACKGROUND:

The Iron Horse Corridor Management Advisory Committee was authorized by the Board of Supervisors on July 22, 1997. It was established to assist Contra Costa County in developing a management program for the Iron Horse Corridor. In October of 2000 the Board expanded the

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: Katherine Sinclair, Deputy

Contact: Laura Case 521-7100

cc:

BACKGROUND: (CONT'D)

Advisory Committee's role to continue implementation and monitoring of the Landscape Element of the Management Program and to assist in completion of the Joint Use Criteria and Standards, Public Information, and Finance elements of the Management Program.

Advisory Committee seats include one representative from each jurisdiction or unincorporated community along the corridor, a District III seat, a District IV seat and a seat for the East Bay Regional Park District.

Mr. Regan's reappointment to the Iron Horse Corridor Management Advisory Committee was approved by the Pleasant Hill City Council on December 14, 2009.



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 26, 2010

Subject: ECCFPD Board of Director appointments

RECOMMENDATION(S):

APPOINT Chris Finetti, Town of Discovery Bay, and Robert Kenny, Bethel Island, to the East Contra Costa Fire Protection District (District), Board of Directors, as representatives for the unincorporated area within the District as recommended by Supervisor Mary N. Piepho, District III and Supervisor Federal D. Glover, District V.

FISCAL IMPACT:

No fiscal impact

BACKGROUND:

On October 27, 2009, acting in its capacity as the Contra Costa County Board of Supervisors, the Board adopted Resolution No. 2009/940 consenting to a change in the governing structure of the East Contra Costa Fire Protection District from an appointed board of directors comprising the Contra Costa County Board of Supervisors to a board composed of directors appointed by the cities of Brentwood and Oakley and the County of Contra Costa. The new governing structure would consist of four (4) members from the City of Brentwood, three (3) members from the City of Oakley,

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: Katherine Sinclair, Deputy

Contact: Rich Seithel, 335-1024

cc:

BACKGROUND: (CONT'D)

and two (2) members from the unincorporated area in the District.

A media release seeking interested individuals was published in the Contra Costa Times during the week of December 7, 2009. Concurrently, an announcement was listed on the County webpage and the District's webpage.



Contra
Costa
County

To: Board of Supervisors
From: Robert J. Kochly, District Attorney
Date: January 26, 2010

Subject: Appropriation Adjustment No. 5050 - High Tech Task Force Grant

RECOMMENDATION(S):

APPROVE Appropriation Adjustment No. 5050 authorizing new revenue in the District Attorney's Office (0242) in the amount of \$142,969 from the State of California, High Tech Task Force Grant and appropriating it for personnel costs.

FISCAL IMPACT:

\$142,969. 100% State. Marin County High Tech Task Force will serve as the fiscal agent for the grant.

BACKGROUND:

The Northern California Computer Crimes Task Force is one of four state regional task forces which provide an invaluable service to California's law enforcement community. Continued funding of this program is has be authorized for fiscal year 2009/10.

CONSEQUENCE OF NEGATIVE ACTION:

CHILDREN'S IMPACT STATEMENT:

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: 957-2234 Jennifer
Marttinen

cc:

ATTACHMENTS

TC24-RA5050

TC27-AP5050

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

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

ACCOUNT CODING		DEPARTMENT: District Attorney (0242)		
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE	<DECREASE>
2856	9362	State Aid for Crime Control	142,969.00	
TOTALS			142,969.00	0.00

<p style="text-align: center;">APPROVED</p> <p>AUDITOR – CONTROLLER</p> <p>By: _____ Date _____</p> <p>COUNTY ADMINISTRATOR</p> <p>By: _____ Date _____</p> <p>BOARD OF SUPERVISORS</p> <p>YES:</p> <p>NO:</p> <p>By: _____ Date _____</p>	<p>EXPLANATION OF REQUEST</p> <p>To recognize additional grant revenue for the District Attorney's High Tech Task Force.</p> <p>PREPARED BY: <u>Jennifer Marttinen</u></p> <p>TITLE: <u>Chief of Admin</u></p> <p>DATE: <u>10/21/2009</u></p> <div style="display: flex; justify-content: space-between;"> <div>REVENUE ADJ. JOURNAL NO.</div> <div>RAOO <u>5050</u></div> </div>
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CONTRA COSTA COUNTY
APPROPRIATION ADJUSTMENT/
ALLOCATION ADJUSTMENT
T/C-27

AUDITOR-CONTROLLER USE ONLY:

FINAL APPROVAL NEEDED BY:

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

ACCOUNT CODING		DEPARTMENT:		
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>	INCREASE
2856	1011	Permanent Salaries		103,304.00
2856	1042	FICA/Medicare		1,597.00
2856	1044	Retirement		30,856.00
2856	1060	Employee Group Insurance		7,212.00
0990	6301	Appropriable New Revenue	142,969.00	
0990	6301	Reserve for Contingencies		142,969.00
			142,969.00	285,938.00

<p style="text-align: center;">APPROVED</p> <p>AUDITOR – CONTROLLER</p> <p>By: _____ Date _____</p> <p>COUNTY ADMINISTRATOR</p> <p>By: _____ Date _____</p> <p>BOARD OF SUPERVISORS</p> <p>YES:</p> <p>NO:</p> <p>By: _____ Date _____</p>	<p>EXPLANATION OF REQUEST</p> <p>To budget additional grant expenditures for the District Attorney's High Tech Task Force.</p> <p>PREPARED BY: <u>Jennifer Martinen</u> TITLE: <u>Chief of Admin</u> DATE: <u>10/21/09</u></p> <p style="text-align: right;">APPROPRIATION <u>APOO 5050</u> ADJ. JOURNAL NO. _____</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

SIGNED APPROPRIATION
ADJUSTMENT
ITEM NO. C.17 CONTRA COSTA COUNTY
DATE: Jan. 26, 2010 BATED REVENUE ADJUSTMENT/
ALLOCATION ADJUSTMENT
TC/24

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

ACCOUNT CODING		DEPARTMENT: District Attorney (0242)		
ORGANIZATION	REVENUE ACCOUNT	REVENUE ACCOUNT DESCRIPTION	INCREASE	<DECREASE>
2856	9362	State Aid for Crime Control	142,969.00	
TOTALS			142,969.00	0.00

<p>APPROVED</p> <p>AUDITOR – CONTROLLER</p> <p>By: _____ Date _____</p> <p>COUNTY ADMINISTRATOR</p> <p>By: _____ Date _____</p> <p>BOARD OF SUPERVISORS</p> <p>YES: SUPERVISORS UILKEMA, PIEPHO, BONILLA, GLOVER AND GIOIA</p> <p>NO: NONE</p> <p>By: <u>[Signature]</u> Date <u>JANUARY 26, 2010</u></p>	<p>EXPLANATION OF REQUEST</p> <p>To recognize additional grant revenue for the District Attorney's High Tech Task Force.</p> <p>PREPARED BY: <u>Jennifer Marttinen</u> TITLE: <u>Chief of Admin</u> DATE: <u>10/21/2009</u></p> <p>REVENUE ADJ. JOURNAL NO. <u>RAOO 5050</u></p>
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CONTRA COSTA COUNTY
APPROPRIATION ADJUSTMENT/
ALLOCATION ADJUSTMENT
T/C-27

AUDITOR-CONTROLLER USE ONLY:
FINAL APPROVAL NEEDED BY:

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

ACCOUNT CODING		DEPARTMENT:		
ORGANIZATION	EXPENDITURE SUB-ACCOUNT	EXPENDITURE ACCOUNT DESCRIPTION	<DECREASE>	INCREASE
2856	1011	Permanent Salaries		103,304.00
2856	1042	FICA/Medicare		1,597.00
2856	1044	Retirement		30,856.00
2856	1060	Employee Group Insurance		7,212.00
0990	6301	Appropriable New Revenue	142,969.00	
0990	6301	Reserve for Contingencies		142,969.00
			142,969.00	285,938.00

APPROVED

AUDITOR – CONTROLLER

By: _____ Date _____

COUNTY ADMINISTRATOR

By: _____ Date _____

BOARD OF SUPERVISORS

**YES: SUPERVISORS UILKEMA, PIEPHO,
 BONILLA, GLOVER AND GIOLA**

NO: NONE

By:  Date JANUARY 26, 2010

EXPLANATION OF REQUEST

To budget additional grant expenditures for the District Attorney's High Tech Task Force.

PREPARED BY: Jennifer Martinen
 TITLE: Chief of Admin
 DATE: 10/21/09

APPROPRIATION APOO 5050
 ADJ. JOURNAL NO.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Approval of Mental Health Commission 2010 Legislative Platform

RECOMMENDATION(S):

APPROVE the Mental Health Commission's 2010 Legislative Platform, as recommended by the Commission and the Health Services Director.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

Each year the Board of Supervisors adopts a State and a federal legislative platform that establishes priorities and policy positions with regard to potential legislation and regulation. The platforms include policy issues that provide direction and guidance for identification of bills which would affect the services, programs or finance of Contra Costa County; County-Sponsored bill proposals; and issues regarding the intergovernmental relationships.

The Mental Health Commission, at their January 8, 2009 meeting, consider the need to be able to react expeditiously when the need to advocate on the

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 01/26/2010

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Dorothy Sansoe,
335-1009

cc:

BACKGROUND: (CONT'D)

part of Contra Costa County mental health consumers arose. At that meeting, they unanimously approved the attached 2010 Legislative Platform and requested that it be submitted to the Board of Supervisors for approval. This platform reflects the same priorities as those adopted by the Board of Supervisors on January 19, 2009 for Contra Costa County. The platform includes policy issues that provide direction and guidance for identification of bills which would affect the mental health services, program or finances of Contra Costa County; County-sponsored bill proposals; and issues regarding the State and local budget and state-local relationships.

To provide a streamlined approach to the appointed members of the Mental Health to advocate on behalf of mental health consumers in Contra Costa County, the Department of Health Services recommends that the Board of Supervisors approve the attached platform and authorize the Mental Health Commission to take positions on issues that fall under this platform.

ATTACHMENTS

MHC 2009 Legislative Platform

2010 LEGISLATIVE PLATFORM CONTRA COSTA COUNTY MENTAL HEALTH COMMISSION



Each year, the Board of Supervisors adopts a State legislative platform that establishes priorities and policy positions with regard to potential state legislation and regulation. The Mental Health Commission also adopts a related platform with regard to mental health issue. The Mental Health Commission State Legislative Platform includes policy issues that provide direction and guidance for identification of bills which would affect the services, programs or finances of mental health services in Contra Costa County.

2010 Legislative/Regulatory Advocacy Priorities

Each year, issues emerge through the legislative process that are of importance to the Contra Costa County Mental Health Commission (Commission) and require advocacy. For 2010, it is anticipated that critical issues requiring the attention of the Commission will include the following:

State and Local Budget – Both the state and County are facing continuing structural deficits through 2009-10 and into the future. The long-standing practice of state government has been to look to counties as a means of balancing its budget. While opportunities to do so are more limited with the passage of Proposition 1A, the magnitude of the deficit makes it certain the state will be creative in their effort to include counties as part of its budget balancing solution. Of particular concern to the Commission is the inadequate funding for mental health services. The annual shortfall between actual county expenses and state reimbursement has grown steadily since 2001, creating a de facto cost shift to counties. The funding gap forces counties to reduce services to vulnerable populations and/or divert scarce county resources from other critical local services.

Mental Health Care – Counties have a high stake in California's health reform efforts. Counties serve as employers, payers, and providers of mental health care to vulnerable populations. Consequently, counties stand ready to actively participate in discussions surrounding improving the mental health care system in California. As proposals for Health Care reform by either the Administration or the Legislature are presented, they will be reviewed for their inclusion of and impact on the mental health system of care.

2010 State Legislative Platform Policy Positions

As requested by the Board, a brief background statement accompanies policy positions that are not self-evident. Explanatory notes are included either as the preface to an issue area or following a specific policy position.

Mental Health Revenues/Finance Issues

As a political subdivision of the state, many of Contra Costa County's mental health services and programs are the result of state statute and regulation. The state also provides a substantial portion of the County's revenues. However, the state has often used its authority to shift costs to counties and to generally put counties in the difficult position of trying to meet local mental health service needs with inadequate resources. While Proposition 1A provided some protections for counties, vigilance is necessary to protect the fiscal integrity of the mental health system in Contra Costa County.

1. SUPPORT the State's effort to balance its budget through actions that do not adversely affect County revenues, services or ability to provide mental health services.
2. OPPOSE any state-imposed redistribution, reduction or use restriction on general purpose revenue, sales taxes or property taxes unless financially beneficial to the County.
3. OPPOSE any efforts to increase the County's share-of-cost, maintenance-of-effort requirements or other financing responsibility for state mandated mental health programs absent new revenues sufficient to meet current and future program needs.
4. SUPPORT efforts to ensure that Contra Costa County receives its fair share of state allocations, including mental health funding under Proposition 63. *The state utilizes a variety of methods to allocate funds among counties, at times detrimental to Contra Costa County. For example, with Proposition 63 mental health funding, the Department had anticipated \$12-16 million per year. The state allocation is only \$7.1 million for the first 3 years, in part because the homeless population was not considered in the allocation methodology.*
5. SUPPORT continued efforts to reform the state/local relationship in a way that makes both fiscal and programmatic sense for local government.
6. OPPOSE reductions in county-run State mental health programs that shift responsibility or costs to the County.
7. SUPPORT state actions that maximize federal and state revenues for county-run mental health services and programs.
8. OPPOSE efforts of the State to avoid state mandate claims related to AB3632 mental health services for children by delaying payment schedules.
9. SUPPORT timely, full payments to counties by the State for programs operated on their behalf or by mandate. *The State currently owes counties approximately*

\$1 billion in State General Funds for social services program costs dating back to FY 2002-03.

Mental Health Care Issues

Currently, California has a complex array of existing mental health coverage and delivery systems that serve many, but not all, Californians. Moving this array of systems into a universal coverage framework is a complex undertaking that requires sound analysis, thoughtful and deliberative planning, and a multi-year implementation process. As California moves forward with health care reform, counties urge the state to prevent reform efforts from exacerbating problems with existing service and funding. The State must also consider the differences across California counties and the impacts of reform efforts on the network of safety-net providers, including county mental health providers. The end result of health reform must provide a strengthened mental health care delivery system for all Californians, including those served by the safety net.

10. SUPPORT State action to increase mental health access and affordability. *Access to care and affordability of care are critical components of any health reform plan. Expanding eligibility for existing programs will not provide access to care in significant areas of the state. Important improvements to our current programs, including Medi-Cal, must be made either prior to, or in concert with, a coverage expansion in order to ensure access. Coverage must be affordable for all Californians to access care.*
11. SUPPORT Medi-Cal mental health reimbursement rate increases to incentivize providers to participate in the program.
12. SUPPORT efforts that implement comprehensive systems of mental health care, including case management, for frequent users of emergency care and those with dual diagnoses. *Approaches could be modeled after current programs in place in safety net systems.*
13. SUPPORT efforts that provide sufficient time for detailed data gathering of current safety funding in the system and the impact of any redirection of funds on remaining county responsibilities. *The interconnectedness of county indigent health funding to public health, correctional health, mental health, alcohol and drug services and social services must be fully understood and accounted for in order to protect, and enhance as appropriate, funding for these related services.*
14. SUPPORT efforts to clearly define and adequately fund remaining county responsibilities.
15. SUPPORT State action to provide an analysis of current mental health care infrastructure (facilities and providers), including current safety net facilities across the state, to ensure that there are adequate providers and health care facilities, and that they can remain viable after health reform.

16. SUPPORT efforts to provide adequate financing for the reforms to succeed.
17. SUPPORT legislation that improves the quality of mental health care, whether through the use of technology, innovative delivery models or combining and better accessing various streams of revenue.



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 26, 2010

Subject: P300 #20768 Add one Chief Assistant County Administrator and Cancel one Assistant

RECOMMENDATION(S):

ADOPT Position Adjustment Resolution No. 20768 to add one (1) Chief Assistant County Administrator (ADB1) and cancel one (1) Assistant County Administrator (ADB4) position #10293 in the office of the County Administrator as recommended by the Assistant County Administrator-Human Resources Director.

FISCAL IMPACT:

This position is budgeted in the General Fund in the Office of the County Administrator.

BACKGROUND:

Historically, the County Administrator's Office had operated with a Chief Assistant County Administrator and an Assistant County Administrator. During the tenure of the last County Administrator, the incumbents of both of these positions retired and the Chief Assistant County Administrator position was downgraded to an Assistant County Administrator position. This action was taken to provide a position with responsibility for leading the Children's Services initiative and providing oversight of the County's services for at-risk children. Since that time the Children's

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Gladys Scott Reid
335-1722

BACKGROUND: (CONT'D)

Services initiative position has been moved to the Employment and Human Services Department. The Board of Supervisors and County Administrator continue to recognize the need for a senior level assistant in the Office of the County Administrator, have had plans to fill a senior level position for some time, and have recently selected a candidate. This action will more appropriately classify the principal assistant to the County Administrator in planning, organizing, directing and coordinating the activities of the County Administrator's Office.

ATTACHMENTS

P300 20768 - Add and Cancel

POSITION ADJUSTMENT REQUEST

NO. 20768
DATE 1-19-10

Department County Administrator's Office Department No. /
Budget Unit No. 0003 Org No. 1200 Agency No. 3

Action Requested CANCEL one Assistan County Administrator (ADB4), position #10293 and ADD one Chief Assistant County Administrator (ADB1)

Proposed Effective Date: 1/27/2010

Classification Questionnaire attached: Yes ☐ No ☒ / Cost is within Department's budget: Yes ☒ No ☐

Total One-Time Costs (non-salary) associated with request: \$0.00

Estimated total cost adjustment (salary / benefits / one time):

Total annual cost	\$ 47,557.00	Net County Cost	\$47,557.00
Total this FY	\$ 19,815.00	N.C.C. this FY	\$19,815.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT Budgeted - General Fund

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.


(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT


Deputy County Administrator 1/19/10
Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE _____

Add one (1) Chief Assistant County Administrator (ADB1) at salary level B85 2540 (13212.64) and Cancel one (1) Assistant County Administrator (ADB4) at salary level B85 2277 (10183.50-11227.31) position #10293.

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: ☒ Day following Board Action.
☐ _____ (Date)


(for) Director of Human Resources

COUNTY ADMINISTRATOR RECOMMENDATION

DATE 1/19/10

☒ Approve Recommendation of Director of Human Resources
☐ Disapprove Recommendation of Director of Human Resources
☐ Other: _____


(for) County Administrator

BOARD OF SUPERVISORS ACTION:

Adjustment APPROVED ☐ DISAPPROVED ☐

David Tuxa, Clerk of the Board of Supervisors
and County Administrator

DATE _____ BY _____

APPROVAL OF THIS ADJUSTMENT CONSTITUTES A PERSONNEL / SALARY RESOLUTION AMENDMENT

POSITION ADJUSTMENT ACTION TO BE COMPLETED BY HUMAN RESOURCES DEPARTMENT FOLLOWING BOARD ACTION
Adjust class(es) / position(s) as follows:

POSITION ADJUSTMENT REQUEST

C.19
NO. 20768
DATE 1-19-10

Department County Administrator's Office Department No. /
Budget Unit No. 0003 Org No. 1200 Agency No. 3

Action Requested CANCEL one Assistan County Administrator (ADB4), position #10293 and ADD one Chief Assistant County Administrator (ADB1)

Proposed Effective Date: 1/27/2010

Classification Questionnaire attached: Yes ☐ No ☒ / Cost is within Department's budget: Yes ☒ No ☐

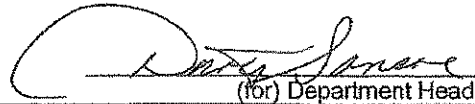
Total One-Time Costs (non-salary) associated with request: \$0.00

Estimated total cost adjustment (salary / benefits / one time):

Total annual cost	\$ 47,557.00	Net County Cost	\$47,557.00
Total this FY	\$ 19,815.00	N.C.C. this FY	\$19,815.00

SOURCE OF FUNDING TO OFFSET ADJUSTMENT Budgeted - General Fund

Department must initiate necessary adjustment and submit to CAO.
Use additional sheet for further explanations or comments.


(for) Department Head

REVIEWED BY CAO AND RELEASED TO HUMAN RESOURCES DEPARTMENT


Deputy County Administrator 1/19/10
Date

HUMAN RESOURCES DEPARTMENT RECOMMENDATIONS

DATE _____

Add one (1) Chief Assistant County Administrator (ADB1) at salary level B85 2540 (13212.64) and Cancel one (1) Assistant County Administrator (ADB4) at salary level B85 2277 (10183.50-11227.31) position #10293.

Amend Resolution 71/17 establishing positions and resolutions allocating classes to the Basic / Exempt salary schedule.

Effective: ☒ Day following Board Action.
☐ _____ (Date)


(for) Director of Human Resources

COUNTY ADMINISTRATOR RECOMMENDATION

DATE 1/19/10

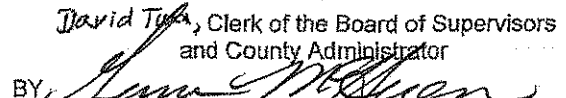
☒ Approve Recommendation of Director of Human Resources
☐ Disapprove Recommendation of Director of Human Resources
☐ Other: _____


(for) County Administrator

BOARD OF SUPERVISORS ACTION:

Adjustment APPROVED ☒ DISAPPROVED ☐

DATE _____

David Tye, Clerk of the Board of Supervisors
and County Administrator
BY 

APPROVAL OF THIS ADJUSTMENT CONSTITUTES A PERSONNEL / SALARY RESOLUTION AMENDMENT

POSITION ADJUSTMENT ACTION TO BE COMPLETED BY HUMAN RESOURCES DEPARTMENT FOLLOWING BOARD ACTION
Adjust class(es) / position(s) as follows:



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 26, 2010

Subject: Lay Off Resolution No. 2010/70 Effective February 19, 2010 for the Department of Information Technology

RECOMMENDATION(S):

ADOPT Resolution No. 2010/70 authorizing the deletion of certain positions and laying off employees in the Department of Information Technology.

FISCAL IMPACT:

Three full-time positions, two filled and one vacant, are recommended for elimination. In the Security Division, salary savings of \$65,276 will be generated for the remainder of fiscal year 2009/10 and \$195,826 annually due to the elimination of one Deputy Director Chief Information Security Officer – Exempt position. In the Operations Division, the elimination of one Systems Software Analyst II position will generate salary savings of \$57,356 for the remainder of fiscal year 2009/10 and \$172,066 annually. In the Wide Area Network Division (WAN), the elimination of one Deputy Director/Information Technology - Exempt position will generate \$193,126 in annual salary savings. Expenditure reductions are offset by reductions in revenue received from other departments. The net future year County general fund savings due to the elimination of these positions is estimated at \$561,018 per year.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

Speaker: Kevin Dickey, Department of Information Technology.

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Barbara Riveira
335-1018

cc:

BACKGROUND:

In an effort to optimize the Department of Information Technology, flatten the departments existing structure, and mitigate loss of revenue for mainframe operations, the County Administrator is recommending the elimination of three full time positions, producing cost savings to our user departments. Tasks will be absorbed by existing staff.

Therefore, the elimination of one Deputy Director/Information Technology - Exempt is recommended, and the elimination of one Deputy Director Chief Information Security Officer – Exempt position and one Systems Software Analyst II position and the layoff of the incumbents is recommended.

CONSEQUENCE OF NEGATIVE ACTION:

CHILDREN'S IMPACT STATEMENT:

ATTACHMENTS

Resolution No. 2010/70

Resolution Attachment A

Adopted this Resolution on 01/26/2010 by the following vote:

NOES:	
ABSENT:	
ABSTAIN:	
RECUSE:	



In the Matter of Abolishing positions and laying off certain County employees in the Department of Information Technology.

THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS, in its capacity as governing Board of the County and all of its dependent districts RESOLVES THAT: In order to keep expenditures within available funding, it is necessary to make position adjustments, including abolishing the positions set forth in the list attached hereto (Attachment A) and to lay off employees accordingly. Said list is incorporated herein by reference, and said positions are hereby abolished effective on the dates indicated.

cc:

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

Adopted this Traffic Resolution on January 26, 2010 by the following vote:

AYES: *Gioia, Wilkema, Piepho, Bonilla, Glover*

NOES: *None*

ABSENT: *None*

ABSTAIN: *None*

TRAFFIC RESOLUTION NO. 2010/4306
Supervisory District III

SUBJECT: Establishing a 2-hour parking limit from 8 a.m. to 6 p.m. on the south side of Orchard Court (Road No. 4437B), Alamo area. (District III)

The Contra Costa Board of Supervisors RESOLVES that:

Based on the recommendations by the County Public Works Department's Transportation Engineering Division and pursuant to County Ordinance Code Sections 46-2.002 - 46-2.012, the following traffic regulation is established:

Pursuant to Section 22507 of the California Vehicle Code declaring parking to be limited to 2 hours from 8 a.m. to 6 p.m. on the south side of Orchard Court (Road No. 4437B), beginning at a point 20 feet east of the east curb line of Danville Boulevard (Road No. 5301A) and extending easterly a distance of 120 feet, Alamo area.

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

MDO:jcw
G:\transeng\2010\BO-TR\2010-4306.doc

Orig. Dept.: Public Works (Traffic)
Contact: Jerry Fahy (313-2276)
cc: California Highway Patrol
Sheriff's Department

ATTESTED: *January 26, 2010*
DAVID TWA, Clerk of the Board of Supervisors and
County Administrator

By *June M. Brown*
Deputy

TRAFFIC RESOLUTION NO. 2010/4306

**CONTRA COSTA COUNTY
POSITIONS TO BE ABOLISHED/REDUCED
Effective: February 19, 2010
(Unless Otherwise Noted)**

DEPARTMENT: Department of Information Technology

Pos #	Classification	Class Code	Org #	FT/PT	Vacant/ Filled
36	Deputy Dir CHF Info Sec Ofc - EX	LWS1	1055	1.0	Filled
13520	Deputy Dir/Info Technology- EX	LTD1	1075	1.0	Vacant
70	Systems Software Analyst II	LWVA	1060	1.0	Filled



Contra
Costa
County

To: Board of Supervisors
From: Anne Cain, Librarian
Date: January 26, 2010

Subject: Approve and Authorize the Librarian, or Designee, to apply for and accept a grant in the amount of \$15,000 from the California State Library

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Librarian, or designee, to apply for and accept a grant in the amount of \$15,000 from the California State Library, Library Services and Technology Act Implementation Grant Program FY2009/2010, to create an early literacy space, collections and programs at the Concord Library for the period of January 2010 through June 2010.

FISCAL IMPACT:

No matching funds are required. The Library will provide an in-kind contribution of \$35,788 for staff salaries. These funds are included in the library's FY2009/2010 budget.

BACKGROUND:

The Concord Library would be a first time recipient of the California State Library's Family Place Library Grant, part of a national initiative to create Family Place Centers in 13 California libraries. The grant provides funds to create an early literacy center, develop a parenting collection of books and media and offer parent/child workshops that encourage children (birth to 3 yrs. old) and their parents/caregivers to engage in age appropriate activities that support early childhood brain development, emergent literacy skills and parent education.



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



APPROVED AS
RECOMMENDED



OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Gayle B. Uilkema, District II
Supervisor

Mary N. Piepho, District III Supervisor

Susan A. Bonilla, District IV
Supervisor

Federal D. Glover, District V
Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Gail McPartland,
925-927-3204

cc:

CHILDREN'S IMPACT STATEMENT:

The Family Place Library Grant meets the community outcome of children ready for and succeeding in school. The Family Place Library Grant will provide direct services to parents/caregivers and their children birth through three. Grant funding will establish an interactive, early literacy learning center in the Concord Library that supports the parent's role as "first teacher" in developing their child's early reading skills, thereby preparing children to be ready for and succeed in kindergarten. The grant will also provide workshops using community resource professionals to increase parents' knowledge of their child's developmental needs and capabilities. In addition, the workshops will increase parents' awareness of community and library resources that support families and early childhood development. The Concord Library will participate in the California State Library Family Place evaluation and outcomes process to determine the impact of the grant on participants.



Contra
Costa
County

To: Board of Supervisors
From: Anne Cain, Librarian
Date: January 26, 2010

Subject: Approve and Authorize the Librarian, or Designee, to apply for and accept a grant in the amount of 5,000.00 from the California State Library

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Librarian, or designee, to apply for and accept a grant in the amount of \$5,000 from the California State Library, Library Services and Technology Act Implementation Grant Program, to provide materials and services to adults with developmental disabilities for the period of January 2010 through December 2010.

FISCAL IMPACT:

No matching funds are required. The Library will provide in-kind contribution of \$3,000 for staff salaries. These funds are included in the Library's FY2009/2010 budget.

BACKGROUND:

The implementation of this grant will improve library services and programs for adults with disabilities in all Contra Costa County Libraries and other libraries in the state of California through development of a toolkit which help librarians assist this population group. The toolkit will include online video and print resources which will assist librarians in their work.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Gail McPartland,
925-927-3204

cc:



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: County-wide Pharmacy Discount Prescription Card for Use by Uninsured Residents

RECOMMENDATION(S):

Approve and Authorize the Health Services Director or his designee (Patricia Tanquary): 1) to implement a Pharmacy Discount Prescription Card Program, available to all Contra Costa County residents, and 2) to execute a contract with Financial Marketing Concepts Inc. (FMC), to pay the County an amount not to exceed \$500,000, for the period from January 1, 2010 through December 31, 2010.

FISCAL IMPACT:

Potential estimated income up to \$500,000. Contra Costa County will bear no cost as FMC pays for all expenses for the card and distribution.

After implementation of the Pharmacy Discount Prescription Card Program, royalties of \$0.75 per filled prescription will be received by the County from FMC and would be directed to the Health Services Department to offset funds used to provide medical services to the uninsured. The royalties will not increase the price of the prescriptions for the residents of the County.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 01/26/2010

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Patricia Tanquary
313-6008

cc: J Pigg

BACKGROUND:

In 2009, the County was approached by Financial Marketing Concepts, Inc. (FMC) aka Coast2Coast Rx Card, to enter into a partnership to offer a pharmacy Discount Prescription Card Program to all Contra Costa County residents lacking drug insurance. Approval of this Program would permit Contra Costa County to enter into a partnership with FMC and authorize the use of the County name and its seal for use in promoting the Pharmacy Discount Card Program. This agreement includes mutual indemnification to hold harmless both parties for any claims arising out of the performance of this contract.

As a Drug Discount Program appeared very advantageous to the residents of our County, an RFP was prepared by the Health Department. There were three responders to the RFP in early September. Analysis of the responses to the RFP was undertaken and the responses from FMC were clearly superior to the other two responding vendors, Argus and NACo.

The FMC Program:

1. Provides free access to discounted prescriptions drug purchases to all County residents and their families;
2. Helps Contra Costa County residents that have no prescription drug insurance;
3. Is not medical insurance nor is it intended to replace insurance;
4. Is accepted at over 58,000 local, regional and national pharmacy chains and independent locations with over 60,000 drugs in the formulary;
5. Cardholders save up to 65% off the cost of medication and on average of 38% off regular retail priced drugs for both generic and brand named prescriptions;
6. Makes the Rx card easily available to residents at local pharmacies and through the website. Residents can print a card from the website:[http:// coast2coast.com/CONTRA COSTA](http://coast2coast.com/CONTRA COSTA); check drug pricing and search for the closest participating pharmacy on that site; and
7. Provides customer service to the residents of Contra Costa County, who choose to use the card as well as to the participating pharmacies.



**Contra
Costa
County**

To: Board of Supervisors
From: Joe Valentine, Employment & Human Services Director
Date: January 26, 2010

Subject: Health Insurance Counseling and Advocacy Program (HICAP) Funding Amendment

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, to execute an agreement amendment with the California Department of Aging to increase the amount paid to the County by \$34,847 to a total funding amount not to exceed \$309,041 for the Health Insurance Counseling and Advocacy Program (HICAP) for the period of July 1, 2009 through June 30, 2010.

FISCAL IMPACT:

No County costs. Per California Department of Aging, Amendment 1 (HI-0910-07), County to receive increased funding by \$34,847 for a total funding amount of \$309,041.

BACKGROUND:

The Area Agency on Aging provides Health Insurance Counseling and Advocacy Program (HICAP) services to Medicare beneficiaries, including Medicare beneficiaries by virtue of a disability, and those persons imminent of Medicare eligibility as defined by Welfare and Institutions Code (W&I) Sections 9541 (a) and (c) (2) and to the public at large for HICAP community education services under W&I Code Section 9541 (c) (1), (4), (5) and (6).

☒ APPROVE

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ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: John Cotrell,
925-313-1605

cc:



**Contra
Costa
County**

To: Board of Supervisors
From: Joe Valentine, Employment & Human Services Director
Date: January 26, 2010

Subject: 2010-11 Community Development Block Grant (CDBG) for Chidcare Center playground

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Employment & Human Services Director, or designee, to apply for and accept funding from the Contra Costa Department of Conservation and Development in an amount not to exceed \$35,000 of Community Development Block Grant (CDBG) funding for playground construction at the Employment & Human Services Department's building at 151 Linus Pauling Drive in Hercules, California during the term April 1, 2010 through March 31, 2011.

FISCAL IMPACT:

100% CDBG funding
No County match

If funded, allocation will be appropriated into the Department's 2010 - 2011 budget.

BACKGROUND:

The Department's Community Services Bureau is applying to the Contra Costa Conservation and Development Department to seek

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ADMINISTRATOR

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COMMITTEE

Action of Board On: **01/26/2010** ☐ APPROVED AS
RECOMMENDED

☒ OTHER

Clerks Notes: RELISTED to an undetermined date

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

By: June McHuen, Deputy

Contact: C. Youngblood,
313-1712

BACKGROUND: (CONT'D)

CDBG funding to purchase and install a playground at EHSD's facility located at 151 Linus Pauling Drive in Hercules.

The Department seeks to relocate its San Pablo Children's Center at this site in an effort to better serve the communities of Rodeo, Crockett and Port Costa. If funded, this grant will assist in realizing the goal to develop a childcare center at this location.

CONSEQUENCE OF NEGATIVE ACTION:

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.

CLERK'S ADDENDUM

RELISTED to an undetermined date.



Contra
Costa
County

To: Board of Supervisors
From: Vincent L. Guise, Director of Agriculture/Weights & Measures
Date: January 26, 2010

Subject: Agreement with CalTrans

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Agricultural Commissioner, or designee, to execute a contract with the State of California, Department of Transportation, to pay the County an amount not to exceed \$14,000 for control of ground squirrels and other burrowing rodents within CalTrans right-of-way in Contra Costa County, for the period December 1, 2009 through November 30, 2011.

FISCAL IMPACT:

This action provides reimbursement for County expenses, up to \$14,000, incurred during this period on behalf of CalTrans highway right-of-ways in Contra Costa County.

BACKGROUND:

Since FY 1981/82, CalTrans has contracted with the County for control of ground squirrels and other burrowing rodents within CalTrans highway right of ways in Contra Costa County. The proposed contract spans December 1, 2009 thru November 30, 2011.

CONSEQUENCE OF NEGATIVE ACTION:

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ADMINISTRATOR

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COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
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☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

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Federal D. Glover, District V Supervisor

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

By: June McHuen, Deputy

Contact: Cathy Roybal 646-5250

cc:

CHILDREN'S IMPACT STATEMENT:



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Correct January 13, 2009 Board Order item #C.27 with Contra Costa County Community Development for fiscal years 2009-2010 (20-1016)

RECOMMENDATION(S):

Correct the board order which was approved by the Board of Supervisors on January 13, 2009 with Contra Costa County Community Development to authorize the Health Services Director, or his designee (Wendel Brunner, M.D.), accept an amount up to \$470,000 of CDBG funding instead of \$400,000, for the development of the Respite Interim Housing Program, for fiscal year 2009-2010.

FISCAL IMPACT:

The \$470,000 requested in EHAP Capital Development is necessary to enhance the Adult Interim Housing Program in order to serve those who are medically fragile and homeless. CDBG requires a 25% match which was met through State of California Emergency Housing and Assistance Capital Development (EHAPCD) funds previously awarded to the County under another grant. No additional County funds required.

BACKGROUND:

The Health Services Department seeks funding through the Contra Costa County Community Development's Affordable Housing Program to support the conversion of 2047-D

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ADMINISTRATOR

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Action of Board On: 01/26/2010

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☐ OTHER

Clerks Notes:

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Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

Contact: Wendel Brunner, M.D.
313-6712

By: June McHuen, Deputy

BACKGROUND: (CONT'D)

Arnold Industrial Way in Concord for respite housing for the homeless. The goal of this program is to provide outreach, short-term shelter, goal-oriented counseling, and health services to medically fragile homeless individuals living on the streets or recently discharged from hospitals.

On January 13, 2009, the Board of Supervisors approved submittal of application #20-1016 to Contra Costa Community Development Block Grant (CDBG), for the County to develop and transmit an application, along with the necessary certification and assurances for the development of the Respite Interim Housing Program, for fiscal years 2009-2010.

The purpose of this Board Order is to correct the accepted amount of \$470,000 in CDBG funding instead of \$400,000 for the Respite Interim Housing Program through November 30, 2010.



**Contra
Costa
County**

To: Board of Supervisors
From: Joe Valentine, Employment & Human Services Director
Date: January 26, 2010

Subject: 2009-10 CDE CalWORKS Stage 2 Childcare Revenue Contract Amendment 2

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Employment & Human Services Department director, or designee, to execute a contract amendment with California Department of Education for the support of childcare and development programs (CalWORKS Stage 2) to update Funding Terms and Conditions to include new program eligibility requirements, admissions policies and fee schedule, with no change to the payment limit of \$4,870,787 or term July 1, 2009 through June 30, 2010.

FISCAL IMPACT:

\$103,000 Federal funding (CFDA #93.575)

\$4,767,787 State funding

No County match

State: C2AP-9010, Amend 2

County: 29-213-8

☒ APPROVE

☐ OTHER

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ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
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☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

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Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: C. Youngblood,
313-1712

BACKGROUND:

The Board originally approved receipt of funds from the California Department of Education on July 7, 2009 for CalWORKS Stage 2 childcare services. On December 1, 2009 the Board approved receipt of additional funding for this agreement. This proposed amendment is to update Funding Terms and Conditions with new information from the State regarding program eligibility requirements, admissions policies, and fee schedule.

This revenue agreement supports the County's CalWORKS Stage 2 childcare services for eligible children and families.

State: C2AP 9010, Amend 2

CCC: 29-213-8

CONSEQUENCE OF NEGATIVE ACTION:

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.



Contra
Costa
County

To: Board of Supervisors
From: Glenn E. Howell, Animal Services Director
Date: January 26, 2010

Subject: Purchase Order with Butler Animal Health Supply L.L.C.

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Purchasing Agent to execute, on behalf of the Animal Services Department, a purchase order, in reference to Bid Sync Bid # 0910-004, to Butler Animal Health Supply, L. L. C., in the amount of \$107,852 to purchase food for shelter animals for the period February 1, 2010 through January 31, 2012.

FISCAL IMPACT:

\$ 107,852 (33% County General Fund, 67% fee and contract city revenue)

BACKGROUND:

The proposed Purchase Order with Butler Animal Health Supply will provide the Animal Services Department with food for animals in our two shelters for the period of February 1, 2010 through January 31, 2012.

In accordance with Administrative Bulletin No 611.0, County Departments are required to get Board approval for single item purchases over \$100,000. The County Administrator's Office has reviewed this request and recommends approval.

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Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Al Prince 335-8374

cc:

CONSEQUENCE OF NEGATIVE ACTION:

CHILDREN'S IMPACT STATEMENT:



Contra
Costa
County

To: Board of Supervisors
From: Warren Rupf, Sheriff-Coroner
Date: January 26, 2010

Subject: Purchase of Night Vision Goggle Equipment and Related Aircraft Modifications

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Purchasing Agent, to execute a purchase order, on behalf of the Sheriff-Coroner, with Night Flight Concepts, Inc., in an amount not to exceed \$148,175 for aviation night vision goggle equipment and associated aircraft modifications.

FISCAL IMPACT:

No Net County Costs: 100% of the equipment cost is included in the 2007 Port Security grant funded by the U.S. Department of Homeland Security. (CFDA #97.056)

BACKGROUND:

On September 11, 2007 (Item C.99), the Board of Supervisors authorized the Sheriff-Coroner to apply for and accept the 2007 Port Security Grant. The U.S. Department of Homeland Security awarded the 2007 Port Security Grant to the Office of the Sheriff for the provision of a combined security deterrence and response capability in the water, air, and land, in cooperation with the U.S. Coast Guard, allied agencies and industry. A key element of the grant was the funding

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Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Eileen Devlin, (925)
335-1557

cc:

BACKGROUND: (CONT'D)

of equipment to enhance security deterrence capabilities established with the 2006 Port Security Grant. The 2007 grant specified the purchase of aviation night vision equipment and related aircraft modifications to detect, deter and prevent threats to critical infrastructure in the region.

The purchase of the equipment will meet the specifications of the grant, will meet the grant goals, and will provide a critical homeland security tool for the region. This equipment will provide the Sheriff's Air Support Unit with the ability to locate threats at night and enhance the security of the critical infrastructure in the Bay and Delta region. In accordance with grant regulations, the Office of the Sheriff awarded the bid to Night Flight Concepts Inc. upon completion of the competitive bidding process.

CONSEQUENCE OF NEGATIVE ACTION:

Negative action on this request will result in the loss of Federal funding designed to significantly increase the safety and security of persons and property within Contra Costa County.



Contra
Costa
County

To: Board of Supervisors

From: Julia R. Bueren, Public Works Director/Chief Engineer

Date: January 26, 2010

Subject: Amendment No. 2 to an existing Consulting Services Agreement with Nolte Associates, Inc. Project
Nos.: 0662-6R4254-09; 0662-6R4255-10

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a second amendment with Nolte Associates, Inc., effective October 14, 2009, to increase the payment limit by \$1,460,000 to a new payment limit of \$2,888,500 to provide additional civil engineering design services for the Vasco Road Safety Improvements project, Brentwood area.

FISCAL IMPACT:

There is no fiscal impact to the General Fund. This Consulting Services Agreement amendment allows for an additional \$1,460,000 above the previously approved payment limit of \$1,428,500. The increase in payment is to be funded by Proposition 1B funds.

BACKGROUND:

On August 5, 2008, the Board of Supervisors approved the Consulting Services Agreement (CSA) for final civil engineering design services for the Vasco Road Safety Improvements project with Nolte Associates, Inc. The initial project proposed to construct a permanent concrete median barrier along a 2.3 mile stretch of Vasco Road beginning approximately 3 miles north of the Alameda County line to approximately 5.3 miles north of the County line. Since then, County staff has identified construction funding sources for a 1.2 mile stretch of the project and has split the project into two phases. The first phase is fully funded and includes \$11,700,000 of American Reinvestment and Recovery Act (ARRA) funds. Phase 1 is currently being advertised for bids with bids scheduled to be opened on February 2, 2010.



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



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OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Gayle B. Uilkema, District II
Supervisor

Mary N. Piepho, District III
Supervisor

Susan A. Bonilla, District IV
Supervisor

Federal D. Glover, District V
Supervisor

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

By: June McHuen, Deputy

Contact: Neil Leary, 313-2278

cc: Neil Leary, Chris Lau, Paulette Denison

Phase 2 of the project is currently at 65 percent design stage. This amendment provides budget to complete the plans and specifications for Phase 2 within an accelerated time frame in anticipation of future availability of ARRA funds for its construction. The environmental documents (both CEQA and NEPA) have already been approved for both Phases 1 and 2.

With environmental approval already secured and design at 65 percent, Vasco Road Phase 2 is the County's top candidate to receive ARRA funds. The completion of plans and specifications in Spring 2010 will be critical in order to have this phase of the project poised to capture ARRA funds should additional funds become available in 2010.

Amendment No. 1 to the CSA was approved by the Board of Supervisors on August 25, 2009. Amendment No. 1 was for the additional design service items associated with Phase 1 of this project.

The following are some of the additional work items that gave cause for this amendment to Nolte's current CSA:

BACKGROUND: (CONT'D)

Phase 1 additional work:

- Design of temporary wildlife exclusion fence, gates and jumpouts.
- Preparation of addendum to Plans to eliminate retaining walls, provide layback slopes, modify, and revise driveways between stations 251 and 262.
- Preparation of addendum to add the extension of retaining wall No. 6 from station 294+50 to 303 as a bid alternative. Addendum includes all necessary changes to existing plans including drainage, wildlife crossings and fencing, erosion control, and stage construction.
- Additional project management due to delays in the advertisement schedule by Caltrans and FHWA.

Phase 2 additional work:

- The original CSA provided design fee to bring Phase 2 up to a 65% design stage. This amendment provides budget to complete plans and technical specifications. The budget includes an option to layback cut slopes should the project schedule allow time for acquisition of right of way. If not, there is a budget item for design of retaining walls to remain within existing road rights of way.

This amendment provides for completion of construction bid documents for both Phase 1 and 2 of the safety improvement project (approximately 2.3 miles in length). This amendment also provides budget for bid and construction support of both phases of work at the County's request.

Due to the accelerated schedule to meet ARRA funding requirements, Nolte initiated various out of scope design tasks (described above) that are on the critical path prior to the projected approval date of the amendment on January 26. The consequence for deferring Nolte's start of this work was to jeopardize the \$11,700,000+ in ARRA funds that are programmed for construction of Phase 1 of this project.

CONSEQUENCE OF NEGATIVE ACTION:

The consequence for negative action by the Board is to jeopardize \$11,700,000 in ARRA funds that are programmed for Phase 1 of this project and may jeopardize future allocations of ARRA funding for Phase 2 of the project.

CHILDREN'S IMPACT STATEMENT:



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Contract #27-534-3 with Epocrates, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee (Patricia Tanquary), to execute, on behalf of the County, Contract #27-534-3 with Epocrates, Inc., a corporation, in an amount not to exceed \$31,500, to provide administration services for the Health Plan's Drug Formulary, for the period from January 1, 2010 through December 31, 2012.

FISCAL IMPACT:

This Contract is funded 100% by Member Premiums.

BACKGROUND:

The Contra Costa Health Plan has been continually initiating cost reduction measures to promote affordable healthcare in Contra Costa County. Recent years have seen a dramatic rise in the cost associated with drug formularies. Under this Contract, the Contractor provides an electronic drug formulary to be downloaded to providers' handheld computers. This reduces drug costs by allowing providers to select approved medications, from the Health Plan's Drug Formulary, by selecting generic versus costly name brand drugs.

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Action of Board On: 01/26/2010

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RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
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Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Patricia Tanquary
313-6008

BACKGROUND: (CONT'D)

On March 6, 2007, the Board of Supervisors approved Contract #27-534-2 with Epocrates, Inc., for the period from January 1, 2007 through December 31, 2009, for the provision of administration services for the Health Plan's Drug Formulary.

Approval of Contract #27-534-3 will allow the Contractor to continue providing services through December 31, 2012, including mutual indemnification to hold harmless both parties for any claims arising out of the performance of this contract.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Novation Contract #24-959-17 with Family Stress Center, Inc.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee (Donna Wigand), to execute, on behalf of the County, Novation Contract #24-959-17 with Family Stress Center, Inc., a non-profit corporation, in an amount not to exceed \$106,000, to provide mental health services to recipients of the CalWORKs Program, for the period from July 1, 2009 through June 30, 2010. This Contract includes a six-month automatic extension through December 31, 2010, in an amount not to exceed \$53,000.

FISCAL IMPACT:

This Contract is funded 100% by State CalWORKs through the Employment and Human Services Department.

BACKGROUND:

In August 1997, the State of California Legislature passed Assembly Bill 1542 which brought major changes to the welfare programs previously operated by the State. Among the changes was a provision that required treatment of substance abuse and mental illnesses of Welfare-to-Work participants, when these conditions interfere with participation in Welfare-to-Work activities.

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☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Donna Wigand 957-5111

cc: L. Smith, B Borbon

BACKGROUND: (CONT'D)

Subsequently, the County's Employment and Human Services Department and Health Services Department signed an Interdepartmental Services Agreement (#21 427), which allowed the Health Services Department to provide substance abuse and mental health services to Welfare-to-Work participants referred by the Employment and Human Services Department.

On January 29, 2009, the Board of Supervisors approved Novation Contract #24-959-16 with Family Stress Center, Inc., for the period from July 1, 2008 through June 30, 2009, which included a six-month automatic extension through December 31, 2009, for the provision of mental health services, including individual, group and family collateral counseling, case management, and medication management services to CalWORKs participants to reduce barriers to employment.

Approval of Novation Contract #24-959-17 replaces the automatic extension under the prior Contract and allows the Contractor to continue providing services through June 30, 2010.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Contract #74-387 with Seneca Residential and Day Treatment Center for Children

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee (Donna Wigand), to execute, on behalf of the County, Contract #74-387 with Seneca Residential and Day Treatment Center for Children, a non-profit corporation, in an amount not to exceed \$251,915, to provide school-based mental health services to Seriously Emotionally Disturbed (SED) students, for the period from November 1, 2009 through June 30, 2010.

FISCAL IMPACT:

This Contract is funded 30% by Federal FFP Medi-Cal, 17% by State Early and Periodic Screening, Diagnosis and Treatment (EPSDT), 50% by Individuals with Disabilities Education Act (IDEA/SB 90), and 3% by County Mental Health Realignment.

BACKGROUND:

This Contract meets the social needs of County's population by providing school-based mental health services, including assessments; individual, group and family therapy; medication support; case management; outreach; and crisis intervention services for SED school-aged children and their families.

Under Contract #74-387, Contractor will provide school-based mental health services to SED students at Kennedy High School in Richmond, through June 30, 2010.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

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RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
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Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Donna Wigand,
957-5111

CHILDREN'S IMPACT STATEMENT:

This program supports the following Board of Supervisors' community outcomes: "Children Ready For and Succeeding in School"; "Families that are Safe, Stable, and Nurturing"; and "Communities that are Safe and Provide a High Quality of Life for Children and Families". Expected program outcomes include an increase in positive social and emotional development as measured by the Child and Adolescent Functional Assessment Scale (CAFAS).



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Interagency Agreement #74-383 with the Regents of the University of California, Davis

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee (Donna Wigand), to execute, on behalf of the County, Interagency Agreement #74-383 with the Regents of the University of California, Davis, an educational institution, in an amount not to exceed \$18,768, to provide training for the County's Mental Health Division staff for the period from September 1, 2009 through August 31, 2010.

FISCAL IMPACT:

100% Mental Health Services Act (MHSA) Workforce Education and Training.

BACKGROUND:

Under Agreement #74-383, the University of California, Davis will provide training for the Mental Health Division staff, including Law and Ethics, Clinical Supervision, Clinical Case Management and Foundations of Supervision, through August 31, 2010.

This Agreement includes modification to the General Conditions, Paragraph 15. (Conflict of Interest), Paragraph 19. (Insurance), Paragraph 25. (Copyrights)

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

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RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Donna Wigand,
957-5111

cc: Tasha Scott, Barbara Borbon

BACKGROUND: (CONT'D)

and Rights in Data) and Paragraph 18. (Indemnification) to mutually indemnify both parties for any claims arising out of the performance of this Contract.



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Amendment #26-604-1 with Michael Gynn, M.D.

RECOMMENDATION(S):

Approve and authorize the Health Services Director, or his designee, to execute, on behalf of the County, Contract Amendment Agreement #26-604-1 with Michael Gynn, M.D., a self-employed individual, effective October 1, 2009, to amend Contract #26-604, to increase the payment limit by \$140,000, from \$732,600 to a new payment limit of \$872,600, with no change in the original term of June 4, 2007 through May 31, 2010.

FISCAL IMPACT:

This Contract is funded 100% by Enterprise Fund I.

BACKGROUND:

On July 24, 2007, the Board of Supervisors approved Contract #26-604 with Michael Gynn, M.D. for the period from June 4, 2007 through May 31, 2010, for the provision of general surgery services for patients at Contra Costa Regional Medical Center and Contra Costa Health Centers.

Approval of Contract Amendment Agreement #26-604-1 will allow the Contractor to provide an additional level of administrative

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Steven Tremain,
370-5122

cc: Tasha Scott, Barbara Borbon

BACKGROUND: (CONT'D)

duties including acting as the Section Chief of the General Surgery Unit at Contra Costa Regional Medical Center, through May 31, 2010.



**Contra
Costa
County**

To: Board of Supervisors
From: Joe Valentine, Employment & Human Services Director
Date: January 26, 2010

Subject: Non-Financial Memorandum of Understanding for Title V Work Experience Program

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Employment and Human Services Director, or designee, on behalf of the Workforce Development Board of Contra Costa, to execute a non-financial Memorandum of Understanding with the Department of Rehabilitation as a host agency to the Title V Workforce Experience Program to provide training and work experience services to Title V qualified older adults in Contra Costa County, including mutual indemnification against any claim arising out of the performance of this agreement for the period of January 1, 2010 through March 31, 2011.

FISCAL IMPACT:

No fiscal impact. Non-Financial Memorandum of Understanding.

BACKGROUND:

The Title V Work Experience Program gives participants an opportunity to learn job skills. Host agencies that agree to participate in the Title V Work Experience Program provide training and guidance to the program participants in the areas of soft skills, including work



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



APPROVED AS



OTHER

RECOMMENDED

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Gayle B. Uilkema, District II Supervisor

Mary N. Piepho, District III Supervisor

Susan A. Bonilla, District IV Supervisor

Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Stephen Baiter,
925-602-6820

cc:

BACKGROUND: (CONT'D)

etiquette and workplace culture, and hard skills, including job/employment skills training and practice in the use of recently acquired skills. The Department of Rehabilitation, as a host agency to the program, will provide skills training to older adults in Contra Costa County.

CONSEQUENCE OF NEGATIVE ACTION:

CHILDREN'S IMPACT STATEMENT:



Contra
Costa
County

To: Board of Supervisors
From: Jason Crapo, County Building Official
Date: January 26, 2010

Subject: Residential Rental Inspection Program

RECOMMENDATION(S):

REFER review of the Residential Rental Inspection Program to the Public Protection Committee, as recommended by the Conservation and Development Director.

FISCAL IMPACT:

None

BACKGROUND:

The Residential Rental Inspection Program (RRIP) was established by the Board of Supervisors in 2004 with the stated purposes to identify and reduce the number of blighted and deteriorated rental housing units, maintain safe housing for renters, and improve the overall quality of life for communities throughout the County.

After 5 years of operation, the Department of Conservation and Development (DCD) is finding it difficult to achieve the desired goals of the programs within its current operational and financial structure. The current program model is highly labor intensive and the revenues generated by the program do not cover its operational costs. DCD suggests that the Public Protection Committee

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Jason Crapo (925)
335-1108

cc:

BACKGROUND: (CONT'D)

receive a report from DCD concerning the status of RRIP and consider staff recommendations for making changes that will further the operational goals of the program and improve its financial sustainability.



Contra
Costa
County

To: Board of Supervisors
From: Linda Dippel, Child Support Services Director
Date: January 26, 2010

Subject: Authorize Auditor-Controller to Establish an Agency Fund

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Auditor Controller to establish an Agency Fund on behalf of the Department of Child Support Services for the purpose of collecting, holding and disbursing funds received by outside agencies for services provided under the Delinquency Prevention Program (DPP)

FISCAL IMPACT:

This action will result in a zero fiscal impact. This fund will be utilized only to manage the cash received from outside agencies. These funds will be disbursed based upon the services provided by the DPP utilized by the individual outside agencies. Neither the County General Fund nor the funds of the Department of Child Support Services will be impacted.

BACKGROUND:

The Contra Costa County Department of Child Support Services has contracted an outside vendor to provide early intervention services through the use of a Delinquency Prevention Program (DPP). The pricing structure per case for these services is discounted as the volume

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

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Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Adrienne Todd,
313-4454

cc:

BACKGROUND: (CONT'D)

of cases serviced increases. Through interagency agreements, Contra Costa Department of Child Support Services has proposed to allow other county child support services offices to submit their cases for servicing, in conjunction with Contra Costa to increase the case load. This will allow for all participating agencies to take advantage of volume discount pricing. Contra Costa Department of Child Support Services is proposing to act as the intermediary between the other agencies and the vendor.

To the extent that Contra Costa County Department of Child Support Services is acting as an intermediary for outside agencies, it is required that the collection, payment and accounting associated for each other agency be kept separate from Contra Costa's own DPP transactions and expenditures. Establishing a new Agency Fund would provide the tool to adequately manage these processes.

CONSEQUENCE OF NEGATIVE ACTION:

If the authorization to create an Agency Fund is not approved, Contra Costa County Department of Child Support Services will not have the ability to act as an intermediary between the other agencies and the DPP vendor. This could jeopardize the ability to take advantage of volume discount pricing.

CHILDREN'S IMPACT STATEMENT:



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: January 26, 2010

Subject: Approval of Medical Privilege Forms

RECOMMENDATION(S):

Approve the recommended changes to the specified medical privileges and the attached Medical Privileges Forms which were approved by the Medical Executive Committee in December 2009, and as recommended by the Health Services Director.

FISCAL IMPACT:

None.

BACKGROUND:

The Joint Commission on Accreditation of Healthcare Organizations requires Board of Supervisors approval criteria that determine a practitioners' ability to provide patient care, treatment, and service within the scope of the privilege(s) requested.

These Medical Privileges Forms were reviewed by the Credentials Committee and approved by the Medical Executive Committee. The new privileges will allow the following: (1) Anesthesiologists to do pre-operative History and Physicals (H&Ps) (2) Certified Nurse Midwives to assist with Caesarian

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Steven Tremain,
370-5122

cc: Tasha Scott, Barbara Borbon, juana fon

BACKGROUND: (CONT'D)

Sections and ante-partum fetal heart rate monitoring third trimester ultrasounds; and (3) Obstetricians to do Dilation and Curettage for missed abortions (ie Natural miscarriages).

ATTACHMENTS

G:\C&G DIRECTORY\NON CONTRACTS\Attachment 1.doc

G:\C&G DIRECTORY\NON CONTRACTS\Attachment 2.doc

G:\C&G DIRECTORY\NON CONTRACTS\Attachment 3.doc

Attachment 1

Contra Costa Regional Medical Center Privileges Request Form

Practitioner: _____

Department(s)	Number	Privilege Description D=With Direct Supervision C=With Consultation U=Unrestricted	D/C/U	Training/ Education	Experience	Current Competence	✓ Requested	✓ Granted	D = Denied P = Pending CNM = Criteria Not Met
		Ob/Gyn							
CNM	OBG 5	Antepartum fetal heart rate monitoring	D	CA Lic. FNP, or CNM	N/A	N/A			
			U	CA Lic. FNP, or CNM	30	8 cases in last 4 yrs.			
CNM	OBG 6	<u>Basic 3rd trimester Obstetrical ultrasound, including viability, placenta location, fetal number, and amniotic fluid index*</u>	D	CA Lic. FNP or CNM	N/A	N/A			
			U	CA Lic. FNP or CNM	10	4 cases in last 2 yrs.			
	OBG 22	<u>Diagnostic D&C, incomplete or missed abortion*</u>	D	CA Lic or FNP	N/A	N/A			
			C	CA Lic or FNP	10	N/A			
			U	CA Lic or FNP	20	1 case in last 4 yrs.			

Contra Costa Regional Medical Center
Privileges Request Form

Practitioner: _____

Department(s)	Number	Privilege Description D=With Direct Supervision C=With Consultation U=Unrestricted	D/C/U	Training/ Education	Experience	Current Competence	✓ Requested	✓ Granted	D =Denied P =Pending CNM =Criteria Not Met
		Ob/Gyn - CNM							
		Assist at C-Sections	U	CNM	N/A	N/A			

Attachment 3

Contra Costa Regional Medical Center Privileges Request Form

Practitioner: _____

Department(s)	Number	Privilege Description D=With Direct Supervision C=With Consultation U=Unrestricted	D/C/U	Training/ Education	Experience	Current Competence	Requested ✓	Granted ✓	D = Denied P = Pending C/NM = Criteria Not Met
		Anesthesia							
		Pre-operative Histories and Physicals. (for providers without inpatient, medicine, surgery, or Ob/Gyn privileges, or general outpatient privileges).	C	CA Lic or FNP	N/A	N/A			
			U	CA Lic or FNP	N/A	1 yr in last 4 yrs.			

I certify that I have reviewed the Contra Costa Regional Medical Center Privilege Criteria, and that I meet the specified criteria for education/training, experience, and current competence for the privilege, which I have indicated above.

Signature of Requesting Practitioner

Date

Signature of Department Chairperson

Date



Contra
Costa
County

To: Board of Supervisors
From: Federal D. Glover, District V Supervisor
Date: January 26, 2010

Subject: 2009 ANNUAL REPORT FROM BAY POINT MUNICIPAL ADVISORY COUNCIL

RECOMMENDATION(S):

RECEIVE 2009 Annual Report submitted by the Bay Point Municipal Advisory Council.

FISCAL IMPACT:

None.

BACKGROUND:

On June 18, 2002, the Board of Supervisors adopted Resolution No. 2002/337, which requires that each regular and ongoing board, commission, or committee shall annually report to the Board of Supervisors on its activities, accomplishments, membership attendance, required training/certification (if any), and proposed work plan or objectives for the following year.

The attached report fulfills this requirement for the Bay Point Municipal Advisory Council.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Lynn Reichard, District V
Staff 427-8138

cc: Lynn Reichard, District V Staff

ATTACHMENTS

Bay Point Municipal Advisory Council Annual Report -
2009



Bay Point Municipal Advisory Council
P.O. Box 5038
Bay Point, CA 94565

Contact: Vicki Zumwalt, Chair
Telephone #: (925) 427-8360
Fax #: (925) 427-8142

2009 Annual Board Report-Bay Point Municipal Advisory Council

In 2009 Eva Garcia, Bay Point Municipal Advisory Council (BPMAC) member, was the coordinator for our newsletter. This newsletter was distributed to 8000 house holds twice during the year, providing important information to 25,000 residents. The Keller Canyon mitigation funds supported the newsletter costs and we were grateful for the grant funding. Residents have benefited greatly from the newsletter content including safety and county information, services that are available in Bay Point and other topics of help related to our community and its residents. This bilingual newsletter is very well received by our community and it is an excellent communication method to all our residents.

In January 2009 Supervisor Glover merged the Project Area Committee with the Bay Point Municipal Advisory Council. In February 2009 Maureen Toms conducted a Redevelopment educational program for MAC Board members. This was well received by MAC board members and helped set the stage for redevelopment work in 2009.

In April, June and July 2009 town hall meetings were held in Bay Point by our 5th District Supervisor, Federal Glover and Contra Costa County employee's and consultants. The meetings covered public safety, Willow Pass Road and Bailey Road safety improvements, code enforcement and topics relevant to the Bay Point area.

In May 2009 Bay Point hosted their second annual "Spring Derby" parade and festival. The BPMAC members were very active in helping on the logistics of this parade and promoting the event. The community turned out in large numbers all along the parade route on Willow Pass Road and it was very encouraging to see children and adults out in large numbers to participate in this annual event.

During 2009 MAC board members attended several Joint MAC meetings at various locations within our county. The information presented on County programs assisted members in helping our community members understand what is available to them in terms of low income weather stripping, and loans to code enforcement updates. Learning

about other areas within our county is interesting and meeting board members from other areas helps us to understand the challenges faced throughout the county and not just our own small area. In 2010 Bay Point will host a joint MAC meeting and we are looking forward to welcoming officials to our community.

National Night Out celebration was supported by the Bay Point MAC in August. In November 2009 the Bay Point Municipal Advisory Council hosted a residential clean up supported by Allied Waste Company. Eva Garcia spearheaded this effort and the following board members participated; Zumwalt, Stevenson, and Magleby.

Each month the Bay Point Municipal Advisory Council presents Outstanding Citizens of the Month awards to deserving residents of Bay Point. This is very well received by both our residents and public servants alike, who provide service to our community day in and day out.

In 2009 the BPMAC worked with our code enforcement officer cleaning up junk yard conditions and ensuring our community was kept safe. Charles Tremaine and Sterling Stevenson sought Board input on the top areas for improvement in Bay Point and are working closely with our Supervisor and Code enforcement.

Terrilyn Kopitar, Charles Tremaine and Debra Mason were our representatives to the CAP ensuring communication from our chemical companies and the Bay Point Community.

Gloria Magleby spear headed the Bay Point Pride organization and represents the Chamber of Commerce, Historical Society, Library, and the Ambrose Park and Recreation department, being the MAC's eyes and ears from these important groups within our community.

During 2009 BPMAC members attended Annual Training for Advisory Bodies to the Contra Costa County Board of Supervisors. Members of the BPMAC received the required in person or video training on the Brown Act and Better Government Ordinance.

Attached is a list of our 2009 meetings and the council members who were both present and absent.

Our community is made strong by the many community organization within Bay Point and the members of the Bay Point MAC who give of themselves unselfishly, helping others and ensuring the quality of life in Bay Point is what our residents seek.

PROPOSED 2009 WORK PLAN

Many of the 2009 activities supported by the Bay Point Municipal Advisory Council are recommended for 2010:

- Newsletter
- Town hall meetings
- Memorial day parade

- National Night Out
- Outstanding Citizens of the Month
- County Annual training for MAC members
- Hosting of a joint MAC meeting

MAC 2009 Meetings Attendance - Out of 11 meetings:

<u>Name</u>	<u>Meetings attended</u>
Garcia	10
Kopitar	7
Magleby	11
Mason	8 (installed February 2009)
Stevenson	8 (installed February 2009)
Tremaine	9 (installed February 2009)
Zumwalt	10

January 2009 Meeting

Hoagland	1
Siegfriend	1
Gabor	0



**Contra
Costa
County**

To: Board of Supervisors
From: Federal D. Glover, District V Supervisor
Date: January 26, 2010

Subject: 2009 ANNUAL REPORT FROM BETHEL ISLAND MUNICIPAL ADVISORY COUNCIL

RECOMMENDATION(S):

RECEIVE 2009 Annual Report submitted by the Bethel Island Municipal Advisory Council.

FISCAL IMPACT:

None.

BACKGROUND:

On June 18, 2002, the Board of Supervisors adopted Resolution No. 2002/337, which requires that each regular and ongoing board, commission, or committee shall annually report to the Board of Supervisors on its activities, accomplishments, membership attendance, required training/certification (if any), and proposed work plan or objectives for the following year.

The attached report fulfills this requirement for the Bethel Island Municipal Advisory Council.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010** ☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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ATTESTED: January 26, 2010
, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact:

cc: Lynn Reichard, BOS Staff District V

ATTACHMENTS

BOS Annual Report for Bethel Island Municipal Advisory Council -
2009

Bethel Island

MAC

Submitted by Belinda Bittner, chairperson

Activities and Accomplishments

The primary goals of the MAC in 2009 and going forward was and is to increase community awareness and participation at the monthly MAC meetings.

We successfully scheduled monthly guest speakers who brought timely and pertinent information to the folks of our community. Presentations included speakers from the following groups:

- Heart Health
- BIMID
- Code Enforcement
- Neighborhood Preservation
- Public Works
- Small Water Systems
- Vector Control
- Census 2010
- Transportation, Water & Infrastructure Committee

MAC's activities and efforts have resulted in some major improvements and changes in 2009:

1. MAC continues working with East Contra Costa Fire Protection District promoting the sale and installation of illuminated house number signs that allow the fire fighters easier location of island addresses. To date, we have installed more than 350 signs on island resident properties.
2. The MAC Board is currently working with community residents and Marine Patrol to add additional signage to our local waterways. We have identified specific locations where watercraft historically and habitually violate "NO WAKE" and "5 MPH" zones (both private docks and existing pilings) and intend to install additional signage in those locations.
3. The island wide "DRY HYDRANT" water system is currently in the development stages. This system will allow the fire department access to filtered delta water at various locations on our levees. This will greatly aid firefighters in our community during fire emergencies.
4. MAC members regularly meet with the County Code Enforcement group to establish a list of enforcement priorities that meets the needs of the community as well as the county enforcement folks.

5. The island Emergency Preparedness group held their 5th annual Safety Fair in September 2009. This effort provides the community needed information and education in case of an emergency or natural disaster on our island.

MEMBERSHIP

The current MAC board is very dedicated, hard working and proactive in the Bethel Island community. We feel that we have made significant and positive influence in our community.

Belinda Bittner will continue as chair person through February 2010. Rich Marshall will assume the position of chair person on March 1, 2010.

<u>Members in 2009:</u>	Chair	Belinda Bittner
	Vice-chair	Rich Marshall
	Member	David Graas
	Member	Bob Cameron
	Member	Joe Stokley

Attendance – 2009

- February All present
- March Stokley absent
- April All present
- May all present
- June Bittner absent
- July Stokley absent
- August All present
- September All present
- October All present
- November Marshall absent
- December Bittner absent

MAC

WORK PLAN AND OBJECTIVES for 2010

January 6, 2010

MAC priorities for the year 2010 will continue to provide the Bethel Island community the opportunity to communicate with the Service Providers of Contra Costa County. This effort in the past year has proven very successful in allowing amicable communiqué between our citizens and the county groups.

We will continue to schedule pertinent and informative speaker presentations at our monthly meetings.

We will continue our work on:

1. House numbering project
2. Dry Hydrant project
3. NO WAKE and Speed Limit signage
4. Heart Health education
5. Citizen's Fire Committee
6. Code enforcement communications
7. Emergency Preparedness programs and education

Bethel Island MAC meetings are held the 2nd Tuesday of every month at 6:00 pm at Scout Hall on Bethel Island.

Chair: Belinda Bittner

Secretary: Kendra Ward

Staff District V: Lynn Richard



Consent 63.
Other Actions

AIR-3774

BOS Agenda

Meeting Date: 01/26/2010

Time (Duration):

Oakley Station #93 agreement

Submitted For: David Twa, County Administrator

Department: County Administrator

Division: Public Protection

Noticed Public Hearing: No

Official Body: Board of Supervisors

Presenter/Phone, if applicable:

Audio-Visual Needs:

Handling Instructions:

District: District V

Contact, Phone: Rich Seithel, 335-1024

Recommendation(s):

Acting in its capacity as the Contra Costa County Board of Supervisors and as the East Contra Costa Fire Protection District Board of Directors ("District" or "ECCFPD"):

APPROVE and AUTHORIZE the County Administrator, or designee, and the Acting Fire Chief, ECCFPD, to execute an agreement with the City of Oakley and the City of Oakley Redevelopment Agency for construction of a new fire station #93 in the City;

APPROVE and AUTHORIZE the conveyance of the County-owned property at 215 Second Street (existing Station #93) (APN 035-131-002) to the City or Redevelopment Agency upon completion of the fire station project, and;

APPROVE and AUTHORIZE the conveyance of District-owned property known as the Live Oak Avenue Property (APN 041-021-014) to the City or Redevelopment Agency upon completion of the fire station project, and;

APPROVE and AUTHORIZE the transfer of \$850,000 from the East Contra Costa Fire Protection District – Oakley Developer Fee account to the City of Oakley upon execution of the agreement.

Fiscal Impact:

The fiscal impact is neutral. The conveyance of the District and County properties are offset by the new station and property being conveyed to the District following the completion of construction.

Background:

Existing fire station #93 is located in the City of Oakley. It was built in the 1950s and designed for volunteer and paid-on-call firefighters. It is not large enough to adequately accommodate the career District staff and equipment that are now housed at that station. In addition, the City of Oakley has experienced a large population growth in south Oakley. The District V Supervisor, County Administrator, and staff have been working with the City of Oakley over the past two years to address the deteriorating condition, as well as the less than optimum location for serving the expanding populace of Oakley.

The new Station #93 will be located at 530 O'Hara Avenue in the City of Oakley. It will comfortably house three firefighters and an American Medical Response (AMR) quick response vehicle. The 530 O'Hara Avenue location will afford better coverage of the increased population in south Oakley as it is more centrally located than the current Second Street #93 Station. The population increase is a result of new development in the City of Oakley and, therefore, it is appropriate to utilize \$850,000 in Development Fees.

The City of Oakley and the Oakley Redevelopment Agency (who purchased the La Vina property) will take the lead in constructing the new fire station and deed it and the La Vina property to the District in exchange for the: existing Station #93 building and property; the one-acre vacant parcel located on Live Oak Avenue, and; \$850,000 transfer of developer fees. It is estimated that new Station #93 will cost approximately \$3 million and that the costs will be covered by the City and County's Fire Facilities Impact Fees (Developer Fees) and the value of the property transfers. The City of Oakley and the City of Oakley Redevelopment Agency approved the contract January 12, 2010, Agenda Item 3.9 CC/RDA.

Budget Information

Information about available funds

Budgeted: ☐

Funds Available: ☐

Adjustment: ☐

Amount Available:

Unbudgeted: ☐

Funds NOT Available: ☐

Amendment: ☐

Account Code(s) for Available Funds

1:

Fund Transfers

Attachments

Oakley Agreement

Oakley Agreement

Minutes Attachments

No file(s) attached.

**AGREEMENT AMONG
THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT, THE COUNTY OF
CONTRA COSTA, THE CITY OF OAKLEY, AND THE OAKLEY REDEVELOPMENT
AGENCY FOR THE OAKLEY FIRE STATION REPLACEMENT PROJECT**

The East Contra Costa Fire Protection District, a fire protection district existing under the laws of the State of California ("District"), the County of Contra Costa, a political subdivision of the State of California ("County"), the City of Oakley, a municipal corporation ("City"), and the Redevelopment Agency of the City of Oakley, a public body corporate and politic existing under the laws of the State of California ("Agency"), mutually agree and promise as follows:

RECITALS

- A. District Fire Station 93 is currently located at 215 Second Street (the "Second Street Property"; APN 035-131-002). The County owns the Second Street Property. The Second Street Property is approximately 0.62 acres in size. One above-ground petroleum product tank is located at the Second Street Property. The legal description of the Second Street Property is set forth in Exhibit A, which is attached and incorporated by reference.
- B. Fire Station 93 was built in the 1950s and is not large enough to adequately accommodate District staff and equipment. The City, Agency and District would like to replace the current Station 93 with a larger, modern fire station to better serve the City and the Agency redevelopment project area.
- C. The City owns property at 530 O'Hara Avenue (the "La Viña Property"; APN 034-300-013 and APN 034-300-019.) The La Viña Property is approximately 1.6 acres in size and is located about ¼-mile south of the existing Station 93. The legal description of the La Viña Property is set forth in Exhibit B, which is attached and incorporated by reference.
- D. The District owns property on Live Oak Avenue, north of Laurel Road and east of Neroly Road (the "Live Oak Avenue Property"; APN 041-021-014). The Live Oak Property is approximately 1.07 acres in size. Title to the Live Oak Avenue Property is held by the District as successor in interest to the Oakley Fire Protection District. The legal description of the Live Oak Avenue Property is set forth in Exhibit C, which is attached and incorporated by reference.
- E. The City and Agency intend to build a new fire station to District specifications at the La Viña Property and convey the station and the La Viña Property to the District following completion of construction.

- F. The District and County intend to convey the Second Street and Live Oak Avenue properties to the City or the Agency following the conveyance of the improved La Viña Property to the District.
- G. California redevelopment law (Health and Safety Code section 33445) authorizes redevelopment agencies to pay for fire district capital improvements, either within or outside the project area, if the buildings, facilities, structures or other improvements are of benefit to the redevelopment project area or the immediate neighborhood in which the project is located. The La Viña Property is located within the Agency redevelopment project area. The Agency's governing body has found, pursuant to Health and Safety Code section 33445, that the new Fire Station 93 will be of benefit to the Agency redevelopment project area.
- H. On July 10, 2007, \$1,600,225 in City fire facilities impact fees and related interest earnings, which were being held in the County Treasury, were returned to the City and placed into the City Fire Facilities Impact Fee Fund, where they must be used in accordance with the City's impact fee ordinance. The construction of a new Fire Station 93 at the La Viña Property is an eligible use of these funds.
- I. \$850,000 in District fire facilities fees are available for the construction of a new Fire Station 93 at the La Viña Property.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. Definition. As used in this Agreement, the term "Project" means the construction of a new Fire Station 93 at the La Viña Property. The Project is a turn-key fire station project, designed to meet the operational needs of the District and built to emergency operations center standards, that consists of an access court, three apparatus bays, a training room, an office, and three bathrooms. The Project includes all fixtures, furnishings and utilities necessary to operate the fire station, but does not include the provision of stand-alone fire-fighting equipment or apparatus, including fire-fighting vehicles.
2. Purpose. The purpose of this Agreement is to provide for the apportionment of responsibilities and costs among the parties for the construction of the Project and to provide for the exchange of properties.
3. Land Use.
 - (a) All transactions contemplated by this Agreement are contingent on and subject to appropriate review under the California Environmental Quality Act (CEQA).

- (b) The City shall act as lead agency for the Project, obtain all permits, approvals, and entitlements necessary for the Project, and prepare environmental clearance for the Project pursuant to CEQA.

4. Project Construction.

- (a) The City shall hire an architectural firm to prepare and complete design and engineering plans, contract plans, specifications, and construction and bid documents for the Project. The final versions of all plans, specifications, and construction and bid documents must be approved in writing by the District Fire Chief. No later than 60 days after the District's written approval of all plans, specifications, and construction and bid documents, the City shall advertise the Project for construction bids and award a construction contract or contracts. Following award of the construction contract(s), the City shall perform contract administration and take all other necessary steps to construct the Project to the final Project plans and specifications.
- (b) As an alternative to the design-bid-build process described in Section 4(a), the City, with the written approval of the District Fire Chief, may elect to request design-build proposals for the Project pursuant to the procedure described in Public Contract Code Section 20175.2. In that case, the City shall advertise for design-build proposals and award a design-build contract no later than 60 days after the District's written approval of the City's documents requesting design-build proposals. In addition, the City shall obtain the written approval of the District Fire Chief before awarding the design-build contract and before approving the design documents (i.e., complete plans and specifications) prepared by the design-build entity. Following award of the design-build contract, the City shall perform design and contract administration and take all other necessary steps to design and construct the Project in compliance with the District's requirements and the design documents approved by the District.
- (c) The parties understand that the construction is a project of the City. The City will comply with California Labor Code Sections 1720-1861, and all other laws and regulations applicable to the construction of the Project.

5. Project Changes.

- (a) The City may not make or cause to be made any changes in the final plans or specifications without the prior written consent of the District Fire Chief.
- (b) The City shall administer all contract change orders for the Project.

- (c) Except as provided in subsection (d) of this section, the City shall send copies of all contract change orders to the District for the District's review. All contract change orders shall be approved in writing by the District Fire Chief prior to execution by the City. If the City does not receive written notice of the District's approval or disapproval of a contract change order within five working days of the City notifying the District of the change order, the contract change order will be deemed approved by the District. The District may not unreasonably withhold its decision.
- (d) The District may request change orders during the course of the Project. All contract change orders requested by the District must be in writing and delivered to the City Manager. Within five working days of the District's delivery of its requested change order, the City Manager shall notify District in writing of the City's approval or disapproval of the requested change order. The City may not unreasonably withhold its decision.
- (e) Payment of contract change orders will be made in accordance with subsections (b) and (c) of section 9.

6. Inspections.

- (a) The City will perform field inspections of the Project to determine conformance with Project plans and specifications and any change orders. In performing inspection and contract administration under this Agreement, the City shall utilize the services of a construction manager, construction inspector, architect, or engineer experienced with fire station construction projects and approved in writing by the District.
- (b) The City hereby grants to the District a right of entry upon the La Viña Property to gather data relevant to the Project, including testing, surveys, and studies, and to perform field inspections of the Project to determine conformance with Project plans and specifications. The District will notify the City of any change orders that are necessary to remedy design deficiencies or address nonconformance with Project plans and specifications.

7. Acceptance, Completion, and Assignment.

- (a) Upon completion of Project construction, the City and District will conduct a joint final inspection of the Project. After the City and District have determined that the work performed has been completed in accordance with the approved plans and specifications and to the City's and District's satisfaction, and after the District Fire Chief has provided written notice to the City Manager of the District's approval of the Project, the City shall accept the Project as complete and shall promptly record a notice of completion.

- (b) At the time the City records the notice of completion specified in subsection (a) of this section, the City shall assign to the District its rights under all contracts pertaining to the Project, including but not limited to all rights to proceed against any contractors, persons, or entities connected with the design, construction and management of the Project, and shall assign to the District all express warranties and all warranties existing at law.
- (c) The Project will be considered complete when all of the following have occurred:
 - (A) The Project is a fully completed and operational fire station in turn-key condition that includes all fixtures, furnishings and utilities necessary to operate the fire station. The City shall purchase all fixtures and furnishings necessary to operate the fire station. The District Fire Chief and City Manager shall review and authorize the purchase of all fixtures and furnishings.
 - (B) The City has recorded a notice of completion pursuant to subsection (a) of this section.
 - (C) All rights under all contracts pertaining to the Project have been assigned to the District pursuant to subsection (b) of this section.

8. Conveyance of Property and Improvements.

- (a) Once the Project is complete pursuant to subsection (c) of section 7, and in consideration of the agreements contained herein, the City shall convey to the District title in fee simple to the La Viña Property, including title to all of the improvements in the Project.
- (b) Promptly following the City's conveyance of the La Viña Property to the District, and in consideration of the agreements contained herein, the District shall convey to the City or the Agency title in fee simple to the Live Oak Avenue Property. The Live Oak Property will be conveyed in an "as is" physical condition with no warranty express or implied as to any matter. Neither the City nor the Agency, nor their respective heirs, successors or assigns, shall ever have any claim, or assert any right or action, against the District for any loss, damage or other matter arising out of or resulting from the condition of the Live Oak Avenue Property.
- (c) Promptly following the City's conveyance of the La Viña Property to the District, and in consideration of the agreements contained herein, the County or District shall convey to the City or the Agency title in fee simple to the Second Street Property, including title to all improvements on the Second Street Property. Before it conveys the Second Street Property, the County or District will remove the one above-ground

petroleum product tank from the Second Street Property. The Second Street Property and all remaining improvements will be conveyed in an "as is" physical condition with no warranty express or implied as to any matter. Neither the City nor the Agency, nor their respective heirs, successors or assigns, shall ever have any claim, or assert any right or action, against the County or District for any loss, damage or other matter arising out of or resulting from the condition of the Second Street Property and the remaining improvements conveyed to the City.

9. Payment of Project Costs.

- (a) Within seven days after the execution of this Agreement, the District shall transfer to the City \$850,000 in District fire facilities impact fees (District Fees) for deposit into the City's Fire Facilities Impact Fee Fund. Upon the City's receipt of the \$850,000 in District Fees, the City shall appropriate the total of \$2,450,225 (the \$1,600,225 in City Fire Facilities Impact Fees and the \$850,000 in District Fees), plus interest, to the Project.
- (b) The City and Agency shall pay all costs connected with the development and construction of the Project, including but not limited to the preparation of final design and engineering plans, final contract plans, final specifications, all bidding-phase and construction-phase architectural services, all applicable fees, all change order costs, all utility improvements and utility hookup costs, and all road improvement costs, except as otherwise provided in subsections (c) and (d) of this section. The City and Agency may pay Project costs from the City's Fire Facilities Impact Fee Fund or from any other funding source they deem appropriate. Depletion of the City's Fire Facilities Impact Fee Fund does not relieve the City or Agency of the responsibility set forth in this subsection.
- (c) The District shall pay all costs connected with contract change orders that are requested by the District and approved by the City, except for change orders requested by the District that are necessary to address nonconformance with Project plans and specifications.
- (d) The City and Agency are not responsible for payment of any stand-alone fire-fighting equipment or apparatus costs, including fire-fighting vehicles.
- (e) The total cost of the Project is estimated not to exceed \$3 million. If it appears the total Project cost will exceed \$3 million, the District and City will meet to review Project costs and schedules and evaluate together how best to bring the Project to completion. Once the \$850,000 in District Fees have been transferred to the City, however, nothing in this section shall obligate the District to pay any Project costs other than those specified in subsection (c) of this section.

10. Insurance.

- (a) The City and the Agency are insured as members of the Municipal Pooling Authority of Northern California, and the County and the District are self-insured. Each shall provide the others with a letter of insurance within 30 days of the effective date of this Agreement.
- (b) The City shall ensure that the following insurance requirements are incorporated into all contracts entered into by the City, or their contractors, subcontractors or assigns, in connection with this Agreement: (1) contractors shall maintain workers' compensation insurance pursuant to state law; (2) contractors shall maintain commercial general liability insurance, including contractual liability (or blanket contractual) coverage, owners' and contractors' protective coverage, and broad form property damage coverage, with a minimum of \$2 million per occurrence; (3) contractors shall maintain builders' risk insurance in an amount equal to the construction contract amount, with a waiver of subrogation for the City, Agency, District and County, and naming the City, Agency, County and District as loss payees; and (4) contractors shall maintain vehicle liability insurance with a minimum combined single-limit coverage of \$500,000 per occurrence. Contractors shall provide certificates of insurance, copies of policies, or endorsements evidencing the above insurance coverage and requiring at least 30 days' written notice to the City, Agency, County and District of policy lapse, cancellation, or material change in coverage. The commercial general liability insurance and vehicle liability insurance shall include endorsements naming the District, County, City and Agency, and their governing bodies, officers, agents and employees, as additional insureds. The aforementioned insurance policies shall contain a provision that the insurance afforded thereby to the additional insureds shall be primary insurance to the full limits of the policy and that, if any of the additional insureds has other insurance or self-insurance against a loss covered by such policy, such insurance or self-insurance shall be excess insurance only.
- (c) The City shall ensure that the following insurance requirements are incorporated into all contracts for consulting services entered into by the City in connection with this Agreement: (1) consultants shall maintain professional liability insurance in an amount of at least \$1 million with a deductible of no more than \$25,000; (2) consultants shall maintain workers' compensation insurance pursuant to state law; (3) consultants shall maintain commercial general liability insurance, including contractual liability (or blanket contractual) coverage, owners' and contractors' protective coverage, and broad form property damage coverage, with a minimum of \$1 million per occurrence; and (4) consultants shall maintain vehicle liability insurance with a minimum combined single-limit coverage of \$500,000 per occurrence. Consultants shall provide certificates of insurance, copies of policies, or endorsements evidencing the above insurance coverage and requiring at least 30 days'

written notice to the District, County, City, and Agency of policy lapse, cancellation, or material change in coverage. The commercial general liability insurance and vehicle liability insurance shall include endorsements naming the District, County, City, and Agency, and their governing bodies, officers, agents and employees, as additional insureds.

11. Contractor Obligations. The City shall ensure that the contract documents for the Project include provisions requiring the successful bidder to provide indemnity, warranties and bonds in the amounts and manner set forth below.
 - (a) Indemnity. The Contractor will be required to defend, indemnify and hold harmless the District, County, City, and Agency, and their governing bodies, officers, agents and employees, from and against any and all liability, claims, actions, cause of action or demands whatsoever against any of them, including related attorneys' fees, arising out of or connected with any injury or death of any person or damage to property or other liability of any nature arising out of or in any way connected with the Project.
 - (b) Warranties. In addition to all warranties existing at law, the Contractor will be required to provide an express warranty for the benefit of the District, County, City and Agency, in form and for a time period satisfactory to the District, County, City and Agency, containing, at a minimum, the Contractor's guarantee that the work has been performed in accordance with the plans and specifications, and the Contractor's agreement to repair or replace all work that fails to conform to the plans and specifications or proves to be defective in workmanship or materials during the stated time period.
 - (c) Bonds. The Contractor will be required to present two good and sufficient surety bonds, one for payment and one for performance, each in an amount equal to 100 percent of the contract price, issued by a surety admitted in the State of California in a form satisfactory to the District, County, City and Agency, naming the District, County, City and Agency as obligees on the bonds.
12. Accountability. The City will be strictly accountable for all funds and will report all receipts and disbursements for the Project to the District on a monthly basis and when requested by the District.
13. Termination. This Agreement may be terminated immediately by the mutual written consent of the governing bodies of all parties.
14. Notices. All notices, including requests, demands, approvals and other communications, under this Agreement must be in writing. The place for delivery of all notices given under this Agreement will be as follows:

DISTRICT: East Contra Costa Fire Protection District
Attn: Fire Chief
134 Oak Street
Brentwood, CA 94513

COUNTY: County of Contra Costa
Attn: County Administrator
651 Pine Street
Martinez, CA 94553

CITY: City of Oakley
Attn: City Manager
3231 Main Street
Oakley, CA 94561

AGENCY: Redevelopment Agency of the City of Oakley
Attn: Executive Director
3231 Main Street
Oakley, CA 94561

15. Counterparts. The parties recognize and agree that separate counterpart signature pages may be used but that all such pages constitute one and the same Agreement.
16. Construction. The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The Recitals are, and shall be enforceable as, a part of this Agreement.
17. Further Assurances. Whenever requested to do so by the other party, each party will execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.

18. Waiver. A waiver or breach of any covenant or provision in this Agreement will not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver will be valid unless in writing and executed by the waiving party.
19. No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall it be construed, to create rights inuring to the benefit of third parties.
20. Severability. If any term or provision of this Agreement is, to any extent, held invalid or unenforceable, the remainder of this Agreement shall not be affected.
21. Applicable Law; Venue. This Agreement shall be governed by and construed in accordance with California law. The venue for any legal action pertaining to this Agreement shall be Contra Costa County, California.
22. Effective Date. This Agreement is effective upon its execution by all parties.

EAST CONTRA COSTA
FIRE PROTECTION DISTRICT

REDEVELOPMENT AGENCY OF THE
CITY OF OAKLEY

By: _____
Fire Chief

By: _____
Executive Director

Approved as to Form:

Approved as to Form:

By: _____
District Counsel

By: _____
Agency Counsel

COUNTY OF CONTRA COSTA

CITY OF OAKLEY

By: _____
County Administrator

By: _____
City Manager

Approved as to Form:

Approved as to Form:

By: _____
County Counsel

By: _____
City Attorney

**AGREEMENT AMONG
THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT, THE COUNTY OF
CONTRA COSTA, THE CITY OF OAKLEY, AND THE OAKLEY REDEVELOPMENT
AGENCY FOR THE OAKLEY FIRE STATION REPLACEMENT PROJECT**

The East Contra Costa Fire Protection District, a fire protection district existing under the laws of the State of California ("District"), the County of Contra Costa, a political subdivision of the State of California ("County"), the City of Oakley, a municipal corporation ("City"), and the Redevelopment Agency of the City of Oakley, a public body corporate and politic existing under the laws of the State of California ("Agency"), mutually agree and promise as follows:

RECITALS

- A. District Fire Station 93 is currently located at 215 Second Street (the "Second Street Property"; APN 035-131-002). The County owns the Second Street Property. The Second Street Property is approximately 0.62 acres in size. One above-ground petroleum product tank is located at the Second Street Property. The legal description of the Second Street Property is set forth in Exhibit A, which is attached and incorporated by reference.
- B. Fire Station 93 was built in the 1950s and is not large enough to adequately accommodate District staff and equipment. The City, Agency and District would like to replace the current Station 93 with a larger, modern fire station to better serve the City and the Agency redevelopment project area.
- C. The City owns property at 530 O'Hara Avenue (the "La Viña Property"; APN 034-300-013 and APN 034-300-019.) The La Viña Property is approximately 1.6 acres in size and is located about ¼-mile south of the existing Station 93. The legal description of the La Viña Property is set forth in Exhibit B, which is attached and incorporated by reference.
- D. The District owns property on Live Oak Avenue, north of Laurel Road and east of Neroly Road (the "Live Oak Avenue Property"; APN 041-021-014). The Live Oak Property is approximately 1.07 acres in size. Title to the Live Oak Avenue Property is held by the District as successor in interest to the Oakley Fire Protection District. The legal description of the Live Oak Avenue Property is set forth in Exhibit C, which is attached and incorporated by reference.
- E. The City and Agency intend to build a new fire station to District specifications at the La Viña Property and convey the station and the La Viña Property to the District following completion of construction.

- F. The District and County intend to convey the Second Street and Live Oak Avenue properties to the City or the Agency following the conveyance of the improved La Viña Property to the District.
- G. California redevelopment law (Health and Safety Code section 33445) authorizes redevelopment agencies to pay for fire district capital improvements, either within or outside the project area, if the buildings, facilities, structures or other improvements are of benefit to the redevelopment project area or the immediate neighborhood in which the project is located. The La Viña Property is located within the Agency redevelopment project area. The Agency's governing body has found, pursuant to Health and Safety Code section 33445, that the new Fire Station 93 will be of benefit to the Agency redevelopment project area.
- H. On July 10, 2007, \$1,600,225 in City fire facilities impact fees and related interest earnings, which were being held in the County Treasury, were returned to the City and placed into the City Fire Facilities Impact Fee Fund, where they must be used in accordance with the City's impact fee ordinance. The construction of a new Fire Station 93 at the La Viña Property is an eligible use of these funds.
- I. \$850,000 in District fire facilities fees are available for the construction of a new Fire Station 93 at the La Viña Property.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. Definition. As used in this Agreement, the term "Project" means the construction of a new Fire Station 93 at the La Viña Property. The Project is a turn-key fire station project, designed to meet the operational needs of the District and built to emergency operations center standards, that consists of an access court, three apparatus bays, a training room, an office, and three bathrooms. The Project includes all fixtures, furnishings and utilities necessary to operate the fire station, but does not include the provision of stand-alone fire-fighting equipment or apparatus, including fire-fighting vehicles.
2. Purpose. The purpose of this Agreement is to provide for the apportionment of responsibilities and costs among the parties for the construction of the Project and to provide for the exchange of properties.
3. Land Use.
 - (a) All transactions contemplated by this Agreement are contingent on and subject to appropriate review under the California Environmental Quality Act (CEQA).

- (b) The City shall act as lead agency for the Project, obtain all permits, approvals, and entitlements necessary for the Project, and prepare environmental clearance for the Project pursuant to CEQA.

4. Project Construction.

- (a) The City shall hire an architectural firm to prepare and complete design and engineering plans, contract plans, specifications, and construction and bid documents for the Project. The final versions of all plans, specifications, and construction and bid documents must be approved in writing by the District Fire Chief. No later than 60 days after the District's written approval of all plans, specifications, and construction and bid documents, the City shall advertise the Project for construction bids and award a construction contract or contracts. Following award of the construction contract(s), the City shall perform contract administration and take all other necessary steps to construct the Project to the final Project plans and specifications.
- (b) As an alternative to the design-bid-build process described in Section 4(a), the City, with the written approval of the District Fire Chief, may elect to request design-build proposals for the Project pursuant to the procedure described in Public Contract Code Section 20175.2. In that case, the City shall advertise for design-build proposals and award a design-build contract no later than 60 days after the District's written approval of the City's documents requesting design-build proposals. In addition, the City shall obtain the written approval of the District Fire Chief before awarding the design-build contract and before approving the design documents (i.e., complete plans and specifications) prepared by the design-build entity. Following award of the design-build contract, the City shall perform design and contract administration and take all other necessary steps to design and construct the Project in compliance with the District's requirements and the design documents approved by the District.
- (c) The parties understand that the construction is a project of the City. The City will comply with California Labor Code Sections 1720-1861, and all other laws and regulations applicable to the construction of the Project.

5. Project Changes.

- (a) The City may not make or cause to be made any changes in the final plans or specifications without the prior written consent of the District Fire Chief.
- (b) The City shall administer all contract change orders for the Project.

- (c) Except as provided in subsection (d) of this section, the City shall send copies of all contract change orders to the District for the District's review. All contract change orders shall be approved in writing by the District Fire Chief prior to execution by the City. If the City does not receive written notice of the District's approval or disapproval of a contract change order within five working days of the City notifying the District of the change order, the contract change order will be deemed approved by the District. The District may not unreasonably withhold its decision.
- (d) The District may request change orders during the course of the Project. All contract change orders requested by the District must be in writing and delivered to the City Manager. Within five working days of the District's delivery of its requested change order, the City Manager shall notify District in writing of the City's approval or disapproval of the requested change order. The City may not unreasonably withhold its decision.
- (e) Payment of contract change orders will be made in accordance with subsections (b) and (c) of section 9.

6. Inspections.

- (a) The City will perform field inspections of the Project to determine conformance with Project plans and specifications and any change orders. In performing inspection and contract administration under this Agreement, the City shall utilize the services of a construction manager, construction inspector, architect, or engineer experienced with fire station construction projects and approved in writing by the District.
- (b) The City hereby grants to the District a right of entry upon the La Viña Property to gather data relevant to the Project, including testing, surveys, and studies, and to perform field inspections of the Project to determine conformance with Project plans and specifications. The District will notify the City of any change orders that are necessary to remedy design deficiencies or address nonconformance with Project plans and specifications.

7. Acceptance, Completion, and Assignment.

- (a) Upon completion of Project construction, the City and District will conduct a joint final inspection of the Project. After the City and District have determined that the work performed has been completed in accordance with the approved plans and specifications and to the City's and District's satisfaction, and after the District Fire Chief has provided written notice to the City Manager of the District's approval of the Project, the City shall accept the Project as complete and shall promptly record a notice of completion.

- (b) At the time the City records the notice of completion specified in subsection (a) of this section, the City shall assign to the District its rights under all contracts pertaining to the Project, including but not limited to all rights to proceed against any contractors, persons, or entities connected with the design, construction and management of the Project, and shall assign to the District all express warranties and all warranties existing at law.
- (c) The Project will be considered complete when all of the following have occurred:
 - (A) The Project is a fully completed and operational fire station in turn-key condition that includes all fixtures, furnishings and utilities necessary to operate the fire station. The City shall purchase all fixtures and furnishings necessary to operate the fire station. The District Fire Chief and City Manager shall review and authorize the purchase of all fixtures and furnishings.
 - (B) The City has recorded a notice of completion pursuant to subsection (a) of this section.
 - (C) All rights under all contracts pertaining to the Project have been assigned to the District pursuant to subsection (b) of this section.

8. Conveyance of Property and Improvements.

- (a) Once the Project is complete pursuant to subsection (c) of section 7, and in consideration of the agreements contained herein, the City shall convey to the District title in fee simple to the La Viña Property, including title to all of the improvements in the Project.
- (b) Promptly following the City's conveyance of the La Viña Property to the District, and in consideration of the agreements contained herein, the District shall convey to the City or the Agency title in fee simple to the Live Oak Avenue Property. The Live Oak Property will be conveyed in an "as is" physical condition with no warranty express or implied as to any matter. Neither the City nor the Agency, nor their respective heirs, successors or assigns, shall ever have any claim, or assert any right or action, against the District for any loss, damage or other matter arising out of or resulting from the condition of the Live Oak Avenue Property.
- (c) Promptly following the City's conveyance of the La Viña Property to the District, and in consideration of the agreements contained herein, the County or District shall convey to the City or the Agency title in fee simple to the Second Street Property, including title to all improvements on the Second Street Property. Before it conveys the Second Street Property, the County or District will remove the one above-ground

petroleum product tank from the Second Street Property. The Second Street Property and all remaining improvements will be conveyed in an "as is" physical condition with no warranty express or implied as to any matter. Neither the City nor the Agency, nor their respective heirs, successors or assigns, shall ever have any claim, or assert any right or action, against the County or District for any loss, damage or other matter arising out of or resulting from the condition of the Second Street Property and the remaining improvements conveyed to the City.

9. Payment of Project Costs.

- (a) Within seven days after the execution of this Agreement, the District shall transfer to the City \$850,000 in District fire facilities impact fees (District Fees) for deposit into the City's Fire Facilities Impact Fee Fund. Upon the City's receipt of the \$850,000 in District Fees, the City shall appropriate the total of \$2,450,225 (the \$1,600,225 in City Fire Facilities Impact Fees and the \$850,000 in District Fees), plus interest, to the Project.
- (b) The City and Agency shall pay all costs connected with the development and construction of the Project, including but not limited to the preparation of final design and engineering plans, final contract plans, final specifications, all bidding-phase and construction-phase architectural services, all applicable fees, all change order costs, all utility improvements and utility hookup costs, and all road improvement costs, except as otherwise provided in subsections (c) and (d) of this section. The City and Agency may pay Project costs from the City's Fire Facilities Impact Fee Fund or from any other funding source they deem appropriate. Depletion of the City's Fire Facilities Impact Fee Fund does not relieve the City or Agency of the responsibility set forth in this subsection.
- (c) The District shall pay all costs connected with contract change orders that are requested by the District and approved by the City, except for change orders requested by the District that are necessary to address nonconformance with Project plans and specifications.
- (d) The City and Agency are not responsible for payment of any stand-alone fire-fighting equipment or apparatus costs, including fire-fighting vehicles.
- (e) The total cost of the Project is estimated not to exceed \$3 million. If it appears the total Project cost will exceed \$3 million, the District and City will meet to review Project costs and schedules and evaluate together how best to bring the Project to completion. Once the \$850,000 in District Fees have been transferred to the City, however, nothing in this section shall obligate the District to pay any Project costs other than those specified in subsection (c) of this section.

10. Insurance.

- (a) The City and the Agency are insured as members of the Municipal Pooling Authority of Northern California, and the County and the District are self-insured. Each shall provide the others with a letter of insurance within 30 days of the effective date of this Agreement.
- (b) The City shall ensure that the following insurance requirements are incorporated into all contracts entered into by the City, or their contractors, subcontractors or assigns, in connection with this Agreement: (1) contractors shall maintain workers' compensation insurance pursuant to state law; (2) contractors shall maintain commercial general liability insurance, including contractual liability (or blanket contractual) coverage, owners' and contractors' protective coverage, and broad form property damage coverage, with a minimum of \$2 million per occurrence; (3) contractors shall maintain builders' risk insurance in an amount equal to the construction contract amount, with a waiver of subrogation for the City, Agency, District and County, and naming the City, Agency, County and District as loss payees; and (4) contractors shall maintain vehicle liability insurance with a minimum combined single-limit coverage of \$500,000 per occurrence. Contractors shall provide certificates of insurance, copies of policies, or endorsements evidencing the above insurance coverage and requiring at least 30 days' written notice to the City, Agency, County and District of policy lapse, cancellation, or material change in coverage. The commercial general liability insurance and vehicle liability insurance shall include endorsements naming the District, County, City and Agency, and their governing bodies, officers, agents and employees, as additional insureds. The aforementioned insurance policies shall contain a provision that the insurance afforded thereby to the additional insureds shall be primary insurance to the full limits of the policy and that, if any of the additional insureds has other insurance or self-insurance against a loss covered by such policy, such insurance or self-insurance shall be excess insurance only.
- (c) The City shall ensure that the following insurance requirements are incorporated into all contracts for consulting services entered into by the City in connection with this Agreement: (1) consultants shall maintain professional liability insurance in an amount of at least \$1 million with a deductible of no more than \$25,000; (2) consultants shall maintain workers' compensation insurance pursuant to state law; (3) consultants shall maintain commercial general liability insurance, including contractual liability (or blanket contractual) coverage, owners' and contractors' protective coverage, and broad form property damage coverage, with a minimum of \$1 million per occurrence; and (4) consultants shall maintain vehicle liability insurance with a minimum combined single-limit coverage of \$500,000 per occurrence. Consultants shall provide certificates of insurance, copies of policies, or endorsements evidencing the above insurance coverage and requiring at least 30 days'

written notice to the District, County, City, and Agency of policy lapse, cancellation, or material change in coverage. The commercial general liability insurance and vehicle liability insurance shall include endorsements naming the District, County, City, and Agency, and their governing bodies, officers, agents and employees, as additional insureds.

11. Contractor Obligations. The City shall ensure that the contract documents for the Project include provisions requiring the successful bidder to provide indemnity, warranties and bonds in the amounts and manner set forth below.
 - (a) Indemnity. The Contractor will be required to defend, indemnify and hold harmless the District, County, City, and Agency, and their governing bodies, officers, agents and employees, from and against any and all liability, claims, actions, cause of action or demands whatsoever against any of them, including related attorneys' fees, arising out of or connected with any injury or death of any person or damage to property or other liability of any nature arising out of or in any way connected with the Project.
 - (b) Warranties. In addition to all warranties existing at law, the Contractor will be required to provide an express warranty for the benefit of the District, County, City and Agency, in form and for a time period satisfactory to the District, County, City and Agency, containing, at a minimum, the Contractor's guarantee that the work has been performed in accordance with the plans and specifications, and the Contractor's agreement to repair or replace all work that fails to conform to the plans and specifications or proves to be defective in workmanship or materials during the stated time period.
 - (c) Bonds. The Contractor will be required to present two good and sufficient surety bonds, one for payment and one for performance, each in an amount equal to 100 percent of the contract price, issued by a surety admitted in the State of California in a form satisfactory to the District, County, City and Agency, naming the District, County, City and Agency as obligees on the bonds.
12. Accountability. The City will be strictly accountable for all funds and will report all receipts and disbursements for the Project to the District on a monthly basis and when requested by the District.
13. Termination. This Agreement may be terminated immediately by the mutual written consent of the governing bodies of all parties.
14. Notices. All notices, including requests, demands, approvals and other communications, under this Agreement must be in writing. The place for delivery of all notices given under this Agreement will be as follows:

DISTRICT: East Contra Costa Fire Protection District
Attn: Fire Chief
134 Oak Street
Brentwood, CA 94513

COUNTY: County of Contra Costa
Attn: County Administrator
651 Pine Street
Martinez, CA 94553

CITY: City of Oakley
Attn: City Manager
3231 Main Street
Oakley, CA 94561

AGENCY: Redevelopment Agency of the City of Oakley
Attn: Executive Director
3231 Main Street
Oakley, CA 94561

15. Counterparts. The parties recognize and agree that separate counterpart signature pages may be used but that all such pages constitute one and the same Agreement.
16. Construction. The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The Recitals are, and shall be enforceable as, a part of this Agreement.
17. Further Assurances. Whenever requested to do so by the other party, each party will execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.

18. Waiver. A waiver or breach of any covenant or provision in this Agreement will not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver will be valid unless in writing and executed by the waiving party.
19. No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall it be construed, to create rights inuring to the benefit of third parties.
20. Severability. If any term or provision of this Agreement is, to any extent, held invalid or unenforceable, the remainder of this Agreement shall not be affected.
21. Applicable Law; Venue. This Agreement shall be governed by and construed in accordance with California law. The venue for any legal action pertaining to this Agreement shall be Contra Costa County, California.
22. Effective Date. This Agreement is effective upon its execution by all parties.

EAST CONTRA COSTA
FIRE PROTECTION DISTRICT

REDEVELOPMENT AGENCY OF THE
CITY OF OAKLEY

By: _____
Fire Chief

By: _____
Executive Director

Approved as to Form:

Approved as to Form:

By: _____
District Counsel

By: _____
Agency Counsel

COUNTY OF CONTRA COSTA

CITY OF OAKLEY

By: _____
County Administrator

By: _____
City Manager

Approved as to Form:

Approved as to Form:

By: _____
County Counsel

By: _____
City Attorney



Contra
Costa
County

To:

From: Jim Kennedy, County Redevelopment Director

Date: January 26, 2010

Subject: Orbisonia Heights Property Acquisition, Bay Point Area

RECOMMENDATION(S):

A. APPROVE Purchase and Sale Agreement and ACCEPT the Grant Deed From Carl Koontz, Trustee Of The Carl Koontz Living Trust Dated November 20, 2002, For the purchase of 591 Bailey Road, identified as Assessor's Parcel Number 094-012-036.

B. AUTHORIZE the Redevelopment Director to execute said Purchase and Sale Agreement on behalf of the Redevelopment Agency.

C. APPROVE payment of \$550,000 for said property rights and AUTHORIZE the Auditor-Controller to issue a check in said amount payable to North American Title Company, 645 San Ramon Valley Blvd., Danville, CA 94526, Escrow No. 54705-951568-09 be forwarded to the Real Property Division for delivery.

D. Direct the Real Property Division to have the above referenced Grant Deed delivered to the Title Company for recording in the Office of the County Recorder.



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/26/2010**



APPROVED AS

RECOMMENDED



OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Gayle B. Uilkema, District II
Supervisor

Mary N. Piepho, District III
Supervisor

Susan A. Bonilla, District IV
Supervisor

Federal D. Glover, District V
Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: 335-1245

FISCAL IMPACT:

This activity is funded by the Contra Costa County Redevelopment Agency (100%). No General Fund money was used on this project.

BACKGROUND:

This property acquisition is part of an Agency project to redevelop approximately 7.6 acres of the Orbisonia Heights subdivision with residential mixed-use, transit-oriented development as described and planned for in the Pittsburg/Bay Point BART Station Specific Plan approved by the Contra Costa County Board of Supervisors. In order to meet the purpose of this portion of the Specific Plan acquisition of the existing residential properties southeast of the State Highway 4/Bailey Road Interchange must occur.

CONSEQUENCE OF NEGATIVE ACTION:

Achievement of goals for transit-oriented development expressed in the Pittsburg/Bay Point BART Station Specific Plan approved by the Board of Supervisors require full assemblage of the 7.6 acre Orbisonia Heights area. Failure to purchase all holdings would impair the potential to achieve Specific Plan objectives.

CHILDREN'S IMPACT STATEMENT:

ATTACHMENTS

Purchase and Sale Agreement

Grant Deed

Parcel Number: 094-012-036
Project Name: Orbisonia Heights - Redevelopment
Project Number: 4500-6X5489

Grantor: Carl Koontz
Address: 591 Bailey Road
Bay Point, CA 94565

**PURCHASE AND SALE AGREEMENT BETWEEN
THE *REDEVELOPMENT AGENCY*
AND
GRANTOR NAMED HEREIN**

This Agreement is entered into by and between Contra Costa County Redevelopment Agency, a body corporate and politic existing under the laws of the State of California, (hereinafter "Agency") Carl Koontz, Trustee of the Carl Koontz, Living Trust, dated November 20, 2002 (hereinafter "Grantor").

RECITALS

Grantor is the owner of approximately 6,350 square feet of real property located in the unincorporated community of Bay Point, Contra Costa County, California and described on Exhibit "A" attached hereto and incorporated herein by reference. The real property, including improvements thereon, if any, are collectively referred to herein as the "Property".

AGREEMENT

NOW THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Effective Date.** It is understood that this Agreement is subject to approval by the Agency's Governing Board. This Agreement is effective on the date approved by the Agency's Governing Board ("Effective Date"). This Agreement will be submitted to the Grantor first for approval, and thereafter to the Agency.
2. **Purchase and Sale.** Subject to the terms and conditions in this Agreement, Grantor agrees to sell and Agency agrees to purchase the Property.
3. **Purchase Price.** The purchase price for the Property shall be **FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000)** ("Purchase Price").
 - 3.1. All ad valorem real property taxes and any penalties and costs thereon, and all installments of any bond or assessment that constitutes a lien on the Property shall be cleared and paid by Grantor as of the date title shall vest in Agency by the recordation of the deed herein pursuant to Sections 4986, 5082, and 5086 of the Revenue and Taxation Code of the State of California, if unpaid as of the date title vests.
 - 3.2. The Purchase Price shall be paid to Carl Koontz, Trustee of the Carl L. Koontz Living Trust dated November 20, 2002.
4. **Conditions to Agency's Performance.** The Agency's obligation to perform under this Agreement is subject to the following conditions:
 - 4.1. Grantor's representations and warranties in this Agreement being correct as of the date of this Agreement and as of the Close of Escrow.
 - 4.2. Grantor's performance of all obligations under this Agreement.

- 4.3. The vesting of title to the Property in the Agency by grant deed in fee simple absolute, free and clear of all liens, encumbrances, assessments, leases (recorded and/or unrecorded), and taxes except the following "Approved Exceptions" as outlined in the Preliminary Report dated July 24, 2009, issued by North American Title Company:
- A. Covenants, conditions, restrictions and reservations of record, listed as exception(s) – None.
 - B. Easements or rights of way of record over said property, listed as exception – None.
 - C. Other approved exception(s) – 6 and 7
- 4.4. North American Title Company is prepared to issue a *CLTA title insurance* policy in the full amount of the purchase price, subject only to the Approved Exceptions ("Title Policy").

If Agency determines that any of these conditions have not been met, Agency shall have the right to terminate this Agreement by delivering written notice to Grantor and, if applicable, the Escrow agent.

5. **Escrow.** By this Agreement, Agency and Grantor establish an escrow ("Escrow") with North American Title Company, 645 San Ramon Boulevard, Danville, CA 94526, their Escrow No. 54705-951568-09 ("Title Company"). If, for any reason, the named Title Company is unable to handle this transaction through the Close of Escrow, the County's Real Property Agent assigned to oversee this property acquisition will select an alternate title company to handle the transaction, and notify Grantor in writing of the identity and address of the successor title company and the new escrow number. Thereafter, the successor company will be the Title Company for purposes of this Agreement.

Grantor hereby authorize Agency to prepare and file escrow instructions with said Title Company, on behalf of Grantor, in accordance with this Agreement. This includes authorization of the Title Company to withhold pro rata taxes, liens and assessments on the Property conveyed.

- 5.1. Fees and Title Insurance. The Agency shall pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by the Agency, the premium charged therefor.
- 5.2. Grantor's Deposit into Escrow. On or before the Close of Escrow Grantor will deliver into Escrow with the Title Company the following documents:
- A. A grant deed, in recordable form and properly executed on behalf of Grantor, in a form approved by Agency ("Grant Deed") conveying to Agency the Property in fee simple absolute, subject only to the Approved Exceptions.
 - B. Copies of any effective leases, rental agreements or any other agreements, if any, which the Agency has agreed in writing are to remain in effect after Agency takes title.
 - C. Grantor affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended [26 USCA §1445] ("FIRPTA Affidavit"); and
 - D. Grantor affidavit as contemplated by the Revenue and Taxation Code § 18662 ("Withholding Affidavit").
- 5.3. Deposit of Purchase Price into Escrow by Agency. Prior to the Close of Escrow, Agency will deposit the Purchase Price into escrow with the Title Company.

5.4. Close of Escrow. Escrow shall close upon the conveyance of the Property to the Agency ("Close of Escrow). On the closing date, the Title Company shall close Escrow as follows:

- A. Record the Grant Deed, marked for return to the Agency care of David Kramer, Real Property Agent for the Agency (which shall be deemed delivery to the Agency);
- B. Issue the Title Policy, if requested to do so by the Agency;
- C. Prorate taxes, assessments, rents and other charges as provided by this Agreement;
- D. Disburse to the Grantor the Purchase Price, less prorated amounts and charges to be paid by or on behalf of Grantor;
- E. Prepare and deliver to the Agency and to the Grantor one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify the Grantor and the Agency and retain all funds and documents pending receipt of further instructions from the Agency.

6. **Grantor's Representations and Warranties.** Grantor makes the following representations and warranties with the understanding that these representations and warranties are material and are being relied upon by Agency. Grantor represents and warrant to the Agency that as of the date of this Agreement and as of the Close of Escrow:

6.1 Relocation Benefits: Grantors' rights to relocation benefits, if any, (as set forth in California Government Code Section 7260 et seq. and 42 United States Code section 4601 et seq.) have been explained fully and are understood by Grantors. Grantors agree that the payment of compensation set forth herein includes full compensation for any relocation payments to which Grantors may be entitled. Grantors warrant and represent that Grantors do not have, nor shall they claim, any further right to relocation benefits arising out of or connected with the acquisition of the subject Property by the Agency; and Grantors knowingly waive any such right or claim.

6.2 Compensation: Grantors warrant and represent that they have no other right or claim to compensation arising out of or connected with the acquisition of the subject Property by the Agency, or the work to be performed or actions taken as part of the project or pursuant to this Agreement, except as specifically set forth in this Agreement, including but not limited to all claims for compensation for improvements pertaining to realty, all claims for compensation for fixtures, equipment or machinery, attorneys' fees, costs or damages of every kind and nature by reason of the Agency's acquisition of the subject Property and agrees never to assert such a claim. Grantors expressly waive all rights provided by section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

6.3 Marketable Title. Grantor are the owners of the Property and have marketable and insurable fee simple title to the Property clear of restrictions, leases, liens and other encumbrances, subject only to the Approved Exceptions. No leases, licenses, or other agreements allowing any third party rights to use the Property are or will be in force unless prior consent has been given by the Agency in writing. Commencing with the full execution of this Agreement by both parties and until the Close of Escrow, Grantor shall not permit any liens, encumbrances or easements to be placed on the property other than the Approved Exceptions, nor shall Grantor enter into any

agreement that would affect the Property that would be binding on the Agency after the Close of Escrow without the prior written consent of the Agency.

- 6.4 Condition of Property. Grantor has disclosed to the Agency all information, records and studies maintained by Grantor in connection with the Property concerning hazardous substances and that Grantor are not concealing any knowledge of the presence of contamination or hazardous substances on, from or under the Property. Any information that Grantor have delivered to the Agency either directly or through Grantor agents is accurate and Grantor have disclosed all material facts with respect to the Property.
- 6.5 Other Matters Affecting Property. To the best of Grantor knowledge, there are not presently any actions, suits, or proceedings pending or, to the best of Grantor knowledge, threatened against or affecting the Property or the interest of Grantor in the Property or its use that would affect Grantor ability to consummate the transaction contemplated by this Agreement. Further, there are not any outstanding and unpaid arbitration awards or judgments affecting title to any portion of the Property. To the best of Grantor knowledge there are not presently any pending or threatened condemnation, eminent domain or similar proceedings affecting the Property. Grantor shall promptly notify Agency of any of these matters arising in the future.
- 6.6 Grantor's Agency. That this Agreement and all other documents delivered prior to or at the Close of Escrow have been authorized, executed, and delivered by Grantor; are binding obligations of the Grantor; and are collectively sufficient to transfer all of Grantor rights to the Property.

In addition to any other remedies that may be available to the Agency as the result of a breach of any of the foregoing warranties or representations, Grantor agree to defend and hold the Agency harmless and reimburse the Agency for any and all loss, cost, liability, expense, damage or other injury, including without limitation, attorneys fees, incurred by reason of, or in any manner resulting from the breach of any of the warranties and representations contained in this Agreement and all third-party claims arising out of or related to any facts or circumstances with respect to the period prior to the Close of Escrow.

7. **Agency's Representations and Warranties.** Agency warrants that, upon approval of this Agreement by the Agency's governing body, this Agreement shall constitute a binding obligation of the Agency.
8. **HAZ MAT CLAUSE 1030.f (Not Tested-Unknown Hazardous Material Use.** The Grantor hereby represent and warrant that during the period of Grantor ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous waste on, from, or under the property. Other than what has been disclosed in Exhibit "C" pursuant to clause 6.4 above.
9. **Rental Agreement** It is agreed that the Grantor shall have a fifteen (15) day grace period commencing on the day following the date of recordation of the deed conveying title to the County, and thereafter, the County will rent the property to the Grantor using the County's standard form of Rental Agreement commencing the day following the termination of the grace period.

The rental rate shall be \$800.00 per month subject to all the terms and conditions as contained in said rental agreement, including the right of either party to cancel and terminate such rental agreement upon thirty (30) days written notice. Said rental rate shall remain in effect for a period of at least one year, if the property is available for occupancy for that period, and subject to the right of the County to establish a new rental rate after one year if the property remains available for rent.

10. **Survival.** All of the terms, provisions, representations, warranties and covenants of the parties under this Agreement shall survive the assignment, expiration or termination of this Agreement and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.

11. **Possession of the Property.** Possession of the Property shall be delivered to the Agency at the Close of Escrow.
12. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing. The place for delivery of all notices given under this Agreement shall be as follows:

Grantor: Carl Koontz
591 Bailey Road
Bay Point, CA 94565
Telephone: 925-458-1168

Agency: Contra Costa County Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Telephone: 925-313-2012

or to such other addresses as Agency and Grantor may respectively designate by written notice to the other.

13. **Entire Agreement.** The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the Agency of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement. Grantor have no other right or claim to compensation arising out of or connected with the acquisition of the subject property by the Agency, except as specifically set forth in this Agreement, including but not limited to all claims for compensation for improvements pertaining to realty, all claims for compensation for fixtures, equipment or machinery, attorneys' fees, costs or damages of every kind and nature by reason of Agency's acquisition of the subject property and agrees never to assert such a claim.
14. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The Recitals are and shall be enforceable as a part of this Agreement.
15. **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.
16. **Waiver.** A waiver or breach of any covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party
17. **Severability.** If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

18. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with California law. The venue of any litigation pertaining to this Agreement shall be Contra Costa County, California.

**CONTRA COSTA COUNTY
REDEVELOPMENT AGENCY**

RECOMMENDED FOR APPROVAL:

By _____

GRANTOR

By Carl Koontz trustee
Carl Koontz, Trustee

Date: 1-13-10
(Date Signed by Grantor)

APPROVED:

By _____
Redevelopment Agency Director

Date _____
(Date of Board Approval)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A - Legal Description

(FORM APPROVED BY COUNTY COUNSEL 6/99)

DK:sr
G:\RealProp\2007-Files\07-8 - C. Koontz P&S Agree. (AG.12).doc
1/13/2010

Exhibit "A"

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

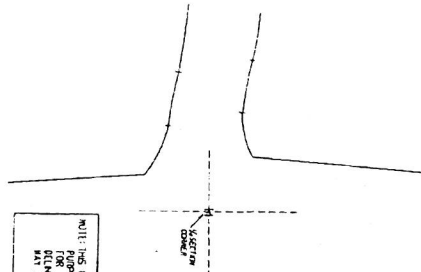
All that certain real property situated in an Unincorporated Area, County of Contra Costa, State of California, described as follows:

Lot 17, as delineated upon that certain map entitled "Map of Orbisonia Heights", Contra Costa County, California, filed April 22, 1930 in Map Book 21, Pages 593 and 594 in the office of the recorder of the County of Contra Costa, State of California.

APN: 094-012-036

ARB: None

EXHIBIT "B"

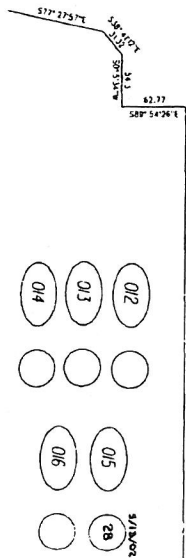


PB
95

STATE HIGHWAY 4

NOTE: THIS MAP WAS PREPARED FOR ASSASSIN IN
FORCES ONLY NO LIABILITY IS ASSUMED
FOR ANY LOSS OR DAMAGE TO ANY
PROPERTY OR PERSONS OR ANY OTHER
MAY NOT BE USED FOR ANY OTHER
PURPOSE WITHOUT THE WRITTEN
CONSENT OF THE ASSASSIN.

PB
97

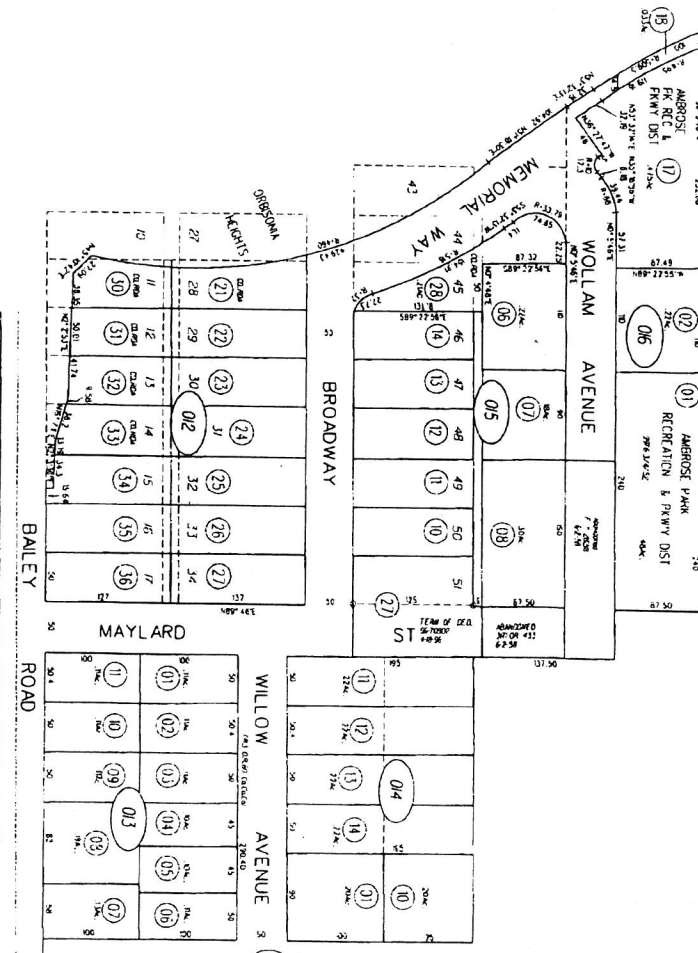


012
013
014
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018

JUL 22 2002
ASSESSOR'S MAP
BOOK 94 PAGE 01
CONTRA COSTA COUNTY, CALIF.

ORRISONIA HEIGHTS & POR SE 1/4 SEC. 14 T2N R1W M.D.B.M.

03



02

EXHIBIT "C"

Disclosure Regarding Possible Environmental Contamination of 591 Bailey Road, Bay Point, CA ("the Property")

The real property located at the above address was originally owned by my father Floyd Koontz. I have no knowledge of his use of the Property and whether he may have released and hazardous materials on the Property. I do know that he operated an electric motor repair shop on the Property from 1958 to 1964 and my brother, John Koontz ran the electric motor repair shop from 1977 to 1984.

I believe that up to perhaps one gallon of "thinner" a petroleum distillate product which was used to dilute glyptal, which is used for coils, armatures and other electrical apparatus. Also used as a primer, sealer for screws, pipes, vacuum systems and hydraulic fluid chambers. I do not believe that this material was spilled into the soil.

Approximately 10 gallons of commercial auto parts "solvent" was used on the Property from 1958 to 1964 and again between 1977 and 1984 for cleaning auto parts and electric motor parts. It is unknown whether any of this material spilled onto the soil.

I am also aware that unknown persons who may have changed their oil in their automobiles may have dumped used motor oil on the East end of the Property. It is unknown as to the quantity of petroleum products that may have been deposited there.

If the County of Contra Costa has any concerns regarding any of this information, the County should arrange for a Phase I Environmental Study to be performed on the Property before the close of escrow.

Recorded at the request of:
Contra Costa County Redevelopment
Agency

Return to:
Contra Costa County
Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Attn: David Kramer

Assessor's Parcel No. 094-012-036
Title Co. Order No. 54705-951568-09

GRANT DEED

For Value Received, receipt of which is hereby acknowledged, Carl Koontz, Trustee of the Carl Koontz Living Trust dated November 20, 2002.

GRANTS to

CONTRA COSTA COUNTY REDEVELOPMENT AGENCY, a body corporate and politic existing under the laws of the State of California,

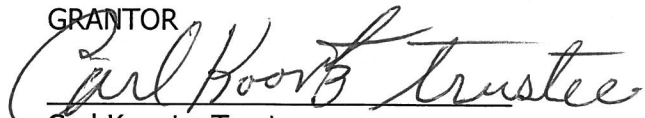
the following described real property in the unincorporated area of Bay Point, County of Contra Costa, State of California,

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Date

1-13-10

GRANTOR


Carl Koontz, Trustee

ATTACH APPROPRIATE ACKNOWLEDGMENT

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situated in an Unincorporated Area, County of Contra Costa, State of California, described as follows:

Lot 17, as delineated upon that certain map entitled "Map of Orbisonia Heights", Contra Costa County, California, filed April 22, 1930 in Map Book 21, Pages 593 and 594 in the office of the recorder of the County of Contra Costa, State of California.

APN: 094-012-036

ARB: None

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

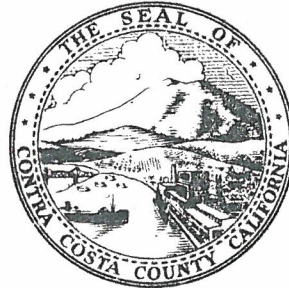
STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

On January 13th, 2010, before me, David Kramer Notary Public, personally appeared Carl Koontz, 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  (Seal)
Notary Public





Contra
Costa
County

To:

From: Jim Kennedy, County Redevelopment Director

Date: January 26, 2010

Subject: Orbisonia Heights Property Acquisition, Bay Point Area

RECOMMENDATION(S):

A. APPROVE Purchase and Sale Agreement and ACCEPT the Grant Deed From John Koontz, Trustee Of The John L. Koontz Living Trust Dated April 20, 2004, for the purchase of 571 S. Broadway Avenue, identified as Assessor's Parcel Number 094-015-012.

B. AUTHORIZE the Redevelopment Director to execute said Purchase and Sale Agreement on behalf of the Redevelopment Agency.

C. APPROVE payment of \$500,000 for said property rights and AUTHORIZE the Auditor-Controller to issue a check in said amount payable to North American Title Company, 645 San Ramon Valley Blvd., Danville, CA 94526, Escrow No. 54705-951562-09 to be forwarded to the Real Property Division for delivery.

D. Direct the Real Property Division to have the above referenced Grant Deed delivered to the Title Company for recording in the Office of the County Recorder.

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/26/2010**

☒ APPROVED AS
RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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

ATTESTED: January 26, 2010

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

By: June McHuen, Deputy

Contact: Maureen Toms
925-335-1245

FISCAL IMPACT:

This activity is funded by the Contra Costa County Redevelopment Agency (100%). No General Fund money was used on this project.

BACKGROUND:

This property acquisition is part of an Agency project to redevelop approximately 7.6 acres of the Orbisonia Heights subdivision with residential mixed-use, transit-oriented development as described and planned for in the Pittsburg/Bay Point BART Station Specific Plan approved by the Contra Costa County Board of Supervisors. In order to meet the purpose of this portion of the Specific Plan acquisition of the existing residential properties southeast of the State Highway 4/Bailey Road Interchange must occur.

CONSEQUENCE OF NEGATIVE ACTION:

Achievement of goals for transit-oriented development expressed in the Pittsburg/Bay Point BART Station Specific Plan approved by the Contra Costa County Board of Supervisors require full assemblage of the 7.6 acre Orbisonia Heights area. Failure to purchase all holdings would impair the potential to achieve Specific Plan objectives.

ATTACHMENTS

Grant Deed

Purchase and sale agreement

Recorded at the request of:
Contra Costa County Redevelopment
Agency

Return to:
Contra Costa County
Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Attn: David Kramer

Assessor's Parcel No. 094-015-012
Title Co. Order No. 54705-951562-09

GRANT DEED

For Value Received, receipt of which is hereby acknowledged, John Koontz, Trustee of the John L. Koontz Living Trust dated April 20, 2004.

GRANTS to

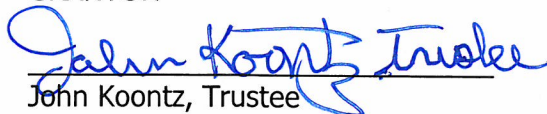
CONTRA COSTA COUNTY REDEVELOPMENT AGENCY, a body corporate and politic existing under the laws of the State of California,

the following described real property in the unincorporated area of Bay Point, County of Contra Costa, State of California,

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Date 1-13-2010

GRANTOR


John Koontz, Trustee

ATTACH APPROPRIATE ACKNOWLEDGMENT

Exhibit "A"

The land referred to in this Report is described as follows:

All that certain real property situated in the unincorporated area, County of Contra Costa, State of California, described as follows:

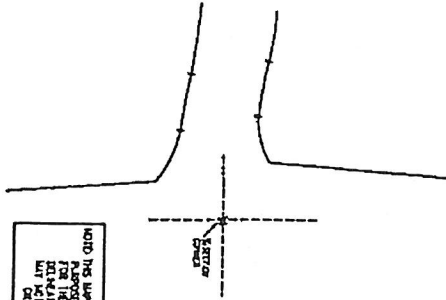
Lot 48 as designated on the map entitled "Map of Orbisonia Heights, Contra Costa County, California", which map was filed in the office of the Recorder of the County of Contra Costa, State of California on April 22, 1930 in Volume 21 of Maps at Page 593.

APN: 094-015-012

ARB: None

EXHIBIT "B"

The information on this plat is provided for your convenience as a guide to the general location of the subject property. The accuracy of this plat is not guaranteed, nor is it a part of any policy report or guarantee to which it may be attached"



STATE HIGHWAY 4

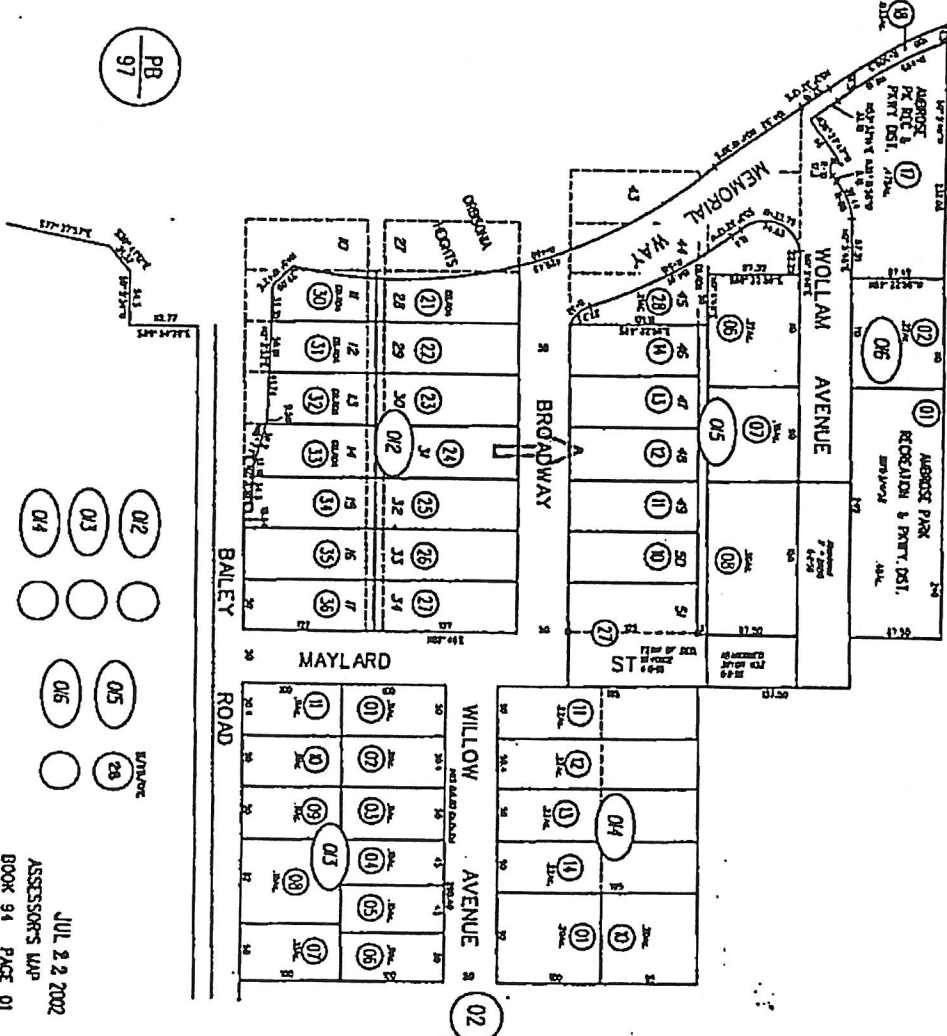
NOTE: THIS MAP WAS PROVIDED FOR ASSISTANT
PROPERTY ONLY. NO LIABILITY IS ASSUMED
FOR THE ACCURACY OF THE INFORMATION
HEREON. THE PROPERTY IS NOT GUARANTEED
AND NO OTHER WARRANTIES ARE MADE
OR IMPLIED HEREON.

PB
95

PB
97

ORRISONA HEIGHTS & POR SE 1/4 SEC. 14 T2N R1W M.D.B.M.

03



JUL 22 2002
ASSESSOR'S MAP
BOOK 94 PAGE 01
CONTRA COSTA COUNTY, CALIF.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

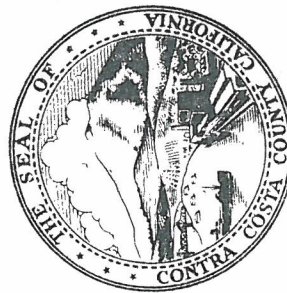
STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

On January 13th, 2010, before me, David Kramer Notary Public, personally appeared John Koontz, 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  (Seal)
Notary Public



Parcel Number: 094-015-012
Project Name: Orbisonia Heights - Redevelopment
Project Number: 4500-6X5489

Grantor: John Koontz
Address: 571 S. Broadway Avenue
Bay Point, CA 94565

**PURCHASE AND SALE AGREEMENT BETWEEN
THE REDEVELOPMENT AGENCY
AND
GRANTOR NAMED HEREIN**

This Agreement is entered into by and between Contra Costa County Redevelopment Agency, a body corporate and politic existing under the laws of the State of California, (hereinafter "Agency") and John Koontz, Trustee of the John L. Koontz Living Trust dated April 20, 2004 (hereinafter "Grantor").

RECITALS

Grantor is the owner of approximately 6,200 square feet of real property located in the unincorporated community of Bay Point, Contra Costa County, California and described on Exhibit "A" attached hereto and incorporated herein by reference. The real property, including improvements thereon, if any, are collectively referred to herein as the "Property".

AGREEMENT

NOW THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Effective Date.** It is understood that this Agreement is subject to approval by the Agency's Governing Board. This Agreement is effective on the date approved by the Agency's Governing Board ("Effective Date"). This Agreement will be submitted to the Grantor first for approval, and thereafter to the Agency.
2. **Purchase and Sale.** Subject to the terms and conditions in this Agreement, Grantor agrees to sell and Agency agrees to purchase the Property.
3. **Purchase Price.** The purchase price for the Property shall be **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** ("Purchase Price").
 - 3.1. All ad valorem real property taxes and any penalties and costs thereon, and all installments of any bond or assessment that constitutes a lien on the Property shall be cleared and paid by Grantor as of the date title shall vest in Agency by the recordation of the deed herein pursuant to Sections 4986, 5082, and 5086 of the Revenue and Taxation Code of the State of California, if unpaid as of the date title vests.
 - 3.2. The Purchase Price shall be paid to John Koontz, Trustee of the John L. Koontz Living Trust dated April 20, 2004.
4. **Conditions to Agency's Performance.** The Agency's obligation to perform under this Agreement is subject to the following conditions:
 - 4.1. Grantor's representations and warranties in this Agreement being correct as of the date of this Agreement and as of the Close of Escrow.
 - 4.2. Grantor's performance of all obligations under this Agreement.

- 4.3. The vesting of title to the Property in the Agency by grant deed in fee simple absolute, free and clear of all liens, encumbrances, assessments, leases (recorded and/or unrecorded), and taxes except the following "Approved Exceptions" as outlined in the Preliminary Report dated July 24, 2009, issued by North American Title Company:
- A. Covenants, conditions, restrictions and reservations of record, listed as exception(s) – 5.
 - B. Easements or rights of way of record over said property, listed as exception – None.
 - C. Other approved exception(s) – 4 and 6
- 4.4. Financial Title Company is prepared to issue a *CLTA title insurance* policy in the full amount of the purchase price, subject only to the Approved Exceptions ("Title Policy").

If Agency determines that any of these conditions have not been met, Agency shall have the right to terminate this Agreement by delivering written notice to Grantor and, if applicable, the Escrow agent.

5. **Escrow.** By this Agreement, Agency and Grantor establish an escrow ("Escrow") with North American Title Company, 645 San Ramon Valley Boulevard, Danville, CA 94526, their Escrow No. 54705-951562-09 ("Title Company"). If, for any reason, the named Title Company is unable to handle this transaction through the Close of Escrow, the County's Real Property Agent assigned to oversee this property acquisition will select an alternate title company to handle the transaction, and notify Grantor in writing of the identity and address of the successor title company and the new escrow number. Thereafter, the successor company will be the Title Company for purposes of this Agreement.

Grantor hereby authorize Agency to prepare and file escrow instructions with said Title Company, on behalf of Grantor, in accordance with this Agreement. This includes authorization of the Title Company to withhold pro rata taxes, liens and assessments on the Property conveyed.

- 5.1. Fees and Title Insurance. The Agency shall pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by the Agency, the premium charged therefor.
- 5.2. Grantor's Deposit into Escrow. On or before the Close of Escrow Grantor will deliver into Escrow with the Title Company the following documents:
- A. A grant deed, in recordable form and properly executed on behalf of Grantor, in a form approved by Agency ("Grant Deed") conveying to Agency the Property in fee simple absolute, subject only to the Approved Exceptions.
 - B. Copies of any effective leases, rental agreements or any other agreements, if any, which the Agency has agreed in writing are to remain in effect after Agency takes title.
 - C. Grantor affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended [26 USCA §1445] ("FIRPTA Affidavit"); and
 - D. Grantor affidavit as contemplated by the Revenue and Taxation Code § 18662 ("Withholding Affidavit").
- 5.3. Deposit of Purchase Price into Escrow by Agency. Prior to the Close of Escrow, Agency will deposit the Purchase Price into escrow with the Title Company.
- 5.4. Close of Escrow. Escrow shall close upon the conveyance of the Property to the Agency ("Close of Escrow"). On the closing date, the Title Company shall close Escrow as follows:

- A. Record the Grant Deed, marked for return to the Agency care of David Kramer, Real Property Agent for the Agency (which shall be deemed delivery to the Agency);
- B. Issue the Title Policy, if requested to do so by the Agency;
- C. Prorate taxes, assessments, rents and other charges as provided by this Agreement;
- D. Disburse to the Grantor the Purchase Price, less prorated amounts and charges to be paid by or on behalf of Grantor;
- E. Prepare and deliver to the Agency and to the Grantor one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify the Grantor and the Agency and retain all funds and documents pending receipt of further instructions from the Agency.

6. **Grantor's Representations and Warranties.** Grantor makes the following representations and warranties with the understanding that these representations and warranties are material and are being relied upon by Agency. Grantor represents and warrant to the Agency that as of the date of this Agreement and as of the Close of Escrow:

6.1 Relocation Benefits: Grantors' rights to relocation benefits, if any, (as set forth in California Government Code Section 7260 et seq. and 42 United States Code section 4601 et seq.) have been explained fully and are understood by Grantors. Grantors agree that the payment of compensation set forth herein includes full compensation for any relocation payments to which Grantors may be entitled. Grantors warrant and represent that Grantors do not have, nor shall they claim, any further right to relocation benefits arising out of or connected with the acquisition of the subject Property by the Agency; and Grantors knowingly waive any such right or claim.

6.2 Compensation: Grantors warrant and represent that they have no other right or claim to compensation arising out of or connected with the acquisition of the subject Property by the Agency, or the work to be performed or actions taken as part of the project or pursuant to this Agreement, except as specifically set forth in this Agreement, including but not limited to all claims for compensation for improvements pertaining to realty, all claims for compensation for fixtures, equipment or machinery, attorneys' fees, costs or damages of every kind and nature by reason of the Agency's acquisition of the subject Property and agrees never to assert such a claim. Grantors expressly waive all rights provided by section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

6.3 Marketable Title. Grantor are the owners of the Property and have marketable and insurable fee simple title to the Property clear of restrictions, leases, liens and other encumbrances, subject only to the Approved Exceptions. No leases, licenses, or other agreements allowing any third party rights to use the Property are or will be in force unless prior consent has been given by the Agency in writing. Commencing with the full execution of this Agreement by both parties and until the Close of Escrow, Grantor shall not permit any liens, encumbrances or easements to be placed on the property other than the Approved Exceptions, nor shall Grantor enter into any agreement that would affect the Property that would be binding on the Agency after the Close of

Escrow without the prior written consent of the Agency.

- 6.4 Condition of Property. Grantor has disclosed to the Agency all information, records and studies maintained by Grantor in connection with the Property concerning hazardous substances and that Grantor are not concealing any knowledge of the presence of contamination or hazardous substances on, from or under the Property. Any information that Grantor has delivered to the Agency either directly or through Grantor agents is accurate and Grantor have disclosed all material facts with respect to the Property.
- 6.5 Other Matters Affecting Property. To the best of Grantor knowledge, there are not presently any actions, suits, or proceedings pending or, to the best of Grantor knowledge, threatened against or affecting the Property or the interest of Grantor in the Property or its use that would affect Grantor ability to consummate the transaction contemplated by this Agreement. Further, there are not any outstanding and unpaid arbitration awards or judgments affecting title to any portion of the Property. To the best of Grantor knowledge there are not presently any pending or threatened condemnation, eminent domain or similar proceedings affecting the Property. Grantor shall promptly notify Agency of any of these matters arising in the future.
- 6.6 Grantor's Agency. That this Agreement and all other documents delivered prior to or at the Close of Escrow have been authorized, executed, and delivered by Grantor; are binding obligations of the Grantor; and are collectively sufficient to transfer all of Grantor rights to the Property.

In addition to any other remedies that may be available to the Agency as the result of a breach of any of the foregoing warranties or representations, Grantor agree to defend and hold the Agency harmless and reimburse the Agency for any and all loss, cost, liability, expense, damage or other injury, including without limitation, attorneys fees, incurred by reason of, or in any manner resulting from the breach of any of the warranties and representations contained in this Agreement and all third-party claims arising out of or related to any facts or circumstances with respect to the period prior to the Close of Escrow.

7. **Agency's Representations and Warranties.** Agency warrants that, upon approval of this Agreement by the Agency's governing body, this Agreement shall constitute a binding obligation of the Agency.
8. **HAZ MAT CLAUSE 1030.f (Not Tested-Unknown Hazardous Material Use.** The Grantor hereby represent and warrant that during the period of Grantor ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous waste on, from, or under the property. Other than what has been disclosed in Exhibit "C" pursuant to clause 6.4 above.
9. **Rental Agreement** It is agreed that the Grantor shall have a fifteen (15) day grace period commencing on the day following the date of recordation of the deed conveying title to the County, and thereafter, the County will rent the property to the Grantor using the County's standard form of Rental Agreement commencing the day following the termination of the grace period.

The rental rate shall be \$600.00 per month subject to all the terms and conditions as contained in said rental agreement, including the right of either party to cancel and terminate such rental agreement upon thirty (30) days written notice. Said rental rate shall remain in effect for a period of at least one year, if the property is available for occupancy for that period, and subject to the right of the County to establish a new rental rate after one year if the property remains available for rent.

10. **Survival.** All of the terms, provisions, representations, warranties and covenants of the parties under this Agreement shall survive the assignment, expiration or termination of this Agreement and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.
11. **Possession of the Property.** Possession of the Property shall be delivered to the Agency at the Close

of Escrow.

12. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing. The place for delivery of all notices given under this Agreement shall be as follows:

Grantor: John Koontz
571 S. Broadway Avenue
Bay Point, CA 94565
Telephone: 925-458-1168

Agency: Contra Costa County Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Telephone: 925-313-2012
Attn: David Kramer

or to such other addresses as Agency and Grantor may respectively designate by written notice to the other.

13. **Entire Agreement.** The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the Agency of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement. Grantor have no other right or claim to compensation arising out of or connected with the acquisition of the subject property by the Agency, except as specifically set forth in this Agreement, including but not limited to all claims for compensation for improvements pertaining to realty, all claims for compensation for fixtures, equipment or machinery, attorneys' fees, costs or damages of every kind and nature by reason of Agency's acquisition of the subject property and agrees never to assert such a claim.
14. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The Recitals are and shall be enforceable as a part of this Agreement.
15. **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.
16. **Waiver.** A waiver or breach of any covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party
17. **Severability.** If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

18. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with California law. The venue of any litigation pertaining to this Agreement shall be Contra Costa County, California.

**CONTRA COSTA COUNTY
REDEVELOPMENT AGENCY**

RECOMMENDED FOR APPROVAL:

By _____

APPROVED:

By _____
Redevelopment Agency Director

Date _____
(Date of Board Approval)

GRANTOR

By John Koontz
John Koontz, Trustee

Date: 1-13-2010
(Date Signed by Grantor)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A - Legal Description

(FORM APPROVED BY COUNTY COUNSEL 6/99)

DK:sr
G:\RealProp\2007-Files\07-8 - Koontz P&S Agree. (AG.12).doc
1/13/2010

Exhibit "A"

The land referred to in this Report is described as follows:

All that certain real property situated in the unincorporated area, County of Contra Costa, State of California, described as follows:

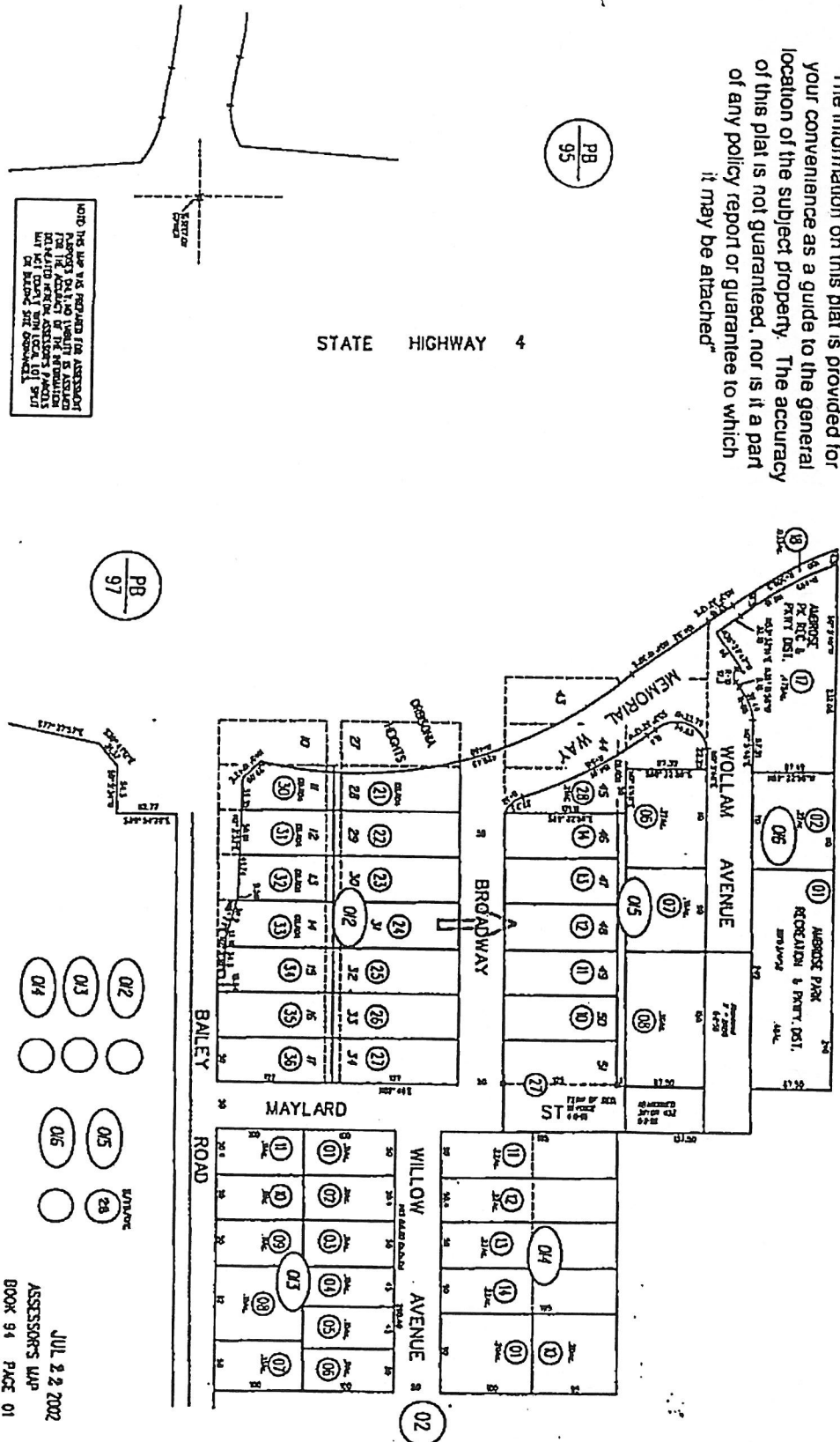
Lot 48 as designated on the map entitled "Map of Orbisonia Heights, Contra Costa County, California", which map was filed in the office of the Recorder of the County of Contra Costa, State of California on April 22, 1930 in Volume 21 of Maps at Page 593.

APN: 094-015-012

ARB: None

The information on this plat is provided for your convenience as a guide to the general location of the subject property. The accuracy of this plat is not guaranteed, nor is it a part of any policy report or guarantee to which it may be attached"

03



JUL 22 2002
ASSESSORS MAP
BOOK 94 PAGE 01
CONTRA COSTA COUNTY, CALIF.

EXHIBIT "C"

**Disclosure Regarding Possible Environmental Contamination
of
571 South Broadway Ave, Bay Point, Ca 94565 ("the Property")**

I John Koontz, 571 South Broadway Ave, Bay Point, Ca 94565 have no Knowledge of any know
contaminants.

I bought property in 1992, I had to remove some auto parts because previous owner worked on
automobiles.

Also rented out for two years from 1999 to 2000 and no knowledge of contaminants.