

2023 Request for Homekey Qualifications

City of Antioch



2023 City of Antioch Request for Qualifications

INTRODUCTION

The City of Antioch is seeking one or more proposals from affordable housing developers to be a co-applicant for State of California Housing and Community Development's Project Homekey funding under the anticipated Round Three Notice of Funding Availability (Round Three NOFA) released March 29, 2023 and with a final submission date of July 28, 2023 or until the available funds are exhausted, whichever comes first. The City aims to identify the most qualified developer to acquire and renovate an existing site and/or develop a vacant site in the City of Antioch for the purpose of increasing the supply of permanent affordable housing to serve residents of Antioch that are experiencing homelessness or at-risk of becoming homeless.

SUMMARY OF KEY INFORMATION

- **The deadline for submitting applications is June 19, 2023, at 5:00 PM.**
- All applications must be submitted electronically via **email only** to jridley@antiochca.gov
- Applications submitted after this date will **not be accepted**.
- All interested parties seeking to be the City's co-applicant on a Homekey project must **complete the application** described below, including all supporting documentation.
- Applicants **must have site control**
- Only applications for **permanent housing (not interim housing)** will be considered.
- The City can make available Housing Successor funding up to **\$3 million for capital costs** (proportional to the number of units to be produced)
- The City can make available federal funding (ARPA or other) up to **\$2.5 million for operating subsidy** (proportional to the number of units to be produced)
- The City will **prioritize projects producing the greatest number of units** for persons with incomes from 0-30% of the area median income (AMI)

BACKGROUND

The City of Antioch was incorporated in 1872 as a General Law City operating under the City Council/City Manager form of government. The City Council is responsible for adopting ordinances, resolutions, the budget, appointing commissions, and committees, and hiring the City Manager and City Attorney. The City Manager is responsible for implementing the Council's policies, ordinances, and directives, for overseeing the day-to-day operations of the City, and for appointing the directors of

the City's departments. Antioch is a suburban city providing quality police, water, streets, parks, engineering, planning, and administrative services. The City of Antioch has a population of approximately 115,000 and covers roughly 30 square miles. Antioch is the second largest city in Contra Costa County.

Since 2019, the Antioch City Council has sought to identify opportunities for the City to take a more active role in responding to community concerns about homeless encampments and meeting the needs of unhoused residents. To address the needs for people experiencing homelessness, the City has obtained authority to proceed with releasing this RFQ and is interested in leveraging long-term capital and operating assistance to ensure the expansion of the supply of housing to those who are in need. In accordance with that objective, the City is releasing this RFQ to solicit input from the development community regarding viable Homekey sites to be developed within the City limits.

The City adopted Policy Guidelines for the City's Approach to Unhoused Resident Services. The following City Policy Guidelines guide the scoring process for this RFQ.

1. Alignment with Best Practice Approaches
2. Advancement of Housing Solutions, Permanent Housing Resources and Linkages
3. Responsiveness to Critical Health and Safety Needs
4. Cost Effectiveness

RFQ TIMELINE

City of Antioch RFQ Release	Wednesday June 7, 2023
City of Antioch RFQ Proposals Due	Friday June 23 2023
Applicants Hold Time for City Staff to Contact for Clarifying Questions/ Information	Wednesday June 28, 2023 9am-12pm
Scoring of Applications by Reviewers	June 28, 29, or 30, 2023
Notification of Agency	June 30, 2023 by 5:00 pm
City Council Action for Homekey approval and Funding Commitment	*July 25, 2023
City of Antioch + Developer Submit Homekey 3.0 Application	*July 28, 2023

** Note: Earlier date may be possible*

APPLICATION PROCESS

Applications must be submitted via email jridley@antiochca.gov by June 23, 2023. City staff are available for questions. The recording is posted on the City's website at:

Questions should be sent to Jazmin Ridley at jridley@antiochca.gov.

STATE HOMEKEY NOFA REQUIREMENTS

The State of California released a Round Three NOFA of Project Homekey funding to continue a statewide effort to sustain and rapidly expand housing for persons experiencing homelessness or at-risk of homelessness, and who are, thereby, inherently impacted by COVID-19 and other communicable diseases.

Homekey is an opportunity for state, regional, and local public entities to develop a broad range of housing types, including but not limited to hotels, motels, hostels, single-family homes and multifamily apartments, adult residential facilities, and manufactured housing, and to convert commercial properties and other existing buildings to permanent or interim housing for the target population.

As an eligible applicant to the State Homekey program, the City intends to apply jointly with a qualified developer/operator as co-applicants for projects selected through this RFQ. The current State Homekey statute includes a California Environmental Quality Act (CEQA) exemption set forth at Health and Safety Code (HSC) section 50675.1.4 and the provision for land use consistency and conformity set forth at HSC section 50675.1.3, subdivision (I). Although the Homekey CEQA exemption is largely limited to existing buildings, the State has identified alternate streamlining pathways that the City encourages applicants to explore.

SITE SPECIFIC PROPOSAL

The City is soliciting developers with viable Homekey sites to come forward with a proposal. The City is not making available City owned properties in this round.

Applicant MUST have site control at the time of proposal submission.

PROJECT PARAMETER AND TIMELINES

Applicants and successful applications must demonstrate consistency with the currently issued [Homekey NOFA](#) amended April 4, 2023 found at:

<https://www.hcd.ca.gov/sites/default/files/docs/grants-and-funding/homekey/Homekey-Round-3-Notice-of-Funding-Availability.pdf>

Specifically, Applicants must demonstrate capacity within their proposal to meet the project timeline associated with the State Homekey program and must include the following parameters:

- Projects must complete all applicable construction and/or rehabilitation within 12 months of the date of State Homekey award.

- All projects should also be structured to achieve full occupancy (fully occupied with consideration for an average of 10% vacancy rate at any given time) within 90 days of construction/rehabilitation completion.

SPENDING TIMELINES

Applicants must demonstrate capacity within their proposal to meet the timely expenditure deadlines associated with the State Homekey program of fully expending Homekey funds within eight months of the State Homekey award.

CITY CAPITAL AND OPERATING SUBSIDY GUIDELINES

The City understands that most Applicants will seek local capital subsidy to meet match requirements for Homekey and to achieve project feasibility. This match requirement will be a limiting factor in the Homekey application that the City will ultimately support and submit to the State.

Capital and Operating Subsidy: The City expects to dedicate an amount **not to exceed \$3 million in Housing Successor funds for capital to develop permanent housing that is income restricted for 55 years**, and **\$2,5 million in City funds as capital and operating match** for eligible Homekey projects, comprised of Federal Coronavirus State and Local Fiscal Recovery Funds (SLFRF). The resources will be made available to ensure feasibility of the Homekey development for the first 5 years of operations. The City has a working relationship with the Contra Costa County Health, Housing and Homeless Services (H3) division housed within the Contra Costa Health Services Department and with the Contra Costa Housing Authority. The City will work in partnership with the selected developer to explore funding that may be leveraged from the County to assist with the Homekey effort.

The City will require the Financial Plan submitted by the applicant to explain feasibility of the development for year 1-55 for permanent supportive housing developments.

CITY PROGRAM GUIDELINES

Based on the State Homekey program and the City's objectives established for the site-specific proposal:

- Applicants must acquire, develop, and manage the proposed property. The City's role will be limited to co-applying for Homekey funding, granting funds to project applicants, and enforcing the regulatory agreement.

Homekey units must serve individuals experiencing homelessness or those at risk of homelessness. Income and rent levels cannot exceed 30% of Area Median Income (AMI).

Although the State's Homekey program does not require an entire project to be comprised of Homekey units, **preference will be provided to projects in which 100% of their units are Homekey restricted.**

The City and the selected developer/operator will be co-applicants to the State for Homekey funding. The developer/operator will prepare all application materials for City review, and when approved, the City will upload and submit the application through the Homekey portal. If awarded, the State will execute a Standard Agreement with both co-applicants. The City's Unhoused Resident Coordinator will serve as the main point of contact for selected Applicants, including preparing for City Council approvals, funding the project, and ensuring expected Homekey program outcomes are met.

The City will record a regulatory agreement against the property that will restrict rents and occupancy and enforce other Homekey and City operational requirements. Please note that the City will not subordinate the priority of its regulatory agreement to private financing.

The term of the regulatory agreement must be at least:

- 55 years for permanent affordable housing projects

The State requires that Homekey funds be provided as grants, The City will accept the Homekey grant capital and operating funds, combine those funds with local matching subsidy, and enter into a single recoverable grant agreement with the Developer/Owner organization of the applicant.

- Under this grant structure, for-profit partners will likely require a non-profit partner in the ownership structure to feasibly accept the grant. (Please note that applicants are responsible for determining the tax implications of receiving grant funds.)
- The City will secure the grant and performance of grant covenants with a deed of trust recorded against the property.

The City supports applicants accessing the CEQA and land use streamlining tools provided by the State Homekey program and expects applicants to seek counsel for legal advice in applying the exemptions and obligations to their projects. Applicants will be responsible for compliance with the Skilled and Trained Workforce and Prevailing Wage requirements of the Homekey program.

NEPA: The intended award of capital and operating funding in connection with a successful proposal pursuant to this RFQ may be funded, in whole or in part, with Coronavirus Local Fiscal Recovery Funds made available to the City through the American Rescue Plan. Projects that are awarded Federal funds must be assessed in

accordance with the National Environmental Policy Action of 1960 (NEPA) prior to grant closing. Applicants must sign a certification that they understand this restriction.

- **Choice-Limiting Actions Prohibited During NEPA Review:** Applicants must refrain from undertaking activities that would have an adverse environmental impact or would otherwise limit the choice of reasonable alternatives between the time of application submittal and when the City has completed its environmental review process. Such activities include acquiring, rehabilitating, converting, leasing, repairing, or constructing property, any kind of site preparation, or committing pending HUD or non-Federal funds for program activities with respect to any project eligible under this RFQ. The prohibition against choice-limiting actions begins on the date that the application is submitted to the City.
- If the applicant has entered into a purchase agreement or contract for any of the above activities prior to applying for federal funds included within this RFQ, work may continue pursuant to that contract. CDBG-CV or HOME ARP funds may not be used to reimburse a contractor for project-related costs incurred after the applicant has submitted the application for funding and before the completion of the City's environmental review process except for activities that are excluded and not subject to federal environmental review requirements, and for certain relocation costs.
- Applicants may be required to hire a NEPA consultant to work with City Planning staff to complete a NEPA review. Completing the NEPA review, including local and federal noticing periods, takes a minimum of 8-12 weeks after receipt of all necessary information. Development budgets should include NEPA consultant costs.

Other Federal, Local, and State Requirements:

The intended award of capital and operating funding in connection with a successful proposal pursuant to this RFQ may be funded, in whole or in part, with Coronavirus Local Fiscal Recovery Funds made available to the City through the American Rescue Plan. In submitting a proposal, respondents shall comply with the City of Antioch Project Stabilization Agreement set forth in Attachment 1 and to execute the non-debarment certification set forth in Attachment 2, attached to this RFQ

Applicant will be required to comply with all federal funding requirements including:

- Contracting with small and minority firms, women's business enterprise and labor surplus firms (2 C.F.R. § 200.321)
- Respondents will take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will not be discriminated against on the grounds of race, color, religious creed,

sex, or national origin in consideration for an award. Affirmative steps shall include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
5. Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce.

Evidence of compliance with the foregoing affirmative steps shall be provided when requested by the City.

CONTRACT COMPLIANCE:

Applicants must comply with the City of Antioch employment and contracting requirements as listed below:

Maximum Developer Fee: The maximum allowable developer fee for permanent affordable housing is the lesser of 10% of total development cost or \$1,000,000. Applicants may request all or a portion of the developer fee at their discretion; the developer fee is not a requirement.

Robbins-Rosenthal Fair Debt Collection Practices Act: The successful contractor(s) must operate in accordance with ethical collection practices and obey all laws, including the Robbins-Rosenthal Fair Debt Collection Practices Act.

Insurance requirements: The successful contractor(s) will maintain in force, during the full term of the contract, insurance as indicated by the City upon award of proposal/bid.

Indemnification Agreement: To the full extent permitted by law, contractor shall defend, indemnify and hold harmless the City, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by the City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever incurred in relation to, as a consequence of or arising out of or in any way attributable in whole or in part to the performance of this agreement.

All obligations under this provision are to be paid by the Contractor as the City incurs them.

Without affecting the rights of the City under any provision of this agreement or this section, the Contractor shall not be required to indemnify and hold harmless the City as set forth above for liability attributable to the sole fault of the City, provided such sole fault is determined by agreement between the parties of the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault and not in instances where the City's fault accounts for only a percentage of the liability involved. In those instances, the obligation of the Contractor will be all-inclusive, and the City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to conduct of the City.

Contractor acknowledges that its obligation pursuant to this section extends liability attributable to the City if that liability is less than the sole fault of the City.

The Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every Sub-contractor, sub-tier contractor or any other person or entity involved by, for, with or on behalf of the Contractor in the performance of this agreement. In the event the Contractor fails to obtain such indemnity obligations from others as required here, the Contractor agrees to be fully responsible according to the terms of this section. Failure of the City to monitor compliance with these requirements imposes no additional obligations on the City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend the City as set forth herein is binding on successors, assigns or heirs of the Contractor and shall survive the termination of this agreement or section.

Remittance and Reporting Requirements: The successful contractor(s) will be required to submit to the City of Antioch regular monthly remittances and statements no later than thirty (30) days following the end of the month.

RFQ SUBMITTAL REQUIREMENTS

To be considered complete, proposals in response to this RFQ must include the following components. Failure to complete applicable sections will be recorded as a "0" for the applicable scoring category.

Complete a cover sheet that includes the following:

- Project Team (include contact information for lead contact)
- Project address
- Project type
- Number of total units

- Number of units for people experiencing homelessness
- Target population(s) – If relevant, please include additional details about proposed eligibility (e.g., minimum income levels, level of on-site supportive services required, etc.)
- Amount of capital match requested
- Amount of capitalized operating subsidy requested for up to 5 years of operations.

Required Attachments:

- MOU or joint venture agreement between developer/owner partners: If the applicant is a joint venture, an executed joint venture agreement is required clearly describing the roles and responsibilities of each partner, and identifying who is the lead partner, or if the responsibilities are appropriately equally split between the partners if applicable.
- Organizational chart of partnership or joint venture that features ownership percentages and roles and responsibilities. Not applicable for single entity applicants.
- Audited financial statements for all developer/owner organizations from the past two years. If these are consolidated financial statements, they must include the standalone financial statements for the parent organization(s). If circumstances about an organization's financial capacity require explanation include a narrative summary in addition to financial statements.

PROJECT SCORING

Projects will be scored as follows:

Evaluation Factors	Possible Points
<p>Developer Experience/Financing Plan</p> <p>Developer Experience/Financial Plan including a summary of the approach, experience developing and owning projects like the proposed housing type, a development budget, sources and uses, cash flow, request for capital and operating subsidy. Please articulate how you will achieve 55 years of operational sustainability.</p> <ul style="list-style-type: none"> • Summary of the approach • Experience developing and owning projects like the proposed housing type • Development budget, sources and uses, cash flow, request for capital and operating subsidy. Please articulate how the applicant will achieve operational sustainability for 55 years. • # of units for target population 	25

<ul style="list-style-type: none"> List of comparable developments to demonstrate applicant experience with proposed housing type <p><i>(A maximum of 25 points will be awarded in this category [5 for projects that are 100% Homeless dedicated units, 10 points for projects that demonstrate feasibility consistent with the proposed affordability period, and 5 points (not to exceed a total of 15 points) for each housing development the Applicant has developed, owned, or operated as the proposed housing type for the last 3 years and containing unit(s) that house the proposed population])</i></p>	
<p>Development Plan</p> <p>Development plan outlining your plans for development of the proposed site and how you plan to adhere to the timeframes for expenditure, completion, lease up, and handling existing tenants in place if applicable.</p> <ul style="list-style-type: none"> Provide a plan for how the applicant will develop the proposed site. Provide timeframes for expenditure completion Outline service and property management staffing, a schedule for lease up, and handling existing tenants in place if applicable <p><i>(A maximum of 15 points will be awarded in this category [10 points will be awarded to plans that meet the Homekey timeframes for expenditures, completion, and occupancy; 5 points will be awarded for the highest number of proposed “doors” amongst all viable applications.]</i></p>	15
<p>Management Experience/Management Plan</p> <p>Management Experience and Management Plan outlining experience managing homeless housing for the proposed housing program and a Management Plan.</p> <p>The Property Management Plan should be consistent with state Housing First requirements and address the following requirements:</p> <ol style="list-style-type: none"> Applicant eligibility and screening standards Confidentiality Substance use policy Communication between property manager and supportive services staff Eviction policies and eviction prevention procedures Process for assisting tenants to apply for different forms of cash and non-cash benefits to aid the household in retaining their housing, if needed 	15

<p>7. How applicants and residents will be assisted in making reasonable accommodation requests, in coordination with the service provider and persuasive to outside entities, such as Housing Authorities, to ensure that persons with disabilities have access to and can maintain housing</p> <p>8. Policies and practices to facilitate Voluntary Moving On strategies</p> <p>9. Appeal and Grievance Procedures</p>	
<p>Supportive Service Plan</p> <p>As part of the Supportive Services Plan narrative, please provide detail about the service provider's experience with the provision of services to homeless households residing in a development consistent with the proposed housing type. Please describe in the plan who will provide services, what services will be provided, a staffing chart indicating staff positions, a budget, and the approach to Housing First Principles. The City desires to prioritize individuals who are identified on the "City's Unhoused Homeless Residents List." This list is generated through outreach conducted by the Unhoused Resident Coordinator and will be used to occupy the NCBH program. Please describe how you will coordinate with the Contra Costa County Coordinated Entry System (CES) to identify a streamlined assessment and prioritization process for occupancy.</p> <ul style="list-style-type: none"> • Narrative describing service provider's experience with the provision of services to homeless households residing in the proposed housing type • Detail who will provide services and what services will be provided • Staffing chart indicating staff positions • Supportive Services budget • The approach to Housing First Principles <p><i>(A maximum of 25 points will be awarded in this category [1 point (not to exceed 15 points) will be awarded for each year the Supportive Service Provider has provided direct supportive services to the identified population in a setting consistent with the housing type proposed; 10 points will be awarded for a Supportive Service Plan that addresses the above Supportive Service Plan identified provisions])</i></p>	<p>25</p>

Community Engagement Plan Community Engagement Plan: Please identify the plan to engage potential residents, surrounding neighbors, and elected officials to gain support and feedback for the project. Include any outreach steps, meetings, or communication you plan. Include details on applicants Good Neighbor Policy for ongoing community engagement efforts throughout the life of the project. <i>(A maximum of 10 points will be awarded to projects that have a thorough and concise plan)</i>	10
Thoroughness/Completeness of Application <i>(10 points will be awarded for applicants that provide all documents and information requested through this RFQ. 2 points will be deducted for each missing document or unanswered question).</i>	10
Total Points	100

CITY RULES

All applicants must agree to not discriminate on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, participation in a tenant-based rental assistance program, physical or mental disability, Acquired Immune Deficiency System (AIDS) or AIDS-related conditions, immigration status, past criminal background or any other arbitrary basis. Projects must meet the requirements of the Americans with Disabilities Act and other applicable disability laws.

Applicants should understand that under the California Public Records Act and the City's Sunshine Ordinance, all documents that are submitted in response to this RFQ, including financial information, are considered public records, and will be made available to the public upon request, unless specifically exempted under the law.

Please note that under conflict-of-interest laws, no public official of the City who participates in the decision-making process concerning selection of a developer or a project may have or receive a direct or indirect economic interest in the developer or the project.

The City's issuance of this RFQ is not a promise or an agreement that the City will fund any project or enter any contract. The City reserves the right at any time and from time to time, and for its own convenience, in its sole and absolute discretion, to do the following:

- Modify, suspend or terminate any and all aspects of the selection process, including, but not limited to this RFQ and all or any portion of the developer selection process;
- Waive any technical defect or informality in any submittal or submittal procedure that does not affect or alter the submittal's substantive provisions;
- Reject any and all submittals;
- Request some or all applicants to revise submittals;
- Waive any defects as to form or content of the RFQ or any other step in the selection process;
- Reject all proposals and reissue the RFQ;
- Procure the desired proposals by any other means or not proceed in procuring the proposals; or
- Negotiate and modify any and all terms of an agreement.

The City may modify, clarify, and change this RFQ by issuing one or more written addenda. Addenda will be posted on the City's website and notice of the posting will be sent by electronic mail to each qualified applicant who attended the required pre-application meeting. The City will make reasonable efforts to notify interested parties in a timely manner of modifications to this RFQ, but each applicant assumes the risk of submitting its submittal on time and obtaining all addenda and information issued by the City. Therefore, the City strongly encourages interested parties to check the City's web page for this RFQ frequently.

**Attachment 1: PROJECT STABILIZATION AGREEMENT ENTERED INTO ON
FEBRUARY 28, 2022 BY AND BETWEEN THE CITY OF ANTIOCH AND THE
CONTRA COSTA BUILDING AND CONSTRUCTION TRADES COUNCIL**

**PROJECT STABILIZATION AGREEMENT
FOR THE CITY OF ANTIOCH**

INTRODUCTION/FINDINGS

This Project Stabilization Agreement is entered into this 28 day of February, 2022, by and between the City of Antioch (hereinafter the "City"), together with contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the "Agreement to be Bound" (Addendum A) (referred to herein as the "Contractor(s)/Employer(s)"), and the Contra Costa County Building and Construction Trades Council (referred to herein as the "Council") and its affiliated local Unions that have executed this Agreement (referred to collectively herein as the "Union(s)").

The purpose of this Agreement is to promote the efficiency of construction operations for the City of Antioch through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project(s) covered by this Agreement.

WHEREAS, the timely and successful completion of the Project is of the utmost importance to meet the needs of the City and avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of construction work on the Project and will be represented by the Unions who are signatory to this Agreement and employed by the Contractors and subcontractors who are also signatory to this Agreement; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on a Project of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption may be substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the City, the Unions, and the Contractors/Employers would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractors/Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project and to encourage close cooperation among the Contractors/Employers and the Unions so that a satisfactory, continuous and harmonious relationship will exist; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and non-union workers of different

employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractors/Employers and the Unions, except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event the provisions of this Agreement shall prevail; and

WHEREAS, the City places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents and military veterans, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable career pathways in the construction industry; and

WHEREAS, the contract(s) for construction work on the Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code and all state, local and federal laws; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the Project;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE I **DEFINITIONS**

- 1.1 "Agreement" means this Project Stabilization Agreement.
- 1.2 "Agreement to be Bound" means the agreement (attached hereto as Addendum A) that shall be executed by each and every Contractor/Employer as a condition of working on the Project.
- 1.3 "City" means the City of Antioch and its governing board, officers, agents and employees, including managerial personnel.
- 1.4 "Completion" means that point at which there is Final Acceptance by the City of a Construction Contract and the City has filed a Notice of Completion. For purposes of this definition, "Final Acceptance" means that point in time at which the City has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the City has executed a written acceptance of the work.
- 1.5 "Construction Contract" means the public works or improvement contract(s) (including design-bid, design-build, lease-leaseback or other contracts under which

construction of the Project is done) awarded by the City that are necessary to complete the Project.

- 1.6 "Contractor(s)/Employer(s)" or "Contractor(s)" or "Employer(s)" means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and enters into a contract with the City with respect to the construction of any part of the Project, and all contractors and subcontractors of any tier.
- 1.7 "Council" means the Contra Costa County Building and Construction Trades Council.
- 1.8 "Local Area" means the communities of the City of Antioch and Contra Costa County to be served by the Project.
- 1.9 "Master Agreement" or "Schedule A" means the Master Collective Bargaining Agreement of each craft Union signatory hereto.
- 1.10 "Project" means a City construction project funded in whole or in part with City funds where the engineer's estimate or bid amount exceeds one million dollars (\$1,000,000), including but not limited to new facilities, remodel of existing facilities, infrastructure, water treatment, roadway work including slurry seal, park improvements, and the City's Capital Improvement Program public projects, subject to Section 2.4.5 of this Agreement. All Construction Contracts required to complete an integrated Project shall be considered in determining whether this threshold is met. The City and the Council may mutually agree as amendments to the Agreement to remove or add additional projects to be covered by this Agreement. The term "Project" applies to each and all projects as defined in this section, whether used in the singular or plural herein.
- 1.11 "Project Manager" means the person(s) or entity(ies) designated by the City to oversee all phases of construction on the Project and the implementation of this Agreement.
- 1.12 "Union" or "Unions" means the Contra Costa Building and Construction Trades Council and its affiliated Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II

SCOPE OF AGREEMENT

2.1 **Parties:** This Agreement applies to and is limited to all Contractors/Employers performing Construction Contracts on the Project (including subcontractors at any tier), and their successors and assigns, the City, the Council, and its affiliated Unions signatory to this Agreement.

2.2 Applicability: This Agreement governs all Construction Contracts awarded on the Project. For purposes of this Agreement, Construction Contracts shall be considered Completed as set forth in Section 1.4, except when the City directs a Contractor to engage in repairs, warranty work, modifications, or punch list work under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract.

2.3 Covered Work: This Agreement covers, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for the Project that is within the craft jurisdiction of one of the Unions and that is directly or indirectly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, soils and materials testing and inspection, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up. Covered Work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site hatch plant constructed to supply materials to the Project.

2.3.1 This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for the Project performed after Completion, unless performed by City employees.

2.3.2 This Agreement covers all on-site fabrication work over which the City, Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). This Agreement also covers any off-site work, including fabrication, necessary for the Project and traditionally performed by any of the Unions that is covered by a current Master Agreement or local addenda to a National Agreement of the applicable Union(s).

2.3.3 Except for the delivery of supplies, equipment or materials that are stockpiled for later use, this Agreement covers all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of written request or as required by the bid specifications.

2.3.4 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles IV, XIII and XIV of this Agreement shall apply to such work.

2.4 Exclusions: The following shall be excluded from the scope of this Agreement:

2.4.1 This Agreement shall not apply to work performed by the City's own employees as permitted by the Public Contract Code.

2.4.2 This Agreement shall not apply to a Contractor/Employer's non-construction craft executives, managerial employees, administrative personnel, and supervisors above the level of general foreman (unless covered by a Master Agreement).

2.4.3 This Agreement shall not apply to any non-Project work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city, or other governmental bodies or their contractors. Work performed by public or private utilities including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building shall be excluded. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.4.4 This Agreement shall not apply to the off-site maintenance of leased equipment and on-site supervision of such work.

2.4.5 The City retains the right to reject all bids and re-advertise the project, however in that event this Agreement shall remain applicable. The Agreement shall be limited to Project Work, undertaken pursuant to a Construction Contract which is awarded by the City on or after the Effective Date, and is not intended to, and shall not govern, any construction contracts entered into prior to the Effective Date of this Agreement, or after the expiration or termination of the Agreement.

2.4.6 This Agreement shall not apply to work substantially funded by any federal, state, local or other public agency that prohibits the use of project labor agreements on projects receiving its funding, or the funding of projects on which such agreements are used. With respect to such work, the City agrees to make a reasonable effort to defend the application of this Agreement, including by making a written request to the funding source. Notwithstanding the foregoing, should only a specific provision of the Agreement be prohibited by the funding source, then, upon mutual agreement by the Council, the City shall modify the requirements of this Agreement accordingly, to allow this Agreement to remain in place and to advance the purposes of this Agreement to the maximum extent feasible.

2.4.7 This Agreement is not intended to, and shall not, affect or govern the award of contracts by the City that are not contracted for purposes of a covered Project.

2.4.8 Work of non-manual employees, including but not limited to: superintendents, supervisors, staff engineers, time keepers, mail carriers, clerks, office workers, messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory and management employees. All employees of the City, Project Manager, design teams (including, but not limited to architects, engineers and master planners), or any other consultants for the City (including, but not limited to, project

managers and construction managers and their employees where not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations, not performing manual labor within the scope of this Agreement; provided, however, that it is understood and agreed that Building/Construction Inspector and Field Soils and Material Testers (Inspectors) are a covered craft under the Agreement (this inclusion applies to the scope of work defined in the State of California Wage Determination for said craft). Every Inspector performing under the wage classification of Building/Construction Inspector and Field Soils Material Testers under a professional services agreement of a construction contract shall be bound to all applicable requirements of the Agreement. Nothing in this section will be construed to include Department of State Architects-certified inspectors as included under the scope of this Agreement.

2.4.9 Work performed by employees of a manufacturer or vendor on the manufacturer's equipment if required by the warranty agreement between the manufacturer or vendor and the Owner or Contractor(s) in order to maintain the warranty or guarantee on such equipment; provided that (i) the warranty agreement is the manufacturer's or vendor's usual and customary warranty agreement for such equipment and is consistent with industry practice; and (ii) the Contractor using the employee of a manufacturer or vendor has first demonstrated at the Pre-Job Conference, by an enumeration of specific tasks, that in order to preserve the warranty, the work cannot be performed by construction persons employed under this Agreement.

2.4.10 Work of employees of any Contractor, design team or any other consultant of the Owner not performing construction craft labor covered by a Master Agreement.

2.4.11 Laboratory work for testing and inspections not ordinarily done by the signatory Unions. Surveying, soil testing, and similar work are examples of work ordinarily done by the signatory Unions and included in this Agreement.

2.5 Award of Contracts: It is understood and agreed that the City has the right to select any qualified bidder for the award of Construction Contracts under this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project. A copy of all invitations to bid shall be provided to the Council at the time of issuance.

ARTICLE III **EFFECT OF AGREEMENT**

3.1 By executing this Agreement, the Council, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract for the Project, whether as a Contractor or subcontractor thereunder, all Contractors/Employers agree to be bound by each and every provision of this Agreement and agree to evidence their acceptance prior to the commencement of work by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the

Contractor/Employer shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a condition of accepting the award of a construction subcontract, to agree in writing, by executing the **Agreement to be Bound**, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor may not be evaded by subcontracting. If the subcontractor refuses to execute the Agreement to be Bound, then such subcontractor shall not be awarded a Construction Contract on the Project.

3.4 This Agreement shall only be binding on the signatory parties hereto, and their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement, except as otherwise provided by law or the applicable Master Agreement. Any dispute between the Union(s) and the Contractor(s) with respect to compliance with this Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other Contractor(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a Union signatory to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a Union shall not affect the rights, liabilities, obligations and duties between the Contractor(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule As incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement conflicts with a Schedule A, the provision of this Agreement shall prevail. Where a provision of a Schedule A does not conflict with this Agreement, the provision of the Schedule A shall apply.

ARTICLE IV **WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS**

4.1. The Unions, the City, and the Contractor(s)/Employer(s) covered by this Agreement agree that for the duration of the Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or any other facility of the City because of a dispute on the Project. Disputes arising between the Unions and Contractor(s)/ Employer(s) on other City projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor/Employer of workers employed on the Project.

4.1.3 If a Master Agreement expires before the Contractor/Employer completes the performance of work under a Construction Contract and the Union or Contractor/Employer signatory to the Master Agreement other than through an Agreement to be Bound gives notice of a demand for a new or modified Master Agreement, the Union agrees that it will not strike on work

covered by this Agreement and the Union and the Contractor/Employer agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/ Employer agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) on the Project during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.4 In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give the City and the Contractor/Employer three (3) business days' notice when nonpayment of trust fund contributions has occurred, and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck, of the intent to withhold labor from the Contractor/Employers' or their subcontractor's workforce, during which time the Contractor/Employer may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.5 Notification: If the City or any Contractor contends that any Union has violated this Article, it will so notify in writing the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the workers of their obligations under this Article. A Union complying with this obligation shall not be held responsible for the unauthorized acts of employees it represents.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred.

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 13.4. Notice to the arbitrator shall be by the most expeditious means available, with notice by email and telephone to the City, the involved Contractor, and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the City will contact the permanent arbitrator named above, or the alternate if the permanent arbitrator is not available, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by email and telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article, and the arbitrator's award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with the arbitrator's award ordering the party to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 The arbitrator's award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In a proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceeding may be *ex parte*. However, such agreement does not waive any party's right to seek or participate in a hearing for a final order of enforcement. Any court order enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance with the above procedure, are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

ARTICLE V

PRE-JOB CONFERENCES

5.1 **Timing:** The Project Manager shall convene and conduct, at a location and time mutually agreeable to the Council, a pre-job conference with the Unions and the representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project work, and
- (b) The commencement of Project work on any subsequently awarded Construction Contract.

5.2 The pre-job conference shall be attended by a representative of each participating Contractor and each affected Union, and the Council and City may attend at their discretion.

5.3 The pre-job conference shall include but not be limited to the following subjects:

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work; and
- (f) Discussion of pre-fabricated materials.

5.4 Review Meetings: In order to ensure the terms of this Agreement are being fulfilled and all concerns pertaining to the City, the Unions and the Contractors are addressed, the Project Manager and Senior Executive of the Council, or designated representatives thereof, shall meet on a periodic basis during the term of construction. The City and the Council shall have the right to call a meeting of the appropriate parties to ensure the terms of this Agreement are being fulfilled.

ARTICLE VI **NO DISCRIMINATION**

6.1 The Contractors/Employers and the Unions agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment on the Project, pursuant to Public Contract Code 2500(a)(1).

ARTICLE VII **UNION SECURITY**

7.1 The Contractors/Employers recognize the Unions as the sole bargaining representative of all craft employees working within the scope of this Agreement, and all such employees must be represented by a Union for the duration of their employment on this Project.

7.2 The Contractors/Employers shall make and transmit all deductions for Union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Master Agreement. This Agreement does not require any employee of a non-union Contractor/Employer to join a Union or to pay dues or fees to a Union as a condition of working on the Project; however, nothing in this Article is intended to supersede the independent requirements of the applicable Master Agreements as to Contractors/Employers signatory to such Master Agreements and as to employees of those Contractors/Employers who are performing Covered Work.

7.3 Authorized representatives of the Unions shall have access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project.

ARTICLE VIII **REFERRAL**

8.1 Contractor(s)/Employer(s) performing construction work on the Project shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor(s)/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.2 Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s), unless such craft construction employee is covered by a Master Agreement.

8.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain the worker(s) from any source. A Contractor/Employer who hires a worker(s) to perform Covered Work on the Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such worker(s) and shall immediately refer such worker(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

8.4 Employment of Local Area Residents. The parties to this Agreement support the development of increased numbers of skilled construction workers from the "Local Area", which is defined as: Tier 1—the City of Antioch; Tier 2—the other communities in east Contra Costa County; and Tier 3—the remainder of Contra Costa County. To the extent allowed by law, and consistent with the Local Union's hiring hall provisions, and, further, as long as they possess the requisite skills and qualifications, residents, including journeymen and apprentices, within the Local Area shall be referred in order according to Tier commencing with Tier 1 and continuing through Tier 3 and then to non-Local Area residents until all positions in the dispatch request have been filled for Project work covered by this Agreement.

ARTICLE IX **WAGES AND BENEFITS**

9.1 The Contractors/Employers agree to pay contributions to the vacation, pension and/or other deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Project, in the amounts designated in the applicable Master Agreement(s).

9.2 By signing this Agreement, the Contractors/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements described in Section 9.1, which may from time to time be amended, specifying the detailed basis upon which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors/Employers authorize the parties to such local Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if they were appointed

by the Contractors/Employers. The Contractors/Employers agree to execute a separate subscription agreement(s) when such Trust Fund(s) requires such document(s).

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective craft, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

9.4 Holidays: Holidays shall be as set forth in the applicable Master Agreement.

ARTICLE X **APPRENTICES**

10.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, including on public works projects, the Contractors/Employers shall employ apprentices from a California state-approved Joint Apprenticeship Training Program in their respective crafts, to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured.

10.2 Apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination.

10.3 Consistent with the Master Agreements, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly indentured and supervised.

ARTICLE XI **HELMETS TO HARDHATS**

11.1 The Contractors/Employers and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors/Employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

11.2 The Unions and Contractors/Employers agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Project and of apprenticeship and employment opportunities for the Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XII **COMPLIANCE**

12.1 It shall be the responsibility of the Contractors/Employers and Unions to investigate and monitor compliance with the provisions of Article IX of this Agreement. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent wages or Trust Fund contributions from Contractors/Employers on the Project. Because the Project is a public work subject to the California Labor Code, the City shall monitor and enforce the Contractors/Employers' compliance with state prevailing wage requirements as well as this Agreement.

ARTICLE XIII **GRIEVANCE ARBITRATION PROCEDURE**

13.1 It is mutually agreed that disputes involving the application or interpretation of a Master Agreement to which a Contractor and Union are parties, and all disputes involving employee discipline or discharge, shall be resolved pursuant to the grievance and arbitration provisions of the applicable Master Agreement. No employee working on the Project shall be disciplined or discharged without just cause. However, any question arising out of and during the term of this Agreement involving its interpretation and application (other than jurisdictional disputes or disputes regarding work stoppages) shall be considered a grievance hereunder and shall be resolved pursuant to the grievance procedure set forth below.

13.2 **Employee Discipline:** All disputes involving the discipline and/or discharge of an employee working on the Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. No employee working on the Project shall be disciplined or discharged without just cause.

13.3 No grievance shall be recognized unless the grieving party (Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor/Employer on its own behalf) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual agreement of the parties.

13.4 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the representative of the involved Union or District Council, or his/her designee, and the representative of the involved Contractor/Employer, shall confer and attempt to resolve the grievance.

Step 2: If the grievance is not resolved at Step 1, within five (5) business days of the Step 1 meeting or the conclusion of efforts to resolve the grievance at Step 1, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved and the Labor Relations Manager of the Contractor/Employer, or the Contractor/Employer's designated representative, for discussion and resolution. This time limit may be extended by mutual consent of both parties. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting.

and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The Project Manager and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not resolved at Step 2, either party may request the dispute be submitted to arbitration within five (5) business days of the Step 2 meeting or the conclusion of efforts to resolve the grievance at Step 2. This time limit may be extended by mutual consent of both parties. Within five (5) business days after referral of a dispute to arbitration, the representatives shall notify the permanent arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, for final and binding arbitration. If the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. Carol Vendrillo
3. Morris Davis

13.5 The decision of the arbitrator shall be final and binding on all parties. The arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the arbitrator shall be borne equally by both parties. The arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator.

13.6 The time limits specified at any step of the grievance procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

13.7 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this grievance procedure, the parties agree that such settlements shall not be precedent setting.

13.8 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

ARTICLE XIV

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

14.1 The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

14.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

14.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan, and the arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California within fourteen (14) calendar days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

14.5 Each Employer will conduct a pre-job conference with the Council prior to commencing work. The City and the Project Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

ARTICLE XV **MANAGEMENT RIGHTS**

15.1 Consistent with the Schedule A agreements, the Contractor(s)/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that all lawful manning provisions in the Master Agreement shall be recognized.

ARTICLE XVI **DRUG AND ALCOHOL TESTING**

16.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

16.2 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Schedule A.

ARTICLE XVII **SAVINGS CLAUSE**

17.1 If any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word that will meet the objections to its validity and will be in accordance with its original intent.

17.2 In the event a decision of a court of competent jurisdiction materially alters the terms of this Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the City from complying with all or part of the Agreement's provisions, and the City accordingly determines that compliance with this Agreement will not be required in order to perform work under a Construction Contract, the Unions will no longer be bound by the provisions of Article IV.

ARTICLE XIX **TERM**

18.1 This Agreement shall become effective on the day it is executed by the City Council and the Council. It shall remain in full force and effect for a period of five (5) years. Prior to each five (5) year anniversary of the Effective Date, the City and the Council shall meet to discuss proposed changes, if any, to the Agreement. Absent the City's request for changes or termination, the Agreement will roll over for an additional five (5) years.

ARTICLE XVII **MISCELLANEOUS PROVISIONS**

19.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

19.2 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

19.3 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

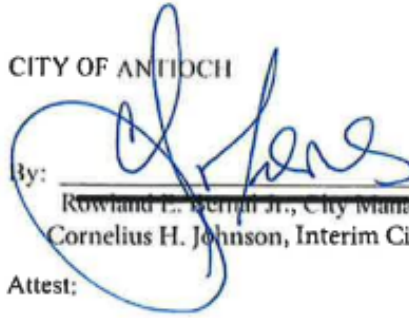
19.4 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms

and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

19.5 All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[SIGNATURES TO FOLLOW]

CITY OF ANTIOCH

By: 
Rowland L. Bernini Jr., City Manager
Cornelius H. Johnson, Interim City Manager
Attest:
By: _____
Elizabeth Householder, City Clerk

Date: 2/28/22


Date: _____

APPROVED AS TO FORM:

By: 
Thomas Lloyd Smith, City Attorney

Date: 2/25/2022

CONTRA COSTA COUNTY BUILDING AND
CONSTRUCTION TRADES COUNCIL

By: 
Bill Whitney, CEO

Date: 1/31/2022

Attachment 2: NON-DEBARMENT CERTIFICATE

The undersigned hereby certifies that it and its principals (as defined in 2 C.F.R. §180.995 and supplemented by 2 C.F.R. §1532.995):

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(b) Have not within a three (3) year period preceding the date of this procurement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three (3) year period preceding this procurement had one or more public transactions (federal, state or local) terminated for cause or default.

Name of Respondent: _____

By: _____

Title: _____

Date: _____