

**ANNOTATED  
AGENDA  
CITY OF ANTIOCH PLANNING COMMISSION  
ANTIOCH COUNCIL CHAMBERS  
200 "H" STREET**

**WEDNESDAY, SEPTEMBER 20, 2017**

**6:30 P.M.**

**NO PUBLIC HEARINGS WILL BEGIN AFTER 10:00 P.M.  
UNLESS THERE IS A VOTE OF THE PLANNING COMMISSION  
TO HEAR THE MATTER**

**APPEAL**

All items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the date of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on **WEDNESDAY, SEPTEMBER 27, 2017**.

If you wish to speak, either during "public comments" or during an agenda item, fill out a Speaker Request Form and place in the Speaker Card Tray. This will enable us to call upon you to speak. Each speaker is limited to not more than 3 minutes. During public hearings, each side is entitled to one "main presenter" who may have not more than 10 minutes. These time limits may be modified depending on the number of speakers, number of items on the agenda or circumstances. No one may speak more than once on an agenda item or during "public comments". Groups who are here regarding an item may identify themselves by raising their hands at the appropriate time to show support for one of their speakers.

**ROLL CALL**

**6:30 P.M.**

Commissioners	Zacharatos, Chair
	Parsons, Vice Chair
	Motts
	Turnage
	Husary
	Conley ( <i>absent</i> )

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

**CONSENT CALENDAR**

All matters listed under Consent Calendar are considered routine and are recommended for approval by the staff. There will be one motion approving the items listed. There will be no separate discussion of these items unless members of the Commission, staff or the public request specific items to be removed from the Consent Calendar for separate action.

**1. APPROVAL OF MINUTES: None**

\* \* \* END OF CONSENT CALENDAR \* \* \*

**CONTINUED PUBLIC HEARING**

- 2. General Plan Land Use Element Update: Sand Creek Focus Area** – The City of Antioch is proposing amendments to the Land Use Element of the General Plan affecting the Sand Creek Focus Area. The amendments include, but are not limited to, changes to land use designations, density allowances, conceptual circulation, land use policies, hillside protection policies, and open space designations. An addendum to the original 2003 General Plan Environmental Impact Report (EIR) has been prepared. The proposed changes ultimately require City Council approval and the Planning Commission will serve as an advisory board, providing a recommendation to the City Council on the matter.

***RESOLUTION NO. 2017-18***

**NEW PUBLIC HEARING**

**STAFF REPORT**

- 3. PD-17-01 – Vineyards at Sand Creek Residential Subdivision** – GBN Partners, LLC, requests approval of: a Planned Development rezone (PD-17-01); a Final Development Plan and Vesting Tentative Map; an amended and reinstated Development Agreement (Ordinance 2112-C-S); and, an Addendum to the Vineyards at Sand Creek project EIR. The Vineyards at Sand Creek project was originally approved by the City Council in 2016 and consists of the development of a gated residential community on 141.6 total acres; including up to 641 single-family residential units, private streets, two parks, a segment of the Sand Creek Regional Trail, two storm water detention basins, and landscaped and open space areas. The applicant is proposing to revise conditions of approval (Resolution No. 2016/13) and revise a final development plan/vesting tentative map (Subdivision 9390) in order to reduce infrastructure requirements related to Sand Creek Road and Heidorn Ranch Road. The applicant is also requesting credits of sewer connection and water capacity fees of up to \$4,900 per unit. The project site is bounded by a residential subdivision to the north, the future extension of Sand Creek to the south, Heidorn Ranch Road, the City of Brentwood city limits to the east, and future Hillcrest Avenue extension and vacant residential land to the west (**APNs 057-030-003 and 057-050-007**).

***ADOPTED NEUTRAL POSITION ON ACTIONS***

**STAFF REPORT**

## **ORAL COMMUNICATIONS**

## **WRITTEN COMMUNICATIONS**

## **COMMITTEE REPORTS**

## **ADJOURNMENT** (9:24 pm)

### **Notice of Availability of Reports**

This agenda is a summary of the discussion items and actions proposed to be taken by the Planning Commission. For almost every agenda item, materials have been prepared by the City staff for the Planning Commission's consideration. These materials include staff reports which explain in detail the item before the Commission and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included. All of these materials are available at the Community Development Department located on the 2<sup>nd</sup> floor of City Hall, 200 "H" Street, Antioch, California, 94509, between the hours of 8:00 a.m. and 11:30 a.m. or by appointment only between 1:00 p.m. and 5:00 p.m. Monday through Friday for inspection and copying (for a fee). Copies are also made available at the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the Community Development Department, who will refer you to the appropriate person.

### **Notice of Opportunity to Address the Planning Commission**

The public has the opportunity to address the Planning Commission on each agenda item. You may be requested to complete a yellow Speaker Request form. Comments regarding matters not on this Agenda may be addressed during the "Public Comment" section on the agenda.

### **Accessibility**

The meetings are accessible to those with disabilities. Auxiliary aids will be made available for persons with hearing or vision disabilities upon request in advance at (925) 779-7009 or TDD (925) 779-7081.

**STAFF REPORT TO THE PLANNING COMMISSION  
FOR CONSIDERATION AT THE MEETING OF SEPTEMBER 20, 2017**

**Submitted by:** Forrest Ebbs, Community Development Director   
**Date:** September 12, 2017  
**Subject:** **General Plan Land Use Element Update: Sand Creek Focus Area**

**RECOMMENDATION**

It is recommended that the Planning Commission take one of the following actions:

1. Recommend that the City Council table the item,
2. Recommend that the City Council direct staff to develop a Supplemental Environmental Impact Report; or
3. Recommend that the City Council Adopt the Amendment to the Land Use Element with the Addendum to the 2003 General Plan EIR.

**BACKGROUND**

At its July 19, 2017 meeting, the Planning Commission opened the Public Hearing for the updates to the General Plan Land Use Element regarding the Sand Creek Focus Area. The day of the meeting, staff received multiple letters critical of the project and staff's recommendation that an Addendum to the 2003 General Plan Environmental Impact Report (EIR) be used. The letters suggested, among other things, that a Supplemental Environmental Impact Report (SEIR) be developed.

The Public Hearing was continued from the July 19, 2017 meeting to the August 2, 2017 and then to the September 20, 2017 meeting. Since the July 19, 2017 meeting, the development application for The Ranch, a 1,337-unit project in the Sand Creek Focus Area, was deemed complete and a scoping session for the Environmental Impact Report (EIR) was held on September 6, 2017 before the Planning Commission. In addition, a Preliminary Development Plan hearing was held for the Albers Ranch project, a 301-unit senior housing project, also in the Sand Creek Focus Area.

**ANALYSIS**

Many circumstances have changed since initiation of the broader Land Use Element update in early 2015 and the Sand Creek Focus Area (SCFA) policy update in January 2016.



### Habitat Conservation Plan

In 2015, the City was offered a grant for the development of a Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) for the City of Antioch. When a broader HCP/NCCP was developed for much of East Contra Costa County from 2003-2006, the City of Antioch ultimately elected not to participate. This recent grant gave the City the opportunity to produce a similar HCP/NCCP and derive many of the benefits from this approach to mitigating habitat and biological impacts. An HCP, the State version of the NCCP, provides a comprehensive program to address project impacts on biological resources or habitat. An HCP creates certainty during the mitigation process and fosters improved local conservation efforts. The development of the HCP is expected to continue through 2017 and 2018. During this time, undeveloped areas will continue to be evaluated for their habitat value and there may be implications on the HCP process if the development context changes. It would be difficult to receive required support from State and Federal agencies during the environmental review process for any form of update while concurrently pursuing an HCP.

### The Ranch

The Ranch is a development project consisting of 1,337 units on approximately 551.5 acres in the central portion of the Sand Creek Focus Area. The General Plan presently anticipates 4,000 units in the Sand Creek Focus Area. To date, 1,174 units have been approved in the Vineyards and Aviano projects, leaving 2,826 units remaining. The 1,337 units associated with The Ranch would consume approximately 47% of the remaining units.

The Ranch is required to undergo extensive environmental review, including the development of an Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA). This EIR will address a broad series of environmental criteria and will evaluate the project's impacts. These criteria include, but are not limited to, biology, geology, greenhouse gas emissions, traffic, air quality, water quality/supply, and cultural resources.

If the City were to pursue the Sand Creek Focus Area policy update concurrently with The Ranch, it is possible that the two efforts would be confused and conflated in the eyes of the public. While it is clear that the policy update was not modeled after The Ranch or designed specifically to accommodate it, the close timing between the plan and the project that is supposed to implement it may create confusion.

Further, the environmental review for the Sand Creek Focus Area policy update may need to consider the nearness of The Ranch and consider, at some level, its environmental impacts, which would become better known as The Ranch EIR proceeds. It is possible that the Sand Creek Focus Area policy update environmental review process could be expected to consider impacts beyond its simple policy changes, due to the nature of CEQA and supportive case law. While the SCFA policy update was not designed for The Ranch, it is arguably more conducive for the project when compared to the current policies. This closeness may complicate the environmental review of the SCFA policy update and complicate an otherwise straight-forward update. In the end,

the City may find that these marginal benefits to the public do not outweigh the strain, expended goodwill, and possible expense required to make these policy updates.

## **RECOMMENDED ACTIONS**

The general concern about the environmental review process, the ongoing HCP/NCCP effort, and the nearness of The Ranch all complicate the SCFA policy update. Because of this, staff has recommended that any action be in the form of a recommendation to the City Council to allow their ultimate endorsement of any final action. Staff has provided resolutions for the following recommendations:

### **1. That the City Council table the item.**

If the City Council were to table the item, City staff would not pursue additional work on this effort until such time that The Ranch has completed its project review process. At that time, the staff would evaluate the remaining conditions, in light of The Ranch, if approved and determine an appropriate course. At that time, the policy perspective would be much different. For example, if The Ranch were approved in its current form, it would leave 1,489 remaining units. The context for these policies would be much different than today's context, which considers the lands underlying The Ranch without consideration of the submitted project and works with 2,826 units. The Community Development Department is also anticipating a necessary comprehensive General Plan Update by the end of 2023, which may be the most appropriate time to revisit this issue.

### **2. That the City Council direct staff to develop a Supplemental Environmental Impact Report.**

One criticism of the current SCFA policy update is the method of environmental review under CEQA. Whereas, staff has proposed an Addendum to the 2003 General Plan EIR as an adequate environmental review document, many have suggested that a more costly and more complex Supplemental Environmental Impact Report (SEIR) be developed. An SEIR is a lesser version of an EIR, but still requires much of the analysis and studies to inform the public of potential environmental impacts of a project. An SEIR may cost between \$40,000 and \$60,000 for this project. Under this approach, the City would need to consider the benefit of this additional cost and effort and consider whether the benefits of the SCFA policy update warrant such an investment. An SEIR for the SCFA policy update will not simplify nor complicate The Ranch's environmental review process. In fact, it would likely duplicate much of the same information. In addition, the adoption of an SEIR, regardless of its conclusions, will not deliver support for an otherwise unpopular project. Given the current environment with The Ranch, as described above, staff is not confident that development of an SEIR would add value to the process or otherwise change an outcome. In fact, it may lead to the conflation of the two projects, which would benefit neither.

**3. That the City Council Adopt the Amendment to the Land Use Element with the Addendum to the 2003 General Plan EIR.**

The Planning Commission is presented with an Initial Study supporting an Addendum to the 2003 General Plan EIR, which evaluates the environmental impact resulting from the difference between the current policies and the proposed policies. CEQA requires that projects only study the difference between the current setting and the project. In this case, the current General Plan anticipates development throughout the Sand Creek Focus Area with as many as 4,000 dwelling units and 1.24 million square feet of retail space. The proposed policies do not fundamentally change these assumptions, but better address and describe the use of residential density in the Sand Creek Focus Area. In addition, the policies clarify hillside and hilltop preservation efforts and expand on the promotion of senior housing. The Planning Commission may elect to recommend that the City Council adopt the proposed changes using the Addendum.

The July 19, 2017 Planning Commission Staff Report with Attachments is available at: <http://www.ci.antioch.ca.us/CityGov/agendas/PC/071917.pdf>. The Initial Study for the SCFA policy update begins on page 30. An additional hard copy will not be provided.

More information regarding the SCFA policy update is available at: <http://www.ci.antioch.ca.us/CityGov/CommDev/PlanningDivision/>

**PLANNING COMMISSION  
RESOLUTION NO. 2017- \*\***

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING THAT THE CITY COUNCIL TABLE CONSIDERATION OF  
UPDATES TO THE GENERAL PLAN LAND USE ELEMENT AFFECTING THE SAND  
CREEK FOCUS AREA**

**WHEREAS**, the Planning Commission, on July 19, 2017, opened the Public Hearing for updates to the General Plan Land Use Element for policies affecting the Sand Creek Focus Area; and

**WHEREAS**, the Public Hearing was continued to August 2, 2017 and then to September 20, 2017; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 20, 2017 duly held a public hearing, received and considered evidence, both oral and documentary; and

**WHEREAS**, the record reflects significant changes in circumstance, including the ongoing development of a Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) and the determination of completeness of the development application for The Ranch, a proposed 1,337-unit housing project within the Sand Creek Focus Area; and

**WHEREAS**, these circumstances and good prudence suggest that the interests of the City of Antioch and its residents would be better served by delaying consideration of amendments to the Sand Creek Focus Area policies.

**NOW THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Antioch does hereby recommend that the City Council TABLE the proposed General Plan Land Use Element Update for policies affecting the Sand Creek Focus Area

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of September, 2017.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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FORREST EBBS,  
Secretary to the Planning Commission

**PLANNING COMMISSION  
RESOLUTION NO. 2017- \*\***

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING THAT THE CITY COUNCIL DIRECT STAFF TO DEVELOP A  
SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED  
UPDATES TO THE GENERAL PLAN LAND USE ELEMENT AFFECTING THE SAND  
CREEK FOCUS AREA**

**WHEREAS**, the Planning Commission, on July 19, 2017, opened the Public Hearing for updates to the General Plan Land Use Element for policies affecting the Sand Creek Focus Area; and

**WHEREAS**, the Public Hearing was continued to August 2, 2017 and then to September 20, 2017; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 20, 2017 duly held a public hearing, received and considered evidence, both oral and documentary; and

**WHEREAS**, the Planning Commission received an Addendum to the 2003 General Plan Environmental Impact Report to support approval of the General Plan Land Use Element Update; and

**WHEREAS**, the Planning Commission also received multiple letters identifying the benefits of developing a Supplemental Environmental Impact Report (SEIR).

**NOW THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Antioch does hereby recommend that the City Council direct Staff to develop a Supplemental Environmental Impact Report for the proposed General Plan Land Use Element Update for policies affecting the Sand Creek Focus Area

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of September, 2017.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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FORREST EBBS,  
Secretary to the Planning Commission

**PLANNING COMMISSION  
RESOLUTION NO. 2017-\*\***

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ADDENDUM TO THE  
ENVIRONMENTAL IMPACT REPORT FOR THE 2003 GENERAL PLAN FOR AN  
UPDATE TO THE LAND USE ELEMENT AFFECTING THE SAND CREEK FOCUS  
AREA**

**WHEREAS**, the City initiated an update to the 2003 General Plan Land Use Element for the policies affecting the Sand Creek Focus Area; and,

**WHEREAS**, the City prepared an Addendum to the Environmental Impact Report for the 2003 General Plan to evaluate the potential environmental impacts of the Project in conformance with Section 15063 of Title 14 of the California Code of Regulations (the "CEQA Guidelines"); and,

**WHEREAS**, the Addendum to the Environmental Impact Report for the 2003 General Plan is appropriate because, although the proposed project could have a significant effect on the environment, all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project. Further, the proposed project does not include new information of impacts beyond what has been previously analyzed and,

**WHEREAS**, as demonstrated in the Addendum, all potential environmental impacts that could occur as a result of project implementation would be less than or similar to impacts previously identified in the 2003 General Plan EIR. Thus, build out of the Sand Creek Focus Area with urban uses was considered in the cumulative analysis of City build out of the General Plan. When viewed in conjunction with other closely related past, present, or reasonably foreseeable future projects, the project's cumulative impact would be **less than or similar to** impacts previously identified in the 2003 General Plan EIR; and,

**WHEREAS**, the Addendum was made available to the public on the City of Antioch website and at the Community Development Department for a period of 10 days prior to the public hearing, from July 9 to September 20, 2017; and,

**WHEREAS**, the Planning Commission has reviewed the Addendum to the Environmental Impact Report for the 2003 General Plan for this Project and the comments received during the comment period; and,

**WHEREAS**, the Planning Commission gave notice of public hearing as required by law; and,

**WHEREAS**, on July 19, 2017, August 2, 2017, and September 20, 2017, the Planning Commission duly held a public hearing on the matter, and received and

considered evidence, both oral and documentary and recommended adoption to the City Council of the Addendum to the Environmental Impact Report for the 2003 General Plan; and,

**WHEREAS**, the custodian of the Addendum to the Environmental Impact Report is the Community Development Department and the Addendum to the Environmental Impact Report is available for public review on the second floor of City Hall in the Community Development Department, Monday - Friday 8:00 am - 11:30 am and it is attached as Exhibit A to this Resolution.

**NOW, THEREFORE, BE IT RESOLVED AND DETERMINED**, as follows:

1. The foregoing recitals are true and correct.
2. The Planning Commission of the City of Antioch hereby **FINDS**, on the basis of the whole record before it (including the Initial Study and all comments received) that:
  - a. The City of Antioch exercised overall control and direction over the CEQA review for the Project, including the preparation of the Addendum to the Environmental Impact Report, and independently reviewed the Addendum to the Environmental Impact Report; and,
  - b. There is no substantial evidence that the Project will have a significant effect on the environment once mitigation measures have been followed; and,
  - c. The Addendum to the Environmental Impact Report reflects the City's independent judgment and analysis.
3. The Planning Commission hereby **RECOMMENDS** that the City Council of the City of Antioch **APPROVE AND ADOPT** the Addendum to the Environmental Impact Report for the Project.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20<sup>th</sup> day of September, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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FORREST EBBS  
Secretary to the Planning Commission

**CITY OF ANTIOCH PLANNING COMMISSION  
RESOLUTION NO. 2017-\*\***

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING APPROVAL OF AN AMENDMENT TO THE GENERAL PLAN  
AMENDING THE LAND USE ELEMENT FOR THE SAND CREEK FOCUS AREA  
(SECTION 4.4.6.7)**

**WHEREAS**, the City initiated an update to the 2003 General Plan Land Use Element for the policies affecting the Sand Creek Focus Area; and,

**WHEREAS**, the policies related to development within the Sand Creek Focus Area were originally adopted in November 2003 and conditions have since changed that affect the appropriateness and viability of the policies; and,

**WHEREAS**, the City of Antioch recognizes that the adoption of new policies and the restatement of valid existing policies will better guide the physical development of the Sand Creek Focus Area and improve transparency and predictability of development; and,

**WHEREAS**, an Addendum to the 2003 General Plan Environmental Impact Report was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the Planning Commission on July 19, 2017; and,

**WHEREAS**, the Planning Commission recommended adoption of the Addendum to the Environmental Impact Report to the City Council; and,

**WHEREAS**, the Land Use Element Amendments were made available to the public on the City of Antioch website and at the Community Development Department from July 9 to September 20, 2017 and are attached hereto as Exhibit "A"; and,

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and,

**WHEREAS**, on July 19, 2017, August 2, 2017, and September 20, 2017, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Commission makes the following findings required for approval of the proposed General Plan Amendment:

1. The proposed project conforms to the provisions and standards of the General Plan in that the proposed amendment is internally consistent with all other provisions of the General Plan and does not conflict with any of the previously adopted Goals, Policies and Programs of the General Plan; and,



2. The proposed Amendment is necessary to implement the goals and objectives of the General Plan in that it will further implement the City of Antioch Housing Element; and,
3. The proposed Amendment will not be detrimental to the public interest, convenience, and general welfare of the City in that the Amendment will result in a logical placement of land uses consistent with the overall intent of the General Plan; and,
4. The proposed project will not cause environmental damage in that the project includes an Addendum to the Environmental Impact Report which concluded that the project does not result in any significant or unavoidable impacts; and,
5. The Proposed General Plan Amendment will not require changes to or modifications of any other plans that the City Council adopted before the date of this resolution.

**BE IT FURTHER RESOLVED** that the Planning Commission does hereby recommend to the City Council APPROVAL of the General Plan Amendment to amend the Land Use Element for the policies affecting the Sand Creek Focus Area (Section 4.4.6.7) (Exhibit A).

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing recommendation was passed and adopted by the Planning Commission of the City of Antioch, at a regular meeting thereof, held on the 20<sup>th</sup> day of September, 2017 by following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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FORREST EBBS  
Secretary to the Planning Commission

# EXHIBIT A

**4.4.6.7 Sand Creek.** The Sand Creek Focus Area encompasses approximately 2,873 acres in the southern portion of the City of Antioch.

This Focus Area is bounded by existing residential neighborhoods to the north, Black Diamond Mines Regional Preserve to the west, the city limits to the south, and the City of Brentwood to the east. Empire Mine Road and Deer Valley Road run in a general north-south direction through the Focus Area, dividing it roughly into thirds.

## **a. Purpose and Primary Issues.**

Sand Creek, as well as natural hillsides and canyons within the Sand Creek Focus Area, contain habitats for sensitive plant and animal species, as well as habitat linkages and movement corridors. Overall, the western portion of the Focus Area is more environmentally sensitive than the eastern portion in terms of steep topography, biological habitats and linkages, the existence of abandoned coal mines, and proximity to public open space at Black Diamond Mines Regional Preserve. The west end of the Sand Creek Focus Area serves as a linkage between two regionally significant blocks of grassland. Decades of urban and agricultural use have greatly reduced the width of this linkage, substantially increasing the ecological importance of the remaining linkage within the Sand Creek Focus Area. Land has been preserved in regional parks and permanent open space, primarily in extensive grassland to the immediate west and northwest, as well as south of the Sand Creek Focus Area. These preserves represent a significant investment of public resources, and are a valued public asset.

Stream and riparian communities occupy a small portion of the Focus Area, but are widely distributed. Because of their high biotic value, stream and riparian communities within the Focus Area are considered to be a sensitive resource. The Focus Area also includes an oak woodland and savanna community, which, because of its high wildlife value, is considered to be a sensitive resource.

## **b. Policy Direction.**

The environmental sensitivity of portions of the Sand Creek Focus Area has been recognized in the prior General Plans; however, policy direction was very general. The following policy discussion and policies for the Sand Creek Focus Area are intended to provide clear direction for the future development and environmental management of the area.

The Sand Creek Focus Area is intended to function as a large-scale planned community, providing needed housing and support services. Residential development within the Sand Creek Focus Area will provide for a range of housing types, including medium and large-lot single-family homes and senior housing.

The following policies apply to development within the Sand Creek Focus Area.

## **1. Development Yield**

- a. The development yield for the Sand Creek Focus Area shall not exceed 4,000 dwelling units.
- b. The Total Development Yield for an individual development project shall be based on the Land Use Map for the Sand Creek Focus Area and the following policies:
  - i. The Total Development Yield establishes the maximum number of residential units that should be built over a specified geographic area or project site.
  - ii. The Total Development Yield is derived by multiplying the area, in acres, by the specified density for each land use area, or portion thereof, as presented on the Land Use Map for the Sand Creek Focus Area.
  - iii. The Total Development Yield for a project is the sum of the units derived from each land use area contained within the project site.
  - iv. The unit count resulting from the Total Development Yield are not required to be sited within the land use designation area from where they were derived, but may be located in any residential or mixed use land use area within the project site.
  - v. All units sited within a residential land use area must conform to the underlying minimum lot size and other development standards, if applicable, of that land use area.
  - vi. The following table contains the approximate acreage and anticipated development yield for the various Land Use Designations for the Sand Creek Focus Area. These figures are estimates only and may be evaluated with more precision with a project application. The conceptual number of units reflected in Table A are not assigned to or "owned" by any property owner or developer. Instead, the number of units assigned to a particular property will be determined by the City Council in connection with its approval of a particular development project.
  - vii. The Total Development Yield for lands designated SC-ZR, located west of Empire Mine Road, shall be developed on a project-specific basis through the Planned Development process. This determination shall be informed by detailed analysis of geological, topographical, biological, and any other constraints affecting the property. In no case shall the density exceed that of the SC-LD designation of 2.0 units per acre.

<b>TABLE A: TOTAL DEVELOPMENT YIELD</b>			
<b>Land Use Designation</b>	<b>Acres</b>	<b>Units</b>	<b>Density</b>
Sand Creek – Vineyards (SC-V)	138	641	3.9
Sand Creek – Aviano (SC-AV)	108	533	5.9
Sand Creek – Mixed Use(SC-MU)	54	324	6.0
Sand Creek – Medium Density (SC-MD)	190	570	3.0
Sand Creek - Medium Density – Hillside (SC-MD-H)	93	140	1.5
Sand Creek- Low Density (SC-LD)	696	1,392	2.0
Sand Creek- Low Density Hillside (SC-LD-H)	201	201	1.0
Sand Creek – Zeka Ranch (SC-ZR)	206	To be determined with project-specific analysis	1.0-2.0
Sand Creek – Medical (SC-MED)	83	0	0.0
Sand Creek – Open Space (SC-OS)	958	0	0.0
Sand Creek – Open Space – Hillside (SC-OS)	56	0	0.0
<b>Total</b>	<b>2,783</b>	<b>4,000 max.</b>	<b>1.4</b>

## 2. Land Use Designations

- a. Land Use Designations are intended to provide a basic description of their purpose and basic development standards. The Planned Development (PD) process will determine project-specific standards. The designations are described in the following table:

TABLE B: LAND USE DESIGNATIONS	
Land Use Designation	Description
SC-V	The Vineyards at Sand Creek project was approved in 2016 and is designated as approved. Any changes to the project will require a General Plan amendment.
SC-AV	The Aviano project was approved in 2015 and is designated as approved. Any changes to the project will require a General Plan amendment.
SC-MD	These designations are intended for the development of single-family neighborhoods on mid-size lots with opportunities for clustering or condominium-style development.
SC-MD-H	
SC-LD	These designations are intended for the development of single-family neighborhoods on large lots with associated suburban neighborhood amenities.
SC-LD-H	
SC-ZR	The Zeka Ranch property is intended for development of single-family neighborhoods on relatively larger lots for estate or executive-style properties.
SC-MU	This designation allows for development of commercial and residential uses in a Town Center environment. Residential uses should occupy no more than 50% of the site, but may be built as attached condominiums, apartments, or similar higher density housing.
SC-MED	This designation reflects the existing Kaiser Permanent Antioch Medical Center and the adjacent medical high school.
SC-OS	These designations identify the various open space and protected natural areas, including the Sand Creek corridor, the sensitive habitat at the southwest corner of the site, the large drainage basin and future regional park, and protected hilltops.
SC-OS-H	

- b. Land Use Designations are assigned based on topography, natural features, and proximity to major transportation routes. These designations, and their corresponding maximum densities, allow for an equitable and predictable disbursement of units to ensure that the total development yield for the Sand Creek Focus Area does not exceed 4,000. As such, any proposed

amendment to the General Plan that increases the total development yield of the site will preclude other development sites from reaching their development potential. Such a practice is strongly discouraged and should only be accomplished if development rights are transferred from another parcel. Transferring units from one approved project to another will allow for greater creativity and consolidation of units. The following rules generally describe how a development transfer might occur:

- i. Owners of both properties must apply concurrently for the development transfer.
  - ii. A deed restriction or other legal notice assigned to the deed of the property must be recorded concurrently with the development transfer.
  - iii. The development transfer must be approved concurrently with the approval of the receiving project and the entire action must be considered during the environmental review process.
  - iv. The development transfer may not be used to transfer units obtained through the Density Bonus process. Similarly, the above rules do not preclude ordinary use of the Density Bonus process.
- c. Senior housing is strongly encouraged throughout the Focus Area.
- i. The Density Bonus process may be used to increase the density for applicable senior projects.
  - ii. Any project providing a minimum of 30% of the total units for Senior Housing shall be entitled to a 20% Density Bonus. Any project providing 100% Senior Housing shall be entitled to a 45% Density Bonus. For the purposes of this calculation, the "project" shall include the entire development under same ownership and under concurrent review. This Density Bonus shall only apply to senior housing units.
  - iii. Senior housing may be developed on smaller lots as described in the Land Use Designation Table for the Sand Creek Focus Area.
  - iv. Senior housing alternatives, such as assisted living facilities or multifamily senior residences, are encouraged throughout the Focus Area, including within residential land use designations. These facilities are not to be considered "units" and are not to be deducted from the Total Development Yield for a project if they are available exclusively for senior households, they are not made available as ownership units, they are complemented by on-site services, and they are licensed by the State of California Department of Social Services.
- d. The commercial component of the Mixed Use land use designation must conform to the land use standards of the Neighborhood Commercial (C-N) Land Use designation.
- e. Due to its unique geological, topographical, biological, and other conditions, a density range has been established for the property west of Empire Mine Road (SC-ZR). The lower end (1.0 units/acre) of this density range is intended to correspond to the hilled areas of the property, while the higher end (2.0 units/acre) is intended to correspond to the flat portions of the property. The exact delineation of these two density areas shall be determined by new precise topographical and related data through the

Planned Development process. Similarly, the lot sizes and other development standards shall be determined through the Planned Development process.

TABLE C: DEVELOPMENT STANDARDS		
Designation	Minimum Lot Size	Average Lot Size (sf)
SC-V	-	-
SC-AV	-	-
SC-MD	4,000 sf	5,000 sf
SC-MD-H		
SC-LD	5,000 sf	7,000 sf
SC-LD-H		
SC-ZR	To be determined through Planned Development process.	
SC-MU	-	-
SC-MED	1 acre	-
SC-OS	-	-
SC-OS-H	-	-
Senior Housing (all districts)	4,000 sf	-

### **3. Financial Analysis**

- a. All non-public projects shall be demonstrated to be financially sustainable and not requiring ongoing expense to the City of Antioch that exceeds tax and other financial benefits from the project. A Fiscal Impact Analysis shall be provided that demonstrates sustainability over 10, 20, and 30-year timeframes.
- b. Private streets and utilities are encouraged to achieve financial sustainability.

#### **4. Open Space and Recreation**

- a. A minimum of 30% of the Sand Creek Focus Area shall be dedicated Open Space.
- b. A comprehensive trail system shall be installed throughout the Sand Creek Focus Area that connects to Black Diamond Mines Regional Preserve and, ideally, to other regional trails. The trail system should avoid roadway-adjacent sidewalks and connect neighborhood parks, communities, commercial centers, and other area features. The trail system should follow ridgelines and designated open space areas and should be open to the general public to the greatest extent possible. The trail system should also traverse the Sand Creek corridor.
- c. A public staging area shall be developed as near as possible to Black Diamond Mines Regional Preserve to allow for public access.
- d. All projects should provide full park acreage dedication requirements and in-lieu fees are strongly discouraged. Neighborhood parks should contain a variety of passive and active facilities and should be sited so as to have direct access to the trail system.
- e. The entire length of Sand Creek shall contain a minimum 125'-wide buffer. Development should be prohibited within this buffer area, with the following exceptions:
  - i. Bridges,
  - ii. Benches, shade structures, interpretive monuments, or similar park features,
  - iii. Minor grading or temporary encroachment necessary to serve development outside of the buffer, or
  - iv. Trails.
  - v. The 125-foot buffer shall not apply to land within the confines of the Contra Costa County Flood Control Basin or future regional park. An appropriate buffer shall be provided on a project-specific basis, and, in no case, shall the average buffer be less than 125 feet
- f. Careful attention should be given to the experience within the Sand Creek corridor and, especially, along the trails. One-sided residential streets with open views to the creek corridor and neighborhood parks are encouraged to be located adjacent to the Sand Creek corridor. Exceptions should be made when there is significant change in elevation or other features that visually disconnect the residential lots from the creek corridor  
High traffic roadways, highly visible residential backyard fences, sound walls, the rear of commercial buildings, visible basins, or similar offensive features are strongly discouraged adjacent to the Sand Creek corridor.
- g. A viable, continuous grassland corridor between Black Diamond Mines Regional Preserve and Marsh Creek State Park shall be retained using linkages in the southwestern portion of the Lone Tree Valley (within the Sand Creek drainage area), Horse Valley, and the intervening ridge. The primary goal of preserving such a corridor is to allow for wildlife movement between Black Diamond Mines Regional Preserve and Marsh Creek State Park.



Completion of such a corridor is contingent upon the cooperation with the City of Brentwood and Contra Costa County, each of whom may have land use jurisdiction over portions of this corridor. To preserve this corridor and in view of other significant development constraints, certain lands in the southwestern portion of the Focus Area are designated as "Open Space," as depicted in the Land Use Map for the Sand Creek Focus Area.

- h. Each project must submit an Open Space management plan concurrent with the application indicating how open space lands will be owned, managed, and maintained.
- i. A large regional park or sports complex should be developed within the detention basin owned by Contra Costa County Flood Control District. The City of Antioch shall work with the District in its development, as provided in the approved Sand Creek Basin Master Plan.

## **5. Circulation**

- a. The development of the Sand Creek Focus Area must contain the roadways identified on the Land Use Map for the Sand Creek Focus Area. The exact alignment of the identified roadways may be altered as long as important connections are ultimately made.
- b. The extension of Dallas Ranch Road should be called Sand Creek Road for continuity throughout the Focus Area.
- c. Sand Creek Road, Deer Valley Road, and Hillcrest Avenue, at minimum, should contain adequate turn-outs and similar facilities for bus systems.
- d. Sand Creek Road, Deer Valley Road, and Hillcrest Avenue shall all have paved Class I bike paths, unless an alternate nearby parallel path exists within the broader Open Space trail system.
- e. Sidewalks on Sand Creek Road, Deer Valley Road, and Hillcrest Avenue shall be separated from the back of curb by at least ten feet.
- f. Roundabouts and traffic circles should use wherever practical to avoid unnecessary stops.
- g. Upon full construction of Sand Creek Road to its ultimate width, Empire Mine Road should be limited to emergency vehicle access and use by pedestrians or cyclists and through traffic should be absolutely limited to property owners reliant on Empire Mine Road for access.
- h. Bridges over Sand Creek should be limited and used only where necessary. Consolidation of vehicle bridges is strongly encouraged and bridge locations should be limited to the following:
  - i. Empire Mine Road
  - ii. Southward from Sand Creek Road
  - iii. Deer Valley Road
  - iv. Hillcrest Avenue Extension
  - v. Southward from the intersection of Sand Creek Road and "B" Street as referenced in Project Specific Condition #98 of Resolution Number 2009/\*\* approving the Aviano Adult Community Project.
  - vi. Additional bridges shall be considered on a case-by-case basis.

## **6. Community Design**

- a. Neighborhoods, roadways, trails, medians, parks, commercial centers, and other features should reflect a cohesive design theme, which is unique to the Sand Creek Focus Area and reflective of its character.
- b. Individual projects should use similar or identical exterior treatments facing major roadways to avoid non-cohesive or trendy exterior designs.
- c. Drainage facilities should be designed to have a natural appearance and to avoid the appearance of heavy concrete structures.
- d. Water collection/detention basins shall be designed to resemble natural ponds or similar water bodies and shall have irregular shapes and complementary planting. The entire basin shall be designed such that any required fencing is minimally visible or screened by heavy planting.
- e. Chain link fencing may not be used for any purpose throughout the Sand Creek Focus Area. Split-rail or other rustic fencing may be an appropriate material.
- f. Existing stands of oak trees, individual oak trees, or other unique natural features, shall be retained and integrated into parks, medians, or similar public areas.
- g. Exotic landscaping, such as palm trees and large grass expanses (except for playfields), should be avoided in public areas. New landscaping should utilize native plant species, natural design, and water-efficient methods throughout.

## **7. Hillsides and Hilltops**

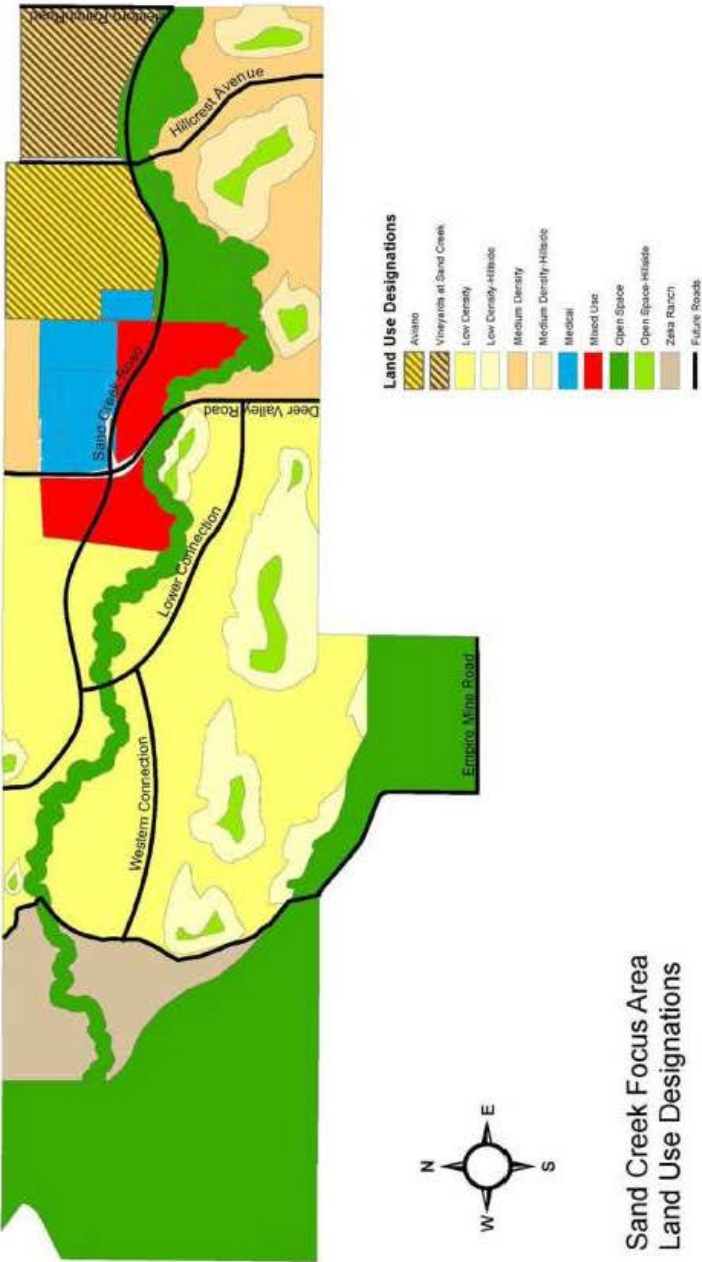
- a. Hilltop areas designated as Open Space on the Land Use Map for the Sand Creek Focus Area shall be retained in their natural condition. They may not be graded, used for crop production, or otherwise altered without specific approval based on unique conditions or compelling justification.
- b. The precise outlines of the protected Hilltops are provided herein and are approximations based on the best available information. The shapes represent the top 25% of the hill, which is derived from subtracting the base elevation of the hill from the uppermost elevation, finding the upper 25%, and tracing the corresponding topographic mark. More precise shapes may be considered during a project application.
- c. Hillsides, designated with "-H", are available for development subject to the following:
  - i. All grading and development should use a "landform grading" approach, whereby the terrain can be graded or modified, but the final appearance must be that of a natural hillside with organic contours, inconsistent slopes, curving topography, natural plantings.
  - ii. Disturbed hillsides must be treated with native grasses or similar treatment to avoid run-off or erosion.
  - iii. The planting of oak trees and other native plants is strongly encouraged for modified hillsides.
- d. Where retaining walls are used, the materials must be natural in appearance and stepped to prevent a severe drop-off. A maximum individual wall height of 6' is recommended.

- e. Except where described in this section, the treatment of hillsides should generally adhere to the Hillside Design Policies contained in Section 5.4.14.
- f. Houses or other structures should not be sited so as to create an artificial skyline or profile visible beyond the ridgeline or hilltop.

**8. Other**

- a. All applications for development within the Sand Creek Focus Area are subject to review through the Planned Development District process, as described in Article 23 of the Zoning Ordinance. In approving a Planned Development, the Planning Commission and City Council shall find that the project meets the general spirit and intention of this section of the Land Use Element. Minor deviations to land use designation boundaries, roadway alignments, or other standards, as well as permissible land uses, may be considered as part of the unique provisions of the Planned Development District process.
- b. The maps contained within this General Plan are intended for general purposes and it is expected that future development applications will provide specific mapping, surveying, and analysis of geographical, biological, and other natural constraints. This specific mapping may be used to modify the boundaries of land use designations only if such a modification does not increase overall development yield for the Focus Area and is otherwise consistent with the General Plan. Further, individual applications may include provisions for enhanced clustering or increased densities as part of the Planned Development District process only if such provisions do not increase the overall development yield for the project site and are determined to be consistent with the overall purpose of the General Plan, except as noted in Section i. below.
  - i. Any boundary adjustments made to the area west of Empire Mine Road shall be minor and shall not create islands of residential development. These adjustments shall be based upon subsequently developed information and data relating to environmental conditions or public health and safety. It is presumed that these boundary adjustments may introduce additional land for residential development. In such a case, the additional land shall assume the SC-ZR land use designation and associated density allowances.
- c. The text contained in the General Plan, along with the maps and land use designations, is not a guarantee of development rights, but is intended to provide general guidance for future growth. The City of Antioch acknowledges that any development in this area will be subject to review and approval by other State and federal agencies and does not suppose in this General Plan that all areas designated for development will ultimately receive adequate approvals from all agencies to achieve the level of development suggested in this General Plan.

FIGURE 4.4.6.7



**STAFF REPORT TO THE PLANNING COMMISSION  
FOR CONSIDERATION AT THE MEETING OF SEPTEMBER 20, 2017**

**Submitted by:** Forrest Ebbs, Community Development Director

**Date:** September 14, 2017

**Subject:** Requested Modifications to the Project Approvals for the Promenade – Vineyards at Sand Creek project

**RECOMMENDATION**

It is recommended that the Planning Commission take the following actions:

1. Consider the request and make an appropriate recommendation to the City Council.

**REQUEST**

The applicant, GBN Partners LLC, has submitted a request to amend the project approvals for the Promenade – Vineyards at Sand Creek project that was approved by the City Council on February 9, 2016. The requested amendments create a fee credit subsidy program and reduce the project's obligation to construct adjacent and on-site roadways. Due to the complexity of the project and the request, the following actions would be required to accommodate this request:

1. Adoption of an Addendum to the 2016 Project Environmental Impact Report;
2. Modifications to the Maps and Conditions of Approval for the Vesting Tentative Subdivision Map.
3. Amendments to the Development Agreement integrating the fee credit subsidy program.
4. Rezone of the property to reflect the new Planned Development Final Development Plan.

Each of these decisions requires action by the City Council, based on a recommendation from the Planning Commission. In this report, staff provides a complete analysis of the proposal exactly as requested by the applicant. In addition, staff provides an alternative proposal that addresses many of the concerns associated with the applicant's proposal. At the end of the public hearing, the Planning Commission will be asked to recommend that the City Council either:

- A. Approve the requests exactly as proposed by the applicant;
- B. Approve the alternative proposal provided by staff; or
- C. Deny the application.

Resolutions for each recommendation are provided.

### Background

On February 9, 2016, the City Council approved the Promenade – Vineyards at Sand Creek residential development project. The project is located at the northeastern corner of the Sand Creek Focus Area and consists of the development of a gated residential community on 141.6 total acres. It includes up to 641 single-family residential units, private streets, two parks, a segment of the Sand Creek Regional Trail, two storm water detention basins, and landscaped and open space areas. A General Plan amendment was originally required for the project to change the land use designation from Business Park to Medium Low Density Residential and to modify the text to allow small lot residential development at this site. The approved lots range in size from 4,200 to 5,160 square feet. The second and final reading of the ordinance approving the project occurred on February 23, 2016.

### **PROJECT DESCRIPTION**

#### **Fee Credit Subsidy Program**

The applicant has identified challenges in finding a buyer of the approved project and believes that the high cost of fees and other expenses has made the project financially infeasible for a prospective builder. A typical new single-family home pays approximately \$37,000 in upfront fees, not including school fees. These fees cover a variety of related services and applicable infrastructure costs. The City of Antioch uses approximately \$15,000 of these fees for the Community Development Department (\$3,400), the Water Fund (\$6,600), the Sewer Fund (\$3,400), the Public Works Department (\$400) and Parks and Recreation (\$1,500). The remaining \$22,000 is collected on behalf of other agencies including Contra Costa County Fire Protection District (\$591), Contra Costa Water District (\$5,400), the State of California (\$50), and Contra Costa Transportation Authority (\$16,000). In addition, new residential development must pay local school impact fees to the applicable district of approximately \$3.25 per square foot - \$6,500 for a 2,000 square foot house. The proposal requests partial relief from two specific City fees: the Water Capacity Fee and the Sewer Connection Fee.

The required fees and requested credits for individual units are described in Table 1.

<b>TABLE 1: FEES AND REQUESTED CREDITS – PER UNIT</b>				
	Current Fee	Requested Credit	Amount to be Paid	Percent to be Paid (%)
Water Capacity Fee	\$5,279.81	\$(3,390)	\$1,889	36%
Sewer Connection Fee	\$2,581.00	\$(1,533)	\$1,048	41%
<b>Total</b>	<b>\$7,860.81</b>	<b>\$(4,900)</b>	<b>\$2,941</b>	<b>37%</b>

The entire project is currently required to pay a total of \$5,038,779.21 in water and sewer fees, per the FY 16/17 Master Fee Schedule. The proposed credits would reduce the ordinarily required payment by \$3,140,900, or 62%, to an amount of \$1,897,879. The applicant has proposed to cap the fee at \$4,900, which approximates the FY15/16 value. The required fees and requested credits for the whole project are described in Table 2.

<b>TABLE 2: FEES AND REQUESTED CREDITS – PROJECT</b>				
	Current Fee	Requested Credit	Amount to be Paid	Percent to be Paid (%)
Water Capacity Fee	\$3,384,358.21	\$2,173,246	\$1,211,112	36%
Sewer Connection Fee	\$1,654,421.00	\$982,653	\$671,768	41%
<b>Total</b>	<b>\$5,038,779.21</b>	<b>\$3,140,900</b>	<b>\$1,897,879</b>	<b>38%</b>

In the July 23, 2017 letter (Attachment 12), the applicant cites a series of required oversized or off-site improvements whose benefits extend beyond the project. These improvements are the basis for the request and total \$5,221,000. A percentage is used for those improvements that also proportionately serve the project. In general, these improvements include oversized sewer mains and manholes, two traffic signals, and the required extension of Heidorn Ranch Road across the Johnson property to the north. The applicant also includes the anticipated costs for the private parks and improvements, as well as their required public park land dedication and improvement costs. The listed costs are identified in Table 3:

<b>TABLE 3: OVERSIZED AND OFFSITE COSTS AND REDUCTIONS - PROJECT</b>			
Item	Full Cost to Applicant (High)	Possible Reductions	Potential Cost to Applicant (Low)
	<i>If no improvements are completed by others</i>	<i>Value of improvements completed by others</i>	<i>If all possible improvements are completed by others</i>
Heidorn Ranch Road Construction	\$825,000	\$(825,000)	\$0
Oversized Sewer Mains and Manholes	\$423,037	\$(423,037)	\$0
Traffic Signals (50% of Costs)	\$435,000	\$(435,000)	\$0
Private Park Dedication and Improvements	\$2,076,800	\$0	\$2,076,800
Public Park Dedication and Improvements	\$1,461,390	\$(1,461,390)	\$0
<b>Total</b>	<b>\$5,221,227</b>	<b>\$3,144,427</b>	<b>\$2,076,800</b>

The program also acknowledges that other projects are required to complete some of the same oversized infrastructure referenced in this program. If and when those improvements are completed by others, the amount of requested fee credit subsidy could be reduced according to the cost of the improvement. According to the application, this reduction could be as high as \$3,144,127 if others complete all of the listed improvements. The per unit and project fee credit subsidy range and possible reductions are described in Table 4.



<b>TABLE 4: FEE CREDIT SUBSIDY- RANGE – PER UNIT AND PROJECT</b>		
	Fee Credit Subsidy Low	Fee Credit Subsidy High
	<i>From City if others complete all required improvements</i>	<i>From City if no improvements completed by others</i>
<b>PER UNIT</b>		
Ordinary Required Fee	\$7,861	
Fee Credit Subsidy	\$(0)	\$(4,900)
Fee to be Paid by Applicant	\$7,861 (100%)	\$2,961 (38%)
<b>PROJECT</b>		
Ordinary Required Fee	\$5,038,779	
Fee Credit Subsidy	\$(0)	\$(3,140,900)
Fee to be Paid by Applicant	\$5,038,779 (100%)	\$1,897,879 (38%)

As proposed by the applicant and shown above, the fee credit subsidy could range from \$0 to a high of \$4,900, depending on the participation of other projects. As of today, only the adjacent Aviano project has been approved and is required to complete a portion of these improvements.

The program would be limited to a period of seven years commencing with the effective date of the Development Agreement. Only those building permits issued within this period may participate in the fee credit subsidy program. Any building permits beyond this period will be required to pay the entire fee.

In summary, the proposed fee credit subsidy program would reduce the required payment of the Water Capacity Fee and Sewer Connection Fee to as little as 38% of their ordinary amounts. The total project subsidy would be as high as \$3,140,900, depending on the completion of required improvements by others. The term of the program would be seven years from the effective date of the Development Agreement.

### **Roadway Construction Modifications**

The original approval of the Vesting Tentative Map for the project required the complete construction of Heidorn Ranch Road, Sand Creek Road, and Hillcrest Avenue, including full landscaped medians, sidewalks, bike paths, and traffic signals. These improvements were required at incremental stages of the development and corresponded to the initiation of specific phases.

The applicant requests modifications to the maps and the Conditions of Approval to reduce or eliminate many of these road construction requirements.

#### **Heidorn Ranch Road**

The applicant is required to construct Heidorn Ranch Road from its current terminus to an intersection at future Sand Creek Road. As the centerline of this road marks the City



boundary with Brentwood, it is expected that the City of Brentwood will participate in the completion of this road. To that effect, the applicant is required to construct a total of three lanes, two southbound and one northbound, along with an 8' southbound bike lane and a 16' landscaped median. Along the boundary with Brentwood, the applicant is required to construct a 4' temporary shoulder.

The applicant proposes to construct Heidorn Ranch Road with two 12' lanes, one southbound and one northbound, along with a 6' southbound bike lane, and no landscaped median or eastern shoulder.

<b>TABLE 5: HEIDORN RANCH ROAD</b>		
	REQUIRED	PROPOSED
Total Width of Improvement In Right-of-Way	48'	36'
Total No. of Lanes	3	2
Southbound		
No. of Lanes	2	1
Lane Width	12'	12'
Bike Lane Width	8'	6'
Northbound		
No. of Lanes	1	1
Lane Width	12'	12'
Bike Lane Width	Not Required	6'
Eastern Shoulder	4'	0'
Median	16' landscaped	0'

#### Sand Creek Road

The applicant is required to construct Sand Creek Road from the City boundary to the east to the intersection of future Hillcrest Avenue to the west. The required roadway contains four 12' lanes, two eastbound and two westbound, with two 8' bike lanes, and a 16' landscaped median.

The applicant proposes to dedicate the entire 112' right-of-way width and to construct a reduced road. The proposed roadway contains two 12' lanes, one eastbound and one westbound and two 8' bike lanes. The eastbound and westbound travel lanes would be separate by a 40' unimproved area that is reserved for the construction of the remaining two lanes and the landscaped median by others.

<b>TABLE 6: SAND CREEK ROAD</b>		
	REQUIRED	PROPOSED
Total Width of Improvement In Right-of-Way	112'	112'
Total No. of Lanes	4	2
Westbound		
No. of Lanes	2	1
Lane Width	12'	12'
Bike Lane Width	8'	8'
Eastbound		
No. of Lanes	2	1
Lane Width	12'	12'
Bike Lane Width	8'	8'
Median	16' landscaped	16' dedicated, but not landscaped

The applicant has offered to deliver a Development Agreement assigned to the 150-acre parcel to the south of the project site that would require completion of Sand Creek Road concurrent with the 25th building permit or the opening of a southern extension of Hillcrest Avenue.

#### Hillcrest Avenue

The applicant is required to construct Hillcrest Avenue from its current terminus to the intersection of future Sand Creek Road to the south. The required roadway contains a total of four 12' lanes, two northbound and two southbound, two 8' bike lanes, and a 16' landscaped median.

The applicant proposes to dedicate their half (56') of the entire 112' right-of-way width and to construct a reduced two-lane road. The proposed roadway contains two 10.5' lanes, one northbound and one southbound and two 5.5' bike lanes. Though the design of the roadway shows it directly adjacent to the Vineyards site, the text of proposed Condition E6.f would allow the applicant to locate this two-lane road anywhere within the 112' right-of-way. The portion of the median on the applicant's property would not be improved or landscaped.

<b>TABLE 7: HILLCREST AVENUE</b>		
	REQUIRED	PROPOSED
Total Width of Improvement In Right-of-Way	112'	112'
Total No. of Lanes	4	2
Southbound		
No. of Lanes	2	1
Lane Width	12'	10.5'
Bike Lane Width	8'	5.5'
Northbound		
No. of Lanes	2	1
Lane Width	12'	10.5'
Bike Lane Width	8'	5.5'
Median	16' landscaped	16' dedicated, but not landscaped

The adjacent Aviano project is required to construct the portion of Hillcrest Avenue on their property as originally designed and approved, with two southbound 12' lanes, an 8' bike lane, and a 16' landscaped median. This action would not change the requirements for the Aviano project.

#### Traffic Signals

The applicant has also requested modifications to the requirements to construct traffic signals at the intersection of Hillcrest Avenue/Sand Creek Road and Heidorn Ranch/Sand Creek Road. Presently, the applicant is required to install full traffic signals at these two intersections under the larger required roadway configurations. The City of Antioch collects a Traffic Signal fee from all new development to pay for new traffic signals and the applicant would be entitled to a credit or reimbursement for these traffic signals, which will benefit others. In both cases, the applicant is given the option to deposit money minus any credits with the City so that the City may design and construct the intersection. These signals are required concurrently with construction of the adjoining roadways and are required prior to initiating the second half (Phases 4, 5, or 6) of the project.

The applicant proposes to modify the Conditions of Approval such that a) the traffic signals correspond to the smaller two-lane roadways, b) the signals are not required until the "third leg" is installed from either the Aviano project to the west or the City of Brentwood to the east, and c) a bond may be used in lieu of a deposit with the applicant retaining ultimate responsibility for signal installation.

## **STAFF ANALYSIS**

### **Fee Credit Subsidy**

#### **Issue One – Limited Use of Funds**

The Water Capacity Fee and the Sewer Connection Fee are established for very specific purposes and are based on nexus studies that correlate their value to the true costs of maintaining a system. The Water Capacity Fee is intended to account for the increased cost of maintaining the City's existing water system associated with new development. As new units connect to the City's existing system, there are increased pressures on infrastructure, including the riverfront intake, the water treatment plant, various tanks and the citywide distribution system. Similarly, the Sewer Connection Fee is intended to account for the incremental cost of new connections into the established sanitary sewer system, which requires continued maintenance. The applicant's proposal uses these funds to offset various developer infrastructure costs that are unrelated to the City's existing water or sewer systems and outside of the established purpose of the Water Capacity Fee or Sewer Connection Fee. Of the potential \$3.1 million dollar subsidy requested, just \$423,037 (13%) can be connected to sewer infrastructure. The remaining \$2.8 million would be a general subsidy of the project. It should be noted that the Sewer Connection Fee is not intended to fund expansions of the existing system for new development.

The General Fund, unlike the Water Capacity Fee and Sewer Connection Fee, is not restricted in its use and may be used for this purpose. Approval of this request would require the General Fund to ultimately reimburse the Water Fund and Sewer Fund for this subsidy. However, the General Fund is also used to provide a variety of City services, including the Parks and Recreation Department and the Antioch Police Department.

#### **Issue Two – Recovery of Subsidized Fees**

Per the Mitigation Fee Act (Cal. Government Code § 66000 *et seq.*), the fees collected for a specific service may not exceed the actual cost of delivering that service. If the City were to offer this fee credit subsidy program, it would intentionally underfund the Water and Sewer Funds without reducing the range of ongoing services that justifies the fee. The City could not overcharge a future developer to make up for this shortfall, as such an action would violate the Mitigation Fee Act. Moving forward, the City would be compelled to either reduce the maintenance and replacement schedule or use the General Fund to backfill the Water and Sewer Funds.

### **Issue Three – General Plan Consistency**

Antioch Municipal Code Section 9-5.3207 states “A development agreement shall not be approved unless the Council finds that the provisions of the agreement are consistent with the General Plan and any applicable Specific Plan.” The Antioch General Plan contains the following policies related to infrastructure and new development, and its relation to the City of Antioch.

The Fiscal Health Element states the following:

- 6.4.2-a. Require new development to pay for its infrastructure, its share of public and community facilities, and the incremental operating costs it imposes on the City.
  - New development shall construct and/or pay for new on-site capital improvements required by their projects consistent with the performance standards set forth in the Growth Management Element.

The Public Services and Facilities Element states the following:

- 8.13.1 Ensure that the expansion of public facilities occurs in an equitable manner such that new development pays for all of the infrastructure and public facilities required to support the development without impacting levels of service provided to existing residents and businesses.
- 8.13.2-a. Place the ultimate responsibility on the sponsor of proposed development projects for ensuring that the services and facilities needed to support the project and maintains applicable performance standards in the Growth Management Element are available at the time they are needed.
- 8.13.2-b. Require that new development:
  - Participate in a land-based financing district, construct, and/or pay for the new onsite capital improvements required to meet the applicable performance standards of the Growth Management Element;
- 8.13.2-e. Continue to apply existing policies and regulations precluding City financial assistance for any on-site capital improvements required by new development.

Each of these policies suggests that the applicant either pay for and install their own infrastructure or form a land-based financing district, such as a Community Facilities District (CFD). The City is never identified as a potential financier for extended infrastructure to serve new development and PSFE Policy 8.13.2-e explicitly precludes “City financial assistance for any on-site capital improvements required by new development.”

The City remains very supportive of the establishment of a land-based financing district in the Sand Creek Focus Area. The challenges experienced by the developer were

anticipated in the original approval and the City provided the alternative of a financing district throughout the Conditions of Approval.

#### **Issue Four – Overstatement of Possible Subsidy Reductions**

The proposal states that the full fee credit subsidy may be reduced by the completion of certain required improvements by others (Table 3). However, this suggests that other developers or the City would acquire and construct the public park (\$1,461,390) or install the traffic signals (\$435,000) on behalf of the applicant and not request reimbursement or mutual participation. This is a very unlikely scenario. If these two were eliminated, the range of fee subsidy would be \$1.9 million to \$3.1 million rather than \$0 to \$3.1 million suggested in the proposal.

#### **Roadway Construction Modifications**

#### **Issue Five – Detrimental Traffic Impacts**

The Circulation Element of the General Plan states the following:

7.3.2.d. Where feasible, design arterial roadways, including routes of regional significance, to provide better service than the minimum standards set forth in Measure C and the Growth Management Element. Thus, where feasible, the City will strive to maintain a “High D” level of service (v/c – 0.85-0.89) within regional commercial areas and at intersections within 1,000 feet of a freeway interchange. The City will also strive where feasible to maintain Low-range “D” (v/c= 0.80-0.84) in all other areas of the City, including freeway interchanges.”

The applicant provided a traffic study that demonstrated that the proposed roadway modifications would affect the Level of Service (LOS) of area intersections as follows:

- Lone Tree Way/Deer Valley Road – LOS D to E
- Lone Tree Way/Hillcrest Avenue – LOS D to E
- Project Entrance/Hillcrest Avenue – LOS B to C
- Project Entrance/Heidorn Ranch Road – LOS B to C
- Sand Creek Road/Heidorn Ranch Road – LOS B to D
- Sand Creek Road/EB SR-4 Ramps – LOS C to D

As demonstrated, the intersections of Lone Tree Way/Deer Valley Road and Lone Tree Way/Hillcrest Avenue would diminish to an LOS E.

In addition, Lone Tree Way is a “route of regional significance” and is subject to the standards of the East County Action Plan, administered by the Contra Costa Transportation Agency (CCTA). The Action Plan prescribes a minimum LOS of Mid-D for Lone Tree Way and compliance is necessary to receive Measure C sales tax funding

from CCTA. Should the City willingly allow the LOS to slip below Mid-D, it may risk the loss of this ongoing revenue.

Finally, the traffic impacts will be observable by Antioch residents. According to the CCTA Action Plan, “At LOS of E or lower, drivers may have to wait through more than one signal cycle.” (page 28). Though not a LOS E, all other studied intersections will experience a decrease in performance.

The applicant’s traffic study considers two other scenarios. The first assumes that Hillcrest Avenue will not be extended southward and the second assumes that build-out of the Sand Creek Focus Area will not exceed 80%. If either of these scenarios were to occur, the traffic impacts on Lone Tree Way would clearly be reduced. However, staff cannot provide any basis for either of these scenarios, especially given the applicant’s concurrent offer to assign final improvement of Sand Creek Road to development to the south, thus requiring the extension of Hillcrest Avenue.

#### **Issue Six – Southern Property Offer**

The applicant has stated an equitable interest in the 150-acre parcel to the immediate south of the project site, which is designated as Open Space/Senior Housing in the General Plan. The applicant has offered to provide a Development Agreement that would obligate a future developer of the property to complete the remaining two lanes, but not the landscaped median, of Sand Creek Road prior to the 25<sup>th</sup> building permit or the extension of Hillcrest Avenue. In staff’s opinion, this offer may not adequately resolve traffic impacts if such development and improvements do not coincide with the poor traffic conditions.

Further, and more significantly, this offer would make the terms of this project approval contingent upon the development of an adjacent site. To date, no development plan has been presented and there has never been any form of environmental review or approval of a project at this site. If the City of Antioch were to enter into this Development Agreement, it may be perceived as preemptively approving development of at least 25 residential units on this property and subverting the ordinary public hearing and environmental review process under the California Environmental Quality Act (CEQA). The City cannot responsibly enter into such a Development Agreement.

#### **Issue Seven – General Plan Consistency**

Antioch Municipal Code Section 9-4.317 states “No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the General Plan and any applicable Specific Plan or not permitted by the zoning provisions or other applicable provisions of this code in effect at the time of the approval of the vesting tentative map”

The Circulation Element states the following:

7.3.2.e. Establish Assessment Districts in areas that will require major roadway infrastructure improvements that will benefit only that area of the City, and thereby facilitate the up-front construction of needed roadways.

The applicant has elected not to pursue the option within the existing Conditions of Approval to establish an assessment district or similar financing mechanism to distribute the costs of the roadways and other infrastructure across all development in the area.

7.3.2.x Require new development to construct all on-site roadways, including Circulation Element routes, and provide a fair share contribution for needed offsite improvements needed to maintain the roadway performance standards set forth in the Growth Management Element. Contributions for offsite improvements may be in the form of fees and/or physical improvements, as determined by the City Engineer. Costs associated with mitigating off-site traffic impacts should be allocated on the basis of trip generation, and should have provisions for lower rates for income-restricted lower income housing projects needed to meet the quantified objectives of the General Plan Housing Element.

The applicant proposes to only partially complete construction of on-site roadways including Circulation Element routes.

*3.4.1 “Development projects that may impact regional routes are required to comply with adopted Action Plans.”*

The adopted East County Action Plan establishes a minimum LOS of Mid-D for Lone Tree Way, a “regional route”. The proposal would create LOS of E at two major intersections on Lone Tree Way – at Hillcrest Avenue and at Heidorn Ranch Road.

### **Issue Eight – Roadway Development Equity**

In staff’s opinion, the level of required roadway development is comparable to other projects in the area and should not be considered inequitable or unfair. Absent an assessment district, individual projects are required to improve their adjacent roadways and those contained within their project site. These infrastructure issues were identified in 2015-2016 and used, in part, as justification for the conversion of the property from Business Park to a higher-density residential project - the density of this project (5.9 units per acre) is 51% higher than the adjacent Aviano project (3.9 units per acre).

### **Issue Nine – Ultimate Completion of the Roadways**

The proposal does not provide any definitive solution for the ultimate completion of these roadways. Heidorn Ranch Road may be completed if, and when, development occurs in the City of Brentwood. However, the proposed plan leaves 8’ within the City of Antioch that the City of Brentwood cannot require a developer to complete.



Similarly, Hillcrest Avenue will be partially and incompletely constructed. The Conditions of Approval for the Aviano project require construction of the western two lanes of an anticipated four-lane roadway and improvement of the 16' median, which is inconsistent with the proposal. As such, the City should anticipate that the Aviano project will submit a similar application to reduce their roadway construction requirements. Proposed Condition of Approval E6.f anticipates that the Aviano project will receive permits and approvals to reduce their requirements to a two-lane Hillcrest Avenue. Under either of these scenarios, Hillcrest Avenue will remain only partially constructed.

As mentioned, the applicant has suggested that the adjacent 150-acre parcel would be responsible for completion of Sand Creek Road. However, the timeline for plan development, review, approval, and construction of the adjacent parcel is unknown and if this parcel never develops, the road would remain incomplete indefinitely.

The applicant's plans state that the balance of each of these roads will be constructed "by others", but does not designate how or when they will be completed. The City of Antioch does not have a Traffic Impact Fee or other program to collect fees to fund such roads. More importantly, the City's own General Plan policies obligate the developer to construct the roads or use a financing mechanism. There is simply no program or policy that suggests that the City would return some day to complete these roads.

### **Issue Ten – Precedent**

The proposal would give the Vineyards project a decisive advantage over other projects in the City of Antioch and, especially, in the Sand Creek Focus Area. The Aviano project, with 533 units, is responsible for construction of half of Hillcrest Avenue and for an extension of Sand Creek Road to Dozier-Libbey Medical High School. If approved, The Ranch project, with 1,337 units, would be required to construct Sand Creek Road from Deer Valley Road to Dallas Ranch Road, as well as a bridge crossing, the intersection of Deer Valley Road /Sand Creek Road, and the extension of Richland Ranch Road southward. Each of these projects could provide a similar argument that their individual infrastructure expenses are overwhelming and that their projects require City subsidy.

As of today, the City is anticipating that each of these projects will pay the full Water Capacity Fee and the Sewer Connection Fee, as well as all other fees, and will complete all of their on-site and necessary off-site roadways, per their plans. However, if the City should approve this proposal, it should anticipate that these projects will request similar treatment and a comparable project subsidy. The Vineyards project is not markedly different from these others and, despite additional roadway expenses, is advantaged in many ways, including density.

If the \$4,900 fee credit subsidy were extended to the Aviano project, it would increase the total from \$3.1 million to \$5.8 million. If it were also extended to The Ranch, it would increase to \$12.3 million. If the same \$4,900 fee credit subsidy were extended to the all units in the Sand Creek Focus Area, it would increase to \$19.6 million. The City would be challenged to find conditions unique to the Vineyards project that do not exist elsewhere.

#### Environmental Analysis

In 2016, the City Council certified an Environmental Impact Report (EIR) for the Vineyards at Sand Creek Project. According to CEQA Guidelines Section 15164, an addendum to an adopted EIR may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred. Staff prepared an Initial Study checklist and concluded that an addendum to the EIR is the appropriate CEQA document for the applicant's proposal. The addendum and supporting Initial Study checklist are attached to this staff report.

#### **RECOMMENDED ACTIONS**

Staff has provided resolutions for three distinct actions that the Planning Commission may pursue in making a recommendation to the City Council. They are as follows:

##### **Option 1: Approve the requested exactly as proposed by the applicant.**

This report describes the project as proposed by the applicant and offers analysis of the proposal and staff's significant concerns with the proposal. For the reasons expressed above, staff does not recommend this action. However, appropriate Resolutions are provided to support such a recommendation if the Planning Commission were so inclined.

##### **Option 2: Offer a modified proposal that addresses City concerns.**

Staff has developed a modified proposal that eliminates much of the objectionable issues related to the applicant's original proposal while providing some assistance to the project. The modified proposal is basically as follows:

1. If the developer were to construct the oversized water main and sewer trunk line, the Water Capacity Fees and Sewer Connection Fees would be deferred for up to seven years. The total amount of fee deferment would be limited to the cost of the oversized sewer infrastructure, which is currently estimated at \$423,037. Please refer to Alternative Development Agreement 2.3(e).
2. Rather than require the Development Agreement for the southern 150-acre parcel, the modified proposal requires a formal lien with a value equal to the cost of design, construction, and administration of the remainder of Sand Creek Road

prior to initiation of Phase 4, 5, or 6 of the project. This lien would remain in place until the two lanes are constructed or the City is paid in full. The developer is also required to submit annual traffic studies that analyze traffic conditions at key intersections on Lone Tree Way and Sand Creek Road. Should there be a delay of 50 seconds or more, regardless of cause, construction of the two lanes must begin within two months and be completed within ten months. If the developer fails to meet this obligation, the City would take possession of the southern property to fund construction of the two lanes. Please refer to Alternative Development Agreement 2.13 and Alternative Condition of Approval E.6.

3. The modified proposal includes terms for the installation of the various traffic signals that allow for deposit of funds for one-half of the cost plus a 10% contingency. The City would then assume responsibility for the installation of these signals. Please refer to Condition of Approval E.5.b. et. al.
4. Other minor changes are offered to both the Development Agreement and the Conditions of Approval. These changes are for clarity and in anticipation of work that may be completed by the City of Brentwood.

This option would address some of the difficulties that the applicant has encountered, but would also reduce the City's risk. It would better ensure that traffic conditions are not allowed to become unacceptable and that the Water and Sewer funds remain fully funded. It would however, delay the payment of fees to the Water Capacity Fee and Sewer Connection Fee and would create a temporary shortfall to both funds. Should a need arise during the seven year period, the General Fund may be required to backfill these funds.

### **Option 3: Deny the request and make no changes.**

The Planning Commission may elect to recommend that the City Council deny the request and make no changes to the existing Development Agreement and Conditions of Approval. The existing approvals would remain valid.

### **SUMMARY**

In summary, the applicant has requested modifications to the Conditions of Approval and Development Agreement for the Promenade – Vineyards at Sand Creek project. These modifications would waive or reduce the required Water Capacity Fee and Sewer Connection Fee for a period of seven years and would reduce the project's obligations to fully construct roadways. Staff has provided Resolutions allowing for three different recommendations: approval of the applicant's proposal, approval of a modified proposal, and denial of the request.

## **ATTACHMENTS**

### Option 1 - Approve the Applicant's Proposal

1. Resolution recommending approval of the EIR Addendum
2. Resolution recommending approval of the modified Vesting Tentative Map
3. Resolution recommending approval of the amended Development Agreement
4. Resolution recommending adoption of the Ordinance for the Planned Development Rezone

### Option 2 – Approve the Alternative Proposal

5. Resolution recommending approval of the EIR Addendum
6. Resolution recommending approval of the modified Vesting Tentative Map
7. Resolution recommending approval of the amended Development Agreement
8. Resolution recommending adoption of the Ordinance for the Planned Development Rezone

### Option 3 – Deny the Applicant's Proposal

9. Resolution recommending denial of the proposal

### Other

10. Current Development Agreement
11. Approved Vesting Tentative Map and Conditions of Approval
12. Initial Study with Addendum cover letter
13. Proposal from Applicant

# ATTACHMENT “1”

**PLANNING COMMISSION  
RESOLUTION NO. 2017-\*\***

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ADDENDUM TO THE  
ENVIRONMENTAL IMPACT REPORT FOR MODIFICATIONS TO THE VESTING  
TENTATIVE MAP AND FINAL DEVELOPMENT PLAN AND AMENDEMENTS TO  
THE DEVELOPMENT AGREEMENT FOR THE VINEYARDS AT SAND CREEK  
PROJECT**

**WHEREAS**, the City Council, on February 9, 2016, approved an Environmental Impact Report, a Development Agreement, a Planned Development rezone, and a Vesting Tentative Map for the development of a 650 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the City received an application from GBN Partners, LLC for amendments to the Development Agreement, amendments to the Planned Development zoning, and modifications to the conditions of approval of the Vesting Tentative Map, to create a fee credit and subsidy program and to modify and reduce the project requirements for construction of roadways ; and

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the City Council in its project approval on February 9, 2016; and,

**WHEREAS**, as demonstrated in the Addendum, all potential environmental impacts that could occur as a result of the project would be less than or similar to impacts previously identified in the 2016 Project EIR. Thus, the project's cumulative impact would be **less than or similar to** impacts previously identified in the 2016 Project EIR; and,

**WHEREAS**, the Addendum was made available to the public on the City of Antioch website and at the Community Development Department for a period of 5 days prior to the public hearing, from September 15 to September 20, 2017; and,

**WHEREAS**, the Planning Commission has reviewed the Addendum to the Environmental Impact Report for the Vineyards at Sand Creek Project and the comments received during the comment period; and,

**WHEREAS**, the Planning Commission gave notice of public hearing as required by law; and,

**WHEREAS**, on September 20, 2017, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary and recommended adoption to the City Council of the Addendum to the 2017 Environmental Impact Report for the Project; and,

**WHEREAS**, the custodian of the Addendum to the Environmental Impact Report is the Community Development Department and the Addendum to the Environmental Impact Report is available for public review on the second floor of City Hall in the Community Development Department, Monday - Friday 8:00 am - 11:30 am and it is attached as Exhibit A to this Resolution.

**NOW, THEREFORE, BE IT RESOLVED AND DETERMINED**, as follows:

1. The foregoing recitals are true and correct.
2. The Planning Commission of the City of Antioch hereby **FINDS**, on the basis of the whole record before it (including the Initial Study and all comments received) that:
  - a. The City of Antioch exercised overall control and direction over the CEQA review for the Project, including the preparation of the Addendum to the Environmental Impact Report, and independently reviewed the Addendum to the Environmental Impact Report; and,
  - b. There is no substantial evidence that the Project will have a significant effect on the environment once mitigation measures have been followed and assuming approval of the Zoning Ordinance amendment; and,
  - c. The Addendum to the Environmental Impact Report reflects the City's independent judgment and analysis.
3. The Planning Commission hereby **RECOMMENDS** that the City Council of the City of Antioch **APPROVE AND ADOPT** the Addendum to the Environmental Impact Report for the Project.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20<sup>th</sup> day of September, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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FORREST EBBS  
Secretary to the Planning Commission

# ATTACHMENT “2”



**PLANNING COMMISSION  
RESOLUTION NO. 2017- ##**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING APPROVAL OF MODIFICATIONS TO A VESTING TENTATIVE  
MAP/FINAL DEVELOPMENT PLAN FOR THE VINEYARDS AT SAND CREEK  
PROJECT**

**WHEREAS**, the City Council, on February 9, 2016, approved an Environmental Impact Report, a Development Agreement, a Planned Development rezone, and a Vesting Tentative Map for the development of a 641 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the City received an application from GBN Partners, LLC for amendments to the Development Agreement, amendments to the Planned Development zoning, and modifications to the conditions of approval of the Vesting Tentative Map, to create a fee credit and subsidy program and to modify and reduce the project requirements for construction of roadways ; and

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified by the City Council on February 9, 2016, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162.

**WHEREAS**, the Planning Commission recommended adoption of the Addendum to the Final Environmental Impact Report ("FEIR") and Mitigation Monitoring and Reporting Program ("MMRP") to the City Council and the proposed modifications to the Vesting Tentative Map do not amend the project; therefore, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, a subsequent environmental document is not required; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 20, 2017 duly held a public hearing, received and considered evidence, both oral and documentary; and

**WHEREAS**, the approval of the proposed modifications to the Vesting Tentative Map will not adversely affect the comprehensive General Plan and are consistent with the General Plan and carry out the purposes of the General Plan as amended.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Commission makes the following required findings for approval of a Final Development Plan:

1. Each individual unit of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability because each parcel has its own independent parking and access. The uses proposed will not be detrimental to present and potential surrounding uses but instead will have a beneficial effect which could not be achieved under another zoning district due to the General Plan and zoning designations for the project site and the requirement to establish a Planned Development Zoning District and receive approval for a Final Development Plan for each project zoned Planned Development in the City of Antioch;
2. The streets and thoroughfares proposed meet the standards of the City's Growth Management Program and adequate utility service can be supplied to all phases of the development because the project will be constructing all the required streets and utilities to serve the project and the ultimate design, location and size of these improvements will be subject to the approval of the City Engineer;
3. There are no commercial components of the Project;
4. Any deviation from the standard zoning requirements is warranted by the design and additional amenities incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted. The project is a small lot subdivision and is substantially in conformance with the applicable zoning requirements for residential development and the Planned Development District development standards established for the project site;
5. The area surrounding the PD district can be planned and zoned in coordination and substantial compatibility with the proposed development because the proposed development is consistent with the General Plan and the area around the Project will also be required to develop according to the General Plan policies; and,
6. The Project and the PD District conform to the General Plan of the City in that the small lot single family residential uses are consistent with the General Plan designation of Medium Low Density Residential for the project site; and,
7. The Conditions of approval protect the public safety, health and general welfare of the users of the project and surrounding area. In addition, the conditions ensure the project is consistent with City standards.

**BE IT FURTHER RESOLVED** that the Planning Commission does hereby make the following findings for approval of a Vesting Tentative Parcel Map:

1. That the subdivision, design and improvements are consistent with the General Plan, as required by Section 66473.5 of the Subdivision Map Act and the City's Subdivision Regulations. The site has a General Plan Designation of Medium Low Density Residential and is zoned Planned Development and the subdivision will accommodate uses that are consistent with the General Plan on each of the lots created by the subdivision; and,
2. That the subdivision proposed by the Vesting Tentative Map generally complies with the rules, regulations, standards and criteria of the City's Subdivision Regulations. The proposed subdivision meets the City's criteria for the map. The Planning Commission has reviewed the Vesting Tentative Map and evaluated the effects of the subdivision proposed and has determined that the Vesting Tentative Map as conditioned complies with and conforms to all the applicable rules, regulations, standards, and criteria of the City's Subdivision Regulations.
3. The Conditions of approval protect the public safety, health and general welfare of the users of the project and surrounding area. In addition, the conditions ensure the project is generally consistent with City standards.

**NOW THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Antioch does hereby recommend APPROVAL of amendments to the Vesting Tentative Map and Final Development Plan (attached Exhibit A), for the development of a 641 unit single family residential community on a portion of approximately 141 acres on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007) subject to the following conditions:

**A. GENERAL CONDITIONS**

1. The development shall comply with the City of Antioch Municipal Code, unless a specific exception is granted thereto, or is otherwise modified in these conditions or in the development agreement.
2. Concurrent with the first submittal of grading or improvement plans, the applicant shall submit a site plan exhibit showing the site plan as modified by conditions and approvals.
3. Architecture, sound walls, fencing, mailboxes, lighting, any accent paving, addressing, and landscaping for the entire project shall be subject to review and approval by the Planning Commission.
4. Sound wall locations and elevations for each phase of the project shall be included on the grading plan(s).

5. This approval expires two years from the date of approval (Expires \_\_\_\_\_, 2018) or alternate date as identified in the signed Development Agreement, pursuant to the Map Act as amended.
6. The applicant shall defend, indemnify, and hold harmless the City in any action brought challenging any land use approval or environmental review for the Project. In addition, applicant shall pay any and all costs associated with any challenge to the land use approval or environmental review for the Project, including, without limitation, the costs associated with any election challenging the Project.
7. Permits or approvals, whether discretionary or ministerial, will not be considered if the applicant is not current on fees, reimbursement and/or other payments that are due the City.
8. All required easements or rights-of-way for improvements shall be obtained by the applicant at no cost to the City of Antioch. Advance permission shall be obtained from any property or, if required from easement holders, for any work done within such property or easements.
9. All easements of record that are no longer required and affect individual lots or parcels within this project shall be removed prior to or concurrently with the recordation of the final map or executed by separate subsequent instrument as approved by the City Engineer.
10. The applicant shall establish a Home Owners Association (HOA) for this project in conformance with the regulations set forth by the State Bureau of Real Estate. The HOA shall be responsible for maintaining:
  - a. All HOA owned parcels (includes private streets and parks).
  - b. Landscaping in City rights-of-way north of the northerly curb line of Sand Creek Road, west of the westerly curb line of Heidorn Ranch Road, and east of the easterly curb line of Hillcrest Avenue.
  - c. Storm drain facilities (pipes, structures, and basins) north of the northerly curb line of Sand Creek Road, west of the westerly curb line of Heidorn Ranch Road, and east of the easterly curb line of Hillcrest Avenue.
  - d. Sound walls.
  - e. The City shall be reimbursed if it maintains landscape, roadway (including striping and signing), concrete (including sidewalk, curb, gutter, and curb ramps), storm drain facilities, street lighting, or all other HOA facilities and amenities that are not maintained by the HOA to an acceptable City level.

11. Prior to issuance of the 1<sup>st</sup> building permit, the applicant shall provide draft CC&R's to the City for review. The applicant shall incorporate City comments into the application to the State or provide documentation acceptable to the City for omitting the comments. Prior to issuance of the 25<sup>th</sup> production building permit or issuance of the 1<sup>st</sup> Certificate of Occupancy, the applicant shall provide written confirmation of State approval of the CC&R's as outlined in the Development Agreement or as approved by the Community Development Director.
12. All advertising signs shall be consistent with the Sign Ordinance or as approved by the Community Development Director.
13. The property shall annex into or establish and participate in a Lighting and Landscape District (LLD) and accept a level of annual assessments sufficient to maintain:
  - a. The street lights and landscaping adjacent to the project area excluding those areas to be maintained by the HOA (generally medians on Sand Creek Road, half of the median on Heidorn Ranch Road, and half of the median on Hillcrest Avenue).
  - b. The C.3 basin and trails south of Sand Creek Road (Parcel G).
  - c. The annual assessment shall cover the actual annual cost of maintenance as described in the Engineer's Report.

**B. TENTATIVE MAP CONDITIONS**

1. The Tentative Map approval is subject to the time lines established in the State of California Subdivision Map Act, as amended.
2. Approval is based upon substantial conformance with the Vesting Tentative Maps dated May 20, 2015, (Subdivision No. 9390).
3. Approval of this tentative map shall not be construed as a guarantee of future extension or re-approvals of this or similar maps.

**C. CONSTRUCTION CONDITIONS**

1. The use of construction equipment shall be as outlined in the Antioch Municipal Code. Requests for alternative days/time may be submitted in writing to the City Engineer for consideration.
2. The project shall be in compliance with and supply all the necessary documentation for AMC 6-3.2: Construction and Demolition Debris Recycling.

3. Standard dust control methods and designs shall be used to stabilize the dust generated by construction activities. The applicant shall post dust control signage with an applicable contact and phone number, City staff, and the air quality control board.
4. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.

**D. SITE AND PROJECT DESIGN**

1. Provisions for mail delivery in the subdivision area shall be reviewed and approved by staff prior to the approval of the small lot final map(s). Applicant shall install mail box facilities as required by the City Engineer.
2. Prior to the approval of the grading plan(s), the City Engineer shall determine if it is necessary to engage soils and structural engineers, as well as any other professionals, deemed necessary to review and verify the adequacy of the building plans submitted for this project. If deemed necessary by the City Engineer, this condition may include field inspections by such professionals to verify implementation of the plans. Costs for these services shall be borne by the applicant.
3. All proposed improvements shall be constructed to City standards or as approved by the City Engineer.
4. All public streets shall intersect at approximately 90 degrees or as approved by the City Engineer.
5. All driveways shall be perpendicular to the street centerline, or as approved by the City Engineer.
6. All driveways shall be a minimum of five feet from curb return.
7. Monolithic sidewalks with beveled curb shall be 6" thick and reinforced as approved by the City Engineer. Detached sidewalks that will be crossed by vehicles at driveway locations shall be 6" thick and reinforced as approved by the City Engineer. Minimum sidewalks widths shall be as follows:
  - a. Adjacent to beveled curb, 4 feet excluding curb (bevel curb to be 12" deep by 3" high with ½" lip and 18" gutter).
  - b. Adjacent to vertical curb, 4.5 feet excluding curb.
  - c. Detached sidewalk, 5 feet.

8. A minimum of a 20 foot tangent shall extend beyond the return at intersections, or as approved by the City Engineer.
9. All lot sidelines shall be perpendicular or radial to the fronting street centerline, or as approved by the City Engineer.
10. Sight distance triangles shall be maintained per 9-5.1101, Site Obstructions at Intersections of the Antioch Municipal Code or as approved by the City Engineer.
11. Rear and side yard fencing shall be provided for all units. All fences shall be located at the top of slope, or as approved by the City Engineer.
12. In cases where a fence is to be built in conjunction with a retaining wall, and the wall face is exposed to a side street, the fence shall be setback a minimum of three feet (3') behind the retaining wall per 9-5.1603 or as approved by the City Engineer.
13. The applicant shall install streetlights within the project area.
14. Street names shall be as approved by the Planning Commission as shown on Exhibit C. Future changes to street names will require Planning Commission review and approval.
15. The applicant shall provide a "checklist" of universal design accessibility features to home buyers as required by Section 17959.6 of the Health and Safety Code.
16. All improvements for each lot (water meters, sewer cleanouts, etc.) shall be contained outside of the driveway and within the lot and the projection of its sidelines, or as approved by the City Engineer.
17. Cul-de-sac parking shall be provided as required by the City Engineer.
18. One on-street parking space per lot shall be located within close proximity to the unit served as approved by the City Engineer.
19. The applicant and then the HOA, once the CC&Rs are operative, shall maintain all undeveloped areas within this subdivision in a fire-safe and attractive manner.
20. All fencing adjacent to public open space (trails and basins), shall be wrought iron, black vinyl clad chain link with powder coated posts, or other material as approved by the City Engineer.

21. Sound walls shall be constructed along the lots adjoining or adjacent to Sand Creek Road (Parcel C), Hillcrest Avenue (Parcels B & C), Heidorn Ranch Road (Parcel C & F), 'A' Street between Hillcrest Avenue and 'E' Street (Parcels B & C), and 'B' Street between 'Q' Street and Heidorn Ranch Road (Parcels C & F). Fencing/wall/berm along the street side of Parcel E shall be approved by the Planning Commission. Sound walls along Sand Creek Road shall be a minimum of seven (7) feet high or six (6) feet on a one (1) foot berm in conformance to the sound study. Sound walls at other locations shall be a minimum of six (6) feet high and in conformance to the sound study.
22. All two-car garages shall be a minimum of 20 feet by 20 feet clear inside dimensions or as approved by the Community Development Director.
23. Prior to submitting a final map that creates buildable lots, the applicant shall provide bonding in a sufficient amount to secure all necessary improvements for the phase as described throughout these Conditions of Approval. Such bonds will be released upon satisfactory completion of the corresponding improvements by the applicant.
24. All trails and access roadways shall be constructed as shown on the Tentative Map to the standards for a Class I Bike Path in the 6<sup>th</sup> Edition of the Caltrans Highway Design Manual or as approved by the City Engineer. The basin access roadway/trail, the Calpine facility access roadway, and landscape on Parcel E shall be constructed in conjunction with the basin on Parcel E. The combination trail/access roadway around the basin on Parcel G shall be constructed in conjunction with the basin on Parcel G.
25. Concurrent with the construction of the adjacent roadways, the applicant shall construct bus turnouts, shelters and benches (or lean bar as approved by Tri-Delta Transit) at the following locations or as approved by the City Engineer:
  - a. East side of Hillcrest Avenue north of 'A' Street.
  - b. West side of Heidorn Ranch Road south of 'B' Street.
26. The shelters shall be constructed with the roadway if bus service to the location is anticipated within the next 6 months by Tri-Delta Transit. If bus service is ultimately anticipated, but not within the next 6 months, a deposit of \$6,000 will be made by the applicant to Tri-Delta Transit. If bus service is not provided to the location and the shelter is not constructed within 10 years of the deposit, the \$6,000 will be returned to the applicant.



## **E. PHASING CONDITIONS**

- E1. Prior to development of any phase of the subdivision, the applicant shall secure a use permit and design review approval from the Planning Commission for that phase.
- E2. The order and phasing boundaries of project construction shall conform to the proposed Phasing Plan, dated July 11, 2017, Exhibit \_\_\_ to this resolution. Proposed changes to the Phasing Plan shall be submitted to the City prior to or in conjunction with the use permit application required for the affected phase(s). Changes to the Phasing Plan are subject to approval by the Zoning Administrator or the Planning Commission. Use permits applications are subject to approval by the Planning Commission.

### **E3. Phase One:**

Prior to the issuance of the 1st building permit within Phase One, the following improvements shall be completed to the satisfaction of the City Engineer:

- E3.a **Heidorn Ranch Road, Northern Extension:** Heidorn Ranch Road shall be constructed to the extent necessary to allow for construction access from approximately the south right of way of East Bay MUD to the south curb returns of 'B' Street.

Prior to the issuance of the 25th building permit and the 1st Certificate of Occupancy for a lot within Phase One, the following improvements shall be completed to the satisfaction of the City Engineer:

- E3.b **Heidorn Ranch Road, Northern Extension:** Heidorn Ranch Road shall be constructed to the two-lane configuration with one 12 foot lane and a 6 foot bike lane southbound and one 12 foot lane and a 6 foot bike lane northbound (or as required by the fire district), landscaped western right of way including Parcel F, concrete west side curb and gutter, and temporary A/C east side curb, and LED street lights along the western edge of the roadway, and other appurtenances, and all utilities to be placed below the surface improvements, including interconnect conduit and pull boxes, from approximately the south right of way of East Bay MUD through the south curb returns of 'B' Street. Improvements shall include conduits and pull boxes for a traffic signal at Heidorn Ranch Road and 'B' Street as needed for the two-lane facility, all as approved by the City Engineer. Design shall be coordinated with the City of Brentwood or their designee. The portions of the two-lane Heidorn Ranch Road constructed by the applicant shall be located immediately adjacent to the project site, except as needed to conform with Subdivision 9385

participation. However, if the applicant demonstrates, to the satisfaction of the City Engineer, that it has entered into a reimbursement agreement regarding the costs of Heidorn Ranch Road with the City of Brentwood that allows for an alternate configuration within the planned 126-foot right of way, and that affected property owners have agreed to take actions necessary to allow for construction of such alternate facility, then, at the discretion of the City Engineer, the improvements shall be constructed in that alternate configuration. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide the planned 126-foot (four-lane) right of way for this segment of Heidorn Ranch Road.

**E3.c Heidorn Ranch Road/'B' Street traffic signal:** The applicant shall construct a full traffic signal with interconnect as needed for the two-lane configuration at the intersection of Heidorn Ranch Road and 'B' Street. Upon concurrence of the applicant and the City Engineer, the applicant may deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been improved; and in that case, the applicant shall construct the signal at such time, if any, as the applicant constructs the third leg, using such deposited funds. Any unused deposited funds shall be returned to applicant upon construction of the signal. Should the requirement for construction of the Heidorn Ranch Road/'B' Street traffic signal occur simultaneous with the construction of the Heidorn Ranch Road (by others) in Brentwood, the traffic signal shall be installed with each developer (or the City of Brentwood as applicable) paying their fair share of the improvements as approved by the City Engineer. Should the traffic signal on Heidorn Ranch Road and 'B' Street be constructed by the City of Brentwood or the development in Brentwood adjacent to and east of this project, the applicant shall pay ½ of the cost of the design and construction to the City of Antioch for reimbursement to City of Brentwood or the Brentwood developer(s). Applicant's payment of fair share or ½ the cost shall be due when construction of the signal by the applicant would otherwise be required by these conditions.

**E3.d 'B' Street:** 'B' Street shall be fully constructed from Heidorn Ranch Road to the easterly curb returns of 'N' Street including lighting and median and right of way landscaping.

#### **E4. Phase Two:**

Prior to the issuance of the 1st building permit for a lot within Phase Two, the following shall be completed to the satisfaction of the City Engineer:

- E4.a Any uncompleted improvements required of Phase One.
- E4.b **'B' Street** extension: Completion of 'B' Street through 'M' Street including lighting and median and right of way landscaping.
- E4.c **Parcel A Park:** The park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50th building permit for a lot within Phase Two, the following shall be completed to the satisfaction of the City Engineer:

- E4.d **Parcel A Park:** Park construction.

**E5. Phase Three:**

Prior to the issuance of the 1st building permit for a lot within Phase Three, the following shall be completed to the satisfaction of the City Engineer:

- E5.a **Hillcrest Avenue, Northern Extension:** Hillcrest Avenue shall be constructed as a two-lane facility with east side curb, gutter, sidewalk and landscaping, including Parcel B, east side median curb and gutter, LED street lights, and utilities to be placed under the east half of the roadway, including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and pavement for the northbound bike, and travel lanes as needed for the two-lane facility, with one 10.5 foot lane and a 5.5 foot bike lane in each direction from the existing stub of Hillcrest Avenue to the south curb returns of 'A' Street. The transition from the existing 4-lane section of Hillcrest Avenue shall include a 2" grind and overlay of the existing asphalt south of Prewett Ranch Drive and be as approved by the City Engineer. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and 'A' Street as needed for the two-lane facility, all as approved by the City Engineer. The portions of Hillcrest Avenue to be constructed by the applicant shall be located immediately adjacent to the project site. However, if the applicant demonstrates, to the satisfaction of the City Engineer, that (i) Aviano Farms has obtained all permits and approvals necessary for an alternate configuration for a two-lane facility within the planned 112-foot (four-lane) right of way; and (ii) the landowner of the Aviano Farms development has dedicated to the City of Antioch so much of the property it owns as is needed for such alternate two-lane configuration, then, at the discretion of the City Engineer, the improvements shall be constructed in that alternate two-lane configuration. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required

to provide the planned 112-foot (four-lane) right of way for this segment of Hillcrest Avenue.

- E5.b **Hillcrest Avenue/'A' Street traffic signal:** The applicant shall construct a full traffic signal as needed for the two-lane configuration of Hillcrest Avenue at the intersection of Hillcrest Avenue and 'A' Street. Upon concurrence of the applicant and the City, the applicant may deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed; and in that case, the applicant shall construct the signal at such time, if any, as the applicant constructs the third leg, using such deposited funds. Any unused deposited funds shall be returned to applicant upon construction of the signal. Should the requirement for construction of the Hillcrest Avenue/'A' Street traffic signal occur simultaneous with the Aviano Farms development, the traffic signal shall be installed with each developer paying their fair share of the improvements as approved by the City Engineer. Applicant's payment of fair share shall be due when construction of the signal by the applicant would otherwise be required by these conditions. Should the traffic signal be constructed by the Aviano Farms development, the developer otherwise obligated shall pay ½ of the cost of the design and construction to the City for reimbursement to the Aviano Farms development prior to initiation of the Phase Three.
- E5.c **'A' Street:** 'A' Street shall be fully constructed to the from Hillcrest Avenue to the curb returns of 'H' Street including lighting and median and right of way landscaping.

**E6. Phases Four, Five and Six:**

Prior to approval of a small lot Final Map within Phase Four, Five or Six, the following improvements shall be completed OR a bond shall be provided securing their construction:

- E6.a Any uncompleted improvements required of Phases One, Two and Three.
- E6.b **Heidorn Ranch Road, Southern Extension:** Heidorn Ranch Road shall be constructed as a two-lane facility with one 12 foot lane and a 6 foot bike lane southbound and one 12 foot lane and a 6 foot bike lane (or as required by the fire district) northbound, landscaped western right of way including the adjacent portion of Parcel C, street lights along the western edge of the roadway, concrete west side curb and gutter, and temporary A/C east side curb, and other appurtenances, and all utilities, including interconnect conduit and pull

boxes to be placed below the surface improvements, from 'B' Street through and including the intersection with Sand Creek Road. Design shall be coordinated with the City of Brentwood or their designee. The portions of the two-lane Heidorn Ranch Road constructed by the applicant shall be located immediately adjacent to the project site. However, if the applicant demonstrates, to the satisfaction of the City Engineer, that it has entered into an agreement with the City of Brentwood that allows for an alternate configuration within the planned 126-foot right of way, and that affected property owners have agreed to take actions necessary to allow for construction of such alternate facility, then, at the discretion of the City Engineer, the improvements shall be constructed in that alternate configuration. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide the planned 126-foot (four-lane) right of way for this segment of Heidorn Ranch Road.

- E6.c **Heidorn Ranch Road/Sand Creek Traffic Signal:** A full traffic signal shall be constructed as needed for the two-lane configurations at the intersection of Heidorn Ranch Road and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may bond for or deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed; and in that case, the applicant shall construct the signal at such time, if any, as the applicant constructs the third leg, using such deposited funds or bond. Any unused deposited funds of bond shall be returned or released to applicant upon construction of the signal. The traffic signal is fee creditable against the project's Traffic Signalization fees.
- E6.d **Sand Creek Road, All:** Sand Creek Road shall be constructed as a two-lane facility from the boundary of the Cities of Antioch and Brentwood to Hillcrest Avenue. The road shall be constructed to the configuration approved by the City of Antioch Planning Commission and/or City Engineer in coordination with the City of Brentwood. The design shall include an ultimate width of 80 foot curb to curb and 112 foot right-of-way from the centerline of Hillcrest Avenue through the easterly curb return of Heidorn Ranch Road with one 12 foot lane and an 8 foot bike lane westbound and one 12 foot lane and an 8 foot bike lane eastbound with landscaped median with temporary A/C median curbs and northerly right of way (including the adjacent portion of Parcel C) and southerly right of way, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit, under surface improvements. Improvements shall include conduits and pull boxes for traffic signals at Sand Creek Road/Hillcrest Avenue and Sand Creek Road/Heidorn Ranch Road as needed for the two-

lane facility, all as approved by the City Engineer. The two lanes shall be located at the outside edges of the planned 112-foot right of way. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide a 112-foot (four-lane) right of way for this segment of Sand Creek Road.

- E6.e **Sand Creek Regional Trail:** The multi-use Sand Creek Regional Trail shall be constructed to the west, south and east of the basin, and landscaping installed on Parcel G as approved by the Park and Recreation Commission. If allowed by the resource agencies, the Regional Trail shall be unfenced (on the Sand Creek side) and the surface shall be as required by the City Engineer. The trail shall be as close to the creek as allowed by the resource agencies. The applicant shall coordinate with the Aviano Farms development to the west, and the City of Brentwood to the east, for the location and elevation of connection points.
- E6.f **Hillcrest Avenue, Southern Extension:** Hillcrest Avenue shall be constructed as a two-lane facility with east side curb, gutter, and sidewalk and landscaping, including Parcel C, and east side median curb and gutter, LED street lights, and utilities to be placed under the east half of the roadway, including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and asphalt for the northbound bike and travel lanes as needed for the two-lane facility, with one 10.5 foot lane and a 5.5 foot bike lane in each direction, from 'A' Street to Sand Creek Road. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and Sand Creek Road, interconnect conduit and pull boxes, from 'A' Street thru and including the intersection of Sand Creek Road (if proposed for the east side of the roadway), all as approved by the City Engineer. The portions of Hillcrest Avenue to be constructed by the applicant shall be located immediately adjacent to the project site. However, if the applicant demonstrates, to the satisfaction of the City Engineer, that (i) Aviano Farms has obtained all permits and approvals necessary for an alternate configuration for a two-lane facility within the planned 112-foot (four-lane) right of way; and (ii) the landowner of the Aviano Farms development has dedicated to the City of Antioch so much of the property it owns as is needed for such alternate two-lane configuration, then, at the discretion of the City Engineer, the improvements shall be constructed in that alternate two-lane configuration. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide the planned 112-foot (four-lane) right of way for this segment of Hillcrest Avenue.

**E6.g Hillcrest Avenue/Sand Creek Road Traffic Signal:** A full traffic signal shall be constructed as needed for the two-lane configurations, with interconnect at the intersection of Hillcrest Avenue and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may bond for or deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed; and in that case, the applicant shall construct the signal at such time, if any, as the applicant constructs the third leg, using such deposited funds or bond. Any unused deposited funds of bond shall be returned or released to applicant upon construction of the signal. The traffic signal is fee creditable against the project's Traffic Signalization fees.

**E6.h Parcel D Park.**

Prior to the issuance of the 1st building permit for a lot within Phase Four, Five, or Six, Parcel A Park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50th building permit for a lot within Phase Four, Five, or Six, the construction of Parcel A Park shall be completed to the satisfaction of the City Engineer.

**E6.i Southern Property Obligation Secured.**

Prior to approval of a small lot Final Map within Phase Four, Five or Six, the applicant shall secure execution of a development agreement that applies to the approximately 150-acre property located immediately south of the Vineyards at Sand Creek (APN 057-050-024, the "Southern Property") and that requires the developer of the Southern Property to construct the third and fourth lanes of Sand Creek Road between Heidorn Ranch Road and Hillcrest Avenue (to complete a four-lane roadway facility within the planned 112-foot right of way) at the earlier of (a) issuance of the 25th residential building permit and 1st certificate of occupancy for a residential lot on the Southern Property or (b) the opening of any extension of Hillcrest Avenue south of Sand Creek Road that may be constructed by the Southern Property developer through the Southern Property.

**E7. Phase Four:**

Prior to the issuance of the 1st building permit for a lot within Phase Four, the following shall be completed to the satisfaction of the City Engineer:

**E7.a** Any uncompleted improvements required of Phase One.

Prior to the issuance of the 1st building permit for a lot within Phase Four, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- E7.b Heidorn Ranch Road, Southern Extension:** Heidorn Ranch Road shall be constructed as a two-lane facility with one 12 foot lane and a 6 foot bike lane southbound and one 12 foot lane and a 6 foot bike lane (or as required by the fire district) northbound, landscaped western right of way including the adjacent portion of Parcel C, street lights along the western edge of the roadway, concrete west side curb and gutter, and temporary A/C east side curb, and other appurtenances, and all utilities, including interconnect conduit and pull boxes to be placed below the surface improvements, from 'B' Street through and including the intersection with Sand Creek Road. Design shall be coordinated with the City of Brentwood or their designee. The portions of the two-lane Heidorn Ranch Road constructed by the applicant shall be located immediately adjacent to the project site. However, if the applicant demonstrates, to the satisfaction of the City Engineer, that it has entered into an agreement with the City of Brentwood that allows for an alternate configuration within the planned 126-foot right of way, and that affected property owners have agreed to take actions necessary to allow for construction of such alternate facility, then, at the discretion of the City Engineer, the improvements shall be constructed in that alternate configuration. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide the planned 126-foot (four-lane) right of way for this segment of Heidorn Ranch Road
- E7.c Heidorn Ranch Road/Sand Creek Traffic Signal:** A full traffic signal shall be constructed as needed for the two-lane configurations at the intersection of Heidorn Ranch Road and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may bond for or deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed; and in that case, the applicant shall construct the signal at such time, if any, as the applicant constructs the third leg, using such deposited funds or bond. Any unused deposited funds of bond shall be returned or released to applicant upon construction of the signal. The traffic signal is fee creditable against the project's Traffic Signalization fees. Should the requirement for construction of the Heidorn Ranch Road/Sand Creek Road traffic signal occur simultaneous with the construction of the Heidorn Ranch Road (by others) in Brentwood, the traffic signal shall be installed with each developer (or the City of Brentwood as applicable) paying their fair share of the improvements as approved by the City Engineer. Should



the traffic signal on Heidorn Ranch Road and Sand Creek Road be constructed by the City of Brentwood or the development in Brentwood adjacent to and east of this project, the applicant shall pay ½ of the cost of the design and construction to the City of Antioch for reimbursement to City of Brentwood or the Brentwood developer(s). Applicant's payment of fair share or ½ the cost shall be due when construction of the signal by the applicant would otherwise be required by these conditions.

- E7.d **Sand Creek Road, Eastern Segment (Phase Four):** Sand Creek Road shall be constructed as a two-lane facility from the boundary of the Cities of Antioch and Brentwood to the extension of the westerly Phase Four boundary. The road shall be constructed to the configuration approved by the City of Antioch Planning Commission and/or City Engineer in coordination with the City of Brentwood. The design shall include an ultimate width of 80 foot curb to curb and 112 foot right-of-way from the extension of the westerly Phase Four boundary through the easterly curb return of Heidorn Ranch Road with one 12 foot lane and an 8 foot bike lane westbound and one 12 foot lane and an 8 foot bike lane eastbound with landscaped median with temporary A/C median curbs and northerly right of way (including the adjacent portion of Parcel C) and southerly right of way, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit, under surface improvements. Improvements shall include conduits and pull boxes for traffic signal at Sand Creek Road/Heidorn Ranch Road as needed for the two-lane facility, all as approved by the City Engineer. The two lanes shall be located at the outside edges of the planned 112-foot right of way. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide a 112-foot (four-lane) right of way for this segment of Sand Creek Road.
- E7.e **Sand Creek Regional Trail:** The multi-use Sand Creek Regional Trail shall be constructed to the west, south and east of the basin, and landscaping installed on Parcel G as approved by the Park and Recreation Commission. If allowed by the resource agencies, the Regional Trail shall be unfenced (on the Sand Creek side) and the surface shall be as required by the City Engineer. The applicant shall coordinate with City of Brentwood to the east, for the location and elevation of the connection point. This condition may be deferred by the City Engineer to facilitate construction of the overall trail.
- E7.f **Parcel D Park:** The park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50th building permit for a lot within Phase Four, the following shall be completed to the satisfaction of the City Engineer:

E7.g **Parcel D Park:** Park construction.

Prior to the issuance of the 35th building permit for a lot within Phase Four, the preceding improvements (E.7b through E.7e) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 75th building permit for a lot within Phase Four, the preceding improvements (E.7b through E.7e) shall be completed to the satisfaction of the City Engineer.

**E8. Phase Five:**

Prior to the issuance of the 1st building permit for a lot within Phase Five, one of the following shall be completed to the satisfaction of the City Engineer:

E8.a Any uncompleted improvements required of Phase Four, OR

E8.b Any uncompleted improvements required of Phase Six.

Prior to the issuance of the 1st building permit for a lot within Phase Five, the developer shall begin the following improvements to the satisfaction of the City Engineer:

E8.c All of the improvements described in Condition of Approval E.6d and E.6e shall be installed. E.6e may be deferred by the City Engineer to facilitate construction of the overall trail.

Prior to the issuance of the 35th building permit for a lot within Phase Five, the preceding improvements (E.8c) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 75th building permit for a lot within Phase Five, the preceding improvements (E.8c) shall be completed to the satisfaction of the City Engineer.

**E9. Phase Six:**

Prior to the issuance of the 1st building permit for a lot within Phase Six, the following shall be completed to the satisfaction of the City Engineer:

E9.a Any uncompleted improvements required of Phase Three.

Prior to the issuance of the 1st building permit for a lot within Phase Six, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- E9.b **Hillcrest Avenue, Southern Extension:** Hillcrest Avenue shall be constructed as a two-lane facility with east side curb, gutter, and sidewalk and landscaping, including Parcel C, and east side median curb and gutter, LED street lights, and utilities to be placed under the east half of the roadway, including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and asphalt for the northbound bike and travel lanes as needed for the two-lane facility, with one 10.5 foot lane and a 5.5 foot bike lane in each direction from 'A' Street to Sand Creek Road. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and Sand Creek Road, interconnect conduit and pull boxes, from 'A' Street thru and including the intersection of Sand Creek Road (if proposed for the east side of the roadway), all as approved by the City Engineer. The portions of Hillcrest Avenue to be constructed by the applicant shall be located immediately adjacent to the project site. However, if the applicant demonstrates, to the satisfaction of the City Engineer, that (i) Aviano Farms has obtained all permits and approvals necessary for an alternate configuration for a two-lane facility within the planned 112-foot (four-lane) right of way; and (ii) the landowner of the Aviano Farms development has dedicated to the City of Antioch so much of the property it owns as is needed for such alternate two-lane configuration, then, at the discretion of the City Engineer, the improvements shall be constructed in that alternate two-lane configuration. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide the planned 112-foot (four-lane) right of way for this segment of Hillcrest Avenue.
- E9.c **Hillcrest Avenue/Sand Creek Road Traffic Signal:** A full traffic signal shall be constructed as needed for the two-lane configurations, with interconnect at the intersection of Hillcrest Avenue and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may bond for or deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed; and in that case, the applicant shall construct the signal at such time, if any, as the applicant constructs the third leg, using such deposited funds or bond. Any unused deposited funds of bond shall be returned or released to applicant upon construction of the signal. The traffic signal is fee creditable against the project's Traffic Signalization fees.

- E9.d **Sand Creek Road, Western Segment (Phase Six):** Sand Creek Road shall be constructed as a two-lane facility from the Hillcrest Avenue intersection to the extension of the easterly Phase Six boundary. The road shall be constructed to the configuration approved by the City of Antioch Planning Commission and/or City Engineer in coordination with the Aviano development. The design shall include an ultimate width of 80 foot curb to curb and 112 foot right-of-way from the westerly curb return of Hillcrest Avenue through the extension of the easterly Phase Six boundary with one 12 foot lane and an 8 foot bike lane westbound and one 12 foot lane and an 8 foot bike lane eastbound with landscaped median with temporary A/C median curbs and northerly right of way (including the adjacent portion of Parcel C) and southerly right of way, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit, under surface improvements. Improvements shall include conduits and pull boxes for traffic signal at Sand Creek Road/Hillcrest Avenue as needed for the two-lane facility, all as approved by the City Engineer. The two lanes shall be located at the outside edges of the planned 112-foot right of way. The applicant also shall dedicate to the City of Antioch such property as the applicant owns or controls that would be required to provide a 112-foot (four-lane) right of way for this segment of Sand Creek Road.
- E9.e **Sand Creek Regional Trail:** The multi-use Sand Creek Regional Trail shall be constructed to the west, south and east of the basin, and landscaping installed on Parcel G as approved by the Park and Recreation Commission. If allowed by the resource agencies, the Regional Trail shall be unfenced (on the Sand Creek side) and the surface shall be as required by the City Engineer. The applicant shall coordinate with the Aviano development to the east, for the location and elevation of the connection point. This condition may be deferred by the City Engineer to facilitate construction of the overall trail.

Prior to the issuance of the 30th building permit for a lot within Phase Six, the preceding improvements (E.9b through E.9e) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 60th building permit for a lot within Phase Six, the preceding improvements (E.9b through E.9e) shall be completed to the satisfaction of the City Engineer.

## **E. UTILITIES**

1. Public utilities shall be constructed to their ultimate size and configuration with the road construction in which they are to be located.

2. All existing and proposed utilities shall be undergrounded (e.g. transformers and PMH boxes) and subsurface in accordance with the Antioch Municipal Code and as approved by the City Engineer. Existing overhead utilities on arterial streets shall be undergrounded.
3. Underground utilities shall be designed to flow approximately parallel to the centerline of the street, or as approved by the City Engineer.
4. All sewage shall flow by gravity to the intersecting street sewer main.
5. All public utilities shall be installed in streets avoiding between-lot locations unless approved by the City Engineer.
6. Prior to the recordation of the first final map, the applicant shall submit hydrology and hydraulic analyses with a storm water control plan to the City for review and approval and to Contra Costa County Flood Control for review at no cost to the City as directed by the City Engineer.
7. The applicant shall provide adequate water pressure and volume to serve this development. This will include a minimum residual pressure of 20 psi with all losses included at the highest point of water service and a minimum static pressure of 50 psi or as approved by the City Engineer. See Fire Requirements 3.c. for additional water flow conditions.
8. The houses shall contain rain gutters and downspouts that direct water away from the foundation as approved by the City Engineer.
9. Recycled water mains shall be constructed in arterial roadways and internal streets with significant right of way, park, or other landscaping as approved by the City Engineer. This development is subject to State Laws which may require recycled water to all landscaped area.
10. Prior to recordation of the first final map, the applicant shall submit the completed draft sewer study for the Sand Creek Focus Area to the general concurrence of the City Engineer. Prior to recordation of the first final map creating residential lots, the final version of the sewer study for the Sand Creek Focus Area shall be completed to the approval of the City Engineer. The applicant shall extend the existing sanitary sewer main trunk line from the stub in Heidorn Ranch Road at no cost to the City. (Note: If the draft and/or final sewer study for the Sand Creek Focus Area has been submitted to the City in conjunction with other development, it will be used to fulfill the applicable portion(s) of this condition.)

11. The applicant may form (if not already formed) or shall annex (if already formed) into a benefit district or participate in another mechanism acceptable to the City that fairly distributes the cost of upsizing of utilities amongst the befitting property owners in and around the Sand Creek Focus Area as approved by the City Engineer.

**F. LANDSCAPING**

1. All right-of-way landscaping (excluding adjacent to front and side yards), medians, private parks, water quality & detention basins, and open space areas north of the northerly curb line of Sand Creek Road, east of the easterly curb line of Hillcrest Avenue and west of the westerly curb line of Heidorn Ranch Road shall be installed by the applicant and maintained by the applicant or HOA.
2. Parcel G shall be landscaped by the applicant and maintained by the LLD.
3. A minimum of one 15 gallon tree shall be located within 10' of the sidewalk, or within 10' of the back of curb at locations without sidewalk, in the front yard of each lot and the side yard of corner lots prior to the issuance of the certificate of occupancy. The type and location of the tree shall be as approved by the City Engineer.
4. Based on drought conditions, the City Engineer has the authority to delay some or all of the landscape conditions of approval.

**G. FIRE REQUIREMENTS**

1. All weather access roads and a water supply shall be provided prior to commencing any combustible construction, as required by the Fire Chief.
2. Street widths shall be subject to approval by the Contra Costa County Fire Protection District and the City Engineer.
3. The applicant shall comply with the following conditions provided by the Contra Costa County Fire Protection District:
  - a. Access roadways of less than 28-feet unobstructed width shall have NO PARKING – FIRE LANE signs posted or curbs painted red with the words NO PARKING – FIRE LANE clearly marked, per 22500.1 CVC.
  - b. The cul-de-sacs or turnarounds shall have an outside turning radius of a minimum of a 45' or as approved by the City Engineer. Should the sidewalk be included in the turning radius, it shall be clear of street lights, fire hydrants and other obstructions.

- c. The applicant shall provide an adequate reliable water supply for fire protection with a minimum fire flow of 1750 GPM. Required flow shall be delivered from not more than one hydrant flowing simultaneously for the duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (508.1), (B105) CFC
  - d. The applicant shall provide hydrants of the East Bay type, which shall be maintained by the City. Approximate hydrant locations will be determined by the Fire District and approved by the City Engineer.
  - e. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC. Gravel roads are not considered all-weather roadways for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum sub base materials and capable of supporting the designated gross vehicle weight specified above.
  - f. Premises identification shall be provided. Such numbers shall contrast with their background and be a minimum of four inches high with ½-inch stroke or larger as required to be readily visible from the street. (505.1) CFC, (501.2) CBC
  - g. Plan review and inspection fees shall be submitted at the time of plan review submittal. Checks may be made payable to Contra Costa County Fire Protection District (CCCFFPD).
4. Submit plans to: Contra Costa County Fire Protection District, 2010 Geary Road, Pleasant Hill, CA 94523.

#### **H. FEES**

- 1. The applicant shall pay all City fees which have been established by the City Council and as required by the Antioch Municipal Code and the Development Agreement.
- 2. The applicant shall pay all pass through fees. Fees include but are not limited to
  - a. East Contra Costa Regional Fee and Financing Authority (ECCRFFA) Fee in effect at the time of building permit issuance.
  - b. Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance. (See G.3.g.)
  - c. Contra Costa County Map Maintenance Fee in affect at the time of recordation of the final map(s). (currently \$50 per lot or parcel).
  - d. Contra Costa County Flood Control District Fees.
  - e. School Impact Fees.
  - f. Delta Diablo Sewer Fees.
  - g. Contra Costa Water Fees.

3. Prior to filing of the first final map for recording, the applicant shall establish (or annex into an existing) a police financing district and shall agree to accept a level of annual assessments (with a CPI escalator) or provide an additional funding source, excluding tax measures and acceptable to the City, sufficient to fund police to the level identified in the General Plan.

**I. MODEL HOMES**

1. Prior to the placement of any sales trailers, plans shall be submitted to the Engineering Department for review and approval. Any trailer shall be placed out of the public right-of-way and shall have its own parking lot.
2. The model home complex parking lot location and design shall be subject to City Engineer approval.
3. The model home landscaping shall be drought tolerant, with total area of spray irrigation for the complex not to exceed 50 percent of the landscaping area.

**J. GRADING**

1. The grading operation shall take place at a time, and in a manner, so as not to allow erosion and sedimentation. The slopes shall be landscaped and reseeded as soon as possible after the grading operation ceases. Erosion measures shall be implemented during all construction phases in accordance with an approved erosion and sedimentation control plan.
2. All lots and slopes shall drain to approved drainage facilities as approved by the City Engineer.
3. All grading shall be accomplished in a manner that precludes surface water drainage across any property line.
4. All lots shall be graded to drain positively from the rear to the street or as approved by the City Engineer.
5. The swales adjacent to the house structure shall have a minimum of a one (1) percent slope or as directed by the City Engineer.
6. The applicant shall make a good faith effort to coordinate the grading along the project borders with affected property owners. All off-site grading is subject to the approval of the affected property owners and the



City Engineer. The applicant shall submit written authorization to “access, enter, or grade” adjacent properties prior to performing any work.

7. Any sale of a portion (or portions) of this project to other developers shall include the necessary agreement and/or grading easements to assure that project-wide grading conforms to the approved map and conditions of this resolution.
8. The grading plan for this development shall be approved by the City Engineer.
9. All elevations shown on the improvement plans shall be on the USGS 1929 sea level datum or as approved by the City Engineer.
10. Retaining walls shall not be constructed in City right-of-way or other City maintained parcels unless approved by the City Engineer.
11. All retaining walls shall be of masonry construction.
12. All retaining walls shall be reduced in height to the maximum extent practicable and the walls shall meet the height requirements in the front yard setback and sight distance triangles as approved by the City Engineer.
13. The back to back or side to side grading transitions from lot to lot shall have a maximum slope of 2:1, and shall be accommodated entirely on the lower lot or as approved by the City Engineer.
14. The minimum concrete gutter flow slope shall be 0.75%.
15. All property lines shall be located at the top of slope.

**K. CONSERVATION/NPDES**

1. Water conservation measures, including low volume toilets, flow restrictors in showers and the use of drought tolerant landscaping, shall be used.
2. The Project shall meet or exceed Tier 1 of the CALGreen Building Code.
3. The project shall comply with all Federal, State, and City regulations for the National Pollution Discharge Elimination System (NPDES) (AMC§6-9). (Note: Per State Regulations, NPDES Requirements are those in affect at the time of the Final Discretionary Approval.) Under NPDES regulations, the project is subject to provision C.3: New development and redevelopment regulations for storm water treatment. Provision C.3

requires that the project include storm water treatment and source control measures, as well run-off flow controls, so that post-project runoff does not exceed estimated pre-project runoff. C.3 regulations require the submittal of a Storm Water Control Plan (SWCP) that demonstrates how compliance will be achieved. The SWCP shall be submitted simultaneously with the project plans. For the treatment and flow-controls identified in the approved SWCP, a separate Operation and Maintenance Plan (O&M) shall be submitted and approved before the Building Department will issue Certificate of Occupancy permits. Both the approved SWCP and O&M plans shall be included in the project CC&Rs. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute any agreements identified in the Storm Water Control Plan that pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMPs. Already stated in COAs below, 5.c and 5.h.w.

4. The applicant shall comply with the Storm Water Treatment Plan dated \_\_\_\_\_.
5. The following requirements of the federally mandated NPDES program (National Pollutant Discharge Elimination System) shall be complied with as appropriate, or as required by the City Engineer:
  - a. Prior to issuance of permits for building, site improvements, or landscaping, the applicant shall submit a permit application consistent with the applicant's approved Storm Water Control Plan, and include drawings and specifications necessary for construction of site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants.
  - b. The Storm Water Control Plan shall be certified by a registered civil engineer, and by a registered architect or landscape architect as applicable. Professionals certifying the Storm Water Control Plan shall be registered in the State of California and submit verification of training, on design of treatment measures for water quality, not more than three years prior to the signature date by an organization with storm water treatment measure design expertise (e.g., a university, American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association), and verify understanding of groundwater protection principles applicable to the project site (see Provision C.3.i of Regional Water Quality Control Board Order R2 2003 0022).

- c. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for review and approval by the City, a final Storm Water BMP Operation and Maintenance Plan in accordance with City of Antioch guidelines. This O&M plan shall incorporate City comments on the draft O&M plan and any revisions resulting from changes made during construction. The O&M plan shall be incorporated into the CC&Rs for the Project.
  - d. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute and record any agreements identified in the Storm Water Control Plan which pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMPs.
  - e. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner.
  - f. Collect and convey all storm water entering, and/or originating from, the site to an adequate downstream drainage facility without diversion of the watershed. Submit hydrologic and hydraulic calculations with the Improvement Plans to Engineering Services for review and approval.
  - g. Prior to issuance of the grading permit, submit proof of filing of a Notice of Intent (NOI) by providing the unique Waste Discharge Identification Number (WDID#) issued from the Regional Water Quality Control Board.
6. Submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) for review to the Engineering Department prior to issuance of a building and/or grading permit. The general contractor and all subcontractors and suppliers of materials and equipment shall implement these BMP's. Construction site cleanup and control of construction debris shall also be addressed in this program. Failure to comply with the approved construction BMP may result in the issuance of correction notices, citations, or a project stop work order.
7. Install appropriate clean water devices at all private storm drain locations immediately prior to entering the public storm drain system. Implement Best Management Practices (BMP's) at all times.
8. Install on all catch basins "No Dumping, Drains to River" decal buttons.
9. If sidewalks are pressure washed, debris shall be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged into the storm drain. If any cleaning agent or degreaser is used, wash water shall be collected and discharged to the sanitary sewer, subject to the approval of the sanitary sewer District.

10. Include erosion control/storm water quality measures in the final grading plan that specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydro seeding, gravel bags and siltation fences and are subject to review and approval of the City Engineer. If no grading plan is required, necessary erosion control/storm water quality measures shall be shown on the site plan submitted for an on-site permit, subject to review and approval of the City Engineer. The applicant shall be responsible for ensuring that all contractors and subcontractors are aware of and implement such measures.
11. Sweep or vacuum the parking lot(s) a minimum of once a month and prevent the accumulation of litter and debris on the site. Corners and hard to reach areas shall be swept manually.
12. Ensure that the area surrounding the project such as the streets stay free and clear of construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way related to project construction. Areas that are exposed for extended periods shall be watered regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular basis. All trucks shall be covered.
13. Clean all on-site storm drain facilities a minimum of twice a year, once immediately prior to October 15 and once in January. Additional cleaning may be required if found necessary by City Inspectors and/or City Engineer.
14. Per State Regulations, all impervious surfaces including off-site roadways to be constructed as part of the project, are subject to C.3 requirements.

**L. FINAL EIR AND MITIGATION MONITORING AND REPORTING PROGRAM**

1. The applicant shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program.
2. The applicant shall mitigate any impacts on wildlife, including State and Federally listed threatened and endangered species, and their habitat by compliance with one of the following:
  - a. Implementing, or making enforceable commitments to implement, all applicable mitigation measures in the project environmental documents, as well as any additional measures as may be required by the California Department of Fish & Wildlife (CDFW) or the U.S. Fish & Wildlife Service (FWS), and obtaining a letter(s) from CDFW and FWS stating that the project has fulfilled the requirements of

- applicable State and Federal wildlife protection laws and regulations; or
- b. Complying with applicable terms and conditions of the ECCC HCP/NCCP, as determined in written "Conditions of Coverage" by the East Contra Costa County Habitat Conservancy (Conservancy), provided that the City has first entered into an agreement with the Conservancy for coverage of impacts to ECCC HCP/NCCP Covered Species; or
  - c. Complying with a habitat conservation plan and/or natural community conservation plan developed and adopted by the City, including payment of applicable fees, provided that CDFW and FWS have approved the conservation plan.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of September, 2017.

**AYES:**

**NOES:**

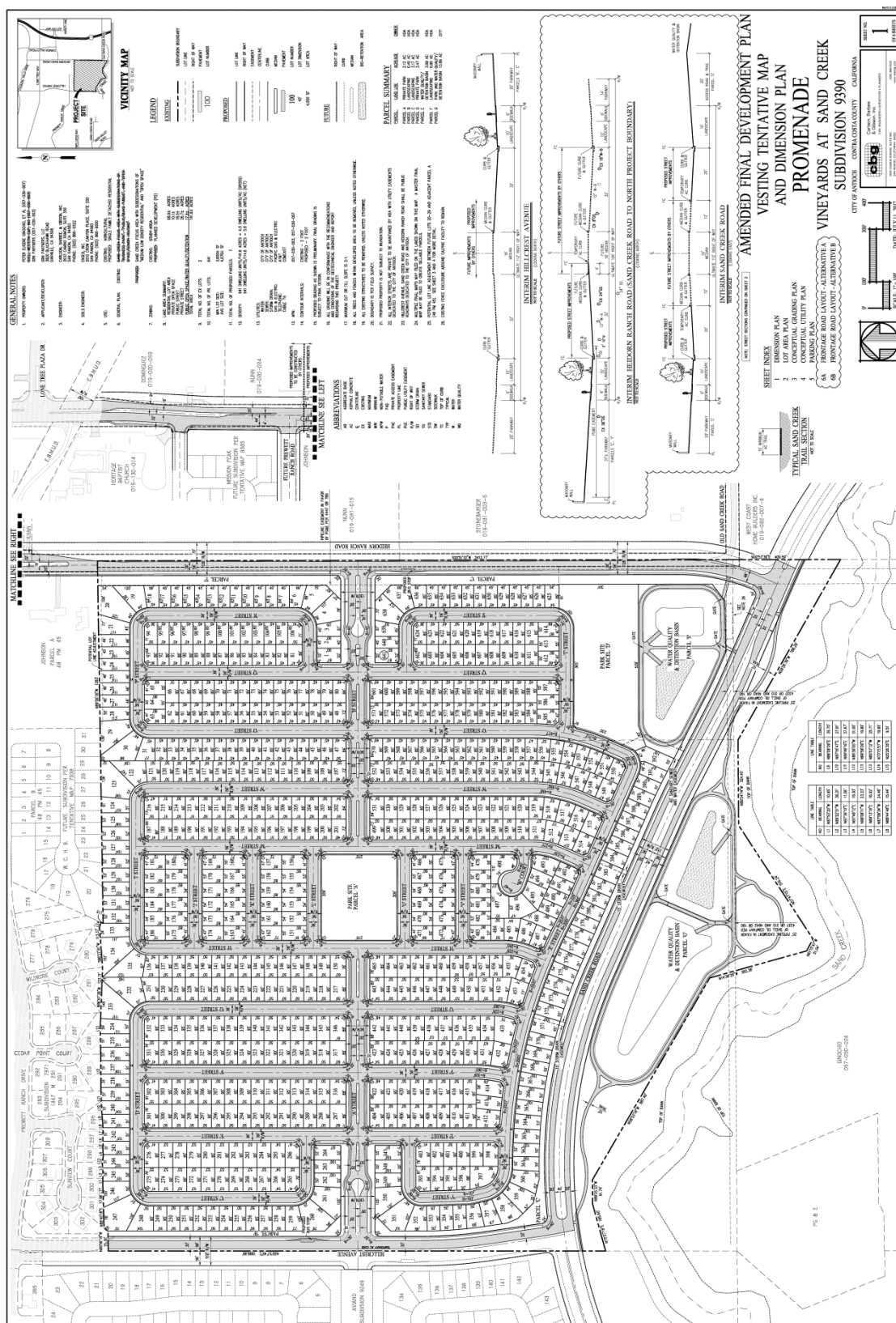
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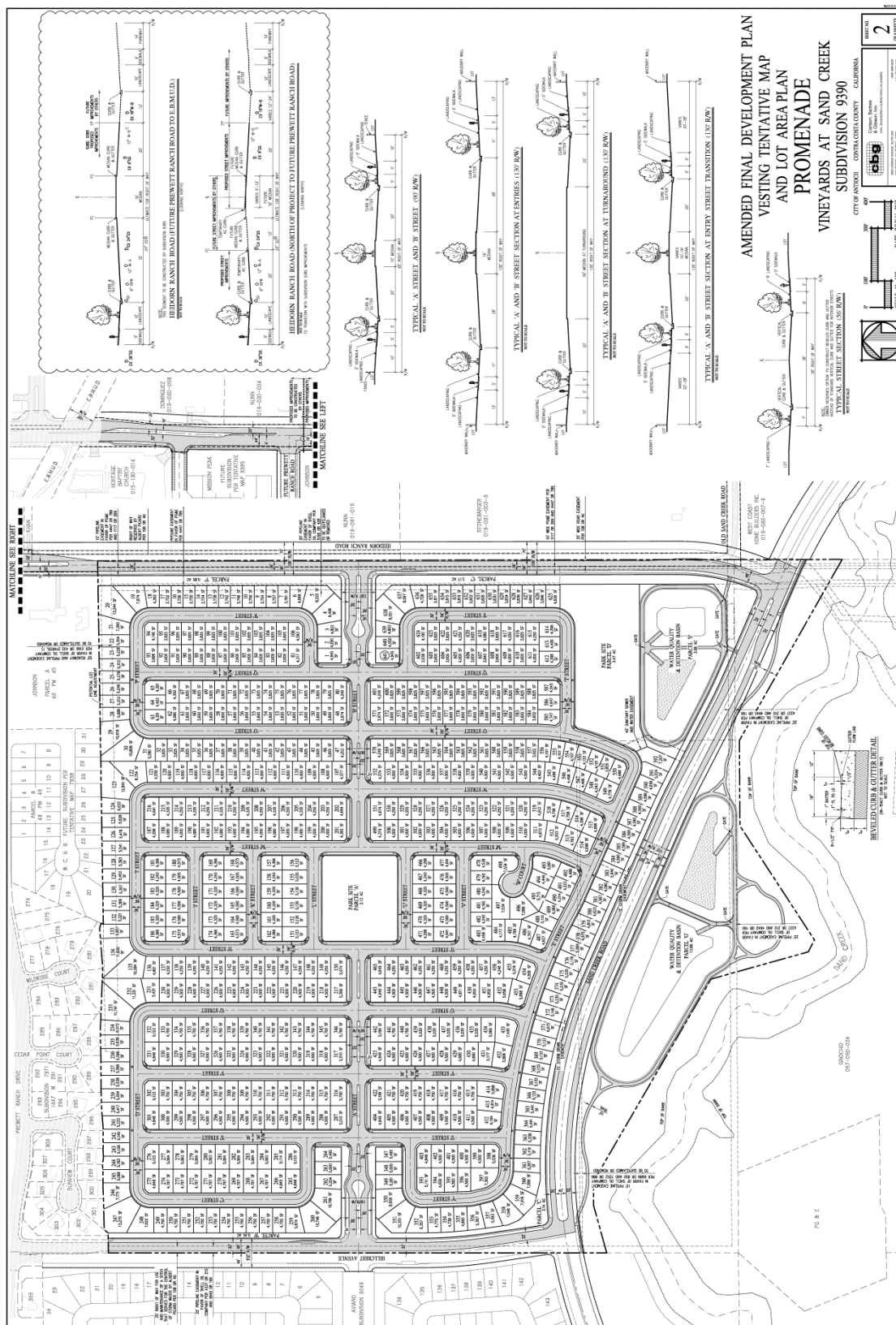
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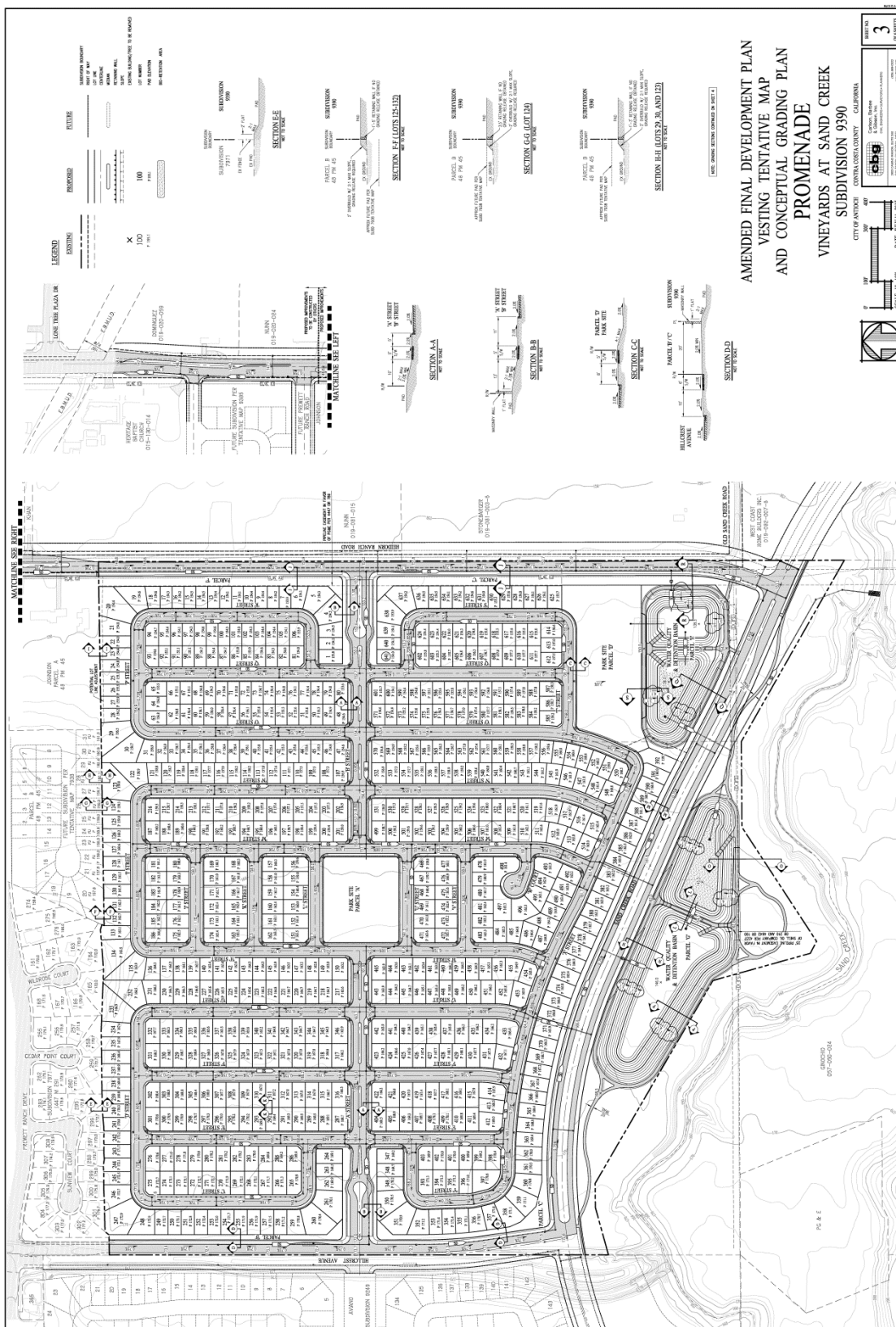
FORREST EBBS,  
Secretary to the Planning Commission

**EXHIBIT A**  
**AMENDED VESTING TENTATIVE MAP**

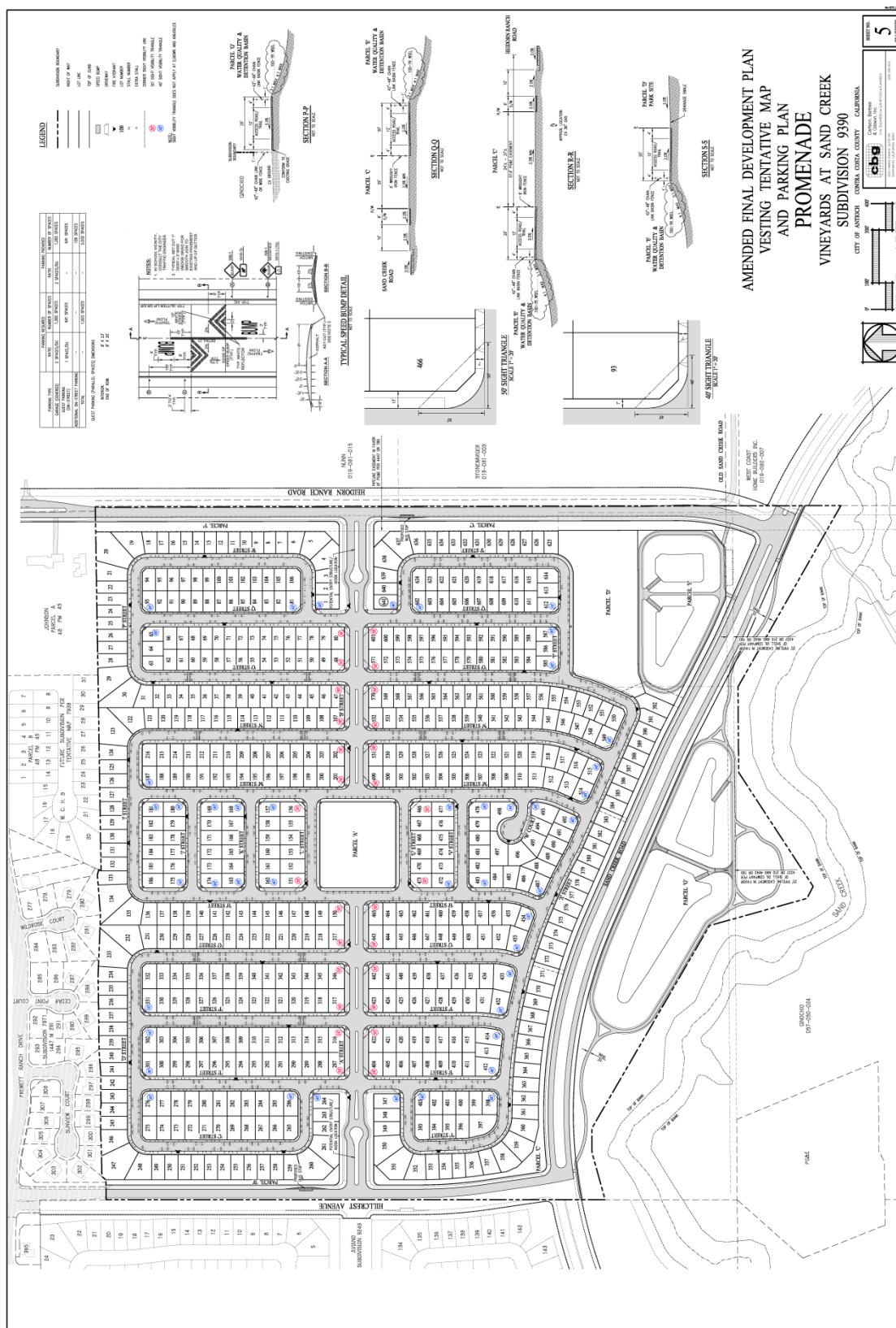


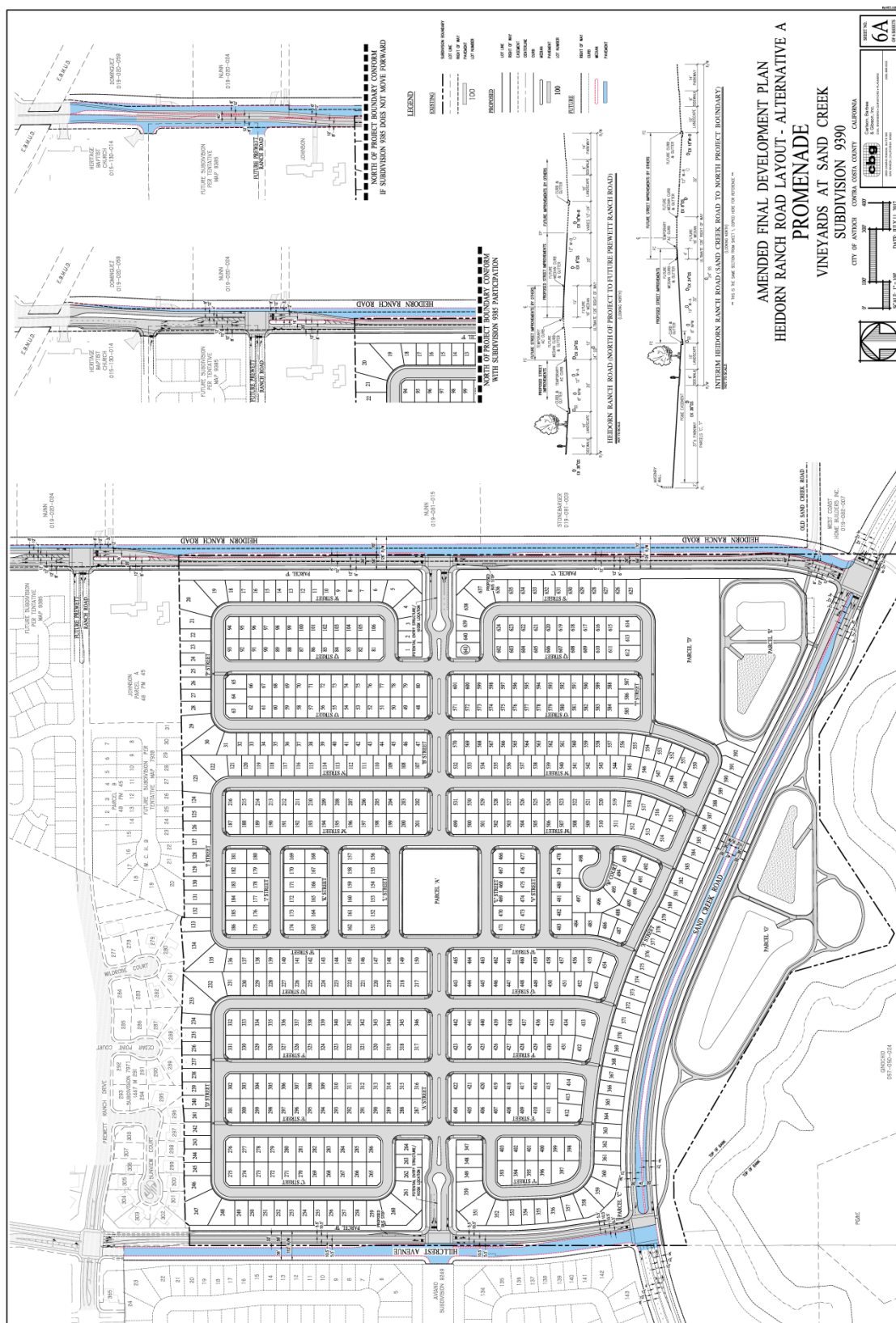














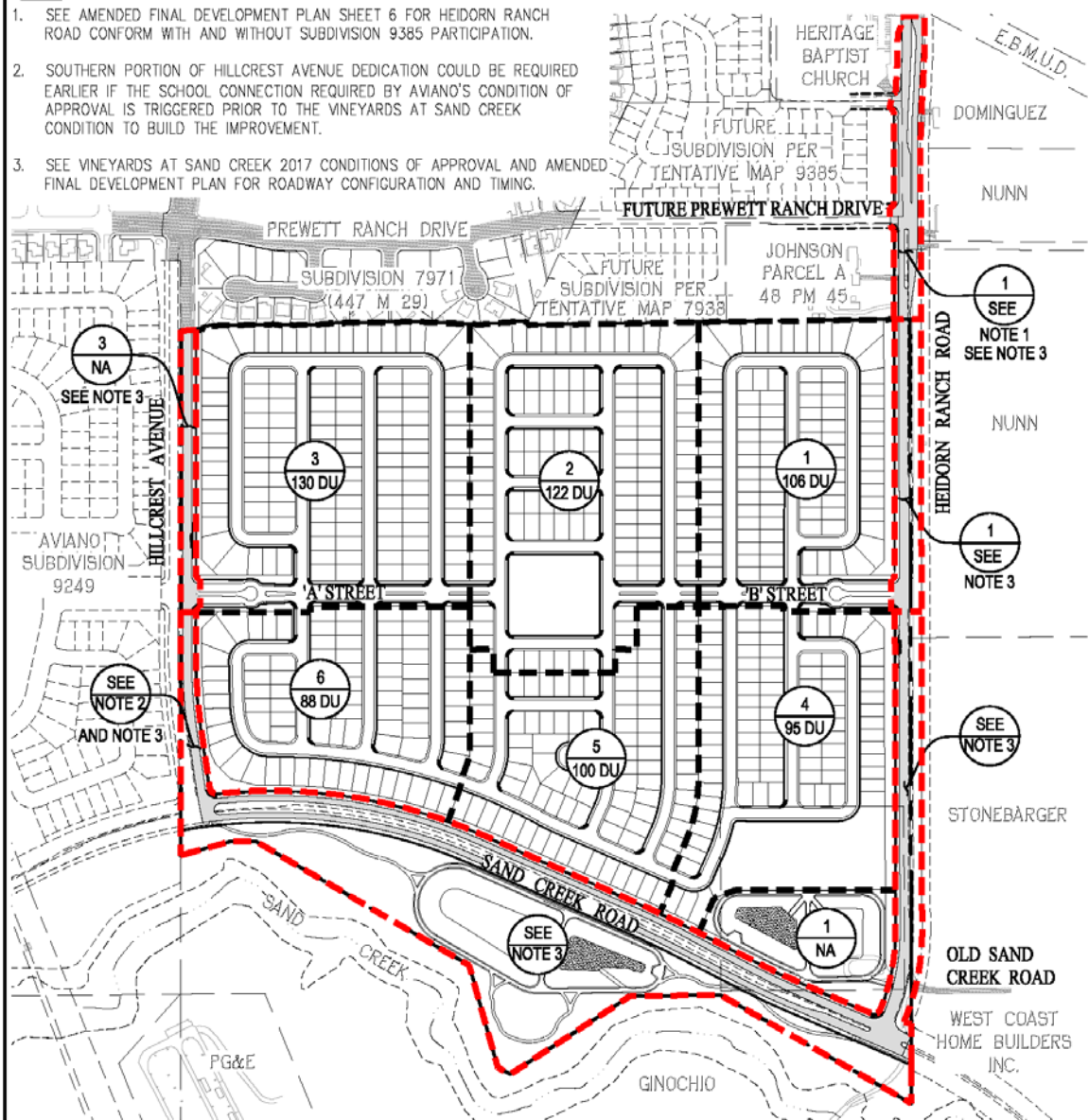




**EXHIBIT B**  
**PHASING PLAN**

**NOTE:**

1. SEE AMENDED FINAL DEVELOPMENT PLAN SHEET 6 FOR HEIDORN RANCH ROAD CONFORM WITH AND WITHOUT SUBDIVISION 9385 PARTICIPATION.
2. SOUTHERN PORTION OF HILLCREST AVENUE DEDICATION COULD BE REQUIRED EARLIER IF THE SCHOOL CONNECTION REQUIRED BY AVIANO'S CONDITION OF APPROVAL IS TRIGGERED PRIOR TO THE VINEYARDS AT SAND CREEK CONDITION TO BUILD THE IMPROVEMENT.
3. SEE VINEYARDS AT SAND CREEK 2017 CONDITIONS OF APPROVAL AND AMENDED FINAL DEVELOPMENT PLAN FOR ROADWAY CONFIGURATION AND TIMING.



F:\974\974-50\ACAD\EXHIBITS\XB-065\_PROPOSED OFF-SITE ROW AND PHASING.DWG



**EXHIBIT C**  
**STREET NAMES**

Street Names List for the Promenade/Vineyards at Sand Creek Project, Antioch CA

**Theme: California Wine Regions**

**Need: 25 to 30 names**

Alexander Valley

Alta Mesa

Anderson Valley

Benmore Valley

Bennett Valley

Borden Ranch

Shenandoah Valley

Capay Valley

Central Coast

Chalk Hill

Chalone

Chiles Valley

Clement Hills

Cole Ranch

Covelo

Dunnigan Hills

Fair Play

Fiddletown

Guenoc Valley

Hames Valley

High Valley

Howell Mountain

Knights Valley

Lime Kiln Valley

~~Madera~~ *deleted by APD 3/2/15 and CCCFPD 4/29/15*

McDowell Valley

Mount Veeder

Mount Harlan

Pacheco Pass

Potter Valley

Ramona Valley

Red Hills Lake

Redwood Valley

River Junction

Rockpile

Saddle Rock

Salado Creek

San Bernabe

~~San Lucas~~ *deleted by CCCFPD 4/29/15*

Sierra Foothills

Sloughhouse

Spring Mountain

Trinity Lakes

~~Wild Horse Valley~~ *deleted by APD 3/2/15 and CCCFPD 4/29/15*

~~Willow Creek~~ *deleted by CCCFPD 4/29/15*

York Mountain

Yorkville Highlands

*Submitted February 18, 2015 updated with deletions 12/21/15*

# ATTACHMENT “3”

**PLANNING COMMISSION  
RESOLUTION NO. 2017- ##**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING APPROVAL OF AMENDMENTS TO A DEVELOPMENT  
AGREEMENT BETWEEN THE CITY OF ANTIOCH AND GBN PARTNERS, LLC, FOR  
THE VINEYARDS AT SAND CREEK PROJECT**

**WHEREAS**, the City Council, on February 9, 2016, approved an Environmental Impact Report, a Development Agreement, a Planned Development rezone, and a Vesting Tentative Map for the development of a 650 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the City received an application from GBN Partners, LLC for amendments to the Development Agreement, amendments to the Planned Development zoning, and modifications to the conditions of approval of the Vesting Tentative Map, to create a fee credit and subsidy program and to modify and reduce the project requirements for construction of roadways ; and

**WHEREAS**, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, *et. seq.* of the Government Code, which authorizes the City of Antioch to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property in order to establish certainty in the development process; and

**WHEREAS**, the City of Antioch previously adopted an implementing ordinance (Article 32 of the Zoning Ordinance) authorizing and regulating the use of Development Agreements; and

**WHEREAS**, the proposed Development Agreement complies with the requirements of Article 32 of the City of Antioch Zoning Code; and

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the City Council in its project approval on February 9, 2016; and,

**WHEREAS**, the Planning Commission recommended adoption of the Addendum to the Final Environmental Impact Report ("FEIR") and Mitigation Monitoring and Reporting Program ("MMRP") to the City Council and the proposed Development Agreement and the terms contained therein do not amend the project; therefore, in

accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, a subsequent environmental document is not required; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 20, 2017 duly held a public hearing, received and considered evidence, both oral and documentary; and

**WHEREAS**, the approval of this Development Agreement will not adversely affect the comprehensive General Plan and it is consistent with the General Plan and carries out the purposes of the General Plan as amended.

**NOW THEREFORE, BE IT RESOLVED** that in recommending approval to the City Council of the Development Agreement between the City of Antioch and GBN Partners, LLC, the Planning Commission makes the following findings, which are based on its review and consideration of the entire record, including the recitals above and any oral or written testimony provided at the hearing:

1. There have been no substantial changes to the project through the Development Agreement. Therefore, the Vineyards at Sand Creek FEIR and MMRP and Addendum are the appropriate environmental documents for the proposed project.
2. The Development Agreement is consistent with the General Plan, as amended, as it carries out the purposes of the General Plan and is consistent with the land use and development designation in such plans, as amended.

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Planning Commission recommends the City Council approve the amended Development Agreement between the City of Antioch and GBN Partners, LLC for the Promenade/Vineyards at Sand Creek Project, in the form attached as Exhibit 1, subject to such changes as may be approved by the City Council.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of September, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

FORREST EBBS  
Secretary to the Planning Commission

**EXHIBIT 1**

**DEVELOPMENT AGREEMENT**

APPLICANT PROPOSAL

**Att. 3-4**

FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF ANTIOCH  
AND  
GBN PARTNERS, LLC

THIS FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT ("Agreement") by and between the City of Antioch, a municipal corporation ("City") and GBN Partners, LLC, a Delaware limited liability company ("Developer") (each a "Party" and collectively the "Parties"), pursuant to the authority of Division 1, Chapter 4, Article 2.5, Sections 65864 et seq. of the Government Code (the "Statute") is entered into as of \_\_\_\_\_ (the "Effective Date") in the following factual context:

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California State Legislature enacted the Statute, which authorizes the City to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of such property.

B. Developer is the owner of approximately 142 acres of real property located in the City of Antioch, Contra Costa County more particularly described in *Exhibit A* to this Agreement (the "Property"), known as Promenade/Vineyards at Sand Creek, which Developer plans to develop as either a single-family market-rate residential community or as an age-restricted Active-Adult residential community (the "Project"). The planning, development, construction, operation and maintenance of the Project is more particularly described in, and reviewed and analyzed by, the Environmental Impact Report (SCH # 2014092010, "EIR") prepared in conjunction with the Project and its below-described "Project Approvals." In accordance with the California Environmental Quality Act (Pub. Res. Code §§ 21000 et seq.) and its Guidelines (C.C.R., Title 14 §§ 15000, et seq.), as each is amended from time to time (collectively, "CEQA"), City certified as adequate and complete the EIR. Pursuant to CEQA, a mitigation/monitoring program for the Project was approved by the City Council. The City has determined that no additional environmental review is necessary in connection with its consideration, approval and execution of this Agreement.

C. The Project has been designed as a private, gated residential community, where housing and recreation are integrated into one cohesive whole. Key components include pedestrian and bicycle friendly streets, private recreational opportunities, a mix of housing opportunities, distinctive architecture and landscape elements, and a vibrant neighborhood community center.

D. As of the execution of this Agreement, various land use regulations, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively, "Existing Approvals"), including without limitation, all of the following (including their text, diagrams and conditions of approval):

1. "EIR" (defined in Recital B above).
2. "General Plan Amendment" — (GPA 14-01) — Redesignating the Property from Business Park to Residential, and exempting the Property from the City regulations (including without limitation City Ordinance No.



2005/41) relating to an alternative process for the project applications within the Sand Creek Focus Area (collectively, "GPA").

3. **"Master Development Plan/Planned Development Rezone"** — (PD 1403) — A Planned Development District with Design Guidelines to guide future development of the community and a Master Development Plan (collectively, the "Rezoning").
4. **"Vesting Tentative Map/Final Development Plan"** — (Subdivision 9390) — Subdivision map and Final Development Plan reflecting roads, infrastructure and up to 650 single-family residential lots, which lots can also be developed as age-restricted units in their entirety. The Vesting Tentative Map/Final Development Plan will employ multiple (phased) final maps, creating separate phases of the Project (currently approximated at 6 phases) (collectively, the "VTM"). The VTM includes a Preliminary Phasing Plan consistent with the VTM to facilitate development of the Property. The Preliminary Phasing Plan is included as part of the VTM approval, including the conditions of approval that accompany the VTM, and shall be included within any reference in this Agreement to the VTM.
5. **"2016 Development Agreement"** — The Parties entered into the 2016 Development Agreement as of October 13, 2016 (the "Term Commencement Date").
6. **"Amendments to VTM and Final Development Plan"** — (Subdivision \_\_\_\_\_) — The VTM, including its conditions of approval, was amended on \_\_\_\_\_ to allow for two-lane roadways, certain cost-sharing arrangements, and certain fee credits, based upon a CEQA determination by the City that no supplemental or subsequent EIR was required. References in this Agreement to the VTM mean the VTM as modified.

**E. "Subsequent Approvals"** (each referred to individually as a "Subsequent Approval") shall mean those permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City on or after the Term Commencement Date. Subsequent Approvals include without limitation new permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), as well as amendments to Existing Approvals.

**F.** On January 6, 2016, at a duly noticed public hearing, the Planning Commission considered and recommended approval of the EIR, GPA, Rezone, VTM and this Agreement to the City Council pursuant to Resolution No. 2016-2, 2016-03, 2016-05, 2016-06 and 2016-04.

**G.** On February 9, 2016, at a duly noticed public hearing, the City Council certified the EIR pursuant to Resolution No. 2016/11, approved the GPA pursuant to Resolution No. 2016/12, introduced the Rezone pursuant to Ordinance No. 2013-C-S, approved the VTM pursuant to Resolution No. 2016/13, and introduced the 2016 Development Agreement approval pursuant to Ordinance No. 2112-C-S.

H. On February 23, 2016, at a duly noticed public hearing, the City Council enacted the Rezone pursuant to Ordinance No. 2103-C-S and enacted Ordinance No. 2112-C-S approving the 2016 Development Agreement.

I. On \_\_\_\_\_, 2017, at a duly noticed public hearing, the City Council determined that no additional environmental review was required pursuant to an Addendum dated \_\_\_\_\_, 2017, approved amendments to the VTM pursuant to Resolution No. \_\_\_\_\_, and introduced this First Amended and Restated Development Agreement approval pursuant to Ordinance No. \_\_\_\_\_.

J. On \_\_\_\_\_, 2017, at a duly noticed public hearing, the City Council enacted Ordinance No. \_\_\_\_\_ approving this First Amended and Restated Development Agreement, a copy of which is attached as **Exhibit B**.

K. The City Council has found that, among other things, this First Amended and Restated Development Agreement and the Project Approvals, are consistent with its General Plan and has been reviewed and evaluated in accordance with California Government Code §§ 65864 *et seq.*

## AGREEMENT

In this factual context and intending to be legally bound, the Parties agree as follows:

### ARTICLE 1 TERM

1.1 The term of this Agreement ("Term") shall commence as of the Term Commencement Date and continue to and including October 17, 2031. The expiration of the term of this Agreement shall not be interpreted to, and shall not affect, terminate or waive any additional rights that Developer may have that exist independently of this Agreement and derive from common law vesting or other laws or regulations of the State or the City.

1.2 Pursuant to Government Code section 66452.6(a) and this Agreement, in addition to other extensions available under the Subdivision Map Act, the term of the Vesting Tentative Map and any other tentative map, vesting tentative map, tentative parcel map, vesting tentative parcel map, final map or vesting final maps, or any new such map or any amendment to any such map, or any resubdivision (collectively referred to as "Subdivision Document") relating to the Project shall automatically be extended to and until the later of the following:

1.2.1 The Term; or

1.2.2 The end of the term or life of any such Subdivision Document otherwise given pursuant to the "Subdivision Map Act" (defined herein) and/or local regulation not in conflict with the Subdivision Map Act.

1.3 If this Agreement terminates for any reason prior to the expiration of the vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, "Vesting Map"), such termination of this Agreement shall not affect Developer's right to proceed with development under such Vesting Map in accordance with only

the applicable law so vested under the Vesting Map, for the life of such vested rights given by such Vesting Map.

1.4 The term of any and all Project Approvals, including without limitation, all development plans, development permits, or other permit, grant, agreement, approval or entitlement for the general development of all or any part of the Project and Property, shall be to and until the later of the following:

1.4.1 The Term; or

1.4.2 The term or life of any Subdivision Document pursuant to the Subdivision Map Act or local regulation not in conflict with the Subdivision Map Act.

## ARTICLE 2 COVENANTS OF DEVELOPER

2.1 **Obligations of Developer Generally.** Developer shall have no obligation to proceed with, or complete the Project at any particular time or at all. However, if Developer proceeds, it shall comply the Applicable Law, as defined in this Agreement, including without limitation, Section 2.2. below.

2.2 **Applicable Law.** The rules, regulations and official policies governing permitted uses of the Property, density and improvement requirements applicable to development of the Property shall be the ordinances, rules, regulations, and official policies in force and effect on the Term Commencement Date, except as otherwise provided in the Project Approvals or this Agreement (the "City Regulations"). The law applicable to the Project during the Term of this Agreement shall be only the following: (a) the City Regulations; (b) the Project Approvals and (c) this Agreement (collectively, the "Applicable Law"). If there is a conflict between this Agreement and the City Regulations or Project Approvals, this Agreement shall control. If there is a conflict between the Project Approvals and the City Regulations, the Project Approvals shall control.

### 2.3 Fees, Taxes and Assessments.

2.3.1 **Development Fees.** During the Term, Developer shall pay only those City-imposed development fees (collectively, "Development Fees") in force and effect as of the Term Commencement Date. The Project has been approved for development as either a single-family market-rate residential community in its entirety or as an age-restricted "active-adult" residential community in its entirety. Developer, in its sole and exclusive discretion shall determine which residential development to pursue. If Developer decides to pursue an age-restricted "active-adult" residential community and if City, in its sole and absolute discretion, has implemented an active adult fee category after completion of a nexus study and adoption of such fees, Developer shall be subject to such fees. Development Fees shall be paid at the rate in effect at the time of building permit issuance. Development Fees shall be paid with funds and fee credits pursuant to the conditions of approval included in the Project Approvals and Subsection 2.3.1(e) below.

(a) The Project shall not be subject to any existing or future Development Fees related to affordable housing, public art, Residential Development Allocation Fee(s)/Growth Management Fees, or Habitat Conservation Plan (HCP) fees. The project is

progressing with environmental permitting through the State and Federal Agencies, but the project may at its option participate in an HCP.

(b) Developer has agreed to dedicate right-of-way and complete certain improvements required by the Project Approvals to Hillcrest Avenue, Sand Creek Road and Heidorn Ranch Road as described in the Project Approvals. Therefore, the Project shall not be subject to any existing or future Development Fees relating to local traffic/roadway/circulation/transportation dedication, construction, improvements and/or funding of any kind or any other Development Fees relating to such local traffic/roadway/circulation/transportation dedication, construction, improvements and/or funding of any kind. The project is subject to regional transportation fees (East Contra Costa Regional Fee and Financing Authority) in place at the time of building permit.

(c) Developer has agreed to be financially responsible for half of two public-benefit traffic signal improvements — one at Sand Creek Road at Hillcrest Avenue and the second at Sand Creek Road at Heidorn Ranch Road — neither of which are necessitated by project traffic alone, but are required by the Project Approvals and described in the Project Approvals. The developer will construct these signals and be reimbursed 50% by adjacent development or the City of Brentwood or deposit funds with the City for 50% of the signals as required by the Conditions of Approval. Therefore in consideration of the portion of these two traffic signals, the Project will not be subject to traffic signal fees or eligible for traffic signal reimbursements.

(d) Incentivize Community Benefit Infrastructure Construction, The City and the community have a significant interest in ensuring that the Project proceeds in an orderly fashion as part of the overall improvement of the community. In an effort to incentivize Developer's construction of important infrastructure in the Sand Creek Focus Area, from the date of the issuance of the first building permit for a non-model residential dwelling unit ("Permit Issuance Date") until the fifth anniversary of the Permit Issuance Date (5 years), the Development Fees Developer shall pay are the Development Fees in effect on a Citywide basis at the Permit Issuance Date, depending on the residential type of the Project (market rate or active adult). Notwithstanding the forgoing, the City may, at City's sole and exclusive discretion, on an annual basis, and pursuant to any applicable City Municipal Code requirements, increase or decrease (as appropriate) the amount of such Development Fees by a percentage not to exceed the percentage increase or decrease (as appropriate) for the prior calendar year in the Engineering News Record Construction Cost Index for the Region ("Index-Adjusted Fees"); however, Developer shall pay that Development Fee that is lower: the then-current City-wide Development Fee otherwise applicable to similar projects or the Index-Adjusted Fees.

(e) Developer shall be entitled to fee credits against sewer connection and water capacity fees, as set forth in *Exhibit D*, in an amount not to exceed \$4,900 per unit for each unit in the Project; such fee credits are based upon the sewer connection and water capacity fees in effect on the Effective Date and cannot increase over time. Such fee credits shall be available for any building permits issued within 7 years of the Effective Date. Such fee credits may be reduced should certain defined off-site infrastructure improvements be completed or funded by other developers, as set forth in *Exhibit D*.

**2.3.2 Processing Fees.** For the purposes of this Agreement, "Processing Fees" shall mean processing fees and charges of every kind and nature imposed by City, including planning processing deposits, to cover the actual costs to City for City staff and consultant time and resources spent reviewing and processing Developer's applications for

Project Approvals, or for monitoring compliance with and reviewing submittals for any Project Approvals. Developer shall pay all Processing Fees, as such fees and charges are adjusted from time to time. "Processing Fees" shall not mean and include Development Impact Fees or any other fee, tax or assessment. The foregoing notwithstanding, no fees other than Processing Fees shall be due before approval of the final map, unless earlier payment is expressly required by the Project Approvals.

**2.3.3 Taxes and Assessments.** Except as otherwise provided in this Agreement or the Project Approvals, during the Term, Developer shall pay only those City-imposed land-based taxes and assessments in force and effect as of the Term Commencement Date, except for a tax or assessment agreed upon by Developer, a tax or assessment imposed as a result of the implementation of a financing mechanism to fund improvements or services or a Proposition 218 voter approved assessment.

## **2.4 Construction and Timing of Improvements.**

**2.4.1** Developer shall construct the improvements required by, and more particularly described in, the conditions of approval included in the Project Approvals. Developer shall perform the work in accordance with the standards and specifications established by Applicable Law. To the extent there are no such standards or specifications, the work shall be performed in accordance with industry standards and in good and workmanlike manner, as approved by the City Engineer.

**2.4.2** The Parties acknowledge that the Project may be built in phases different from those set forth in the Preliminary Phasing Plan included as part of the VTm. The timing of certain improvements set forth in the conditions of approval were based on the Preliminary Phasing Plan. If the City Engineer approves changes to the phasing of the Project from that in the Preliminary Phasing Plan in a manner that impacts the timing for the construction of the improvements set forth therein, the City Engineer has the authority to change the timing for those improvements to be consistent with the changes to the phasing. Such changes will automatically be incorporated into the Project Approvals and will not require an amendment to the Project Approvals, including this Agreement.

**2.5 Subdivision and Other Agreements; Multiple Final Maps.** Developer shall execute and perform its obligations as set forth in any Subdivision Improvement Agreements required or permitted by Applicable Law to obtain approval of final maps. Developer may file multiple final maps in accordance with 3.5 below.

**2.6 Design Review.** The Project Approvals include Design Review Guidelines but do not include design review approval, which Developer has yet to obtain. Developer's design review applications and submittals shall be consistent with the Vineyards at Sand Creek Design Review Guidelines approved by the City. The designs shall incorporate a level of quality craftsmanship consistent with projects completed in similar regional markets.

**2.7 Sand Creek Focus Area (SCFA) Sewer Trunk Line Improvements.** Developer shall provide a sewer study and coordinate with the design, rights-of-way and easement needs of the major sewer trunk line through the Property in order to help facilitate the construction of the major sewer trunk line to benefitting properties, as more particularly described in the conditions of approval included in the Project Approvals (collectively, "**SCFA Sewer Trunk Line Improvements**"). If desired, the Developer shall create a land-based financing mechanism or participate in another mechanism acceptable to the City that will fairly

distribute the cost of formation, design, offsite construction, upsizing and advance funding of the Sewer Trunk Line Improvements amongst the benefitting property owners in and around the Sand Creek Focus Area, as approved by the City Engineer. For property that will benefit from the Sewer Trunk Line Improvements, the City shall require, by imposing a condition of approval, inserting a requirement into a Development Agreement or otherwise, an obligation on that property (and the property's owner(s)) to reimburse Developer for such other property's (and its owner(s)) proportional share (fair share) of these identified Sewer Trunk Line Improvements at the earlier of the filing of a final map or issuance of a building permit on the affected property. The City shall collect the reimbursement amounts if and when such properties develop, and distribute that amount to Developer on a quarterly basis, less any amount Developer has received as a fee credit for such improvement under Subsection 2.3.1(e). City shall assist Developer as needed, including without limitation, taking those actions set forth in Section 2.12 of this Agreement. Upon acceptance by the City, the SCFA Sewer Trunk Line Improvements shall be maintained by City.

**2.8 Parks, Trail Improvements and Landscaped Areas.** Developer shall, at its sole cost and expense, design, construct and dedicate to the City, Parcel G, located south of the future extension of Sand Creek Road, as more particularly described in the conditions of approval included in the Project Approvals ("**Parcel G Water Quality & Detention Basin**"). Upon acceptance by the City, the Parcel G Water Quality & Detention Basin shall be owned by the City and maintained by the Lighting and Landscaping District. Developer shall also, at its sole cost and expense, construct the Sand Creek Regional Trail as more particularly described in the conditions of approval included in the Project Approvals ("**Trail Improvements**"). Upon acceptance by the City, the Trail Improvements and open space parcel it travels through, shall be maintained by the City or the Lighting and Landscape District. Developer shall, at its sole cost and expense, design and construct park and landscaped areas, as more particularly described in the conditions of approval included in the Project Approvals. The parks identified on Parcel A and Parcel D shall also be designed and landscaped by Developer and shall be dedicated to and maintained by the Homeowners Association ("**Parcel A Park**" and "**Parcel D Park**," respectively.) Parcel A Park is 2.13 acres and Parcel D Park is 3.47 acres for a combined total park acreage of 5.6 acres, as required by and in conformance with the Antioch Municipal Code.

**2.9 Homeowners Association.** Developer shall establish a Homeowners Association ("HOA") for the Project in conformance with the regulations set forth by the State Bureau of Real Estate.

**2.9.1** Subject to approval by the State, the City Attorney and Community Development Director shall review and approve the HOA's conditions, covenants and restrictions ("**CC&Rs**") for conformance with this Agreement and the Project Approvals prior to the issuance of the first building permit for the Project. In addition, the City Attorney and Community Development Director may suggest modifications to the CC&Rs relating to the maintenance and repair of the property and improvements, including but not limited to landscaping, parking, open space, storm water facilities and the prohibition of nuisances. The applicant shall consider all such City-suggested modifications to such CC&Rs, and shall make those modifications that are reasonable and cost-effective.

**2.9.2** The CC&Rs shall include the following provisions and requirements:

(a) The City shall have rights of entry to the Project streets and public spaces.

(b) Any design approvals required by the CC&RS for construction, reconstruction and remodeling are in addition to any approvals needed from the City.

(c) A homeowner must secure a business license before a home can be rented as required by Municipal Code Section 3-1.217.

(d) The front yards must be adequately maintained.

(e) Any modifications to these requirements must be approved in advance by the City.

**2.9.3** The City shall not have the right of enforcement of the CC&Rs, but the City shall have the right of enforcement of all legal and equitable remedies available to the City, including without limitation the following:

(a) The right to enforce its ordinances and regulations, including without limitation, Antioch Municipal Code Title 4 Chapter 7 (Weed and Rubbish Abatement), Chapter 10 (Abandoned, Wrecked, Dismantled or Inoperative Vehicles), and Chapter 16 (Repair of Vehicles and Boats in Residential Districts); and Antioch Municipal Code Title 5 Chapter 1 (including property/yard maintenance, abatement procedures, and nuisances), Chapter 8 (Public intoxication), and Chapter 20 (Rental Dwelling Unit Maintenance and Inspection Program); and

(b) The right to refuse to issue building permits for any building or structure that is not in compliance with applicable federal, state or local laws, regulations, permits or approvals.

**2.10 City Services.** City shall provide wastewater collection and police services to the Project (or any and all portions thereof) to the same degree as all other users of such services and facilities in the City.

#### **2.11 Police Services Funding.**

**2.11.1 Formation or Participation in a Police Services Financing Mechanism.** In order to assist the City in meeting a police force level within a range of 1.2 to 1.5 officers per 1,000 residents as set forth in Performance Standard 3.5.3.1 of the General Plan, at the direction of the City, Developer shall either establish, or participate in (if one has already been established), a land-based financing mechanism in the form of a community facilities district, special tax or other means, as to the Property. The City and Developer shall work cooperatively in forming such a police services financing mechanism. The costs related to forming such financing mechanism, including consultant costs, shall be paid by Developer ("Formation Costs"). It is the intent of the City to require other property, as such other property develops, to annex into or become subject to such financing mechanism. For such other property, the City shall require, by imposing a condition of approval, inserting a requirement in a development agreement, or otherwise, an obligation/requirement on such other property (and the property's owner(s)) to reimburse Developer for such other property's (and its owner(s)) proportional share (fair share) of the Formation Costs ("**Formation Cost Reimbursement**"). The City shall require and collect the Formation Cost Reimbursement at the earlier of the filing of the final map or issuance of a building permit for any such other property on behalf of Developer and distribute that collected amount to Developer on a quarterly basis. Developer shall provide the Formation Costs, with supporting documentation, to the City.



**2.11.2 Financial Obligation of the Developer.** For the Term, the amount of the financial obligation for police services for the Project developed as a single family market rate (non-active adult) residential development (assuming an average of 3.22 persons per dwelling unit) related to police services funding shall not exceed \$445.00 per each Project lot upon which a single-family residential home is constructed, except that commencing one year after the Term Commencement Date, City may increase or decrease, as appropriate, such \$445 maximum pursuant to the Consumer Price Index for the San Francisco Bay Area. However, if the Project is developed as an active adult residential development, then the assumed average occupancy of a dwelling unit shall be 1.8 persons per dwelling unit, and the police services funding shall not exceed \$250 per each Project lot upon which an active adult residential home is constructed, except that commencing one year after the Term Commencement Date, City may increase or decrease, as appropriate, such \$250 maximum owing per active adult residential dwelling pursuant to the Consumer Price Index for the San Francisco Bay Area. The requirements of this Section 2.11.2 shall be waived if the City imposes a special tax or other form of revenue generation on all City residents dedicated specifically for the purpose of funding police services, which shall not include the business license tax approved by voters in 2014 (Measure O) or any additional sales tax or extension of such sales tax.

## **2.12 Establishment of Facilities and Infrastructure Financing Mechanisms.**

**2.12.1** Upon Developer's request and in connection with the development of any phase of the Project, City shall consider, in its sole and absolute discretion, establishing a mechanism(s) that is legal and available to the City to aid in financing the construction, maintenance, operation of (or other financeable aspect of) "**Facilities and Infrastructure.**" "**Facilities and Infrastructure**" as used in this Agreement shall mean and include all onsite facilities and infrastructure and all offsite facilities and infrastructure needed for the Project. These mechanisms may include, without limitation, direct funding of condemnation costs and construction costs, acquisition of improvements, establishing reserve accounts to fund capital improvement program projects, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Infrastructure Finance Districts, special taxes and/or other similar mechanisms (collectively, "**Facilities Financing Mechanism(s)**"), and issuing any debt in connection therewith ("**Debt**"). Included goals of such Facilities Financing Mechanisms shall be to: ensure that each development project using Facilities and Infrastructure pay its proportional share of the cost of providing such Facilities and Infrastructure to such development project ("**Fair Share Contribution**"), that development projects that advance the construction or funding of the construction of all or a portion of such Facilities and Infrastructure ("**Advancing Projects**") be reimbursed for that costs of that construction or construction funding that is in excess of such Advancing Projects' Fair Share Contribution (collectively, "**Reimbursement Amounts**"), and that any and all Reimbursements Amounts owing to Advancing Projects be collected from those other projects that are not Advancing Projects at the earliest stage possible, but no later than building permit issuance.

**2.12.2** Developer's request that City establish a Facilities Financing Mechanism and issue Debt shall be made to the City Manager in written form, and shall outline the purposes for which the Facilities Financing Mechanism and Debt will be established or issued, the general terms and conditions upon which it will be established or issued and a proposed timeline for its establishment or issuance.

**2.12.3** City's participation in forming any Facilities Financing Mechanisms approved by City (and its operation thereafter) and in issuing any Debt approved by the City will include all of the usual and customary municipal functions associated with such tasks including,



without limitation, the formation and administration of special districts, the issuance of Debt, the monitoring and collection of fees, taxes, assessments and charges such as utility charges, the creation and administration of enterprise funds, the enforcement of debt obligations and other functions or duties authorized or mandated by the laws, regulations or customs relating to such tasks.

## **2.13 Southern Property Obligations.**

**2.13.1** Developer has an equitable interest in approximately 150 acres of real property located in the City of Antioch, Contra Costa County, which is located south of the Property and is more particularly described in **Exhibit E** to this Agreement (the "**Southern Property**"). This Agreement encompasses and applies to the Southern Property, and imposes obligations on development of the Southern Property.

**2.13.2** Any person or entity who develops the Southern Property ("**Southern Property Developer**") shall construct two additional lanes of Sand Creek Road between Heidorn Ranch Roach and Hillcrest Avenue, as reasonably necessary to complete a four-lane roadway facility within the planned 112-foot right of way for this segment of Sand Creek Road (the "**Sand Creek Road Additional Lanes**"). The Sand Creek Road Additional Lanes shall be compatible with the two-lane Sand Creek Road facility that is required to be constructed as part of the Project. To the extent provided in applicable City policies, practices or regulations, and/or as subsequently agreed between the Southern Property Developer and the City, the Southern Property Developer may be entitled to fee credits for constructing the Sand Creek Road Additional Lanes.

**2.13.3** The Sand Creek Road Additional Lanes shall be constructed as follows:

(a) Prior to the first small lot final map on the Southern Property, the Sand Creek Road Additional Lanes shall be completed to the satisfaction of the City Engineer or the Southern Property Developer shall provide a bond securing their construction.

(b) Prior to the issuance of the 25th residential building permit and the first certificate of occupancy for a residential lot within the Southern Property, the Sand Creek Road Additional Lanes shall be completed to the satisfaction of the City Engineer.

**2.13.4** The Southern Property Developer shall not construct any extension of Hillcrest Avenue south of Sand Creek Road on the Southern Property unless the Southern Property Developer demonstrates to the satisfaction of the City Engineer that construction of the Sand Creek Road Additional Lanes will be completed prior to the opening of such Hillcrest Avenue extension.

**2.13.5** Notwithstanding any other provisions in this Agreement, the obligations of this Section 2.13 shall survive termination or expiration of this Agreement, provided that, within 20 years of the Effective Date, a small lot final map has been recorded for Phase 4, Phase 5, or Phase 6 of the Project.

**2.13.6** The obligations of this Section 2.13 are obligations of the Southern Property and the Southern Property Developer only, and are not obligations of the Property or Developer in its role as Developer of the Property.

### ARTICLE 3 COVENANTS OF THE CITY

**3.1 Obligations of City Generally.** The City shall act in good faith to accomplish the intent of this Agreement, to protect Developer's vested rights provided by this Agreement, and to ensure this Agreement remains in full force and effect. City shall cooperate with Developer so that Developer receives the benefits of and the rights vested by this Agreement, including prompt and timely action and assistance in (a) forming a Communities Facilities District(s) or other appropriate financing district(s) or mechanisms, and (b) obtaining from other governmental entities necessary or desirable permits or other approvals for the Project. To this end, any part of the Applicable Law that involves the exercise of judgment, discretion and/or action by City Staff, the City Planning Commission and/or the City Council shall require that such exercise of judgment, discretion and/or action be done in a reasonable manner.

**3.2 Eminent Domain.** Developer shall purchase any and all real property interests necessary to allow it to construct the public improvements required by the Project Approvals. In the event that an affected property owner has rejected an offer by Developer, based upon fair market value as determined by an appraisal prepared by a City-approved appraiser in cooperation with City, Developer may request City assistance. Provided that Developer provides adequate funding and enters into an agreement with the City setting forth the terms of City's obligations, in a form approved by City in its reasonable discretion, City shall promptly and timely negotiate and seek the purchase of the necessary property, including the possible consideration of City's use of its power of eminent domain (condemnation) to acquire such real property interests. Developer shall pay all costs associated with such acquisition or condemnation proceedings. Nothing herein is intended to or shall prejudice or commit City regarding any findings and determinations required to be made in connection with adoption of a resolution of necessity.

**3.3 Vested Development Rights.** Through this Agreement and the Applicable Law it describes, Developer has the vested right to develop the Property in accordance with the Applicable Law, which Applicable Law includes this Agreement, the City Regulations and the Project Approvals, with the reservations of authority set forth in Section 3.6 below. Any City ordinance, resolution, minute order, rule, motion, policy, standard, specification, or a practice adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not part of the Applicable Law and that takes effect on or after the Term Commencement Date is hereby referred to as a "New City Law(s)." During the Term, no New City Law(s) shall be applied to the Project and/or Property except as otherwise set forth herein, including without limitation, the New City Laws set forth in Section 3.6 below.

**3.4 Permitted Uses.** The permitted uses of the Property; the density and intensity of use of the Property; the maximum height, bulk and size of buildings and other structures, except as such may be limited by any design review approvals yet to be obtained; and provisions for reservation or dedication of land for public purposes and other terms and conditions applicable to the Project/Property shall be those set forth in the Project Approvals, which City confirms and vests by this Agreement. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project/Property. City shall not require Developer to reserve or dedicate land for public purposes except as expressly required by the Applicable Law, including without limitation, the Project Approvals.

**3.5 Subdivision and Other Agreements.** The City shall not require Developer to enter into any subdivision or other agreement that is inconsistent with the Applicable Law or that requires more work than is required by the Applicable Law, provided however that the Parties agree and understand that Developer will be required to enter into subdivision improvement agreements as set forth in this Agreement. The City shall allow Developer to file multiple final maps, if Developer desires, in accordance with the Subdivision Map Act, as amended from time to time.

**3.6 City's Reservations of Authority.** Notwithstanding any other provision of this Agreement to the contrary, the following regulations and provisions shall apply to the development of the Property:

**3.6.1** New City Laws regarding Processing Fees, provided such Processing Fees are adopted pursuant to controlling law and are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

**3.6.2** New City Laws relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided such procedures are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

**3.6.3** New City Laws governing construction standards and specifications, including (a) City's building code, plumbing code, mechanical code, electrical code, fire code and grading code, (b) all uniform construction codes applicable in City at the time of building permit issuance, and (c) design and construction standards for road and storm drain facilities; provided any such regulation has been adopted and uniformly applied by City on a citywide basis and has not been adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

**3.6.4** New City Laws that may be in conflict with this Agreement or the Project Approvals but that are necessary to protect persons or property from dangerous or hazardous conditions that create a threat to the public health or safety or create a physical risk, based on findings by the City Council identifying the dangerous or hazardous conditions requiring such changes in the law, why there are no feasible alternatives to the imposition of such changes, and how such changes would alleviate the dangerous or hazardous condition. Changes in laws, regulations, plans or policies that are specifically mandated and required by changes in state or federal laws or regulations that require such to apply to the Project.

**3.6.5** Notwithstanding anything to the contrary provided herein, as provided in the Statute at Section 65869.5: "In the event that state or federal law or regulations, enacted after [this Agreement] has been entered into, prevent or preclude compliance with one or more provisions of [this Agreement], such provisions of [this Agreement] shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations."

**3.6.6** Notwithstanding anything to the contrary provided herein, Developer shall have the right to challenge in court any. New City Laws that would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement, including without limitation any of the items listed in this Section 3.6 (subsections 3.6.1 through 3.6.6).

## **ARTICLE 4 AMENDMENT**

**4.1 Amendment to Approvals.** To the extent permitted by state and federal law, any Project Approval (hereafter in the ARTICLE 4, an "Approval") may, from time to time, be amended or modified in the following manner:

**4.1.1 Administrative Project Amendments.** Upon the written request of Developer for an amendment or modification to an Approval, the Director of Community Development, or his/her designee (collectively "Authorized Official") shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project Approvals as a whole; and (ii) whether the requested amendment or modification is substantially consistent with Applicable Law. If the Authorized Official finds that the proposed amendment or modification is minor, substantially consistent with Applicable Law, and will result in no new significant environmental impacts, the amendment shall be determined to be an "Administrative Project Amendment" and the Authorized Official may, except to the extent otherwise required by law, approve the Administrative Project Amendment, following consultation with other relevant City staff, without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, non-substantial reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the design and location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project Approvals, and minor adjustments to the Property diagram or Property legal description shall be treated as Administrative Project Amendments.

**4.1.2 Non-Administrative Amendments.** Any request of Developer for an amendment or modification to an Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

**4.1.3 Amendment Exemptions.** Amendment of an Approval requested by Developer shall not require an amendment to this Agreement. Instead, the amendment automatically shall be deemed to be incorporated into the Project Approvals and vested under this Agreement.

**4.2 Amendment of This Agreement.** This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties or their successors in interest, as follows:

**4.2.1 Administrative Amendments.** The City Manager and City Attorney are authorized on behalf of the City to enter into any amendments to this Agreement other than amendments which substantially affect (i) the term of this Agreement (excluding extensions of time for performance of a particular act), (ii) permitted uses of the Property, (iii) provisions for the reservation or dedication of land, (iv) the density or intensity of use of the Property or the maximum height or size of proposed buildings, or (v) monetary payments by Developer. Such amendments ("Administrative Agreement Amendment") shall, except to the extent otherwise required by law, become effective without notice or public hearing.

**4.2.2 Non-Administrative Amendments.** Any request of Developer for an amendment or modification to this Agreement which is determined not to be an Administrative Agreement Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

**4.2.3 Subsequent Approvals.** No amendment of this Agreement shall be required in connection with the issuance/approval of any Subsequent Approval Developer seeks and secures or any New City Laws that Developer elects to be subject to (in Developer's sole and exclusive discretion) ("New City Regulation"). Any such Subsequent Approval or New City Regulation shall be vested into by Developer and City when it becomes effective under controlling law. City shall not amend or issue any Subsequent Approval unless Developer requests such an amendment or issuance from City.

## **ARTICLE 5**

### **ASSIGNMENT, TRANSFER AND MORTGAGEE PROTECTION**

**5.1 Assignment of Interests, Rights and Obligations.** Nothing in this Agreement shall limit the right of Developer to freely alienate, transfer or assign ("Assign" or "Assignment") all or any portion of the Property, except that Developer may only Assign all or any portion of its interests, rights or obligations under this Agreement or the Project Approvals, including any amendments thereto, subject to both of the following:

**5.1.1** The requirements of this ARTICLE 5; and

**5.1.2** To a third party who acquires an interest or estate in Developer and/or the Property or any portion thereof including, without limitation, a third party who is a purchaser or ground lessee of lots, parcels or improvements (an "Assignee").

#### **5.2 Assignment Agreements.**

**5.2.1 Written Assignment Agreement.** In connection with an Assignment by Developer (other than an Assignment by Developer to an Affiliated Party (as defined below), to a Mortgagee (as defined below in 5.4) or to a Home Purchaser (as defined below in 5.3)), Developer and the Assignee shall enter into a written agreement (an "Assignment Agreement"), with City's consent in writing to such Assignment, which consent shall not be unreasonably withheld, regarding the respective interests, rights, benefits, burdens and obligations (collectively, "benefits and burdens") of Developer and the Assignee in and under this Agreement and the Project Approvals. Such Assignment Agreement shall (i) set forth the benefits and burdens of this Agreement and/or the Project Approvals that are being assigned to Assignee, (ii) transfer to the Assignee the benefits and burdens of this Agreement and/or the Project Approvals that are being assigned, and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the Assignment. Developer shall notify the City in writing that Developer plans to execute a Assignment Agreement at least 30 days in advance of the proposed execution date of the Assignment Agreement, and Developer shall provide City with such information as may be required by City to demonstrate the Assignee's qualifications (including financial ability) to the Assignment. City shall have 30 days from the date of receipt of such notice from Developer to review the information and to provide City's determination to Developer regarding City's consent to the Assignment. City may withhold its consent to the Assignment if the City reasonably determines that the Assignee, or an entity with similar or related ownership or control as Assignee, lacks the financial ability to assume the obligations involved with the Assignment or the Assignment Agreement does not

adequately address the division of the obligations and requirements of this Agreement. If City consents to the Assignment, Developer shall be released from its benefits and burdens as set forth in the Assignment Agreement. If City does not consent to the Assignment, City shall provide its reasons in writing and shall meet with Developer in good faith to determine what additional information may be necessary for City to provide its consent. An "Affiliated Party" is defined as any corporation, limited liability company, partnership or other entity which is controlling of, controlled by, or under common control with Developer, and "control," for purposes of this definition, means effective management and control of the other entity, subject only to major events requiring the consent or approval of the other owners of such entity.

**5.2.2 Binding.** Upon City approval of, execution and recordation in the Official Records of Contra Costa County of an Assignment Agreement, and a "Memorandum of Assignment" (in a form substantially similar to the Memorandum of Assignment set forth in *Exhibit C* to this Agreement), the Assignment Agreement shall be binding on Developer, the City and the Assignee, and shall release Developer from those benefits and burdens of this Agreement and the Project Approvals expressly assigned and transferred in the Assignment Agreement.

**5.3 Home Purchaser.** The burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither an Assignment Agreement nor the City's consent shall be required in connection with, any single-family residence conveyed to a purchaser or leased to a lessee for a period in excess of one year. The purchaser or lessee in such a transaction and its successors ("Home Purchaser") shall be deemed to have no obligations under this Agreement.

**5.4 Mortgagee Protection.** This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording of this Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). The foregoing notwithstanding, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement (including but not limited to the City's remedies to terminate the rights of Developer and its successors and assigns under this Agreement, to terminate this Agreement, and to seek other relief as provided in this Agreement) shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

**5.4.1 Mortgagee Not Obligated.** The provisions of 5.4 notwithstanding, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements other than those uses or improvements provided for or authorized by this Agreement, or otherwise under the Project Approvals.

**5.4.2 Notice of Default to Mortgagee.** If the City receives a written notice from a Mortgagee or from Developer requesting a copy of any notice of default given Developer and specifying the address for notice, then the City shall deliver to the Mortgagee at the Mortgagee's cost, concurrently with delivery to Developer, any notice with respect to any claim by the City that Developer committed an event of default. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the City's notice.

The City Manager is authorized on behalf of the City to grant to the Mortgagee an extension of time to cure or remedy, not to exceed an additional 60 days.

## **ARTICLE 6 COOPERATION IN THE EVENT OF LEGAL CHALLENGE; INDEMNITY**

**6.1 Indemnity.** Developer shall defend, indemnify, and hold harmless the City from any legal action brought by any third party concerning: (i) the validity, legality, or constitutionality of any term, condition, obligation, fee, dedication, or exaction required or imposed by this Agreement; (ii) the procedures utilized in or the sufficiency of the environmental review associated with this Agreement; and (iii) the implementation of this Agreement through such further actions, measures, procedures, and approvals as are necessary to satisfy the Agreement's requirements. Developer shall defend the City with qualified legal counsel subject to the approval of the City Attorney, which approval shall not unreasonably be withheld. Developer shall be exclusively responsible for paying all costs, damages, attorney fees, and other court-ordered compensation awarded to any third party (whether awarded against the City, Developer, or any other party) in any legal action in which its Developer's duties to defend, indemnify, and hold the City harmless arise under this Section. City shall promptly notify Developer of any action filed and the Parties shall cooperate fully in the defense of any such action.

**6.2 Limitations on Indemnity.** The parties expressly recognize that the obligations stated in this Article do not require or contemplate that Developer shall indemnify or hold harmless or be responsible for any error, omission, tortious act, intentional act, negligent act, or default of, or any injury caused by, any homeowners association or any City department or dependent special district that is formed by, or that receives funding, as a result of any term or condition of this Agreement.

## **ARTICLE 7 DEFAULT; TERMINATION; ANNUAL REVIEW**

### **7.1 Default.**

**7.1.1 Remedies In General; No Damages.** City and Developer agree that, as part of the bargained for consideration of this Agreement, in the event of default by either Party, the only remedy shall be declaratory relief or specific performance of this Agreement. In no event shall either Party, or any of their officers, agents, representatives, officials, employees or insurers, be liable to the other Party for damages, whether actual, consequential, punitive or special, for any breach or violation of this Agreement. The Parties agree that any action or proceeding to cure, correct or remedy any default or to enforce any covenant or promise under this Agreement shall be limited solely and exclusively to the remedies expressly provided. Following notice and expiration of any applicable cure periods and completion of the dispute resolution process set forth in ARTICLE 8 below, either Party may institute legal or equitable proceedings to cure, correct, or remedy any default, or to enforce any covenant or promise herein, enjoin any threatened or attempted violation, or enforce by specific performance, declaratory relief or writ of mandate the obligations and rights of the Parties. As noted above, in no event shall either Party be liable for any damages. Any legal action to interpret or enforce the provisions of this Agreement shall be brought in the Superior Court for Contra Costa County, California.



**7.1.2 Cure Period.** Subject to extensions of time by mutual consent in writing of the Parties, breach of, failure, or delay by either Party to perform any term or condition of this Agreement shall constitute a default. In the event of any alleged default of any term, condition, or obligation of this Agreement, the Party alleging such default shall give the defaulting Party notice in writing specifying the nature of the alleged default and the manner in which such default may be satisfactorily cured ("**Notice of Breach**"). The defaulting Party shall cure the default within 30 days following receipt of the Notice of Breach, provided, however, if the nature of the alleged default is non-monetary and such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no default shall exist and the noticing Party shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a default shall exist under this Agreement and the non-defaulting Party may exercise any of the remedies available.

**7.1.3 Procedure for Default by Developer.** If Developer is alleged to be in default hereunder by City then after notice and expiration of the cure period specified above and the dispute resolution process set forth in ARTICLE 8 below, City may institute legal proceedings against Developer pursuant to this Agreement, and/or give notice of intent to terminate or modify this Agreement to Developer pursuant to California Government Code Section 65868. Following notice of intent to terminate or modify this Agreement as provided above, the matter shall be scheduled for consideration and review at a duly noticed and conducted public hearing in the manner set forth in Government Code Sections 65865, 65867 and 65868 by the City Council within 60 calendar days following the date of delivery of such notice (the "**Default Hearing**"). Developer shall have the right to offer written and oral testimony prior to or at the time of said public hearing. If the City Council determines that a default has occurred and is continuing, and elects to terminate the Agreement, City shall give written notice of termination of the Agreement to Developer by certified mail and the Agreement shall thereby be terminated 30 days thereafter; provided, however, that if Developer files an action to challenge City's termination of the Agreement within such 30-day period, then the Agreement shall remain in full force and effect until a trial court has affirmed City's termination of the Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired). This Section shall not be interpreted to constitute a waiver of section 65865.1 of the Government Code, but merely to provide a procedure by which the Parties may take the actions set forth in Section 65865.1.

**7.1.4 Procedure for Default by City.** If the City is alleged by Developer to be in default under this Agreement, then after notice and expiration of the cure period and completion of the dispute resolution procedures below, Developer may enforce the terms of this Agreement by an action at law or in equity, subject to the limitations set forth above.

**7.2 Excusable Delay; Extension of Time of Performance.** In addition to specific provisions of this Agreement, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, or a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, enactment or imposition against the Project of any moratorium, or any time period for legal challenge of such moratorium by Developer, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Litigation attacking the validity of this Agreement or any of the Project Approvals, Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than the City necessary



for the development of the Project pursuant to this Agreement, or Developer' inability to obtain materials, power or public facilities (such as water or sewer service) to the Project, shall be deemed to create an excusable delay as to Developer. Upon the request of either Party, an extension of time for the performance of any obligation whose performance has been so prevented or delayed shall be memorialized in writing. The City Manager is authorized on behalf of the City to enter into such an extension. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon.

**7.3 Annual Review.** Throughout the term of this Agreement, at least once every 12 months, Developer shall provide City with a written report in demonstrating Developer's good-faith compliance with the terms and conditions of this Agreement (the "**Written Report**"). City's City Manager and City Attorney shall review the Written Report to determine whether Developer is in good-faith compliance with the terms of the Agreement and, if they have concerns about Developer' compliance, shall schedule a review before the City Council (the "**Periodic Review**"). At least 10 days prior to the Periodic Review, the City shall provide to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review (and, to the extent practical, related exhibits) concerning Developer' performance. Developer shall be permitted an opportunity to respond to the City's evaluation of Developer' performance, either orally at a public hearing or in a written statement, at Developer' election. If before the public hearing, such response shall be directed to the Community Development Director. At the conclusion of the Periodic Review, the City Council shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. If the City Council finds and determines, based on substantial evidence, that Developer has not complied with such terms and conditions, the City Council may initiate proceedings to terminate or modify this Agreement, in accordance with Government Code Section 65865.1, by giving notice of its intention to do so, in the manner set forth in Government Code Sections 65867 and 65868. If after receipt of the Written Report, the City does not (a) schedule a Periodic Review within two months, or (b) notify Developer in writing of the City's determination after a Periodic Review, then it shall be conclusively presumed that Developer has complied in good faith with the terms and conditions of this Agreement during the year covered under the Written Report.

**7.4 Notice of Compliance.** Within 30 days following any written request which Developer or a Mortgagee may make from time to time, the City shall execute and deliver to the requesting party (or to any other party identified by the requesting party) a written "**Notice of Compliance**", in recordable form, duly executed and acknowledged by the City, that certifies: (a) this Agreement is unmodified and in full force and effect, or if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of the modifications; (b) there are no current uncured defaults under this Agreement or specifying the dates and nature of any default; and (c) any other information reasonably requested by Developer or the Mortgagee. The failure to deliver such a statement within such time shall constitute a conclusive presumption against the City that this Agreement is in full force and effect without modification except as may be represented by Developer and that there are no uncured defaults in the performance of Developer, except as may be represented by Developer. Developer shall have the right, in its sole discretion, to record the Notice of Compliance.

## **ARTICLE 8 DISPUTE RESOLUTION**

**8.1 Dispute; Confidentiality.** Any controversy or dispute arising out of or related to this Agreement, or the development of the Project (a "**Dispute**"), shall be subject to private

negotiation among the Parties, and if then not resolved shall be subject to non-binding mediation followed by litigation, if necessary, as set forth below. Each Party agrees that any Dispute, and all matters concerning any Dispute, will be considered confidential and will not be disclosed to any third-party except (a) disclosures to a Party's attorneys, accountants, and other consultants who assist the Party in the resolution of the Dispute, (b) as provided below with respect to the mediation, and (c) as otherwise required by law, including without limitation, the California Public Records Act or the City's Municipal Code.

**8.2 Private Negotiation.** If a Dispute arises, the Parties agree to negotiate in good faith to resolve the Dispute. If the negotiations do not resolve the Dispute to the reasonable satisfaction of the Parties within 30 days from a written request for a negotiation, then the Dispute shall be submitted to mediation pursuant to 8.3.

**8.3 Mediation.** Within 15 days following the written request to negotiate, either Party may initiate non-binding mediation (the "Mediation"), conducted by JAMS/Endispute, Inc. ("JAMS") or any other agreed-upon mediator. Either Party may initiate the Mediation by written notice to the other Party. The mediator shall be a retired judge or other mediator, selected by mutual agreement of the Parties, and if the Parties cannot agree within 15 days after the Mediation notice, the mediator shall be selected through the procedures regularly followed by JAMS. The Mediation shall be held within 15 days after the Mediator is selected, or a longer period as the Parties and the mediator mutually decide. If the Dispute is not fully resolved by mutual agreement of the Parties within 15 days after completion of the Mediation, then either Party may commence an action in state or federal court. The Parties shall bear equally the cost of the mediator's fees and expenses, but each Party shall pay its own attorneys' and expert witness fees and any other associated costs.

**8.4 Injunction.** Nothing in this ARTICLE 8 shall limit a Party's right to seek an injunction or restraining order from a court of competent jurisdiction in circumstances where such relief is deemed necessary to preserve assets.

## **ARTICLE 9 MISCELLANEOUS**

**9.1 Defined Terms; Citations.** The capitalized terms used in this Agreement, unless the context obviously indicates otherwise, shall have the meaning given them in this Agreement. Except as otherwise expressly stated, all citations are to the Government Code of the State of California.

**9.2 Enforceability.** As provided in Section 65865.4, this Agreement shall be enforceable by either Party notwithstanding any change enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or resolution or other rule, regulation or policy adopted by the City that changes, alters or amends the ordinances, rules, regulations and policies included in the Applicable Law, except as this Agreement may be amended or canceled pursuant to Section 65868 or modified or suspended pursuant to Section 65869.5.

**9.3 Other Necessary Acts.** Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals or this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges under this Agreement.

**9.4 Construction.** Each reference in this Agreement to this Agreement or any of the Project Approvals shall be deemed to refer to this Agreement or the Project Approval, as it may be amended from time to time. This Agreement has been reviewed and revised by legal counsel for both the City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

**9.5 Covenants Running with the Land.** Subject to the Assignment provisions in ARTICLE 5, all of the provisions contained in this Agreement shall be binding upon and benefit the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of, or interest in, the Property, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, as appropriate, runs with the Property and is for the benefit of and binding upon the owner, Developer, and each successive owner of all or a portion of the Property, during its ownership of such property.

**9.6 Attorneys' Fees.** If any legal action or other proceeding is commenced to enforce or interpret any provision of, or otherwise relating to, this Agreement, the losing party or parties shall pay the prevailing party's or parties' actual expenses incurred in the investigation of any claim leading to the proceeding, preparation for and participation in the proceeding, any appeal or other post-judgment motion, and any action to enforce or collect the judgment including without limitation contempt, garnishment, levy, discovery and bankruptcy. For this purpose "expenses" include, without limitation, court or other proceeding costs and experts' and attorneys' fees and their expenses. The phrase "prevailing party" shall mean the party which is determined in the proceeding to have prevailed or which prevails by dismissal, default or otherwise.

**9.7 No Agency, Joint Venture or Partnership.** The City and Developer disclaim the existence of any form of agency relationship, joint venture or partnership between the City and Developer. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as creating any relationship other than a contractual relationship between the City and Developer.

**9.8 No Third Party Beneficiary.** This Agreement is made solely and specifically among and for the benefit of the Parties, and their respective successors and assigns subject to the express provisions relating to successors and assigns, and no other party other than a Mortgagee will have any rights, interest or claims or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

**9.9 Notices.** All notices, consents, requests, demands or other communications to or upon the respective Parties shall be in writing and shall be effective for all purposes: (A) upon receipt on any City business day before 5:00 PM local time and on the next City business day if received after 5:00 PM or on other than a City business day, including without limitation, in the case of (i) personal delivery, or (ii) delivery by messenger, express or air courier or similar courier, or (B) five days after being duly mailed certified mail, return receipt requested, postage prepaid, all addressed as follows:

If to City: City of Antioch  
Attention: City Manager  
200 H Street  
Antioch, CA 94509  
Telephone: (925) 779-7011  
Facsimile: (925) 779-7003

With a mandatory copy to: City Attorney  
City of Antioch  
200 H Street  
Antioch, CA 94509  
Telephone: (925) 779-7015  
Facsimile: (925) 779-7003

If to Developer: GBN Partners, LLC  
Attention: Matthew D. Beinke  
3820 Blackhawk Road  
Danville, CA 94506  
Telephone: (925) 736-1571  
Facsimile: (925) 736-0309

With a mandatory copy to: Perkins Coie LLP  
Attention: Cecily T. Barclay  
505 Howard Street, Suite 1000  
San Francisco, CA 94105  
Telephone: (415) 344-7000  
Facsimile: (415) 344-7050

In this Agreement "City business days" means days that the Antioch City Hall is open for business and does not currently include Saturdays, Sundays, and federal and state legal holidays. Either Party may change its address by written notice to the other on five business days' prior notice in the manner set forth above. Receipt of communication by facsimile shall be sufficiently evidenced by a machine-generated confirmation of transmission without notation of error. In the case of illegible or otherwise unreadable facsimile transmissions, the receiving Party shall promptly notify the transmitting Party of any transmission problem and the transmitting Party shall promptly resend any affected pages.

**9.10 Entire Agreement and Exhibits.** This Agreement constitutes in full, the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements of the Parties with respect to all or any part of the subject matter of this Agreement. No oral statements or prior written matter not specifically incorporated in this Agreement shall be of any force and effect. No amendment of, supplement to or waiver of any obligations under this Agreement will be enforceable or admissible unless set forth in a writing approved by the City and Developer. The following exhibits are attached to this Agreement and incorporated for all purposes:

Exhibit A	Property Description.
Exhibit B	Ordinance Approving First Amended and Restated Development Agreement.

- Exhibit C      Memorandum of Assignment.
- Exhibit D      Sewer Connection and Water Capacity Fee Credits.
- Exhibit E      Southern Property Description.

**9.11 Counterparts.** This Agreement may be executed in any number of identical counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document. This Agreement may be executed by signatures transmitted by facsimile, adobe acrobat or other electronic image files and these signatures shall be valid, binding and admissible as though they were ink originals.

**9.12 Recordation of Development Agreement.** Pursuant to Section 65868.5, no later than ten days after the City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of Contra Costa.

This Agreement has been entered into by and between Developer and the City as of the Effective Date.

**CITY:**

City of Antioch, a municipal corporation

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

**DEVELOPER:**

GBN Partners, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Matthew D. Beinke, Partner

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
City Attorney

**APPROVED AS TO FORM:**  
Perkins Cole LLP

By: \_\_\_\_\_  
Attorneys for Developer

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

EXHIBIT A  
Property Description

134306725.14

APPLICANT PROPOSAL

**Att. 3-27**

MAY 5, 2017  
JOB NO.: 514-072

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**PARCEL ONE, DOC. 2014-0150641 AND DOC. 2016-0035832**  
**ANTIOCH, CALIFORNIA**

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF  
ANTIOCH, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS  
FOLLOWS:

BEING ALL OF PARCEL ONE, AS SAID PARCEL ONE IS DESCRIBED AND SHOWN IN  
THAT CERTAIN DOCUMENT ENTITLED "PW 443-03-14 LOT LINE ADJUSTMENT",  
RECORDED SEPTEMBER 5, 2014, INSTRUMENT NO. 2014-0150641, OF OFFICIAL  
RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY;

**TOGETHER THEREWITH, THE FOLLOWING DESCRIBED PARCEL OF LAND:**

BEING ALL OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE 'ASSIGNMENT  
AND CONVEYANCE' RECORDED MARCH 2, 2016 AS DOCUMENT NO. 2016-0035832 OF  
OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER OF THE CONTRA  
COSTA COUNTY.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS  
REFERENCE MADE A PART HEREOF.

**END OF DESCRIPTION**

---

JOEL GARCIA, P.L.S.  
L.S. NO. 5285

EXHIBIT B

Ordinance Approving First Amended and Restated Development Agreement

134306725.14

APPLICANT PROPOSAL



EXHIBIT C  
Memorandum of Assignment

134306725.14

APPLICANT PROPOSAL

**Att. 3-30**

NO FEE DOCUMENT per Government Code § 6103  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Antioch  
200 H Street  
Antioch, CA 94509  
Attention: City Manager and City Attorney

#### Memorandum of Assignment

This "**Memorandum of Assignment**" (the "**Agreement**") relates to that Development Agreement by and between the City of Antioch and GBN Partners, LLP, dated \_\_\_\_-\_\_\_\_-\_\_\_\_ 2016, ("Development Agreement") and the recording and use of the Agreement on that certain below-described real property ("Subject Property"). This Agreement is entered into by GBN Partners, LLC, a Delaware limited liability company ("Developer") and \_\_\_\_\_ [owner of Subject Property] ("Assignee"), which Developer and Assignee likewise entered into a "Assignment Agreement" pursuant to Section \_\_\_\_\_ of the Agreement.

The Subject Property is more particularly described in *Exhibit* \_\_\_\_\_ attached hereto and incorporated herein by this reference as if set forth in full.

The Subject Property is burdened and benefitted by and otherwise bound and subject to each and every term and condition of the Development Agreement, as more specifically described in this Agreement and the Assignment Agreement, and Developer is released and therefore no longer burdened and benefitted by and otherwise bound and subject to each and every term and condition of the Agreement as relates to the Subject Property.

[Parties to delineate how all obligations, such as parks, roads, etc. are being distributed amongst the Developer and Assignee]

EXHIBIT D

Sewer Connection and Water Capacity Fee Credits

134306725.14

APPLICANT PROPOSAL

Exhibit D  
First Amended and Restated Development Agreement  
Sewer Connection and Water Capacity Fee Credits  
(Vineyards at Sand Creek)

2017 Fee Credits (Section 2.3.11ell)

	Current Fee	% Credit	Fee Credit Per Unit	Fee Credit Total
Sewer Connection	\$2,555	60%	\$1,520	\$974,320
Water Capacity	\$5,216	65%	<u>\$3,380</u>	<u>\$2,166,580</u>
Total Fee Credits			\$4,900	\$3,140,900

Fee Credits to be fixed at \$4,900 per unit

Fee Credits to be capped at \$3,140,900

Fee Credits may be reduced as follows if improvements are constructed or funded by others:

\$ 825,000	Heidorn improved--Johnson property frontage built or funded by others -- 3/23/17 CBG Summary Item 1
\$ 159,065	Upsized sewer main and manholes project frontage built or funded by others -- 3/23/17 CBG Summary Items 2, 3
\$ 263,972	Upsized sewer main and manholes in-tract built or funded by others - 3/23/17 CBG Summary Item 4, 5, 6
\$ 217,500	Heidorn at Sand Creek traffic signal built or funded by others -- 3/23/17 CBG Summary Item 7
\$ 217,500	Hillcrest at Sand Creek traffic signal built or funded by others -- 3/23/17 CBG Summary Item 8
\$ 631,390	Public Park land donated or funded by others -- 3/23/17 CBG Summary Item 13
<u>\$ 830,000</u>	<u>Public Recreational Trail built or funded by others -- 3/23/17 CBG Summary Item 14</u>
\$ 3,144,427	Total Potential Fee Credit Reduction, derived from CBG Fee Creditable Items Summary Dated March 23, 2017

Fee Credit reduction example:

- Assumes Hillcrest at Sand Creek traffic signal built by others
- Assumes 100 permits have been issued, receiving credits of \$4,900 per unit

Total Fee Credits	Less Credit Reduction	Less 100 Unit Credits Given to Date	Remaining Credits	Remaining Units to be Credited
\$3,140,900	(\$217,500)	(\$490,000)	\$2,433,400	497 units

Result: 497 remaining units to be credited, resulting in 591 units receiving credits (of 641 total units).

EXHIBIT E

Southern Property Description

AUGUST 26, 2014  
JOB NO.: 974-050

**LEGAL DESCRIPTION  
LOT LINE ADJUSTMENT  
PARCEL TWO  
ANTIOCH, CALIFORNIA**

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF ANTIOCH, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL (B) OF THAT CERTAIN TRUST TRANSFER DEED RECORDED MAY 26, 2004, IN DOCUMENT NO. 2004-0199652 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, ALSO BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 1 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN.

**EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCELS OF LAND:**

(A) THAT PARCEL OF LAND DESCRIBED IN THE DEED TO PACIFIC GAS AND ELECTRIC COMPANY, RECORDED DECEMBER 12, 1991 IN BOOK 17077 OR 436.

(B) THAT PARCEL OF LAND DESCRIBED IN THE DEED TO PACIFIC GAS AND ELECTRIC COMPANY, RECORDED JANUARY 9, 2009 IN INSTRUMENT NO. 2009-3639, OFFICIAL RECORDS.

(C) BEGINNING AT THE NORTHEASTERN CORNER OF SAID SOUTHEAST QUARTER;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE NORTHERN LINE OF SAID SOUTHEAST QUARTER, NORTH 89°22'08" WEST (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 89°22'08" WEST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 1,562.40 FEET;

THENCE, LEAVING SAID NORTHERN LINE, SOUTH 14°36'23" EAST 281.45 FEET;

THENCE, SOUTH 61°13'41" EAST 51.04 FEET;

THENCE, NORTH 57°49'21" EAST 516.24 FEET;

THENCE, SOUTH 89°22'08" EAST 324.45 FEET;

THENCE, SOUTH 59°24'33" EAST 788.29 FEET TO A POINT ON THE EASTERN LINE OF SAID SOUTHEAST QUARTER;

THENCE, ALONG SAID EASTERN LINE, NORTH 00°55'42" EAST 409.59 FEET TO SAID POINT OF BEGINNING.

**TOGETHER THEREWITH, THE FOLLOWING DESCRIBED PARCEL OF LAND:**

F:\0800 - 0999\974-50\SURVEY\LEGAL DESCRIPTIONS\LG-004-LLA PARCEL TWO.DOC

APPLICANT PROPOSAL

**Att. 3-35**

BEING A PORTION OF PARCEL C, AS SAID PARCEL C IS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED SEPTEMBER 5, 2002, IN INSTRUMENT NO. 2002-0312734 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CORNER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 1 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE NORTHERN LINE OF SAID SOUTHEAST QUARTER, NORTH 89°22'08" WEST (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 89°22'08" WEST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 1,562.40 FEET TO A POINT ON THE SOUTHERN LINE OF SAID PARCEL C, SAID POINT BEING THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, LEAVING SAID SOUTHERN LINE OF PARCEL C, NORTH 14°36'23" WEST 100.92 FEET;

THENCE, NORTH 58°51'12" WEST 887.40 FEET;

THENCE, NORTH 89°23'27" WEST 91.74 FEET;

THENCE, SOUTH 75°29'23" WEST 158.77 FEET TO A POINT ON THE WESTERN LINE OF SAID PARCEL C;

THENCE, ALONG SAID WESTERN LINE, SOUTH 00°58'52" WEST 506.47 FEET TO THE SOUTHWESTERN CORNER OF SAID PARCEL C;

THENCE, FROM SAID SOUTHWESTERN CORNER, ALONG SAID SOUTHERN LINE OF PARCEL C, SOUTH 89°22'08" EAST 1,039.10 FEET TO SAID POINT OF BEGINNING.

CONTAINING 157.91 ACRES OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION



- L.S.

# ATTACHMENT “4”



**PLANNING COMMISSION  
RESOLUTION NO. 2017- ##**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN ORDINANCE TO  
REZONE TO PLANNED DEVELOPMENT DISTRICT (PD-17-01) FOR THE  
VINEYARDS AT SAND CREEK PROJECT**

**WHEREAS**, the City received an application from GBN Partners, LLC for approval of an Environmental Impact Report, a Development Agreement, General Plan Amendment, Planned Development rezone, Resource Management Plan, and a Vesting Tentative Map, for the development of a 650 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, An Initial Study, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified by the City Council on February 9, 2017 in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162; and

**WHEREAS**, the Planning Commission recommended adoption of the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program to the City Council; and

**WHEREAS**, the Planning Commission recommended adoption of the Addendum to the Final Environmental Impact Report ("FEIR") and Mitigation Monitoring and Reporting Program ("MMRP") to the City Council and the proposed modifications to the Vesting Tentative Map do not amend the project; therefore, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, a subsequent environmental document is not required; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, on September 20, 2017, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary; and

**WHEREAS**, in consideration of the rezone, the granting of such rezone will not adversely affect the comprehensive General Plan.

**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission does hereby make the following findings for recommendation to the City Council for approval of the proposed zone change:

1. The public necessity requires the proposed zone change. Each project in the Sand Creek Focus Area of the General Plan is required to rezone to a Planned Development (PD) District and adopt development standards.
2. That the subject property is suitable to the use permitted in the proposed zone change. The subject property is relatively flat, undeveloped land adjacent to existing residential development and is suitable to single family residential development.
3. That said permitted use is not detrimental to the surrounding property. The project is consistent with the adjacent residential development to the north and west and the project will construct infrastructure and improvements that will benefit surrounding properties.
4. That the proposed zone change is in conformance with the Antioch General Plan. The project conforms to the requirements of the General Plan for Medium Low Density Residential Development and the requirements of the General Plan Sand Creek Focus Area.

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Planning Commission does hereby recommend to the City Council APPROVAL of the draft Ordinance (Exhibit A) to rezone the approximately 141 acre project site located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007).

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing recommendation was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20<sup>th</sup> day of September, 2017, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

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FORREST EBBS  
Secretary to the Planning Commission

## **EXHIBIT A**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH TO REZONE  
THE APPROXIMATELY 141 ACRE VINEYARDS AT SAND CREEK PROJECT SITE  
(APNs 057-030-003, 057-030-007), FROM STUDY ZONE (S) TO PLANNED  
DEVELOPMENT DISTRICT (PD)**

The City Council of the City of Antioch does ordain as follows:

**SECTION 1:**

The City Council determined on \_\_\_\_\_, that, pursuant to Section 15074 of the Guidelines of the California Environmental Quality Act, and after full consideration of the Environmental Impact Report and Mitigation Monitoring and Reporting Program prepared for project, and on the basis of the whole record before it, the Environmental Impact Report for the Promenade/Vineyards at Sand Creek project should be certified.

**SECTION 2:**

At its regular meeting of September 20, 2017, the Planning Commission recommended that the City Council adopt the Ordinance to rezone the subject property from Study Zone (S) to Planned Development District (PD-17-01) for the Vineyards at Sand Creek Project.

**SECTION 3:**

The real property described in Exhibit A, attached hereto, is hereby rezoned from Study Zone (S) to Planned Development District (PD-17-01) for the Vineyards at Sand Creek Project, and the zoning map is hereby amended accordingly.

**SECTION 4:**

The development standards, as defined below, for the subject property (APNs 057-030-003, 057-030-007), known as The Vineyards at Sand Creek Project, are herein incorporated into this ordinance, and are binding upon said property.

**Development Standards for the Proposed Promenade/Vineyards at Sand Creek  
Planned Development District (PD-14-03)**

<b>Development Standards for the Proposed Vineyards at Sand Creek Planned Development District</b>	<b>Proposed PD Zoning Standards for Single-Family Residential (SF)</b>	<b>Proposed PD Zoning Standards for Active Adult Residential (AA)</b>
Maximum Density	<u>All Lot Types:</u> 4.6 dwelling units per gross acre (5.5 dwelling units per net developable acre)	<u>All Lot Types:</u> 4.6 dwelling units per gross acre (5.5 dwelling units per net developable acre)
Maximum Number of Units	<u>All Lot Types:</u> 641 Single Family Residences	<u>All Lot Types:</u> 641 Active Adult Residences
Minimum Lot Size	<u>Lot Type A:</u> 45'x80', average Lot Size 4,200 SF  <u>Lot Type B:</u> 50'x80', average Lot Size 4,630 SF  <u>Lot Type C:</u> 50'x90', average Lot Size 5,160 SF	<u>Lot Type A:</u> 45'x80', average Lot Size 4,200 SF  <u>Lot Type B:</u> 50'x80', average Lot Size 4,630 SF  <u>Lot Type C:</u> 50'x90', average Lot Size 5,160 SF
Minimum Lot Width	<u>Lot Type A:</u> All lots shall have a minimum width of 45 feet at a distance of 20 feet from the right-of-way.  <u>Lot Type B and C:</u> All lots shall have a minimum width of 50 feet at a distance of 20-feet from the right of way.	<u>Lot Type A:</u> All lots shall have a minimum width of 45 feet at a distance of 20 feet from the right-of-way.  <u>Lot Type B and C:</u> All lots shall have a minimum width of 50 feet at a distance of 20-feet from the right of way.
Minimum Front Yard Setbacks	<u>All Lot Types:</u> 10 foot minimum to porch front, 12 foot minimum to living space, (reserved for landscaping only, excluding driveways).	<u>All Lot Types:</u> 10 foot minimum to porch front, 12 foot minimum to living space, (reserved for landscaping only, excluding driveways).
Minimum Side Yard Setbacks	<u>Lot Type A Interior lot:</u> 4 foot minimum.  <u>Lot Type A Corner lot:</u> 4 foot interior/9 foot street-side.  <u>Lot Type B and C Interior lot:</u> 5 foot.  <u>Lot Type B and C Corner lot:</u>	<u>Lot Type A Interior lot:</u> 4 foot minimum.  <u>Lot Type A Interior 'Active Adult' Duet lot:</u> 0 foot minimum (duet) one side and 4 foot minimum alternate side.  <u>Lot Type A Corner lot:</u> 4 foot interior/9 foot street-side.

Development Standards for the Proposed Vineyards at Sand Creek Planned Development District	Proposed PD Zoning Standards for Single-Family Residential (SF)	Proposed PD Zoning Standards for Active Adult Residential (AA)
	<p>5 foot interior/10 foot street-side.</p> <p>Architectural pop-outs and encroachments to the front, side and rear shall be allowed pursuant to Municipal Code Section 9-5.801.</p>	<p><u>Lot Type A Corner 'Active Adult' Duet lot:</u> 0 foot minimum interior/9 foot streetside.</p> <p><u>Lot Type B and C Interior lot:</u> 5 foot.</p> <p><u>Lot Type B and C Interior 'Active Adult' Duet lot:</u> 0 foot minimum one side and 5 foot minimum alternate side.</p> <p><u>Lot Type B and C Corner lot:</u> 5 foot interior/10 foot street-side.</p> <p><u>Lot Type B and C Corner 'Active Adult' Duet lot:</u> 0 foot minimum interior/10 foot streetside.</p> <p>Architectural pop-outs and encroachments to the front, side and rear shall be allowed pursuant to Municipal Code Section 9-5.801.</p>
Minimum Rear Yard Setbacks	<p><u>Lot Type A, B, and C:</u> 10 foot minimum/12 foot average.</p> <p><u>Additionally, Lot Type C with lots deeper than 95 feet:</u> 15 foot minimum/18 foot average.</p>	<p><u>All Lot Types:</u> 10 foot minimum/12 foot average.</p> <p><u>Lot Type C with lots deeper than 95 feet:</u> 15 foot minimum/18 foot average.</p>
Accessory Structure Setbacks	<p><u>All Lot Types: Interior lot:</u> side yard and rear yard setback is zero feet.</p> <p><u>All Lot Types: Corner lot:</u> street side yard is 10 feet and rear /interior side yard is zero feet.</p>	<p><u>All Lot Types: Interior lot:</u> side yard and rear yard setback is zero feet.</p> <p><u>All Lot Types: Corner lot:</u> street side yard is 10 feet and rear /interior side yard is zero feet.</p>
Covered Patio	<u>All Lot Types:</u> Covered Patio/"California Room": A	<u>All Lot Types:</u> Covered Patio/"California Room": A

Development Standards for the Proposed Vineyards at Sand Creek Planned Development District	Proposed PD Zoning Standards for Single-Family Residential (SF)	Proposed PD Zoning Standards for Active Adult Residential (AA)
	<p>covered area, attached or detached to the main structure, without walls on two or more sides.</p> <p><u>Covered Patio setbacks:</u> 3' minimum to rear and side yard. The wall-less sides of Covered Patios at the rear elevation can encroach further than architectural popouts. A California Room with a solid covered roof (not trellis) is limited to cover no more than 33% of the required rear yard.</p>	<p>covered area, attached or detached to the main structure, without walls on two or more sides.</p> <p><u>Covered Patio setbacks:</u> 3' minimum to rear and side yard. The wall-less side of Covered Patios at the rear elevation can encroach further than architectural popouts. A California Room with a solid covered roof (not trellis) is limited to no more than 33% of the required rear yard.</p>
Maximum Building Height	<p><u>All Lot Types:</u> 35 feet for single-story profile and two-story structures.</p> <p><u>All Lot Types:</u> 25 feet for one-story structures.</p>	<p><u>All Lot Types:</u> 35 feet for single-story profile and two-story structures.</p> <p><u>All Lot Types:</u> 25 feet for one-story structures.</p>
Maximum Lot Coverage (gross first floor living plus garage area divided by the lot area and does not include Covered Patios/porches)	<p><u>Lot Type A and B:</u> 60% for single-story homes and 54% for two-story homes. No single-story homes required.</p> <p><u>Lot Type C:</u> 60% for single-story or single-story profile homes and 54% for two-story homes. No single-story homes required.</p>	<p><u>Lot Type A and B:</u> 60% for single-story; 54% for two-story and single-story profile homes. No two-story homes required.</p> <p><u>Lot Type C:</u> 63% for single story homes. 54% for two-story and single-story profile homes. No two-story homes required.</p> <p>If developed as an Active Adult community, all homes are expected to be single-story – either detached or as duets, based upon market preferences. No two-story homes shall be required in an Active Adult community.</p>

Development Standards for the Proposed Vineyards at Sand Creek Planned Development District	Proposed PD Zoning Standards for Single-Family Residential (SF)	Proposed PD Zoning Standards for Active Adult Residential (AA)
Parking and Driveways	<u>All Lot Types</u> : 20-foot minimum setback to garage door for lots with sidewalk along frontage. 18-foot minimum setback to garage door for lots without sidewalk along frontage. Garage provides at least two off-street parking spaces. One on-street parking space must be provided in front of, or for corner lots the parking space may be on the street side yard of - each house (at least 20 feet of curb with exceptions for cul-de-sacs).	<u>All Lot Types</u> : 20-foot minimum setback to garage door for lots with sidewalk along frontage. 18-foot minimum setback to garage door for lots without sidewalk along frontage. Garage provides at least two off-street parking spaces. One on-street parking space must be provided in front of, or for corner lots the parking space may be on the street side yard of - each house (at least 20 feet of curb with exceptions for cul-de-sacs).
Driveway Width	<u>Lot Type A</u> : Driveway width not to exceed 45% of lot frontage.  <u>Lot Type B and C</u> : Driveway width not to exceed 40% of lot frontage.	<u>Lot Type A</u> : Driveway width not to exceed 45% of lot frontage.  <u>Lot Type B and C</u> : Driveway width not to exceed 40% of lot frontage.
Landscape Requirements	The landscaped setbacks from arterial streets (Hillcrest Avenue, Heidorn Ranch Road and Sand Creek Road) shall be as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.	The landscaped setbacks from arterial streets (Hillcrest Avenue, Heidorn Ranch Road and Sand Creek Road) shall be as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.
Private Pool Club and Park	A private Pool Club and Parks shall be allowed within in the Vineyards at Sand Creek project.	A private Pool Club and Parks shall be allowed within in the Vineyards at Sand Creek project. If developed as an Active Adult Community, Parcel A Park and Parcel D Park may be adjusted to reflect the Active Adult programming. In no case shall this adjustment result in less park acreage in the gated community.

<b>Development Standards for the Proposed Vineyards at Sand Creek Planned Development District</b>	<b>Proposed PD Zoning Standards for Single-Family Residential (SF)</b>	<b>Proposed PD Zoning Standards for Active Adult Residential (AA)</b>
Model Home Complexes	One or more model home complexes that showcase the different lot sizes and products shall be allowed within the Vineyards at Sand Creek project.	One or more model home complexes that showcase the different lot sizes and products shall be allowed within the Vineyards at Sand Creek project.
RV Parking	The project shall not be required to provide onsite or offsite RV Parking. This exclusion shall be included in the community's CC&R's.	The project shall not be required to provide onsite or offsite RV Parking. This exclusion shall be included in the community's CC&R's.
Private Curbs	VSC Private Streets shall have the option of providing a beveled-curb as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.	VSC Private Streets shall have the option of providing a beveled-curb as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.

#### **SECTION 5:**

The City Council finds that the public necessity requires the proposed zone change; that the subject property is suitable to the use permitted in the proposed zone change; that said permitted use is not detrimental to the surrounding property; and that the proposed zone change is in conformance with the Antioch General Plan.



**SECTION 6:**

This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in a newspaper of general circulation printed and published in the City of Antioch.

\* \* \* \* \*

**I HEREBY CERTIFY** that the forgoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Antioch, held on the \_\_\_\_\_ of \_\_\_\_\_, 2017, and passed and adopted at a regular meeting thereof, held on the \_\_\_\_\_ of \_\_\_\_\_, 2017, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**

\_\_\_\_\_  
Mayor of the City of Antioch

**ATTEST:**

\_\_\_\_\_  
City Clerk of the City of Antioch

# ATTACHMENT “5”

**PLANNING COMMISSION  
RESOLUTION NO. 2017-\*\***

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ADDENDUM TO THE  
ENVIRONMENTAL IMPACT REPORT FOR MODIFICATIONS TO THE VESTING  
TENTATIVE MAP AND FINAL DEVELOPMENT PLAN AND AMENDEMENTS TO  
THE DEVELOPMENT AGREEMENT FOR THE VINEYARDS AT SAND CREEK  
PROJECT**

**WHEREAS**, the City Council, on February 9, 2016, approved an Environmental Impact Report, a Development Agreement, a Planned Development rezone, and a Vesting Tentative Map for the development of a 650 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the City received an application from GBN Partners, LLC for amendments to the Development Agreement, amendments to the Planned Development zoning, and modifications to the conditions of approval of the Vesting Tentative Map, to create a fee credit and subsidy program and to modify and reduce the project requirements for construction of roadways; and

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the City Council in its project approval on February 9, 2016; and,

**WHEREAS**, City staff has offered an alternative proposal [project] that would provide some of the benefits requested by the applicant's proposal, but would also address many of the City's concerns; and

**WHEREAS**, as demonstrated in the Addendum, all potential environmental impacts that could occur as a result of the project would be less than or similar to impacts previously identified in the 2016 Project EIR. Thus, the project's cumulative impact would be **less than or similar to** impacts previously identified in the 2016 Project EIR; and,

**WHEREAS**, the Addendum was made available to the public on the City of Antioch website and at the Community Development Department for a period of 5 days prior to the public hearing, from September 15 to September 20, 2017; and,

**WHEREAS**, the Planning Commission has reviewed the Addendum to the Environmental Impact Report for the Vineyards at Sand Creek Project and the comments received during the comment period; and,

**WHEREAS**, the Planning Commission gave notice of public hearing as required by law; and,

**WHEREAS**, on September 20, 2017, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary and recommended adoption to the City Council of the Addendum to the 2017 Environmental Impact Report for the Project; and,

**WHEREAS**, the custodian of the Addendum to the Environmental Impact Report is the Community Development Department and the Addendum to the Environmental Impact Report is available for public review on the second floor of City Hall in the Community Development Department, Monday - Friday 8:00 am - 11:30 am and it is attached as Exhibit A to this Resolution.

**NOW, THEREFORE, BE IT RESOLVED AND DETERMINED**, as follows:

1. The foregoing recitals are true and correct.
2. The Planning Commission of the City of Antioch hereby FINDS, on the basis of the whole record before it (including the Initial Study and all comments received) that:
  - a. The City of Antioch exercised overall control and direction over the CEQA review for the Project, including the preparation of the Addendum to the Environmental Impact Report, and independently reviewed the Addendum to the Environmental Impact Report; and,
  - b. There is no substantial evidence that the Project will have a significant effect on the environment once mitigation measures have been followed; and,
  - c. The Addendum to the Environmental Impact Report reflects the City's independent judgment and analysis.
3. The Planning Commission hereby RECOMMENDS that the City Council of the City of Antioch APROVE AND ADOPT the Addendum to the Environmental Impact Report for the Project.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20<sup>th</sup> day of September, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

FORREST EBBS  
Secretary to the Planning Commission

# ATTACHMENT “6”

**PLANNING COMMISSION  
RESOLUTION NO. 2017- ##**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING APPROVAL OF AN ALTERNATIVE TO THE MODIFICATIONS TO  
A VESTING TENTATIVE MAP/FINAL DEVELOPMENT PLAN FOR THE VINEYARDS  
AT SAND CREEK PROJECT**

**WHEREAS**, the City Council, on February 9, 2016, approved an Environmental Impact Report, a Development Agreement, a Planned Development rezone, and a Vesting Tentative Map for the development of a 641 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the City received an application from GBN Partners, LLC for amendments to the Development Agreement, amendments to the Planned Development zoning, and modifications to the conditions of approval of the Vesting Tentative Map, to create a fee credit and subsidy program and to modify and reduce the project requirements for construction of roadways ; and

**WHEREAS**, City staff has offered an alternative proposal [project] that would provide some of the benefits requested by the applicant's proposal, but would also address many of the City's concerns; and

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the City Council in its project approval on February 9, 2016; and,

**WHEREAS**, the Planning Commission recommended adoption of the Addendum to the Final Environmental Impact Report ("FEIR") and Mitigation Monitoring and Reporting Program ("MMRP") to the City Council and the proposed modifications to the Vesting Tentative Map do not amend the project; therefore, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, a subsequent environmental document is not required; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 20, 2017 duly held a public hearing, received and considered evidence, both oral and documentary; and

**WHEREAS**, the approval of the proposed modifications to the Vesting Tentative Map will not adversely affect the comprehensive General Plan and are consistent with the General Plan and carry out the purposes of the General Plan as amended.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Commission makes the following required findings for approval of a Final Development Plan:

1. Each individual unit of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability because each parcel has its own independent parking and access. The uses proposed will not be detrimental to present and potential surrounding uses but instead will have a beneficial effect which could not be achieved under another zoning district due to the General Plan and zoning designations for the project site and the requirement to establish a Planned Development Zoning District and receive approval for a Final Development Plan for each project zoned Planned Development in the City of Antioch;
2. The streets and thoroughfares proposed meet the standards of the City's Growth Management Program and adequate utility service can be supplied to all phases of the development because the project will be constructing all the required streets and utilities to serve the project and the ultimate design, location and size of these improvements will be subject to the approval of the City Engineer;
3. There are no commercial components of the Project;
4. Any deviation from the standard zoning requirements is warranted by the design and additional amenities incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted. The project is a small lot subdivision and is substantially in conformance with the applicable zoning requirements for residential development and the Planned Development District development standards established for the project site;
5. The area surrounding the PD district can be planned and zoned in coordination and substantial compatibility with the proposed development because the proposed development is consistent with the General Plan and the area around the Project will also be required to develop according to the General Plan policies; and,
6. The Project and the PD District conform to the General Plan of the City in that the small lot single family residential uses are consistent with the General Plan designation of Medium Low Density Residential for the project site; and,



7. The Conditions of approval protect the public safety, health and general welfare of the users of the project and surrounding area. In addition, the conditions ensure the project is consistent with City standards.

**BE IT FURTHER RESOLVED** that the Planning Commission does hereby make the following findings for approval of a Vesting Tentative Parcel Map:

1. That the subdivision, design and improvements are consistent with the General Plan, as required by Section 66473.5 of the Subdivision Map Act and the City's Subdivision Regulations. The site has a General Plan Designation of Medium Low Density Residential and is zoned Planned Development and the subdivision will accommodate uses that are consistent with the General Plan on each of the lots created by the subdivision; and,
2. That the subdivision proposed by the Vesting Tentative Map generally complies with the rules, regulations, standards and criteria of the City's Subdivision Regulations. The proposed subdivision meets the City's criteria for the map. The Planning Commission has reviewed the Vesting Tentative Map and evaluated the effects of the subdivision proposed and has determined that the Vesting Tentative Map as conditioned complies with and conforms to all the applicable rules, regulations, standards, and criteria of the City's Subdivision Regulations.
3. The Conditions of approval protect the public safety, health and general welfare of the users of the project and surrounding area. In addition, the conditions ensure the project is generally consistent with City standards.

**NOW THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Antioch does hereby recommend APPROVAL of an alternative to amendments to the Vesting Tentative Map and Final Development Plan (attached Exhibit A), for the development of a 641 unit single family residential community on a portion of approximately 141 acres on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007) subject to the following conditions:

**A. GENERAL CONDITIONS**

1. The development shall comply with the City of Antioch Municipal Code, unless a specific exception is granted thereto, or is otherwise modified in these conditions or in the development agreement.
2. Concurrent with the first submittal of grading or improvement plans, the applicant shall submit a site plan exhibit showing the site plan as modified by conditions and approvals.

3. Architecture, sound walls, fencing, mailboxes, lighting, any accent paving, addressing, and landscaping for the entire project shall be subject to review and approval by the Planning Commission.
4. Sound wall locations and elevations for each phase of the project shall be included on the grading plan(s).
5. This approval expires two years from the date of approval (Expires \_\_\_\_\_, 2018) or alternate date as identified in the signed Development Agreement, pursuant to the Map Act as amended.
6. The applicant shall defend, indemnify, and hold harmless the City in any action brought challenging any land use approval or environmental review for the Project. In addition, applicant shall pay any and all costs associated with any challenge to the land use approval or environmental review for the Project, including, without limitation, the costs associated with any election challenging the Project.
7. Permits or approvals, whether discretionary or ministerial, will not be considered if the applicant is not current on fees, reimbursement and/or other payments that are due the City.
8. All required easements or rights-of-way for improvements shall be obtained by the applicant at no cost to the City of Antioch. Advance permission shall be obtained from any property or, if required from easement holders, for any work done within such property or easements.
9. All easements of record that are no longer required and affect individual lots or parcels within this project shall be removed prior to or concurrently with the recordation of the final map or executed by separate subsequent instrument as approved by the City Engineer.
10. The applicant shall establish a Home Owners Association (HOA) for this project in conformance with the regulations set forth by the State Bureau of Real Estate. The HOA shall be responsible for maintaining:
  - a. All HOA owned parcels (includes private streets and parks).
  - b. Landscaping in City rights-of-way north of the northerly curb line of Sand Creek Road, west of the westerly curb line of Heidorn Ranch Road, and east of the easterly curb line of Hillcrest Avenue.
  - c. Storm drain facilities (pipes, structures, and basins) north of the northerly curb line of Sand Creek Road, west of the westerly curb line of Heidorn Ranch Road, and east of the easterly curb line of Hillcrest Avenue.
  - d. Sound walls.

- e. The City shall be reimbursed if it maintains landscape, roadway (including striping and signing), concrete (including sidewalk, curb, gutter, and curb ramps), storm drain facilities, street lighting, or all other HOA facilities and amenities that are not maintained by the HOA to an acceptable City level.
- 11. Prior to issuance of the 1<sup>st</sup> building permit, the applicant shall provide draft CC&R's to the City for review. The applicant shall incorporate City comments into the application to the State or provide documentation acceptable to the City for omitting the comments. Prior to issuance of the 25<sup>th</sup> production building permit or issuance of the 1<sup>st</sup> Certificate of Occupancy, the applicant shall provide written confirmation of State approval of the CC&R's as outlined in the Development Agreement or as approved by the Community Development Director.
  - 12. All advertising signs shall be consistent with the Sign Ordinance or as approved by the Community Development Director.
  - 13. The property shall annex into or establish and participate in a Lighting and Landscape District (LLD) and accept a level of annual assessments sufficient to maintain:
    - a. The street lights and landscaping adjacent to the project area excluding those areas to be maintained by the HOA (generally medians on Sand Creek Road, half of the median on Heidorn Ranch Road, and half of the median on Hillcrest Avenue).
    - b. The C.3 basin and trails south of Sand Creek Road (Parcel G).
    - c. The annual assessment shall cover the actual annual cost of maintenance as described in the Engineer's Report.

**B. TENTATIVE MAP CONDITIONS**

- 1. The Tentative Map approval is subject to the time lines established in the State of California Subdivision Map Act, as amended.
- 2. Approval is based upon substantial conformance with the Vesting Tentative Maps dated May 20, 2015, (Subdivision No. 9390).
- 3. Approval of this tentative map shall not be construed as a guarantee of future extension or re-approvals of this or similar maps.

**C. CONSTRUCTION CONDITIONS**

1. The use of construction equipment shall be as outlined in the Antioch Municipal Code. Requests for alternative days/time may be submitted in writing to the City Engineer for consideration.
2. The project shall be in compliance with and supply all the necessary documentation for AMC 6-3.2: Construction and Demolition Debris Recycling.
3. Standard dust control methods and designs shall be used to stabilize the dust generated by construction activities. The applicant shall post dust control signage with an applicable contact and phone number, City staff, and the air quality control board.
4. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.

**D. SITE AND PROJECT DESIGN**

1. Provisions for mail delivery in the subdivision area shall be reviewed and approved by staff prior to the approval of the small lot final map(s). Applicant shall install mail box facilities as required by the City Engineer.
2. Prior to the approval of the grading plan(s), the City Engineer shall determine if it is necessary to engage soils and structural engineers, as well as any other professionals, deemed necessary to review and verify the adequacy of the building plans submitted for this project. If deemed necessary by the City Engineer, this condition may include field inspections by such professionals to verify implementation of the plans. Costs for these services shall be borne by the applicant.
3. All proposed improvements shall be constructed to City standards or as approved by the City Engineer.
4. All public streets shall intersect at approximately 90 degrees or as approved by the City Engineer.
5. All driveways shall be perpendicular to the street centerline, or as approved by the City Engineer.
6. All driveways shall be a minimum of five feet from curb return.

7. Monolithic sidewalks with beveled curb shall be 6" thick and reinforced as approved by the City Engineer. Detached sidewalks that will be crossed by vehicles at driveway locations shall be 6" thick and reinforced as approved by the City Engineer. Minimum sidewalks widths shall be as follows:
  - a. Adjacent to beveled curb, 4 feet excluding curb (bevel curb to be 12" deep by 3" high with ½" lip and 18" gutter).
  - b. Adjacent to vertical curb, 4.5 feet excluding curb.
  - c. Detached sidewalk, 5 feet.
8. A minimum of a 20 foot tangent shall extend beyond the return at intersections, or as approved by the City Engineer.
9. All lot sidelines shall be perpendicular or radial to the fronting street centerline, or as approved by the City Engineer.
10. Sight distance triangles shall be maintained per 9-5.1101, Site Obstructions at Intersections of the Antioch Municipal Code or as approved by the City Engineer.
11. Rear and side yard fencing shall be provided for all units. All fences shall be located at the top of slope, or as approved by the City Engineer.
12. In cases where a fence is to be built in conjunction with a retaining wall, and the wall face is exposed to a side street, the fence shall be setback a minimum of three feet (3') behind the retaining wall per 9-5.1603 or as approved by the City Engineer.
13. The applicant shall install streetlights within the project area.
14. Street names shall be as approved by the Planning Commission as shown on Exhibit C. Future changes to street names will require Planning Commission review and approval.
15. The applicant shall provide a "checklist" of universal design accessibility features to home buyers as required by Section 17959.6 of the Health and Safety Code.
16. All improvements for each lot (water meters, sewer cleanouts, etc.) shall be contained outside of the driveway and within the lot and the projection of its sidelines, or as approved by the City Engineer.
17. Cul-de-sac parking shall be provided as required by the City Engineer.

18. One on-street parking space per lot shall be located within close proximity to the unit served as approved by the City Engineer.
19. The applicant and then the HOA, once the CC&Rs are operative, shall maintain all undeveloped areas within this subdivision in a fire-safe and attractive manner.
20. All fencing adjacent to public open space (trails and basins), shall be wrought iron, black vinyl clad chain link with powder coated posts, or other material as approved by the City Engineer.
21. Sound walls shall be constructed along the lots adjoining or adjacent to Sand Creek Road (Parcel C), Hillcrest Avenue (Parcels B & C), Heidorn Ranch Road (Parcel C & F), 'A' Street between Hillcrest Avenue and 'E' Street (Parcels B & C), and 'B' Street between 'Q' Street and Heidorn Ranch Road (Parcels C & F). Fencing/wall/berm along the street side of Parcel E shall be approved by the Planning Commission. Sound walls along Sand Creek Road shall be a minimum of seven (7) feet high or six (6) feet on a one (1) foot berm in conformance to the sound study. Sound walls at other locations shall be a minimum of six (6) feet high and in conformance to the sound study.
22. All two-car garages shall be a minimum of 20 feet by 20 feet clear inside dimensions or as approved by the Community Development Director.
23. Prior to submitting a final map that creates buildable lots, the applicant shall provide bonding in a sufficient amount to secure all necessary improvements for the phase as described throughout these Conditions of Approval. Such bonds will be released upon satisfactory completion of the corresponding improvements by the applicant.
24. All trails and access roadways shall be constructed as shown on the Tentative Map to the standards for a Class I Bike Path in the 6<sup>th</sup> Edition of the Caltrans Highway Design Manual or as approved by the City Engineer. The basin access roadway/trail, the Calpine facility access roadway, and landscape on Parcel E shall be constructed in conjunction with the basin on Parcel E. The combination trail/access roadway around the basin on Parcel G shall be constructed in conjunction with the basin on Parcel G.
25. Concurrent with the construction of the adjacent roadways, the applicant shall construct bus turnouts, shelters and benches (or lean bar as approved by Tri-Delta Transit) at the following locations or as approved by the City Engineer:
  - a. East side of Hillcrest Avenue north of 'A' Street.
  - b. West side of Heidorn Ranch Road south of 'B' Street.

26. The shelters shall be constructed with the roadway if bus service to the location is anticipated within the next 6 months by Tri-Delta Transit. If bus service is ultimately anticipated, but not within the next 6 months, a deposit of \$6,000 will be made by the applicant to Tri-Delta Transit. If bus service is not provided to the location and the shelter is not constructed within 10 years of the deposit, the \$6,000 will be returned to the applicant.

**E. PHASING CONDITIONS**

1. Prior to development of any phase of the subdivision, the applicant shall secure a use permit and design review approval from the Planning Commission for that phase.
2. The order and phasing boundaries of project construction shall conform to the proposed Phasing Plan, dated March 26, 2015, Exhibit B to this resolution and the 2017 Amendment to the FDP, Proposed Right of Way Dedication and Phasing Exhibit, Vineyards at Sand Creek, dated July 11, 2017. Proposed changes to the Phasing Plan shall be submitted to the City prior to or in conjunction with the use permit application required for the affected phase(s). Changes to the Phasing Plan are subject to approval by the Zoning Administrator or the Planning Commission. Use permits applications are subject to approval by the Planning Commission.
3. **Phase One:**  
Prior to the issuance of the 1<sup>st</sup> building permit within Phase One, the following improvements shall be completed to the satisfaction of the City Engineer:
  - a. Heidorn Ranch Road, Northern Extension: Heidorn Ranch Road shall be constructed with west side curb and gutter and west side median curb and gutter, utilities to be placed under the west half of the roadway (with needed laterals for street lights, fire hydrants, irrigation, etc.) and paving for the future southbound bike, turn, and travel lanes from approximately the south right of way of East Bay MUD to the south curb returns of 'B' Street. Design shall be coordinated with the City of Brentwood or their designee.

Prior to the issuance of the 25<sup>th</sup> building permit and the 1<sup>st</sup> Production Certificate of Occupancy for a lot within Phase One, the following improvements shall be completed to the satisfaction of the City Engineer:

- b. Heidorn Ranch Road: Tapers to Heidorn Ranch Road shall be constructed at the northerly and southerly transitions to existing conditions (existing condition is referenced to the time of construction -- the conditions to the north may have been improved by the Heidorn Village development and transitions will need to be to those improvements), landscaped western right of way including

Parcel F, LED street lights, turn pockets and other appurtenances, and all utilities to be placed below the surface improvements, including interconnect conduit and pull boxes, from approximately the south right of way of East Bay MUD through the south curb returns of 'B' Street. Improvements shall include conduits and pull boxes for a traffic signal at Heidorn Ranch Road and 'B' Street, all as approved by the City Engineer. Design shall be coordinated with the City of Brentwood or their designee. The roadway shall be striped as a north/south roadway or as directed by the City Engineer. The developer shall deposit funds for half of the design, installation, inspection, and administrative costs of landscaping and irrigation for the median. Should any portion of these improvements be constructed by the City of Brentwood (or others), the applicant shall reimburse the City of Brentwood (or others) for the applicant's fair share of the work (design, construction, inspection, etc.).

- c. Heidorn Ranch Road/'B' Street traffic signal: The applicant shall deposit funds for the design, construction, inspection, and administrative costs plus a 10% contingency for a traffic signal at Heidorn Ranch Road/'B' Street. Should the City of Brentwood (or developers in the City of Brentwood) participate financially in the installation of a signal at this location, any excess funds after the completion of the construction will be refunded to the applicant. Any shortage in funds after the completion of the construction will be due from the applicant not later than thirty (30) days following receipt by the applicant of notice from the City of the amount due.
- d. 'B' Street: 'B' Street shall be fully constructed from Heidorn Ranch Road to the easterly curb returns of 'N' Street including lighting and median and right of way landscaping.

**4. Phase Two:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Two, the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase One.
- b. 'B' Street extension: Completion of 'B' Street through 'M' Street including lighting and median and right of way landscaping.
- c. Parcel A Park: The park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50<sup>th</sup> building permit for a lot within Phase Two, the following shall be completed to the satisfaction of the City Engineer:

- d. Parcel A Park: Park construction.

**5. Phase Three:**



Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Three, the following shall be completed to the satisfaction of the City Engineer:

- a. Hillcrest Avenue, Northerly Extension: Hillcrest Avenue shall be constructed with east side curb, gutter, sidewalk and landscaping, including Parcel B, east side median curb and gutter, LED street lights, and utilities to be placed under the east half of the roadway, including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and pavement for the northbound bike, turn, and travel lanes from the existing stub of Hillcrest Avenue to the south curb returns of 'A' Street. The transition from the existing 4-lane section of Hillcrest Avenue shall include a 2" grind and overlay of the existing asphalt south of Prewett Ranch Drive and be as approved by the City Engineer. The new portion of the roadway shall be striped as a north/south roadway or as directed by the City Engineer. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and 'A' Street, all as approved by the City Engineer. The developer shall deposit funds for half of the design, installation, inspection, and administrative costs of landscaping and irrigation for the median. Should any portion of these improvements be constructed by the Aviano development (or others), the applicant shall reimburse the Aviano development (or others) for the work (design, construction, inspection, etc.).
- b. Hillcrest Avenue/'A' Street traffic signal: The applicant shall deposit funds for half of the design, construction, inspection, and administrative costs plus a 10% contingency for a traffic signal at Hillcrest Avenue/'A' Street. Any excess funds after the completion of the construction will be refunded to the applicant. Any shortage in funds after the completion of the construction will be due from the applicant not later than thirty (30) days following receipt by the applicant of notice from the City of the amount due.
- c. 'A' Street: 'A' Street shall be fully constructed to the from Hillcrest Avenue to the westerly curb returns of 'H' Street including lighting and median and right of way landscaping.

**6. Phases Four, Five and Six:**

Prior to approval of a small lot Final Map within Phase Four, Five or Six, the applicant shall record a lien against the property immediately to the south of the project (APN 057-050-024), in favor of and in a form approved by the City, in an amount equal to the cost of design, construction, inspection, testing, and administration plus a 10% contingency of the second two lanes of Sand Creek Road with all appurtenances and landscaping as approved by the City Engineer (the "Sand Creek Road Additional Lanes"). The amount shall escalate with the ENR San Francisco Bay Area yearly construction cost index. Such lien shall be enforceable by the City if Developer fails to construct the Sand Creek Road

Additional Lanes in accordance with the requirements of Section 2.13 of that certain Amended and Restated Development Agreement Between the City of Antioch and GBN Partners, LLC, approved by the City of Antioch on **[date]** and recorded on **[date]**.

Prior to or in concurrence with approval of the first small lot Final Map within Phase Four, Five or Six, the applicant shall dedicate right of way for the ultimate configuration of Sand Creek Road (112').

Prior to approval of a small lot Final Map within Phase Four, Five or Six, the following improvements shall be completed OR a bond shall be provided securing their construction:

- a. Any uncompleted improvements required of Phases One, Two and Three.
- b. Heidorn Ranch Road, Southern Extension: Heidorn Ranch Road shall be constructed with west side curb, gutter and sidewalk and west side median curb and gutter, utilities to be placed under the west half of the roadway (with needed laterals for street lights, fire hydrants, irrigation, etc.) and paving for the southbound bike, turn, and travel lanes, landscaped easterly right of way including the adjacent portion of Parcel C, and other appurtenances, and all utilities, including interconnect conduit and pull boxes, from 'B' Street through and including the intersection with Sand Creek Road. Design shall be coordinated with the City of Brentwood or their designee. The roadway shall be striped as a north/south roadway or as directed by the City Engineer. Should any portion of these improvements be constructed by the City of Brentwood (or others), the applicant shall reimburse the City of Brentwood (or others) for the work (design, construction, inspection, etc.).
- c. Heidorn Ranch Road/Sand Creek Road Traffic Signal: The applicant shall deposit funds for half of the design, construction, inspection, and administrative costs plus a 10% contingency for a traffic signal at Heidorn Ranch Road/Sand Creek Road. Any excess funds after the completion of the construction will be refunded to the applicant. Any shortage in funds after the completion of the construction will be due from the applicant not later than thirty (30) days following receipt by the applicant of notice from the City of the amount due.
- d. Sand Creek Road: Sand Creek Road shall be constructed from the boundary of the Cities of Antioch and Brentwood to Hillcrest Avenue. The road shall be constructed to the configuration approved by the City of Antioch Planning Commission and/or City Engineer in coordination with the City of Brentwood. The design shall include an interim configuration compatible with an ultimate width of 80 foot curb to curb and 112 foot right-of-way from the

centerline of Hillcrest Avenue through the easterly curb return of Heidorn Ranch Road. The interim design shall include a 2' left shoulder, one 12 foot lane and an 8 foot bike lane westbound and a 2' shoulder, one 12 foot lane and an 8 foot bike lane eastbound with temporary AC median curbs, landscaped median and northerly right of way (including the adjacent portion of Parcel C) and southerly right of way, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit. Improvements shall include conduits and pull boxes for traffic signals at Sand Creek Road/Hillcrest Avenue and Sand Creek Road/Heidorn Ranch Road, all as approved by the City Engineer.

- e. The multi-use Sand Creek Regional Trail shall be constructed to the west, south and east of the basin, and landscaping installed on Parcel G as approved by the Park and Recreation Commission. If allowed by the resource agencies, the Regional Trail shall be unfenced (on the Sand Creek side) and the surface shall be as required by the City Engineer. The trail shall be as close to the creek as allowed by the resource agencies. The applicant shall coordinate with the Aviano Farms development to the west, and the City of Brentwood to the east, for the location and elevation of connection points.
- f. Hillcrest Avenue, Southern Extension: Hillcrest Avenue shall be constructed with east side curb, gutter, and sidewalk and landscaping, including Parcel C, and east side median curb and gutter, median LED street lights, and utilities to be placed under the east half of the roadway including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and asphalt for the northbound bike, turn, and travel lanes from 'A' Street to Sand Creek Road. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and Sand Creek Road, interconnect conduit and pull boxes, from 'A' Street thru and including the intersection of Sand Creek Road (if proposed for the east side of the roadway), all as approved by the City Engineer. The developer shall deposit funds for half of the design, installation, inspection, and administrative costs of landscaping and irrigation for the median. Should any portion of these improvement be constructed by the Aviano development (or others), the applicant shall reimburse the Aviano development (or others) for the work (design, construction, inspection, etc.).
- g. Hillcrest Avenue/Sand Creek Road Traffic Signal: The applicant shall deposit funds for half of the design, construction, inspection, and administrative costs plus a 10% contingency for a traffic signal at Hillcrest Avenue/Sand Creek Road. Any excess funds after the completion of the construction will be refunded to the applicant. Any shortage in funds after the completion of the construction will

- be due from the applicant not later than thirty (30) days following receipt by the applicant of notice from the City of the amount due.
- h. Parcel D Park.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Four, Five, or Six, Parcel A Park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50<sup>th</sup> building permit for a lot within Phase Four, Five, or Six, the construction of Parcel A Park shall be completed to the satisfaction of the City Engineer.

**7. Phase Four:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Four, the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase One.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Four, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- b. Heidorn Ranch Road, Southern Extension: Heidorn Ranch Road as described in Condition E.6b.
- c. Heidorn Ranch Road/Sand Creek Traffic Signal: Heidorn Ranch Road/Sand Creek Traffic Signal as described in Condition E.6c.
- d. Sand Creek Road: Sand Creek Road as described in Condition E.6d.
- e. The multi-use Sand Creek Regional Trail as described in Condition E.6e.
- f. Parcel D Park: The park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50<sup>th</sup> building permit for a lot within Phase Four, the following shall be completed to the satisfaction of the City Engineer:

Parcel D Park: Park construction.

Prior to the issuance of the 35<sup>th</sup> building permit for a lot within Phase Four, the preceding improvements (E.7b through E.7e) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 75<sup>th</sup> building permit for a lot within Phase Four, the preceding improvements (E.7b through E.7e) shall be completed to the satisfaction of the City Engineer.

**8. Phase Five:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Five, one of the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase Four, OR
- b. Any uncompleted improvements required of Phase Six.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Five, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- c. All of the improvements described in Condition of Approval E.6d and E.6e shall be installed. E.6e may be deferred by the City Engineer to facilitate construction of the overall trail.

Prior to the issuance of the 35<sup>th</sup> building permit for a lot within Phase Five, the preceding improvements (E.8c) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 75<sup>th</sup> building permit for a lot within Phase Five, the preceding improvements (E.8c) shall be completed to the satisfaction of the City Engineer.

**9. Phase Six:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Six, the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase Three.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Six, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- b. Hillcrest Avenue, Southern Extension: Hillcrest Avenue as described in condition E.6f.
- c. Hillcrest Avenue/Sand Creek Road Traffic Signal: Hillcrest Avenue/Sand Creek Traffic Signal as described in Condition E.6g.
- d. Sand Creek Road: Sand Creek Road as described in Condition E.6d.
- e. The multi-use Sand Creek Regional Trail as described in Condition E.6e.

Prior to the issuance of the 30<sup>th</sup> building permit for a lot within Phase Six, the preceding improvements (E.9b through E.9e) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 60<sup>th</sup> building permit for a lot within Phase Six, the preceding improvements (E.9b through E.9e) shall be completed to the satisfaction of the City Engineer.

**F. LANDSCAPING**

1. All right-of-way landscaping (excluding adjacent to front and side yards), medians, private parks, water quality & detention basins, and open space areas north of the northerly curb line of Sand Creek Road, east of the easterly curb line of Hillcrest Avenue and west of the westerly curb line of Heidorn Ranch Road shall be installed by the applicant and maintained by the applicant or HOA.
2. Parcel G shall be landscaped by the applicant and maintained by the LLD.
3. A minimum of one 15 gallon tree shall be located within 10' of the sidewalk, or within 10' of the back of curb at locations without sidewalk, in the front yard of each lot and the side yard of corner lots prior to the issuance of the certificate of occupancy. The type and location of the tree shall be as approved by the City Engineer.
4. Based on drought conditions, the City Engineer has the authority to delay some or all of the landscape conditions of approval.

**G. FIRE REQUIREMENTS**

1. All weather access roads and a water supply shall be provided prior to commencing any combustible construction, as required by the Fire Chief.
2. Street widths shall be subject to approval by the Contra Costa County Fire Protection District and the City Engineer.
3. The applicant shall comply with the following conditions provided by the Contra Costa County Fire Protection District:
  - a. Access roadways of less than 28-feet unobstructed width shall have NO PARKING – FIRE LANE signs posted or curbs painted red with the words NO PARKING – FIRE LANE clearly marked, per 22500.1 CVC.
  - b. The cul-de-sacs or turnarounds shall have an outside turning radius of a minimum of a 45' or as approved by the City Engineer. Should the sidewalk be included in the turning radius, it shall be clear of street lights, fire hydrants and other obstructions.
  - c. The applicant shall provide an adequate reliable water supply for fire protection with a minimum fire flow of 1750 GPM. Required flow shall be delivered from not more than one hydrant flowing

- simultaneously for the duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (508.1), (B105) CFC
- d. The applicant shall provide hydrants of the East Bay type, which shall be maintained by the City. Approximate hydrant locations will be determined by the Fire District and approved by the City Engineer.
  - e. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC. Gravel roads are not considered all-weather roadways for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum sub base materials and capable of supporting the designated gross vehicle weight specified above.
  - f. Premises identification shall be provided. Such numbers shall contrast with their background and be a minimum of four inches high with ½-inch stroke or larger as required to be readily visible from the street. (505.1) CFC, (501.2) CBC
  - g. Plan review and inspection fees shall be submitted at the time of plan review submittal. Checks may be made payable to Contra Costa County Fire Protection District (CCCFPD).
4. Submit plans to: Contra Costa County Fire Protection District, 2010 Geary Road, Pleasant Hill, CA 94523.

#### **H. FEES**

- 1. The applicant shall pay all City fees which have been established by the City Council and as required by the Antioch Municipal Code and the Development Agreement.
- 2. The applicant shall pay all pass through fees. Fees include but are not limited to
  - a. East Contra Costa Regional Fee and Financing Authority (ECCRFFA) Fee in effect at the time of building permit issuance.
  - b. Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance. (See G.3.g.)
  - c. Contra Costa County Map Maintenance Fee in affect at the time of recordation of the final map(s). (currently \$50 per lot or parcel).
  - d. Contra Costa County Flood Control District Fees.
  - e. School Impact Fees.
  - f. Delta Diablo Sewer Fees.
  - g. Contra Costa Water Fees.
- 3. Prior to filing of the first final map for recording, the applicant shall establish (or annex into an existing) a police financing district and shall

agree to accept a level of annual assessments (with a CPI escalator) or provide an additional funding source, excluding tax measures and acceptable to the City, sufficient to fund police to the level identified in the General Plan.

**I. MODEL HOMES**

1. Prior to the placement of any sales trailers, plans shall be submitted to the Engineering Department for review and approval. Any trailer shall be placed out of the public right-of-way and shall have its own parking lot.
2. The model home complex parking lot location and design shall be subject to City Engineer approval.
3. The model home landscaping shall be drought tolerant, with total area of spray irrigation for the complex not to exceed 50 percent of the landscaping area.

**J. GRADING**

1. The grading operation shall take place at a time, and in a manner, so as not to allow erosion and sedimentation. The slopes shall be landscaped and reseeded as soon as possible after the grading operation ceases. Erosion measures shall be implemented during all construction phases in accordance with an approved erosion and sedimentation control plan.
2. All lots and slopes shall drain to approved drainage facilities as approved by the City Engineer.
3. All grading shall be accomplished in a manner that precludes surface water drainage across any property line.
4. All lots shall be graded to drain positively from the rear to the street or as approved by the City Engineer.
5. The swales adjacent to the house structure shall have a minimum of a one (1) percent slope or as directed by the City Engineer.
6. The applicant shall make a good faith effort to coordinate the grading along the project borders with affected property owners. All off-site grading is subject to the approval of the affected property owners and the City Engineer. The applicant shall submit written authorization to "access, enter, or grade" adjacent properties prior to performing any work.



7. Any sale of a portion (or portions) of this project to other developers shall include the necessary agreement and/or grading easements to assure that project-wide grading conforms to the approved map and conditions of this resolution.
8. The grading plan for this development shall be approved by the City Engineer.
9. All elevations shown on the improvement plans shall be on the USGS 1929 sea level datum or as approved by the City Engineer.
10. Retaining walls shall not be constructed in City right-of-way or other City maintained parcels unless approved by the City Engineer.
11. All retaining walls shall be of masonry construction.
12. All retaining walls shall be reduced in height to the maximum extent practicable and the walls shall meet the height requirements in the front yard setback and sight distance triangles as approved by the City Engineer.
13. The back to back or side to side grading transitions from lot to lot shall have a maximum slope of 2:1, and shall be accommodated entirely on the lower lot or as approved by the City Engineer.
14. The minimum concrete gutter flow slope shall be 0.75%.
15. All property lines shall be located at the top of slope.

**K. CONSERVATION/NPDES**

1. Water conservation measures, including low volume toilets, flow restrictors in showers and the use of drought tolerant landscaping, shall be used.
2. The Project shall meet or exceed Tier 1 of the CALGreen Building Code.
3. The project shall comply with all Federal, State, and City regulations for the National Pollution Discharge Elimination System (NPDES) (AMC§6-9). (Note: Per State Regulations, NPDES Requirements are those in affect at the time of the Final Discretionary Approval.) Under NPDES regulations, the project is subject to provision C.3: New development and redevelopment regulations for storm water treatment. Provision C.3 requires that the project include storm water treatment and source control measures, as well run-off flow controls, so that post-project runoff does not exceed estimated pre-project runoff. C.3 regulations require the

submittal of a Storm Water Control Plan (SWCP) that demonstrates how compliance will be achieved. The SWCP shall be submitted simultaneously with the project plans. For the treatment and flow-controls identified in the approved SWCP, a separate Operation and Maintenance Plan (O&M) shall be submitted and approved before the Building Department will issue Certificate of Occupancy permits. Both the approved SWCP and O&M plans shall be included in the project CC&Rs. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute any agreements identified in the Storm Water Control Plan that pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMPs. Already stated in COAs below, 5.c and 5.h.w.

4. The applicant shall comply with the Storm Water Treatment Plan dated \_\_\_\_\_.
5. The following requirements of the federally mandated NPDES program (National Pollutant Discharge Elimination System) shall be complied with as appropriate, or as required by the City Engineer:
  - a. Prior to issuance of permits for building, site improvements, or landscaping, the applicant shall submit a permit application consistent with the applicant's approved Storm Water Control Plan, and include drawings and specifications necessary for construction of site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants.
  - b. The Storm Water Control Plan shall be certified by a registered civil engineer, and by a registered architect or landscape architect as applicable. Professionals certifying the Storm Water Control Plan shall be registered in the State of California and submit verification of training, on design of treatment measures for water quality, not more than three years prior to the signature date by an organization with storm water treatment measure design expertise (e.g., a university, American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association), and verify understanding of groundwater protection principles applicable to the project site (see Provision C.3.i of Regional Water Quality Control Board Order R2 2003 0022).
  - c. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for review and approval by the City, a final Storm Water BMP Operation and Maintenance Plan in accordance with City of Antioch guidelines. This O&M plan shall

- incorporate City comments on the draft O&M plan and any revisions resulting from changes made during construction. The O&M plan shall be incorporated into the CC&Rs for the Project.
- d. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute and record any agreements identified in the Storm Water Control Plan which pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMPs.
  - e. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner.
  - f. Collect and convey all storm water entering, and/or originating from, the site to an adequate downstream drainage facility without diversion of the watershed. Submit hydrologic and hydraulic calculations with the Improvement Plans to Engineering Services for review and approval.
  - g. Prior to issuance of the grading permit, submit proof of filing of a Notice of Intent (NOI) by providing the unique Waste Discharge Identification Number (WDID#) issued from the Regional Water Quality Control Board.
6. Submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) for review to the Engineering Department prior to issuance of a building and/or grading permit. The general contractor and all subcontractors and suppliers of materials and equipment shall implement these BMP's. Construction site cleanup and control of construction debris shall also be addressed in this program. Failure to comply with the approved construction BMP may result in the issuance of correction notices, citations, or a project stop work order.
  7. Install appropriate clean water devices at all private storm drain locations immediately prior to entering the public storm drain system. Implement Best Management Practices (BMP's) at all times.
  8. Install on all catch basins "No Dumping, Drains to River" decal buttons.
  9. If sidewalks are pressure washed, debris shall be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged into the storm drain. If any cleaning agent or degreaser is used, wash water shall be collected and discharged to the sanitary sewer, subject to the approval of the sanitary sewer District.
  10. Include erosion control/storm water quality measures in the final grading plan that specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydro seeding, gravel bags and siltation fences and are

subject to review and approval of the City Engineer. If no grading plan is required, necessary erosion control/storm water quality measures shall be shown on the site plan submitted for an on-site permit, subject to review and approval of the City Engineer. The applicant shall be responsible for ensuring that all contractors and subcontractors are aware of and implement such measures.

11. Sweep or vacuum the parking lot(s) a minimum of once a month and prevent the accumulation of litter and debris on the site. Corners and hard to reach areas shall be swept manually.
12. Ensure that the area surrounding the project such as the streets stay free and clear of construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way related to project construction. Areas that are exposed for extended periods shall be watered regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular basis. All trucks shall be covered.
13. Clean all on-site storm drain facilities a minimum of twice a year, once immediately prior to October 15 and once in January. Additional cleaning may be required if found necessary by City Inspectors and/or City Engineer.
14. Per State Regulations, all impervious surfaces including off-site roadways to be constructed as part of the project, are subject to C.3 requirements.

**M. FINAL EIR AND MITIGATION MONITORING AND REPORTING PROGRAM**

1. The applicant shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program.
2. The applicant shall mitigate any impacts on wildlife, including State and Federally listed threatened and endangered species, and their habitat by compliance with one of the following:
  - a. Implementing, or making enforceable commitments to implement, all applicable mitigation measures in the project environmental documents, as well as any additional measures as may be required by the California Department of Fish & Wildlife (CDFW) or the U.S. Fish & Wildlife Service (FWS), and obtaining a letter(s) from CDFW and FWS stating that the project has fulfilled the requirements of applicable State and Federal wildlife protection laws and regulations; or
  - b. Complying with applicable terms and conditions of the ECCC HCP/NCCP, as determined in written "Conditions of Coverage" by the East Contra Costa County Habitat Conservancy (Conservancy),

- provided that the City has first entered into an agreement with the Conservancy for coverage of impacts to ECCCHCP/NCCP Covered Species; or
- c. Complying with a habitat conservation plan and/or natural community conservation plan developed and adopted by the City, including payment of **applicable** fees, provided that CDFW and FWS have approved the conservation plan.

\* \* \* \* \*

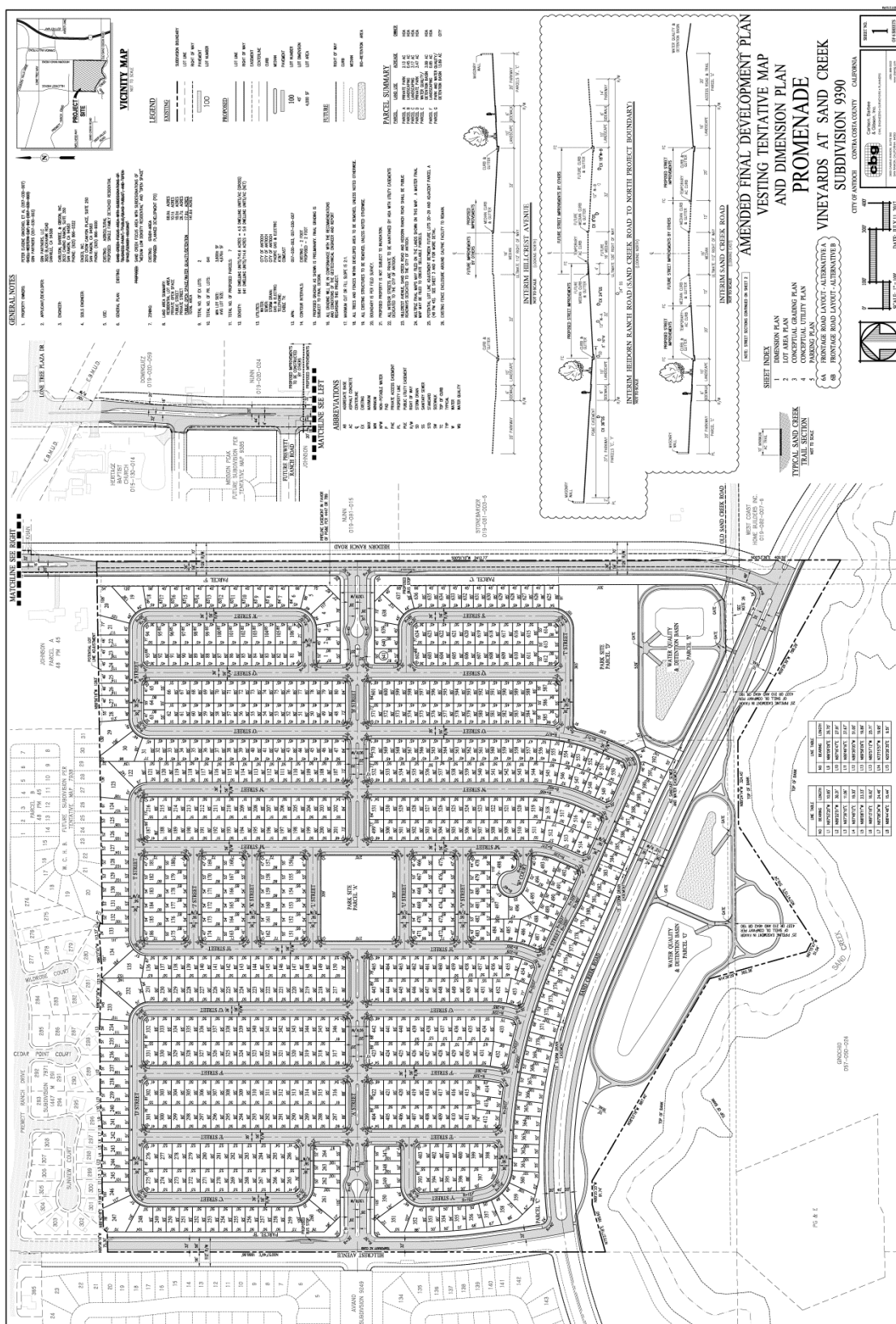
**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of September, 2017.

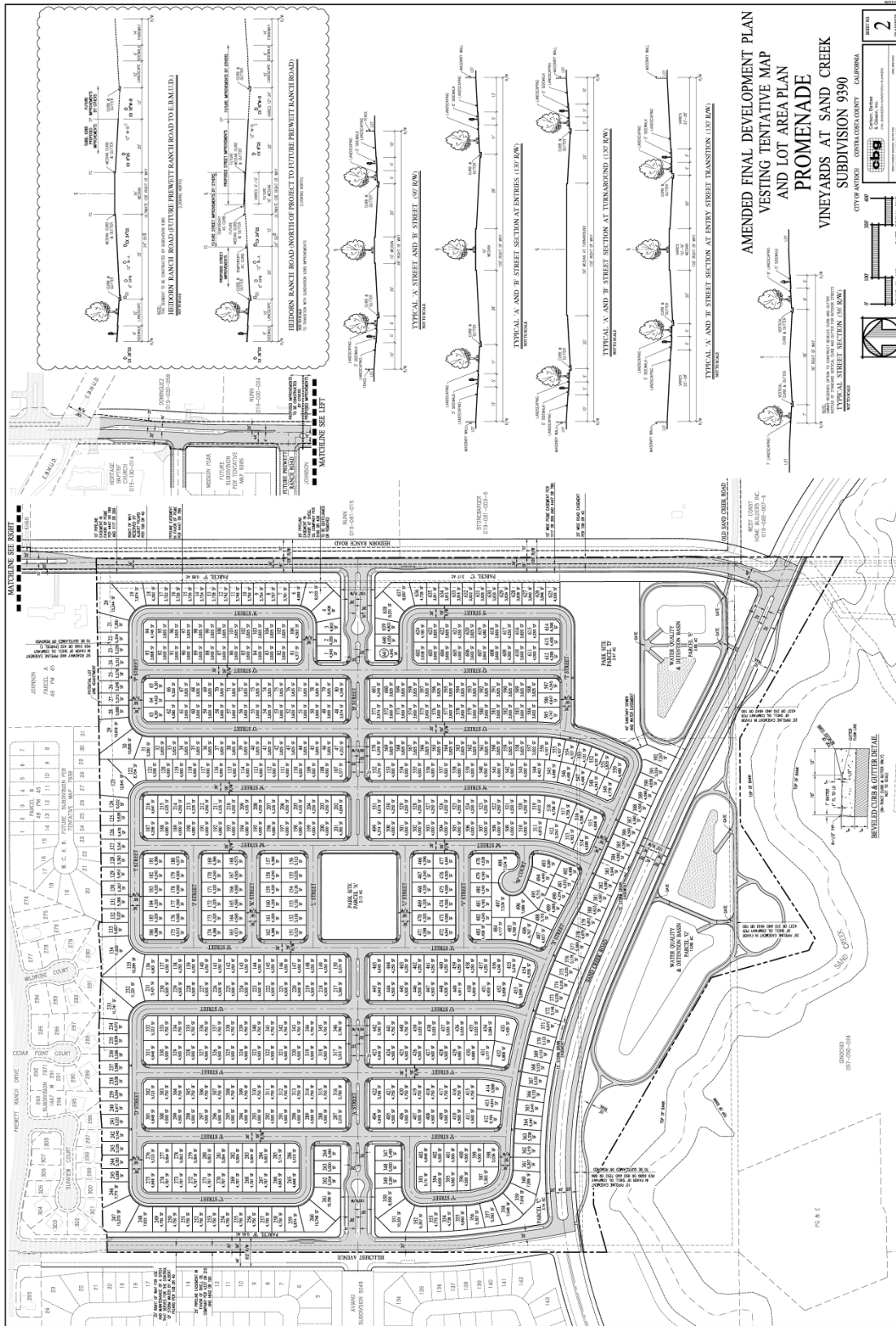
**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

---

FORREST EBBS,  
Secretary to the Planning Commission

**EXHIBIT A**  
**AMENDED VESTING TENTATIVE MAP**

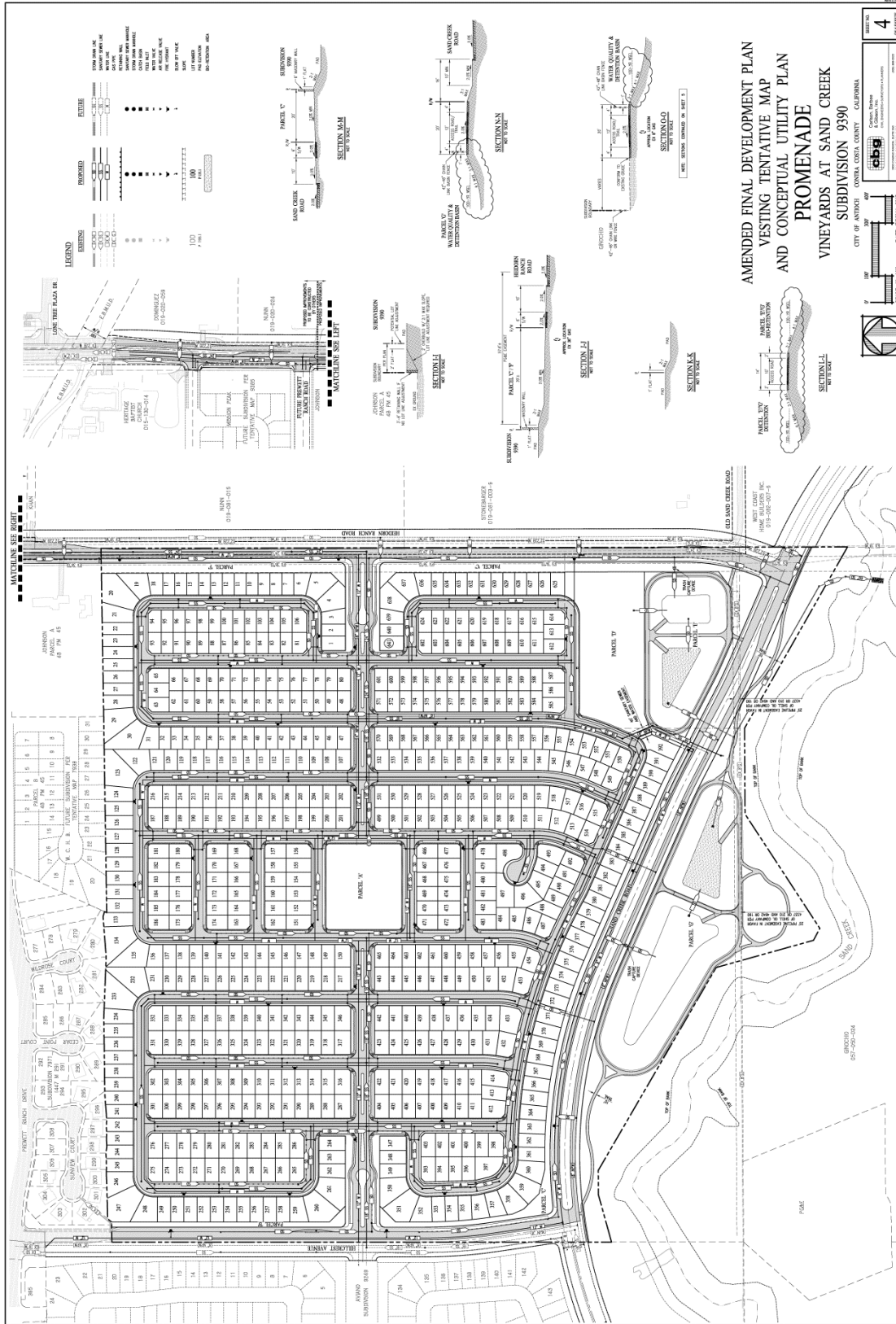




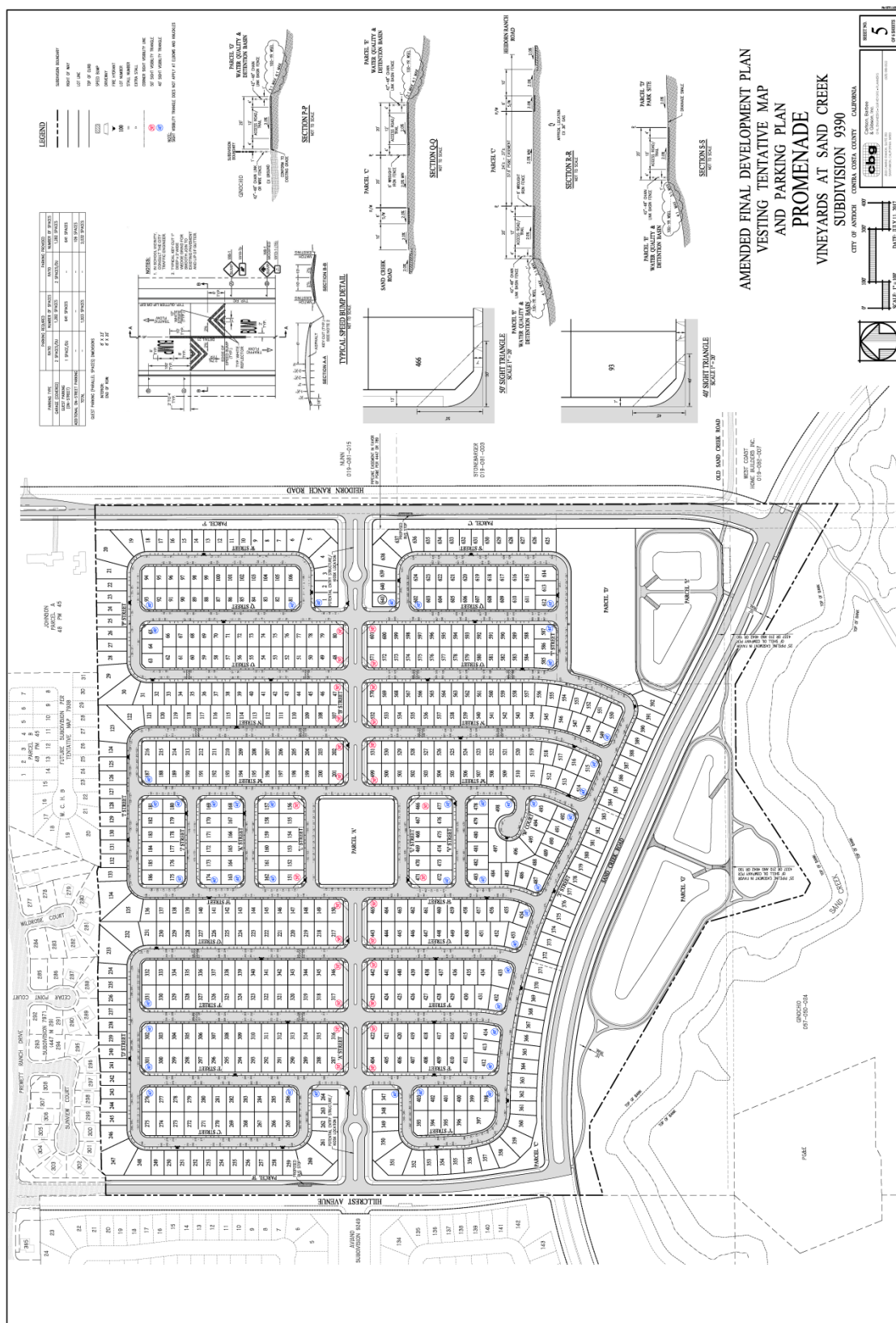
ALTERNATIVE







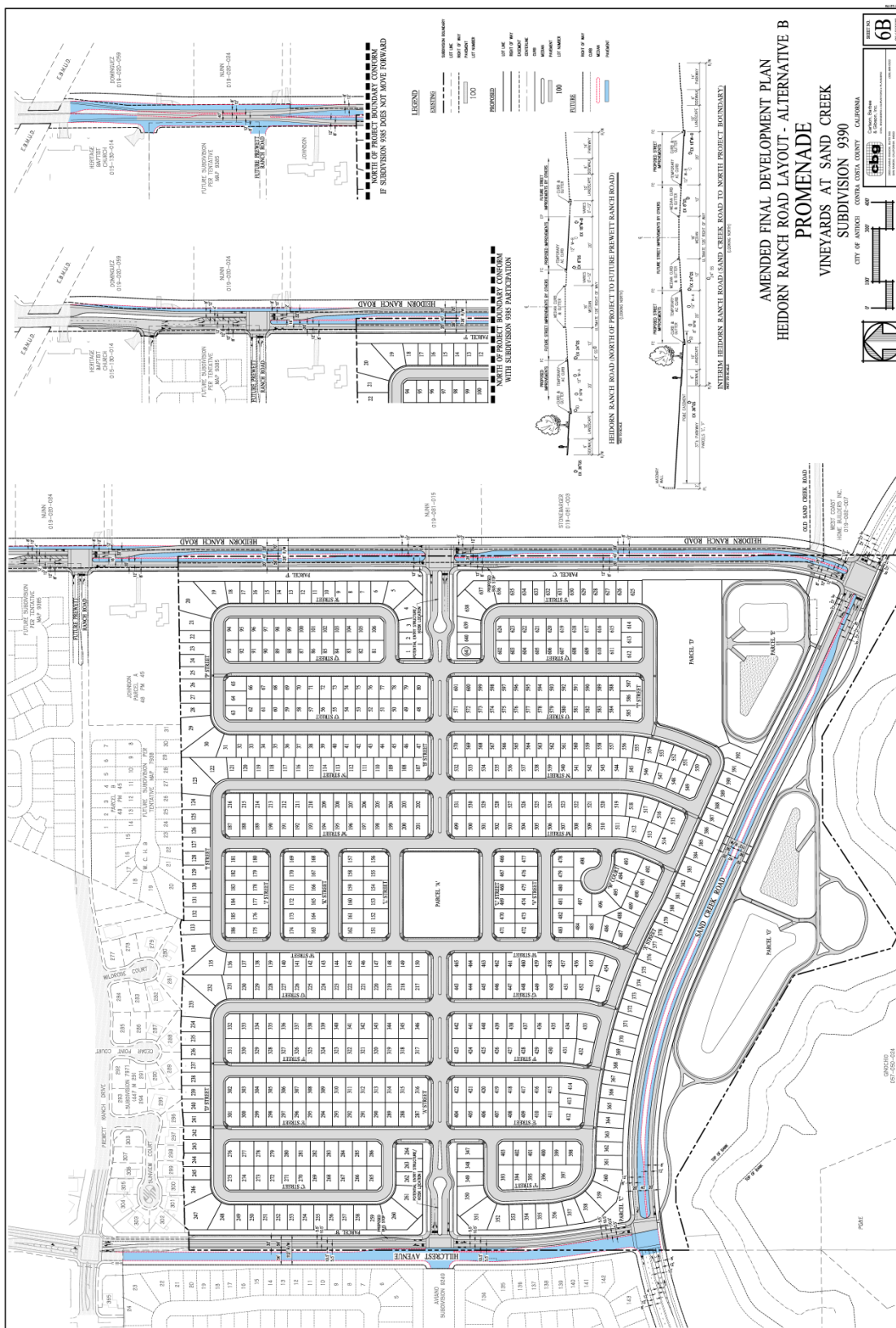
ALTERNATIVE





## ALTERNATIVE



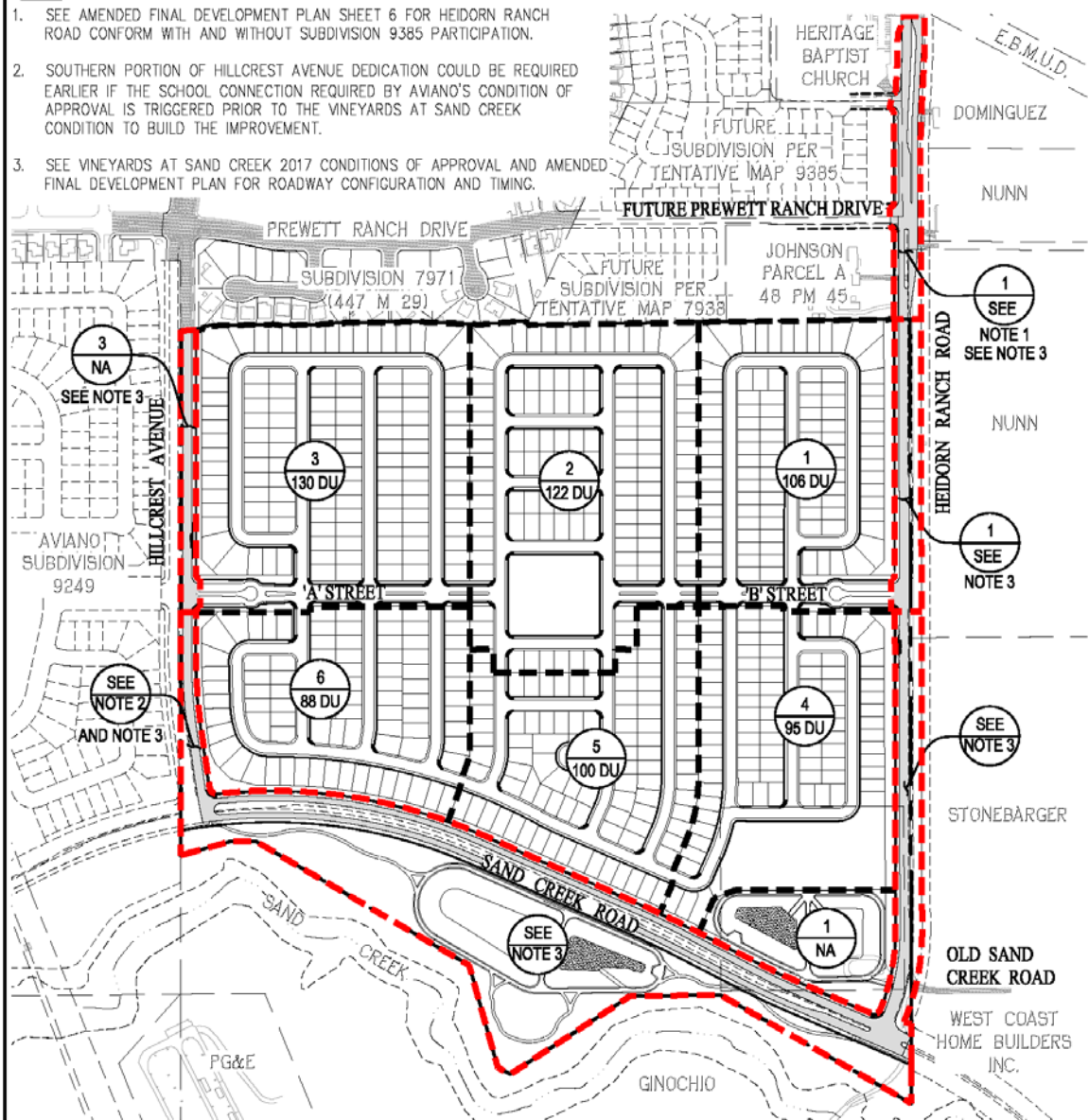




**EXHIBIT B**  
**PHASING PLAN**

**NOTE:**

1. SEE AMENDED FINAL DEVELOPMENT PLAN SHEET 6 FOR HEIDORN RANCH ROAD CONFORM WITH AND WITHOUT SUBDIVISION 9385 PARTICIPATION.
2. SOUTHERN PORTION OF HILLCREST AVENUE DEDICATION COULD BE REQUIRED EARLIER IF THE SCHOOL CONNECTION REQUIRED BY AVIANO'S CONDITION OF APPROVAL IS TRIGGERED PRIOR TO THE VINEYARDS AT SAND CREEK CONDITION TO BUILD THE IMPROVEMENT.
3. SEE VINEYARDS AT SAND CREEK 2017 CONDITIONS OF APPROVAL AND AMENDED FINAL DEVELOPMENT PLAN FOR ROADWAY CONFIGURATION AND TIMING.



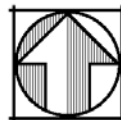
**LEGEND**

- PHASING BOUNDARY
- OFF-SITE DEDICATION AND IMPROVEMENT AREAS
- 6  
88 DU PHASE NUMBER  
NUMBER OF DWELLING UNITS
- LIMIT OF ROADWAY IMPROVEMENTS

**2017 AMENDMENT TO THE FDP  
PROPOSED RIGHT OF WAY DEDICATION AND PHASING EXHIBIT  
VINEYARDS AT SAND CREEK**

CITY OF ANTIOCH    CONTRA COSTA COUNTY    CALIFORNIA

DATE: JULY 11, 2017  
SCALE: 1" = 500'



SAN RAMON, CALIFORNIA  
SACRAMENTO, CALIFORNIA

**Carlson, Barbee & Gibson, Inc.**  
CIVIL ENGINEERS • SURVEYORS • PLANNERS  
www.cbagan.com

SHEET NO.  
**1**  
OF 1 SHEETS

7/11/2017 5:14 PM

F:\974\974-50\ACAD\EXHIBITS\XB-065\_PROPOSED OFF-SITE ROW AND PHASING.DWG



**EXHIBIT C**  
**STREET NAMES**

Street Names List for the Promenade/Vineyards at Sand Creek Project, Antioch CA

**Theme: California Wine Regions**

**Need: 25 to 30 names**

Alexander Valley

Alta Mesa

Anderson Valley

Benmore Valley

Bennett Valley

Borden Ranch

Shenandoah Valley

Capay Valley

Central Coast

Chalk Hill

Chalone

Chiles Valley

Clement Hills

Cole Ranch

Covelo

Dunnigan Hills

Fair Play

Fiddletown

Guenoc Valley

Hames Valley

High Valley

Howell Mountain

Knights Valley

Lime Kiln Valley

~~Madera~~ *deleted by APD 3/2/15 and CCCFPD 4/29/15*

McDowell Valley

Mount Veeder

Mount Harlan

Pacheco Pass

Potter Valley

Ramona Valley

Red Hills Lake

Redwood Valley

River Junction

Rockpile

Saddle Rock

Salado Creek

San Bernabe

~~San Lucas~~ *deleted by CCCFPD 4/29/15*

Sierra Foothills

Sloughhouse

Spring Mountain

Trinity Lakes

~~Wild Horse Valley~~ *deleted by APD 3/2/15 and CCCFPD 4/29/15*

~~Willow Creek~~ *deleted by CCCFPD 4/29/15*

York Mountain

Yorkville Highlands

*Submitted February 18, 2015 updated with deletions 12/21/15*

# ATTACHMENT “7”

**PLANNING COMMISSION  
RESOLUTION NO. 2017- ##**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING APPROVAL OF AMENDMENTS TO A DEVELOPMENT  
AGREEMENT BETWEEN THE CITY OF ANTIOCH AND GBN PARTNERS, LLC, FOR  
THE VINEYARDS AT SAND CREEK PROJECT**

**WHEREAS**, the City Council, on February 9, 2016, approved an Environmental Impact Report, a Development Agreement, a Planned Development rezone, and a Vesting Tentative Map for the development of a 641 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the City received an application from GBN Partners, LLC for amendments to the Development Agreement, amendments to the Planned Development zoning, and modifications to the conditions of approval of the Vesting Tentative Map, to create a fee credit and subsidy program and to modify and reduce the project requirements for construction of roadways ; and

**WHEREAS**, City staff has offered an alternative proposal [project] that would provide some of the benefits requested by the applicant's proposal, but would also address many of the City's concerns; and

**WHEREAS**, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, *et. seq.* of the Government Code, which authorizes the City of Antioch to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property in order to establish certainty in the development process; and

**WHEREAS**, the City of Antioch previously adopted an implementing ordinance (Article 32 of the Zoning Ordinance) authorizing and regulating the use of Development Agreements; and

**WHEREAS**, the proposed Development Agreement complies with the requirements of Article 32 of the City of Antioch Zoning Code; and

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the City Council in its project approval on February 9, 2016; and,

**WHEREAS**, the Planning Commission recommended adoption of the Addendum to the Final Environmental Impact Report ("FEIR") and Mitigation Monitoring and Reporting Program ("MMRP") to the City Council and the proposed Development Agreement and the terms contained therein do not amend the project; therefore, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, a subsequent environmental document is not required; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 20, 2017 duly held a public hearing, received and considered evidence, both oral and documentary; and

**WHEREAS**, the approval of this Development Agreement will not adversely affect the comprehensive General Plan and it is consistent with the General Plan and carries out the purposes of the General Plan as amended.

**NOW THEREFORE, BE IT RESOLVED** that in recommending approval to the City Council of the Development Agreement between the City of Antioch and GBN Partners, LLC, the Planning Commission makes the following findings, which are based on its review and consideration of the entire record, including the recitals above and any oral or written testimony provided at the hearing:

1. There have been no substantial changes to the project through the Development Agreement. Therefore, the Vineyards at Sand Creek FEIR and MMRP are the appropriate environmental documents for the proposed project.
2. The Development Agreement is consistent with the General Plan, as amended, as it carries out the purposes of the General Plan and is consistent with the land use and development designation in such plans, as amended.

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Planning Commission recommends the City Council approve the amended Development Agreement between the City of Antioch and GBN Partners, LLC for the Promenade/Vineyards at Sand Creek Project, in the form attached as Exhibit 1, subject to such changes as may be approved by the City Council.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of September, 2017, by the following vote:

**AYES:**

**NOES:**  
**ABSENT:**  
**ABSTAIN:**

---

FORREST EBBS  
Secretary to the Planning Commission

## EXHIBIT 1

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City of Antioch  
200 H Street  
Antioch, CA 94509  
Attention: City Clerk

(Space Above This Line Reserved For Recorder's Use)  
Exempt from Recording Fees Pursuant to Gov. Code Section 27383

### FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ANTIOCH AND GBN PARTNERS, LLC

THIS FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT (“**Agreement**”) by and between the City of Antioch, a municipal corporation (“**City**”) and GBN Partners, LLC, a Delaware limited liability company (“**Developer**”) (each a “**Party**” and collectively the “**Parties**”), pursuant to the authority of Division 1, Chapter 4, Article 2.5, Sections 65864 et seq. of the Government Code (the “**Statute**”) is entered into as of \_\_\_\_\_, (the “**Effective Date**”) in the following factual context:

**A.** To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California State Legislature enacted the Statute, which authorizes the City to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of such property.

**B.** Developer is the owner of approximately 142 acres of real property located in the City of Antioch, Contra Costa County more particularly described in *Exhibit A* to this Agreement (the “**Property**”), known as Promenade/Vineyards at Sand Creek, which Developer plans to develop as either a single-family market-rate residential community or as an age-restricted Active-Adult residential community (the “**Project**”). The planning, development, construction, operation and maintenance of the Project is more particularly described in, and reviewed and analyzed by, the Environmental Impact Report (SCH # 2014092010, “**EIR**”) prepared in conjunction with the Project and its below-described “**Project Approvals**” (defined below). In accordance with the California Environmental Quality Act (Pub. Res. Code §§ 21000 *et seq.*) and its Guidelines (C.C.R., Title 14 §§ 15000, *et seq.*), as each is amended from time to time (collectively, “**CEQA**”), City certified as adequate and complete the EIR. Pursuant to CEQA, a mitigation/monitoring program for the Project was approved by the City Council. The City has determined that no additional environmental review is necessary in connection with its consideration, approval and execution of this Agreement.

ALTERNATIVE

**Att. 7-4**

C. The Project has been designed as a private, gated residential community, where housing and recreation are integrated into one cohesive whole. Key components include pedestrian and bicycle friendly streets, private recreational opportunities, a mix of housing opportunities, distinctive architecture and landscape elements, and a vibrant neighborhood community center.

D. As of the execution of this Agreement, various land use regulations, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively, “**Project Approvals**”), including without limitation, all of the following (including their text, diagrams and conditions of approval):

1. “**EIR**” (defined in Recital B above).
2. “**General Plan Amendment**” – (GPA 14-01) – Redesignating the Property from Business Park to Residential, and exempting the Property from the City regulations (including without limitation City Ordinance No. 2005/41) relating to an alternative process for the project applications within the Sand Creek Focus Area (collectively, “**GPA**”).
3. “**Master Development Plan/Planned Development Rezone**” – (PD 14-03) – A Planned Development District with Design Guidelines to guide future development of the community and a Master Development Plan (collectively, the “**Rezoning**”).
4. “**Vesting Tentative Map/Final Development Plan**” – (Subdivision 9390) – Subdivision map and Final Development Plan reflecting roads, infrastructure and up to 641 single-family residential lots, which lots can also be developed as age-restricted units in their entirety. The Vesting Tentative Map/Final Development Plan will employ multiple (phased) final maps, creating separate phases of the Project (currently approximated at 6 phases) (collectively, the “**VTM**”). The VTM includes a Preliminary Phasing Plan consistent with the VTM to facilitate development of the Property. The Preliminary Phasing Plan is included as part of the VTM approval, including the conditions of approval that accompany the VTM, and shall be included within any reference in this Agreement to the VTM.
5. “**2016 Development Agreement**” – The parties entered into the 2016 Development Agreement as of October 12, 2016 (the “Term Commencement Date”).
6. “**Amendments to the VTM**” – (Subdivision \_\_\_\_\_) – The VTM, including its conditions of approval, was amended on \_\_\_\_\_ to allow for the two-lane construction of Heidorn Ranch Road and the postponement of the construction of the second two lanes on Sand Creek Road. References in this Agreement to the VTM mean the VTM as amended.
7. “**First Amended and Restated Development Agreement**” – reducing certain fees based on Developer’s construction of certain oversized water and sewer infrastructure and making other minor modifications to the 2016 Development Agreement.

E. “**Subsequent Approvals**” (each referred to individually as a “**Subsequent Approval**”) shall mean those permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the



development of the Project, that are sought by Developer, and that are granted by City on or after the Term Commencement Date. Subsequent Approvals include without limitation new permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), as well as amendments to Project Approvals.

**F.** On January 6, 2016, at a duly noticed public hearing, the Planning Commission considered and recommended approval of the EIR, GPA, 2016 Development Agreement, Rezone, and VTM to the City Council pursuant to Resolution Nos. 2016-2, 2016-3, 2016-4, 2016-5, and 2016-6.

**G.** On January 9, 2016, at a duly noticed public hearing, the City Council certified the EIR pursuant to Resolution No. 2016/11, approved the GPA pursuant to Resolution No. 2016/12, introduced the Rezone pursuant to Ordinance No. 2113-C-S, approved the VTM pursuant to Resolution No. 2016/13, and introduction of the 2016 Development Agreement approved pursuant to Ordinance No. 2112-C-S.

**H.** On February 23, 2016, at a duly noticed public hearing, the City Council enacted the rezone pursuant to Ordinance No. 2113-C-S and enacted Ordinance No. 2112-C-S approving the 2016 Agreement.

**I.** On \_\_\_\_\_, 2017, Developer applied to the City to amend the 2016 Development Agreement and the VTM to, among other things, reduce or defer Developer's payment of certain fees should Developer all or portions of certain oversized water and sewer facilities, and modify the scope of certain road improvements required by the Existing Approvals. The City prepared an Addendum to the EIR to document its determination that the proposed amendments to the 2016 Development Agreement and VTM would not result in any significant environmental effects that were not identified and addressed in the EIR, and no further environmental review would be required.

**J.** On September 20, 2017, at a duly noticed public hearing, the Planning Commission considered Developer's application and the proposed Addendum to the EIR and recommended that the City Council adopt the Addendum and approve this First Amended and Restated Development Agreement and the proposed amendments to the VTM pursuant to Resolution Nos. 2016-\_\_, 2016-\_\_, and 2016-\_\_.

**K.** On \_\_\_\_\_, 2017, at a duly noticed public hearing, the City Council adopted the Addendum dated \_\_\_\_\_, 2017 and approved the amendments to the VTM pursuant to Resolution No. 2017\_\_\_\_, and introduced Ordinance No. \_\_\_\_\_ to approve this First Amended and Restated Development Agreement.

**L.** The City Council has found that, among other things, the Project Approvals are consistent with its General Plan and has been reviewed and evaluated in accordance with California Government Code §§65864 *et seq.*

## AGREEMENT

In this factual context and intending to be legally bound, the Parties agree as follows:

### ARTICLE 1

#### TERM

**1.1.** The term of this Agreement (“**Term**”) shall commence as of the Term Commencement Date and continue to and including October 17, 2031. The expiration of the term of this Agreement shall not be interpreted to, and shall not affect, terminate or waive any additional rights that Developer may have that exist independently of this Agreement and derive from common law vesting or other laws or regulations of the State or the City.

**1.2.** Pursuant to Government Code section 66452.6(a) and this Agreement, in addition to other extensions available under the Subdivision Map Act, the term of the Vesting Tentative Map and any other tentative map, vesting tentative map, tentative parcel map, vesting tentative parcel map, final map or vesting final maps, or any new such map or any amendment to any such map, or any resubdivision (collectively referred to as “**Subdivision Document**”) relating to the Project shall automatically be extended to and until the later of the following:

**1.2.1** The Term; or

**1.2.2** The end of the term or life of any such Subdivision Document otherwise given pursuant to the “**Subdivision Map Act**” (defined herein) and/or local regulation not in conflict with the Subdivision Map Act.

**1.3.** If this Agreement terminates for any reason prior to the expiration of the vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, “**Vesting Map**”), such termination of this Agreement shall not affect Developer’s right to proceed with development under such Vesting Map in accordance with only the applicable law so vested under the Vesting Map, for the life of such vested rights given by such Vesting Map.

**1.4.** The term of any and all Project Approvals, including without limitation, all development plans, development permits, or other permit, grant, agreement, approval or entitlement for the general development of all or any part of the Project and Property, shall be to and until the later of the following:

**1.4.1** The Term; or

**1.4.2** The term or life of any Subdivision Document pursuant to the Subdivision Map Act or local regulation not in conflict with the Subdivision Map Act.

## ARTICLE 2

### COVENANTS OF DEVELOPER

**2.1. Obligations of Developer Generally.** Developer shall have no obligation to proceed with, or complete the Project at any particular time or at all. However, if Developer proceeds, it shall comply the Applicable Law, as defined in this Agreement, including without limitation, Section 2.2. below.

**2.2. Applicable Law.** The rules, regulations and official policies governing permitted uses of the Property, density and improvement requirements applicable to development of the Property shall be the ordinances, rules, regulations, and official policies in force and effect on the Term Commencement Date, except as otherwise provided in the Project Approvals or this Agreement (the “**City Regulations**”). The law applicable to the Project during the Term of this Agreement shall be only the following: (a) the City Regulations; (b) the Project Approvals and (c) this Agreement (collectively, the “**Applicable Law**”). If there is a conflict between this Agreement and the City Regulations or Project Approvals, this Agreement shall control. If there is a conflict between the Project Approvals and the City Regulations, the Project Approvals shall control.

**2.3. Fees, Taxes and Assessments.**

**2.3.1 Development Fees.** During the Term, Developer shall pay only those City-imposed development fees (collectively, “**Development Fees**”) in force and effect as of the Term Commencement Date. The Project has been approved for development as either a single-family market-rate residential community in its entirety or as an age-restricted “active-adult” residential community in its entirety. Developer, in its sole and exclusive discretion shall determine which residential development to pursue. If Developer decides to pursue an age-restricted “active-adult” residential community and if City, in its sole and absolute discretion, has implemented an active adult fee category after completion of a nexus study and adoption of such fees, Developer shall be subject to such fees. Development Fees shall be paid at the rate in effect at the time of building permit issuance.

(a) The Project shall not be subject to any existing or future Development Fees related to affordable housing, public art, Residential Development Allocation Fee(s)/Growth Management Fees, or Habitat Conservation Plan (HCP) fees. The project is progressing with environmental permitting through the State and Federal Agencies, but the project may at its option participate in an HCP.

(b) Developer has agreed to dedicate right-of-way and complete certain improvements required by the Project Approvals to Hillcrest Avenue, Sand Creek Road and Heidorn Ranch Road as described in the Project Approvals. Therefore, the Project shall not be subject to any existing or future Development Fees relating to local traffic/roadway/circulation/ transportation dedication, construction, improvements and/or funding of any kind or any other Development Fees relating to such local traffic/roadway/circulation/transportation dedication, construction, improvements and/or

funding of any kind. The project is subject to regional transportation fees (East Contra Costa Regional Fee and Financing Authority) in place at the time of building permit.

(c) Developer has agreed to be financially responsible for half of two public-benefit traffic signal improvements – one at Sand Creek Road at Hillcrest Avenue and the second at Sand Creek Road at Heidorn Ranch Road – neither of which are necessitated by project traffic alone, but are required by the Project Approvals and described in the Project Approvals. The developer will construct these signals and be reimbursed 50% by adjacent development or the City of Brentwood or deposit funds with the City for 50% of the signals as required by the Conditions of Approval. Therefore in consideration of the portion of these two traffic signals, the Project will not be subject to traffic signal fees or eligible for traffic signal reimbursements.

(d) Incentivize Community Benefit Infrastructure Construction, The City and the community have a significant interest in ensuring that the Project proceeds in an orderly fashion as part of the overall improvement of the community. In an effort to incentivize Developer's construction of important infrastructure in the Sand Creek Focus Area, from the date of the issuance of the first building permit for a non-model residential dwelling unit ("Permit Issuance Date") until the fifth anniversary of the Permit Issuance Date (5 years), the Development Fees Developer shall pay are the Development Fees in effect on a Citywide basis at the Permit Issuance Date, depending on the residential type of the Project (market rate or active adult). Notwithstanding the forgoing, the City may, at City's sole and exclusive discretion, on an annual basis, and pursuant to any applicable City Municipal Code requirements, increase or decrease (as appropriate) the amount of such Development Fees by a percentage not to exceed the percentage increase or decrease (as appropriate) for the prior calendar year in the Engineering News Record Construction Cost Index for the Region ("Index-Adjusted Fees"); however, Developer shall pay that Development Fee that is lower: the then-current City-wide Development Fee otherwise applicable to similar projects or the Index-Adjusted Fees.

(e) Should the Developer construct all or a portion of the water main and sewer trunk line to and through the Project, the Developer shall be entitled to fee deferments against sewer connection and water capacity fees in the amount up to that of the additional cost to oversize the improvements, as specifically described in Exhibit B hereto. Such fee deferments shall be available for any building permits issued within 7 years of the Effective Date. Payment to the City of the deferred fees shall be due upon approval of Final Maps for development projects benefitting from the water main and sewer trunk line. The amount of each payment shall be based on the pro rata share of the over sizing to serve the approved development. All unpaid deferred fees will be due from Developer seven (7) years from the Effective Date.

**2.3.2 Processing Fees.** For the purposes of this Agreement, "Processing Fees" shall mean processing fees and charges of every kind and nature imposed by City, including planning processing deposits, to cover the actual costs to City for City staff and consultant time and

resources spent reviewing and processing Developer's applications for Project Approvals, or for monitoring compliance with and reviewing submittals for any Project Approvals. Developer shall pay all Processing Fees, as such fees and charges are adjusted from time to time. "Processing Fees" shall not mean and include Development Impact Fees or any other fee, tax or assessment. The foregoing notwithstanding, no fees other than Processing Fees shall be due before approval of the final map, unless earlier payment is expressly required by the Project Approvals.

**2.3.3 Taxes and Assessments.** Except as otherwise provided in this Agreement or the Project Approvals, during the Term, Developer shall pay only those City-imposed land-based taxes and assessments in force and effect as of the Term Commencement Date, except for a tax or assessment agreed upon by Developer, a tax or assessment imposed as a result of the implementation of a financing mechanism to fund improvements or services or a Proposition 218 voter approved assessment.

**2.4. Construction and Timing of Improvements.**

**2.4.1** Developer shall construct the improvements required by, and more particularly described in, the conditions of approval included in the Project Approvals. Developer shall perform the work in accordance with the standards and specifications established by Applicable Law. To the extent there are no such standards or specifications, the work shall be performed in accordance with industry standards and in good and workmanlike manner, as approved by the City Engineer.

**2.4.2** The Parties acknowledge that the Project may be built in phases different from those set forth in the Preliminary Phasing Plan included as part of the VTM. The timing of certain improvements set forth in the conditions of approval were based on the Preliminary Phasing Plan. If the City Engineer approves changes to the phasing of the Project from that in the Preliminary Phasing Plan in a manner that impacts the timing for the construction of the improvements set forth therein, the City Engineer has the authority to change the timing for those improvements to be consistent with the changes to the phasing. Such changes will automatically be incorporated into the Project Approvals and will not require an amendment to the Project Approvals, including this Agreement.

**2.5. Subdivision and Other Agreements; Multiple Final Maps.** Developer shall execute and perform its obligations as set forth in any Subdivision Improvement Agreements required or permitted by Applicable Law to obtain approval of final maps. Developer may file multiple final maps in accordance with 3.5 below.

**2.6. Design Review.** The Project Approvals include Design Review Guidelines but do not include design review approval, which Developer has yet to obtain. Developer's design review applications and submittals shall be consistent with the Vineyards at Sand Creek Design Review Guidelines approved by the City. The designs shall incorporate a level of quality craftsmanship consistent with projects completed in similar regional markets.

**2.7. Sand Creek Focus Area (SCFA) Sewer Trunk Line Improvements.** Developer shall provide a sewer study and coordinate with the design, rights-of-way and easement needs of the major sewer trunk line through the Property in order to help facilitate the construction of the major sewer trunk line to benefitting properties, as more particularly described in the conditions of approval included in the Project Approvals (collectively, “**SCFA Sewer Trunk Line Improvements**”). If desired, the Developer shall create a land-based financing mechanism or participate in another mechanism acceptable to the City that will fairly distribute the cost of formation, design, offsite construction, upsizing and advance funding of the SCFA Sewer Trunk Line Improvements amongst the benefitting property owners in and around the Sand Creek Focus Area, as approved by the City Engineer. For property that will benefit from the Sewer Trunk Line Improvements, the City shall require, by imposing a condition of approval, inserting a requirement into a Development Agreement or otherwise, an obligation on that property (and the property’s owner(s)) to reimburse Developer for such other property’s (and its owner(s)) proportional share (fair share) of these identified SCFA Sewer Trunk Line Improvements at the earlier of the filing of a final map or issuance of a building permit on the affected property. The City shall collect the reimbursement amounts if and when such properties develop, and after all deferred fees have been paid to the City pursuant to section 2.3.1(e) above, distribute the remaining amount to Developer on a quarterly basis. City shall assist Developer as needed, including without limitation, taking those actions set forth in Section 2.12 of this Agreement. Upon acceptance by the City, the SCFA Sewer Trunk Line Improvements shall be maintained by City.

**2.8. Parks, Trail Improvements and Landscaped Areas.** Developer shall, at its sole cost and expense, design, construct and dedicate to the City, Parcel G, located south of the future extension of Sand Creek Road, as more particularly described in the conditions of approval included in the Project Approvals (“**Parcel G Water Quality & Detention Basin**”). Upon acceptance by the City, the Parcel G Water Quality & Detention Basin shall be owned by the City and maintained by the Lighting and Landscaping District or Maintenance Community Facilities District (CFD) as appropriate. Developer shall also, at its sole cost and expense, construct the Sand Creek Regional Trail as more particularly described in the conditions of approval included in the Project Approvals (“**Trail Improvements**”). Upon acceptance by the City, the Trail Improvements and open space parcel it travels through, shall be maintained by the Lighting and Landscape District or Maintenance CFD. Developer shall, at its sole cost and expense, design and construct park and landscaped areas, as more particularly described in the conditions of approval included in the Project Approvals. The parks identified on Parcel A and Parcel D shall also be designed and landscaped by Developer and shall be dedicated to and maintained by the Homeowners Association (“**Parcel A Park**” and “**Parcel D Park**,” respectively.) Parcel A Park is 2.13 acres and Parcel D Park is 3.47 acres for a combined total park acreage of 5.6 acres, as required by and in conformance with the Antioch Municipal Code.

**2.9. Homeowners Association.** Developer shall establish a Homeowners Association (“HOA”) for the Project in conformance with the regulations set forth by the State Bureau of Real Estate.

**2.9.1** Subject to approval by the State, the City Attorney and Community Development Director shall review and approve the HOA’s conditions, covenants and restrictions (“CC&Rs”) for conformance with this Agreement and the Project Approvals prior to the issuance of the first building permit for the Project. In addition, the City Attorney and Community Development Director may suggest modifications to the CC&Rs relating to the maintenance and repair of the property and improvements, including but not limited to landscaping, parking, open space, storm water facilities and the prohibition of nuisances. The applicant shall consider all such City-suggested modifications to such CC&Rs, and shall make those modifications that are reasonable and cost-effective.

**2.9.2** The CC&Rs shall include the following provisions and requirements:

(a) The City shall have rights of entry to the Project streets and public spaces.

(b) Any design approvals required by the CC&RS for construction, reconstruction and remodeling are in addition to any approvals needed from the City.

(c) A homeowner must secure a business license before a home can be rented as required by Municipal Code Section 3-1.217.

(d) The front yards must be adequately maintained.

(e) Any modifications to these requirements must be approved in advance by the City.

**2.9.3** The City shall not have the right of enforcement of the CC&Rs, but the City shall have the right of enforcement of all legal and equitable remedies available to the City, including without limitation the following:

(a) The right to enforce its ordinances and regulations, including without limitation, Antioch Municipal Code Title 4 Chapter 7 (Weed and Rubbish Abatement), Chapter 10 (Abandoned, Wrecked, Dismantled or Inoperative Vehicles), and Chapter 16 (Repair of Vehicles and Boats in Residential Districts); and Antioch Municipal Code Title 5 Chapter 1 (including property/yard maintenance, abatement procedures, and nuisances), Chapter 8 (Public intoxication), and Chapter 20 (Rental Dwelling Unit Maintenance and Inspection Program); and

(b) The right to refuse to issue building permits for any building or structure that is not in compliance with applicable federal, state or local laws, regulations, permits or approvals.

**2.10. City Services.** City shall provide wastewater collection and police services to the Project (or any and all portions thereof) to the same degree as all other users of such services and facilities in the City.

## **2.11. Police Services Funding.**

**2.11.1 Formation or Participation in a Police Services Financing Mechanism.** In order to assist the City in meeting a police force level within a range of 1.2 to 1.5 officers per 1,000 residents as set forth in Performance Standard 3.5.3.1 of the General Plan, at the direction of the City, Developer shall either establish, or participate in (if one has already been established), a land-based financing mechanism in the form of a community facilities district, special tax or other means, as to the Property. The City and Developer shall work cooperatively in forming such a police services financing mechanism. The costs related to forming such financing mechanism, including consultant costs, shall be paid by Developer (“**Formation Costs**”). It is the intent of the City to require other property, as such other property develops, to annex into or become subject to such financing mechanism. For such other property, the City shall require, by imposing a condition of approval, inserting a requirement in a development agreement, or otherwise, an obligation/requirement on such other property (and the property’s owner(s)) to reimburse Developer for such other property’s (and its owner(s)’) proportional share (fair share) of the Formation Costs (“**Formation Cost Reimbursement**”). The City shall require and collect the Formation Cost Reimbursement at the earlier of the filing of the final map or issuance of a building permit for any such other property on behalf of Developer and distribute that collected amount to Developer on a quarterly basis. Developer shall provide the Formation Costs, with supporting documentation, to the City.

**2.11.2 Financial Obligation of the Developer.** The amount of the financial obligation for police services for the Project developed as a single family market rate (non-active adult) residential development (assuming an average of 3.22 persons per dwelling unit) related to police services funding shall not exceed \$445.00 per each Project lot upon which a single-family residential home is constructed, except that commencing one year after the Term Commencement Date of this Agreement, City may increase or decrease, as appropriate, such \$445 maximum pursuant to the Consumer Price Index for the San Francisco Bay Area. However, if the Project is developed as an active adult residential development, then the assumed average occupancy of a dwelling unit shall be 1.8 persons per dwelling unit, and the police services funding shall not exceed \$250 per each Project lot upon which an active adult residential home is constructed, except that commencing one year after the Term Commencement Date of this Agreement, City may increase or decrease, as appropriate, such \$250 maximum owing per active adult residential dwelling pursuant to the Consumer Price Index for the San Francisco Bay Area. The requirements of this Section 2.11.2 shall be waived if the City imposes a special tax or other form of revenue generation on all City residents dedicated specifically for the purpose of funding police services, which shall not include the business license tax approved by voters in 2014 (Measure O) or any additional sales tax or extension of such sales tax.



## **2.12. Establishment of Facilities and Infrastructure Financing Mechanisms.**

**2.12.1** Upon Developer's request and in connection with the development of any phase of the Project, City shall consider, in its sole and absolute discretion, establishing a mechanism(s) that is legal and available to the City to aid in financing the construction, maintenance, operation of (or other financeable aspect of) **"Facilities and Infrastructure."** "Facilities and Infrastructure" as used in this Agreement shall mean and include all onsite facilities and infrastructure and all offsite facilities and infrastructure needed for the Project. These mechanisms may include, without limitation, direct funding of condemnation costs and construction costs, acquisition of improvements, establishing reserve accounts to fund capital improvement program projects, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Infrastructure Finance Districts, special taxes and/or other similar mechanisms (collectively, **"Facilities Financing Mechanism(s)"**), and issuing any debt in connection therewith (**"Debt"**). Included goals of such Facilities Financing Mechanisms shall be to: ensure that each development project using Facilities and Infrastructure pay its proportional share of the cost of providing such Facilities and Infrastructure to such development project (**"Fair Share Contribution"**), that development projects that advance the construction or funding of the construction of all or a portion of such Facilities and Infrastructure (**"Advancing Projects"**) be reimbursed for that costs of that construction or construction funding that is in excess of such Advancing Projects' Fair Share Contribution (collectively, **"Reimbursement Amounts"**), and that any and all Reimbursements Amounts owing to Advancing Projects be collected from those other projects that are not Advancing Projects at the earliest stage possible, but no later than building permit issuance.

**2.12.2** Developer's request that City establish a Facilities Financing Mechanism and issue Debt shall be made to the City Manager in written form, and shall outline the purposes for which the Facilities Financing Mechanism and Debt will be established or issued, the general terms and conditions upon which it will be established or issued and a proposed timeline for its establishment or issuance.

**2.12.3** City's participation in forming any Facilities Financing Mechanisms approved by City (and its operation thereafter) and in issuing any Debt approved by the City will include all of the usual and customary municipal functions associated with such tasks including, without limitation, the formation and administration of special districts, the issuance of Debt, the monitoring and collection of fees, taxes, assessments and charges such as utility charges, the creation and administration of enterprise funds, the enforcement of debt obligations and other functions or duties authorized or mandated by the laws, regulations or customs relating to such tasks.

## **2.13. Construction of Sand Creek Road Additional Lanes**

**2.13.1** Developer is the owner of approximately 150 acres of real property located in the City of Antioch, Contra Costa County, which is located south of the Property and is more particularly described in Exhibit C to this Agreement (the “**Southern Property**”).

**2.13.2** Prior to approval of a small lot Final Map within Phase 4, 5 or 6 of the Project as shown on that certain Preliminary Phasing Plan approved by the City Council on February 9, 2016, Developer shall record a lien against the Southern Property, in favor of and in a form approved by the City, in an amount equal to the cost of design, construction, inspection, testing, and administration plus a 10% contingency of the second two lanes of Sand Creek Road with all appurtenances and landscaping as approved by the City Engineer (the “Sand Creek Road Additional Lanes”). The amount shall escalate with the ENR San Francisco Bay Area yearly construction cost index. Such lien shall remain in effect and be enforceable by the City as provided in herein, for the purpose of avoiding the creation of significant traffic impacts at intersections on Sand Creek Road from Heidorn Ranch Road to Deer Valley Road, inclusive, or Lone Tree Way from Heidorn Ranch Road to Deer Valley Road, inclusive (collectively, the “Study Intersections”). The City shall employ the following process to determine whether or not it has become necessary to enforce the lien:

(a) The Developer shall fund the City’s preparation of a Traffic Memo in January of each year following the issuance of any building permit in Phases 4, 5 or 6. The Traffic Memo shall determine if a significant impact is occurring at any of the Study Intersections by calculating the delay in seconds using a method consistent with that used in the Vineyards at Sand Creek Traffic Impact Analysis prepared by Fehr and Peers, December 2014.

(b) If the City determines, based on the most recent Traffic Memo, that any of the Study Intersections has reached a delay of 50.0 seconds or more, then the City shall notify Developer in writing of such determination (the “City’s Notice”), and not later than two (2) months from the date of the City’s Notice, Developer shall commence construction of the Sand Creek Road Additional Lanes. The Sand Creek Road Additional Lanes shall be complete and operational not later than twelve (12) months from the date of the City’s Notice. Upon Developer’s completion of the Sand Creek Road Additional Lanes in accordance with this Section 2.13, the City shall take such steps as are necessary to remove the lien from the public record and relinquish all enforcement rights thereto not later than thirty (30) days following such completion.

(c) If the Developer fails to meet any of the deadlines set forth in this Section 2.13, the City shall enforce the lien and take possession of the Southern Property to fund the construction and completion of the Sand Creek Road Additional Lanes, and no further building permits may be issued for Phases 4, 5 and 6 unless and the Sand Creek Road Additional Lanes are complete and operational.

### **ARTICLE 3**

#### **COVENANTS OF THE CITY**

**3.1. Obligations of City Generally.** The City shall act in good faith to accomplish the intent of this Agreement, to protect Developer's vested rights provided by this Agreement, and to ensure this Agreement remains in full force and effect. City shall cooperate with Developer so that Developer receives the benefits of and the rights vested by this Agreement, including prompt and timely action and assistance in (a) forming a Communities Facilities District(s) or other appropriate financing district(s) or mechanisms, and (b) obtaining from other governmental entities necessary or desirable permits or other approvals for the Project. To this end, any part of the Applicable Law that involves the exercise of judgment, discretion and/or action by City Staff, the City Planning Commission and/or the City Council shall require that such exercise of judgment, discretion and/or action be done in a reasonable manner.

**3.2. Eminent Domain.** Developer shall purchase any and all real property interests necessary to allow it to construct the public improvements required by the Project Approvals. In the event that an affected property owner has rejected an offer by Developer, based upon fair market value as determined by an appraisal prepared by a City-approved appraiser in cooperation with City, Developer may request City assistance. Provided that Developer provides adequate funding and enters into an agreement with the City setting forth the terms of City's obligations, in a form approved by City in its reasonable discretion, City shall promptly and timely negotiate and seek the purchase of the necessary property, including the possible consideration of City's use of its power of eminent domain (condemnation) to acquire such real property interests. Developer shall pay all costs associated with such acquisition or condemnation proceedings. Nothing herein is intended to or shall prejudice or commit City regarding any findings and determinations required to be made in connection with adoption of a resolution of necessity.

**3.3. Vested Development Rights.** Through this Agreement and the Applicable Law it describes, Developer has the vested right to develop the Property in accordance with the Applicable Law, which Applicable Law includes this Agreement, the City Regulations and the Project Approvals, with the reservations of authority set forth in Section 3.6 below. Any City ordinance, resolution, minute order, rule, motion, policy, standard, specification, or a practice adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not part of the Applicable Law and that takes effect on or after the Term Commencement Date is hereby referred to as a "**New City Law(s)**." During the Term, no New City Law(s) shall be applied to the Project and/or Property except as otherwise set forth herein, including without limitation, the New City Laws set forth in Section 3.6 below.

**3.4. Permitted Uses.** The permitted uses of the Property; the density and intensity of use of the Property; the maximum height, bulk and size of buildings and other structures, except as such may be limited by any design review approvals yet to be obtained; and provisions for

reservation or dedication of land for public purposes and other terms and conditions applicable to the Project/Property shall be those set forth in the Project Approvals, which City confirms and vests by this Agreement. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project/Property. City shall not require Developer to reserve or dedicate land for public purposes except as expressly required by the Applicable Law, including without limitation, the Project Approvals.

**3.5. Subdivision and Other Agreements.** The City shall not require Developer to enter into any subdivision or other agreement that is inconsistent with the Applicable Law or that requires more work than is required by the Applicable Law, provided however that the Parties agree and understand that Developer will be required to enter into subdivision improvement agreements as set forth in this Agreement. The City shall allow Developer to file multiple final maps, if Developer desires, in accordance with the Subdivision Map Act, as amended from time to time.

**3.6. City's Reservations of Authority.** Notwithstanding any other provision of this Agreement to the contrary, the following regulations and provisions shall apply to the development of the Property:

**3.6.1** New City Laws regarding Processing Fees, provided such Processing Fees are adopted pursuant to controlling law and are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

**3.6.2** New City Laws relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided such procedures are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

**3.6.3** New City Laws governing construction standards and specifications, including (a) City's building code, plumbing code, mechanical code, electrical code, fire code and grading code, (b) all uniform construction codes applicable in City at the time of building permit issuance, and (c) design and construction standards for road and storm drain facilities; provided any such regulation has been adopted and uniformly applied by City on a citywide basis and has not been adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

**3.6.4** New City Laws that may be in conflict with this Agreement or the Project Approvals but that are necessary to protect persons or property from dangerous or hazardous conditions that create a threat to the public health or safety or create a physical risk, based on findings by the City Council identifying the dangerous or hazardous conditions requiring such changes in the law, why there are no feasible alternatives to the imposition of such changes, and

how such changes would alleviate the dangerous or hazardous condition. Changes in laws, regulations, plans or policies that are specifically mandated and required by changes in state or federal laws or regulations that require such to apply to the Project.

**3.6.5** Notwithstanding anything to the contrary provided herein, as provided in the Statute at Section 65869.5: “In the event that state or federal law or regulations, enacted after [this Agreement] has been entered into, prevent or preclude compliance with one or more provisions of [this Agreement], such provisions of [this Agreement] shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.”

**3.6.6** Notwithstanding anything to the contrary provided herein, Developer shall have the right to challenge in court any New City Laws that would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement, including without limitation any of the items listed in this Section 3.6 (subsections 3.6.1 through 3.6.6).

## **ARTICLE 4**

### **AMENDMENT**

**4.1. Amendment to Approvals.** To the extent permitted by state and federal law, any Project Approval (hereafter in this ARTICLE 4, an “**Approval**”) may, from time to time, be amended or modified in the following manner:

**4.1.1 Administrative Project Amendments.** Upon the written request of Developer for an amendment or modification to an Approval, the Director of Community Development, or his/her designee (collectively “**Authorized Official**”) shall determine:

(i) whether the requested amendment or modification is minor when considered in light of the Project Approvals as a whole; and (ii) whether the requested amendment or modification is substantially consistent with Applicable Law. If the Authorized Official finds that the proposed amendment or modification is minor, substantially consistent with Applicable Law, and will result in no new significant environmental impacts, the amendment shall be determined to be an “**Administrative Project Amendment**” and the Authorized Official may, except to the extent otherwise required by law, approve the Administrative Project Amendment, following consultation with other relevant City staff, without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, non-substantial reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the design and location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project Approvals, and minor adjustments to the Property diagram or Property legal description shall be treated as Administrative Project Amendments.

**4.1.2 Non-Administrative Amendments.** Any request of Developer for an amendment or modification to an Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

**4.1.3 Amendment Exemptions.** Amendment of an Approval requested by Developer shall not require an amendment to this Agreement. Instead, the amendment automatically shall be deemed to be incorporated into the Project Approvals and vested under this Agreement.

**4.2. Amendment of This Agreement.** This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties or their successors in interest, as follows:

**4.2.1 Administrative Amendments.** The City Manager and City Attorney are authorized on behalf of the City to enter into any amendments to this Agreement other than amendments which substantially affect (i) the term of this Agreement (excluding extensions of time for performance of a particular act), (ii) permitted uses of the Property, (iii) provisions for the reservation or dedication of land, (iv) the density or intensity of use of the Property or the maximum height or size of proposed buildings, or (v) monetary payments by Developer. Such amendments (“**Administrative Agreement Amendment**”) shall, except to the extent otherwise required by law, become effective without notice or public hearing.

**4.2.2 Non-Administrative Amendments.** Any request of Developer for an amendment or modification to this Agreement which is determined not to be an Administrative Agreement Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

**4.2.3 Subsequent Approvals.** No amendment of this Agreement shall be required in connection with the issuance/approval of any Subsequent Approval Developer seeks and secures or any New City Laws that Developer elects to be subject to (in Developer’s sole and exclusive discretion) (“**New City Regulation**”). Any such Subsequent Approval or New City Regulation shall be vested into by Developer and City when it becomes effective under controlling law. City shall not amend or issue any Subsequent Approval unless Developer requests such an amendment or issuance from City.

## **ARTICLE 5**

### **ASSIGNMENT, TRANSFER AND MORTGAGEE PROTECTION**

**5.1. Assignment of Interests, Rights and Obligations.** Nothing in this Agreement shall limit the right of Developer to freely alienate, transfer or assign (“**Assign**” or “**Assignment**”) all or any portion of the Property, except that Developer may only Assign all or any portion of its interests, rights or obligations under this Agreement or the Project Approvals, including any amendments thereto, subject to both of the following:

**5.1.1** The requirements of this ARTICLE 5; and

**5.1.2** To a third party who acquires an interest or estate in Developer and/or the Property or any portion thereof including, without limitation, a third party who is a purchaser or ground lessee of lots, parcels or improvements (an “**Assignee**”).

**5.2. Assignment Agreements.**

**5.2.1 Written Assignment Agreement.** In connection with an Assignment by Developer (other than an Assignment by Developer to an Affiliated Party (as defined below), to a Mortgagee (as defined below in 5.4) or to a Home Purchaser (as defined below in 5.3)), Developer and the Assignee shall enter into a written agreement (an “**Assignment Agreement**”), with City’s consent in writing to such Assignment, which consent shall not be unreasonably withheld, regarding the respective interests, rights, benefits, burdens and obligations (collectively, “benefits and burdens”) of Developer and the Assignee in and under this Agreement and the Project Approvals. Such Assignment Agreement shall (i) set forth the benefits and burdens of this Agreement and/or the Project Approvals that are being assigned to Assignee, (ii) transfer to the Assignee the benefits and burdens of this Agreement and/or the Project Approvals that are being assigned, and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the Assignment. Developer shall notify the City in writing that Developer plans to execute an Assignment Agreement at least 30 days in advance of the proposed execution date of the Assignment Agreement, and Developer shall provide City with such information as may be required by City to demonstrate the Assignee’s qualifications (including financial ability) to the Assignment. City shall have 30 days from the date of receipt of such notice from Developer to review the information and to provide City’s determination to Developer regarding City’s consent to the Assignment. City may withhold its consent to the Assignment if the City reasonably determines that the Assignee, or an entity with similar or related ownership or control as Assignee, lacks the financial ability to assume the obligations involved with the Assignment or the Assignment Agreement does not adequately address the division of the obligations and requirements of this Agreement. If City consents to the Assignment, Developer shall be released from its benefits and burdens as set forth in the Assignment Agreement. If City does not consent to the Assignment, City shall provide its reasons in writing and shall meet with Developer in good faith to determine what additional information may be necessary for City to provide its consent. An “**Affiliated Party**” is defined as any corporation, limited liability company, partnership or other entity which is controlling of, controlled by, or under common control with Developer, and “**control**,” for purposes of this definition, means effective management and control of the other entity, subject only to major events requiring the consent or approval of the other owners of such entity.

**5.2.2 Binding.** Upon City approval of, execution and recordation in the Official Records of Contra Costa County of an Assignment Agreement, and a “**Memorandum of**

**Assignment**” (in a form substantially similar to the Memorandum of Assignment set forth in *Exhibit D* to this Agreement), the Assignment Agreement shall be binding on Developer, the City and the Assignee, and shall release Developer from those benefits and burdens of this Agreement and the Project Approvals expressly assigned and transferred in the Assignment Agreement.

**5.3. Home Purchaser.** The burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither an Assignment Agreement nor the City’s consent shall be required in connection with, any single-family residence conveyed to a purchaser or leased to a lessee for a period in excess of one year. The purchaser or lessee in such a transaction and its successors (“**Home Purchaser**”) shall be deemed to have no obligations under this Agreement.

**5.4. Mortgagee Protection.** This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording of this Agreement, including the lien of any deed of trust or mortgage (“**Mortgage**”). The foregoing notwithstanding, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement (including but not limited to the City’s remedies to terminate the rights of Developer and its successors and assigns under this Agreement, to terminate this Agreement, and to seek other relief as provided in this Agreement) shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee (“**Mortgagee**”) who acquires title to the Property, or any portion thereof, by foreclosure, trustee’s sale, deed in lieu of foreclosure, or otherwise.

**5.4.1 Mortgagee Not Obligated.** The provisions of 5.4 notwithstanding, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements other than those uses or improvements provided for or authorized by this Agreement, or otherwise under the Project Approvals.

**5.4.2 Notice of Default to Mortgagee.** If the City receives a written notice from a Mortgagee or from Developer requesting a copy of any notice of default given Developer and specifying the address for notice, then the City shall deliver to the Mortgagee at the Mortgagee’s cost, concurrently with delivery to Developer, any notice with respect to any claim by the City that Developer committed an event of default. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the City’s notice. The City Manager is authorized on behalf of the City to grant to the Mortgagee an extension of time to cure or remedy, not to exceed an additional 60 days.



## ARTICLE 6

### COOPERATION IN THE EVENT OF LEGAL CHALLENGE; INDEMNITY

**6.1. Indemnity.** Developer shall defend, indemnify, and hold harmless the City from any legal action brought by any third party concerning: (i) the validity, legality, or constitutionality of any term, condition, obligation, fee, dedication, or exaction required or imposed by this Agreement; (ii) the procedures utilized in or the sufficiency of the environmental review associated with this Agreement; and (iii) the implementation of this Agreement through such further actions, measures, procedures, and approvals as are necessary to satisfy the Agreement's requirements. Developer shall defend the City with qualified legal counsel subject to the approval of the City Attorney, which approval shall not unreasonably be withheld. Developer shall be exclusively responsible for paying all costs, damages, attorney fees, and other court-ordered compensation awarded to any third party (whether awarded against the City, Developer, or any other party) in any legal action in which its Developer's duties to defend, indemnify, and hold the City harmless arise under this Section. City shall promptly notify Developer of any action filed and the Parties shall cooperate fully in the defense of any such action.

**6.2. Limitations on Indemnity.** The parties expressly recognize that the obligations stated in this Article do not require or contemplate that Developer shall indemnify or hold harmless or be responsible for any error, omission, tortious act, intentional act, negligent act, or default of, or any injury caused by, any homeowners association or any City department or dependent special district that is formed by, or that receives funding, as a result of any term or condition of this Agreement.

## ARTICLE 7

### DEFAULT; TERMINATION; ANNUAL REVIEW

#### 7.1. Default.

**7.1.1 Remedies In General; No Damages.** City and Developer agree that, as part of the bargained for consideration of this Agreement, in the event of default by either Party, the only remedy shall be declaratory relief or specific performance of this Agreement. In no event shall either Party, or any of their officers, agents, representatives, officials, employees or insurers, be liable to the other Party for damages, whether actual, consequential, punitive or special, for any breach or violation of this Agreement. The Parties agree that any action or proceeding to cure, correct or remedy any default or to enforce any covenant or promise under this Agreement shall be limited solely and exclusively to the remedies expressly provided. Following notice and expiration of any applicable cure periods and completion of the dispute resolution process set forth in ARTICLE 8 below, either Party may institute legal or equitable proceedings to cure, correct, or remedy any default, or to enforce any covenant or promise herein, enjoin any threatened or attempted violation, or enforce by specific performance, declaratory relief or writ of mandate the obligations and rights of the Parties. As noted above, in no event shall either Party be liable for any

damages. Any legal action to interpret or enforce the provisions of this Agreement shall be brought in the Superior Court for Contra Costa County, California.

**7.1.2 Cure Period.** Subject to extensions of time by mutual consent in writing of the Parties, breach of, failure, or delay by either Party to perform any term or condition of this Agreement shall constitute a default. In the event of any alleged default of any term, condition, or obligation of this Agreement, the Party alleging such default shall give the defaulting Party notice in writing specifying the nature of the alleged default and the manner in which such default may be satisfactorily cured (“**Notice of Breach**”). The defaulting Party shall cure the default within 30 days following receipt of the Notice of Breach, provided, however, if the nature of the alleged default is non-monetary and such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no default shall exist and the noticing Party shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a default shall exist under this Agreement and the non-defaulting Party may exercise any of the remedies available.

**7.1.3 Procedure for Default by Developer.** If Developer is alleged to be in default hereunder by City then after notice and expiration of the cure period specified above and the dispute resolution process set forth in ARTICLE 8 below, City may institute legal proceedings against Developer pursuant to this Agreement, and/or give notice of intent to terminate or modify this Agreement to Developer pursuant to California Government Code Section 65868. Following notice of intent to terminate or modify this Agreement as provided above, the matter shall be scheduled for consideration and review at a duly noticed and conducted public hearing in the manner set forth in Government Code Sections 65865, 65867 and 65868 by the City Council within 60 calendar days following the date of delivery of such notice (the “**Default Hearing**”). Developer shall have the right to offer written and oral testimony prior to or at the time of said public hearing. If the City Council determines that a default has occurred and is continuing, and elects to terminate the Agreement, City shall give written notice of termination of the Agreement to Developer by certified mail and the Agreement shall thereby be terminated 30 days thereafter; provided, however, that if Developer files an action to challenge City’s termination of the Agreement within such 30-day period, then the Agreement shall remain in full force and effect until a trial court has affirmed City’s termination of the Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired). This Section shall not be interpreted to constitute a waiver of section 65865.1 of the Government Code, but merely to provide a procedure by which the Parties may take the actions set forth in Section 65865.1.

**7.1.4 Procedure for Default by City.** If the City is alleged by Developer to be in default under this Agreement, then after notice and expiration of the cure period and completion of the dispute resolution procedures below, Developer may enforce the terms of this Agreement by an action at law or in equity, subject to the limitations set forth above.

**7.2. Excusable Delay; Extension of Time of Performance.** In addition to specific provisions of this Agreement, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, or a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, enactment or imposition against the Project of any moratorium, or any time period for legal challenge of such moratorium by Developer, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Litigation attacking the validity of this Agreement or any of the Project Approvals, Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than the City necessary for the development of the Project pursuant to this Agreement, or Developer' inability to obtain materials, power or public facilities (such as water or sewer service) to the Project, shall be deemed to create an excusable delay as to Developer. Upon the request of either Party, an extension of time for the performance of any obligation whose performance has been so prevented or delayed shall be memorialized in writing. The City Manager is authorized on behalf of the City to enter into such an extension. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon.

**7.3. Annual Review.** Throughout the term of this Agreement, at least once every 12 months, Developer shall provide City with a written report in demonstrating Developer's good-faith compliance with the terms and conditions of this Agreement (the "**Written Report**"). City's City Manager and City Attorney shall review the Written Report to determine whether Developer is in good-faith compliance with the terms of the Agreement and, if they have concerns about Developer' compliance, shall schedule a review before the City Council (the "**Periodic Review**"). At least 10 days prior to the Periodic Review, the City shall provide to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review (and, to the extent practical, related exhibits) concerning Developer' performance. Developer shall be permitted an opportunity to respond to the City's evaluation of Developer' performance, either orally at a public hearing or in a written statement, at Developer' election. If before the public hearing, such response shall be directed to the Community Development Director. At the conclusion of the Periodic Review, the City Council shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. If the City Council finds and determines, based on substantial evidence, that Developer has not complied with such terms and conditions, the City Council may initiate proceedings to terminate or modify this Agreement, in accordance with Government Code

Section 65865.1, by giving notice of its intention to do so, in the manner set forth in Government Code Sections 65867 and 65868. If after receipt of the Written Report, the City does not (a) schedule a Periodic Review within two months, or (b) notify Developer in writing of the City's determination after a Periodic Review, then it shall be conclusively presumed that Developer has complied in good faith with the terms and conditions of this Agreement during the year covered under the Written Report.

**7.4. Notice of Compliance.** Within 30 days following any written request which Developer or a Mortgagee may make from time to time, the City shall execute and deliver to the requesting party (or to any other party identified by the requesting party) a written "**Notice of Compliance**", in recordable form, duly executed and acknowledged by the City, that certifies: (a) this Agreement is unmodified and in full force and effect, or if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of the modifications; (b) there are no current uncured defaults under this Agreement or specifying the dates and nature of any default; and (c) any other information reasonably requested by Developer or the Mortgagee. The failure to deliver such a statement within such time shall constitute a conclusive presumption against the City that this Agreement is in full force and effect without modification except as may be represented by Developer and that there are no uncured defaults in the performance of Developer, except as may be represented by Developer. Developer shall have the right, in its sole discretion, to record the Notice of Compliance.

## **ARTICLE 8 DISPUTE RESOLUTION**

**8.1. Dispute; Confidentiality.** Any controversy or dispute arising out of or related to this Agreement, or the development of the Project (a "**Dispute**"), shall be subject to private negotiation among the Parties, and if then not resolved shall be subject to non-binding mediation followed by litigation, if necessary, as set forth below. Each Party agrees that any Dispute, and all matters concerning any Dispute, will be considered confidential and will not be disclosed to any third-party except (a) disclosures to a Party's attorneys, accountants, and other consultants who assist the Party in the resolution of the Dispute, (b) as provided below with respect to the mediation, and (c) as otherwise required by law, including without limitation, the California Public Records Act or the City's Municipal Code.

**8.2. Private Negotiation.** If a Dispute arises, the Parties agree to negotiate in good faith to resolve the Dispute. If the negotiations do not resolve the Dispute to the reasonable satisfaction of the Parties within 30 days from a written request for a negotiation, then the Dispute shall be submitted to mediation pursuant to 8.3.

**8.3. Mediation.** Within 15 days following the written request to negotiate, either Party may initiate non-binding mediation (the "**Mediation**"), conducted by JAMS/Endispute, Inc. ("**JAMS**") or any other agreed-upon mediator. Either Party may initiate the Mediation by written

notice to the other Party. The mediator shall be a retired judge or other mediator, selected by mutual agreement of the Parties, and if the Parties cannot agree within 15 days after the Mediation notice, the mediator shall be selected through the procedures regularly followed by JAMS. The Mediation shall be held within 15 days after the Mediator is selected, or a longer period as the Parties and the mediator mutually decide. If the Dispute is not fully resolved by mutual agreement of the Parties within 15 days after completion of the Mediation, then either Party may commence an action in state or federal court. The Parties shall bear equally the cost of the mediator's fees and expenses, but each Party shall pay its own attorneys' and expert witness fees and any other associated costs.

**8.4. Injunction.** Nothing in this ARTICLE 8 shall limit a Party's right to seek an injunction or restraining order from a court of competent jurisdiction in circumstances where such relief is deemed necessary to preserve assets.

## **ARTICLE 9 MISCELLANEOUS**

**9.1. Defined Terms; Citations.** The capitalized terms used in this Agreement, unless the context obviously indicates otherwise, shall have the meaning given them in this Agreement. Except as otherwise expressly stated, all citations are to the Government Code of the State of California.

**9.2. Enforceability.** As provided in Section 65865.4, this Agreement shall be enforceable by either Party notwithstanding any change enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or resolution or other rule, regulation or policy adopted by the City that changes, alters or amends the ordinances, rules, regulations and policies included in the Applicable Law, except as this Agreement may be amended or canceled pursuant to Section 65868 or modified or suspended pursuant to Section 65869.5.

**9.3. Other Necessary Acts.** Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals or this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges under this Agreement.

**9.4. Construction.** Each reference in this Agreement to this Agreement or any of the Project Approvals shall be deemed to refer to this Agreement or the Project Approval, as it may be amended from time to time. This Agreement has been reviewed and revised by legal counsel for both the City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

**9.5. Covenants Running with the Land.** Subject to the Assignment provisions in ARTICLE 5, all of the provisions contained in this Agreement shall be binding upon and benefit

the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of, or interest in, the Property, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, as appropriate, runs with the Property and is for the benefit of and binding upon the owner, Developer, and each successive owner of all or a portion of the Property, during its ownership of such property.

**9.6. Attorneys' Fees.** If any legal action or other proceeding is commenced to enforce or interpret any provision of, or otherwise relating to, this Agreement, the losing party or parties shall pay the prevailing party's or parties' actual expenses incurred in the investigation of any claim leading to the proceeding, preparation for and participation in the proceeding, any appeal or other post-judgment motion, and any action to enforce or collect the judgment including without limitation contempt, garnishment, levy, discovery and bankruptcy. For this purpose "expenses" include, without limitation, court or other proceeding costs and experts' and attorneys' fees and their expenses. The phrase "prevailing party" shall mean the party which is determined in the proceeding to have prevailed or which prevails by dismissal, default or otherwise.

**9.7. No Agency, Joint Venture or Partnership.** The City and Developer disclaim the existence of any form of agency relationship, joint venture or partnership between the City and Developer. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as creating any relationship other than a contractual relationship between the City and Developer.

**9.8. No Third Party Beneficiary.** This Agreement is made solely and specifically among and for the benefit of the Parties, and their respective successors and assigns subject to the express provisions relating to successors and assigns, and no other party other than a Mortgagee will have any rights, interest or claims or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

**9.9. Notices.** All notices, consents, requests, demands or other communications to or upon the respective Parties shall be in writing and shall be effective for all purposes: (A) upon receipt on any City business day before 5:00 PM local time and on the next City business day if received after 5:00 PM or on other than a City business day, including without limitation, in the case of (i) personal delivery, or (ii) delivery by messenger, express or air courier or similar courier, or (B) five days after being duly mailed certified mail, return receipt requested, postage prepaid, all addressed as follows:

If to City: City of Antioch  
Attention: City Manager  
200 H Street

ALTERNATIVE

Antioch, CA 94509  
Telephone: (925) 779-7011  
Facsimile: (925) 779-7003

With a mandatory City Attorney  
copy to: City of Antioch  
200 H Street  
Antioch, CA 94509  
Telephone: (925) 779-7015  
Facsimile: (925) 779-7003

If to Developer: GBN Partners, LLC  
Attention: Matthew D. Beinke  
3820 Blackhawk Road  
Danville, CA 94506  
Telephone: (925) 736-1571  
Facsimile: (925) 736-0309

With a mandatory Perkins Cole LLP  
copy to: Attention: Cecily T. Barclay  
505 Howard Street, Suite 1000  
San Francisco, CA 94105  
Telephone: (415) 344-7000  
Facsimile: (415) 344-7050

In this Agreement “City business days” means days that the Antioch City Hall is open for business and does not currently include Saturdays, Sundays, and federal and state legal holidays. Either Party may change its address by written notice to the other on five business days’ prior notice in the manner set forth above. Receipt of communication by facsimile shall be sufficiently evidenced by a machine-generated confirmation of transmission without notation of error. In the case of illegible or otherwise unreadable facsimile transmissions, the receiving Party shall promptly notify the transmitting Party of any transmission problem and the transmitting Party shall promptly resend any affected pages.

**9.10. Entire Agreement and Exhibits.** This Agreement constitutes in full, the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements of the Parties with respect to all or any part of the subject matter of this Agreement. No oral statements or prior written matter not specifically incorporated in this Agreement shall be of any force and effect. No amendment of, supplement to or waiver of any obligations under this Agreement will be enforceable or admissible unless set forth in a writing approved by the City and Developer. The following exhibits are attached to this Agreement and incorporated for all purposes:

<i>Exhibit A</i>	Property Description.
<i>Exhibit B</i>	Fee Credit Proposal.
<i>Exhibit C</i>	Southern Property Description.
<i>Exhibit D</i>	Memorandum of Assignment.

**Counterparts.** This Agreement may be executed in any number of identical counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document. This Agreement may be executed by signatures transmitted by facsimile, adobe acrobat or other electronic image files and these signatures shall be valid, binding and admissible as though they were ink originals.

**9.11. Recordation of Development Agreement.** Pursuant to Section 65868.5, no later than ten days after the City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of Contra Costa.

This Agreement has been entered into by and between Developer and the City as of the Effective Date.

**CITY:**

**City of Antioch**, a municipal corporation

By: \_\_\_\_\_,  
City Manager

APPROVED AS TO FORM:

By:

\_\_\_\_\_  
City Attorney

ATTEST:

By:

\_\_\_\_\_  
City Clerk

**DEVELOPER:**

**GBN Partners, LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Matthew D. Beinke, Partner

APPROVED AS TO FORM:  
Perkins Cole

By:

\_\_\_\_\_  
Attorneys for Developer

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**Att. 7-30**

Exhibit A  
(Description of Property)

MAY 5, 2017  
JOB NO.: 514-072

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**PARCEL ONE, DOC. 2014-0150641 AND DOC. 2016-0035832**  
**ANTIOCH, CALIFORNIA**

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF ANTIOCH, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL ONE, AS SAID PARCEL ONE IS DESCRIBED AND SHOWN IN THAT CERTAIN DOCUMENT ENTITLED "PW 443-03-14 LOT LINE ADJUSTMENT", RECORDED SEPTEMBER 5, 2014, INSTRUMENT NO. 2014-0150641, OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY;

**TOGETHER THEREWITH, THE FOLLOWING DESCRIBED PARCEL OF LAND:**

BEING ALL OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE 'ASSIGNMENT AND CONVEYANCE' RECORDED MARCH 2, 2016 AS DOCUMENT NO. 2016-0035832 OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER OF THE CONTRA COSTA COUNTY.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

**END OF DESCRIPTION**

---

JOEL GARCIA, P.L.S.  
L.S. NO. 5285

Exhibit B  
(Modified Fee Credit Proposal)

Scenario 1: Applying Developer's per unit fee credit proposal, but limiting total value of available fee credits to the value of oversized water and sewer facilities to be constructed by Developer. Developer would exhaust available fee credits after 98.52 units.

Fee	Current Fee Amount	% Deferral	Fee Credit Per Unit	Fee Credit Limit	Number of Units
Sewer Connection	\$2,555	60%	\$1,533		
Water Capacity	\$5,216	65%	\$3,391		
<b>Total Fee Credits/Units</b>			\$4,294	\$423,037 <sup>1</sup>	98.52

Scenario 2: Giving Developer 100% credit against water and sewer fees until the total value of accumulated credits equals the value of the oversized water and sewer facilities to be constructed by Developer. Developer would exhaust available fee credits after 54.44 units.

Fee	Current Fee Amount	% Deferral	Fee Reduction	Fee Credit Total	Number of Units
Sewer Connection	\$2,555	100%	\$0		
Water Capacity	\$5,216	100%	\$0		
<b>Total Fee Deferral</b>			\$7,771	\$423,037	54.44

Scenario 3: Giving Developer 50% credit against water and sewer fees until the total value of accumulated credits equals the value of the oversized water and sewer facilities to be constructed by Developer. Developer would exhaust available fee credits after 108.88 units.

Fee	Current Fee Amount	% Deferral	Reduced Fee Obligation	Fee Credit Total	Number of Units
Sewer Connection	\$2,555	50%	\$1,277.50		
Water Capacity	\$5,216	50%	\$2,608		
<b>Total Fee Deferral</b>			\$3,885.50	\$423,037	108.88

<sup>1</sup> Fee Credit Limit is based on determination of value of oversized water and sewer facilities to be constructed by Developer.

Exhibit C  
(Southern Property Description)

AUGUST 26, 2014  
JOB NO.: 974-050

**LEGAL DESCRIPTION  
LOT LINE ADJUSTMENT  
PARCEL TWO  
ANTIOCH, CALIFORNIA**

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF ANTIOCH, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL (B) OF THAT CERTAIN TRUST TRANSFER DEED RECORDED MAY 26, 2004, IN DOCUMENT NO. 2004-0199652 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, ALSO BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 1 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN.

**EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCELS OF LAND:**

(A) THAT PARCEL OF LAND DESCRIBED IN THE DEED TO PACIFIC GAS AND ELECTRIC COMPANY, RECORDED DECEMBER 12, 1991 IN BOOK 17077 OR 436.

(B) THAT PARCEL OF LAND DESCRIBED IN THE DEED TO PACIFIC GAS AND ELECTRIC COMPANY, RECORDED JANUARY 9, 2009 IN INSTRUMENT NO. 2009-3639, OFFICIAL RECORDS.

(C) BEGINNING AT THE NORTHEASTERN CORNER OF SAID SOUTHEAST QUARTER;  
  
THENCE, FROM SAID POINT OF BEGINNING, ALONG THE NORTHERN LINE OF SAID SOUTHEAST QUARTER, NORTH 89°22'08" WEST (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 89°22'08" WEST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 1,562.40 FEET;  
  
THENCE, LEAVING SAID NORTHERN LINE, SOUTH 14°36'23" EAST 281.45 FEET;  
  
THENCE, SOUTH 61°13'41" EAST 51.04 FEET;  
  
THENCE, NORTH 57°49'21" EAST 516.24 FEET;  
  
THENCE, SOUTH 89°22'08" EAST 324.45 FEET;  
  
THENCE, SOUTH 59°24'33" EAST 788.29 FEET TO A POINT ON THE EASTERN LINE OF SAID SOUTHEAST QUARTER;  
  
THENCE, ALONG SAID EASTERN LINE, NORTH 00°55'42" EAST 409.59 FEET TO SAID POINT OF BEGINNING.

**TOGETHER THEREWITH, THE FOLLOWING DESCRIBED PARCEL OF LAND:**

P:\0800 - 0999\974-50\SURVEY\LEGAL DESCRIPTIONS\LG-004-LLA PARCEL TWO.DOC

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)  
**Att. 7-33**

BEING A PORTION OF PARCEL C, AS SAID PARCEL C IS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED SEPTEMBER 5, 2002, IN INSTRUMENT NO. 2002-0312734 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CORNER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 1 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE NORTHERN LINE OF SAID SOUTHEAST QUARTER, NORTH 89°22'08" WEST (THE BEARING OF SAID NORTHERN LINE BEING TAKEN AS NORTH 89°22'08" WEST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 1,562.40 FEET TO A POINT ON THE SOUTHERN LINE OF SAID PARCEL C, SAID POINT BEING THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, LEAVING SAID SOUTHERN LINE OF PARCEL C, NORTH 14°36'23" WEST 100.92 FEET;

THENCE, NORTH 58°51'12" WEST 887.40 FEET;

THENCE, NORTH 89°23'27" WEST 91.74 FEET;

THENCE, SOUTH 75°29'23" WEST 158.77 FEET TO A POINT ON THE WESTERN LINE OF SAID PARCEL C;

THENCE, ALONG SAID WESTERN LINE, SOUTH 00°58'52" WEST 506.47 FEET TO THE SOUTHWESTERN CORNER OF SAID PARCEL C;

THENCE, FROM SAID SOUTHWESTERN CORNER, ALONG SAID SOUTHERN LINE OF PARCEL C, SOUTH 89°22'08" EAST 1,039.10 FEET TO SAID POINT OF BEGINNING.

CONTAINING 157.91 ACRES OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION



-L.S.

Exhibit D  
(Form of Memorandum of Assignment)

NO FEE DOCUMENT per Government Code § 6103  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Antioch  
200 H Street  
Antioch, CA 94509  
Attention: City Manager and City Attorney

**Memorandum of Assignment**

This "**Memorandum of Assignment**" (the "**Agreement**") relates to that Development Agreement by and between the City of Antioch and GBN Partners, LLP, dated \_\_\_\_\_ 2016, ("Development Agreement") and the recording and use of the Agreement on that certain below-described real property ("Subject Property"). This Agreement is entered into by GBN Partners, LLC, a Delaware limited liability company ("Developer") and \_\_\_\_\_ [owner of Subject Property] ("Assignee"), which Developer and Assignee likewise entered into a "Assignment Agreement" pursuant to Section \_\_\_\_\_ of the Agreement.

The Subject Property is more particularly described in *Exhibit* \_\_\_\_\_ attached hereto and incorporated herein by this reference as if set forth in full.

The Subject Property is burdened and benefitted by and otherwise bound and subject to each and every term and condition of the Development Agreement, as more specifically described in this Agreement and the Assignment Agreement, and Developer is released and therefore no longer burdened and benefitted by and otherwise bound and subject to each and every term and condition of the Agreement as relates to the Subject Property.

[Parties to delineate how all obligations, such as parks, roads, etc. are being distributed amongst the Developer and Assignee]

# ATTACHMENT “8”

**PLANNING COMMISSION  
RESOLUTION NO. 2017- ##**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN ORDINANCE TO  
REZONE TO PLANNED DEVELOPMENT DISTRICT (PD-17-01) FOR THE  
VINEYARDS AT SAND CREEK PROJECT**

**WHEREAS**, the City received an application from GBN Partners, LLC for approval of an Environmental Impact Report, a Development Agreement, General Plan Amendment, Planned Development rezone, Resource Management Plan, and a Vesting Tentative Map, for the development of a 650 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, An Initial Study, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified by the City Council on February 9, 2017 in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162; and

**WHEREAS**, the Planning Commission recommended adoption of the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program to the City Council; and

**WHEREAS**, the Planning Commission recommended adoption of the Addendum to the Final Environmental Impact Report ("FEIR") and Mitigation Monitoring and Reporting Program ("MMRP") to the City Council and the proposed modifications to the Vesting Tentative Map do not amend the project; therefore, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, a subsequent environmental document is not required; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, on September 20, 2017, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary; and

**WHEREAS**, in consideration of the rezone, the granting of such rezone will not adversely affect the comprehensive General Plan.



**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission does hereby make the following findings for recommendation to the City Council for approval of the proposed zone change:

1. The public necessity requires the proposed zone change. Each project in the Sand Creek Focus Area of the General Plan is required to rezone to a Planned Development (PD) District and adopt development standards.
2. That the subject property is suitable to the use permitted in the proposed zone change. The subject property is relatively flat, undeveloped land adjacent to existing residential development and is suitable to single family residential development.
3. That said permitted use is not detrimental to the surrounding property. The project is consistent with the adjacent residential development to the north and west and the project will construct infrastructure and improvements that will benefit surrounding properties.
4. That the proposed zone change is in conformance with the Antioch General Plan. The project conforms to the requirements of the General Plan for Medium Low Density Residential Development and the requirements of the General Plan Sand Creek Focus Area.

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Planning Commission does hereby recommend to the City Council APPROVAL of the draft Ordinance (Exhibit A) to rezone the approximately 141 acre project site located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007).

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing recommendation was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20<sup>th</sup> day of September, 2017, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

---

FORREST EBBS  
Secretary to the Planning Commission

## **EXHIBIT A**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH TO REZONE  
THE APPROXIMATELY 141 ACRE VINEYARDS AT SAND CREEK PROJECT SITE  
(APNs 057-030-003, 057-030-007), FROM STUDY ZONE (S) TO PLANNED  
DEVELOPMENT DISTRICT (PD)**

The City Council of the City of Antioch does ordain as follows:

**SECTION 1:**

The City Council determined on \_\_\_\_\_, that, pursuant to Section 15074 of the Guidelines of the California Environmental Quality Act, and after full consideration of the Environmental Impact Report and Mitigation Monitoring and Reporting Program prepared for project, and on the basis of the whole record before it, the Environmental Impact Report for the Promenade/Vineyards at Sand Creek project should be certified.

**SECTION 2:**

At its regular meeting of September 20, 2017, the Planning Commission recommended that the City Council adopt the Ordinance to rezone the subject property from Study Zone (S) to Planned Development District (PD-17-01) for the Vineyards at Sand Creek Project.

**SECTION 3:**

The real property described in Exhibit A, attached hereto, is hereby rezoned from Study Zone (S) to Planned Development District (PD-17-01) for the Vineyards at Sand Creek Project, and the zoning map is hereby amended accordingly.

**SECTION 4:**

The development standards, as defined below, for the subject property (APNs 057-030-003, 057-030-007), known as The Vineyards at Sand Creek Project, are herein incorporated into this ordinance, and are binding upon said property.

**Development Standards for the Proposed Promenade/Vineyards at Sand Creek  
Planned Development District (PD-14-03)**

<b>Development Standards for the Proposed Vineyards at Sand Creek Planned Development District</b>	<b>Proposed PD Zoning Standards for Single-Family Residential (SF)</b>	<b>Proposed PD Zoning Standards for Active Adult Residential (AA)</b>
Maximum Density	<u>All Lot Types:</u> 4.6 dwelling units per gross acre (5.5 dwelling units per net developable acre)	<u>All Lot Types:</u> 4.6 dwelling units per gross acre (5.5 dwelling units per net developable acre)
Maximum Number of Units	<u>All Lot Types:</u> 641 Single Family Residences	<u>All Lot Types:</u> 641 Active Adult Residences
Minimum Lot Size	<u>Lot Type A:</u> 45'x80', average Lot Size 4,200 SF  <u>Lot Type B:</u> 50'x80', average Lot Size 4,630 SF  <u>Lot Type C:</u> 50'x90', average Lot Size 5,160 SF	<u>Lot Type A:</u> 45'x80', average Lot Size 4,200 SF  <u>Lot Type B:</u> 50'x80', average Lot Size 4,630 SF  <u>Lot Type C:</u> 50'x90', average Lot Size 5,160 SF
Minimum Lot Width	<u>Lot Type A:</u> All lots shall have a minimum width of 45 feet at a distance of 20 feet from the right-of-way.  <u>Lot Type B and C:</u> All lots shall have a minimum width of 50 feet at a distance of 20-feet from the right of way.	<u>Lot Type A:</u> All lots shall have a minimum width of 45 feet at a distance of 20 feet from the right-of-way.  <u>Lot Type B and C:</u> All lots shall have a minimum width of 50 feet at a distance of 20-feet from the right of way.
Minimum Front Yard Setbacks	<u>All Lot Types:</u> 10 foot minimum to porch front, 12 foot minimum to living space, (reserved for landscaping only, excluding driveways).	<u>All Lot Types:</u> 10 foot minimum to porch front, 12 foot minimum to living space, (reserved for landscaping only, excluding driveways).
Minimum Side Yard Setbacks	<u>Lot Type A Interior lot:</u> 4 foot minimum.  <u>Lot Type A Corner lot:</u> 4 foot interior/9 foot street-side.  <u>Lot Type B and C Interior lot:</u> 5 foot.  <u>Lot Type B and C Corner lot:</u>	<u>Lot Type A Interior lot:</u> 4 foot minimum.  <u>Lot Type A Interior 'Active Adult' Duet lot:</u> 0 foot minimum (duet) one side and 4 foot minimum alternate side.  <u>Lot Type A Corner lot:</u> 4 foot interior/9 foot street-side.

Development Standards for the Proposed Vineyards at Sand Creek Planned Development District	Proposed PD Zoning Standards for Single-Family Residential (SF)	Proposed PD Zoning Standards for Active Adult Residential (AA)
	<p>5 foot interior/10 foot street-side.</p> <p>Architectural pop-outs and encroachments to the front, side and rear shall be allowed pursuant to Municipal Code Section 9-5.801.</p>	<p><u>Lot Type A Corner 'Active Adult' Duet lot:</u> 0 foot minimum interior/9 foot streetside.</p> <p><u>Lot Type B and C Interior lot:</u> 5 foot.</p> <p><u>Lot Type B and C Interior 'Active Adult' Duet lot:</u> 0 foot minimum one side and 5 foot minimum alternate side.</p> <p><u>Lot Type B and C Corner lot:</u> 5 foot interior/10 foot street-side.</p> <p><u>Lot Type B and C Corner 'Active Adult' Duet lot:</u> 0 foot minimum interior/10 foot streetside.</p> <p>Architectural pop-outs and encroachments to the front, side and rear shall be allowed pursuant to Municipal Code Section 9-5.801.</p>
Minimum Rear Yard Setbacks	<p><u>Lot Type A, B, and C:</u> 10 foot minimum/12 foot average.</p> <p><u>Additionally, Lot Type C with lots deeper than 95 feet:</u> 15 foot minimum/18 foot average.</p>	<p><u>All Lot Types:</u> 10 foot minimum/12 foot average.</p> <p><u>Lot Type C with lots deeper than 95 feet:</u> 15 foot minimum/18 foot average.</p>
Accessory Structure Setbacks	<p><u>All Lot Types: Interior lot:</u> side yard and rear yard setback is zero feet.</p> <p><u>All Lot Types: Corner lot:</u> street side yard is 10 feet and rear /interior side yard is zero feet.</p>	<p><u>All Lot Types: Interior lot:</u> side yard and rear yard setback is zero feet.</p> <p><u>All Lot Types: Corner lot:</u> street side yard is 10 feet and rear /interior side yard is zero feet.</p>
Covered Patio	<u>All Lot Types:</u> Covered Patio/"California Room": A	<u>All Lot Types:</u> Covered Patio/"California Room": A

Development Standards for the Proposed Vineyards at Sand Creek Planned Development District	Proposed PD Zoning Standards for Single-Family Residential (SF)	Proposed PD Zoning Standards for Active Adult Residential (AA)
	<p>covered area, attached or detached to the main structure, without walls on two or more sides.</p> <p><u>Covered Patio setbacks:</u> 3' minimum to rear and side yard. The wall-less sides of Covered Patios at the rear elevation can encroach further than architectural popouts. A California Room with a solid covered roof (not trellis) is limited to cover no more than 33% of the required rear yard.</p>	<p>covered area, attached or detached to the main structure, without walls on two or more sides.</p> <p><u>Covered Patio setbacks:</u> 3' minimum to rear and side yard. The wall-less side of Covered Patios at the rear elevation can encroach further than architectural popouts. A California Room with a solid covered roof (not trellis) is limited to no more than 33% of the required rear yard.</p>
Maximum Building Height	<p><u>All Lot Types:</u> 35 feet for single-story profile and two-story structures.</p> <p><u>All Lot Types:</u> 25 feet for one-story structures.</p>	<p><u>All Lot Types:</u> 35 feet for single-story profile and two-story structures.</p> <p><u>All Lot Types:</u> 25 feet for one-story structures.</p>
Maximum Lot Coverage (gross first floor living plus garage area divided by the lot area and does not include Covered Patios/porches)	<p><u>Lot Type A and B:</u> 60% for single-story homes and 54% for two-story homes. No single-story homes required.</p> <p><u>Lot Type C:</u> 60% for single-story or single-story profile homes and 54% for two-story homes. No single-story homes required.</p>	<p><u>Lot Type A and B:</u> 60% for single-story; 54% for two-story and single-story profile homes. No two-story homes required.</p> <p><u>Lot Type C:</u> 63% for single story homes. 54% for two-story and single-story profile homes. No two-story homes required.</p> <p>If developed as an Active Adult community, all homes are expected to be single-story – either detached or as duets, based upon market preferences. No two-story homes shall be required in an Active Adult community.</p>

Development Standards for the Proposed Vineyards at Sand Creek Planned Development District	Proposed PD Zoning Standards for Single-Family Residential (SF)	Proposed PD Zoning Standards for Active Adult Residential (AA)
Parking and Driveways	<p><u>All Lot Types</u>: 20-foot minimum setback to garage door for lots with sidewalk along frontage. 18-foot minimum setback to garage door for lots without sidewalk along frontage. Garage provides at least two off-street parking spaces. One on-street parking space must be provided in front of, or for corner lots the parking space may be on the street side yard of - each house (at least 20 feet of curb with exceptions for cul-de-sacs).</p>	<p><u>All Lot Types</u>: 20-foot minimum setback to garage door for lots with sidewalk along frontage. 18-foot minimum setback to garage door for lots without sidewalk along frontage. Garage provides at least two off-street parking spaces. One on-street parking space must be provided in front of, or for corner lots the parking space may be on the street side yard of - each house (at least 20 feet of curb with exceptions for cul-de-sacs).</p>
Driveway Width	<p><u>Lot Type A</u>: Driveway width not to exceed 45% of lot frontage.</p> <p><u>Lot Type B and C</u>: Driveway width not to exceed 40% of lot frontage.</p>	<p><u>Lot Type A</u>: Driveway width not to exceed 45% of lot frontage.</p> <p><u>Lot Type B and C</u>: Driveway width not to exceed 40% of lot frontage.</p>
Landscape Requirements	<p>The landscaped setbacks from arterial streets (Hillcrest Avenue, Heidorn Ranch Road and Sand Creek Road) shall be as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.</p>	<p>The landscaped setbacks from arterial streets (Hillcrest Avenue, Heidorn Ranch Road and Sand Creek Road) shall be as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.</p>
Private Pool Club and Park	<p>A private Pool Club and Parks shall be allowed within in the Vineyards at Sand Creek project.</p>	<p>A private Pool Club and Parks shall be allowed within in the Vineyards at Sand Creek project. If developed as an Active Adult Community, Parcel A Park and Parcel D Park may be adjusted to reflect the Active Adult programming. In no case shall this adjustment result in less park acreage in the gated community.</p>

<b>Development Standards for the Proposed Vineyards at Sand Creek Planned Development District</b>	<b>Proposed PD Zoning Standards for Single-Family Residential (SF)</b>	<b>Proposed PD Zoning Standards for Active Adult Residential (AA)</b>
Model Home Complexes	One or more model home complexes that showcase the different lot sizes and products shall be allowed within the Vineyards at Sand Creek project.	One or more model home complexes that showcase the different lot sizes and products shall be allowed within the Vineyards at Sand Creek project.
RV Parking	The project shall not be required to provide onsite or offsite RV Parking. This exclusion shall be included in the community's CC&R's.	The project shall not be required to provide onsite or offsite RV Parking. This exclusion shall be included in the community's CC&R's.
Private Curbs	VSC Private Streets shall have the option of providing a beveled-curb as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.	VSC Private Streets shall have the option of providing a beveled-curb as shown on the project's Vesting Tentative Map 9390 dated February 24, 2015.

#### SECTION 5:

The City Council finds that the public necessity requires the proposed zone change; that the subject property is suitable to the use permitted in the proposed zone change; that said permitted use is not detrimental to the surrounding property; and that the proposed zone change is in conformance with the Antioch General Plan.

**SECTION 6:**

This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in a newspaper of general circulation printed and published in the City of Antioch.

\* \* \* \* \*

**I HEREBY CERTIFY** that the forgoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Antioch, held on the \_\_\_\_\_ of \_\_\_\_\_, 2017, and passed and adopted at a regular meeting thereof, held on the \_\_\_\_\_ of \_\_\_\_\_, 2017, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**

\_\_\_\_\_  
Mayor of the City of Antioch

**ATTEST:**

\_\_\_\_\_  
City Clerk of the City of Antioch



# ATTACHMENT “9”

**PLANNING COMMISSION  
RESOLUTION NO. 2017- ##**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING DENIAL OF AN APPLICATION TO MODIFY A VESTING  
TENTATIVE MAP/FINAL DEVELOPMENT PLAN AND AMEND THE DEVELOPMENT  
AGREEMENT FOR THE VINEYARDS AT SAND CREEK PROJECT**

**WHEREAS**, the City Council, on February 9, 2016, approved an Environmental Impact Report, a Development Agreement, a Planned Development rezone, and a Vesting Tentative Map for the development of a 650 unit single family residential community on a portion of approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the City received an application from GBN Partners, LLC for amendments to the Development Agreement, amendments to the Planned Development zoning, and modifications to the conditions of approval of the Vesting Tentative Map, to create a fee credit and subsidy program and to modify and reduce the project requirements for construction of roadways; and

**WHEREAS**, City staff has offered an alternative proposal that would provide some of the benefits requested by the applicant's proposal, but would also address many of the City's concerns; and

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was certified in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the City Council in its project approval on February 9, 2016; and

**WHEREAS**, the Planning Commission received an Addendum to the Final Environmental Impact Report ("FEIR") and Mitigation Monitoring and Reporting Program ("MMRP") to the City Council addressing the proposed modifications to the Vesting Tentative Map and Amendments to the Development Agreement; and

**WHEREAS**, the Planning Commission duly gave notice of public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 20, 2017 duly held a public hearing, received and considered evidence, both oral and documentary; and

**WHEREAS**, Section 9-4.317 states "No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the General Plan and any applicable Specific Plan or not permitted by the zoning provisions

or other applicable provisions of this code in effect at the time of the approval of the vesting tentative map”; and

**WHEREAS**, the Planning Commission did not find the provisions of the requested modifications to the Vesting Tentative Map to be consistent with the General Plan due, in part, to the following policies:

*Circulation Element Policy 7.3.2.d. Where feasible, design arterial roadways, including routes of regional significance, to provide better service than the minimum standards set forth in Measure C and the Growth Management Element. Thus, where feasible, the City will strive to maintain a “High D” level of service ( $v/c = 0.85-0.89$ ) within regional commercial areas and at intersections within 1,000 feet of a freeway interchange. The City will also strive where feasible to maintain Low-range “D” ( $v/c = 0.80-0.84$ ) in all other areas of the City, including freeway interchanges.”*

Finding: The proposed modifications would introduce traffic conditions of LOS E for the intersections of Lone Tree Way/Deer Valley Road and Lone Tree Way/Hillcrest Avenue for an undetermined amount of time.

*Circulation Element Policy 7.3.2.e. Establish Assessment Districts in areas that will require major roadway infrastructure improvements that will benefit only that area of the City, and thereby facilitate the up-front construction of needed roadways.*

Finding: The proposed modifications would be used in lieu of an Assessment District.

*Circulation Element Policy 7.3.2.x Require new development to construct all on-site roadways, including Circulation Element routes, and provide a fair share contribution for needed offsite improvements needed to maintain the roadway performance standards set forth in the Growth Management Element. Contributions for offsite improvements may be in the form of fees and/or physical improvements, as determined by the City Engineer. Costs associated with mitigating off-site traffic impacts should be allocated on the basis of trip generation, and should have provisions for lower rates for income-restricted lower income housing projects needed to meet the quantified objectives of the General Plan Housing Element.*

Finding: The proposed modifications allow for construction of less than all on-site roadways, including Circulation Element routes, and does not provide a fair share contribution for needed offsite improvements.

*Circulation Element Policy 3.4.1 Development projects that may impact regional routes are required to comply with adopted Action Plans. [The adopted East County Action Plan establishes a minimum LOS of Mid-D.]*

Finding: The proposed modifications would introduce traffic conditions of LOS E for the intersections of Lone Tree Way/Deer Valley Road and Lone Tree Way/Hillcrest Avenue on Lone Tree Way, a regional route, for an undetermined amount of time.

; and

**WHEREAS**, Section 9-5.3207 of the Antioch Municipal Code states “A development agreement shall not be approved unless the Council finds that the provisions of the agreement are consistent with the General Plan and any applicable Specific Plan”; and

**WHEREAS**, the Planning Commission did not find the provisions of the requested amendments to the Development Agreement to be consistent with the General Plan due, in part, to the following policies:

*Fiscal Health Element Policy 6.4.2-a. Require new development to pay for its infrastructure, its share of public and community facilities, and the incremental operating costs it imposes on the City.*

Finding: The proposed amendment would require others, including the City, to pay for infrastructure.

*Public Services and Facilities Element Policy 8.13.1 Ensure that the expansion of public facilities occurs in an equitable manner such that new development pays for all of the infrastructure and public facilities required to support the development without impacting levels of service provided to existing residents and businesses.*

Finding: The proposed amendment would require that the City, rather than new development, pay for part of the infrastructure.

*Public Services and Facilities Element Policy 8.13.2-a. Place the ultimate responsibility on the sponsor of proposed development projects for ensuring that the services and facilities needed to support the project and maintains applicable performance standards in the Growth Management Element are available at the time they are needed.*

Finding: The proposed amendment would alleviate the sponsor of the proposed development project from the ultimate responsibility for ensuring that sewer infrastructure needed to support the project is available.

*Public Services and Facilities Element Policy 8.13.2-b. Require that new development:*

*- Participate in a land-based financing district, construct, and/or pay for the new onsite capital improvements required to meet the applicable performance standards of the Growth Management Element;*

Finding: The proposed amendment would allow the developer to avoid the formation of a land-based financing district.

*Public Services and Facilities Element Policy 8.13.2-e. Continue to apply existing policies and regulations precluding City financial assistance for any on-site capital improvements required by new development.*

Finding: The proposed amendment would constitute City financial assistance for on-site capital improvements required by new development.

**NOW THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Antioch does hereby recommend to the City Council DENIAL of the proposed modifications to the Vesting Tentative Map and Amendments to the Development Agreement for the Vineyards at Sand Creek Project. (APNs 057-030-003, 057-030-007)

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 20th day of September, 2017.

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

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FORREST EBBS,  
Secretary to the Planning Commission

# ATTACHMENT “10”

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City of Antioch  
200 H Street  
Antioch, CA 94509  
Attention: City Clerk

(Space Above This Line Reserved For Recorder's Use)  
Exempt from Recording Fees Pursuant to Gov. Code Section 27383

**DEVELOPMENT AGREEMENT  
BETWEEN  
THE CITY OF ANTIOCH  
AND  
GBN PARTNERS, LLC**

THIS DEVELOPMENT AGREEMENT ("**Agreement**") by and between the City of Antioch, a municipal corporation ("**City**") and GBN Partners, LLC, a Delaware limited liability company ("**Developer**") (each a "**Party**" and collectively the "**Parties**"), pursuant to the authority of Division 1, Chapter 4, Article 2.5, Sections 65864 et seq. of the Government Code (the "**Statute**") is entered into as of \_\_\_\_\_, (the "**Effective Date**") in the following factual context:

**A.** To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California State Legislature enacted the Statute, which authorizes the City to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of such property.

**B.** Developer is the owner of approximately 142 acres of real property located in the City of Antioch, Contra Costa County more particularly described in *Exhibit A* to this Agreement (the "**Property**"), known as Promenade/Vineyards at Sand Creek, which Developer plans to develop as either a single-family market-rate residential community or as an age-restricted Active-Adult residential community (the "**Project**"). The planning, development, construction, operation and maintenance of the Project is more particularly described in, and reviewed and analyzed by, the Environmental Impact Report (SCH # 2014092010, "**EIR**") prepared in conjunction with the Project and its below-described "**Project Approvals**." In accordance with the California Environmental Quality Act (Pub. Res. Code §§ 21000 *et seq.*) and its Guidelines (C.C.R., Title 14 §§ 15000, *et seq.*), as each is amended from time to time (collectively, "**CEQA**"), City certified as adequate and complete the EIR. Pursuant to CEQA, a mitigation/monitoring program for the Project was approved by the City Council. The City has determined that no additional environmental review is necessary in connection with its consideration, approval and execution of this Agreement.

C. The Project has been designed as a private, gated residential community, where housing and recreation are integrated into one cohesive whole. Key components include pedestrian and bicycle friendly streets, private recreational opportunities, a mix of housing opportunities, distinctive architecture and landscape elements, and a vibrant neighborhood community center.

D. As of the execution of this Agreement, various land use regulations, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively, “**Existing Approvals**”, contained in *Exhibit B* to this Agreement), including without limitation, all of the following (including their text, diagrams and conditions of approval):

1. “**EIR**” (defined in Recital B above).
2. “**General Plan Amendment**” – (GPA 14-01) – Redesignating the Property from Business Park to Residential, and exempting the Property from the City regulations (including without limitation City Ordinance No. 2005/41) relating to an alternative process for the project applications within the Sand Creek Focus Area (collectively, “**GPA**”).
3. “**Master Development Plan/Planned Development Rezone**” – (PD 14-03) – A Planned Development District with Design Guidelines to guide future development of the community and a Master Development Plan (collectively, the “**Rezoning**”).
4. “**Vesting Tentative Map/Final Development Plan**” – (Subdivision 9390) – Subdivision map and Final Development Plan reflecting roads, infrastructure and up to 650 single-family residential lots, which lots can also be developed as age-restricted units in their entirety. The Vesting Tentative Map/Final Development Plan will employ multiple (phased) final maps, creating separate phases of the Project (currently approximated at 6 phases) (collectively, the “**VTM**”). The VTM includes a Preliminary Phasing Plan consistent with the VTM to facilitate development of the Property. The Preliminary Phasing Plan is included as part of the VTM approval, including the conditions of approval that accompany the VTM (contained in *Exhibit B* to this Agreement), and shall be included within any reference in this Agreement to VTM.

E. “**Subsequent Approvals**” (each referred to individually as a “**Subsequent Approval**”) shall mean those permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City on or after the Effective Date of this Development Agreement. Subsequent Approvals include without limitation new permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), as well as amendments to Existing Approvals.



F. On \_\_\_\_\_, 2016, at a duly noticed public hearing, the Planning Commission considered and recommended approval of the EIR, GPA, Rezone, VTM and this Agreement to the City Council pursuant to Resolution No. /\_\_\_\_\_.

G. On \_\_\_\_\_, 2016, at a duly noticed public hearing, the City Council certified the EIR pursuant to Resolution No. /\_\_\_\_\_, approved the GPA pursuant to Resolution No. /\_\_\_\_\_, approved the Rezone pursuant to Ordinance No. \_\_\_\_\_, and approved the VTM pursuant to Resolution No. /\_\_\_\_\_.

H. The City Council has found that, among other things, this Agreement and the Project Approvals, are consistent with its General Plan and has been reviewed and evaluated in accordance with California Government Code §§65864 *et seq.*

I. On \_\_\_\_\_, 2016, at a duly noticed public hearing, the City Council adopted Ordinance No. \_\_\_\_\_ approving this Agreement, a copy of which is attached as ***Exhibit C*** to this Agreement.

## AGREEMENT

In this factual context and intending to be legally bound, the Parties agree as follows:

### ARTICLE 1 TERM

**1.1.** The term of this Agreement (“**Term**”) shall commence as of the Effective Date and continue to and including \_\_\_\_\_, 2031. The expiration of the term of this Agreement shall not be interpreted to, and shall not affect, terminate or waive any additional rights that Developer may have that exist independently of this Agreement and derive from common law vesting or other laws or regulations of the State or the City.

**1.2.** Pursuant to Government Code section 66452.6(a) and this Agreement, in addition to other extensions available under the Subdivision Map Act, the term of the Vesting Tentative Map and any other tentative map, vesting tentative map, tentative parcel map, vesting tentative parcel map, final map or vesting final maps, or any new such map or any amendment to any such map, or any resubdivision (collectively referred to as “**Subdivision Document**”) relating to the Project shall automatically be extended to and until the later of the following:

**1.2.1** The Term; or

**1.2.2** The end of the term or life of any such Subdivision Document otherwise given pursuant to the “**Subdivision Map Act**” (defined herein) and/or local regulation not in conflict with the Subdivision Map Act.

**1.3.** If this Agreement terminates for any reason prior to the expiration of the vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, “**Vesting Map**”), such termination of this Agreement shall not affect Developer’s right to proceed with development under such Vesting Map in accordance with only

the applicable law so vested under the Vesting Map, for the life of such vested rights given by such Vesting Map.

**1.4.** The term of any and all Project Approvals, including without limitation, all development plans, development permits, or other permit, grant, agreement, approval or entitlement for the general development of all or any part of the Project and Property, shall be to and until the later of the following:

**1.4.1** The Term; or

**1.4.2** The term or life of any Subdivision Document pursuant to the Subdivision Map Act or local regulation not in conflict with the Subdivision Map Act.

## **ARTICLE 2 COVENANTS OF DEVELOPER**

**2.1. Obligations of Developer Generally.** Developer shall have no obligation to proceed with, or complete the Project at any particular time or at all. However, if Developer proceeds, it shall comply the Applicable Law, as defined in this Agreement, including without limitation, Section 2.2. below.

**2.2. Applicable Law.** The rules, regulations and official policies governing permitted uses of the Property, density and improvement requirements applicable to development of the Property shall be the ordinances, rules, regulations, and official policies in force and effect on the Effective Date of this Agreement, except as otherwise provided in the Project Approvals or this Agreement (the “**City Regulations**”). The law applicable to the Project during the Term of this Agreement shall be only the following: (a) the City Regulations; (b) the Project Approvals and (c) this Agreement (collectively, the “**Applicable Law**”). If there is a conflict between this Agreement and the City Regulations or Project Approvals, this Agreement shall control. If there is a conflict between the Project Approvals and the City Regulations, the Project Approvals shall control.

**2.3. Fees, Taxes and Assessments.**

**2.3.1 Development Fees.** During the Term, Developer shall pay only those City-imposed development fees (collectively, “**Development Fees**”) in force and effect as of the Effective Date. The Project has been approved for development as either a single-family market-rate residential community in its entirety or as an age-restricted “active-adult” residential community in its entirety. Developer, in its sole and exclusive discretion shall determine which residential development to pursue. If Developer decides to pursue an age-restricted “active-adult” residential community and if City, in its sole and absolute discretion, has implemented an active adult fee category after completion of a nexus study and adoption of such fees, Developer shall be subject to such fees. Development Fees shall be paid at the rate in effect at the time of building permit issuance.

(a) The Project shall not be subject to any existing or future Development Fees related to affordable housing, public art, Residential Development Allocation Fee(s)/Growth Management Fees, or Habitat Conservation Plan (HCP) fees. The project is progressing with environmental permitting through the State and Federal Agencies, but the project may at its option participate in an HCP.

(b) Developer has agreed to dedicate right-of-way and complete certain improvements required by the Project Approvals to Hillcrest Avenue, Sand Creek Road and Heidorn Ranch Road as described in the Project Approvals. Therefore, the Project shall not be subject to any existing or future Development Fees relating to local traffic/roadway/circulation/transportation dedication, construction, improvements and/or funding of any kind or any other Development Fees relating to such local traffic/roadway/circulation/transportation dedication, construction, improvements and/or funding of any kind. The project is subject to regional transportation fees (East Contra Costa Regional Fee and Financing Authority) in place at the time of building permit.

(c) Developer has agreed to be financially responsible for half of two public-benefit traffic signal improvements – one at Sand Creek Road at Hillcrest Avenue and the second at Sand Creek Road at Heidorn Ranch Road – neither of which are necessitated by project traffic alone, but are required by the Project Approvals and described in the Project Approvals. The developer will construct these signals and be reimbursed 50% by adjacent development or the City of Brentwood or deposit funds with the City for 50% of the signals as required by the Conditions of Approval. Therefore in consideration of the portion of these two traffic signals, the Project will not be subject to traffic signal fees or eligible for traffic signal reimbursements.

(d) Incentivize Community Benefit Infrastructure Construction, The City and the community have a significant interest in ensuring that the Project proceeds in an orderly fashion as part of the overall improvement of the community. In an effort to incentivize Developer's construction of important infrastructure in the Sand Creek Focus Area, from the date of the issuance of the first building permit for a non-model residential dwelling unit ("**Permit Issuance Date**") until the fifth anniversary of the Permit Issuance Date (5 years), the Development Fees Developer shall pay are the Development Fees in effect on a Citywide basis at the Permit Issuance Date, depending on the residential type of the Project (market rate or active adult). Notwithstanding the forgoing, the City may, at City's sole and exclusive discretion, on an annual basis, and pursuant to any applicable City Municipal Code requirements, increase or decrease (as appropriate) the amount of such Development Fees by a percentage not to exceed the percentage increase or decrease (as appropriate) for the prior calendar year in the Engineering News Record Construction Cost Index for the Region ("**Index-Adjusted Fees**"); however, Developer shall pay that Development Fee that is lower: the then-current City-wide Development Fee otherwise applicable to similar projects or the Index-Adjusted Fees.

**2.3.2 Processing Fees.** For the purposes of this Agreement, "Processing Fees" shall mean processing fees and charges of every kind and nature imposed by City, including planning processing deposits, to cover the actual costs to City for City staff and consultant time and resources spent reviewing and processing Developer's applications for Project Approvals, or for monitoring compliance with and reviewing submittals for any Project Approvals. Developer

shall pay all Processing Fees, as such fees and charges are adjusted from time to time. “Processing Fees” shall not mean and include Development Impact Fees or any other fee, tax or assessment. The foregoing notwithstanding, no fees other than Processing Fees shall be due before approval of the final map, unless earlier payment is expressly required by the Project Approvals.

**2.3.3 Taxes and Assessments.** Except as otherwise provided in this Agreement or the Project Approvals, during the Term, Developer shall pay only those City-imposed land-based taxes and assessments in force and effect as of the Effective Date, except for a tax or assessment agreed upon by Developer, a tax or assessment imposed as a result of the implementation of a financing mechanism to fund improvements or services or a Proposition 218 voter approved assessment.

## **2.4. Construction and Timing of Improvements.**

**2.4.1** Developer shall construct the improvements required by, and more particularly described in, the conditions of approval contained in *Exhibit B*. Developer shall perform the work in accordance with the standards and specifications established by Applicable Law. To the extent there are no such standards or specifications, the work shall be performed in accordance with industry standards and in good and workmanlike manner, as approved by the City Engineer.

**2.4.2** The Parties acknowledge that the Project may be built in phases different from those set forth in the Preliminary Phasing Plan attached in *Exhibit B*. The timing of certain improvements set forth in the conditions of approval were based on the Preliminary Phasing Plan. If the City Engineer approves changes to the phasing of the Project from that in the Preliminary Phasing Plan in a manner that impacts the timing for the construction of the improvements set forth therein, the City Engineer has the authority to change the timing for those improvements to be consistent with the changes to the phasing. Such changes will automatically be incorporated into the Project Approvals and will not require an amendment to the Project Approvals, including this Agreement.

**2.5. Subdivision and Other Agreements; Multiple Final Maps.** Developer shall execute and perform its obligations as set forth in any Subdivision Improvement Agreements required or permitted by Applicable Law to obtain approval of final maps. Developer may file multiple final maps in accordance with 3.5 below.

**2.6. Design Review.** The Project Approvals include Design Review Guidelines but do not include design review approval, which Developer has yet to obtain. Developer’s design review applications and submittals shall be consistent with the Vineyards at Sand Creek Design Review Guidelines approved by the City. The designs shall incorporate a level of quality craftsmanship consistent with projects completed in similar regional markets.

**2.7. Sand Creek Focus Area (SCFA) Sewer Trunk Line Improvements.** Developer shall provide a sewer study and coordinate with the design, rights-of-way and easement needs of the major sewer trunk line through the Property in order to help facilitate the construction of the major sewer trunk line to benefitting properties, as more particularly

described in the conditions of approval attached in **Exhibit B** (collectively, “**SCFA Sewer Trunk Line Improvements**”). If desired, the Developer shall create a land-based financing mechanism or participate in another mechanism acceptable to the City that will fairly distribute the cost of formation, design, offsite construction, upsizing and advance funding of the Sewer Trunk Line Improvements amongst the benefitting property owners in and around the Sand Creek Focus Area, as approved by the City Engineer. For property that will benefit from the Sewer Trunk Line Improvements, the City shall require, by imposing a condition of approval, inserting a requirement into a Development Agreement or otherwise, an obligation on that property (and the property’s owner(s)) to reimburse Developer for such other property’s (and its owner(s)) proportional share (fair share) of these identified Sewer Trunk Line Improvements at the earlier of the filing of a final map or issuance of a building permit on the affected property. The City shall collect the reimbursement amounts if and when such properties develop, and distribute that amount to Developer on a quarterly basis. City shall assist Developer as needed, including without limitation, taking those actions set forth in Section 2.14 of this Agreement. Upon acceptance by the City, the SCFA Sewer Trunk Line Improvements shall be maintained by City.

**2.8. Parks, Trail Improvements and Landscaped Areas.** Developer shall, at its sole cost and expense, design, construct and dedicate to the City, Parcel G, located south of the future extension of Sand Creek Road, as more particularly described in the conditions of approval attached in **Exhibit B** (“**Parcel G Water Quality & Detention Basin**”). Upon acceptance by the City, the Parcel G Water Quality & Detention Basin shall be owned by the City and maintained by the Lighting and Landscaping District. Developer shall also, at its sole cost and expense, construct the Sand Creek Regional Trail as more particularly described in the conditions of approval attached in **Exhibit B** (“**Trail Improvements**”). Upon acceptance by the City, the Trail Improvements and open space parcel it travels through, shall be maintained by the City or the Lighting and Landscape District. Developer shall, at its sole cost and expense, design and construct park and landscaped areas, as more particularly described in the conditions of approval attached in **Exhibit B**. The parks identified on Parcel A and Parcel D shall also be designed and landscaped by Developer and shall be dedicated to and maintained by the Homeowners Association (“**Parcel A Park**” and “**Parcel D Park**,” respectively.) Parcel A Park is 2.13 acres and Parcel D Park is 3.47 acres for a combined total park acreage of 5.6 acres, as required by and in conformance with the Antioch Municipal Code.

**2.9. Homeowners Association.** Developer shall establish a Homeowners Association (“**HOA**”) for the Project in conformance with the regulations set forth by the State Bureau of Real Estate.

**2.9.1** Subject to approval by the State, the City Attorney and Community Development Director shall review and approve the HOA’s conditions, covenants and restrictions (“**CC&Rs**”) for conformance with this Agreement and the Project Approvals prior to the issuance of the first building permit for the Project. In addition, the City Attorney and Community Development Director may suggest modifications to the CC&Rs relating to the maintenance and repair of the property and improvements, including but not limited to landscaping, parking, open space, storm water facilities and the prohibition of nuisances. The applicant shall consider all such City-suggested modifications to such CC&Rs, and shall make those modifications that are reasonable and cost-effective.

**2.9.2** The CC&Rs shall include the following provisions and requirements:

- (a) The City shall have rights of entry to the Project streets and public spaces.
- (b) Any design approvals required by the CC&RS for construction, reconstruction and remodeling are in addition to any approvals needed from the City.
- (c) A homeowner must secure a business license before a home can be rented as required by Municipal Code Section 3-1.217.
- (d) The front yards must be adequately maintained.
- (e) Any modifications to these requirements must be approved in advance by the City.

**2.9.3** The City shall not have the right of enforcement of the CC&Rs, but the City shall have the right of enforcement of all legal and equitable remedies available to the City, including without limitation the following:

- (a) The right to enforce its ordinances and regulations, including without limitation, Antioch Municipal Code Title 4 Chapter 7 (Weed and Rubbish Abatement), Chapter 10 (Abandoned, Wrecked, Dismantled or Inoperative Vehicles), and Chapter 16 (Repair of Vehicles and Boats in Residential Districts); and Antioch Municipal Code Title 5 Chapter 1 (including property/yard maintenance, abatement procedures, and nuisances), Chapter 8 (Public intoxication), and Chapter 20 (Rental Dwelling Unit Maintenance and Inspection Program); and
- (b) The right to refuse to issue building permits for any building or structure that is not in compliance with applicable federal, state or local laws, regulations, permits or approvals.

**2.10. City Services.** City shall provide wastewater collection and police services to the Project (or any and all portions thereof) to the same degree as all other users of such services and facilities in the City.

**2.11. Police Services Funding.**

**2.11.1 Formation or Participation in a Police Services Financing Mechanism.**

In order to assist the City in meeting a police force level within a range of 1.2 to 1.5 officers per 1,000 residents as set forth in Performance Standard 3.5.3.1 of the General Plan, at the direction of the City, Developer shall either establish, or participate in (if one has already been established), a land-based financing mechanism in the form of a community facilities district, special tax or other means, as to the Property. The City and Developer shall work cooperatively in forming such a police services financing mechanism. The costs related to forming such financing mechanism, including consultant costs, shall be paid by Developer (“**Formation Costs**”). It is the intent of the City to require other property, as such other property develops, to annex into or become subject to such financing mechanism. For such other property, the City shall require, by imposing a condition of approval, inserting a requirement in a development

agreement, or otherwise, an obligation/requirement on such other property (and the property's owner(s)) to reimburse Developer for such other property's (and its owner(s)') proportional share (fair share) of the Formation Costs ("**Formation Cost Reimbursement**"). The City shall require and collect the Formation Cost Reimbursement at the earlier of the filing of the final map or issuance of a building permit for any such other property on behalf of Developer and distribute that collected amount to Developer on a quarterly basis. Developer shall provide the Formation Costs, with supporting documentation, to the City.

**2.11.2 Financial Obligation of the Developer.** For the Term, the amount of the financial obligation for police services for the Project developed as a single family market rate (non-active adult) residential development (assuming an average of 3.22 persons per dwelling unit) related to police services funding shall not exceed \$445.00 per each Project lot upon which a single-family residential home is constructed, except that commencing one year after the Effective Date of this Agreement, City may increase or decrease, as appropriate, such \$445 maximum pursuant to the Consumer Price Index for the San Francisco Bay Area. However, if the Project is developed as an active adult residential development, then the assumed average occupancy of a dwelling unit shall be 1.8 persons per dwelling unit, and the police services funding shall not exceed \$250 per each Project lot upon which an active adult residential home is constructed, except that commencing one year after the Effective Date of this Agreement, City may increase or decrease, as appropriate, such \$250 maximum owing per active adult residential dwelling pursuant to the Consumer Price Index for the San Francisco Bay Area. The requirements of this Section 2.11.2 shall be waived if the City imposes a special tax or other form of revenue generation on all City residents dedicated specifically for the purpose of funding police services, which shall not include the business license tax approved by voters in 2014 (Measure O) or any additional sales tax or extension of such sales tax.

## **2.12. Establishment of Facilities and Infrastructure Financing Mechanisms.**

**2.12.1** Upon Developer's request and in connection with the development of any phase of the Project, City shall consider, in its sole and absolute discretion, establishing a mechanism(s) that is legal and available to the City to aid in financing the construction, maintenance, operation of (or other financeable aspect of) "**Facilities and Infrastructure.**" "Facilities and Infrastructure" as used in this Agreement shall mean and include all onsite facilities and infrastructure and all offsite facilities and infrastructure needed for the Project. These mechanisms may include, without limitation, direct funding of condemnation costs and construction costs, acquisition of improvements, establishing reserve accounts to fund capital improvement program projects, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Infrastructure Finance Districts, special taxes and/or other similar mechanisms (collectively, "**Facilities Financing Mechanism(s)**"), and issuing any debt in connection therewith ("**Debt**"). Included goals of such Facilities Financing Mechanisms shall be to: ensure that each development project using Facilities and Infrastructure pay its proportional share of the cost of providing such Facilities and Infrastructure to such development project ("**Fair Share Contribution**"), that development projects that advance the construction or funding of the construction of all or a portion of such Facilities and Infrastructure ("**Advancing Projects**") be reimbursed for that costs of that construction or construction funding that is in excess of such Advancing Projects' Fair Share Contribution (collectively, "**Reimbursement Amounts**"), and that any and all Reimbursements Amounts owing to Advancing Projects be

collected from those other projects that are not Advancing Projects at the earliest stage possible, but no later than building permit issuance.

**2.12.2** Developer's request that City establish a Facilities Financing Mechanism and issue Debt shall be made to the City Manager in written form, and shall outline the purposes for which the Facilities Financing Mechanism and Debt will be established or issued, the general terms and conditions upon which it will be established or issued and a proposed timeline for its establishment or issuance.

**2.12.3** City's participation in forming any Facilities Financing Mechanisms approved by City (and its operation thereafter) and in issuing any Debt approved by the City will include all of the usual and customary municipal functions associated with such tasks including, without limitation, the formation and administration of special districts, the issuance of Debt, the monitoring and collection of fees, taxes, assessments and charges such as utility charges, the creation and administration of enterprise funds, the enforcement of debt obligations and other functions or duties authorized or mandated by the laws, regulations or customs relating to such tasks.

### **ARTICLE 3 COVENANTS OF THE CITY**

**3.1. Obligations of City Generally.** The City shall act in good faith to accomplish the intent of this Agreement, to protect Developer's vested rights provided by this Agreement, and to ensure this Agreement remains in full force and effect. City shall cooperate with Developer so that Developer receives the benefits of and the rights vested by this Agreement, including prompt and timely action and assistance in (a) forming a Communities Facilities District(s) or other appropriate financing district(s) or mechanisms, and (b) obtaining from other governmental entities necessary or desirable permits or other approvals for the Project. To this end, any part of the Applicable Law that involves the exercise of judgment, discretion and/or action by City Staff, the City Planning Commission and/or the City Council shall require that such exercise of judgment, discretion and/or action be done in a reasonable manner.

**3.2. Eminent Domain.** Developer shall purchase any and all real property interests necessary to allow it to construct the public improvements required by the Project Approvals. In the event that an affected property owner has rejected an offer by Developer, based upon fair market value as determined by an appraisal prepared by a City-approved appraiser in cooperation with City, Developer may request City assistance. Provided that Developer provides adequate funding and enters into an agreement with the City setting forth the terms of City's obligations, in a form approved by City in its reasonable discretion, City shall promptly and timely negotiate and seek the purchase of the necessary property, including the possible consideration of City's use of its power of eminent domain (condemnation) to acquire such real property interests. Developer shall pay all costs associated with such acquisition or condemnation proceedings. Nothing herein is intended to or shall prejudice or commit City regarding any findings and determinations required to be made in connection with adoption of a resolution of necessity.

**3.3. Vested Development Rights.** Through this Agreement and the Applicable Law it describes, Developer has the vested right to develop the Property in accordance with the



Applicable Law, which Applicable Law includes this Agreement, the City Regulations and the Project Approvals, with the reservations of authority set forth in Section 3.6 below. Any City ordinance, resolution, minute order, rule, motion, policy, standard, specification, or a practice adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not part of the Applicable Law and that takes effect on or after the Effective Date is hereby referred to as a “**New City Law(s)**.” During the Term, no New City Law(s) shall be applied to the Project and/or Property except as otherwise set forth herein, including without limitation, the New City Laws set forth in Section 3.6 below.

**3.4. Permitted Uses.** The permitted uses of the Property; the density and intensity of use of the Property; the maximum height, bulk and size of buildings and other structures, except as such may be limited by any design review approvals yet to be obtained; and provisions for reservation or dedication of land for public purposes and other terms and conditions applicable to the Project/Property shall be those set forth in the Project Approvals, which City confirms and vests by this Agreement. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project/Property. City shall not require Developer to reserve or dedicate land for public purposes except as expressly required by the Applicable Law, including without limitation, the Project Approvals.

**3.5. Subdivision and Other Agreements.** The City shall not require Developer to enter into any subdivision or other agreement that is inconsistent with the Applicable Law or that requires more work than is required by the Applicable Law, provided however that the Parties agree and understand that Developer will be required to enter into subdivision improvement agreements as set forth in this Agreement. The City shall allow Developer to file multiple final maps, if Developer desires, in accordance with the Subdivision Map Act, as amended from time to time.

**3.6. City’s Reservations of Authority.** Notwithstanding any other provision of this Agreement to the contrary, the following regulations and provisions shall apply to the development of the Property:

**3.6.1** New City Laws regarding Processing Fees, provided such Processing Fees are adopted pursuant to controlling law and are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

**3.6.2** New City Laws relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure, provided such procedures are uniformly applied on a City-wide basis to all substantially similar types of development projects and properties.

**3.6.3** New City Laws governing construction standards and specifications, including (a) City’s building code, plumbing code, mechanical code, electrical code, fire code and grading code, (b) all uniform construction codes applicable in City at the time of building permit issuance, and (c) design and construction standards for road and storm drain facilities;

provided any such regulation has been adopted and uniformly applied by City on a citywide basis and has not been adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

**3.6.4** New City Laws that may be in conflict with this Agreement or the Project Approvals but that are necessary to protect persons or property from dangerous or hazardous conditions that create a threat to the public health or safety or create a physical risk, based on findings by the City Council identifying the dangerous or hazardous conditions requiring such changes in the law, why there are no feasible alternatives to the imposition of such changes, and how such changes would alleviate the dangerous or hazardous condition. Changes in laws, regulations, plans or policies that are specifically mandated and required by changes in state or federal laws or regulations that require such to apply to the Project.

**3.6.5** Notwithstanding anything to the contrary provided herein, as provided in the Statute at Section 65869.5: “In the event that state or federal law or regulations, enacted after [this Agreement] has been entered into, prevent or preclude compliance with one or more provisions of [this Agreement], such provisions of [this Agreement] shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.”

**3.6.6** Notwithstanding anything to the contrary provided herein, Developer shall have the right to challenge in court any New City Laws that would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement, including without limitation any of the items listed in this Section 3.6 (subsections 3.6.1 through 3.6.6).

## **ARTICLE 4 AMENDMENT**

**4.1. Amendment to Approvals.** To the extent permitted by state and federal law, any Project Approval (hereafter in the ARTICLE 4, an “**Approval**”) may, from time to time, be amended or modified in the following manner:

**4.1.1 Administrative Project Amendments.** Upon the written request of Developer for an amendment or modification to an Approval, the Director of Community Development, or his/her designee (collectively “**Authorized Official**”) shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project Approvals as a whole; and (ii) whether the requested amendment or modification is substantially consistent with Applicable Law. If the Authorized Official finds that the proposed amendment or modification is minor, substantially consistent with Applicable Law, and will result in no new significant environmental impacts, the amendment shall be determined to be an “**Administrative Project Amendment**” and the Authorized Official may, except to the extent otherwise required by law, approve the Administrative Project Amendment, following consultation with other relevant City staff, without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, non-substantial reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final

development plan or landscape plan, variations in the design and location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project Approvals, and minor adjustments to the Property diagram or Property legal description shall be treated as Administrative Project Amendments.

**4.1.2 Non-Administrative Amendments.** Any request of Developer for an amendment or modification to an Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

**4.1.3 Amendment Exemptions.** Amendment of an Approval requested by Developer shall not require an amendment to this Agreement. Instead, the amendment automatically shall be deemed to be incorporated into the Project Approvals and vested under this Agreement.

**4.2. Amendment of This Agreement.** This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties or their successors in interest, as follows:

**4.2.1 Administrative Amendments.** The City Manager and City Attorney are authorized on behalf of the City to enter into any amendments to this Agreement other than amendments which substantially affect (i) the term of this Agreement (excluding extensions of time for performance of a particular act), (ii) permitted uses of the Property, (iii) provisions for the reservation or dedication of land, (iv) the density or intensity of use of the Property or the maximum height or size of proposed buildings, or (v) monetary payments by Developer. Such amendments (“**Administrative Agreement Amendment**”) shall, except to the extent otherwise required by law, become effective without notice or public hearing.

**4.2.2 Non-Administrative Amendments.** Any request of Developer for an amendment or modification to this Agreement which is determined not to be an Administrative Agreement Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

**4.2.3 Subsequent Approvals.** No amendment of this Agreement shall be required in connection with the issuance/approval of any Subsequent Approval Developer seeks and secures or any New City Laws that Developer elects to be subject to (in Developer’s sole and exclusive discretion) (“**New City Regulation**”). Any such Subsequent Approval or New City Regulation shall be vested into by Developer and City when it becomes effective under controlling law. City shall not amend or issue any Subsequent Approval unless Developer requests such an amendment or issuance from City.

## **ARTICLE 5**

### **ASSIGNMENT, TRANSFER AND MORTGAGEE PROTECTION**

**5.1. Assignment of Interests, Rights and Obligations.** Nothing in this Agreement shall limit the right of Developer to freely alienate, transfer or assign (“**Assign**” or “**Assignment**”) all or any portion of the Property, except that Developer may only Assign all or

any portion of its interests, rights or obligations under this Agreement or the Project Approvals, including any amendments thereto, subject to both of the following:

**5.1.1** The requirements of this ARTICLE 5; and

**5.1.2** To a third party who acquires an interest or estate in Developer and/or the Property or any portion thereof including, without limitation, a third party who is a purchaser or ground lessee of lots, parcels or improvements (an “**Assignee**”).

## **5.2. Assignment Agreements.**

**5.2.1 Written Assignment Agreement.** In connection with an Assignment by Developer (other than an Assignment by Developer to an Affiliated Party (as defined below), to a Mortgagee (as defined below in 5.4) or to a Home Purchaser (as defined below in 5.3)), Developer and the Assignee shall enter into a written agreement (an “**Assignment Agreement**”), with City’s consent in writing to such Assignment, which consent shall not be unreasonably withheld, regarding the respective interests, rights, benefits, burdens and obligations (collectively, “benefits and burdens”) of Developer and the Assignee in and under this Agreement and the Project Approvals. Such Assignment Agreement shall (i) set forth the benefits and burdens of this Agreement and/or the Project Approvals that are being assigned to Assignee, (ii) transfer to the Assignee the benefits and burdens of this Agreement and/or the Project Approvals that are being assigned, and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the Assignment. Developer shall notify the City in writing that Developer plans to execute a Assignment Agreement at least 30 days in advance of the proposed execution date of the Assignment Agreement, and Developer shall provide City with such information as may be required by City to demonstrate the Assignee’s qualifications (including financial ability) to the Assignment. City shall have 30 days from the date of receipt of such notice from Developer to review the information and to provide City’s determination to Developer regarding City’s consent to the Assignment. City may withhold its consent to the Assignment if the City reasonably determines that the Assignee, or an entity with similar or related ownership or control as Assignee, lacks the financial ability to assume the obligations involved with the Assignment or the Assignment Agreement does not adequately address the division of the obligations and requirements of this Agreement. If City consents to the Assignment, Developer shall be released from its benefits and burdens as set forth in the Assignment Agreement. If City does not consent to the Assignment, City shall provide its reasons in writing and shall meet with Developer in good faith to determine what additional information may be necessary for City to provide its consent. An “**Affiliated Party**” is defined as any corporation, limited liability company, partnership or other entity which is controlling of, controlled by, or under common control with Developer, and “**control**,” for purposes of this definition, means effective management and control of the other entity, subject only to major events requiring the consent or approval of the other owners of such entity.

**5.2.2 Binding.** Upon City approval of, execution and recordation in the Official Records of Contra Costa County of an Assignment Agreement, and a “**Memorandum of Assignment**” (in a form substantially similar to the Memorandum of Assignment set forth in *Exhibit D* to this Agreement), the Assignment Agreement shall be binding on Developer, the City and the Assignee, and shall release Developer from those benefits and burdens of this

Agreement and the Project Approvals expressly assigned and transferred in the Assignment Agreement.

**5.3. Home Purchaser.** The burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither an Assignment Agreement nor the City's consent shall be required in connection with, any single-family residence conveyed to a purchaser or leased to a lessee for a period in excess of one year. The purchaser or lessee in such a transaction and its successors ("**Home Purchaser**") shall be deemed to have no obligations under this Agreement.

**5.4. Mortgagee Protection.** This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording of this Agreement, including the lien of any deed of trust or mortgage ("**Mortgage**"). The foregoing notwithstanding, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement (including but not limited to the City's remedies to terminate the rights of Developer and its successors and assigns under this Agreement, to terminate this Agreement, and to seek other relief as provided in this Agreement) shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("**Mortgagee**") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

**5.4.1 Mortgagee Not Obligated.** The provisions of 5.4 notwithstanding, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements other than those uses or improvements provided for or authorized by this Agreement, or otherwise under the Project Approvals.

**5.4.2 Notice of Default to Mortgagee.** If the City receives a written notice from a Mortgagee or from Developer requesting a copy of any notice of default given Developer and specifying the address for notice, then the City shall deliver to the Mortgagee at the Mortgagee's cost, concurrently with delivery to Developer, any notice with respect to any claim by the City that Developer committed an event of default. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in the City's notice. The City Manager is authorized on behalf of the City to grant to the Mortgagee an extension of time to cure or remedy, not to exceed an additional 60 days.

## **ARTICLE 6**

### **COOPERATION IN THE EVENT OF LEGAL CHALLENGE; INDEMNITY**

**6.1. Indemnity.** Developer shall defend, indemnify, and hold harmless the City from any legal action brought by any third party concerning: (i) the validity, legality, or constitutionality of any term, condition, obligation, fee, dedication, or exaction required or imposed by this Agreement; (ii) the procedures utilized in or the sufficiency of the environmental review associated with this Agreement; and (iii) the implementation of this Agreement through

such further actions, measures, procedures, and approvals as are necessary to satisfy the Agreement's requirements. Developer shall defend the City with qualified legal counsel subject to the approval of the City Attorney, which approval shall not unreasonably be withheld. Developer shall be exclusively responsible for paying all costs, damages, attorney fees, and other court-ordered compensation awarded to any third party (whether awarded against the City, Developer, or any other party) in any legal action in which its Developer' duties to defend, indemnify, and hold the City harmless arise under this Section. City shall promptly notify Developer of any action filed and the Parties shall cooperate fully in the defense of any such action.

**6.2. Limitations on Indemnity.** The parties expressly recognize that the obligations stated in this Article do not require or contemplate that Developer shall indemnify or hold harmless or be responsible for any error, omission, tortious act, intentional act, negligent act, or default of, or any injury caused by, any homeowners association or any City department or dependent special district that is formed by, or that receives funding, as a result of any term or condition of this Agreement.

## **ARTICLE 7**

### **DEFAULT; TERMINATION; ANNUAL REVIEW**

#### **7.1. Default.**

**7.1.1 Remedies In General; No Damages.** City and Developer agree that, as part of the bargained for consideration of this Agreement, in the event of default by either Party, the only remedy shall be declaratory relief or specific performance of this Agreement. In no event shall either Party, or any of their officers, agents, representatives, officials, employees or insurers, be liable to the other Party for damages, whether actual, consequential, punitive or special, for any breach or violation of this Agreement. The Parties agree that any action or proceeding to cure, correct or remedy any default or to enforce any covenant or promise under this Agreement shall be limited solely and exclusively to the remedies expressly provided. Following notice and expiration of any applicable cure periods and completion of the dispute resolution process set forth in ARTICLE 8 below, either Party may institute legal or equitable proceedings to cure, correct, or remedy any default, or to enforce any covenant or promise herein, enjoin any threatened or attempted violation, or enforce by specific performance, declaratory relief or writ of mandate the obligations and rights of the Parties. As noted above, in no event shall either Party be liable for any damages. Any legal action to interpret or enforce the provisions of this Agreement shall be brought in the Superior Court for Contra Costa County, California.

**7.1.2 Cure Period.** Subject to extensions of time by mutual consent in writing of the Parties, breach of, failure, or delay by either Party to perform any term or condition of this Agreement shall constitute a default. In the event of any alleged default of any term, condition, or obligation of this Agreement, the Party alleging such default shall give the defaulting Party notice in writing specifying the nature of the alleged default and the manner in which such default may be satisfactorily cured ("**Notice of Breach**"). The defaulting Party shall cure the default within 30 days following receipt of the Notice of Breach, provided, however, if the nature

of the alleged default is non-monetary and such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure, provided that if the cure is not diligently prosecuted to completion, then no additional cure period shall be provided. If the alleged failure is cured within the time provided above, then no default shall exist and the noticing Party shall take no further action to exercise any remedies available hereunder. If the alleged failure is not cured, then a default shall exist under this Agreement and the non-defaulting Party may exercise any of the remedies available.

**7.1.3 Procedure for Default by Developer.** If Developer is alleged to be in default hereunder by City then after notice and expiration of the cure period specified above and the dispute resolution process set forth in ARTICLE 8 below, City may institute legal proceedings against Developer pursuant to this Agreement, and/or give notice of intent to terminate or modify this Agreement to Developer pursuant to California Government Code Section 65868. Following notice of intent to terminate or modify this Agreement as provided above, the matter shall be scheduled for consideration and review at a duly noticed and conducted public hearing in the manner set forth in Government Code Sections 65865, 65867 and 65868 by the City Council within 60 calendar days following the date of delivery of such notice (the “**Default Hearing**”). Developer shall have the right to offer written and oral testimony prior to or at the time of said public hearing. If the City Council determines that a default has occurred and is continuing, and elects to terminate the Agreement, City shall give written notice of termination of the Agreement to Developer by certified mail and the Agreement shall thereby be terminated 30 days thereafter; provided, however, that if Developer files an action to challenge City’s termination of the Agreement within such 30-day period, then the Agreement shall remain in full force and effect until a trial court has affirmed City’s termination of the Agreement and all appeals have been exhausted (or the time for requesting any and all appellate review has expired). This Section shall not be interpreted to constitute a waiver of section 65865.1 of the Government Code, but merely to provide a procedure by which the Parties may take the actions set forth in Section 65865.1.

**7.1.4 Procedure for Default by City.** If the City is alleged by Developer to be in default under this Agreement, then after notice and expiration of the cure period and completion of the dispute resolution procedures below, Developer may enforce the terms of this Agreement by an action at law or in equity, subject to the limitations set forth above.

**7.2. Excusable Delay; Extension of Time of Performance.** In addition to specific provisions of this Agreement, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, or a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, enactment or imposition against the Project of any moratorium, or any time period for legal challenge of such moratorium by Developer, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Litigation attacking the validity of this Agreement or any of the Project Approvals, Subsequent Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than the City necessary for the development of the Project pursuant to this Agreement, or Developer’ inability to obtain materials, power or public facilities (such as water or sewer service) to the Project, shall be deemed to create an excusable delay as to Developer. Upon the request of either Party, an

extension of time for the performance of any obligation whose performance has been so prevented or delayed shall be memorialized in writing. The City Manager is authorized on behalf of the City to enter into such an extension. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon.

**7.3. Annual Review.** Throughout the term of this Agreement, at least once every 12 months, Developer shall provide City with a written report in demonstrating Developer's good-faith compliance with the terms and conditions of this Agreement (the "**Written Report**"). City's City Manager and City Attorney shall review the Written Report to determine whether Developer is in good-faith compliance with the terms of the Agreement and, if they have concerns about Developer's compliance, shall schedule a review before the City Council (the "**Periodic Review**"). At least 10 days prior to the Periodic Review, the City shall provide to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review (and, to the extent practical, related exhibits) concerning Developer's performance. Developer shall be permitted an opportunity to respond to the City's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. If before the public hearing, such response shall be directed to the Community Development Director. At the conclusion of the Periodic Review, the City Council shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. If the City Council finds and determines, based on substantial evidence, that Developer has not complied with such terms and conditions, the City Council may initiate proceedings to terminate or modify this Agreement, in accordance with Government Code Section 65865.1, by giving notice of its intention to do so, in the manner set forth in Government Code Sections 65867 and 65868. If after receipt of the Written Report, the City does not (a) schedule a Periodic Review within two months, or (b) notify Developer in writing of the City's determination after a Periodic Review, then it shall be conclusively presumed that Developer has complied in good faith with the terms and conditions of this Agreement during the year covered under the Written Report.

**7.4. Notice of Compliance.** Within 30 days following any written request which Developer or a Mortgagee may make from time to time, the City shall execute and deliver to the requesting party (or to any other party identified by the requesting party) a written "**Notice of Compliance**", in recordable form, duly executed and acknowledged by the City, that certifies: (a) this Agreement is unmodified and in full force and effect, or if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of the modifications; (b) there are no current uncured defaults under this Agreement or specifying the dates and nature of any default; and (c) any other information reasonably requested by Developer or the Mortgagee. The failure to deliver such a statement within such time shall constitute a conclusive presumption against the City that this Agreement is in full force and effect without modification except as may be represented by Developer and that there are no uncured defaults in the performance of Developer, except as may be represented by Developer. Developer shall have the right, in its sole discretion, to record the Notice of Compliance.



## **ARTICLE 8 DISPUTE RESOLUTION**

**8.1. Dispute; Confidentiality.** Any controversy or dispute arising out of or related to this Agreement, or the development of the Project (a “**Dispute**”), shall be subject to private negotiation among the Parties, and if then not resolved shall be subject to non-binding mediation followed by litigation, if necessary, as set forth below. Each Party agrees that any Dispute, and all matters concerning any Dispute, will be considered confidential and will not be disclosed to any third-party except (a) disclosures to a Party’s attorneys, accountants, and other consultants who assist the Party in the resolution of the Dispute, (b) as provided below with respect to the mediation, and (c) as otherwise required by law, including without limitation, the California Public Records Act or the City’s Municipal Code.

**8.2. Private Negotiation.** If a Dispute arises, the Parties agree to negotiate in good faith to resolve the Dispute. If the negotiations do not resolve the Dispute to the reasonable satisfaction of the Parties within 30 days from a written request for a negotiation, then the Dispute shall be submitted to mediation pursuant to 8.3.

**8.3. Mediation.** Within 15 days following the written request to negotiate, either Party may initiate non-binding mediation (the “**Mediation**”), conducted by JAMS/Endispute, Inc. (“**JAMS**”) or any other agreed-upon mediator. Either Party may initiate the Mediation by written notice to the other Party. The mediator shall be a retired judge or other mediator, selected by mutual agreement of the Parties, and if the Parties cannot agree within 15 days after the Mediation notice, the mediator shall be selected through the procedures regularly followed by JAMS. The Mediation shall be held within 15 days after the Mediator is selected, or a longer period as the Parties and the mediator mutually decide. If the Dispute is not fully resolved by mutual agreement of the Parties within 15 days after completion of the Mediation, then either Party may commence an action in state or federal court. The Parties shall bear equally the cost of the mediator’s fees and expenses, but each Party shall pay its own attorneys’ and expert witness fees and any other associated costs.

**8.4. Injunction.** Nothing in this ARTICLE 8 shall limit a Party’s right to seek an injunction or restraining order from a court of competent jurisdiction in circumstances where such relief is deemed necessary to preserve assets.

## **ARTICLE 9 MISCELLANEOUS**

**9.1. Defined Terms; Citations.** The capitalized terms used in this Agreement, unless the context obviously indicates otherwise, shall have the meaning given them in this Agreement. Except as otherwise expressly stated, all citations are to the Government Code of the State of California.

**9.2. Enforceability.** As provided in Section 65865.4, this Agreement shall be enforceable by either Party notwithstanding any change enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or resolution or

other rule, regulation or policy adopted by the City that changes, alters or amends the ordinances, rules, regulations and policies included in the Applicable Law, except as this Agreement may be amended or canceled pursuant to Section 65868 or modified or suspended pursuant to Section 65869.5.

**9.3. Other Necessary Acts.** Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals or this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges under this Agreement.

**9.4. Construction.** Each reference in this Agreement to this Agreement or any of the Project Approvals shall be deemed to refer to this Agreement or the Project Approval, as it may be amended from time to time. This Agreement has been reviewed and revised by legal counsel for both the City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

**9.5. Covenants Running with the Land.** Subject to the Assignment provisions in ARTICLE 5, all of the provisions contained in this Agreement shall be binding upon and benefit the Parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of, or interest in, the Property, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, as appropriate, runs with the Property and is for the benefit of and binding upon the owner, Developer, and each successive owner of all or a portion of the Property, during its ownership of such property.

**9.6. Attorneys' Fees.** If any legal action or other proceeding is commenced to enforce or interpret any provision of, or otherwise relating to, this Agreement, the losing party or parties shall pay the prevailing party's or parties' actual expenses incurred in the investigation of any claim leading to the proceeding, preparation for and participation in the proceeding, any appeal or other post-judgment motion, and any action to enforce or collect the judgment including without limitation contempt, garnishment, levy, discovery and bankruptcy. For this purpose "expenses" include, without limitation, court or other proceeding costs and experts' and attorneys' fees and their expenses. The phrase "prevailing party" shall mean the party which is determined in the proceeding to have prevailed or which prevails by dismissal, default or otherwise.

**9.7. No Agency, Joint Venture or Partnership.** The City and Developer disclaim the existence of any form of agency relationship, joint venture or partnership between the City and Developer. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as creating any relationship other than a contractual relationship between the City and Developer.

**9.8. No Third Party Beneficiary.** This Agreement is made solely and specifically among and for the benefit of the Parties, and their respective successors and assigns subject to the express provisions relating to successors and assigns, and no other party other than a

Mortgagee will have any rights, interest or claims or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

**9.9. Notices.** All notices, consents, requests, demands or other communications to or upon the respective Parties shall be in writing and shall be effective for all purposes: (A) upon receipt on any City business day before 5:00 PM local time and on the next City business day if received after 5:00 PM or on other than a City business day, including without limitation, in the case of (i) personal delivery, or (ii) delivery by messenger, express or air courier or similar courier, or (B) five days after being duly mailed certified mail, return receipt requested, postage prepaid, all addressed as follows:

If to City:	City of Antioch Attention: City Manager 200 H Street Antioch, CA 94509 Telephone: (925) 779-7011 Facsimile: (925) 779-7003
With a mandatory copy to:	City Attorney City of Antioch 200 H Street Antioch, CA 94509 Telephone: (925) 779-7015 Facsimile: (925) 779-7003
If to Developer:	GBN Partners, LLC Attention: Matthew D. Beinke 3820 Blackhawk Road Danville, CA 94506 Telephone: (925) 736-1571 Facsimile: (925) 736-0309
With a mandatory copy to:	Nossaman LLP Attention: Michael Patrick Durkee 50 California Street, 34 <sup>th</sup> Floor San Francisco, CA 94111 Telephone: (415) 398-3600 Facsimile: (415) 398-2438

In this Agreement “City business days” means days that the Antioch City Hall is open for business and does not currently include Saturdays, Sundays, and federal and state legal holidays. Either Party may change its address by written notice to the other on five business days’ prior notice in the manner set forth above. Receipt of communication by facsimile shall be sufficiently evidenced by a machine-generated confirmation of transmission without notation of error. In the case of illegible or otherwise unreadable facsimile transmissions, the receiving

Party shall promptly notify the transmitting Party of any transmission problem and the transmitting Party shall promptly resend any affected pages.

**9.10. Entire Agreement and Exhibits.** This Agreement constitutes in full, the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements of the Parties with respect to all or any part of the subject matter of this Agreement. No oral statements or prior written matter not specifically incorporated in this Agreement shall be of any force and effect. No amendment of, supplement to or waiver of any obligations under this Agreement will be enforceable or admissible unless set forth in a writing approved by the City and Developer. The following exhibits are attached to this Agreement and incorporated for all purposes:

<i>Exhibit A</i>	Property Description.
<i>Exhibit B</i>	Existing Approvals.
<i>Exhibit C</i>	Ordinance Approving Agreement.
<i>Exhibit D</i>	Memorandum of Assignment.

**9.11. Counterparts.** This Agreement may be executed in any number of identical counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document. This Agreement may be executed by signatures transmitted by facsimile, adobe acrobat or other electronic image files and these signatures shall be valid, binding and admissible as though they were ink originals.

**9.12. Recordation of Development Agreement.** Pursuant to Section 65868.5, no later than ten days after the City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of Contra Costa.

This Agreement has been entered into by and between Developer and the City as of the Effective Date.

**CITY:**

**City of Antioch**, a municipal corporation

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

APPROVED AS TO FORM:

By:

\_\_\_\_\_  
City Attorney

ATTEST:

By:

\_\_\_\_\_  
City Clerk

**DEVELOPER:**

**GBN Partners, LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Matthew D. Beinke, Partner

APPROVED AS TO FORM:  
Nossaman LLP

By:

\_\_\_\_\_  
Attorneys for Developer

# ATTACHMENT “11”

**RESOLUTION NO. 2016/13**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH  
APPROVING OF A VESTING TENTATIVE MAP/FINAL DEVELOPMENT PLAN  
AND RESOURCE MANAGEMENT PLAN FOR THE VINEYARDS AT  
SAND CREEK PROJECT**

**WHEREAS**, the City received an application from GBN Partners, LLC for approval of a General Plan Amendment of the Sand Creek Focus Area of the General Plan to Medium Low Density Residential and Open Space as well as a text amendment; a Development Agreement; a Planned Development Rezone, Master Development Plan, Final Development Plan; Vesting Tentative Map/Final Development Plan and a Resource Management Plan for the development of a 641 unit single family residential community on approximately 141 acres (GP-14-01, PD-14-03, Subdivision 9390). The project is located on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007); and

**WHEREAS**, the Planning Commission on January 6, 2016 recommended adoption of the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program, Development Agreement, Planned Development Rezone, and Vesting Tentative Map and Resource Management Plan to the City Council; and,

**WHEREAS**, a Final Environmental Impact Report and Mitigation Monitoring and Reporting Program was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, and considered by the City Council on February 9, 2016; and,

**WHEREAS**, on February 9, 2016, the City Council approved a General Plan land use designation and text amendment; and,

**WHEREAS**, on \_\_\_\_\_, 2016, the City Council approved a Development Agreement between the City of Antioch and GBN Partners, LLC; and,

**WHEREAS**, on \_\_\_\_\_, 2016, the City Council approved a rezone to Planned Development District (PD-14-03); and,

**WHEREAS**, the City Council duly gave notice of public hearing as required by law; and,

**WHEREAS**, on February 9, 2016, the City Council duly held a public hearing on the matter, and received and considered evidence, both oral and documentary.

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 2

**NOW THEREFORE BE IT RESOLVED**, that the City Council makes the following required findings for approval of a Final Development Plan:

1. Each individual unit of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability because each parcel has its own independent parking and access. The uses proposed will not be detrimental to present and potential surrounding uses but instead will have a beneficial effect which could not be achieved under another zoning district due to the General Plan and zoning designations for the project site and the requirement to establish a Planned Development Zoning District and receive approval for a Final Development Plan for each project zoned Planned Development in the City of Antioch;
2. The streets and thoroughfares proposed meet the standards of the City's Growth Management Program and adequate utility service can be supplied to all phases of the development because the project will be constructing all the required streets and utilities to serve the project and the ultimate design, location and size of these improvements will be subject to the approval of the City Engineer;
3. There are no commercial components of the Project;
4. Any deviation from the standard zoning requirements is warranted by the design and additional amenities incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted. The project is a small lot subdivision and is substantially in conformance with the applicable zoning requirements for residential development and the Planned Development District development standards established for the project site;
5. The area surrounding the PD district can be planned and zoned in coordination and substantial compatibility with the proposed development because the proposed development is consistent with the General Plan and the area around the Project will also be required to develop according to the General Plan policies; and,
6. The Project and the PD District conform to the General Plan of the City in that the small lot single family residential uses are consistent with the General Plan designation of Medium Low Density Residential for the project site; and,
7. The Conditions of approval protect the public safety, health and general welfare of the users of the project and surrounding area. In addition, the conditions ensure the project is consistent with City standards.



**RESOLUTION NO. 2016/13**

February 9, 2016

Page 3

**BE IT FURTHER RESOLVED** that the City Council does hereby make the following findings for approval of a Vesting Tentative Parcel Map:

1. That the subdivision, design and improvements are consistent with the General Plan, as required by Section 66473.5 of the Subdivision Map Act and the City's Subdivision Regulations. The site is has a General Plan Designation of Medium Low Density Residential and is zoned Planned Development and the subdivision will accommodate uses that are consistent with the General Plan on each of the lots created by the subdivision; and,
2. That the subdivision proposed by the Vesting Tentative Map complies with the rules, regulations, standards and criteria of the City's Subdivision Regulations. The proposed subdivision meets the City's criteria for the map. The City's Planning and Engineering staff have reviewed the Vesting Tentative Map and evaluated the effects of the subdivision proposed and have determined that the Vesting Tentative Map as conditioned complies with and conforms to all the applicable rules, regulations, standards, and criteria of the City's Subdivision Regulations.
3. The Conditions of approval protect the public safety, health and general welfare of the users of the project and surrounding area. In addition, the conditions ensure the project is consistent with City standards.

**NOW THEREFORE BE IT RESOLVED** that the City Council of the City of Antioch does hereby APPROVE a Vesting Tentative Map/Final Development Plan (attached Exhibit A) and Resource Management Plan, for the development of a 641 unit single family residential community on approximately 141 acres on the easterly side of the Sand Creek Focus Area, east of the current terminus of Hillcrest Avenue, west of Heidorn Ranch Road and north of Sand Creek (APNs 057-030-003, 057-030-007) subject to the following conditions:

**A. GENERAL CONDITIONS**

1. The development shall comply with the City of Antioch Municipal Code, unless a specific exception is granted thereto, or is otherwise modified in these conditions or in the development agreement.
2. Concurrent with the first submittal of grading or improvement plans, the applicant shall submit a site plan exhibit showing the site plan as modified by conditions and approvals.
3. Architecture, sound walls, fencing, mailboxes, lighting, any accent paving, addressing, and landscaping for the entire project shall be subject to review and approval by the Planning Commission.

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 4

4. Sound wall locations and elevations for each phase of the project shall be included on the grading plan(s).
5. This approval expires two years from the date of approval (Expires \_\_\_\_\_, 2018) or alternate date as identified in the signed Development Agreement, pursuant to the Map Act as amended.
6. The applicant shall defend, indemnify, and hold harmless the City in any action brought challenging any land use approval or environmental review for the Project. In addition, applicant shall pay any and all costs associated with any challenge to the land use approval or environmental review for the Project, including, without limitation, the costs associated with any election challenging the Project.
7. Permits or approvals, whether discretionary or ministerial, will not be considered if the applicant is not current on fees, reimbursement and/or other payments that are due the City.
8. All required easements or rights-of-way for improvements shall be obtained by the applicant at no cost to the City of Antioch. Advance permission shall be obtained from any property or, if required from easement holders, for any work done within such property or easements.
9. All easements of record that are no longer required and affect individual lots or parcels within this project shall be removed prior to or concurrently with the recordation of the final map or executed by separate subsequent instrument as approved by the City Engineer.
10. The applicant shall establish a Home Owners Association (HOA) for this project in conformance with the regulations set forth by the State Bureau of Real Estate. The HOA shall be responsible for maintaining:
  - a. All HOA owned parcels (includes private streets and parks).
  - b. Landscaping in City rights-of-way north of the northerly curb line of Sand Creek Road, west of the westerly curb line of Heidorn Ranch Road, and east of the easterly curb line of Hillcrest Avenue.
  - c. Storm drain facilities (pipes, structures, and basins) north of the northerly curb line of Sand Creek Road, west of the westerly curb line of Heidorn Ranch Road, and east of the easterly curb line of Hillcrest Avenue.
  - d. Sound walls.
  - e. The City shall be reimbursed if it maintains landscape, roadway (including striping and signing), concrete (including sidewalk, curb, gutter, and curb ramps), storm drain facilities, street lighting, or all

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 5

other HOA facilities and amenities that are not maintained by the HOA to an acceptable City level.

11. Prior to issuance of the 1<sup>st</sup> building permit, the applicant shall provide draft CC&R's to the City for review. The applicant shall incorporate City comments into the application to the State or provide documentation acceptable to the City for omitting the comments. Prior to issuance of the 25<sup>th</sup> production building permit or issuance of the 1<sup>st</sup> Certificate of Occupancy, the applicant shall provide written confirmation of State approval of the CC&R's as outlined in the Development Agreement or as approved by the Community Development Director.
12. All advertising signs shall be consistent with the Sign Ordinance or as approved by the Community Development Director.
13. The property shall annex into or establish and participate in a Lighting and Landscape District (LLD) and accept a level of annual assessments sufficient to maintain:
  - a. The street lights and landscaping adjacent to the project area excluding those areas to be maintained by the HOA (generally medians on Sand Creek Road, half of the median on Heidorn Ranch Road, and half of the median on Hillcrest Avenue).
  - b. The C.3 basin and trails south of Sand Creek Road (Parcel G).
  - c. The annual assessment shall cover the actual annual cost of maintenance as described in the Engineer's Report.

**B. TENTATIVE MAP CONDITIONS**

1. The Tentative Map approval is subject to the time lines established in the State of California Subdivision Map Act, as amended.
2. Approval is based upon substantial conformance with the Vesting Tentative Maps dated May 20, 2015, (Subdivision No. 9390).
3. Approval of this tentative map shall not be construed as a guarantee of future extension or re-approvals of this or similar maps.

**C. CONSTRUCTION CONDITIONS**

1. The use of construction equipment shall be as outlined in the Antioch Municipal Code. Requests for alternative days/time may be submitted in writing to the City Engineer for consideration.

## **RESOLUTION NO. 2016/13**

February 9, 2016

Page 6

2. The project shall be in compliance with and supply all the necessary documentation for AMC 6-3.2: Construction and Demolition Debris Recycling.
3. Standard dust control methods and designs shall be used to stabilize the dust generated by construction activities. The applicant shall post dust control signage with an applicable contact and phone number, City staff, and the air quality control board.
4. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.

### **D. SITE AND PROJECT DESIGN**

1. Provisions for mail delivery in the subdivision area shall be reviewed and approved by staff prior to the approval of the small lot final map(s). Applicant shall install mail box facilities as required by the City Engineer.
2. Prior to the approval of the grading plan(s), the City Engineer shall determine if it is necessary to engage soils and structural engineers, as well as any other professionals, deemed necessary to review and verify the adequacy of the building plans submitted for this project. If deemed necessary by the City Engineer, this condition may include field inspections by such professionals to verify implementation of the plans. Costs for these services shall be borne by the applicant.
3. All proposed improvements shall be constructed to City standards or as approved by the City Engineer.
4. All public streets shall intersect at approximately 90 degrees or as approved by the City Engineer.
5. All driveways shall be perpendicular to the street centerline, or as approved by the City Engineer.
6. All driveways shall be a minimum of five feet from curb return.
7. Monolithic sidewalks with beveled curb shall be 6" thick and reinforced as approved by the City Engineer. Detached sidewalks that will be crossed by vehicles at driveway locations shall be 6" thick and reinforced as approved by the City Engineer. Minimum sidewalks widths shall be as follows:
  - a. Adjacent to beveled curb, 4 feet excluding curb (bevel curb to be 12" deep by 3" high with ½" lip and 18" gutter).

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 7

- b. Adjacent to vertical curb, 4.5 feet excluding curb.
  - c. Detached sidewalk, 5 feet.
- 8. A minimum of a 20 foot tangent shall extend beyond the return at intersections, or as approved by the City Engineer.
  - 9. All lot sidelines shall be perpendicular or radial to the fronting street centerline, or as approved by the City Engineer.
  - 10. Sight distance triangles shall be maintained per 9-5.1101, Site Obstructions at Intersections of the Antioch Municipal Code or as approved by the City Engineer.
  - 11. Rear and side yard fencing shall be provided for all units. All fences shall be located at the top of slope, or as approved by the City Engineer.
  - 12. In cases where a fence is to be built in conjunction with a retaining wall, and the wall face is exposed to a side street, the fence shall be setback a minimum of three feet (3') behind the retaining wall per 9-5.1603 or as approved by the City Engineer.
  - 13. The applicant shall install streetlights within the project area.
  - 14. Street names shall be as approved by the Planning Commission as shown on Exhibit C. Future changes to street names will require Planning Commission review and approval.
  - 15. The applicant shall provide a "checklist" of universal design accessibility features to home buyers as required by Section 17959.6 of the Health and Safety Code.
  - 16. All improvements for each lot (water meters, sewer cleanouts, etc.) shall be contained outside of the driveway and within the lot and the projection of its sidelines, or as approved by the City Engineer.
  - 17. Cul-de-sac parking shall be provided as required by the City Engineer.
  - 18. One on-street parking space per lot shall be located within close proximity to the unit served as approved by the City Engineer.
  - 19. The applicant and then the HOA, once the CC&Rs are operative, shall maintain all undeveloped areas within this subdivision in a fire-safe and attractive manner.

## **RESOLUTION NO. 2016/13**

February 9, 2016

Page 8

20. All fencing adjacent to public open space (trails and basins), shall be wrought iron, black vinyl clad chain link with powder coated posts, or other material as approved by the City Engineer.
21. Sound walls shall be constructed along the lots adjoining or adjacent to Sand Creek Road (Parcel C), Hillcrest Avenue (Parcels B & C), Heidorn Ranch Road (Parcel C & F), 'A' Street between Hillcrest Avenue and 'E' Street (Parcels B & C), and 'B' Street between 'Q' Street and Heidorn Ranch Road (Parcels C & F). Fencing/wall/berm along the street side of Parcel E shall be approved by the Planning Commission. Sound walls along Sand Creek Road shall be a minimum of seven (7) feet high or six (6) feet on a one (1) foot berm in conformance to the sound study. Sound walls at other locations shall be a minimum of six (6) feet high and in conformance to the sound study.
22. All two-car garages shall be a minimum of 20 feet by 20 feet clear inside dimensions or as approved by the Community Development Director.
23. Prior to submitting a final map that creates buildable lots, the applicant shall provide bonding in a sufficient amount to secure all necessary improvements for the phase as described throughout these Conditions of Approval. Such bonds will be released upon satisfactory completion of the corresponding improvements by the applicant.
24. All trails and access roadways shall be constructed as shown on the Tentative Map to the standards for a Class I Bike Path in the 6<sup>th</sup> Edition of the Caltrans Highway Design Manual or as approved by the City Engineer. The basin access roadway/trail, the Calpine facility access roadway, and landscape on Parcel E shall be constructed in conjunction with the basin on Parcel E. The combination trail/access roadway around the basin on Parcel G shall be constructed in conjunction with the basin on Parcel G.
25. Concurrent with the construction of the adjacent roadways, the applicant shall construct bus turnouts, shelters and benches (or lean bar as approved by Tri-Delta Transit) at the following locations or as approved by the City Engineer:
  - a. East side of Hillcrest Avenue north of 'A' Street.
  - b. West side of Heidorn Ranch Road south of 'B' Street.
26. The shelters shall be constructed with the roadway if bus service to the location is anticipated within the next 6 months by Tri-Delta Transit. If bus service is ultimately anticipated, but not within the next 6 months, a deposit of \$6,000 will be made by the applicant to Tri-Delta Transit. If bus service is not provided to the location and the shelter is not constructed within 10 years of the deposit, the \$6,000 will be returned to the applicant.

**E. PHASING CONDITIONS**

1. Prior to development of any phase of the subdivision, the applicant shall secure a use permit and design review approval from the Planning Commission for that phase.
2. The order and phasing boundaries of project construction shall conform to the proposed Phasing Plan, dated March 26, 2015, Exhibit B to this resolution. Proposed changes to the Phasing Plan shall be submitted to the City prior to or in conjunction with the use permit application required for the affected phase(s). Changes to the Phasing Plan are subject to approval by the Zoning Administrator or the Planning Commission. Use permits applications are subject to approval by the Planning Commission.
3. **Phase One:**  
Prior to the issuance of the 1<sup>st</sup> building permit within Phase One, the following improvements shall be completed to the satisfaction of the City Engineer:
  - a. Heidorn Ranch Road: Heidorn Ranch Road shall be constructed with west side curb and gutter and west side median curb and gutter, utilities to be placed under the west half of the roadway (with needed laterals for street lights, fire hydrants, irrigation, etc. and asphalt for the southbound bike, turn, and travel lanes from approximately the south right of way of East Bay MUD to the south curb returns of 'B' Street. Design shall be coordinated with the City of Brentwood or their designee.

Prior to the issuance of the 25<sup>th</sup> building permit and the 1<sup>st</sup> Certificate of Occupancy for a lot within Phase One, the following improvements shall be completed to the satisfaction of the City Engineer:

- b. Heidorn Ranch Road: Heidorn Ranch Road shall be constructed to the interim configuration with two 12 foot lanes and an 8 foot bike lane southbound and one 12 foot lane and a 4 foot shoulder northbound (or as required by the fire district), landscaped median and western right of way including Parcel F, LED street lights along the western edge of the roadway, turn pockets and other appurtenances, and all utilities to be placed below the surface improvements, including interconnect conduit and pull boxes, from approximately the south right of way of East Bay MUD through the south curb returns of 'B' Street. Improvements shall include conduits and pull boxes for a traffic signal at Heidorn Ranch Road and 'B' Street, all as approved by the City Engineer. Design shall be coordinated with the City of Brentwood or their designee.

## RESOLUTION NO. 2016/13

February 9, 2016

Page 10

- c. Heidorn Ranch Road/'B' Street traffic signal: The applicant shall construct a full traffic signal with interconnect at intersection of Heidorn Ranch Road and 'B' Street. Upon concurrence of the applicant and the City Engineer, the applicant may deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been improved. Should the requirement for construction of the Heidorn Ranch Road/'B' Street traffic signal occur simultaneous with the construction of the Heidorn Ranch Road (by others) in Brentwood, the traffic signal shall be installed with each developer (or the City of Brentwood as applicable) paying their fair share of the improvements as approved by the City Engineer. Should the traffic signal on Heidorn Ranch Road and 'B' Street be constructed by the City of Brentwood or the development in Brentwood adjacent to and east of this project, the applicant shall pay ½ of the cost of the design and construction to the City of Antioch for reimbursement to City of Brentwood or the Brentwood developer(s).
- d. 'B' Street: 'B' Street shall be fully constructed from Heidorn Ranch Road to the easterly curb returns of 'N' Street including lighting and median and right of way landscaping.

#### 4. **Phase Two:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Two, the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase One.
- b. 'B' Street extension: Completion of 'B' Street through 'M' Street including lighting and median and right of way landscaping.
- c. Parcel A Park: The park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50<sup>th</sup> building permit for a lot within Phase Two, the following shall be completed to the satisfaction of the City Engineer:

- d. Parcel A Park: Park construction.

#### 5. **Phase Three:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Three, the following shall be completed to the satisfaction of the City Engineer:

- a. Hillcrest Avenue: Hillcrest Avenue shall be constructed with east side curb, gutter, sidewalk and landscaping, including Parcel B, east side median curb and gutter, median LED street lights, and utilities to be placed under the east half of the roadway, including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and pavement for the northbound bike, turn, and travel lanes from the existing stub of Hillcrest Avenue to the south curb returns of 'A' Street. The transition from the existing 4-lane



**RESOLUTION NO. 2016/13**

February 9, 2016

Page 11

section of Hillcrest Avenue shall include a 2" grind and overlay of the existing asphalt south of Prewett Ranch Drive and be as approved by the City Engineer. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and 'A' Street, all as approved by the City Engineer.

- b. Hillcrest Avenue/'A' Street traffic signal": The applicant shall construct a full traffic signal at the intersection of Hillcrest Avenue and 'A' Street. Upon concurrence of the applicant and the City, the applicant may deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed. Should the requirement for construction of the Hillcrest Avenue/'A' Street traffic signal occur simultaneous with the Aviano Farms development, the traffic signal shall be installed with each developer paying their fair share of the improvements as approved by the City Engineer. Should the traffic signal be constructed by the Aviano Farms development, the developer otherwise obligated shall pay ½ of the cost of the design and construction to the City for reimbursement to the Aviano Farms development prior to initiation of the Phase Three.
- c. 'A' Street: 'A' Street shall be fully constructed to the from Hillcrest Avenue to the curb returns of 'H' Street including lighting and median and right of way landscaping.

**6. Phases Four, Five and Six:**

Prior to approval of a small lot Final Map within Phase Four, Five or Six, the following improvements shall be completed OR a bond shall be provided securing their construction:

- a. Any uncompleted improvements required of Phases One, Two and Three.
- b. Heidorn Ranch Road, Southern Extension: Heidorn Ranch Road shall be constructed at the interim configuration with two 12 foot lanes and an 8 foot bike lane southbound and one 12 foot lane and an 4 foot shoulder (or as required by the fire district) northbound, landscaped median and easterly right of way including the adjacent portion of Parcel C, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit and pull boxes, from 'B' Street through and including the intersection with Sand Creek Road. Design shall be coordinated with the City of Brentwood or their designee.
- c. Heidorn Ranch Road/Sand Creek Traffic Signal: A full traffic signal shall be constructed at the intersection of Heidorn Ranch Road and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 12

- leg of the intersection has not been constructed. The traffic signal is fee creditable against the project's Traffic Signalization fees.
- d. Sand Creek Road: Sand Creek Road shall be constructed from the boundary of the Cities of Antioch and Brentwood to Hillcrest Avenue. The road shall be constructed to the configuration approved by the City of Antioch Planning Commission and/or City Engineer in coordination with the City of Brentwood. The design shall include an ultimate width of 80 foot curb to curb and 112 foot right-of-way from the centerline of Hillcrest Avenue through the easterly curb return of Heidorn Ranch Road with two 12 foot lanes and an 8 foot bike lane westbound and two 12 foot lanes and an 8 foot bike lane eastbound with landscaped median and northerly right of way (including the adjacent portion of Parcel C) and southerly right of way, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit. Improvements shall include conduits and pull boxes for traffic signals at Sand Creek Road/Hillcrest Avenue and Sand Creek Road/Heidorn Ranch Road, all as approved by the City Engineer.
  - e. The multi-use Sand Creek Regional Trail shall be constructed to the west, south and east of the basin, and landscaping installed on Parcel G as approved by the Park and Recreation Commission. If allowed by the resource agencies, the Regional Trail shall be unfenced (on the Sand Creek side) and the surface shall be as required by the City Engineer. The trail shall be as close to the creek as allowed by the resource agencies. The applicant shall coordinate with the Aviano Farms development to the west, and the City of Brentwood to the east, for the location and elevation of connection points.
  - f. Hillcrest Avenue, Southern Extension: Hillcrest Avenue shall be constructed with east side curb, gutter, and sidewalk and landscaping, including Parcel C, and east side median curb and gutter, median LED street lights, and utilities to be placed under the east half of the roadway including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and asphalt for the northbound bike, turn, and travel lanes from 'A' Street to Sand Creek Road. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and Sand Creek Road, interconnect conduit and pull boxes, from 'A' Street thru and including the intersection of Sand Creek Road (if proposed for the east side of the roadway), all as approved by the City Engineer.
  - g. Hillcrest Avenue/Sand Creek Road Traffic Signal: A full traffic signal shall be constructed with interconnect at the intersection of Hillcrest Avenue and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may deposit payment into the

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 13

City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed. The traffic signal is fee creditable against the project's Traffic Signalization fees.

- h. Parcel D Park.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Four, Five, or Six, Parcel A Park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50<sup>th</sup> building permit for a lot within Phase Four, Five, or Six, the construction of Parcel A Park shall be completed to the satisfaction of the City Engineer.

**7. Phase Four:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Four, the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase One.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Four, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- b. Heidorn Ranch Road, Southern Extension: Heidorn Ranch Road shall be constructed at the interim configuration with two 12 foot lanes and an 8 foot bike lane southbound and one 12 foot lane and an 4 foot shoulder (or as required by the fire district) northbound, landscaped median and easterly right of way including the adjacent portion of Parcel C, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit and pull boxes, from 'B' Street through and including the intersection with Sand Creek Road. Design shall be coordinated with the City of Brentwood or their designee.
- c. Heidorn Ranch Road/Sand Creek Traffic Signal: A full traffic signal shall be constructed at the intersection of Heidorn Ranch Road and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed. The traffic signal is fee creditable against the project's Traffic Signalization fees. Should the requirement for construction of the Heidorn Ranch Road/Sand Creek Road traffic signal occur simultaneous with the construction of the Heidorn Ranch Road (by others) in Brentwood, the traffic signal shall be installed with each developer (or the City of Brentwood as applicable) paying their fair share of the improvements as approved by the City Engineer. Should the traffic

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 14

- signal on Heidorn Ranch Road and Sand Creek Road be constructed by the City of Brentwood or the development in Brentwood adjacent to and east of this project, the applicant shall pay ½ of the cost of the design and construction to the City of Antioch for reimbursement to City of Brentwood or the Brentwood developer(s).
- d. Sand Creek Road: Sand Creek Road shall be constructed from the boundary of the Cities of Antioch and Brentwood to the extension of the westerly Phase Four boundary. The road shall be constructed to the configuration approved by the City of Antioch Planning Commission and/or City Engineer in coordination with the City of Brentwood. The design shall include an ultimate width of 80 foot curb to curb and 112 foot right-of-way from the extension of the westerly Phase Four boundary through the easterly curb return of Heidorn Ranch Road with two 12 foot lanes and an 8 foot bike lane westbound and two 12 foot lanes and an 8 foot bike lane eastbound with landscaped median and northerly right of way (including the adjacent portion of Parcel C) and southerly right of way, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit. Improvements shall include conduits and pull boxes for traffic signal at Sand Creek Road/Heidorn Ranch Road, all as approved by the City Engineer.
  - e. The multi-use Sand Creek Regional Trail shall be constructed to the west, south and east of the basin, and landscaping installed on Parcel G as approved by the Park and Recreation Commission. If allowed by the resource agencies, the Regional Trail shall be unfenced (on the Sand Creek side) and the surface shall be as required by the City Engineer. The applicant shall coordinate with City of Brentwood to the east, for the location and elevation of the connection point. This condition may be deferred to a by the City Engineer to facilitate construction of the overall trail.
  - f. Parcel D Park: The park design shall be approved by the Parks and Recreation Commission and/or the Planning Commission.

Prior to the issuance of the 50<sup>th</sup> building permit for a lot within Phase Four, the following shall be completed to the satisfaction of the City Engineer:

- g. Parcel D Park: Park construction.

Prior to the issuance of the 35<sup>th</sup> building permit for a lot within Phase Four, the preceding improvements (E.7b through E.7e) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 75<sup>th</sup> building permit for a lot within Phase Four, the preceding improvements (E.7b through E.7e) shall be completed to the satisfaction of the City Engineer.

**8. Phase Five:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Five, one of the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase Four, OR
- b. Any uncompleted improvements required of Phase Six.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Five, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- c. All of the improvements described in Condition of Approval E.6d and E.6e shall be installed. E.6e may be deferred by the City Engineer to facilitate construction of the overall trail.

Prior to the issuance of the 35<sup>th</sup> building permit for a lot within Phase Five, the preceding improvements (E.8c) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 75<sup>th</sup> building permit for a lot within Phase Five, the preceding improvements (E.8c) shall be completed to the satisfaction of the City Engineer.

**9. Phase Six:**

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Six, the following shall be completed to the satisfaction of the City Engineer:

- a. Any uncompleted improvements required of Phase Three.

Prior to the issuance of the 1<sup>st</sup> building permit for a lot within Phase Six, the developer shall begin the following improvements to the satisfaction of the City Engineer:

- b. Hillcrest Avenue, Southern Extension: Hillcrest Avenue shall be constructed with east side curb, gutter, and sidewalk and landscaping, including Parcel C, and east side median curb and gutter, median LED street lights, and utilities to be placed under the east half of the roadway including interconnect conduit and pull boxes (if proposed for the east side of the roadway) and asphalt for the northbound bike, turn, and travel lanes from 'A' Street to Sand Creek Road. Improvements shall include conduits and pull boxes for the easterly portion of a traffic signal at Hillcrest Avenue and Sand Creek Road, interconnect conduit and pull boxes, from 'A' Street thru and including the intersection of Sand Creek Road (if proposed for the east side of the roadway), all as approved by the City Engineer.

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 16

- c. Hillcrest Avenue/Sand Creek Road Traffic Signal: A full traffic signal shall be constructed with interconnect at the intersection of Hillcrest Avenue and Sand Creek Road. Upon concurrence of the applicant and the City, the applicant may deposit payment into the City's traffic signal account for the traffic signal design and/or construction if the third leg of the intersection has not been constructed. The traffic signal is fee creditable against the project's Traffic Signalization fees.
- d. Sand Creek Road: Sand Creek Road shall be constructed from the Hillcrest Avenue intersection to the extension of the easterly Phase Six boundary. The road shall be constructed to the configuration approved by the City of Antioch Planning Commission and/or City Engineer in coordination with the Aviano development. The design shall include an ultimate width of 80 foot curb to curb and 112 foot right-of-way from the westerly curb return of Hillcrest Avenue through the extension of the easterly Phase Six boundary with two 12 foot lanes and an 8 foot bike lane westbound and two 12 foot lanes and an 8 foot bike lane eastbound with landscaped median and northerly right of way (including the adjacent portion of Parcel C) and southerly right of way, street lights, turn pockets and other appurtenances, and all utilities, including interconnect conduit. Improvements shall include conduits and pull boxes for traffic signal at Sand Creek Road/ Hillcrest Avenue, all as approved by the City Engineer.
- e. The multi-use Sand Creek Regional Trail shall be constructed to the west, south and east of the basin, and landscaping installed on Parcel G as approved by the Park and Recreation Commission. If allowed by the resource agencies, the Regional Trail shall be unfenced (on the Sand Creek side) and the surface shall be as required by the City Engineer. The applicant shall coordinate with the Aviano development to the east, for the location and elevation of the connection point. This condition may be deferred to a by the City Engineer to facilitate construction of the overall trail.

Prior to the issuance of the 30<sup>th</sup> building permit for a lot within Phase Six, the preceding improvements (E.9b through E.9e) shall be completed to 50% to the satisfaction of the City Engineer.

Prior to the issuance of the 60<sup>th</sup> building permit for a lot within Phase Six, the preceding improvements (E.9b through E.9e) shall be completed to the satisfaction of the City Engineer.

**F. UTILITIES**

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 17

1. Public utilities shall be constructed to their ultimate size and configuration with the road construction in which they are to be located.
2. All existing and proposed utilities shall be undergrounded (e.g. transformers and PMH boxes) and subsurface in accordance with the Antioch Municipal Code and as approved by the City Engineer. Existing overhead utilities on arterial streets shall be undergrounded.
3. Underground utilities shall be designed to flow approximately parallel to the centerline of the street, or as approved by the City Engineer.
4. All sewage shall flow by gravity to the intersecting street sewer main.
5. All public utilities shall be installed in streets avoiding between-lot locations unless approved by the City Engineer.
6. Prior to the recordation of the first final map, the applicant shall submit hydrology and hydraulic analyses with a storm water control plan to the City for review and approval and to Contra Costa County Flood Control for review at no cost to the City as directed by the City Engineer.
7. The applicant shall provide adequate water pressure and volume to serve this development. This will include a minimum residual pressure of 20 psi with all losses included at the highest point of water service and a minimum static pressure of 50 psi or as approved by the City Engineer. See Fire Requirements 3.c. for additional water flow conditions.
8. The houses shall contain rain gutters and downspouts that direct water away from the foundation as approved by the City Engineer.
9. Recycled water mains shall be constructed in arterial roadways and internal streets with significant right of way, park, or other landscaping as approved by the City Engineer. This development is subject to State Laws which may require recycled water to all landscaped area.
10. Prior to recordation of the first final map, the applicant shall submit the completed draft sewer study for the Sand Creek Focus Area to the general concurrence of the City Engineer. Prior to recordation of the first final map creating residential lots, the final version of the sewer study for the Sand Creek Focus Area shall be completed to the approval of the City Engineer. The applicant shall extend the existing sanitary sewer main trunk line from the stub in Heidorn Ranch Road at no cost to the City. (Note: If the draft and/or final sewer study for the Sand Creek Focus Area has been

## **RESOLUTION NO. 2016/13**

February 9, 2016

Page 18

submitted to the City in conjunction with other development, it will be used to fulfill the applicable portion(s) of this condition.)

11. The applicant may form (if not already formed) or shall annex (if already formed) into a benefit district or participate in another mechanism acceptable to the City that fairly distributes the cost of upsizing of utilities amongst the befitting property owners in and around the Sand Creek Focus Area as approved by the City Engineer.

### **G. LANDSCAPING**

1. All right-of-way landscaping (excluding adjacent to front and side yards), medians, private parks, water quality & detention basins, and open space areas north of the northerly curb line of Sand Creek Road, east of the easterly curb line of Hillcrest Avenue and west of the westerly curb line of Heidorn Ranch Road shall be installed by the applicant and maintained by the applicant or HOA.
2. Parcel G shall be landscaped by the applicant and maintained by the LLD.
3. A minimum of one 15 gallon tree shall be located within 10' of the sidewalk, or within 10' of the back of curb at locations without sidewalk, in the front yard of each lot and the side yard of corner lots prior to the issuance of the certificate of occupancy. The type and location of the tree shall be as approved by the City Engineer.
4. Based on drought conditions, the City Engineer has the authority to delay some or all of the landscape conditions of approval.

### **H. FIRE REQUIREMENTS**

1. All weather access roads and a water supply shall be provided prior to commencing any combustible construction, as required by the Fire Chief.
2. Street widths shall be subject to approval by the Contra Costa County Fire Protection District and the City Engineer.
3. The applicant shall comply with the following conditions provided by the Contra Costa County Fire Protection District:
  - a. Access roadways of less than 28-feet unobstructed width shall have NO PARKING – FIRE LANE signs posted or curbs painted red with the words NO PARKING – FIRE LANE clearly marked, per 22500.1 CVC.
  - b. The cul-de-sacs or turnarounds shall have an outside turning radius of a minimum of a 45' or as approved by the City Engineer. Should



**RESOLUTION NO. 2016/13**

February 9, 2016

Page 19

- the sidewalk be included in the turning radius, it shall be clear of street lights, fire hydrants and other obstructions.
- c. The applicant shall provide an adequate reliable water supply for fire protection with a minimum fire flow of 1750 GPM. Required flow shall be delivered from not more than one hydrant flowing simultaneously for the duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (508.1), (B105) CFC
  - d. The applicant shall provide hydrants of the East Bay type, which shall be maintained by the City. Approximate hydrant locations will be determined by the Fire District and approved by the City Engineer.
  - e. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC. Gravel roads are not considered all-weather roadways for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum sub base materials and capable of supporting the designated gross vehicle weight specified above.
  - f. Premises identification shall be provided. Such numbers shall contrast with their background and be a minimum of four inches high with ½-inch stroke or larger as required to be readily visible from the street. (505.1) CFC, (501.2) CBC
  - g. Plan review and inspection fees shall be submitted at the time of plan review submittal. Checks may be made payable to Contra Costa County Fire Protection District (CCCFPD).
4. Submit plans to: Contra Costa County Fire Protection District, 2010 Geary Road, Pleasant Hill, CA 94523.

**I. FEES**

- 1. The applicant shall pay all City fees which have been established by the City Council and as required by the Antioch Municipal Code and the Development Agreement.
- 2. The applicant shall pay all pass through fees. Fees include but are not limited to
  - a. East Contra Costa Regional Fee and Financing Authority (ECCRFFA) Fee in effect at the time of building permit issuance.
  - b. Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance. (See G.3.g.)
  - c. Contra Costa County Map Maintenance Fee in affect at the time of recordation of the final map(s). (currently \$50 per lot or parcel).
  - d. Contra Costa County Flood Control District Fees.
  - e. School Impact Fees.

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 20

- f. Delta Diablo Sewer Fees.
- g. Contra Costa Water Fees.

- 3. Prior to filing of the first final map for recording, the applicant shall establish (or annex into an existing) a police financing district and shall agree to accept a level of annual assessments (with a CPI escalator) or provide an additional funding source, excluding tax measures and acceptable to the City, sufficient to fund police to the level identified in the General Plan.

**J. MODEL HOMES**

- 1. Prior to the placement of any sales trailers, plans shall be submitted to the Engineering Department for review and approval. Any trailer shall be placed out of the public right-of-way and shall have its own parking lot.
- 2. The model home complex parking lot location and design shall be subject to City Engineer approval.
- 3. The model home landscaping shall be drought tolerant, with total area of spray irrigation for the complex not to exceed 50 percent of the landscaping area.

**K. GRADING**

- 1. The grading operation shall take place at a time, and in a manner, so as not to allow erosion and sedimentation. The slopes shall be landscaped and reseeded as soon as possible after the grading operation ceases. Erosion measures shall be implemented during all construction phases in accordance with an approved erosion and sedimentation control plan.
- 2. All lots and slopes shall drain to approved drainage facilities as approved by the City Engineer.
- 3. All grading shall be accomplished in a manner that precludes surface water drainage across any property line.
- 4. All lots shall be graded to drain positively from the rear to the street or as approved by the City Engineer.
- 5. The swales adjacent to the house structure shall have a minimum of a one (1) percent slope or as directed by the City Engineer.
- 6. The applicant shall make a good faith effort to coordinate the grading along the project borders with affected property owners. All off-site

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 21

grading is subject to the approval of the affected property owners and the City Engineer. The applicant shall submit written authorization to "access, enter, or grade" adjacent properties prior to performing any work.

7. Any sale of a portion (or portions) of this project to other developers shall include the necessary agreement and/or grading easements to assure that project-wide grading conforms to the approved map and conditions of this resolution.
8. The grading plan for this development shall be approved by the City Engineer.
9. All elevations shown on the improvement plans shall be on the USGS 1929 sea level datum or as approved by the City Engineer.
10. Retaining walls shall not be constructed in City right-of-way or other City maintained parcels unless approved by the City Engineer.
11. All retaining walls shall be of masonry construction.
12. All retaining walls shall be reduced in height to the maximum extent practicable and the walls shall meet the height requirements in the front yard setback and sight distance triangles as approved by the City Engineer.
13. The back to back or side to side grading transitions from lot to lot shall have a maximum slope of 2:1, and shall be accommodated entirely on the lower lot or as approved by the City Engineer.
14. The minimum concrete gutter flow slope shall be 0.75%.
15. All property lines shall be located at the top of slope.

**L. CONSERVATION/NPDES**

1. Water conservation measures, including low volume toilets, flow restrictors in showers and the use of drought tolerant landscaping, shall be used.
2. The Project shall meet or exceed Tier 1 of the CALGreen Building Code.
3. The project shall comply with all Federal, State, and City regulations for the National Pollution Discharge Elimination System (NPDES) (AMC§6-9). (Note: Per State Regulations, NPDES Requirements are those in affect at the time of the Final Discretional Approval.) Under NPDES regulations, the project is subject to provision C.3: New development and

redevelopment regulations for storm water treatment. Provision C.3 requires that the project include storm water treatment and source control measures, as well run-off flow controls, so that post-project runoff does not exceed estimated pre-project runoff. C.3 regulations require the submittal of a Storm Water Control Plan (SWCP) that demonstrates how compliance will be achieved. The SWCP shall be submitted simultaneously with the project plans. For the treatment and flow-controls identified in the approved SWCP, a separate Operation and Maintenance Plan (O&M) shall be submitted and approved before the Building Department will issue Certificate of Occupancy permits. Both the approved SWCP and O&M plans shall be included in the project CC&Rs. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute any agreements identified in the Storm Water Control Plan that pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMPs. Already stated in COAs below, 5.c and 5.h.w.

4. The applicant shall comply with the Storm Water Treatment Plan dated \_\_\_\_\_.
5. The following requirements of the federally mandated NPDES program (National Pollutant Discharge Elimination System) shall be complied with as appropriate, or as required by the City Engineer:
  - a. Prior to issuance of permits for building, site improvements, or landscaping, the applicant shall submit a permit application consistent with the applicant's approved Storm Water Control Plan, and include drawings and specifications necessary for construction of site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control storm water flow and potential storm water pollutants.
  - b. The Storm Water Control Plan shall be certified by a registered civil engineer, and by a registered architect or landscape architect as applicable. Professionals certifying the Storm Water Control Plan shall be registered in the State of California and submit verification of training, on design of treatment measures for water quality, not more than three years prior to the signature date by an organization with storm water treatment measure design expertise (e.g., a university, American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association), and verify understanding of groundwater protection principles applicable to the project site (see Provision C.3.i of Regional Water Quality Control Board Order R2 2003 0022).

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 23

- c. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for review and approval by the City, a final Storm Water BMP Operation and Maintenance Plan in accordance with City of Antioch guidelines. This O&M plan shall incorporate City comments on the draft O&M plan and any revisions resulting from changes made during construction. The O&M plan shall be incorporated into the CC&Rs for the Project.
  - d. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute and record any agreements identified in the Storm Water Control Plan which pertain to the transfer of ownership and/or long-term maintenance of storm water treatment or hydrograph modification BMPs.
  - e. Prevent site drainage from draining across sidewalks and driveways in a concentrated manner.
  - f. Collect and convey all storm water entering, and/or originating from, the site to an adequate downstream drainage facility without diversion of the watershed. Submit hydrologic and hydraulic calculations with the Improvement Plans to Engineering Services for review and approval.
  - g. Prior to issuance of the grading permit, submit proof of filing of a Notice of Intent (NOI) by providing the unique Waste Discharge Identification Number (WDID#) issued from the Regional Water Quality Control Board.
6. Submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) for review to the Engineering Department prior to issuance of a building and/or grading permit. The general contractor and all subcontractors and suppliers of materials and equipment shall implement these BMP's. Construction site cleanup and control of construction debris shall also be addressed in this program. Failure to comply with the approved construction BMP may result in the issuance of correction notices, citations, or a project stop work order.
7. Install appropriate clean water devices at all private storm drain locations immediately prior to entering the public storm drain system. Implement Best Management Practices (BMP's) at all times.
8. Install on all catch basins "No Dumping, Drains to River" decal buttons.
9. If sidewalks are pressure washed, debris shall be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged into the storm drain. If any cleaning agent or degreaser is used, wash water shall be collected and discharged to the sanitary sewer, subject to the approval of the sanitary sewer District.

## **RESOLUTION NO. 2016/13**

February 9, 2016

Page 24

10. Include erosion control/storm water quality measures in the final grading plan that specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydro seeding, gravel bags and siltation fences and are subject to review and approval of the City Engineer. If no grading plan is required, necessary erosion control/storm water quality measures shall be shown on the site plan submitted for an on-site permit, subject to review and approval of the City Engineer. The applicant shall be responsible for ensuring that all contractors and subcontractors are aware of and implement such measures.
11. Sweep or vacuum the parking lot(s) a minimum of once a month and prevent the accumulation of litter and debris on the site. Corners and hard to reach areas shall be swept manually.
12. Ensure that the area surrounding the project such as the streets stay free and clear of construction debris such as silt, dirt, dust, and tracked mud coming in from or in any way related to project construction. Areas that are exposed for extended periods shall be watered regularly to reduce wind erosion. Paved areas and access roads shall be swept on a regular basis. All trucks shall be covered.
13. Clean all on-site storm drain facilities a minimum of twice a year, once immediately prior to October 15 and once in January. Additional cleaning may be required if found necessary by City Inspectors and/or City Engineer.
14. Per State Regulations, all impervious surfaces including off-site roadways to be constructed as part of the project, are subject to C.3 requirements.

### **M. FINAL EIR AND MITIGATION MONITORING AND REPORTING PROGRAM**

1. The applicant shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program.
2. The applicant shall mitigate any impacts on wildlife, including State and Federally listed threatened and endangered species, and their habitat by compliance with one of the following:
  - a. Implementing, or making enforceable commitments to implement, all applicable mitigation measures in the project environmental documents, as well as any additional measures as may be required by the California Department of Fish & Wildlife (CDFW) or the U.S. Fish & Wildlife Service (FWS), and obtaining a letter(s) from CDFW and FWS stating that the project has fulfilled the requirements of

**RESOLUTION NO. 2016/13**

February 9, 2016

Page 25

- applicable State and Federal wildlife protection laws and regulations; or
- b. Complying with applicable terms and conditions of the ECCC HCP/NCCP, as determined in written "Conditions of Coverage" by the East Contra Costa County Habitat Conservancy (Conservancy), provided that the City has first entered into an agreement with the Conservancy for coverage of impacts to ECCC HCP/NCCP Covered Species; or
  - c. Complying with a habitat conservation plan and/or natural community conservation plan developed and adopted by the City, including payment of applicable fees, provided that CDFW and FWS have approved the conservation plan.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was adopted by the City Council of the City of Antioch at a regular meeting thereof held on the 9<sup>th</sup> day of February, 2016, by the following vote:

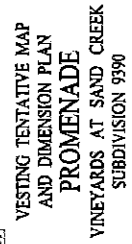
**AYES:** Council Members Wilson, Ogorchock, Tiscareno, Rocha and Mayor Harper

**NOES:** None

**ABSENT:** None

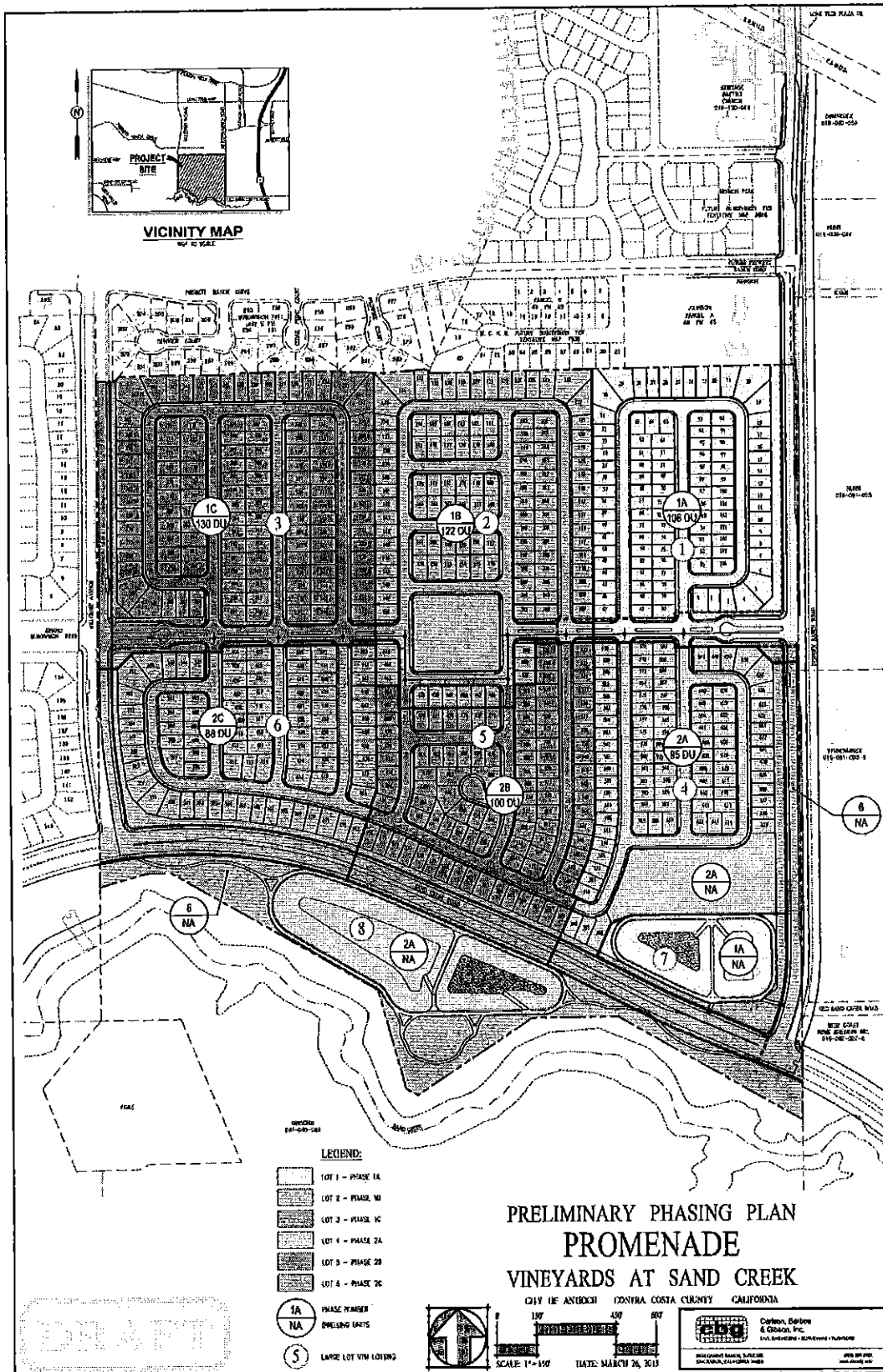
  
\_\_\_\_\_  
**ARNE SIMONSEN**  
**CITY CLERK OF THE CITY OF ANTIOCH**

**EXHIBIT A**





# EXHIBIT B PHASING PLAN



## EXHIBIT C STREET NAMES

Street Names List for the Promenade/Vineyards at Sand Creek Project, Antioch CA  
**Theme: California Wine Regions** **Need: 25 to 30 names**

Alexander Valley  
Alta Mesa  
Anderson Valley  
Benmore Valley  
Bennett Valley  
Borden Ranch  
Shenandoah Valley  
Capay Valley  
Central Coast  
Chalk Hill  
Chalone  
Chiles Valley  
Clement Hills  
Cole Ranch  
Covelo  
Dunnigan Hills  
Fair Play  
Fiddletown  
Guenoc Valley  
Hames Valley  
High Valley  
Howell Mountain  
Knights Valley  
Lime Kiln Valley  
~~Madera—deleted by APD 3/2/15 and CCCFPD 4/29/15~~  
McDowell Valley  
Mount Veeder  
Mount Harlan  
Pacheco Pass  
Potter Valley  
Ramona Valley  
Red Hills Lake  
Redwood Valley  
River Junction  
Rockpile  
Saddle Rock  
Salado Creek  
San Bernabe  
~~San Lucas deleted by CCCFPD 4/29/15~~  
Sierra Foothills

Sloughhouse

Spring Mountain

Trinity Lakes

~~Wild Horse Valley~~ deleted by APD 3/2/15 and CCCFPD 4/29/15

~~Willow Creek~~ deleted by CCCFPD 4/29/15

York Mountain

Yorkville Highlands

*Submitted February 18, 2015 updated with deletions 12/21/15*

# ATTACHMENT “12”



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## **ADDENDUM TO A CERTIFIED ENVIRONMENTAL IMPACT REPORT**

The City of Antioch, California, does hereby prepare, make declare, and publish the Addendum to a certified Environmental Impact Report (EIR) for the following described project:

**Project Name and Number: Vineyards at Sand Creek – Modifications to Vesting Tentative Map and Final Development Plan; and Amendments to Development Agreement**

**Original Project: Vineyards at Sand Creek Project (GP-14-01, PD-14-03, Subdivision 9390)**

An Addendum to an approved certified EIR may be prepared if only minor technical changes or additions are required, and none of the conditions identified in CEQA Guidelines Section 15162 are present. The following identifies the standards set forth in section 15162 as they relate to the project.

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - a) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - b) Significant effects previously examined will be substantially more severe than shown in the previous EIR [or negative declaration];
  - c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or;
  - d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The City of Antioch, Community Development Department, has reviewed the proposed project and on the basis of the whole record before it, has determined that there is no substantial evidence that the project, as identified in this Addendum, would have a significant effect on the environment beyond that which was evaluated in the certified Vineyards at Sand Creek Project

EIR. A Subsequent EIR is not required pursuant to the California Environmental Quality Act of 1970 (Sections 21000, et. Seq., Public Resources Code of the State of California).

Copies of this document and all supported documents are available for review Monday through Friday, between the hours of 8:00 a.m. and 11:30 a.m., at the City of Antioch, Community Development Department, Third and "H" Streets, Antioch, California except on specified holidays. This document is also available online at:

<http://www.ci.antioch.ca.us/CityGov/CommDev/PlanningDivision/Environmental-docs.htm>.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Forrest Ebbs, Community Development Director  
Printed Name

City of Antioch  
For

**CITY OF ANTIOCH  
COMMUNITY DEVELOPMENT DEPARTMENT**



**Vineyards at Sand Creek – AMENDMENTS TO  
DEVELOPMENT AGREEMENT AND VESTING  
TENTATIVE MAP/FINAL DEVELOPMENT PLAN  
INITIAL STUDY CHECKLIST**

**SEPTEMBER 2017**



1501 SPORTS DRIVE, SUITE A, • SACRAMENTO • CA • 95834  
OFFICE 916.372.6100 • FAX 916.419.610

**TABLE OF CONTENTS**

<b>A.</b>	<b>BACKGROUND .....</b>	<b>2</b>
<b>B.</b>	<b>SOURCES.....</b>	<b>2</b>
<b>C.</b>	<b>ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED.....</b>	<b>3</b>
<b>D.</b>	<b>DETERMINATION .....</b>	<b>4</b>
<b>E.</b>	<b>BACKGROUND AND INTRODUCTION.....</b>	<b>5</b>
<b>F.</b>	<b>PROJECT DESCRIPTION .....</b>	<b>6</b>
<b>G.</b>	<b>ENVIRONMENTAL CHECKLIST .....</b>	<b>12</b>
I.	AESTHETICS.....	14
II.	AGRICULTURE AND FOREST RESOURCES.....	16
III.	AIR QUALITY.....	18
IV.	BIOLOGICAL RESOURCES.....	20
V.	CULTURAL RESOURCES.....	23
VI.	GEOLOGY AND SOILS.....	25
VII.	GREENHOUSE GAS EMISSIONS.....	27
VIII.	HAZARDS AND HAZARDOUS MATERIALS.....	28
IX.	HYDROLOGY AND WATER QUALITY.....	31
X.	LAND USE AND PLANNING.....	35
XI.	MINERAL RESOURCES.....	36
XII.	NOISE.....	37
XIII.	POPULATION AND HOUSING.....	40
XIV.	PUBLIC SERVICES.....	41
XV.	RECREATION.....	43
XVI.	TRANSPORTATION AND CIRCULATION.....	44
XVII.	TRIBAL CULTURAL RESOURCES.....	46
XVIII.	UTILITIES AND SERVICE SYSTEMS.....	47
XIX.	MANDATORY FINDINGS OF SIGNIFICANCE.....	49



## ***INITIAL STUDY CHECKLIST***

***September 2017***

### **A. BACKGROUND**

1. Project Title: Vineyards at Sand Creek Project  
(PD-17-01)
2. Lead Agency Name and Address: City of Antioch  
Community Development Department  
P.O. Box 5007  
Antioch, CA 94531
3. Contact Person and Phone Number: Forrest Ebbs  
Planning Director  
(925) 779-7035
4. Project Location: 3052 Heidorn Ranch Road  
Antioch, CA 94513
5. Project Sponsor's Name and Address: Matthew D. Beinke  
GBN Partners LLC  
3820 Blackhawk Road  
Danville, CA 94506  
(925) 736-1571
6. Project Description Summary:  
  
The Vineyards at Sand Creek – Infrastructure Phasing (proposed project) consists of an application to amend and restate the proposed project's Development Agreement (DA) (City Reference Document: Ordinance 2112-C-S), and an application to amend the Final Development Plan (FDP) and Conditions of Approval (COA) for Subdivision 9390 (City Reference Document: Resolution No. 2016/13).

### **B. SOURCES**

All of the technical reports and modeling results used for the project analysis are available upon request at the City of Antioch Community Development Department, Planning Division, located at Third & "H" Streets in Antioch, California, Monday through Friday between 8:00 and 11:30 AM. The following documents are referenced information sources used for purposes of this Initial Study:

1. City of Antioch. *2015 Urban Water Management Plan*. May 2016.
2. City of Antioch. *City of Antioch Housing Element 2015-2023*. Adopted April 14, 2015
3. City of Antioch. *Citywide Engineering and Traffic Survey*. February 6, 2015.
4. City of Antioch. *General Plan Environmental Impact Report*. 2003
5. City of Antioch. *General Plan*. Updated November 24, 2003.
6. City of Antioch. *Vineyards at Sand Creek Environmental Impact Report*. December 2015
7. Fehr and Peers. *Vineyards at Sand Creek – Response to Peer Review Comments*. August 2017.
8. Fehr and Peers. *Vineyards at Sand Creek – Supplemental Transportation Impact Assessment Two-Lane Roadways*. June 2017.
9. Fehr and Peers. *Vineyards at Sand Creek – Supplemental 2017 Transportation Impact Assessment*. August 2017.
10. Kimley-Horn. *Peer Review of the Vineyards at Sand Creek Project in Antioch, CA*. July 2017.

### C. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is “Potentially Significant Impact” as indicated by the checklist on the following pages.

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Aesthetics                                | <input type="checkbox"/> Agriculture and Forest Resources | <input checked="" type="checkbox"/> Air Quality        |
| <input type="checkbox"/> Biological Resources                      | <input type="checkbox"/> Cultural Resources               | <input type="checkbox"/> Geology and Soils             |
| <input type="checkbox"/> Greenhouse Gas Emissions                  | <input type="checkbox"/> Hazards and Hazardous Materials  | <input type="checkbox"/> Hydrology and Water Quality   |
| <input type="checkbox"/> Land Use and Planning                     | <input type="checkbox"/> Mineral Resources                | <input type="checkbox"/> Noise                         |
| <input type="checkbox"/> Population and Housing                    | <input type="checkbox"/> Public Services                  | <input type="checkbox"/> Recreation                    |
| <input checked="" type="checkbox"/> Transportation and Circulation | <input type="checkbox"/> Tribal Cultural Resources        | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Mandatory Findings of Significance        |   |  |

#### D. DETERMINATION

On the basis of this initial study checklist:

- ☐ I find, based upon the discussion in this Initial Study Checklist, that the project qualifies for an exemption from the California Environmental Quality Act under the Class 1 Categorical Exemption (see below justification).
- ☐ I find that the Proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the Proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the applicant. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

\_\_\_\_\_  
Signature

Forrest Ebbs, Community Development Director  
Printed Name

\_\_\_\_\_  
Date

City of Antioch  
For

## **E. BACKGROUND AND INTRODUCTION**

In 2015, the City of Antioch prepared the Vineyards at Sand Creek Environmental Impact Report (EIR) and approved the project, which consisted of a residential development on 141.6 total acres, including up to 650 single-family residential units and 31.6 acres of parks and landscaped areas. In addition, the proposed project included off-site improvements (i.e., roadways and utilities) that would affect two off-site adjacent areas totaling approximately 6.47 acres: an area to the north and east that included an approximately 6.02-acre portion of Heidorn Ranch Road (a dedicated public roadway in Antioch); and a 0.4-acre area to the southeast that includes a portion of Sand Creek in which storm drain lines and a storm drain outfall structure would be constructed. As part of the 2015 project, the City approved the following entitlements:

1. Certified the EIR for the Vineyards at Sand Creek Project, adopted Findings of Fact, and the Mitigation Monitoring and Reporting Program.
2. Adopted the Resolution approving a General Plan Amendment of the project site from Business Park, Public/Quasi-Public, and Open Space/Senior Housing designations to Medium Low Density Residential and Open Space as well as amendment to the text of the Sand Creek Focus Area of the General Plan (GP-14-01).
3. Adopted the Ordinance approving a DA between the City of Antioch and GBN Partners, LLC.
4. Adopted the Ordinance approving a Rezone of the project site to Planned Development, approving a Master Development Plan, FDP, and Planned Development and Design Standards (PD-14-03).
5. Adopted the Resolution approving a Vesting Tentative Map/FDP and Resource Management Plan consisting of 641 units (Subdivision 9390).

On February 9, 2016, the Antioch City Council adopted the resolution certifying the EIR for the Vineyards at Sand Creek Project. In addition, the Council introduced a DA and FDP between the City and the applicant. The second reading for the DA and FDP was on February 23, 2016.

The applicant is currently seeking to amend and restate the adopted DA and to amend the adopted FDP and COA for the proposed project. This Initial Study Checklist identifies and analyzes the potential environmental impacts of the proposed project. The information and analysis presented in this document is organized in accordance with the order of the California Environmental Quality Act (CEQA) checklist in Appendix G of the CEQA Guidelines. The Initial Study Checklist will determine if the proposed project would result in any new potential environmental impacts, and determine the appropriate CEQA document, an Addendum to the 2015 Vineyards at Sand Creek EIR, a Mitigated Negative Declaration, or a Supplement to the EIR for the City of Antioch.

According to CEQA Guidelines Section 15164, an addendum to an adopted EIR or negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred. The conditions are as follows:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of

- new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
  - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
    - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

## **F. PROJECT DESCRIPTION**

The following provides a description of the project site's location and setting, as well as the proposed project components and the discretionary actions required for the project.

### **Project Location and Setting**

The proposed 141.6-acre project site is located in the southeastern portion of the City of Antioch in eastern Contra Costa County, California (see Figure 1, Regional Location Map). The City of Antioch is bordered to the north by the San Joaquin River Delta; to the east by the City of Brentwood and the City of Oakley; to the west by the City of Pittsburg and unincorporated portions of Contra Costa County; and to the south by unincorporated portions of Contra Costa County. In addition, the project site is located within the northeastern corner of the Sand Creek Focus Area of the General Plan, which contains lands designated by the Antioch General Plan for open space, residential, business park, commercial, and mixed-use development. The project site is bounded by a residential subdivision to the north, Sand Creek to the south, Heidorn Ranch Road and City of Brentwood City limits to the east, and future Hillcrest Avenue extension and vacant residential land to the west (see Figure 2, Project Location Map). The site is identified by the following Contra Costa County Assessor's Parcel Numbers (APNs): 057-030-003 and 057-050-007.

The proposed project site currently consists of undeveloped farm land, designated as Medium Low Density Residential and Open Space within the Sand Creek Focus Area of the City of

Antioch General Plan (see Figure 3, Existing General Plan Designations). The site is zoned Planned Development in the Antioch Zoning Ordinance.

**Figure 1**  
**Regional Project Location**



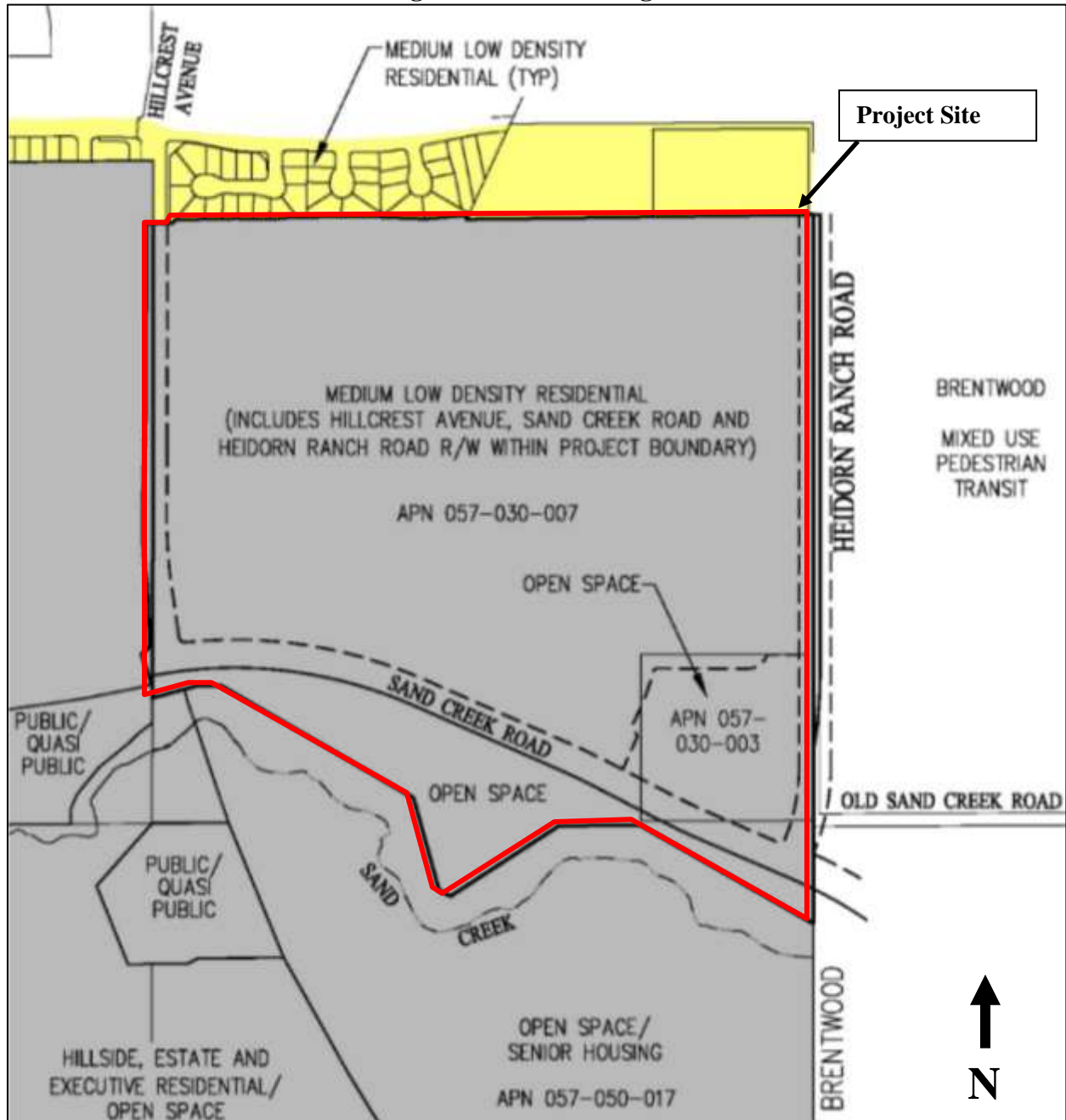


**Figure 2**  
**Project Location Map**





**Figure 3**  
**Existing General Plan Designations**



The proposed site is generally rectangular; however, the southern boundary shifts north and south in an irregular shape, as shown in Figure 2. The site's terrain is generally flat and the existing topography falls from southwest to southeast at approximately one percent slope with elevations ranging from 150 to 175 feet above mean sea level. Sand Creek, a tributary of Marsh Creek, flows in a northeastern direction and is located south of the project site. A 25-foot wide Shell Oil Company easement runs in an east-west direction across the southern portion of the site. An above-ground Calpine dehydration station servicing a 10-inch Calpine gas line is located at the far southeast corner of the Aera property. The dehydration station is active, will remain active, and is regularly checked by Calpine employees. The above-ground facilities at the station include piping and cabinets with an approximate 80-foot by 20-foot footprint, standing approximately five feet tall. An approximately 58-foot wide PG&E pipeline easement with a 36-inch pipeline below ground runs in a north-south direction across the eastern edge of the project site adjacent to Heidorn Ranch Road.

## **Project Components**

The applicant is currently seeking to amend and restate the adopted DA and to amend the FDP, and COA, for the approved Vineyards at Sand Creek Project. The proposed project components are discussed in more detail below.

### Development Agreement

The applicant proposes to amend and restate the Vineyards at Sand Creek DA (City Reference Document: Ordinance 2112-C-S). The primary purpose of the DA amendment is to provide fee credits for reimbursement of up-front infrastructure improvement costs and reimbursement of costs for oversized infrastructure facilities that benefit future development. The proposed project would amend the adopted FDP and COA to modify certain off-site roadway and related infrastructure improvements. The applicant proposes reducing the fees collected by and for the City of Antioch in exchange for constructing oversized water and sewer facilities.

In addition, the proposed DA amendment includes the Southern Property Obligation, which requires the developer of the southern property (APN 057-050-024) to construct the third and fourth lanes of Sand Creek Road prior to any significant impacts occurring on Lone Tree Way.

### Final Development Plan and Conditions of Approval

The proposed project would amend the adopted FDP and COA to modify certain off-site roadway and related infrastructure improvements. The applicant proposes to amend the FDP and COA for Subdivision 9390 (City Reference Document: Resolution No. 2016/13). The primary purpose of the amendment to the FDP and COA is to allow infrastructure to be phased in alternate configurations.

The infrastructure that would be modified as a result of the proposed project would include the extension of Heidorn Ranch Road, and Sand Creek Road adjacent to the project site. The previously adopted Vineyards at Sand Creek project includes the construction of Sand Creek Road between State Route (SR) 4 and Deer Valley Road as a four-lane facility and the extension

of Heirdorn Ranch Road as a four-lane facility. The previously adopted Vineyards at Sand Creek project included the construction of three of the four lanes for the Heirdorn Ranch Road extension, while development in the City of Brentwood would be responsible for the construction of the fourth lane. The proposed project includes amendments related to the financing and phasing of required infrastructure improvements changing Heirdorn Ranch Road, and Sand Creek Road to two-lane facilities. The proposed project proposes ultimate buildout of Heirdorn Ranch Road and Sand Creek Road from two-lane facilities to four-lane facilities as the obligation of development to the east, in the City of Brentwood, and development to the south respectively. The proposed project would also modify the phasing for traffic signal improvements, as well as the multi-use Sand Creek Trail.

#### Staff Alternative

Following concerns regarding the fiscal implications of the applicant's proposal, City staff has proposed an alternative action that would lessen many of the effects of the project. This alternative would specifically limit the total amount and duration of the fee credit, would allow for a temporary two-lane configuration of Sand Creek Road for a period of seven years that would be guaranteed by a lien on the southern property, as opposed to the Development Agreement. The implications on the physical environment are all less than anticipated for the applicant's proposal because it is a reduced version of the applicant's proposal, which is the worst-case scenario considered under this Initial Study.

#### **Discretionary Actions**

Implementation of the proposed project would require the following discretionary actions by the City of Antioch:

- The approval of the application to Amend and Restate the Vineyards at Sand Creek Development Agreement (City Reference Document: Ordinance 2112-C-S)
- The approval of the application to amend the Final Development Plan and Conditions of Approval for Subdivision 9390 (City Reference Document: Resolution No. 2016/13)

#### **G. ENVIRONMENTAL CHECKLIST**

The following Checklist contains the environmental checklist form presented in Appendix G of the CEQA Guidelines. The checklist form is used to describe the impacts of the proposed project. A discussion follows each environmental issue identified in the checklist. Included in each discussion are project-specific mitigation measures recommended, as appropriate, as part of the proposed project.

For this checklist, the following designations are used:

**Potentially Significant Impact:** An impact that could be significant, and for which no mitigation has been identified. If any potentially significant impacts are identified, an EIR must be prepared.

**Less Than Significant with Mitigation Incorporated:** An impact that requires mitigation to reduce the impact to a less-than-significant level.

**Less-Than-Significant Impact:** Any impact that would not be considered significant under CEQA relative to existing standards.

**No Impact:** The project would not have any impact.

<b>I. AESTHETICS.</b> <i>Would the project:</i>		Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a.	Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d.	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a, c. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to have a substantial adverse effect on a scenic vista (EIR impact statement 4.1-1). The Vineyards at Sand Creek Project site would remain relatively flat and would maintain vantage points to the nearby foothills. Therefore, the EIR concluded the impacts to the scenic vista would be less than significant. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to substantially degrade the existing visual character or quality of the site and its surrounding (EIR impact statement 4.1-3). Due to the Vineyards at Sand Creek Project's location near existing residential development, compliance with the Citywide Design Guidelines, and the project-specific design guidelines, the project would not be expected to substantially degrade the existing visual character or quality of the project site or the surrounding area. Therefore, the EIR concluded the impacts to the existing visual character would be less than significant.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the proposed project would not result in changes to the aesthetics of the Vineyards at Sand Creek Project at full buildout, which would have a substantial adverse effect on a scenic vista or substantial degradation of visual character or quality of the project site, compared to what was previously analyzed in the Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur.

- b. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway (EIR impact statement 4.1-2). The nearest State highway to the project area is SR 4, which is not a designated State scenic highway. Rock outcroppings, historic buildings, or other scenic resources do not exist on-site, and the loss of trees on the project site would not

result in substantial damage to scenic resources. Therefore, the EIR concluded no impact to scenic resources would occur. As stated above, SR 4 is the nearest State highway to the project area, and is not a designated State scenic highway. In addition, the proposed project consists of financing and phasing of required infrastructure improvements. Therefore, the proposed project would not substantially damage any scenic resources within a State scenic highway, and ***no impact*** would occur.

- d. The Vineyards at Sand Creek EIR examined the potential for the Vineyards at Sand Creek Project to create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (EIR impact statement 4.1-4). The EIR concluded the Vineyards at Sand Creek Project has the potential to create new sources of substantial light or glare that would result in significant impacts; however, mitigation measures could be implemented to reduce impacts to a less-than-significant impact.

The proposed project includes amendments to the phasing of the required infrastructure for the previously approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not create new sources of light or glare beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, ***no impact*** would occur as a result of the proposed project.

<b>II. AGRICULTURE AND FOREST RESOURCES.</b> <i>Would the project:</i>		Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b.	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c.	Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d.	Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e.	Involve other changes in the existing environment which, due to their location or nature, could individually or cumulatively result in loss of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use (EIR impact statement 4.8-5). The entire Vineyards at Sand Creek Project site is made up of Farmland of Local Importance. Therefore, the EIR concluded no impact to agriculture and forest resources would occur.

The proposed project includes amendments related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in new impacts to farmland beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. Thus, the proposed project would not result in the loss of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Therefore, ***no impact*** would occur with implementation of the proposed project.

- b,c The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to conflict with existing zoning for agricultural use, or a Williamson Act Contract (EIR impact statement 4.8-6). The Vineyards at Sand Creek Project site is not under a Williamson Act contract and the site is not zoned for agricultural uses. Therefore, the EIR concluded the Vineyards at Sand Creek Project would not conflict with agricultural zoning

or a Williamson Act contract, and no impact would occur. In addition, the EIR analyzed the potential for the Vineyards at Sand Creek Project to conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production (EIR impact statement 4.8-7). The EIR determined the Vineyards at Sand Creek Project site is not zoned for forest land or timberland uses; therefore, no impact would occur.

The proposed project includes amendments related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. Thus, the proposed project would not conflict with existing agricultural zoning or a Williamson Act, or conflict with forest land, timberland, Timberland Production Zoning. As a result, ***no impact*** would occur with implementation of the proposed project.

- d,e. Vineyards at Sand Creek EIR impact statement 4.8-11 determined the Vineyards at Sand Creek Project would not result in the conversion of agricultural land to non-agricultural uses beyond that anticipated with the Antioch General Plan EIR. Therefore, the EIR concluded the Vineyards at Sand Creek Project's contribution to the cumulative loss of farmland would be considered less than significant.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not result in any new impacts to the forest land or existing environment beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur related to the loss or conversion of forest land or farmland.



### III. AIR QUALITY.

*Would the project:*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	✗	<input type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

- a-c. The Vineyards at Sand Creek EIR concluded that the Vineyards at Sand Creek Project would not contribute to the region's nonattainment status of ozone, violate an air quality standard, or conflict with or obstruct implementation of regional air quality plans; therefore, the EIR concluded the impact associated with operational emissions would be less than significant (EIR impact statement 4.2-2). In addition, EIR impact statement 4.2-5 determined the Vineyards at Sand Creek Project's unmitigated emissions would be below the applicable thresholds of significance for a cumulatively considerable contribution to regional criteria pollutant emissions (EIR impact statement 4.2-5). Therefore, the EIR concluded the Vineyards at Sand Creek Project's incremental contribution to cumulative air quality impacts would be considered less than significant.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Because the proposed project would not change any land use assumptions, trip generation would remain the same as previously assumed in the Vineyards at Sand Creek EIR; therefore, mass emissions of criteria air pollutants associated with the proposed project would not change beyond what was previously analyzed in the Vineyards at Sand Creek EIR.<sup>1</sup> As such, the proposed project would not be considered to conflict with the implementation of applicable air quality plans, nor would the project lead to the violation of air quality standards or the cumulatively considerable net increase in criteria air pollutants, and ***no impact*** would occur.

- d. Vineyards at Sand Creek EIR in impact statement 4.2-3 determined that the Vineyards at Sand Creek Project would not be expected to result in localized carbon monoxide (CO)

<sup>1</sup> Fehr and Peers. *Vineyards at Sand Creek – Supplemental 2017 Transportation Impact Assessment*. August 2017.

concentrations that would exceed standards and would not expose sensitive receptors to such because the cumulative roadway Level of Service (LOS) did not exceed D. In addition, future sensitive receptors on-site would not be exposed to substantial levels of pollutant concentrations associated with existing or future sources. Furthermore, construction or operation of the Vineyards at Sand Creek Project would not be expected to expose existing or future sensitive receptors to substantial emissions associated with stationary diesel engines or other major on-site stationary sources of toxic air contaminants (TACs). Therefore, the EIR concluded the Vineyards at Sand Creek Project would result in a less-than-significant impact associated with exposure of sensitive receptors to substantial levels of pollutant concentrations.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The traffic study conducted for the change in infrastructure phasing determined a LOS E for Scenario 3A, 2017 Project and All Cumulative Growth, would result if Sand Creek Road and Heirdorn Ranch Road were not constructed as four-lane roadways. Therefore, the proposed DA amendment includes the Southern Property Obligation, requiring the developer of the southern property (APN 057-050-024) to construct the third and fourth lanes of Sand Creek Road at the time of impact. As a result, a *less-than-significant* impact would occur as a result of the proposed project.

- e. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to create objectionable odors affecting a substantial number of people (EIR impact statement 4.2-4). Construction and operation of the Vineyards at Sand Creek Project would not create objectionable odors, nor would the Vineyards at Sand Creek Project site be affected by any existing sources of objectionable odors. Therefore, the EIR concluded a less-than-significant impact related to objectionable odors would result.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not create new sources of objectionable odors beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, *no impact* would occur as a result of the proposed project.

#### IV. BIOLOGICAL RESOURCES.

*Would the project:*

	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less- Than- Significant Impact	No Impact
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d. Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

#### Discussion

- a. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service (EIR impact statements 4.3-1 through 4.3-8). The Vineyards at Sand Creek Project has the potential to result in significant impacts to special status species; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes changes related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as

two-lane roadways, with ultimate buildout to four lanes at a later time. The adjusted phasing of the proposed project could potentially delay biological impacts due to initially disturbing less area than the approved Vineyards at Sand Creek Project. However, ultimate buildout of the project would remain the same; therefore, implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur related to special status species.

- b,c. Vineyards at Sand Creek EIR impact statement 4.3-10 determined the Vineyards at Sand Creek Project would have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife (CDFW) or US Fish and Wildlife Service (USFWS); however, mitigation measures could be implemented to reduce impacts to a less-than-significant level. In addition, the Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek project to have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, or hydrological interruption, or other means (EIR impact statement 4.3-9). The EIR concluded the Vineyards at Sand Creek Project would result in impacts to areas that are within the United States Army Corps of Engineers' (USACE) and Regional Water Quality Control Board's jurisdiction; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. As such, the proposed project could potentially delay biological impacts due to initially disturbing less area than the approved Vineyards at Sand Creek Project. However, ultimate buildout of the project would remain the same; therefore, implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur related to riparian habitats, sensitive natural communities, and federally protected wetlands.

- d,e. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to interfere substantially with the movement of any resident or migratory fish or wildlife species or with established resident or migratory wildlife corridor, or impede the use of wildlife nursery sites (EIR impact statement 4.3-11). The Vineyards at Sand Creek Project would not interfere with the movement of fish or wildlife species or impede the use of wildlife nursery sites as the majority of the Vineyards at Sand Creek Project site is a disked agricultural field that has been consistently disturbed for years. Therefore, impacts as a result of the implementation of the Vineyards at Sand Creek project were determined to be less than significant. In addition, EIR impact statement 4.3-12 determined construction of the project would result in the loss of protected trees, and would conflict with local policies or ordinances protecting biological resources; however,

mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes changes related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. As such, the proposed project could potentially delay biological impacts due to initially disturbing less area than the approved Vineyards at Sand Creek project. However, ultimate buildout of the project would remain the same; therefore, implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. In addition, construction of the proposed project would not result in the loss of “protected” trees under the City of Antioch’s Tree Preservation and Regulation ordinance, beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, the implementation of the proposed project would have ***no impact*** related to habitats and tree preservation policies.

- f. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to conflict with any applicable Habitat Conservation Plan (HCP) or Natural Communities’ Conservation Plan (NCCP) (EIR impact statement 4.3-13). The City of Antioch does not currently participate in the East Contra Costa County Habitat Conservation Plan; therefore, the EIR concluded the implementation of the Vineyards at Sand Creek Project would result in less-than-significant impacts related to applicable conservation plans. The Vineyards at Sand Creek project site is not located in an area with an approved HCP/NCCP, or local, regional, or State habitat conservation plan; therefore, implementation of the proposed project would result in ***no impact***.

<b>V. CULTURAL RESOURCES.</b>				
<i>Would the project:</i>				
	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less- Than- Significant Impact	No Impact
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. Directly or indirectly destroy a unique paleontological resource on site or unique geologic features?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d. Disturb any human remains, including those interred outside of formal cemeteries.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to cause a substantial adverse change in the significance of a historical resource (EIR impact statement 4.4-1). One archeological resource is located within the project site, a historic period ranch site. However, the ranch site is not eligible for the California Register of Historical Places, nor does the site qualify as a “unique archaeological resource” in the professional opinion of the archaeological consultant. Therefore, the EIR concluded the Vineyards at Sand Creek Project would have a less-than-significant impact related to damaging or destroying historic cultural resources. The EIR analyzed the potential for the Vineyards at Sand Creek Project to cause a substantial adverse change in the significance of unique archeological resource (EIR impact statement 4.4-2). The EIR concluded that the Vineyards at Sand Creek Project has the potential to cause significant impacts to unique archeological resources; however, mitigation measures could be implemented to reduce potential impacts to a less-than-significant level.

The proposed project includes amendments to the financing and phasing of the required infrastructure for the previously approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any new impacts to the significance of a historical or archeological resource beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. Therefore, the proposed project would have *no impact*.

- c,d. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to directly or indirectly destroy a unique paleontological resource on site or unique geologic features (EIR impact statement 4.4-3). Implementation of the Vineyards at Sand Creek Project could potentially disturb unknown unique paleontological resources from both the Quaternary alluvium and the Markely Sandstone, resulting in potentially significant impacts. However, sufficient mitigation measures could be implemented to reduce impacts to a less-than-significant level. The EIR discussed the

potential for the Vineyards at Sand Creek Project to disturb human remains, including those interred outside of formal cemeteries (EIR impact statement 4.4-2). The EIR concluded that the implementation of the Vineyards at Sand Creek Project could result in significant impacts to the disturbance of human remains; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes amendments to the financing and phasing of the required infrastructure for the previously approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not destroy or disturb unique paleontological resources or human remains beyond what was previously identified and addressed in the certified Vineyards at Sand Creek EIR. Therefore, the proposed project would have *no impact* related to damaging or disturbing historic cultural resources.

## VI. GEOLOGY AND SOILS.

*Would the project:*

	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area based on other substantial evidence of a known fault?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d. Be located on expansive soil, as defined in Table 18-1B of the Uniform Building Code?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### Discussion

- a. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek EIR to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, liquefaction, or landslides (EIR impact statement 4.5-1). Active faults are not within the Vineyards at Sand Creek Project site, and the site is not located within an Alquist-Priolo Earthquake Fault Zone. However, an earthquake of moderate to high magnitude generated within the San Francisco Bay Region could cause considerable ground shaking. In addition, the Vineyards at Sand Creek Project site is mapped as being part of a moderate susceptibility zone for liquefaction, and the project would place structures on a hillside, exposing the structures to risk of landslides. Therefore, the EIR concluded the Vineyards at Sand Creek Project has the potential to expose people or structures to impacts involving ground shaking, liquefaction, and landslides; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level.



The proposed project includes changes related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The changes include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not expose people or structures to potential substantial adverse effects beyond what was previously analyzed in the Vineyards at Sand Creek EIR, involving earthquake fault rupture, seismic ground shaking or ground failure, and landslides. As a result, ***no impact*** would occur.

- b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to result in substantial soil erosion or the loss of topsoil (EIR impact statement 4.5-3). Buildout of the Vineyards at Sand Creek Project would result in potential impacts to risks associated with substantial erosion or loss of topsoil; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any impacts related to substantial soil erosion or the loss of topsoil beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur related to substantial soil erosion or the loss of topsoil.

- c-e. Vineyards at Sand Creek EIR impact statement 4.5-1 determined that the Vineyards at Sand Creek Project site is located on a geologic unit or soil that is unstable, and has the potential to result in significant impacts, specifically on- or off site landslides, lateral spreading, subsidence, liquefaction or collapse; however, adequate mitigation measures could be implemented to reduce the impact to a less-than-significant level. In addition, EIR impact statement 4.5-2 determined the Vineyards at Sand Creek Project would place structures and buildings on potentially expansive soils; however, adequate mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes amendments related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not create new impacts beyond what was previously analyzed in the Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur related to soils.

<b>VII. GREENHOUSE GAS EMISSIONS.</b> <i>Would the project:</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a.	Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b.	Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to generate greenhouse gases (GHGs) that may impact the environment or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs (EIR impact statement 4.2-6). The Vineyards at Sand Creek Project's total emissions of GHGs were estimated to be below the threshold of significance for GHG emissions and the Vineyards at Sand Creek Project would not conflict with any applicable plans adopted for the purpose of reducing the emissions of GHGs. The EIR concluded the Vineyards at Sand Creek Project would result in a less-than-significant impact.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Because the proposed project would not change any land use assumptions, trip generation would remain the same as previously assumed in the Vineyards at Sand Creek EIR; therefore, GHG emissions associated with the proposed project would not change beyond what was previously analyzed in the Vineyards at Sand Creek EIR. As a result, the proposed project would not be considered to generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment, or conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs; and ***no impacts*** would occur.

<b>VIII. HAZARDS AND HAZARDOUS MATERIALS.</b>		Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
<i>Would the project:</i>					
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c.	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d.	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e.	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
f.	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
h.	Expose people or structures to the risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,c. Vineyards at Sand Creek EIR impact statement 4.6-1 determined projects that involve the routine transport, use, or disposal of hazardous materials are typically industrial in nature. The Vineyards at Sand Creek Project would not be industrial in nature and would consist of the construction of a residential development. The project site is located within one-quarter mile of the Heritage Baptist Academy; however, the residential development would not involve the routine transport, use, disposal, or generation of substantial amounts of hazardous materials. The EIR concluded because the Vineyards at Sand Creek Project operations would not create significant hazard to the public or the

environment through the routine transport, use, or disposal of hazardous materials, impacts would be considered less than significant.

The proposed project includes amendments to the phasing of the required infrastructure for the Vineyards at Sand Creek Project. The proposed amendments include surrounding roadway initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure would not create a significant hazard to the public, environment, or nearby schools through the routine transport, use, or disposal of hazardous materials beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, ***no impact*** would occur as a result of the proposed project.

- b,d. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment (EIR impact statement 4.6-2). The EIR concluded the existence of a PG&E pipeline throughout the Vineyards at Sand Creek Project site has the potential to result in significant impacts if extreme caution is not used when drilling or grading around the pipelines; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level. EIR impact statement 4.6-3 determined the Vineyards at Sand Creek Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

The proposed project includes amendments to the phasing of the required infrastructure for the Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure would not create a significant hazard to the public or environment through reasonably foreseeable upset and accident conditions beyond what was previously analyzed in the Vineyards at Sand Creek EIR. In addition, the proposed project would not be located on a hazardous materials site. Therefore, ***no impact*** would occur as a result of the proposed project.

- e,f. Vineyards at Sand Creek EIR impact statement 4.6-6 determined the Vineyards at Sand Creek Project site is not located within two miles of a public airport or private airstrip, and the proposed project would not be subject to any safety hazards associated with an airport or private airstrip. The proposed project includes amendments to the financing and phasing of the required infrastructure for the Vineyards at Sand Creek Project. The proposed amendments include surrounding roadway initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure would not result in any safety hazards associated with an airport or private airstrip. As a result, ***no impact*** would occur as a result of the proposed project.
- g. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to impair implementation of, or physically interfere with an adopted emergency response or emergency evacuation plan (EIR statement 4.6-4). As the proposed Vineyards at Sand Creek Project site, including site design and circulation, would be evaluated by the City prior to project approval as part of the project review

process, compliance with applicable City policies, including ensuring adequate emergency access would be ensured. Therefore, the EIR concluded the Vineyards at Sand Creek Project would not be expected to interfere with emergency response or emergency evacuation, and no impact would occur. The City of Antioch has adopted a disaster-preparedness plan. The disaster-preparedness plan is updated and practiced annually. As described above, the proposed project site design would be evaluated by the City prior to project approval as part of the project review process, ensuring adequate emergency access. Therefore, the proposed project would not impair the implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan, and ***no impact*** would occur.

- h. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to expose people or structures to the risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands (EIR impact statement 4.6-5). The Vineyards at Sand Creek Project site is within an area designated as moderate for fire danger. However, because the roadways serving the project site are readily accessible by fire protection personnel, and because the site is adjacent to existing residential development, the Vineyards at Sand Creek Project does not present a substantial new risk of exposure of people and structures to wildland fires. Therefore, impacts related to wildland fires would be expected to be less than significant.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, the proposed project would not expose people or structures to the risk of loss, injury, or death involving wildland fires, and ***no impact*** would occur.

<b>IX. HYDROLOGY AND WATER QUALITY.</b> <i>Would the project:</i>		Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a.	Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e.	Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
f.	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
g.	Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
h.	Place within a 100-year floodplain structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
i.	Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
j.	Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,e,f. Vineyards at Sand Creek EIR impact statement 4.7-2 determined urban pollutants entering and potentially polluting the local water system would not be expected to occur as a result of the Vineyards at Sand Creek Project. Therefore, the EIR concluded the Vineyards at Sand Creek Project would not violate any water quality standards or waste discharge requirements, provide substantial additional sources of polluted runoff, or

otherwise substantially degrade water quality during operations, and impacts would be less than significant.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The proposed project would not violate any water quality standards or waste discharge requirements, contribute runoff water, or substantially degrade water quality beyond what was previously analyzed in the Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur.

- b. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (EIR impact statement 4.7-4). The Vineyards at Sand Creek Project would not increase the demand for groundwater supplies, is not located on a site considered an area of substantial groundwater recharge, would include basins that would allow stormwater to percolate through the soil, and would continue to allow stormwater to drain to natural drainage channels where a contribution to groundwater recharge occurs. Therefore, the EIR concluded impacts to groundwater supply and recharge would be considered less than significant.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The proposed project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, ***no impact*** would occur related to groundwater supplies.

- c,d. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to substantially alter the existing drainage pattern of the site or area (EIR impact statement 4.7-1). The implementation of the Vineyards at Sand Creek Project would alter the existing drainage pattern of the site and area; however, with incorporation of the proposed stormwater facilities, the resultant contribution of runoff water to the existing drainage system would be less than under existing conditions and would not result in substantial erosion, on- or off site siltation, or on- or off site flooding.

The proposed project includes amendments to the phasing of required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The proposed project would not substantially alter existing drainage patterns leading to on or off-site erosion, and would thus not exceed the capacity of existing or planned stormwater drainage systems, beyond what has been approved by the certified Vineyards at Sand Creek EIR. Therefore, ***no impact*** would occur as a result of the proposed project.

- g,h. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or flood hazard delineation map, or place within a 100-year floodplain structures which would impede or redirect flood flows (EIR impact statement 4.7-5). Overall, development of the Vineyards at Sand Creek Project would not place any housing or structures within the floodplain boundary and would not impede or redirect flood flows, and concluded impacts would be less than significant. The proposed project does not include any new construction and would therefore, not involve the placement of housing or structures within a 100-year floodplain or within an area at risk of loss, injury or death involving flooding due to a levee or dam failure, beyond what has been approved by the certified Vineyards at Sand Creek EIR. Therefore, ***no impact*** would occur as a result of the proposed project.
- i. Vineyards at Sand Creek EIR impact statement 4.7-6 determined the City of Antioch is located below the Contra Loma Dam and Reservoir; however, the Bureau of Reclamation Division of Dam Safety determined that “safe performance of the dam can be expected under all anticipated loading conditions, including the maximum credible earthquake and probable maximum flood events.” Therefore, the EIR concluded people or structures at the Vineyards at Sand Creek Project site would not be exposed to a significant risk or loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam, and impacts would be less than significant.

The proposed project includes amendments to the phasing of required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The proposed project would not expose people or structure to a significant risk of loss, injury or death involving flooding, beyond what was previously analyzed in the Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur.

- j. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to create inundation by seiche, tsunami, or mudflow (EIR impact statement 4.7-7). The Vineyards at Sand Creek Project is located over 50 miles from the Pacific Ocean; therefore, due to the project’s distance from the coast, potential flooding effects related to a tsunami would be minimal. In addition, due to the Vineyards at Sand Creek Project site’s distance from the nearest enclosed body of water and regional topography, the Vineyards at Sand Creek Project site would not be susceptible to flooding resulting from a seiche. The Vineyards at Sand Creek Project site is relatively flat and steep slopes are not located in close proximity to the site; thus, mudflows would not pose a threat to the Vineyards at Sand Creek Project. Overall, the EIR concluded the Vineyards at Sand Creek Project would result in no impact related to inundation by seiche, tsunami, or mudflow. The proposed project site is not located near a coastline, near a closed body of water, nor located in a mountainous or hilly terrain and would thus not be at risk from tsunamis, seiches, mudflows. Therefore, the implementation of the proposed project would not result in inundation by seiche, tsunami, or mudflow beyond what was



previously identified and addressed in the certified Vineyards at Sand Creek EIR, and ***no impact*** would occur.

<b>X. LAND USE AND PLANNING.</b> <i>Would the project:</i>		Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a.	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b.	Conflict with any applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating on environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c.	Conflict with any applicable habitat conservation plan or natural communities conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to result in impacts to land use and planning. The EIR discussed the potential for the Vineyards at Sand Creek Project to physically divide an established community (EIR impact statement 4.8-1). The implementation of the Vineyards at Sand Creek Project would enhance and complement the surrounding community, serving as an addition to the existing community of Antioch. Therefore, a less-than-significant impact related to the physical division of an established community would occur. EIR impact statement 4.8-3 determined the Vineyards at Sand Creek Project is generally consistent with the relevant Antioch General Plan policies. Therefore, the Vineyards at Sand Creek Project does not conflict with applicable land use plans or regulations of an agency with jurisdiction over the project, and the Vineyards at Sand Creek Project would have a less-than-significant impact. The proposed project does not include proposed changes to the land use plans, rather the proposed project includes changes related to the financing and phasing of required infrastructure improvements, to the previously adopted Vineyards at Sand Creek Project. Therefore, the implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, implementation of the proposed project would not divide an established community, or conflict with any applicable land use plans, policies, or regulations, and ***no impact*** would occur.
- c. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to conflict with any applicable Habitat Conservation Plan (HCP) or Natural Communities' Conservation Plan (NCCP) (EIR impact statement 4.3-13). The City of Antioch does not currently participate in the East Contra Costa County Habitat Conservation Plan; therefore, the EIR concluded the implementation of the Vineyards at Sand Creek Project would result in less-than-significant impacts related to applicable conservation plans. The Vineyards at Sand Creek project site is not located in an area with an approved HCP/NCCP, or local, regional, or State habitat conservation plan; therefore, implementation of the proposed project would result in ***no impact***.

<b>XI. MINERAL RESOURCES.</b> <i>Would the project:</i>		Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less- Than- Significant Impact	No Impact
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b.	Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to result in the loss of availability of a known mineral resource or result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan (EIR impact statement 4.5-4). All areas identified in the City's General Plan as available for new development do not contain any known mineral resources. Therefore, the Vineyards at Sand Creek Project site does not contain any known mineral resources, and development of the Vineyards at Sand Creek Project would not result in the loss of availability of any mineral resources. Therefore, the EIR concluded no impact would occur related to mineral resources as a result of the Vineyards at Sand Creek Project.

The proposed project includes amendments to the phasing of required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR related to mineral resources. Therefore, ***no impact*** to mineral resources would occur as a result of implementation of the proposed project.

<b>XII. NOISE.</b> <i>Would the project result in:</i>	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,c. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to expose persons to noise levels in excess of standards (EIR impact statement 4.9-4). The noise level increases resulting from development of the Vineyards at Sand Creek Project would not cause an audible increase in noise in areas where General Plan noise objectives are already exceeded as a result of existing development. Therefore, the EIR concluded traffic-related noise impacts to existing sensitive receptors would be considered less than significant. In addition, the Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to result in a permanent increase in ambient noise levels in the project vicinity above levels existing without the project (EIR impact statement 4.9-5). The Vineyards at Sand Creek Project site would be exposed to exterior and interior noise levels greater than the noise level standards presented in the City of Antioch General Plan; however, sufficient mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Because the proposed project would not change any land use assumptions, trip generation would remain the same as previously assumed in the Vineyards at Sand Creek EIR; therefore, noise generation associated with the

proposed project would not change beyond what was previously analyzed in the Vineyards at Sand Creek EIR.<sup>2</sup> As a result, **no impact** would occur related to an increase in ambient noise level or the generation of noise in excess of City standards.

- b. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels (EIR impact statement 4.9-3). Construction vibrations are not predicted to cause annoyance to sensitive receptors and implementation of the Vineyards at Sand Creek Project would not expose persons to or generate excessive groundborne vibration levels. Therefore, the EIR concluded construction-related vibration impacts caused by implementation of the Vineyards at Sand Creek Project would be considered less than significant.

The proposed project includes changes related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project; therefore, implementation of the proposed project would not result in any new construction-related vibration impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. Therefore, **no impact** would occur related to exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

- d. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to create substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (EIR impact statement 4.9-2). Construction of the Vineyards at Sand Creek project would subject existing nearby sensitive receptors to the north of the Vineyards at Sand Creek project site to temporary noise impacts if construction occurs outside normal daytime hours; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes amendments to the phasing of the required infrastructure for the Vineyards at Sand Creek project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, **no impact** would occur as a result of the proposed project.

- e,f. Vineyards at Sand Creek EIR impact statement 4.9-1 concluded the nearest airport is located 11 miles southeast of the Vineyards at Sand Creek Project site. Therefore, the EIR concluded the Vineyards at Sand Creek Project would not be exposed to excessive air traffic noise and no impact would occur.

The proposed project includes amendments to the phasing of the required infrastructure for the Vineyards at Sand Creek Project. The proposed amendments include surrounding

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<sup>2</sup> Fehr and Peers. *Vineyards at Sand Creek – Supplemental 2017 Transportation Impact Assessment*. August 2017.

roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure would not result in any excessive noise associated with an airport or private airstrip. As a result, ***no impact*** would occur related to exposing people residing or working in the project area to excessive noise levels for a project located within an airport land use plan and would not expose people residing or working in the project area to excessive noise.

<b>XIII. POPULATION AND HOUSING.</b> <i>Would the project:</i>	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a. The Vineyards at Sand Creek EIR discussed the potential for the Vineyards at Sand Creek Project to induce substantial population growth, either directly or indirectly (EIR impact statement 4.8-8). The Vineyards at Sand Creek project's contribution to the overall population would be approximately 1.8 percent, and would not contribute to an increase above the anticipated population levels. Therefore, the Vineyards at Sand Creek Project's increase would not be considered substantial, and impacts would be considered less than significant.

The proposed project includes amendments related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not induce substantial population growth in the area beyond what was previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur.

- b,c. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to displace substantial numbers of existing housing or people (EIR impact statement 4.8-9). The Vineyards at Sand Creek project site is undeveloped farmland and the site has been historically used for agricultural purposes. Given the generally undeveloped state of the site and lack of existing on-site housing, the Vineyards at Sand Creek project would have a less-than-significant impact related to the displacement of substantial numbers of existing housing or people.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the proposed project would not displace substantial numbers of existing housing or people. As a result, ***no impact*** would occur.

#### XIV. PUBLIC SERVICES.

*Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*

	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less- Than- Significant Impact	No Impact
a. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e. Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

#### Discussion

- a,b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to result in physical environmental impacts to public services. The EIR impact statement 4.10-4 determined due to the added population, Contra Costa County Fire Protection District (CCCFPD) would experience an increase in demand for fire protection; however, the increase in demand for fire protection would not result in substantial adverse physical impacts or need for new fire facilities. Therefore, with the payment of required fees, the Vineyards at Sand Creek Project would have a less-than-significant impact related to CCCFPD's ability to adequately serve the project. In addition, the EIR impact statement 4.10-5 determined the buildout of the Vineyards at Sand Creek Project would cause an increase in demand for police protection. Although the Vineyards at Sand Creek Project area would be understaffed in regards to police protection, staffing is not identified as a physical environmental impact. The Vineyards at Sand Creek Project would not result in the need for a new or altered police facility, that the construction of which could cause significant environmental impacts. As a result, a less-than-significant impact related to police protection would occur.

The proposed project includes amendment related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not increase demand on the City's fire and police protection beyond what was previously analyzed in the Vineyards at Sand Creek EIR. As a result, **no impact** would occur with implementation of the proposed project.

- c. Vineyards at Sand Creek EIR impact statement 4.10-6 determined the Vineyards at Sand Creek Project would increase the student population, and has the potential to result in impacts regarding the need for the construction of new school facilities; however, sufficient mitigation measures could be implemented to reduce impacts to a less-than-significant level. In addition, the proposed project includes amendments related to the financing and phasing of required infrastructure improvements to the previously adopted



Vineyards at Sand Creek Project. As such, the proposed project would not increase demand on the City's school system beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, ***no impact*** would occur related to schools.

- d.e. Vineyards at Sand Creek EIR impact statement 4.10-7 determined the Vineyards at Sand Creek Project has the potential to result in significant impacts to parks and other public facilities; however, mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes changes related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, implementation of the proposed project would not result in any new impacts related to parks and other public facilities beyond those previously addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur related to parks and other public facilities.

<b>XV.RECREATION.</b> <i>Would the project:</i>	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

- a,b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to result in impacts to recreation. EIR impact statement 4.10-7 determined the Vineyards at Sand Creek Project would include a total of 31.6 acres of private parks, open space, and recreation facilities. The Vineyards at Sand Creek Project would not dedicate a sufficient amount of land for parks; thus, the Vineyards at Sand Creek Project has the potential to result in significant impacts associated with parks and recreational facilities. As a result, the EIR concluded sufficient mitigation measures could be implemented to reduce impacts to a less-than-significant level.

The proposed project includes amendments related to the financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would not result in any changes to recreation beyond what was previously analyzed in the Vineyards at Sand Creek EIR. As such, the proposed project would have ***no impact*** related to the increased use of existing recreation facilities and the accelerated deterioration of recreation facilities.

**XVI. TRANSPORTATION AND CIRCULATION.**

*Would the project:*

	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	✘	<input type="checkbox"/>
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	✘	<input type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✘
d. Substantially increase hazards due to a design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	✘	<input type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	✘	<input type="checkbox"/>
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✘

**Discussion**

- a,b. The Vineyards at Sand Creek EIR impact statements 4.11-2 and 4.11-3 determined the development of the Vineyards at Sand Creek Project would result in 6,190 average daily vehicle trips in the project area. The increase in traffic would not degrade freeway operations beyond the standard established in the East County Action Plan, and the impacts would be less than significant. Therefore, the EIR concluded the Vineyards at Sand Creek Project would not be expected to conflict with applicable plans related to performance of nearby circulation networks, nor cause the LOS for SR 4 and Sand Creek Road to deteriorate beyond what was anticipated by the East County Action Plan.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The traffic study concluded extension of the surrounding roadways to four-lanes would be needed; however, the applicant is proposing

the buildout to four lanes is the obligation of future development. The proposed project proposes development east of the project site, in the City of Brentwood, would construct the third and fourth lanes of the Heirdorn Ranch Road extension, and future development to the south of the project site would construct the third and fourth lanes of Sand Creek Road. As described above, construction of the third and fourth lanes of both Heidorn Ranch Road and Sand Creek Road are required; therefore, the proposed DA amendment includes the Southern Property Obligation, requiring the developer of the southern property (APN 057-050-024) to construct the third and fourth lanes of Sand Creek Road at the time of impact. As a result, a *less-than-significant* impact would occur as a result of the proposed project.

- c. Vineyards at Sand Creek EIR impact statement 4.9-1 determined the nearest airport is located 11 miles southeast of the Vineyards at Sand Creek Project site. The proposed project includes amendments to the phasing of the required infrastructure for the Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure would not result in a change in air traffic patterns, including either an increase in air traffic levels or a change in location that results in substantial safety risks, beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, *no impact* would occur as a result of the proposed project.
- d,e. Vineyards at Sand Creek EIR impact statement 4.11-5 determined the Vineyards at Sand Creek Project has the potential to result in inadequate emergency and site access; however, mitigation measures are required to be implemented to reduce impacts to a less-than-significant level. The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. With implementation of mitigation measure XVI-2 above, the change in infrastructure phasing proposed would not substantially increase hazards due to design features or incompatible uses, or affect adequate emergency access beyond what was previously analyzed in the Vineyards at Sand Creek EIR. Therefore, a *less-than-significant* impact would result.
- f. Vineyards at Sand Creek EIR impact statement 4.11-4 determined the Vineyards at Sand Creek Project would generate an increase in population that would increase the demand on transit, bicycle, and pedestrian systems in the area; however, the EIR concluded the Vineyards at Sand Creek Project would not conflict with any plans or policies for alternative transit and a less-than-significant impact would result. The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include the surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. The change in infrastructure phasing would result in *no impact* with respect to conflicts with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or with respect to degradation of such facilities.

## **XVII. TRIBAL CULTURAL RESOURCES.**

*Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is:*

	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✘
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✘

### **Discussion**

- a,b. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to result in impacts to tribal cultural resources. As discussed in Section V of this checklist, EIR impact statement 4.4-1 determined the Vineyards at Sand Creek Project would have a less-than-significant impact related to causing a substantial adverse change in the significance of a tribal cultural resource.

The proposed project includes amendments to the phasing of the required infrastructure for the previously approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any new impacts to tribal cultural resources beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. Therefore, the proposed project would have ***no impact*** related to damaging or disturbing historic tribal resources.

<b>XVIII. UTILITIES AND SERVICE SYSTEMS.</b> <i>Would the project:</i>	Potentially Significant Impact	Less-Than- Significant with Mitigation Incorporated	Less-Than- Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	✗

### **Discussion**

a-c,e. Vineyards at Sand Creek EIR impact statement 4.10-2 determined the Vineyards at Sand Creek Project would not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board or require construction of new wastewater facilities, as the current wastewater treatment provider would not exceed capacity with the implementation of the Vineyards at Sand Creek Project. In addition, the Vineyards at Sand Creek Project would not result in the construction of new storm water drainage facilities or the extension of existing facilities. Therefore, the buildout of the Vineyards at Sand Creek Project would have a less-than-significant impact on wastewater managements services and storm water drainage.

The proposed project includes changes related to the sewer and water financing and phasing of required infrastructure improvements to the previously adopted Vineyards at Sand Creek Project. The proposed project's improvements to the infrastructure are related to surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time, and do not include changes to the water and sewer

infrastructure. Therefore, the implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As such, the proposed project would not be anticipated to exceed wastewater treatment requirements, or capacity, thereby necessitating the need for new or expanded wastewater treatment facilities. As a result, ***no impact*** would occur.

- d. The Vineyards at Sand Creek EIR analyzed the potential for the Vineyards at Sand Creek Project to have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed (EIR impact statement 4.10-1). The City's existing and projected potable water supplies are sufficient to meet the City's existing and projected future potable water demands, including those future water demands associated with the Vineyards at Sand Creek Project. As a result, the Vineyards at Sand Creek Project would have a less-than-significant impact to water supply.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any new impacts beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** would occur related to water supplies.

- f,g. Vineyards at Sand Creek EIR impact statement 4.10-3 determined the Keller Canyon Landfill would be sufficient to serve the Vineyards a Sand Creek Project's solid waste disposal needs, and would comply with federal, State, and local statutes and regulations related to solid waste. As a result, a less-than-significant impact related to solid waste as a result of the Vineyards at Sand Creek Project would occur.

The proposed project includes amendments to the phasing of the required infrastructure for the approved Vineyards at Sand Creek Project. The proposed amendments include surrounding roadways initially being constructed as two-lane roadways, with ultimate buildout to four lanes at a later time. Therefore, the implementation of the proposed project would not result in any changes to the buildout demand to solid waste or hazardous waste beyond those previously identified and addressed in the certified Vineyards at Sand Creek EIR. As a result, ***no impact*** related to solid waste and solid waste statutes would occur as a result of the proposed project.

XIX. MANDATORY FINDINGS OF SIGNIFICANCE.	Potentially Significant Impact	Less-Than-Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	✗	<input type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	✗	<input type="checkbox"/>
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	✗	<input type="checkbox"/>

### Discussion

- a. As described throughout this IS/MND, implementation of the proposed project would not have the potential to degrade the quality of the environment or reducing the habitat of a fish or wildlife species beyond what was previously identified and addressed in the certified Vineyards at Sand Creek EIR. Therefore, a *less-than-significant* impact would occur.
- b. The proposed project in conjunction with other development within the City of Antioch would not incrementally contribute to cumulative impacts in the area beyond what was previously identified and addressed in the certified Vineyards at Sand Creek EIR. Therefore, a *less-than-significant* impact would occur.
- c. As described in this IS/MND, implementation of the proposed project could result in impacts related to air quality and conflicting with an applicable transportation plan, policy or program. However, this Initial Study has identified mitigation measures to reduce any potential direct or indirect impacts to human beings. With implementation of the identified mitigation measures, all project-specific impacts would be reduced to less-than-significant levels. Therefore, the proposed project's impact would be *less than significant*.



# ATTACHMENT “13”

**GBN PARTNERS, LLC**

3820 Blackhawk Road

Danville CA 94506

July 31, 2017

Ron Bernal, City Manager  
City of Antioch  
200 "H" Street  
Antioch, CA 94509

**Re: Vineyards at Sand Creek Project - 2017 Amendments  
Why the Vineyards Community is Important to the City of Antioch**

Dear Ron:

Your staff has asked GBN Partners to provide a letter outlining the benefits development of The Vineyards at Sand Creek (VSC or Vineyards Community) project will bring to the City of Antioch, and specifically why the City should approve the proposed 2017 amendments to the VSC project, following its first approval in 2016.

On behalf of GBN, I am transmitting this information as requested. This letter starts by providing you with an overview of GBN's significant development experience in the home building industry over the past five decades. It then explains the significant economic challenges associated with the 2016 VSC project approvals as a result of the heavy infrastructure burdens placed on VSC project to support future development of the Sand Creek Focus Area, which make development of the project infeasible in the foreseeable future. The letter then describes the solutions GBN has put forth to City leaders and City staff as amendments to the VSC project approvals that would make the project economically feasible. Finally, we outline the many benefits the City will receive as a result of the VSC project, should the 2017 amendments be approved and the VSC project proceeds to development in early 2018, with an anticipated completion of buildout of 641 units by 2025.

**A. Our Experience**

The people who make up GBN Partners have over 45 years of experience entitling and developing some of the most recognized, desirable and successful neighborhoods and master planned communities in the East Bay and Greater East Bay Area. These marquee projects include the Blackhawk Community near Danville (2,600 homes), Canyon Lakes in San Ramon (3,100 homes), Summerset in Rio Vista (4,500 homes) and Summerset in Brentwood (2,600 homes) and Trilogy at the Vineyards in Brentwood (1,600 homes). These neighborhoods have already brought or will be soon bringing homes to over 14,400 families, while providing and supporting substantial high quality community infrastructure, including schools, parks, roads, and community facilities. These communities took years of good planning, and partnering with the cities and counties in which there are located. None happened overnight, and they all had unique infrastructure challenges to solve before becoming reality. GBN Partners gained important experience through each endeavor, and each community emerged only because the

jurisdictions that they are located within were engaged in the long term solutions. GBN remains committed to partnering with the City to find solutions to enable VSC to become a premier community within the City of Antioch.

## **B. Challenges Associated With the VSC 2016 Approvals.**

In 2014, GBN began processing the VSC project in Antioch, with the goal of creating a vibrant community in Antioch. The VSC project is the gateway to opening up the Sand Creek Focus Area, and establishing an important if not critical southern entry into the City of Antioch. But from the beginning, we informed you and City Staff that the disproportionate weight of the infrastructure being conditioned upon the project made the project uneconomic. In addition, the required infrastructure far out-weighed the project's impacts and nexus to such improvements. In essence, the 2016 conditions require VSC's 641 units to front-load virtually all costs for the region at large. No other project in the City has ever been required to dedicate and construct three major 4-lane arterials (Hillcrest Avenue, Sand Creek Road and Heidorn Ranch Road) designed to serve the entire City and important linkages to existing medical facilities, schools, shopping and entertainment, and to also extend an extremely deep and oversized sewer trunk-line across its property and extending another half mile into City streets – *on its own*.

Cognizant of these challenges, GBN still worked cooperatively with the City and gained approvals in February 2016. Upon approval, GBN diligently took the project to market through 2016 where upon several major home builders active in East Contra Costa County confirmed our initial assessment: the project is currently uneconomic due to the infrastructure load. Indeed, even the City's own Draft Transportation Fee Study (TIF) confirmed this same inequity at the January 10, 2017 City Council meeting when the 2017 EPS presentation demonstrated that the City's roadway projects funded by projects covered by development agreements equated to a cost per unit of \$35,000 (including the VSC project cost of an *even* higher cost of \$37,700 per unit), while the City was recommending a maximum fee scenario for future single family homes at only approximately \$16,000 per unit (less than one-half the cost placed on VSC).

Also in early 2017, City leaders recognized the importance of the "Gateway" infrastructure improvements such as Heidorn Ranch Road, Sand Creek Road and the trunk-line sewer that will facilitate service and "jump start" long planned future development in the San Creek Focus Area (SCFA) of the General Plan. They recognized the pivotal role that the VSC project plays in unlocking the potential of the SCFA, so they asked us what could be done to help facilitate these vital improvements. We have worked hard on finding such solutions.

## **C. Solutions**

Past experience with building large communities taught GBN the value of phasing and "right-sizing" infrastructure. With direction from the City, GBN commissioned a Supplemental Traffic Analysis by Fehr & Peers dated June 19, 2017, which confirmed that both 4-lane Hillcrest Avenue and Heidorn Ranch Road are not needed, and that 2-lanes would serve the needs of the area for the future. The traffic study also concluded that Sand Creek Road would not need



to be 4 lanes until Hillcrest Avenue was extended south of Sand Creek and more than 80% of the SCFA as currently planned is actually developed. Those two events are not likely to occur for decades, if ever. In the meantime, building 2-lane roads around three sides of the project and dedicating right-of-way for future improvements of up to 4-lanes is a solution that meets all of the needs and reduces development costs for the VSC project to a level closer to that which other projects in the East Bay area, especially in East Contra Costa County, are able to provide. Accordingly, GBN has requested the project conditions be amended to permit such 2-lane construction and dedication of land by GBN, which is still a very significant cost to GBN and a resource for the City.

GBN understands that "right-sizing" infrastructure sometimes also means upsizing. GBN continues to propose to construct the on-site and off-site sewer trunk-line to serve the project and the entire SCFA to the west, and to construct full signals at two Sand Creek intersections, as well as dedicate land and make significant improvements to the Sand Creek Trail, an offsite public trail that will be the first extension of an important regional trail, with the assistance of Fee Credits. This is a common practice for many cities, and was used extensively to facilitate development of the previously listed GBN Communities. Fee credits are a mechanism the City has to have the developer fund upfront costs of infrastructure that are not necessitated by the project, but that benefit other users, including the City. Rather than the City contributing funds, the developer recovers its up-front excess costs through a fee credit at building permit. The City then recovers the fee credit amount through assessing future projects for their fair share of the oversized infrastructure.

The City's Sewer Fund, Water Fund and Traffic Signal Fund have been specifically set up "for new facilities to be acquired or constructed in the future that are proportional benefit to the person or property being charged (Final Water and Sewer Rates and Capacity Charges Study by Municipal Financial Services, dated March 2015). Dedicating Fee Credits from these funds towards the upsizing and community-benefit infrastructure is a reasonable and listed intent for these funds. The City then at its discretion, may adopt programs or impose conditions of approval requiring property that will benefit from this upsized infrastructure to reimburse the City their fair share of the capacity created. (The City already allows for fee credits against the Traffic Signal Fees and GBN proposes that no more than the first 50% of its costs for constructing the 2 Sand Creek Road signals would be recovered as credits through that fee credit program; the remaining 50% of such costs would be recovered through sewer connection and water capacity fee credits, as described in GBN's proposed 2017 amendments).

#### **D. Important Benefits the Vineyards at Sand Creek Community Will Bring to the City**

Having GBN build right-sized roads, an up-sized sewer trunk-line and other public improvements for the City of Antioch completes vital connections for existing residents as well as future residents that are largely unfunded at this juncture. It brings permanent infrastructure to the City's largest employer (Kaiser Hospital) and other public uses (Dozier-Libbey High School) that have been relying on temporary services to date. The GBN project would bring found revenue into the City via charges, fees and taxes for a variety of City services. In summary:

- The Vineyards Community will extend much needed trunk-line sewer infrastructure to serve the entire Sand Creek Focus Area, including, perhaps most importantly, the Dozier-Libbey Medical High School and Kaiser Permanente Antioch Medical. VSC will allow those facilities to finally make permanent sewer connections instead of the temporary ones they have been operating with for years.
- The Vineyards Community will extend and improve Heidorn Ranch Road to create the important gateway intersection at Sand Creek Road, and extend Hillcrest Avenue to Sand Creek Road. When Sand Creek Road is constructed in Brentwood between Heidorn Ranch Road and the Highway 4 Bypass, VSC's public roadway improvements will provide immediate relief and much needed travel routes for existing residents in southern Antioch to access Highway 4 and services further east and south. To the west, Sand Creek Road will provide a direct link to Kaiser Hospital, which will save lives.
- The Vineyards Community will construct an important leg of the Sand Creek Trail, a regional trail, which ultimately connects south Antioch to adjoining jurisdictions and park lands.
- The Vineyards Community will connect its residents and southeastern Antioch residents with public trails (Sand Creek and Mokelumne Regional trails) with onsite parks, paths and generous sidewalks.
- The Vineyards Community will dedicate over 30 acres towards the continuous open space buffer area on both sides of Sand Creek - an important link in the environmental corridor prioritized by the City's General Plan.
- The Vineyards Community will be the first community proposed in the city of Antioch that will provide annually, an estimated net positive fiscal impact of over \$150,000 to the City of Antioch (EPS Fiscal Impact Analysis completed in 2015).
- The Vineyards Community will generate an annual Police Services Fee, in excess of \$285,000 – in addition to an estimated \$16,000 in Measure C sales use tax- in perpetuity (EPS, Ibid). These levied fees will escalate annually by the CPI.
- The Vineyards Community will contribute to Antioch's economic and social viability by creating a community that attracts investment and positive attention. GBN Partners has been entitling and developing successful communities in the East Bay Area for 45 years. Blackhawk, Canyon Lakes, Summerset in Rio Vista, Summerset in Brentwood, and Trilogy at the Vineyards are successful residential communities bringing homes to 14,400 families, while adding substantial value and desirability to the communities in which they are located.

Ron Bernal  
July 31, 2017  
Page 5

- The Vineyards Community will be the first residential gated community in Antioch, which will be visually identifiable at a scale and quality similar to other gated communities in the greater East Bay.
- The Vineyards Community will provide unique, self-sustaining onsite amenities and recreational opportunities such as a pool club, a private sports park, as well the initial sections of the Sand Creek Regional Trail.
- The Vineyards Community will provide housing to 641 families, with nearby access to nearby major transportation and trail connections.
- The Vineyards Community will help provide Antioch with meeting its fair share of housing and will help to alleviate a regional housing shortage, by providing a mix of housing types and sizes, which can meet the needs of a variant of different and growing household sizes.

Very truly yours,



Matthew Beinke

cc: Forrest Ebbs, Community Development Director  
Lynne Filson, Assistant City Engineer  
Alexis Morris, Planning Manager  
Dan Doporto, Outside Counsel  
Derek Cole, City Attorney  
  
Cecily Barclay, Perkins Coie



July 28, 2017

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Lynne Filson, Assistant City Engineer  
City of Antioch  
200 H Street  
Antioch, CA 94509

**Re: Vineyards at Sand Creek Fee Credit Proposal - Supplemental Information**

Dear Forrest and Lynne:

I am writing on behalf of GBN Partners to provide more detailed information regarding GBN's updated fee proposal for the Vineyards at Sand Creek (VSC), which is summarized in my letter to you of June 19, 2017, and is further refined in Exhibit D of the draft First Amended Development Agreement sent on Friday, July 24.

As discussed in more detail below, GBN proposes to satisfy some of its obligations for sewer connection and water capacity fees, which are intended to cover investments in capital facilities, by offering payment-in-kind consisting of construction of capital facilities. Specifically, GBN will provide oversized sewer facilities, offsite road facilities, two full traffic signals on Sand Creek Road, and public parkland and regional trail improvements in lieu of paying 60% of the fees to fund sewer infrastructure, and 65% of the fees to fund water infrastructure. At its option, the City may then adopt programs to charge other projects that will benefit from these improvements for their fair share of such costs as they develop. All revenues from such programs would go to the City, not GBN.

**A. Sewer Connection and Water Capacity Charges.**

GBN believes additional detail regarding the context and purpose of these fees may be helpful to better understanding GBN's proposal.

As is explained in the City's "Final Water and Sewer Rates and Capacity Charges Study" prepared by Municipal Financial Services dated March 2015, the City's sewer connection charges at Building Permit are deposited in "Sewer Fund 622." The 2015 report makes clear that the purpose of Sewer Fund 622 is to establish and collect sewer capacity charges to address capital improvements. It is "intended to recover both a portion of the proposed CIP cost, and utility rate payers' prior investment in capital facilities that support land development by providing capacity for new connections." The sewer connection charge due at building permit is defined as "a charge for new public

facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged.”

The report also explains that the City maintains a “Water Fund 612” (i.e. “Waterline Expansion Fund”) for building permit charges associated with water facilities. The Water Fund 612 fund is similarly described as addressing capital facilities.

The cost of routine *operation and maintenance* of existing sewer and water facilities, on the other hand, is covered by ongoing fees charged to users as ongoing rates, which are addressed separately in Sewer Fund 621 and Water Fund 611

Accordingly, for a development project to pay the sewer and water connection charges in kind rather than in funds, capital facilities must be constructed. That is exactly what GBN proposes to do. Rather than paying sewer connection and water capacity charges to the City, which the City would then use to build capital facilities needed to serve Vineyards and other projects throughout the City, GBN proposes to build oversized facilities itself and obtain a credit against a portion of the sewer and water connection fees. This proposal does not affect the cost of regular operation and maintenance of existing or proposed facilities, because such maintenance is funded by ongoing fees charged to users as ongoing rates.

#### **B. GBN’s Fee Credit Calculations Still Favor the City.**

GBN seeks credits in amounts that equal of 60% of the current sewer connection charges and 65% of the current water capacity charges. This fee credit proposal will benefit the City in several respects.

First, GBN seeks credits only for the costs of oversizing capital improvements it expects to incur. It does not seek credits for the higher costs the City likely would incur were it to construct the infrastructure, nor does it seek credits for the value of the facilities to be provided to the City. GBN’s projected cost of oversizing the infrastructure it will build is specified in the *Engineer’s Preliminary Estimate Fee Creditable Items Summary* prepared by CBG, dated March 23, 2017.<sup>1</sup>

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<sup>1</sup> I provided a copy of CBG’s estimate with my June 19, 2017 letter, and include it again here. As explained in my letter, the oversized facilities for which GBN requests fee credits include only the offsite portion of Heidorn Ranch Road along the Johnson property frontage, the oversizing only of the sewer trunk main and manholes, and 50% of the cost for signals at Heidorn Ranch Road/Sand Creek Road and at Hillcrest Avenue/Sand Creek Road, and public parklands and regional trail improvements). GBN is offering to fund 50% of the costs of the Sand Creek Road signals without credit, even though the VSC project traffic through these intersections will be even less than 50% of total volumes. See Fehr & Peers June 19, 2017 Supplemental Transportation Impact Assessment.



Second, GBN is seeking credits only for the oversized portion of the infrastructure. As an example, GBN will build the ultimate-sized sewer necessary to serve areas to the west and south, based upon the City-approved Sewer Study for the Sand Creek Focus Area. Here, GBN is not seeking credit for its proportionate, per-unit cost of providing the extensive infrastructure that will open up the Sand Creek Focus Area to development. It is instead limiting this fee credit proposal exclusively to its incremental cost of oversizing facilities to serve other development. This approach is more beneficial to the City than the proportionate share approach.

Third, even though it will be incurring costs that exceed its fair share, GBN is not seeking to avoid paying all connection and capacity charges. It is proposing to pay 40% of the sewer connection charge and 35% of the water capacity charge. This means that if all 641 units are built, GBN would pay at least \$655,102 in sewer connection charges (641 units x \$2,555 x 40%), and \$1,170,209.60 in water capacity charges (641 units x \$5,216 x 35%), for a total payment of more than \$1,825,000 in sewer connection and water capacity charges to the City, using today's rates.

Fourth, the percentage of the two charges paid by GBN may increase over time. This is because GBN proposes that the fee credit be capped at a fixed dollar amount (\$4,900 per Exhibit D of the proposed First Amended and Restated Development Agreement). Under the Development Agreement for the project, the City may impose increases to these charges in some circumstances. (Development Agreement, § 2.3.1) If the City were to increase the sewer and/or water charges, GBN would pay any increase over the capped dollar amount, such that GBN would pay more than 40% of the then-applicable sewer connection charge or 35% of the then-applicable water capacity charge, but would not seek additional fee credits.

Finally, GBN's proposal takes into account the possibility that oversized infrastructure will be built or funded by others. If GBN does not oversize the sewer, build the Johnson-frontage roadway along Heidorn Ranch Road, and/or the two traffic signals on Sand Creek Road, as listed in the Engineer's Preliminary Estimate, or fully fund that oversizing, then fee credits would be reduced accordingly. If infrastructure is built by others, GBN would not obtain fee credits for the cost of oversizing that infrastructure. If GBN constructs the oversized infrastructure, but the adjacent Aviano development and/or Brentwood or Brentwood Developers provide reimbursement for some of the

costs of doing so, then GBN would reduce the fee credit as described in the fee credit proposal.<sup>2</sup>

In exchange for financing and constructing all this infrastructure, jump-starting the development the City desires in the Sand Creek Focus Area, and undertaking more than its fair share of infrastructure burdens, GBN requests only that the City, rather than GBN, undertake the governmental task of imposing fees or other charges on future developers representing their fair share of oversizing costs, as addressed in the following section.

### **C. City's Ability To Recoup Credited Fees.**

Implementation of the fee credit proposal means the City would be receiving infrastructure rather than certain revenues into Sewer Fund 622 and Water Fund 612. However, there are numerous vehicles available to the City to recoup those revenues.

As anticipated in Section 2.7 of the Vineyards Development Agreement, the City could impose conditions of approval on each future project in the area benefitted by the oversized infrastructure. The conditions would require each project to pay its fair share of the cost of the infrastructure constructed by GBN and the City would collect and retain such fair share payments. The City could determine the amount of fair share payments either on an ad hoc basis, or pursuant to a standard formula. As an example again, the City would use the Sewer Study (required to be completed by the first developer in the Sand Creek Focus Area) to determine fair-share sewer fees for future development to reimburse the City.

Alternatively, the City could form a benefit district pursuant to Antioch Municipal Code § 9-4.2106 (as it did recently for the East Lone Tree Specific Plan Area) that includes the properties benefitted by the oversized infrastructure constructed by GBN and establish a per-unit fee for all development in that area (including the costs of establishment and administration of the benefit district).

By providing sewer connection and water capacity credits in exchange for oversized sewer, offsite roadway facilities, public park and improvements, and complete signal facilities, the City would, in essence, be making loans from Sewer Fund 622 (to the extent the credits exceed GBN's cost of oversizing the sewer) and Water Fund 612 to the development fee funds available for roadway, public parks, and traffic signal facilities. As the charges from other developers who benefit from the oversized facilities

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<sup>2</sup> As explained in my June 19, 2017 letter, if fee credits are reduced, the amount of fee credit GBN receives for each unit would remain fixed, as proposed at \$4,900 in the draft First Amended Development Agreement, but fewer units would be entitled to the credit.

Forrest Ebbs, Community Development Director  
Lynne Filson, Assistant City Engineer  
Page 5

are collected, the City could use inter-fund transfers from the traffic, signal and park funds or directly deposit to Sewer Fund 622 and Water Fund 612 to repay the loans. Such inter-fund transfers or loans are specifically contemplated by and permitted under the Mitigation Fee Act. See, e.g., Government Code § 66006(a).

**D. Conclusion.**

As GBN has previously explained, it requests these fee credits in recognition of the economic reality that development of this project, as approved in 2016, is financially infeasible. GBN seeks to adjust offsite and oversizing obligations to more closely align with nexus and fair-share principles. GBN believes its proposal represents the most straightforward method of doing so, while also ensuring the project will continue to provide more than its fair share of infrastructure that will benefit Antioch.

We recognize and appreciate the substantial amount of attention this issue requires from staff. As always, we remain available to discuss this issue and resolve any concerns staff may have.

Very truly yours,



Cecily T. Barclay

Enclosure: *Engineer's Preliminary Estimate Fee Creditable Items Summary* prepared by Carlson, Barbee & Gibson, dated March 23, 2017

cc: Ron Bernal, City Manager  
Alexis Morris, Senior Planner  
Dan Doporto, Outside Counsel  
Derek Cole, City Attorney  
Matt Beinke, GBN Partners  
Earl Callison, GBN Partners  
Lisa Borba, GBN Partners  
Bob Nunn, GBN Partners  
(all w/ enclosure)



# Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

ENGINEER'S PRELIMINARY ESTIMATE

## FEE CREDITABLE ITEMS SUMMARY

641 LOTS

SUBDIVISION 9390

PROMENADE / VINEYARDS AT SAND CREEK

ANTIOCH, CALIFORNIA

March 23, 2017

Job No.: 0974-050

Item	Description	Amount
1	2-Lane Heidorn Ranch Road Improvements (Johnson Property Frontage) (Includes 100% of proposed 2-lane improvements for Segment 2)	\$ 825,000
2	Upsized Sewer Trunk Main in Heidorn Ranch Road along Project Frontage (8" to 24") (8" SS (\$55/LF) to 24" SS (\$150/LF); Increase = \$95/LF + 20% Contingency and 25% Load = \$137.75/LF x 1,060 LF)	\$ 146,015
3	Upsized Sewer Manholes in Heidorn Ranch Road along Project Frontage (Increase = \$3,000/manhole + 20% Contingency and 25% Load = \$4,350/manhole x 3 manholes)	\$ 13,050
4	Upsized Sewer Trunk Main In-Tract (8" to 24") (8" SS (\$55/LF) to 24" SS (\$150/LF); Increase = \$95/LF + 20% Contingency and 25% Load = \$137.75/LF x 575 LF)	\$ 79,206
5	Upsized Sewer Trunk Main In-Tract (8" to 18") (8" SS (\$55/LF) to 18" SS (\$100/LF); Increase = \$45/LF + 20% Contingency and 25% Load = \$65.25/LF x 2,165 LF)	\$ 141,266
6	Upsized Sewer Manholes In-Tract (Increase = \$3,000/manhole + 20% Contingency and 25% Load = \$4,350/manhole x 10 manholes)	\$ 43,500
7	Heidorn Ranch Road and Sand Creek Road Traffic Signal (Increase = \$150,000/signal + 20% Contingency and 25% Load = \$217,500/signal)	\$ 217,500
8	Hillcrest Avenue and Sand Creek Road Traffic Signal (Increase = \$150,000/signal + 20% Contingency and 25% Load = \$217,500/signal)	\$ 217,500
9	Private Park Area (Parcel A) (2.13 AC x \$103,000/AC)	\$ 219,390
10	Private Park Improvements (Parcel A) (50% of \$1,000,000)	\$ 500,000
11	Private Park Area (Parcel D) (3.47 AC x \$103,000/AC)	\$ 357,410
12	Private Park Improvements (Parcel D) (50% of \$2,000,000)	\$ 1,000,000
13	Public Park Area (Parcel G - Basin Footprint) (13.89 - 7.76 = 6.13 AC x \$103,000/AC)	\$ 631,390
14	Public Park Improvements (Parcel G) (100% of \$830,000)	\$ 830,000
<b>TOTAL FEE CREDITS</b>		<b>\$ 5,221,000</b>
		<b>(to the nearest \$100)</b>

### Notes:

- 1 Park In-Lieu Fee is \$1,545 / unit per 2016/2017 Fee Schedule, equates to \$103,000/acre (online muni code still has \$100,000/acre).

Vineyards At Sand Creek  
Conditions of Approval Modification Summary  
Roadways and Sewer Infrastructure  
(Updated July 11, 2017)

The Vineyards is a 641-unit residential subdivision project. It was approved by the Planning Commission and City Council in early 2016. The project is currently conditioned upon certain road, sewer and fee requirements that make it uneconomic. This document addresses proposed modifications to the road and sewer conditions.

The 2016 conditions contemplate 4-lane roads around the perimeter of the Vineyards project site. Specifically, the conditions require construction of: (1) a 4-lane extension of Heidorn Ranch Road along the eastern project frontage, from an offsite location slightly north of the project site at the southern edge of an EBMUD right of way to the planned new Sand Creek Road; (2) construction of 2 lanes of a 4-lane extension of Hillcrest Avenue between the western frontage of the Vineyards and the eastern frontage of the adjacent Aviano subdivision, from an offsite location slightly north of the project site at the existing stub of Hillcrest Avenue near its intersection with Prewett Ranch Drive to the planned new Sand Creek Road; and (3) a 4-lane extension of Sand Creek Road across the southern end of the project site, connecting the extended Heidorn Ranch Road with the extended Hillcrest Avenue. Signals are required concurrent with roadway construction, at Heidorn and “B” street, Heidorn and Sand Creek Road, Hillcrest and “A” street, and Hillcrest and Sand Creek Road.

The Vineyards seeks to modify the 2016 conditions as follows:

Northern Segment of Heidorn Ranch Road. The Vineyards would build the northern segment of Heidorn Ranch Road (from the southern edge of an EBMUD right of way to “B” street) as a 2-lane facility, with a 12-foot lane and a 6-foot bike lane in each direction. This 2-lane facility would be constructed along the westerly edge of the right of way, immediately adjacent to the project site (or as needed to accommodate construction by Heidorn Village Subdivision 9385). However, if the Vineyards demonstrates that it has reached agreement with the City of Brentwood for construction of the lanes in a different configuration, then the Antioch City Engineer may approve that different configuration. The Vineyards also would dedicate land it controls as needed to complete a 4-lane right of way for this road segment.

The timing of construction is essentially the same as proposed in the 2016 conditions. The only difference is that the construction needed by the 1<sup>st</sup> building permit in Phase 1 would consist of the improvements needed to allow construction access to the site. The two-lane facility would still be constructed by the 25<sup>th</sup> building permit or first certificate of occupancy, whichever occurs first.

Northern Segment of Hillcrest Avenue. The Vineyards would build the northern segment of Hillcrest Avenue (from the existing stub of Hillcrest Avenue near its intersection with Prewett Ranch Drive to “A” Street) as a 2-lane facility with a 10.5-foot lane and 5.5-foot bike lane in each direction. The 2-lane facility would be constructed along the easterly edge of the right of way, immediately adjacent to the project site. However, if the adjacent Aviano subdivision sponsors agree, obtain necessary permits

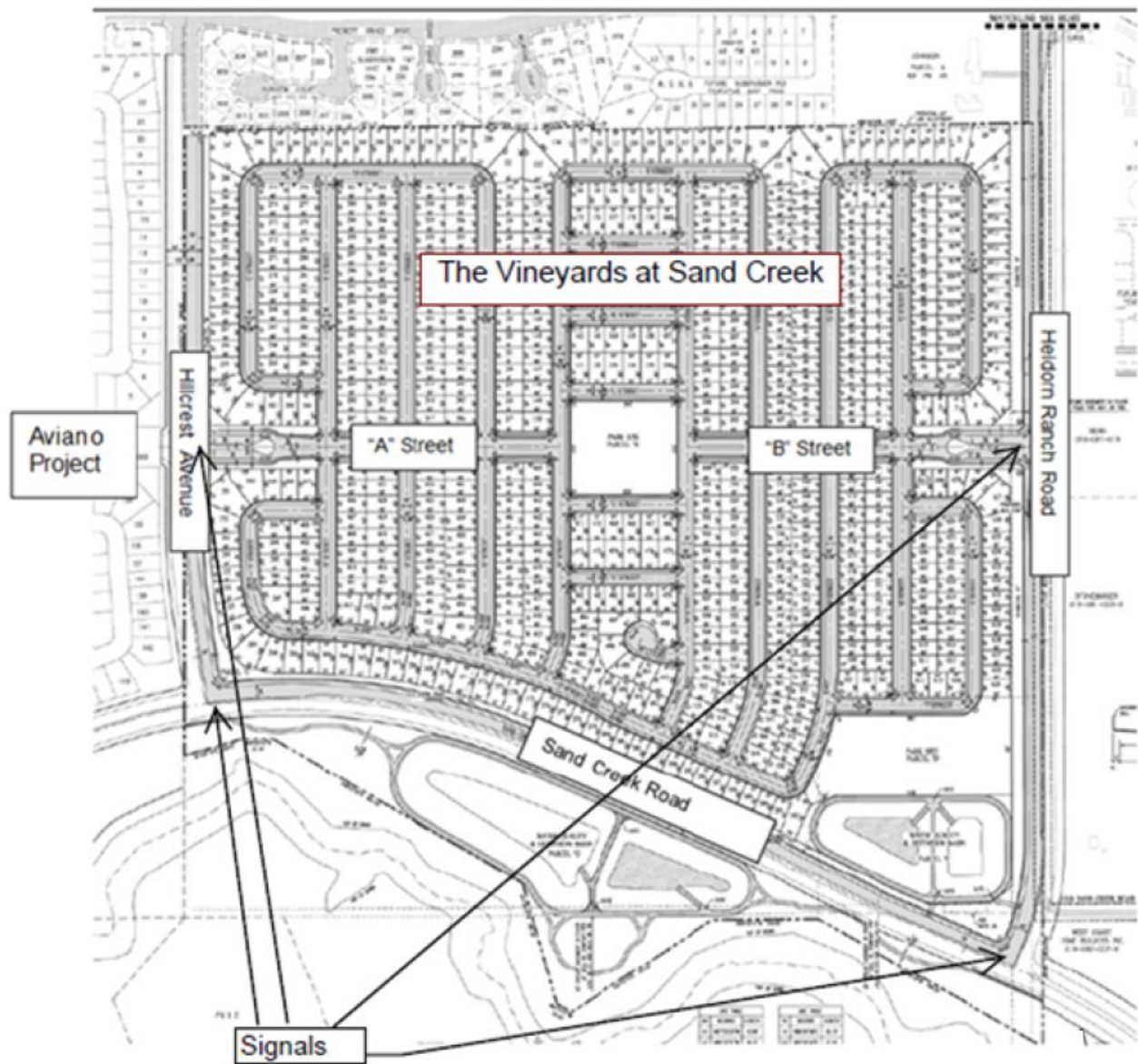
and dedicate sufficient land, and if the City Engineer approves, then the 2 lanes may be constructed in a different configuration. The Vineyards also would dedicate land it controls as needed to complete a 4-lane right of way for this road segment.

The timing of construction would be the same as proposed in the 2016 conditions. Construction would be required prior to the 1<sup>st</sup> building permit in Phase Three. Phase Three is the last phase within the northern half of this six-phase project.

Southern Portions of These Roads and Sand Creek Road. The southern portions of these roads (Heidorn Ranch Road south of “B,” and Hillcrest Avenue south of “A”) and Sand Creek Road across the southern portion of the project site, would be constructed as 2-lane facilities. The facilities of Heidorn Ranch Road and Hillcrest Road would match their northern counterparts. Sand Creek Road would have a 12-foot lane and 8-foot bike lane in each direction, with lanes constructed along the outside edges of the four-lane right of way. As is the case with the northern right-of-way segments, the Vineyards would dedicate land it controls as needed to complete the planned 4-lane rights of way for all these southern road segments.

The timing of construction would be the same as proposed in the 2016 conditions. The southern portion of Heidorn Ranch Road and the eastern portion of Sand Creek Road would be constructed prior to the 75<sup>th</sup> permit in Phase Four. Phase Four is the first, and most easterly phase, in the southern half of the project. All of Sand Creek Road would be constructed prior to the 75<sup>th</sup> permit in Phase Five, which is the middle phase in the southern half of the project. The southern portion of Hillcrest Avenue, and the western portion of Sand Creek Road (if not already constructed) would be required by the 60<sup>th</sup> permit in Phase Six, which is the last and most westerly phase in the southern half of the project.

Signals at Four Intersections Concurrent With Roadway Construction. Signalization of the four intersections on these road segments would occur at the times required by the 2016 conditions, which is concurrent with construction of the roadways. In addition, signals at Heidorn/Sand Creek and Hillcrest/Sand Creek would be fee creditable, as they are in the 2016 conditions.



June 19, 2017

Alexis Morris, Senior Planner  
City of Antioch  
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Antioch, CA 94509

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**Re: Vineyards at Sand Creek  
Updated 2017 Fee Credit & Phasing Proposal**

Dear Alexis:

On behalf of GBN Partners, please accept this Updated 2017 Fee Credit and Phasing Proposal for the Vineyards at Sand Creek Project, which has been prepared in response to our meeting with the City of Antioch on June 1, 2017.

June 19, 2017 Fee Credit Proposal.

The Updated Proposal requests a maximum fee credit of \$4,294 per unit for each of the 641 units in the project, to be credited against two (2) specific fee accounts as building permits are issued for the project. The fee credits would be capped based upon today's fees and would not increase over time.

The fee credits requested for the 2017 entitlement amendments now include only a request for receipt of partial credits for the Sewer Connection fee account (60%) and the Water Capacity fee account (65%).

The proposed additional fee credits may be reduced should certain defined offsite infrastructure improvement work be completed by other parties. Any such fee reduction would result in fewer units receiving the \$4,924 fee credit. An example of this fee credit reduction is provided in the attached spreadsheet.

Project Phasing.

In order to analyze the fiscal impacts of the fee credit proposal, the City of Antioch at the May 12, 2017 meeting requested information regarding projected phasing and unit absorption for the 641-unit Vineyards at Sand Creek Project.

Below is a summary of the anticipated project build-out timeframes and the assumptions supporting the projections, which has not changed since we submitted our last fee credit letter on May 25, 2017.



<u>Vineyards Phase</u>	<u>Units</u>	<u>Start Date</u>	<u>First Home Closing</u>	<u>Last Home Closing</u>
1,2,3	358	Q2 2018	Q2 2019	Q1 2022
4,5,6	283	Q1 2021	Q1 2022	Q1 2025

These foregoing projections assume major in-tract infrastructure is implemented in two large phases, with the first phase beginning in Q2 2018. The first home would be delivered one year after infrastructure work begins and two separate neighborhood sales programs would absorb four units per month each. This results in the last home sale occurring in Q1 2025.

#### Timing of Fee Credit Availability

GBN Partners proposes that the fee credit program for the additional fee credits described above be available for any building permits issued within seven (7) years of City Council approval of a modified Development Agreement that memorializes the fee credit proposal. (Please note that existing fee credits for traffic signalization and park-in-lieu fees would continue thereafter as provided in the 2016 project approvals.) This proposal is consistent with the foregoing projections that assume commencement of construction within 6-9 months of approval of the modified project and continuous construction thereafter.

\*\*\*\*\*

Implementation of the Updated 2017 Modified Fee Credit and Phasing Proposal in conjunction with the requested offsite infrastructure changes will allow the Vineyards at Sand Creek Project requirements to more accurately reflect improvements needed to mitigate its impacts and will accelerate the project start date by improving economic feasibility. It also will commence a project expected to generate over \$11,000,000 in fees to the City of Antioch, after application of the requested fees credits.

The Vineyards at Sand Creek project team is available to answer any questions regarding this proposal and looks forward to assisting the City in an effort to complete expedited processing of the requested entitlement revisions.

Very truly yours,

  
Cecily T. Barclay

cc: Ron Bernal, City Manager  
Forrest Ebbs, Community Development Director  
Dan Doport, Outside Counsel  
Derek Cole, City Attorney  
Matt Beinke, GBN Partners  
Earl Callison, GBN Partners  
Lisa Borba, GBN Partners  
Bob Nunn, GBN Partners

**GBN PARTNERS -- VINEYARDS AT SAND CREEK**  
**MODIFIED FEE CREDIT PROPOSAL**  
**June 19, 2017**

Proposed June 19, 2017 Fee Credits

	Current Fee	% Credit	Fee Credit Per Unit	Fee Credit Total
Sewer Connection	\$ 2,555	60%	\$ 1,533	\$ 982,653
Water Capacity	\$ 5,216	65%	\$ 3,391	\$ 2,173,631
<b>TOTAL FEE CREDITS</b>			<b>\$ 4,924</b>	<b>\$ 3,156,284</b>

Fee Credits to be fixed at \$4,924 per unit

Fee Credits to be capped at \$3,156,284

Fee Credits may be reduced as follows if improvements are constructed by others:

\$ 825,000	Heidorn improved--Johnson property frontage -- 3/23/17 CBG Summary Item 1
\$ 159,065	Upsized sewer main and manholes project frontage built by others -- 3/23/17 CBG Summary Items 2, 3
\$ 263,972	Upsized sewer main and manholes in-tract built by others - 3/23/17 CBG Summary Item 4, 5, 6
\$ 217,500	Heidorn at Sand Creek traffic signal built by others -- 3/23/17 CBG Summary Item 7
\$ 217,500	Hillcrest at Sand Creek traffic signal built by others -- 3/23/17 CBG Summary Item 8
\$ 631,390	Public Park land donated by others -- 3/23/17 CBG Summary Item 13
\$ 830,000	Public Recreational Trail built by others -- 3/23/17 CBG Summary Item 14
<b>\$ 3,144,427</b>	<b>Total Potential Fee Credit Reduction, derived from CBG Fee Creditable Items Summary Dated March 23, 2017 (attached)</b>

Fee Credit reduction example:

- Assumes Hillcrest at Sand Creek traffic signal built by others
- Assumes 100 permits have been issued, receiving credits of \$4,924 per unit

Total Fee Credits	Less Credit Reduction	Less 100 Unit Credits Given to Date	Credits Remaining	Remaining Units to be Credited
<b>\$ 3,156,284</b>	(\$217,500)	(\$492,368)	\$2,446,211	497 units

Result: 497 remaining units to be credited, resulting in 591 units receiving credits (of 641 total units).



# Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

## ENGINEER'S PRELIMINARY ESTIMATE FEE CREDITABLE ITEMS SUMMARY

March 23, 2017  
Job No.: 0974-050

### 641 LOTS SUBDIVISION 9390 PROMENADE / VINEYARDS AT SAND CREEK ANTIOCH, CALIFORNIA

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<b>TOTAL FEE CREDITS</b>		<b>\$ 5,221,000</b>
		<b>(to the nearest \$100)</b>

#### Notes:

- 1 Park In-Lieu Fee is \$1,545 / unit per 2016/2017 Fee Schedule, equates to \$103,000/acre (online muni code still has \$100,000/acre).