



TOWN OF DISCOVERY BAY
A COMMUNITY SERVICES DISTRICT



President – Kevin Graves • Vice-President – Bill Mayer • Director – Robert Leete • Director – Bill Pease • Director – Chris Steele

**TOWN OF DISCOVERY BAY
COMMUNITY SERVICES DISTRICT
AGENDA PACKET**

**Regular Board Meeting
Wednesday, December 5, 2018**

7:00 P.M. Regular Board Meeting

**Community Center
1601 Discovery Bay Boulevard**



TOWN OF DISCOVERY BAY

A COMMUNITY SERVICES DISTRICT



SDLF Gold-Level of Governance

President – Kevin Graves • Vice-President – Bill Mayer • Director – Robert Leete • Director – Bill Pease • Director – Chris Steele

NOTICE OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY

Wednesday December 5, 2018

REGULAR MEETING 7:00 P.M.

Community Center

1601 Discovery Bay Boulevard, Discovery Bay, California

Website address: www.todb.ca.gov

REGULAR MEETING 7:00 P.M.

A. ROLL CALL AND PLEDGE OF ALLEGIANCE

1. Call business meeting to order 7:00 p.m.
2. Pledge of Allegiance.
3. Roll Call.

B. PUBLIC COMMENTS (Individual Public Comments will be limited to a 3-minute time limit)

During Public Comments, the public may address the Board on any issue within the District's jurisdiction which is not on the Agenda. The public may comment on any item on the Agenda at the time the item is before the Board for consideration. Any person wishing to speak must come up and speak from the podium and will have 3 minutes to make their comment. There will be no dialog between the Board and the commenter. Any clarifying questions from the Board must go through the President.

C. CONSENT CALENDAR

All matters listed under the CONSENT CALENDAR are considered by the District to be routine and will be enacted by one motion.

1. Approve DRAFT minutes of regular meeting for November 7, 2018.
2. Approve DRAFT minutes of special meeting for November 20, 2018.
3. Approve Register of District Invoices.
4. Approve Board and Management Attendance at the 2019 Annual State of the Town Event.
5. Approve Cancellation of Regular Board Meeting on January 2, 2019.
6. Approve Storage Space Lease Agreement between the Town of Discovery Bay and the Discovery Bay Lions Club and a Storage Space Lease Agreement between the Town of Discovery Bay and the Discovery Bay Community Foundation.

D. AREA AGENCIES REPORTS / PRESENTATION

1. Supervisor Diane Burgis, District III Report.
2. Sheriff's Office Report.
3. CHP Report.
4. East Contra Costa Fire Protection District Report.

E. LIAISON REPORTS

F. PRESENTATIONS

1. **Recognition** – Board Member Chris Steele for 8 years of service to the Town of Discovery Bay.

G. BUSINESS AND ACTION ITEMS

1. Discussion and Possible Action Regarding the current scope of the Community Center Swimming Pool Project and consideration of a Scope of Work Agreement with Terracon Consultants Inc.
2. Discussion and Possible Action Regarding Diffuser Permit Assistance - Apply for the necessary permits to repair the damaged diffuser outfall in Old River.
3. Discussion and Possible Action to Establish an Updated and Restated Employee Personnel Manual and Approve Resolution No. 2018-14.

H. MANAGER'S REPORT

I. DIRECTORS' REPORTS

1. Standing Committee Reports.
2. Other Reportable Items.

J. GENERAL MANAGER'S REPORT

1. P6 efforts related to the License Plate Readers.

K. CORRESPONDENCE RECEIVED

1. Received – East Contra Costa Fire Protection District meeting minutes for October 1, 2018.
2. Received – Byron Municipal Advisory Council meeting minutes for September 25, 2018.

L. FUTURE AGENDA ITEMS

M. OPEN SESSION DISCLOSURE OF CLOSED SESSION AGENDA

(Government Code Section 54957.7)

N. CLOSED SESSION:

1. Conference with Legal Counsel - Anticipated Litigation Pursuant to Government Code Section 54956.9(b)
One Potential Case.

O. RETURN TO OPEN SESSION; REPORT ON CLOSED SESSION

(Government Code Section 54957.1)

P. ADJOURNMENT

1. Adjourn to the next regular meeting of December 19, 2018 beginning at 7:00 p.m. at the Community Center located at 1601 Discovery Bay Boulevard.

"This agenda shall be made available upon request in alternative formats to persons with a disability, as required by the American with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact the Town of Discovery Bay, at (925) 634-1131, during regular business hours, at least forty-eight hours prior to the time of the meeting."

"Materials related to an item on the Agenda submitted to the Town of Discovery Bay after distribution of the agenda packet are available for public inspection in the District Office located at 1800 Willow Lake Road during normal business hours."



TOWN OF DISCOVERY BAY

A COMMUNITY SERVICES DISTRICT



SDLF Gold-Level of Governance

President – Kevin Graves • Vice-President – Bill Mayer • Director – Robert Leete • Director – Bill Pease • Director – Chris Steele

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS
OF THE TOWN OF DISCOVERY BAY
Wednesday November 7, 2018
REGULAR MEETING 7:00 P.M.**

**Community Center
1601 Discovery Bay Boulevard, Discovery Bay, California
Website address: www.todb.ca.gov**

REGULAR MEETING 7:00 P.M.

A. ROLL CALL AND PLEDGE OF ALLEGIANCE

1. Call business meeting to order 7:00 p.m. – By President Graves.
2. Pledge of Allegiance – Led by President Graves.
3. Roll Call – All Present.

B. PUBLIC COMMENTS (Individual Public Comments will be limited to a 3-minute time limit)

Public Comment Regarding:

- Cost of the Community Center – Breakdown of Audited Statements.
- Resident Bill Helfrick requested the letter he sent to be placed on the next meeting correspondence.

Legal Counsel Attebery – Stated in the latter part of the meeting that the letter was received by the Board and there is no need to have added to the next meeting's correspondence.

C. CONSENT CALENDAR

All matters listed under the CONSENT CALENDAR are considered by the District to be routine and will be enacted by one motion.

1. Approve DRAFT minutes of regular meeting for October 17, 2018.
2. Approve Register of District Invoices.
3. Approve "None" as Comment to Contra Costa County Agency Comment Request County File #DP18-3036 – Veterinary Clinic.
4. Approve "None" as Comment to Contra Costa County Agency Comment Request County File #DP18-3037 – McDonald's.

Motion By: Director Pease to approve the Consent Calendar.

Second By: Director Leete

Vote: Motion Carried – AYES: 5, NOES: 0

D. AREA AGENCIES REPORTS / PRESENTATION

1. Supervisor Diane Burgis, District III Report - Deputy Chief of Staff Lea Castleberry provided an update regarding the Elections Results; congratulated the elected Board Members. Also updates regarding transportation (roadway improvements), Contra Costa Vision Zero, License Plate Readers, Family Farm Park, and St. Ann's Village Senior Community hosting a Town Hall, Thursday, November 15, 2018 at 6:00 p.m. locate at St. Ann's Church.
2. Sheriff's Office Report - Lieutenant Foley – Provided the details of the Sheriff Report regarding the reported activity for the month of October.
3. CHP Report - Officer Thomas provided an update for the month of October. There was discussion regarding speeding.
4. East Contra Costa Fire Protection District Report - Battalion Chief Ross Macumber – Provided the details regarding the East Contra Costa Fire Protection District report for the month of October.

E. LIAISON REPORTS

None.

F. PRESENTATIONS

None.

President Graves moved Item G-4 to the 1st item of discussion.

G. BUSINESS AND ACTION ITEMS

1. Discussion and Possible Action Regarding Community Center Pool Expansion and Related Additional Costs.

General Manager Davies – Provided the details regarding the Community Center Pool Expansion and related additional costs related to three scenarios for renovations and cost breakdown. There was discussion regarding the Community Center Pool Expansion. Representatives from Adams Pool Solutions provided answers related to the renovations to the pool, warranty, inspections, and timeframe. The discussion continued regarding money from Hofmann.

Public Comment Regarding:

- There were 15 Public Comment Speakers regarding the cost, Hofmann money, Zone 8 tax money, in favor of the pool expansion, hosting swim meets, healthy lifestyle, bringing the community together, accommodate additional swimmers, aquatics, scuba, water polo, and revenue sources for the Community Center.

There was discussion regarding the public comments related to hosting swim meets, and community aquatics center. The discussion continued regarding the financing of the expansion, good investment, and to create an Ad-Hoc committee to discuss financing for the Community Center Pool Expansion. Additional discussion related to deadlines for the completion of the pool expansion.

General Manager Davies – Stated that there are two issues that exist; due to the size of the project, may have to go out for an RFP (will take additional time), and staff availability. There was discussion regarding the two issues that exist regarding a possible RFP and scheduling Special Parks & Recreation and Finance Committee meetings.

Legal Counsel Attebery – Stated that scheduling an Ad-Hoc Committee meeting does not require any notice, doesn't require advance preparation, staff to be available to provide the information needed to help with decisions.

Legal Counsel Attebery – Stated that President Graves will meet with General Manager Davies for a discussion regarding an Ad-Hoc meeting; President Graves has the authority and the discretion to call an Ad-Hoc Committee meeting for the Community Center Pool Expansion and related additional costs.

The discussion continued regarding the possibility of another RFP if needed.

2. Discussion and Possible Action to Authorize Expenditures and Award Bids to Rehabilitate Well 4A and Well 2.

Director Leete – Clarification regarding authority related to additional labor and equipment and other reasonable costs, do not want to write a blank check at this point.

Water and Wastewater Koehne – Provided the details regarding rehabilitating Well 4A and Well 2 related to the condition of the Wells once the pump is removed; possibility of additional work. There was discussion regarding the Board or Committee will need to be aware of the possibility of additional costs.

Water and Wastewater Koehne – Provided additional details regarding Well 4A and Well 2 being brought back to the Board for approval of the possibility of additional costs. The discussion continued regarding the age of the Wells.

General Manager Davies – Confirming what was stated; if there are items discovered that need to be taken care of; will the Wells be left open and what is the timeframe for the item to be brought back to the Board if needed.

Water and Wastewater Koehne – Provided additional details regarding the rehabilitation of Well 4A and Well 2 related to the timeframe and the ability to bring back to the Board for approval of additional costs if needed.

Motion by: President Graves to award bid to Kirby's Pump and Mechanical for pump maintenance work and award bid to Roadrunner Drilling for well rehabilitation work; approve project related cost increases to include reasonable additional work discovered at time of rehabilitation; and authorize the General Manager to execute all documents associated therewith.

Second by: Vice-President Mayer

Vote: Motion Carried – AYES: 5, NOES: 0

3. Discussion and Possible Action Regarding Award a Contract to Tiber Painting for the Discovery Bay Front Entrance.

Parks and Landscape Manager Miller – Provided the details regarding an award a contract to Tiber Painting for the Discovery Bay Front Entrance.

There was discussion regarding the item being discussed at the Park and Recreation Committee meeting and where funds are coming from.

Public Comment Regarding:

- The tax money used for a great improvement.

Motion by: Director Pease authorize the General Manager to sign a contract to Tiber Painting and Issue a Notice to Proceed for the Discovery Bay Front Entrance.

Second by: Director Leete

Vote: Motion Carried – AYES: 5, NOES: 0

4. Discussion and Possible Action to Ratify Community Center Pool Equipment Enclosure Agreement

Entered into with Tuff Shed on September 6, 2018 and Approve an Additional 15% Project Contingency.

General Manager Davies – Provided a background of the Community Center Pool Equipment Enclosure Agreement.

There was discussion regarding the size and location of the Community Center Pool Equipment Enclosure.

Public Comment Regarding:

- Scheduling the pool work, the equipment enclosure and PG&E funds.

The discussion continued regarding the quote for electrical and plumbing.

President Graves – Stated that the work for the Community Center Pool Equipment Enclosure will not begin until a decision is made regarding the Community Center pool expansion.

Motion by: Director Pease to approve ratification of the Community Center Pool Equipment Enclosure Agreement entered into with Tuff Shed on September 6, 2018 in the amount of \$30,313.80; approve a 15% project contingency; and authorize the General Manager to execute all documents and payments in furtherance thereof.

Second by: Vice-President Mayer

Vote: Motion Carried – AYES: 5, NOES: 0

H. MANAGER'S REPORT

Water and Wastewater Manager Koehne – Provided an update for the month of October regarding water reduction of 31% as compared to 2013.

There was discussion regarding revenue and EDU's for build out.

I. DIRECTORS' REPORTS

1. Standing Committee Reports.

Vice-President Mayer – Provided the details of the P6 meeting regarding the license plate readers, a letter to Cal-Trans and Assemblymember Jim Frazier. There was discussion regarding an agenda item to be added for a letter to Cal-Trans in support of P6 effort related to the License Plate Readers for a future Board meeting.

Legal Counsel Attebery – Stated that the Board can give Staff direction to send a letter to Cal-Trans in support of P6 regarding the License Plate Readers or to individually write a letter (representing as a citizen and not the Board) in support of the License Plate Readers.

The discussion continued regarding an agenda item to be added for a letter to Cal-Trans in support of P6 efforts related to the License Plate Readers for the December 5, 2018 Board meeting.

Legal Counsel Attebery – Stated that a letter to Cal-Trans in support of the P6 efforts related to the License Plate Readers will be brought back to the next Board meeting, December 5, 2018.

President Graves – Provided the details of the Water and Wastewater meeting related to the rehabilitation of Well 4A and Well 2.

Director Steele – Provided the details of the Communication meeting regarding Goggle Analytics

Vice-President Mayer – Provided the details of the Communication meeting regarding the Electronic Sign Board.

2. Other Reportable Items – None.

J. GENERAL MANAGER'S REPORT

General Manager Davies – Provided details regarding the Zone Consultants analysis, staff to suggest that there be a couple of Board Members as an Ad-Hoc Committee to participate future meetings.

There was discussion regarding selecting the Finance Committee members (Chair Mayer and Vice-Chair Leete) to be on the Ad-Hoc Committee for the Zone Analysis.

General Manager Davies – Provided details regarding “No Wipes in the Pipes” campaign.

There was discussion regarding involvement with CSDA and grants to offset costs.

General Manager Davies – Provided details regarding the Board meeting of November 21, 2018 will be cancelled and the next Board meeting will be December 5, 2018.

K. CORRESPONDENCE RECEIVED

1. Received – Discovery Bay P6 Citizen Advisory Committee meeting minutes for July 11, 2018.

L. FUTURE AGENDA ITEMS

The regular meeting adjourned at 8:52 p.m. to the Closed Session.

M. OPEN SESSION DISCLOSURE OF CLOSED SESSION AGENDA

(Government Code Section 54957.7)

Legal Counsel Attebery - The Board is now adjourning into closed session regarding item N-1.

N. CLOSED SESSION:

1. Conference with Legal Counsel - Anticipated Litigation Pursuant to Government Code Section 54956.9(b)
Two Potential Cases.

O. RETURN TO OPEN SESSION; REPORT ON CLOSED SESSION

(Government Code Section 54957.1)

Legal Counsel Attebery - Reporting from Closed Session on item N-1 and there is no reportable action.

P. ADJOURNMENT

1. The meeting adjourned 9:07 a.m. to the next regular meeting of December 5, 2018 beginning at 7:00 p.m. at the Community Center located at 1601 Discovery Bay Boulevard.

//cmc – 11-15-18

<http://www.todb.ca.gov/agendas-minutes>



TOWN OF DISCOVERY BAY

A COMMUNITY SERVICES DISTRICT



President – Kevin Graves • Vice-President – Bill Mayer • Director – Robert Leete • Director – Bill Pease • Director – Chris Steele

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY CSD Tuesday, November 20, 2018

Community Center
1601 Discovery Bay Boulevard, Discovery Bay, California
Website address: www.todb.ca.gov

SPECIAL MEETING AT 7:00 P.M.

A. ROLL CALL

1. Call business meeting to order 7:01 p.m. – By President Graves.
2. Roll Call – All Present with the exception of Director Pease and Director Steele.
Director Steele arrived at 7:45 p.m.

B. PUBLIC COMMENT

President Graves opened the Public Comment section up for comments on any item on or not on the Agenda. There were no Public Comments.

C. OPEN SESSION DISCLOSURE OF CLOSED SESSION AGENDA

(Government Code Section 54957.7)

Legal Counsel Attebery – The Board is now adjourning at 7:03 p.m. into closed session regarding item D-1

D. CLOSED SESSION:

1. Conference with Legal Counsel—Anticipated Litigation Pursuant to Government Code Section 54956.9(b)
One Potential Case.

E. RETURN TO OPEN SESSION; REPORT ON CLOSED SESSION

(Government Code Section 54957.1)

Legal Counsel Attebery – The Board has reconvened from Closed Session and there is no reportable action for item D-1

F. ADJOURNMENT

1. The meeting adjourned at 8:17 p.m. to the Regular Meeting on December 5, 2018 at 7:00 p.m. at the Community Center located at 1601 Discovery Bay Boulevard.

//slh – 11-21-18

<http://www.todb.ca.gov/agendas-minutes>



Town of Discovery Bay

"A Community Services District"

STAFF REPORT

Meeting Date

December 5, 2018

Prepared By: Dina Breitstein, Finance Manager & Lesley Marable, Accountant
Submitted By: Michael R. Davies, General Manager

MRD

Agenda Title

Approve Register of District Invoices.

Recommended Action

Staff recommends that the Board approve the listed invoices for payment.

Executive Summary

District invoices are paid on a regular basis, and must obtain Board authorization prior to payment. Staff recommends Board authorization in order that the District can continue to pay warrants in a timely manner.

Fiscal Impact:

Amount Requested \$ 265,008.70

Sufficient Budgeted Funds Available?: Yes (If no, see attached fiscal analysis)

Prog/Fund # See listing of invoices. **Category:** Operating Expenses and Capital Improvements

Previous Relevant Board Actions for This Item

Attachments

Request For Authorization to Pay Invoices for the Town of Discovery Bay CSD 2018/2019.

AGENDA ITEM: C-3

For The Meeting On December 5, 2018
Town of Discovery Bay CSD
For Fiscal Year's 7/18 - 6/19

| | |
|--|--------------|
| Pacific Gas & Electric | \$89,913.90 |
| Town of Discovery Bay, CSD | \$39,513.39 |
| Veolia Water North America | \$18,056.48 |
| J.W. Backhoe & Construction, Inc. | \$17,038.10 |
| CaliforniaChoice Benefit Admin | \$14,934.15 |
| Harris & Associates, Inc. | \$11,137.50 |
| Luhdorff & Scalmanini | \$9,961.64 |
| U.S. Bank Corporate Payment System | \$8,895.60 |
| BrightView Landscape Services, Inc. | \$7,785.00 |
| City Of Brentwood | \$6,040.20 |
| Badger Meter | \$5,501.98 |
| E.R. Harrison & Associates, Inc. | \$4,339.21 |
| Stantec Consulting Services Inc | \$3,887.50 |
| Sanact Inc. | \$3,650.00 |
| Freedom Mailing Service, Inc | \$2,681.40 |
| Tee Janitorial & Maintenance | \$2,054.00 |
| Univar | \$1,557.09 |
| SDRMA | \$1,431.63 |
| Matrix Trust | \$1,370.48 |
| TASC | \$1,199.60 |
| Du-All Safety | \$1,105.00 |
| Paul E. Vaz Trucking, Inc. | \$1,065.90 |
| Karina Dugand | \$1,035.00 |
| United States Postal Services | \$1,002.76 |
| Office Depot | \$923.87 |
| Herwit Engineering | \$908.34 |
| Verizon Wireless | \$857.83 |
| Mt. Diablo Resource Recovery | \$789.56 |
| Aflac | \$705.02 |
| Comcast | \$619.60 |
| Malcom Kaiser | \$550.84 |
| ReliaStar Life Insurance Company | \$550.00 |
| Ricoh USA, Inc | \$438.20 |
| Bay Area Air Quality Management District | \$403.00 |
| Discovery Bay Designs | \$371.41 |
| Chris Steele | \$345.00 |
| Neopost | \$300.00 |
| Brentwood Ace Hardware | \$279.52 |
| Physio-Control, Inc. | \$256.44 |
| UniFrist Corporation | \$225.45 |
| Michael Davies | \$219.31 |
| Dina Breitstein | \$201.22 |
| Virgil Koehne | \$197.95 |
| Contra Costa County | \$163.19 |
| Alhambra | \$138.65 |
| Precision Glass Co., Inc. | \$119.50 |
| Cintas | \$90.09 |
| Discovery Pest Control | \$70.00 |
| Brian Miller | \$66.48 |
| Shred-It USA-Concord | \$60.72 |
| | <hr/> |
| | \$265,008.70 |



Town of Discovery Bay

"A Community Services District"

STAFF REPORT

Meeting Date

December 5, 2018

Prepared By: Michael R. Davies, General Manager
Submitted By: Michael R. Davies, General Manager

MRD

Agenda Title:

Approve Board and Management Attendance at the 2019 Annual State of the Town Event.

Recommended Action

Authorize attendance and payment for the Board of Directors and Town management to attend the annual "State of the Town Gala" event on Saturday, January 26, 2019.

Executive Summary

Each year, the Discovery Bay Chamber of Commerce hosts its annual "State of the Town Gala" Banquet. This year's event will take place at the Discovery Bay Country Club on January 26, 2019 at 6:00 P.M.

As in past years, it is customary and appropriate for the Board of Directors and Management staff to attend these types of community/public events. Participation in this event provides a venue for delivering a State of the Town Address, demonstrates community involvement and outreach, allows opportunities for gaining direct feedback, puts faces to names, and gives honor to the Business, Citizen and Teacher of the Year.

The cost to attend is \$85.00 per person. If all five members of the Board and all five Managers attend the total cost will not exceed \$850.00.

Previous Relevant Board Actions for This Item

Annual Board attendance since at least 2011.

Attachments

2019 State of the Town Gala Invitation.

AGENDA ITEM: C-4

Saturday
January 26

Dinner
Dancing
Gaming

Soirée By the Bay

SS DISCOVERY BAY

\$85 per person
6:00 pm check in

State of the Town Gala Presented by
The Discovery Bay Chamber of Commerce



Welcome aboard as we honor:

Business of the Year
Non Profit of the Year
Citizen of the Year
Teacher of the Year



Join fellow cruisers at our formal
Captains Dinner at our first Port of Call:
Discovery Bay Country Club
Help us Celebrate the
Current & Future State of our Community



Tickets available by visiting:
discoverybaychamber.org or calling 925.240.4144

Happy to be Cruisin'
in Discovery Bay

Agenda Item C-4

This is a Black Tie Affair
Formal Attire Requested



Town of Discovery Bay

“A Community Services District”

STAFF REPORT

Meeting Date

December 5, 2018

Prepared By: Michael R. Davies, General Manager
Submitted By: Michael R. Davies, General Manager

MRD

Agenda Title:

Approve Cancellation of Regular Board Meeting on January 2, 2019.

Recommended Action

Approve the recommendation from the Internal Operations Committee to cancel the Regular Board Meeting of January 2, 2019.

Executive Summary

Each year the Town of Discovery Bay offices are closed for the Holiday Season. This year, the closure is Monday, December 24, 2018 through January 1, 2019. If the January 2, 2019 Regular Board Meeting takes place, staff will not have returned to work in time to prepare and post the Agenda 72 hours prior to the meeting.

Refer to chart below for dates TODB offices are open and closed.

| DECEMBER 2018 / JANUARY 2019 | | | | | | |
|------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| 16 | 17 OPEN | 18 OPEN | 19 Board Meeting | 20 OPEN | 21 OPEN | 22 CLOSED |
| 23 CLOSED | 24 CLOSED | 25 CLOSED | 26 CLOSED | 27 CLOSED | 28 CLOSED | 29 CLOSED |
| 30 CLOSED | 31 CLOSED | 1 CLOSED | 2 Board Meeting | 3 OPEN | 4 OPEN | 5 |

This matter was considered at the Internal Operations Committee Meeting on November 8, 2018. The recommendation from the Internal Operations Committee is to CANCEL the Regular Board Meeting of January 2, 2019. The next Regular Board Meeting would take place on January 16, 2019.

Previous Relevant Board Actions for This Item

Attachments

None.

AGENDA ITEM: C-5



Town of Discovery Bay

"A Community Services District"

STAFF REPORT

Meeting Date

December 5, 2018

Prepared By: Michael R. Davies, General Manager
Submitted By: Michael R. Davies, General Manager

MRD

Agenda Title

Approve Storage Space Lease Agreement between the Town of Discovery Bay and the Discovery Bay Lions Club and a Storage Space Lease Agreement with the Discovery Bay Community Foundation.

Recommended Action

Approve 1) Storage Lease Agreement between the Town of Discovery Bay and the Discovery Bay Lions Club for use of Town of Discovery Bay property located on Firwood Drive at gate on Discovery Bay Blvd (AKA Well Site 4); and 2) Storage Lease Agreement between the Town of Discovery Bay and the Discovery Bay Community Foundation for use of Town of Discovery Bay property located on Edgeview Drive at gate on Discovery Bay Blvd (AKA Well Site 3).

Executive Summary

Since 2015 the Town has entered into an annual agreement with Discovery Bay Lions Club to lease former Well Site #4 (Discovery Bay Blvd @ Firwood Drive gate) and an annual agreement with the Discovery Bay Foundation to lease former Well Site #3 (Discovery Bay Blvd @ Edgewood Drive gate). Both organizations are local non-profits that support local schools, charitable and civic organizations as well as community events and recreation programs.

The last extensions of the Agreements were agreed to on December 15, 2017 and are set to expire.

Staff recommends extending the agreements, under the same terms and conditions, for an additional 12 months commencing on January 1, 2019 and terminating on December 31, 2019

Previous Relevant Board Actions for This Item

April 1, 2015 Board Meeting

Attachments

1. Discovery Bay Warehouse Storage Space Lease - Well No. 3 Discovery Bay Community Foundation 12/05/18.
2. Discovery Bay Warehouse Storage Space Lease - Well No. 4 Lions Club 12/05/18.

AGENDA ITEM: C-6



TOWN OF DISCOVERY BAY

A COMMUNITY SERVICES DISTRICT



SDLF Gold-Level of Governance

President – Kevin Graves • Vice-President – Bill Mayer • Director – Bill Pease • Director – Robert Leete • Director – Chris Steele

December 5, 2018

RE: Town of Discovery Bay Storage Space Agreement 2019 Lease Extension

The following Extension of Lease Agreement is made by and between: The Town of Discovery Bay ("Lessor") and The Discovery Bay Community Foundation ("Lessee"), collectively referred herein as the "Parties".

The Parties agree to mutually extend and amend the lease agreement executed by them on April 1, 2016 and related to the premises including the building located on Edgeview Drive at the gate on Discovery Bay Boulevard, Discovery Bay, California APN 008-220-018-9, more commonly referred to as Well Site 3 as follows:

- The term of said lease is extended for a period of further 12 months commencing on January 1, 2019, and terminating on December 31, 2019.
- During the extended term, the monthly rent agreed upon in said lease is increased by 0%, and therefore Tenant shall pay Landlord a monthly rent of \$100.00 paid as an annual lump sum of \$1,200.00.

The Parties further knowledge that all other terms of the lease shall continue during this extended term as if set forth herein, and that this agreement shall be binding upon the Parties' successors, assignees and representatives.

Lessor:

Date

Michael R. Davies, General Manager

Lessee:

Date

Discovery Bay Community Foundation

**TOWN OF DISCOVERY BAY
STORAGE SPACE AGREEMENT**

This LEASE AGREEMENT (“Lease”) is made and entered into as of April 1, 2015, by and between the Town of Discovery Bay, a community services district organized under the laws of the State of California (“Lessor”), and Discovery Bay Community Foundation (“Lessee”).

AGREEMENT

1. Premises. Lessor hereby leases and lets to Lessee, and Lessee hereby takes and leases from Lessor, subject to the terms and conditions contained herein, the “storage” area (the “Premises”) including the building located on Edgeview Drive at the gate on Discovery Bay Blvd, in Discovery Bay, California APN 008-220-018-9 (the “Building”), more commonly referred to as Well Site 3, and as outlined on the attached Exhibit “A.”

1.1. Lessee is granted the right at all times during the Lease Term to the nonexclusive use of common corridors and hallways, and nonexclusive use of other common areas located within the confines of the Building and on the property where the Building is located. Lessor however, has the sole discretion to determine the manner in which those public and common areas are maintained and operated, and the use of those areas shall be subject to the Rules and Regulations, which may be amended at Lessor’s sole discretion from time to time, attached hereto as Exhibit “B”. Lessor shall enforce the Rules and Regulations in a consistent and nondiscriminatory manner regarding all tenants and occupants in the Building, including their respective officers, agents, employees, independent contractors, and invitees. Lessee shall comply with all such rules and regulations as published, revised, and promulgated. Lessee acknowledges that the Building may have additional tenants occupying designated portions of the Building from time to time.

1.2. Lessor may, from time to time, use the area outside the Building for deliveries of materials and supplies as necessary to conduct the business of the Town of Discovery Bay.

1.3. Lessee may, from time to time, place storage containers outside of the existing Building which containers shall be in the same color or painted in the same color as the existing Building. All items stored outside the container or the building shall be kept neat and orderly and at no time shall be visible above the fence line to others outside the property.

2. Term. The term of this Lease shall be a month-to-month tenancy (“Term”) scheduled to commence on April 1, 2016 (the “Commencement Date”).

2.1. The term of this Lease may be extended for additional periods upon the mutual written consent of the parties.

3. Rent. Lessee shall pay monthly rent (the "Rent") in the amount of \$100.00 and by logging visitors in and out of the Building during the periods of time they are present in the Building. Lessee shall pay the Rent annually, and in advance, on January 1st of each year. For 2015, Rent shall be paid prorated based upon the date of execution of this Lease and invoice shall be paid within ten calendar days of receipt of such invoice. All rent shall be paid by Lessee to Lessor at Town of Discovery Bay, 1800 Willow Lake Road, Discovery Bay, CA 94505-9376, or any other place or places that Lessor may from time to time designate by written notice given to Lessee. Rent for any partial month shall be prorated for that month based on a thirty (30) day month.

3.1. No security deposit is required for Lessee.

3.2. In no event will the Lessor accept any ownership interest in the Lessee or other business entity, nor take any interest in any property, whether real, personal, or intellectual, in lieu of rent.

4. Use. Lessee shall have the right to use the Premises solely for storage purposes.

4.1. If during the Term of this Lease, or any extension hereof, the application of any statute, code or ordinance of any government, authority, agency, official or officer applicable to the Building or Premises shall make it impossible or not economical for Lessee to operate in the Premises in accordance with Paragraph 4, then Lessee or Lessor, at its option, may terminate this Lease, whereupon the Rent and all other charges payable hereunder by Lessee shall be prorated in accordance with Paragraph 3 as of such date of termination.

5. Subletting or Assignment. Lessee may not sublet or assign this Lease.

6. Lessor's Representations and Warranties. Lessor represents and warrants that:

6.1. Lessor shall maintain Premises in the manner in the same or better condition in which it was at the time Lessee initially began occupancy. The Lessee accepts the Building and Premises in an "As Is" condition. Lessee may make necessary repairs as deemed necessary by Lessee.

7. Lessee's Covenants. Lessee covenants and agrees it shall:

7.1. Pay rent when due without notice or demand;

7.2. Maintain the Premises in a clean, safe and good condition and return the Premises to Lessor at the Termination Date in accordance with Paragraph 10 hereof;

7.3. Comply with all statutes, codes, ordinances, rules and regulations applicable to the Premises;

7.4. Give Lessor prompt notice of any accident, damage, destruction, or occurrence affecting the Premises;

7.5. At its sole cost and expense, promptly perform all maintenance and repairs to the Premises ; and

7.6. Lessor shall have access to the Premises for inspection and necessary maintenance.

8. Insurance. Lessee, at its discretion, may purchase insurance for this Lease. Lessor recommends that Lessee purchase liability insurance to insure them against loss. Any insurance purchased by the Lessor covering the Premises or its contents will not provide any coverage for any property belonging to the Lessee. If the Lessee wishes such coverage for its property or for loss of Premises as a result of fire or other casualty, then Lessee will be solely responsible for purchasing same.

9. Cancellation. Notwithstanding the provisions set forth in Paragraphs 2 and 2.1 herein, Lessee and Lessor shall have the right to cancel this Lease upon giving sixty (60) days written notice of its intent to cancel to the other party.

10. Surrender. Upon the expiration or earlier termination of the Lease, Lessee shall surrender the Premises to Lessor in good order, condition, and repair, ordinary wear and tear excepted. Lessee shall, at its sole cost and expense, remove any and all of Lessee's personal property stored in the Premises, including furniture, furnishings, movable partitions and other fixtures, and improvements or alterations approved by Lessor. All fixtures and improvements not removed shall become the property of the Lessor.

11. Notice. All notice, demands, requests, consents, approvals, offers, statements, and other instruments or communications required or permitted to be given hereunder in writing shall be deemed to have been given when delivered or when mailed by first class mail, postage prepaid, addressed to Lessor or Lessee as follows

As to Lessor: Town of Discovery Bay
 Attention: General Manager
 Town of Discovery Bay CSD
 1800 Willow Lake Road
 Discovery Bay, CA 94505-9376

As to Lessee: Discovery Bay Community Foundation

12. Amendments. This Lease may not be amended, modified, or terminated, nor may any obligation hereunder be waived orally, and no such amendment, modification, termination, or waiver shall be effective for any purposes unless it is in writing and signed by the party against whom enforcement thereof is sought.

13. Severability. If any provision of the Lease or any application thereof shall be invalid or unenforceable, the remainder of the Lease and any other application of such provision shall not be affected thereby.

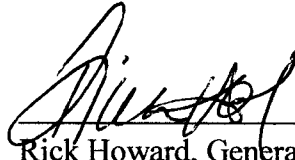
14. Governing Law. This lease shall be governed by and construed in accordance with the laws of the Town of Discovery Bay and the State of California.

15. Indemnification. Lessee shall hold harmless and indemnify Lessor from and against any and all damage or claims that may arise during normal operation of Lessee's business, except loss or damage arising from any negligent act by Lessor, its agents or employees.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year set forth above.

LESSOR:

4-2-15
Date


Rick Howard, General Manager
Town of Discovery Bay Community
Services District

LESSEE:

4-9-15
Date

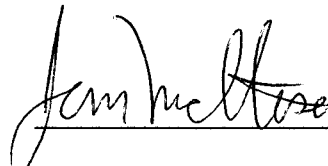

Name and Title: President
Discovery Bay Community Foundation

Exhibit "A"
Premises Map

Anchorage Way

Bowsprit Ct

Largo Ct

Breaker Ct

Biscay Ct

Seal Way

Spinnaker Way

Discovery Bay Blvd

Edgeview Dr



008-220-018-9

Well 3

Edgeview Way

Clubhouse Dr

St. John

EXHIBIT "B"
RULES AND REGULATIONS

All terms not otherwise defined herein shall have the same meaning as set forth in the Lease.

1. Lessor shall provide Lessee with two keys for each locked gate and exterior door lock. No additional locks shall be placed upon any doors of the premises by Lessee and Lessee agrees not to have any duplicate keys made nor have the locks changed without the consent of the Lessor. All keys shall be keyed to allow Lessor's master key access to the Premises.
2. Lessee, its invitees, guests, employees, or agents shall not disturb other occupants of the Building by making any undue or unseemly noise, or otherwise. Lessee shall not, without Lessor's written consent, install or operate in or upon the Premises any machine or machinery causing noise or vibration perceptible outside the Premises. All combustible material must be kept in OSHA approved containers. In no event shall hazardous materials be stored on the Premises or in the Building.
3. Lessee shall not mark or drive nails or screws into the woodwork or walls, or paint or in any way deface the Building or any part thereof, or the Premises or any part thereof, or fixtures therein without consent of Lessor. The expense of remedying any breakage, damage or stoppage resulting from a violation of this rule shall be borne by Lessee.
4. Lessee shall have the non-exclusive right, along with other lessees of the Building, to use the parking area, or driveway apron, located on the land upon which the building is located, except for portions of the parking area necessary for entrances, exits, driveways, walkways, loading, and unloading areas. Lessor shall have the authority at any time to designate portions of the parking area for exclusive use by certain tenants in the Building, or to regulate the use of the parking areas in general.
5. Lessor assumes no responsibility for and shall not be liable for any damages resulting from any error in regard to any identification of Lessee or its employees from admission to or exclusion from the Building.
6. The Lessor shall have no responsibility for janitorial and other custodial services. Reasonable care and caution shall be used by Lessee to keep all shared facilities by tenants and administrators clean.

7. Lessor reserves the right to exclude or expel from the Building any person who, in the judgment of the Lessor is under the influence of alcohol or drugs, or someone who brings in or stores any drugs on the Premises, or who is in the judgment of Lessor, disturbing other Lessees or Lessor in any way or who shall in any manner do any act in violation of any city, state, or federal law or any of the rules and regulations of the Building.
8. Lessor shall not be responsible to Lessee for the non-observance or violation of any of these Rules and Regulations by any other tenant. Lessor reserves the right to make such other reasonable rules and regulations as may be necessary or appropriate, in Lessor's sole judgment, for the safety, care and cleanliness of the Building, and for the preservation of good order therein. Subsequent rules and regulations shall be binding upon the parties hereto the same as if inserted in this Lease at the time of execution.
9. Lessee agrees not to store any merchandise crates, goods, supplies or other materials of any kind outside the gates of the leased Premises without special permission. Lessee further agrees to remove all trash and debris from the Premises at Lessees expense and not to burn trash or other substances in or on the exterior of, the leased Premises.
10. No sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the Premises shall be borne by Lessee who, or whose servants, employees, agents, visitors, or licensees, shall have caused the same.

Jim Mattison, President
(Discovery Bay Community Foundation)

By: Jim Mattison DATE: 4-9-15
TITLE: President



TOWN OF DISCOVERY BAY

A COMMUNITY SERVICES DISTRICT



SDLF Gold-Level of Governance

President – Kevin Graves • Vice-President – Bill Mayer • Director – Bill Pease • Director – Robert Leete • Director – Chris Steele

December 5, 2018

RE: Town of Discovery Bay Storage Space Agreement 2019 Lease Extension

The following Extension of Lease Agreement is made by and between: The Town of Discovery Bay ("Lessor") and The Discovery Bay Lion's Club ("Lessee"), collectively referred herein as the "Parties".

The Parties agree to mutually extend and amend the lease agreement executed by them on April 1, 2016 and related to the premises including the building located at Firwood Drive at the gate on Discovery Bay Boulevard, Discovery Bay, California APN 008- 230- 037- 7, more commonly referred to as Well Site 4 as follows:

- The term of said lease is extended for a period of further 12 months commencing on January 1, 2019, and terminating on December 31, 2019.
- During the extended term, the monthly rent agreed upon in said lease is increased by 0%, and therefore Tenant shall pay Landlord a monthly rent of \$100.00 paid as an annual lump sum of \$1,200.00.

The Parties further knowledge that all other terms of the lease shall continue during this extended term as if set forth herein, and that this agreement shall be binding upon the Parties' successors, assignees and representatives.

Lessor:

Date

Michael R. Davies, General Manager

Lessee:

Date

Discovery Bay Lions Club

TOWN OF DISCOVERY BAY STORAGE SPACE AGREEMENT

This LEASE AGREEMENT (“Lease”) is made and entered into as of April 1, 2015, by and between the Town of Discovery Bay, a community services district organized under the laws of the State of California (“Lessor”), and Lion’s Club (“Lessee”).

AGREEMENT

1. Premises. Lessor hereby leases and lets to Lessee, and Lessee hereby takes and leases from Lessor, subject to the terms and conditions contained herein, the “storage” area (the “Premises”) including the building located on Firwood Drive at the gate on Discovery Bay Blvd., Discovery Bay, California APN 008-230-037-7 (the “Building”), more commonly referred to as Well Site 4, and as outlined on the attached Exhibit “A.”

1.1. Lessee is granted the right at all times during the Lease Term to the nonexclusive use of common corridors and hallways, and nonexclusive use of other common areas located within the confines of the Building and on the property where the Building is located. Lessor however, has the sole discretion to determine the manner in which those public and common areas are maintained and operated, and the use of those areas shall be subject to the Rules and Regulations, which may be amended at Lessor’s sole discretion from time to time, attached hereto as Exhibit “B”. Lessor shall enforce the Rules and Regulations in a consistent and nondiscriminatory manner regarding all tenants and occupants in the Building, including their respective officers, agents, employees, independent contractors, and invitees. Lessee shall comply with all such rules and regulations as published, revised, and promulgated. Lessee acknowledges that the Building may have additional tenants occupying designated portions of the Building from time to time.

1.2. Lessor may, from time to time, use the area outside the Building for deliveries of materials and supplies as necessary to conduct the business of the Town of Discovery Bay.

1.3. Lessee may, from time to time, place storage containers outside of the existing Building which containers shall be in the same color or painted in the same color as the existing Building. All items stored outside the container or the building shall be kept neat and orderly and at no time shall be visible above the fence line to others outside the property.

2. Term. The term of this Lease shall be a month-to-month tenancy (“Term”) scheduled to commence on April 1, 2016 (the “Commencement Date”).

2.1. The term of this Lease may be extended for additional periods upon the mutual written consent of the parties.

3. Rent. Lessee shall pay monthly rent (the "Rent") in the amount of \$100.00 and by logging visitors in and out of the Building during the periods of time they are present in the Building. Lessee shall pay the Rent annually, and in advance, on January 1st of each year. For 2015, Rent shall be paid prorated based upon the date of execution of this Lease and invoice shall be paid within ten calendar days of receipt of such invoice. All rent shall be paid by Lessee to Lessor at Town of Discovery Bay, 1800 Willow Lake Road, Discovery Bay, CA 94505-9376, or any other place or places that Lessor may from time to time designate by written notice given to Lessee. Rent for any partial month shall be prorated for that month based on a thirty (30) day month.

3.1. No security deposit is required for Lessee.

3.2. In no event will the Lessor accept any ownership interest in the Lessee or other business entity, nor take any interest in any property, whether real, personal, or intellectual, in lieu of rent.

4. Use. Lessee shall have the right to use the Premises solely for storage purposes.

4.1. If during the Term of this Lease, or any extension hereof, the application of any statute, code or ordinance of any government, authority, agency, official or officer applicable to the Building or Premises shall make it impossible or not economical for Lessee to operate in the Premises in accordance with Paragraph 4, then Lessee or Lessor, at its option, may terminate this Lease, whereupon the Rent and all other charges payable hereunder by Lessee shall be prorated in accordance with Paragraph 3 as of such date of termination.

5. Subletting or Assignment. Lessee may not sublet or assign this Lease.

6. Lessor's Representations and Warranties. Lessor represents and warrants that:

6.1. Lessor shall maintain Premises in the manner in the same or better condition in which it was at the time Lessee initially began occupancy. The Lessee accepts the Building and Premises in an "As Is" condition. Lessee may make necessary repairs as deemed necessary by Lessee.

7. Lessee's Covenants. Lessee covenants and agrees it shall:

7.1. Pay rent when due without notice or demand;

7.2. Maintain the Premises in a clean, safe and good condition and return the Premises to Lessor at the Termination Date in accordance with Paragraph 10 hereof;

7.3. Comply with all statutes, codes, ordinances, rules and regulations applicable to the Premises;

7.4. Give Lessor prompt notice of any accident, damage, destruction, or occurrence affecting the Premises;

7.5. At its sole cost and expense, promptly perform all maintenance and repairs to the Premises ; and

7.6. Lessor shall have access to the Premises for inspection and necessary maintenance.

8. Insurance. Lessee, at its discretion, may purchase insurance for this Lease. Lessor recommends that Lessee purchase liability insurance to insure them against loss. Any insurance purchased by the Lessor covering the Premises or its contents will not provide any coverage for any property belonging to the Lessee. If the Lessee wishes such coverage for its property or for loss of Premises as a result of fire or other casualty, then Lessee will be solely responsible for purchasing same.

9. Cancellation. Notwithstanding the provisions set forth in Paragraphs 2 and 2.1 herein, Lessee and Lessor shall have the right to cancel this Lease upon giving sixty (60) days written notice of its intent to cancel to the other party.

10. Surrender. Upon the expiration or earlier termination of the Lease, Lessee shall surrender the Premises to Lessor in good order, condition, and repair, ordinary wear and tear excepted. Lessee shall, at its sole cost and expense, remove any and all of Lessee's personal property stored in the Premises, including furniture, furnishings, movable partitions and other fixtures, and improvements or alterations approved by Lessor. All fixtures and improvements not removed shall become the property of the Lessor.

11. Notice. All notice, demands, requests, consents, approvals, offers, statements, and other instruments or communications required or permitted to be given hereunder in writing shall be deemed to have been given when delivered or when mailed by first class mail, postage prepaid, addressed to Lessor or Lessee as follows

As to Lessor: Town of Discovery Bay
 Attention: General Manager
 Town of Discovery Bay CSD
 1800 Willow Lake Road
 Discovery Bay, CA 94505-9376

As to Lessee: Discovery Bay Lion's Club

12. Amendments. This Lease may not be amended, modified, or terminated, nor may any obligation hereunder be waived orally, and no such amendment, modification, termination, or waiver shall be effective for any purposes unless it is in writing and signed by the party against whom enforcement thereof is sought.

13. Severability. If any provision of the Lease or any application thereof shall be invalid or unenforceable, the remainder of the Lease and any other application of such provision shall not be affected thereby.

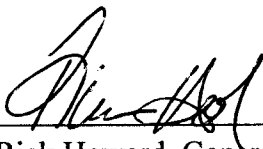
14. Governing Law. This lease shall be governed by and construed in accordance with the laws of the Town of Discovery Bay and the State of California.

15. Indemnification. Lessee shall hold harmless and indemnify Lessor from and against any and all damage or claims that may arise during normal operation of Lessee's business, except loss or damage arising from any negligent act by Lessor, its agents or employees.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year set forth above.

LESSOR:

4-2-15
Date


Rick Howard, General Manager
Town of Discovery Bay Community
Services District

LESSEE:

4/6/15
Date

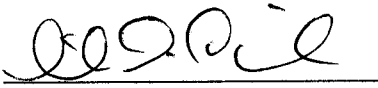

Name and Title: David D. Civuli
President
Discovery Bay Lion's Club

Exhibit "A"
Premises Map

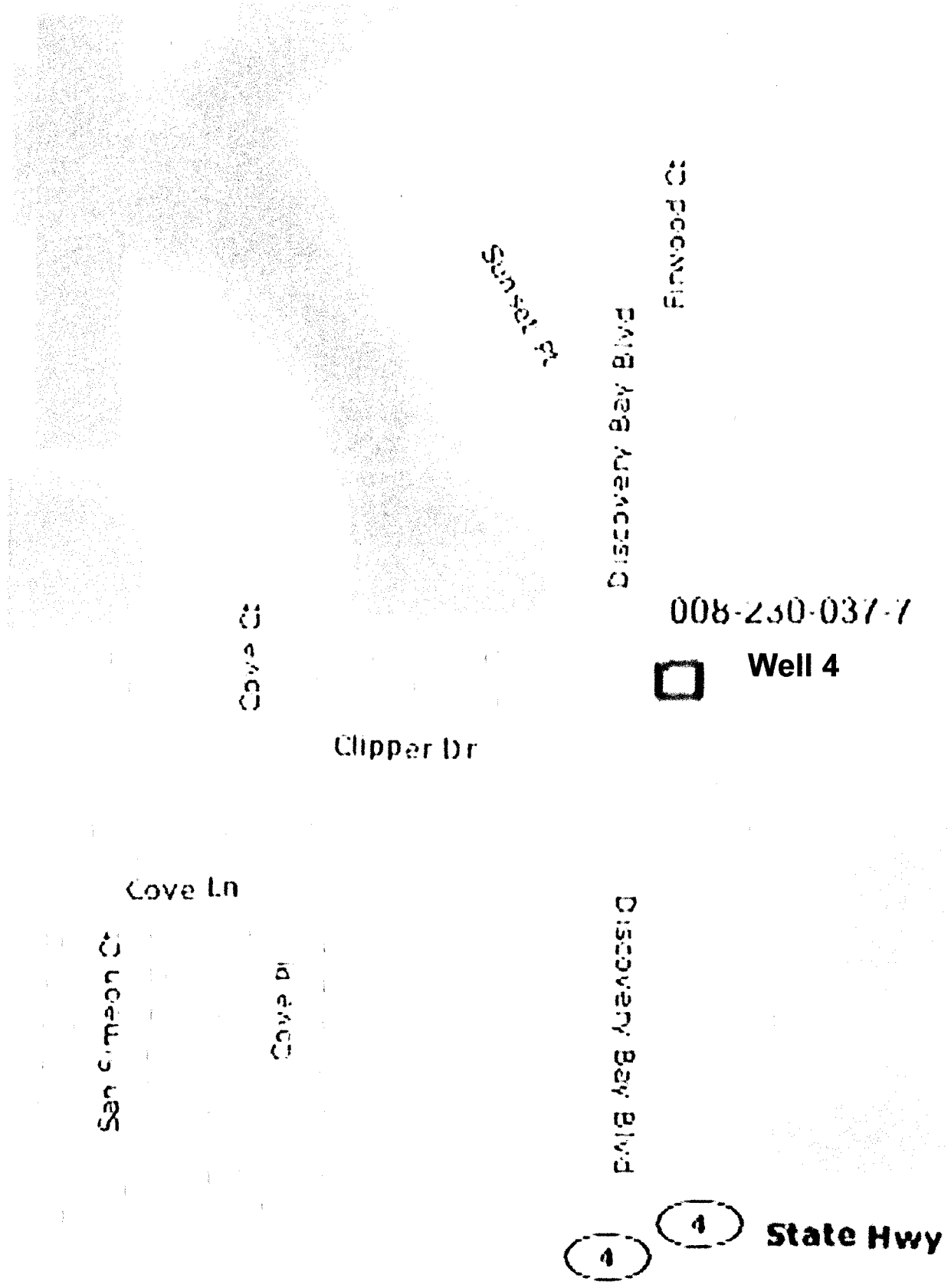
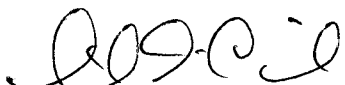


EXHIBIT "B"
RULES AND REGULATIONS

All terms not otherwise defined herein shall have the same meaning as set forth in the Lease.

1. Lessor shall provide Lessee with two keys for each locked gate and exterior door lock. No additional locks shall be placed upon any doors of the premises by Lessee and Lessee agrees not to have any duplicate keys made nor have the locks changed without the consent of the Lessor. All keys shall be keyed to allow Lessor's master key access to the Premises.
2. Lessee, its invitees, guests, employees, or agents shall not disturb other occupants of the Building by making any undue or unseemly noise, or otherwise. Lessee shall not, without Lessor's written consent, install or operate in or upon the Premises any machine or machinery causing noise or vibration perceptible outside the Premises. All combustible material must be kept in OSHA approved containers. In no event shall hazardous materials be stored on the Premises or in the Building.
3. Lessee shall not mark or drive nails or screws into the woodwork or walls, or paint or in any way deface the Building or any part thereof, or the Premises or any part thereof, or fixtures therein without consent of Lessor. The expense of remedying any breakage, damage or stoppage resulting from a violation of this rule shall be borne by Lessee.
4. Lessee shall have the non-exclusive right, along with other lessees of the Building, to use the parking area, or driveway apron, located on the land upon which the building is located, except for portions of the parking area necessary for entrances, exits, driveways, walkways, loading, and unloading areas. Lessor shall have the authority at any time to designate portions of the parking area for exclusive use by certain tenants in the Building, or to regulate the use of the parking areas in general.
5. Lessor assumes no responsibility for and shall not be liable for any damages resulting from any error in regard to any identification of Lessee or its employees from admission to or exclusion from the Building.
6. The Lessor shall have no responsibility for janitorial and other custodial services. Reasonable care and caution shall be used by Lessee to keep all shared facilities by tenants and administrators clean.

7. Lessor reserves the right to exclude or expel from the Building any person who, in the judgment of the Lessor is under the influence of alcohol or drugs, or someone who brings in or stores any drugs on the Premises, or who is in the judgment of Lessor, disturbing other Lessees or Lessor in any way or who shall in any manner do any act in violation of any city, state, or federal law or any of the rules and regulations of the Building.
8. Lessor shall not be responsible to Lessee for the non-observance or violation of any of these Rules and Regulations by any other tenant. Lessor reserves the right to make such other reasonable rules and regulations as may be necessary or appropriate, in Lessor's sole judgment, for the safety, care and cleanliness of the Building, and for the preservation of good order therein. Subsequent rules and regulations shall be binding upon the parties hereto the same as if inserted in this Lease at the time of execution.
9. Lessee agrees not to store any merchandise crates, goods, supplies or other materials of any kind outside the gates of the leased Premises without special permission. Lessee further agrees to remove all trash and debris from the Premises at Lessee's expense and not to burn trash or other substances in or on the exterior of, the leased Premises.
10. No sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the Premises shall be borne by Lessee who, or whose servants, employees, agents, visitors, or licensees, shall have caused the same.



(Discovery Bay Lion's Club)

By: David D. Ciruelo DATE: 8/6/15
TITLE: President



Town of Discovery Bay

"A Community Services District"

STAFF REPORT

Meeting Date

December 5, 2018

Prepared By: Michael R. Davies, General Manager
Submitted By: Michael R. Davies, General Manager

MRD

Agenda Title

Discussion and Possible Action Regarding the Community Center Swimming Pool and a Scope of Work Agreement with Terracon Consultants Inc. to Conduct a Site Assessment and Provide a Geotechnical Report.

Recommended Action

Approve a Scope of Work Agreement with Terracon Consultants Inc. to conduct a site assessment and provide a geotechnical report related to the Community Center Swimming Pool; and authorize the General Manager to execute all documents in furtherance thereof.

At the November 7, 2018 Regular Board Meeting, staff was directed to meet with a Board Ad Hoc Committee for the purpose of developing a recommendation concerning a possible expansion of the Community Center swimming pool. The Ad Hoc Committee (President Graves and Director Pease) met as directed and the following preferential recommendations were made:

- Any expansion of the pool should be by engineered design, followed by public RFP.
- Consider all project costs potentially associated with constructing an expanded pool, including but not limited to: bathroom/shower expansion, drinking fountains, parking, ingress/egress, equipment, fencing, decking, permits, etc.)
- 6-lane "L-shaped" pool, built and sized to USA Swim meet certification standards. The leg of the "L" should be a step-down 3.5' deep swim area for swim lessons and children use.
- The depth of the 6-lane competition section of the pool to be the minimums required by USA Swim certification standards for local swim meets and teaching racing starts.
- If feasible, include a detached 18' round shallow wading pool.

Staff followed-up by contacting Terracon Consultants Inc., an Aquatic Design, Pool Engineering and Geotechnical consulting company based in Concord. Staff learned that prior to producing engineering plans, a site assessment of all disciplines will need to be conducted as well as a geotechnical analysis. The site assessment will be necessary to evaluate the Community Center grounds and the surrounding area for potential impacts on the overall project, design and engineering of the pool. The geotechnical analysis is conducted to obtain information on the physical properties of the soil surrounding the swimming pool so that design engineering can ensure stability.

Terracon Consultants have produced a Scope of Work to provide a site assessment and geotechnical report. If the Board authorizes an agreement with Terracon Consultants, the assessment and geotechnical report should be ready before the beginning of February 2019. Based on those reports, the Board will understand what the pool expansion project would involve and have a better grasp of the true cost. Even under the best of circumstances, the pool could not be designed, sent out for RFP and constructed in time for the 2019 swim season; however, the pool could be ready for the 2020 season.

Estimated Scope of Work Costs;
Facility Conditions Report \$14,900
Geotechnical Engineering Services \$17,750
Total Scope of Work \$32,650

"Continued to the next page"

Representatives from Terracon Consultants are scheduled to be present at this meeting to answer Board questions.

Previous Relevant Board Actions for This Item

November 7, 2018 Regular Board Meeting

Attachments:

Terracon Consultants Inc., Scope of Work.

AGENDA ITEM: G-1

November 29, 2018



Town of Discovery Bay
1800 Willow Lake Road
Discovery Bay, California 94505

Attn: Mr. Mike Davies
P: (925) 634 1131
E: mdavies@todb.ca.gov

Re: Proposal for Geotechnical Engineering Services
Discovery Bay Community Center Swimming Pool
1601 Discovery Bay Boulevard
Discovery Bay, Contra Costa County, California 94505
Terracon Proposal No. PND185167

Dear Mr. Davies:

We appreciate the opportunity to submit this proposal to Town of Discovery Bay (TODB) to provide Geotechnical Engineering services for the above referenced project. The following are exhibits to the attached Agreement for Services.

| | |
|-----------|-----------------------------------|
| Exhibit A | Project Understanding |
| Exhibit B | Scope of Services |
| Exhibit C | Compensation and Project Schedule |
| Exhibit D | Site Location |
| Exhibit E | Anticipated Exploration Plan |

Our base geotechnical fee to perform the Scope of Services described in this proposal is \$17,750. See Exhibit C for more details of our fees and consideration of additional services.

Your authorization for Terracon to proceed in accordance with this proposal can be issued by signing and returning a copy of the attached Agreement for Services to our office.

Sincerely,
Terracon Consultants, Inc.

Hoda Alinasabbaboli, E.I.T.
Staff Engineer

Noah T. Smith, P.E., G.E.
Senior Associate

Terracon Consultants, Inc. 5075 Commercial Circle, Suite E Concord, California 94520
P (925) 609 7224 F (925) 609 5324 terracon.com

AGREEMENT FOR SERVICES

This **AGREEMENT** is between Town of Discovery Bay ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Discovery Bay Community Center Swimming Pool project ("Project"), as described in Consultant's Proposal dated 11/29/2018 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single

limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site.

Consultant: **Terracon Consultants, Inc.**
By: Noah T. Smith Date: **11/29/2018**
Name/Title: **Noah T. Smith, PE, GE / Senior Associate**
Address: **5075 Commercial Cir, Ste E**
Concord, CA 94520-8531
Phone: **(925) 609-7224** Fax: **(925) 609-6324**
Email: **Noah.Smith@terracon.com**

Client: **Town of Discovery Bay**
By: _____ Date: _____
Name/Title: **Mike Davies /**
Address: **1800 Willow Lake Road**
Discovery Bay, CA 94505
Phone: **(925) 634-1131** Fax: _____
Email: **mdavies@todb.ca.gov**

EXHIBIT A - PROJECT UNDERSTANDING

Our Scope of Services is based on our understanding of the project as described by TODB and the expected subsurface conditions as described below. We have not visited the project site to confirm the information provided. Aspects of the project, undefined or assumed, are highlighted as shown below. We request the design team verify all information prior to our initiation of field exploration activities.

Site Location and Anticipated Conditions

| Item | Description |
|---|---|
| Parcel Information | The project is located at 1601 Discovery Bay Boulevard in Discovery Bay, Contra Costa County, California. 37.9026°N 121.6010°W (approximate) (See Exhibit D) |
| Existing Improvements | The site is developed with an existing community center, tennis courts, swimming pool, mechanical room, hardscape, landscaping, and paved parking lot. |
| Current Ground Cover | Concrete hardscape, grass, and |
| Existing Topography (from Google Earth Pro) | The project site is relatively flat with an approximate elevation of 5 feet above mean sea level (MSL) |
| Site Access | We expect the site, and all exploration locations, are accessible with our truck-mounted or Superman drilling equipment and CPT rig. |
| Expected Subsurface Conditions | Geologic maps indicate subsurface conditions consist of Holocene age alluvial fan deposits. Based on previous explorations near the site and local well data, we anticipate groundwater to be located about 10 feet or deeper below existing ground surface (bgs). |
| Seismic Hazards | The project site is not located within an Alquist-Priolo Earthquake Fault Zone based on our review of the State Fault Hazard Maps. ¹ The site is located within an area mapped as having a high susceptibility to seismically induced liquefaction by the California Geological Survey (CGS). As a result, we have included a liquefaction study as part of the base scope of work covered under this proposal. We will push one to two 100-foot Cone Penetrometer Tests within the area of the new swimming pool in order to evaluate the location for liquefaction potential. |

¹ California Department of Conservation Division of Mines and Geology (CDMG), "Digital Images of Official Maps of Alquist-Priolo Earthquake Fault Zones of California, Southern Region", , 2012.

Planned Construction

| Item | Description |
|---------------------------------|--|
| Information Provided | A description of the proposed improvements was provided to Terracon by Mike Davies with the Town of Discovery Bay via email. |
| Project Description | The project will consist of the demolition of the existing 3-lane irregular shaped swimming pool and construction of a 6-lane L-shaped swimming pool. Development will also include new decking and an expansion to the swimming pool mechanical room. |
| Proposed Structure | The project will include (1) 6-lane L-shaped swimming pool approximately 3.5 to 7 feet deep. The mechanical room expansion will be single-story. |
| Proposed Construction | We anticipate the pool will consist of shotcrete construction and the mechanical room will consist of wood-frame construction with slab-on-grade floors. |
| Finished Floor Elevation | Unknown |
| Grading | We anticipate 2 feet or less of cut and fill will be required to develop final grade and up to 7 feet cuts for the proposed pool |
| Estimated Start of Construction | Unknown |

EXHIBIT B - SCOPE OF SERVICES

Our proposed Scope of Services consists of field exploration, laboratory testing, and engineering/project delivery. These services are described in the following sections.

Field Exploration

The field exploration program consists of the following:

| Number of Borings/CPTS | Planned Boring/CPT ² Depth (feet) ¹ | Planned Location |
|------------------------|---|-------------------|
| 3 | 25 or auger refusal | Planned pool area |
| 1-2 CPT | 100 or auger refusal | Planned pool area |

^{1.} Below ground surface.
^{2.} Cone penetration test

Boring/CPT Layout and Elevations: We will use handheld GPS equipment to locate borings/CPTs with an estimated horizontal accuracy of +/-20 feet. Field measurements from existing site features may be utilized. The depths and locations of the borings/CPTs may be adjusted depending upon actual subsurface conditions encountered and other limitations. If available, approximate elevations will be obtained by interpolation from a site specific, surveyed topographic map.

Subsurface Exploration Procedures: We will advance soil borings with a truck-mounted or Superman drill rig using continuous flight augers (solid stem and/or hollow stem, as necessary, depending on soil conditions). Three to four samples will be obtained in the upper 10 feet of each boring and at intervals of 5 feet thereafter. Soil sampling is typically performed using thin-wall tube and/or split-barrel sampling procedures. The split-barrel samplers are driven in accordance with the standard penetration test (SPT). The samples will be placed in appropriate containers, taken to our soil laboratory for testing, and classified by a Geotechnical Engineer. In addition, we will observe and record groundwater levels during drilling and sampling.

Our exploration team will prepare field boring logs as part of standard drilling operations including sampling depths, penetration distances, and other relevant sampling information. Field logs include visual classifications of materials encountered during drilling, and our interpretation of subsurface conditions between samples. Final boring logs, prepared from field logs, represent the Geotechnical Engineer's interpretation, and include modifications based on observations and laboratory tests.

Our fee does not include services associated with wet ground conditions or damage of existing roadbed. Our fee is also based on performing our field work during the daytime during regular

business hours (7 am to 6 pm). If we are required to work after regular business hours, our fees will need to be revised. It does not include services associated with additional site clearing. If such conditions are known to exist on the site, Terracon should be notified so that we may adjust our scope of services and fee, if necessary.

A drilling permit will be required by the Contra Costa County Department of Environmental Health (DEH) for this project. DEH requires a minimum of 7 business days to process the drilling permit. Terracon will be responsible for obtaining the DEH permit. The cost for the permit has been included in our fee.

Property Disturbance: We will backfill our borings/CPT with grout after completion per the requirements of DEH. Our services do not include repair of the site beyond backfilling our boreholes. Excess auger cuttings will be dispersed in landscape areas near each borehole. If desired, auger cuttings from the borings, can be collected in 55-gallon drums and disposed of at a receiving facility off site. If this additional service is desired, the cuttings will be tested for the presence of environmental contaminants. After results of the testing are received, the drums will be disposed of off-site at a receiving facility assuming the test results resulted in clean soil. Our itemized fee assumes the drummed soil is found clean. If the testing results in contaminated soil, we will consult with TODB regarding the options for disposal and the associated fees. Because backfill material often settles below the surface after a period, we recommend boreholes to be periodically checked and backfilled. We can provide this service for additional fees, at your request. Terracon will take reasonable efforts to reduce damage to the property, such as rutting of the ground surface. However, it should also be understood that in the normal course of our work some such disturbance could occur. Our services do not include repair of the site beyond backfilling our borehole.

Safety

Terracon is not aware of environmental concerns at this project site that would create health or safety hazards associated with our exploration program; thus, our Scope considers standard OSHA Level D Personal Protection Equipment (PPE) appropriate. Our Scope of Services does not include environmental site assessment services, but identification of unusual or unnatural materials encountered while drilling will be noted on our logs and discussed in our report.

Exploration efforts require borings (and possibly excavations) into the subsurface, therefore Terracon will comply with local regulations to request a utility location service Underground Services Alert North 811 (USA). We will consult with the owner/client regarding potential utilities, or other unmarked underground hazards. Based upon the results of this consultation, we will consider the need for alternative subsurface exploration methods, as the safety of our field crew is a priority. Given the site is developed with an active community center, the boring/CPT locations will be required to be cleared of utilities by a private locating service.

Private utilities should be marked by the owner/client prior to commencement of field exploration. Terracon will not be responsible for damage to private utilities not disclosed to us. Terracon will assist the owner/client by coordinating a private utility locating service. This service will be provided in order to help identify private utilities, ensure the safety of our field staff, and reduce the potential for damage to private utilities. Fees associated with the additional services are included in our current scope of services. The detection of underground utilities is dependent upon the composition and construction of the utility line; some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private utility locate service would not relieve the owner of their responsibilities in identifying private underground utilities. Terracon will not be responsible for underground utilities (public or private) incorrectly marked or not marked by others.

Site Access: Terracon must be granted access to the site by the property owner. By acceptance of this proposal, without information to the contrary, we consider this as authorization to access the property for conducting field exploration in accordance with the Scope of Services.

Laboratory Testing

The project engineer will review field data and assign laboratory tests to understand the engineering properties of various soil strata. Exact types and number of tests cannot be defined until completion of field work. The anticipated laboratory testing may include the following:

- Water content
- Unit dry weight
- Atterberg limits
- Unconfined compressive strength
- One dimensional consolidation
- Grain size analysis
- Direct Shear
- Corrosivity Analyses – pH, Sulfates, Chloride Ion, Electrical Resistivity

Our laboratory testing program often includes examination of soil samples by an engineer. Based on the material's texture and plasticity, we will describe and classify soil samples in accordance with the Unified Soil Classification System (USCS).

Engineering and Project Delivery

Results of our field and laboratory programs will be evaluated by a professional engineer. The engineer will develop a geotechnical site characterization, perform the engineering calculations necessary to evaluate foundation alternatives, and develop appropriate geotechnical engineering design criteria for earth-related phases of the project.

Your project will be delivered using our **GeoReport®** system. Upon initiation, we provide you and your design team the necessary link and password to access the website (if not previously registered). Each project includes a calendar to track the schedule, an interactive site map, a listing of team members, access to the project documents as they are uploaded to the site, and a collaboration portal. The typical delivery process includes the following:

- Project Planning – Proposal information, schedule and anticipated exploration plan will be posted for review and verification
- Site Characterization – Findings of the site exploration
- Geotechnical Engineering – Recommendations and geotechnical engineering report

When utilized, our collaboration portal documents communication, eliminating the need for long email threads. This collaborative effort allows prompt evaluation and discussion of options related to the design and associated benefits and risks of each option. With the ability to inform all parties as the work progresses, decisions and consensus can be reached faster. In some cases, only minimal uploads and collaboration will be required, because options for design and construction are limited or unnecessary. This is typically the case for uncomplicated projects with no anomalies found at the site.

When services are complete, we upload a printable version of our completed geotechnical engineering report, including the professional engineer's seal and signature, which documents our services. Previous submittals, collaboration and the report are maintained in our system. This allows future reference and integration into subsequent aspects of our services as the project goes through final design and construction.

The geotechnical engineering report will provide the following:

- Boring logs with field and laboratory data
- Stratification based on visual soil (and rock) classification
- Groundwater levels observed during and after the completion of drilling
- Site Location and Exploration Plans
- Subsurface exploration procedures
- Description of subsurface conditions
- Recommended foundation options and engineering design parameters
- Estimated settlement of foundations
- Recommendations for design and construction of interior floor slabs
- Seismic site classification
- Subgrade preparation/earthwork recommendations
- Liquefaction analysis
- Corrosivity test results
- Recommendations for design and construction of the swimming pool

Additional Services

In addition to the services noted above, the following are often associated with geotechnical engineering services. Fees for services noted above do not include the following:

Review of Plans and Specifications: Our geotechnical report and associated verbal and written communications will be used by others in the design team to develop plans and specifications for construction. Review of project plans and specifications is a vital part of our geotechnical engineering services. This consists of review of project plans and specifications related to site preparation, foundation, and pavement construction. Our review will include a written statement conveying our opinions relating to the plans and specifications' consistency with our geotechnical engineering recommendations.

Observation and Testing of Pertinent Construction Materials: Development of our geotechnical engineering recommendations and report relies on an interpretation of soil conditions. This is based on widely spaced exploration locations, and assuming construction methods will be performed in a manner sufficient to meet our expectations, and is consistent with recommendations made at the time the geotechnical engineering report is issued. We should be retained to conduct construction observations, and perform/document associated materials testing, for site preparation, foundation, and pavement construction. This allows a more comprehensive understanding of subsurface conditions and necessary documentation of construction, to confirm and/or modify (when necessary) the assumptions and recommendations made by our engineers.

Perform Environmental Assessments: Our Scope for this project does not include, either specifically or by implication, an environmental assessment of the site intended to identify or quantify potential site contaminants. If the client/owner is concerned about the potential for such conditions, an environmental site assessment should be conducted. We can provide a proposal for an environmental assessment, if desired.

EXHIBIT C - COMPENSATION AND PROJECT SCHEDULE

Compensation

Based upon our understanding of the site, the project as summarized in Exhibit A, and our planned Scope of Services outlined in Exhibit B, our base fee is shown in the following table:

| Task | Lump Sum Fee |
|--|-----------------|
| Project Coordination, Public Utility Locate | \$850 |
| Private Utility Locate | \$750 |
| Contra Costa County Department of Environmental Health Drilling Permit | \$1,600 |
| Field Exploration | \$9,900 |
| Laboratory Testing | \$1,950 |
| Engineering Analysis & Report Preparation | \$2,700 |
| Base Geotechnical Total | \$17,750 |

We have assumed prevailing wage is required for this project.

Additional services not part of the base fee include the following:

| Additional Services (see Exhibit B) | Lump Sum Fee | Initial for Authorization |
|--|--------------|---------------------------|
| Soil Cutting Testing and Off-site Disposal | \$2,800 | |
| Plans and Specifications Review | \$650 | |
| Construction Materials Testing Services | TBD | |

Our Scope of Services does not include services associated with site clearing, wet ground conditions, tree or shrub clearing, or repair of/damage to existing landscape. If such services are desired by the owner/client, we should be notified so we can adjust our Scope of Services.

Unless instructed otherwise, we will submit our invoice(s) to the address shown at the beginning of this proposal. If conditions are encountered that require Scope of Services revisions and/or result in higher fees, we will contact you for approval, prior to initiating services. A supplemental proposal stating the modified Scope of Services as well as its effect on our fee will be prepared. We will not proceed without your authorization.

Project Schedule

We developed a schedule to complete the Scope of Services based upon our existing availability and understanding of your project schedule. However, this does not account for delays in field

exploration beyond our control, such as weather conditions, permit delays, or lack of permission to access the boring locations. In the event the schedule provided is inconsistent with your needs, please contact us so we may consider alternatives.

| <i>GeoReport</i> ® Delivery | Posting Date from Notice to Proceed ^{1, 2} |
|-----------------------------|---|
| Project Planning | 3 days ³ |
| Site Characterization | 20 days (pending availability of drill rig) |
| Geotechnical Engineering | 25 days |

1. Upon receipt of your notice to proceed we will activate the schedule component of our *GeoReport*® website with specific, anticipated calendar days for the three delivery points noted above as well as other pertinent events such as field exploration crews on-site, etc.
2. We will maintain a current calendar of activities within our *GeoReport*® website. In the event of a need to modify the schedule, the schedule will be updated to maintain a current awareness of our plans for delivery.
3. Business days.

EXHIBIT D – SITE LOCATION

Discovery Bay Community Center Swimming Pool ■ Discovery Bay, Contra Costa County, California
November 29, 2018 ■ Terracon Proposal No. PND185167

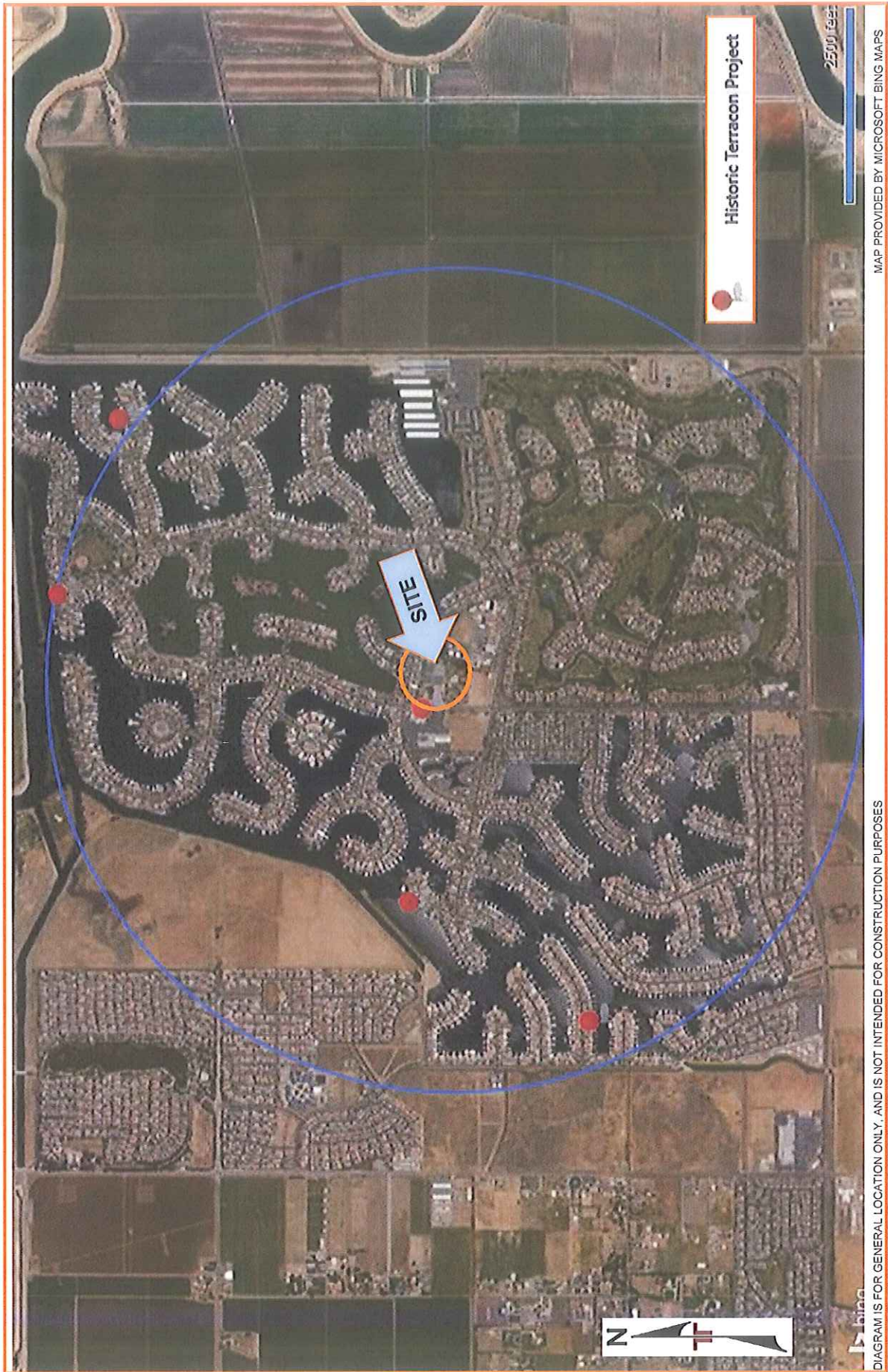


DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

EXHIBIT E – ANTICIPATED EXPLORATION PLAN
Discovery Bay Community Center Swimming Pool – Discovery Bay, Contra Costa County, California
November 29, 2018 – Terracon Proposal No. PND185167

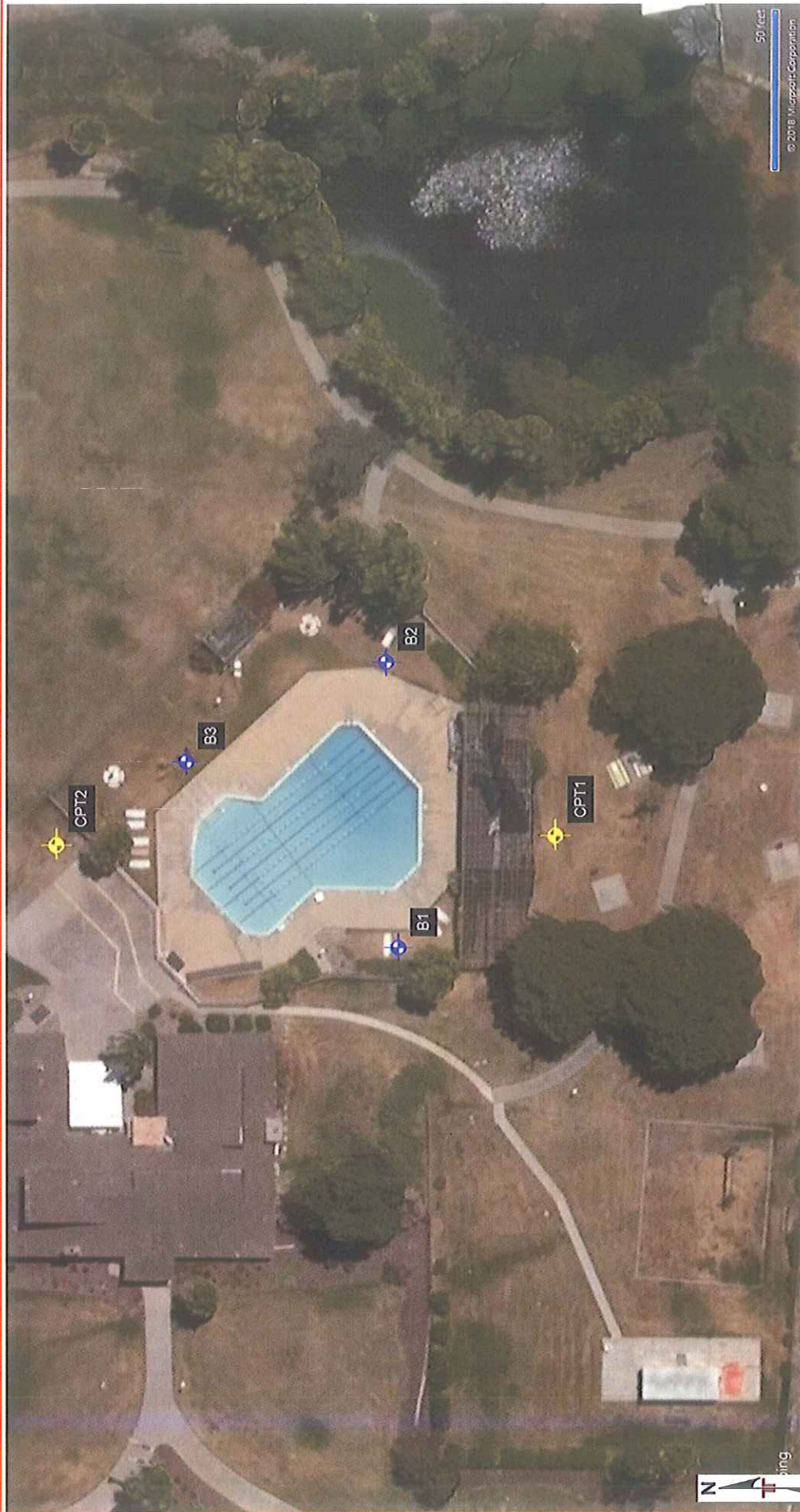


DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

MAP PROVIDED BY MICROSOFT Bing MAPS



November 30, 2018

Mr. Mike Davies
General Manager
Town of Discovery Bay
1800 Willow Lake Road
Discovery Bay, CA 94505

Telephone: (925) 634-1131
E-mail: mdavies@todb.ca.gov

Proposal #: PBE #186102

SUBJECT: **Town of Discovery Bay Community Center Pool – Facility Condition Report
Discovery Bay, California**

Dear Mr. Davies,

Terracon Consultant, Inc (Terracon) appreciates the opportunity to submit this proposal to the Town of Discovery Bay to conduct a Facility Condition Assessment (FCA) of the above referenced property.

Terracon provides professional consulting services through our nationwide network of offices covering four related disciplines that include: Environmental, Facilities, Geotechnical and materials. For more information on all of Terracon's services, please visit our website at <http://www.terracon.com>. Terracon has a 100% commitment to the safety of its employees and professional relations. As such, Terracon will conduct our services in accordance with our incident and injury free culture.

1.0 PROJECT INFORMATION

We understand that the Client is requesting a facility condition assessment for the existing swimming pools and buildings' physical and mechanical condition to determine immediate and longer term upgrades and/or rehabilitation, and provide recommendations for future consideration. The facility condition assessment will prioritize maintenance, repairs and replacement of building systems, and include budgetary cost information to assist in funding future projects. In order to accomplish this objective, the Client seeks to obtain the services of a professional team with the knowledge and capabilities to cost-effectively assist in assessing the condition and life cycle costs of repair and maintenance of these assets.

The Consultant will provide professional design and engineering consulting services to the Client to evaluate the condition of the existing swimming pools, bath house, pool mechanical buildings, storage rooms, and facility entry. For the purposes of this proposal, bath house, pool mechanical buildings, storage rooms, and facility entry are hereafter defined as "Facility Assets." The Consultant will provide a written report of findings and recommendations, probable construction cost estimates, and rough operating cost estimates to the Client. The Consultant will assist the Client during the study process, provide timely information as requested, and conduct one (1) one-day site visit (including travel).

The assumed subject property boundary is presented below. The FCA shall be limited to the pool, Pool House, and Site/Civil improvements.



If this information is not accurate or if you have additional information, please inform us immediately so that we may appropriately revise this proposal.

2.0 SCOPE OF SERVICES

The following presents a summary of our proposed scope of work, schedule, reliance, and compensation. Please review Attachment A of this proposal which presents our full scope of work, requirements, assumptions and limitations.

1.1 Scope Summary

| | |
|------------------------------|--|
| Base Scope of Work | Base Facility condition assessment with ADA Uniform Abbreviated Screening Checklist in accordance with ASTM 2018-15. |
| Optional Additional Services | Refer to Compensation Table in Section 3.0 and Section A.1. |
| Minimum Repair Threshold | \$3,000 |
| Replacement Reserve Term | 10 Years. |
| Report Deliverables | Property Condition Report with Repair Cost Tables. |

2.2 Schedule

Services will be initiated within 3 weeks upon receipt of written notice to proceed. The draft report will be submitted within 10 business days after receipt of your written notice to proceed, assuming site access can be obtained within 3 business days after the notice to proceed. The final report will be submitted within 5 business days following receipt of Client's comments on the draft report.

2.3 Reliance

The FCA report will be prepared for the exclusive use and reliance of City of Cupertino Reliance by any other party is prohibited without the written authorization of the Client and Terracon. Refer to Section A.3 of the attached scope of work for additional information.

3.0 COMPENSATION

The following table presents our proposed fee for services offered in this proposal. Additional fees may be charged if our field activities are delayed, postponed or otherwise effected in anyway by site conditions, the Client or other parties. Additional fees may be charged for revisions, requested by Client, to any final report after submittal.

| TASK | Lump Sum Fee | Authorized* |
|---|-----------------|--|
| Base Facility Condition Assessment Services with Aquatics – (includes ASTM E2018–15 Accessibility Survey) | \$14,900 | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Lump Sum Total | \$14,900 | \$ _____ |

* Check the "Yes" box provided to authorize Services. If the box is checked, Terracon assumes the service is not authorized.

4.0 AUTHORIZATION

Our work will be performed in accordance with the Terms and Conditions of the attached Agreement for Services (AFS), the terms of which will control in the event of any conflict with this proposal. To authorize us to proceed with the scope of services presented in this proposal, please sign and date the space provided within the AFS. Project initiation may be expedited by sending a copy of the signed AFS via e-mail to matthew.reynolds@terracon.com.

We appreciate the opportunity to provide this proposal and look forward to working with you on this project. If you have any questions or comments regarding this proposal or require additional services, please contact us.

Sincerely,
Terracon Consultants, Inc.



Ron Bravo
Project Manager
Facilities / Aquatics Services



Matthew Reynolds, P.E.
Department Manager
Facilities / Aquatics Services

Attachments: Requested FCA Information Form
Attachment A – Scope of Services
Agreement for Services

Accepted this _____ day of _____, 2018

Mr. Mike Davies

Signature

Printed Name

Client Information:

Mr. Mike Davies
General Manager
Town of Discovery Bay
1800 Willow Lake Road
Discovery Bay, CA 94505

Telephone: (925) 634-1131
E-mail: mdavies@todb.ca.gov

REQUESTED FCA INFORMATION

➤ **Make arrangements prior to the visit as necessary concerning EACH tenant:**

- Someone who is knowledgeable about the specific Property and has all access to locked areas and roofs should accompany us throughout the visit.
- We need to view the major equipment such as but not limited to: HVAC, Electrical, Plumbing, Sprinklers, etc.
- ALL "down" (unlettable) spaces should be shown us.
- We need to observe virtually all types of spaces: garages, basements, under-sidewalk vaults, etc.
- Pre-arrange a visit into tenant spaces of all buildings, as is reasonably possible. ADA facilities **must** be included.
- Roofs (low-slope): Terracon needs access to these locations. **Provide all OSHA-approved portable ladders as needed, OR arrange for your roofer to be on-site, if necessary.** Unlock roof hatches.
- Attics under sloped roofs: A reasonable number of attic spaces shall be observed during our visit. **Provide all OSHA-approved portable ladders.**

➤ **Please provide us with COPIES of applicable INSPECTION & TEST documents prior to or during our site visit, such as the following.**

- Site schematic plan (small scale);
- Certificate of Occupancy;
- Rent Roll;
- Prior engineering studies performed;
- most recent fire / building / health department inspections;
- Fire sprinkler tests;
- Fire alarm tests;
- Fire pump tests;
- Elevator/escalator/lift inspection certificates;
- Elevator Load tests
- Recent capital expenditures history
- Planned major capital expenditures budget
- Health department inspections/permits (swimming pool inspection/service certificates; commercial food);
- Boiler inspection certificates;
- Roof warranties;
- Emergency electric generator test;
- Violations against Codes / Zoning / ADA;
- Specific zoning variations granted for your site

➤ **We need to examine any of the following (where reasonably available):**

- Site Survey drawing;
- Architectural drawings;
- MEP / Civil Engineering Drawings;
- Geotechnical report;
- Termite inspections;
- Mold tests (if any);
- Roof surveys (infrared, cores, etc.)
- Proposals for major repair/replacement work such as: parking garage repairs, MEP equipment operation;
- Projected future Capital Improvements with approximate individual dollar amounts for next one-to-five years.
- Bid costs or dollar budgets for on-going & proposed remedial / upgrade capital improvements work;

NOTE: A pre-site visit Facility condition assessment Questionnaire will be forwarded to site management/Client upon receiving a signed agreement, or sooner if you immediately request. Requested documents are most beneficial when furnished on-site and concurrent to the site visit.

Attachment A

Scope of Services

A.1 Base Facility condition assessment (FCA)

General Comments, FCA: The Scope of Work will be in general conformance with ASTM E 2018 – 15, Standard Guide for property condition assessments: Baseline property condition assessment Process. Property Condition Reports are primarily directed at noting construction defects; components which appear to exhibit less than expected useful service life or which have been poorly maintained; and building systems which are at or are nearing the end of their estimated useful service life. These services are visual in nature, and unless specifically requested or addressed in this proposal, the scope of these services will not include obtaining and testing materials, operating equipment, intrusive investigation, nor performing calculations to determine the adequacy of the existing design. Our scope of services specifically excludes the evaluation of plans or as-built construction to determine strict compliance with building codes, ordinances, and regulations, which may govern development or operation of the property. It is the intent of the scope of work to identify and provide a general opinion of the condition of building and site improvements. It is not designed to be considered a property inspection, or all-inclusive effort to locate and document every defect, maintenance issue, or deficient building system and is not designed to provide a warranty or guarantee of the condition of the property. This assessment will not address any State Laws or regulations for the operation of Facilities and will not address any of the FF&E related equipment. We will not confirm the presence or absence of asbestos, PCBs, mold, or contaminated soils on the property. The services of separate outside specialized consultants is not anticipated and not included within this proposal unless specifically noted. Our services are not intended to be used to develop detailed remedial plans for identified problems.

Immediate Repair Cost Estimate Table: The Immediate Repair Cost Analysis will include estimated costs for 'one time' repairs or replacements needed to bring the property to a sound, safe, and fully habitable condition. Immediate repairs include i) any items which pose potential danger to the health, safety, or well-being of building occupants, visitors, or passersby such as structural deterioration and failures, inoperable fire alarm systems, significant tripping hazards, building code violations; ii) items affecting tenancy or marketability such as lack of running water, out of service units, extensive damage caused by storm, fire or earthquake; iii) significant deferred maintenance items or non-working building systems such as HVAC systems, parking area repairs, broken windows and/or doors, leaking roofs, pest or rodent infestations; iv) building systems or system components that have far exceeded their expected useful life and require replacement or upgrade. Repair/replacement items of less than the proposed repair threshold may not be identified, or be designated as routine maintenance in the narrative of the Report if mentioned.

Replacement Reserve Cost Estimate Table: The Replacement Reserve analysis will include anticipated replacement for major component items typically defined as predictable and in some instances to be recurring within a specified agreed upon term of analysis. Items anticipated to be less than the proposed threshold to repair or replace are generally considered to be part of routine maintenance and are generally omitted from the Replacement Reserve. Unless specifically required, these costs are not intended to represent enhancements or upgrades to the existing property. The analysis is based on available and provided information along with the

physical assessment of the property. Our assessment will take into account such things as maintenance logs and historical capital expenditures and scheduled or in-progress capital improvement programs that we are informed of. We otherwise are making assumptions based on observed conditions. The remaining life values are based on published historical performance data for comparable items with consideration for the present condition and reported service history. The cost estimates are provided in present day values. The annual costs are summed up in both present day values and the inflated amount. The actual inflation rate may vary over the length of the term.

The analysis, comments, and recommendations presented in the final Reports will be limited to and based on the information collected as discussed in this proposal. Please note that Terracon is not responsible for the work of regulatory agencies or other third parties supplying information used in the compilation of Reports.

Specific components of the Terracon FCA are described below.

General Property Information: A pre-visit Questionnaire will be furnished so that appropriate personnel knowledgeable about the site can supply their written answers about the property's characteristics. The completed Questionnaire will be reviewed while on-site with the technical staff of the subject property. Documents requested by this Proposal and by the Questionnaire should be supplied as copies for our retention. The FCA will entail preliminary reviews of available and relevant drawings, specifications, reports and records that are furnished to us, including brief interviews with the tenant representatives, property manager and/or maintenance personnel who may have knowledge about the property.

Site Observations: A building engineer or maintenance staff member familiar with this property and its history should accompany us during our initial walk-through of the building(s). During the site visit, visual observations will be made to note general conditions such as obvious problems and visible defects in the materials and building systems. If we have concerns about specific items, which may require additional investigation, we will notify you accordingly. Observations will be made from readily accessible areas. We will not enter crawl or confined space areas nor dismantle components.

Aquatics: The purpose of aquatics portion of the assessment is to observe and evaluate the current condition of the existing pools, the pool equipment, and the mechanical and sanitization system and equipment, in addition to the Facility Assets. During this site visit, the Terracon representative will participate in Client and User Group meetings to discuss aquatic programming desires. An observation of the pools and pool related areas will be performed during the review to determine whether general conformance with applicable codes (e.g. ADAAG, VGB, CBC 31B, etc.) and requirements has been met.

Site / Civil: The purpose of the Site Civil portion of the assessment is to observe and report on the general condition of site infrastructure and improvements which include the site utilities, site drainage, paving, sidewalks, site signage, lighting, and the landscaping. This will be accomplished by reviewing plans and observing visible components of the site. Site Civil drawings are requested to be provided for our reference in order to assist in understanding the systems that may affect the subject site. The types of materials, general conditions, and our repair recommendations will be included in the Report. We will not observe sub-surface utilities nor access manholes and utility pits. No calculations will be performed. The services of a specialist, such as a civil engineer or land surveyor, are not included in the Base fee or this

scope. Assessment of playground, horse shoe courts, volleyball courts, and bocce ball courts is not a part of this scope of work.

Structural: The purpose of the Structural portion of the assessment is to describe the general structural systems observed. We will perform a site walk-through to identify visible conditions which might suggest structural problems. No calculations will be performed. The services of a specialist such as a structural engineer are not included in the Base fee or this scope.

Exterior Building Envelope: The purpose of the Exterior Building Envelope portion of the assessment is to visually review and assess the type and condition of materials used in construction of the exterior building envelope. Our observations will include visual review of exterior walls, windows, doors, caulk, trim, and siding for overall integrity of the systems and their apparent ability to resist moisture infiltration. Our observations will be made from the ground or roof as appropriate and as can be safely performed. No facade drops will be performed. If an exterior wall investigation (forensic review) is desired by the Client, additional work will be conducted under a separate agreement. The services of a specialist, such as a façade consultant, are not included in the Base fee or this scope.

Roofing: We will report on the in-place roofing system. We will visually assess its general condition based on site observations of the roofing membrane, flashing, penetrations and expansion joint details, and the general performance of the drainage system. No roof cores or testing will be conducted. If reasonably accessible, the underside surface of the deck and a sampling of attic spaces will also be observed to determine if there is evidence of infiltration leakage. Steep-slope roofs will not be walked. Access to low-slope roofs must be provided or otherwise arranged by Client, including OSHA-approved portable ladders, as needed. The services of a specialist, such as a roofing consultant, are not included in the Base fee or this scope.

Mechanical, Electrical, and Plumbing (MEP): The purpose of the MEP portion of the assessment is to briefly view a representative sampling of the MEP equipment, to note the type of systems used and to report on the apparent operating condition based solely on visual observations (or deficiencies reported to us by on-site/owner representatives). The observations will be used to recommend replacements and/or repairs. The equipment will not be dismantled, operated, or tested by Terracon. The services of a specialist, such as a MEP consultant, are not included in the Base fee or this scope.

Conveyance and Vertical Transportation (if applicable): The purpose of the conveyance portion of the assessment is to briefly view available documents to note the type of systems used and apparent operating condition. Field observations will be used to comment on replacements and/or repairs that may be required. The services of a specialist, such as an elevator / escalator consultant, are not included in the Base fee or this scope.

Interior Finishes: The purpose of the interior finishes portion of the assessment is to note finishes that are in place, assess the condition of the common area elements and the finishes within a representative percentage of accessible tenant spaces and comment on needed replacements and/or repairs that may be required. The number of tenant spaces and areas within the tenant spaces entered will depend on availability of property management staff to provide access. Assessment of fitness equipment, if present, is not a part of this scope of work.

Life Safety / Fire Protection Systems: The purpose of the Life Safety/Fire Prevention Systems Assessment will be to identify the systems that exist within the property. Fire alarms, sprinkler systems, fire extinguishers, smoke detectors, and emergency egress lighting and signage will be among the items we assess. We will identify third party fire or security alarm monitoring firms under contract, and inquire regarding the inspection history of these systems. Scope does not include determining NFPA hazard classifications, identifying, classifying, or testing fire rating of assemblies. Determination of the necessity for or the presence of fire areas, fire walls, fire barriers, accessible routes, construction groups or types, or use classifications is excluded from this scope of work as well as, valuating the flammability of materials and related regulations. Equipment will not be operated or tested by Terracon. The services of a separate fire protection consultant are not included in the Base fee or this scope.

Americans with Disabilities Act (ADA): The purpose of this assessment will be to document the accessibility of public areas of the site and buildings as defined by the American with Disabilities Act of 1990 (ADA) and subsequent revisions. An observation of the public areas of the building and site access will be performed during the review to determine whether general conformance with applicable requirements has been met. The scope is limited to the determination of general compliance with the physical attributes of the property and is not considered to be a full survey.

Observed non-conformance with the specific disability guidelines will be noted in our Report. Our evaluation will not include testing of decibel levels of fire alarms, measuring tolerances, light level recording, or other disruptive tests. Our evaluation will be limited to the items addressed in Uniform Abbreviated Screening Checklist for the 2010 ADA per ASTM E2018-15 format.

An ADA Cost Estimate Table will be included with our Immediate and Capital Reserve tables. Cost are provided for informational purposes only and may not include cost for design services, legal advice, or local code requirements. Recommended repairs may or may not be required depending on project specific parameters.

The services of a specialty accessibility consultant are not included in the Base fee or this scope. For a Full ADA Survey see additional services of this proposal.

Limited Local Agency Review: The purpose of the review is to determine if the facility is in general conformance with governing municipal (zoning and building) codes. We will contact by phone, email, submittal of municipal on-line information request forms, or make written request to the appropriate agencies. Responses from agencies not received by will not be further pursued beyond the initial inquiry without compensation for Terracon's time and cost reimbursements. Usage of code specialist consultants is not included in any Base fee or scope of services. We will inquire concerning the status of Certificates of Occupancy, and whether there are outstanding records or complaints pertaining to building code matters on file for the property. We do not intend to review plans, permits, or testing and inspection reports on file at governmental or other agencies. If significant code deficiencies are noted, recommendations for necessary changes or further assessment will be provided including an opinion of costs for necessary modifications, upgrades, or review.

We will initiate inquiries with the governing agency regarding zoning of the parcel(s) for compatibility with the existing development. We will determine in which flood and seismic zones the subject property lies.

We will initiate contacting the local fire department and inquire if there are currently or have been past recorded fire code violations. We will inquire whether the local fire department conducts routine inspections and any pertinent information from past inspections, if applicable.

Where our assessments entail obtaining updated information from government agencies and/or commercial databases, such responses from these agencies may not be received within the proposed time schedule for reporting our findings, but will be sent to the Client under separate cover if significant findings are reported. The services of a separate zoning or code consultant are not included in the Base fee or this scope.

Reporting and Deliverables:

We will provide a Property Condition Report including Repair Cost Tables, Photo Logs, and appropriate supporting documentation.

Offered Supplemental FCA Services beyond base scope:

The following Optional Supplemental Services are offered in this proposal. Please indicate which services are approved in the Compensation Table presented in Section 3.0.

A.2 Schedule

The proposed project Schedule is presented in Section 2.2 of this proposal. In order to comply with the proposed schedule, please provide the following items at the time of notification to proceed or prior to our scheduled site visit.

- Authorization evidencing acceptance of this scope of services
- Right of entry to conduct the assessment, including access to building interiors and roof
- Notification of any hazards, restrictions, or special requirements (such as confidentiality, scheduling, or on-site safety requirements) regarding accessing the site
- An accurate legal description and/or a diagram of the site such as a ALTA/ACSM Land Title Survey or scaled architect's drawing (if such diagrams exist)
- Current site owner, property manager, occupant information (including tenant list), and contact information for persons knowledgeable about the site history
- Knowledge that the purchase price of the site is significantly less than the purchase price of comparable properties
- We require that an on-site contact person and other key individuals who may have knowledge of the history of the property be identified and made available during our site visit.
- Someone who is knowledgeable of the facility is requested to answer Terracon's Pre-Survey Questionnaire.
- Verification of the number of buildings, address, age and area.
- If available, any building and site plans, original construction plans and specifications, prior environmental, geotechnical or engineering reports and other appropriate

documents prior to the site visit. We request that we retain such documents until the completion of our report.

- Access to all parts of the building, including the roof(s), attic(s) mechanical and electrical rooms, fire equipment and all tenant spaces. If an exterior ladder is to be used, it shall meet OSHA standards. The ladder will be set up by a representative of the Owner and that person will assist the Terracon representative by way of affixing the ladder above or holding the ladder below while it is in use.
- Listing of any recent or planned capital improvement or major repair expenditures.
- Access to recent repair order files.
- Copies of current elevator certificates, certificates of occupancy and original building permits.
- Notification of any restrictions or special requirements (such as confidentiality) regarding accessing the site.

Please note that requested regulatory files or other information may not be provided to Terracon by the issuance date of the report. Consideration of information not received by the issuance date of the report is beyond the scope of this FCA.

A.3 Reliance

If the Client is aware of additional parties that will require reliance on the FCA report, the names, addresses, and relationship of these parties should be provided for Terracon approval prior to the time of authorization to proceed. Terracon may grant reliance on the FCA report to those approved parties upon receipt of a fully executed Reliance Agreement (available upon request) and receipt of information requested in the Reliance Agreement. If, in the future, the client and Terracon consent to reliance on the FCA report by a third party, Terracon may grant reliance upon receipt of a fully executed Reliance Agreement, requested information and receipt of an additional minimum fee of \$500.00 per relying party.

Reliance on the FCA report by the Client and all authorized parties will be subject to the terms, conditions, and limitations stated in the Agreement referenced in this proposal incorporated therein, the Reliance Agreement, and FCA report. The limitation of liability defined in the Agreement is the aggregate limit of Terracon's liability to the client and all relying parties.

A.4 Limitations

The findings and conclusions presented in the final report will be based on the site's current utilization and the information collected as discussed in this proposal. Please note that we do not warrant database or third party information (such as from interviewees) or regulatory agency information used in the compilation of reports.

Assessments, such as the one proposed for this site, are of limited scope, are noninvasive, and cannot eliminate the potential hidden conditions are present beyond what is identified by the limited scope of these reports. In conducting the limited scope of services described herein, certain sources of information and public records will not be reviewed. It should be recognized that concerns may be documented in public records that are not reviewed. The FCA does not include invasive assessments or other services not particularly identified and discussed herein. No assessment can wholly eliminate uncertainty regarding the potential for hidden conditions.



The limitations herein must be considered when the user of this report formulates opinions as to risks associated with the site. No warranties, express or implied, are intended or made.

An evaluation of significant data gaps will be based on the information available at the time of report issuance, and an evaluation of information received after the report issuance date may result in an alteration of our opinions and conclusions. We have no obligation to provide information obtained or discovered by us after the date of the report, or to perform any additional services, regardless of whether the information would affect any conclusions, recommendations, or opinions in the report. This disclaimer applies to any information that has not been provided by the Client, government agencies or third party.

DRAFT REPORT ADVISORY: Costs and information contained in Draft Reports, if included, may be subject to additional input or further analysis prior to the issuance of the final report. This ongoing activity could ultimately alter the conclusions and data contained in the Draft Report. Draft-status information or partial release of a Report should only be utilized by interested parties with the knowledge that minor or substantial changes in the evaluations or recommendations could occur before the final Report is issued. Decisions and actions by the Client based on information contained in a Draft Report, prior to issuance of the final report should be undertaken only after careful review of this cautionary advisory.

A.5 Fee Assumptions and Invoicing

The proposed fees, costs, and reimbursable expenses, if any, assume:

- These fees are contingent upon being awarded all services proposed herein.
- Safe and timely access is provided to the site, mechanical rooms, and all flat roof areas. We have assumed there will be no delays related to access.
- Work will be performed during one site visit. Multiple or disjointed mobilizations and accessing the site outside normal business hours may require additional fees.
- No time is included in our Fee for reviewing additional documents or other information after the final report is submitted.
- If local code officials, such as planning, building, or fire code departments require a fee to provide code violation documentation, this cost plus 15% will be passed on to the Client.
- Unless included as an additional service, Client acknowledges that no specialty consultants have been requested as part of the scope of work. No additional consultants or outside contractors are included in this Base Fee for any supplemental, specialty, or other forensic evaluations. We may recommend additional evaluations by specialist based on conditions observed.
- If requested, Terracon can provide our standard Commercial General Liability and Automobile Insurance Certificates naming Client, Seller, and the Seller's Property Management as Additional Insured parties.



The fee is valid for 90 days from the date of this proposal and is based on the assumption that all field services will be performed under safety Level D personal protective procedures and that only one site visit will be made by Terracon personnel. The fee is based on the assumptions and conditions provided to us at the time of this proposal. If our assumptions conditions are not valid, there may be additional charges to the Client.

Invoicing and Payment

Consultant fees and expenses will be invoiced to Client as a percentage of completion. The Client shall honor invoice according to the payment terms presented in the Agreement.

AGREEMENT FOR SERVICES

This **AGREEMENT** is between Town of Discovery Bay ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Discovery Bay Swimming Pool project ("Project"), as described in Consultant's Proposal dated 11/30/2018 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$10,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii)

commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to California law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site.

Consultant: **Terracon Consultants, Inc.**
By: *Matthew Reynolds* Date: **11/30/2018**
Name/Title: **Matthew A Reynolds / Department Manager II**
Address: **5075 Commercial Cir, Ste E
Concord, CA 94520-8531**
Phone: **(925) 609-7224** Fax: **(925) 609-6324**
Email: **Matthew.Reynolds@terracon.com**

Client: **Town of Discovery Bay**
By: _____ Date: _____
Name/Title: **Mike Davies /**
Address: **1800 Willow Lake Road
Discovery Bay, CA 94505**
Phone: **(925) 634-1131** Fax: _____
Email: **mdavies@todb.ca.gov**



Town of Discovery Bay

"A Community Services District"

STAFF REPORT

Meeting Date

December 5, 2018

Prepared By: Gregory Harris, District Engineer, Herwit Engineering
Submitted By: Michael R. Davies, General Manager

MRD

Agenda Title

Diffuser Permit Assistance - Apply for the necessary permits to repair the damaged diffuser outfall in Old River.

Recommended Action

Authorize Advisian (WorleyParsons Group) to apply for the necessary permits to construct repairs to the diffuser outfall in Old River. Permits include the State Lands Commission, the Army Corps of Engineers, and the California Fish and Wildlife. Contract amount is \$34,735. This does not include the application fee or other permit costs directly to each public agency.

Authorize the General Manager to execute all contracts and up to 10% change orders if needed.

Authorize the General Manager to pay the cost of the applications and any other permit costs to each agency once those costs are worked out based on the applications submitted by Advisian.

Executive Summary

The Town's wastewater effluent leaving Treatment Plant No. 2 is pumped approximately one mile to Old River where it is discharged through diffusers with multiple diffuser ports to mix the effluent into Old River. The diffuser was constructed in December 2004 to comply with previous Notice of Violation by the Regional Water Quality Control Board.

A diver was hired to inspect the diffuser in 2013. The inspection report indicated several of the diffuser ports are missing and a portion of the diffuser has become plugged and no longer operates properly. During startup of the filtration project, testing of the effluent pump station showed the pump station can no longer pump 4 million gallons per day (MGD) of flow to Old River. 4.3 MGD is the design flow of the pump station and was demonstrated when the pump station was tested in 2004 after the diffuser install. The capacity of the effluent filtration and UV system is 4 MGD and the effluent pump station needs to be able to pump at least that much flow for the plant to properly handle peak wastewater flows. The most likely cause of the poor performance of the export pump station is the plugged diffuser.

Based on this information, the Town previously hired Advisian to prepare a report on options and costs to repair the diffuser. This report was completed in June 2018. From this report, Option 4 to repair the diffuser in place with a larger header pipe was selected as the best alternative going forward by Town Staff. The Town set a CIP Budget cost of \$500,000 for the permits, engineering, and construction of the diffuser repairs.

A copy of the June, 2018 report and the current proposal for permitting assistance is attached for reference.

HERWIT will assist the Town and coordinate activities for the project under their general services agreement with the Town.

Once a response to the permitting applications is received, the Town will be in position to obtain proposals for Engineering services to repair the diffuser. At that time, the engineering proposal will be brought to the board for authorization.

"Continued to the next page"

Fiscal Impact:

Amount Requested \$34,735

Sufficient Budgeted Funds Available?: No (If no, see attached fiscal analysis)

Prog/Fund # Category: Pers. Optg. Cap. -or- CIP# Fund#

Previous Relevant Board Actions for This Item -

Authorization for construction of outfall diffuser in 2004.

Authorization to hire Advisian to prepare a diffuser report October 2017.

Attachments

Advisian Proposal June 2018 Report, Advisian Proposal for Permitting Services.

AGENDA ITEM: G-2



08 June 2018

Proj. No.: 308010-00159

Gregory Harris
Herwit Engineering
6200 Center Street
Suite 310,
Clayton, CA 945117

Dear Mr. Harris:

Re: Sanitary Outfall Assessment for the Town of Discovery Bay

1. Introduction

Herwit Engineering (Herwit), on behalf of the Town of Discovery Bay California (TDBC), has requested WorleyParsons Group Inc. (WorleyParsons) to complete an assessment of their sanitary outfall (outfall). The outfall is used to discharge treated effluent from the TDBC wastewater treatment plant into the Old River and in past years has experienced diminishing discharge capacity. In addition, concerns have been raised that discharge pumping capacity of the plant has been reduced; this may be due to plugged sections of the outfall and/or reduced capacity of the pumps.

The following assessment includes an evaluation of the outfall existing conditions, a review of the system hydraulics, site investigations including closed circuit television (CCTV) camera inspection, a review of underwater surveys, and recommendations for upgrades/repair measures.

2. Background Information

2.1 Project Site

The project sanitary outfall is located in eastern Contra Costa County, California about 60 miles from San Francisco, in a section of the Old River flanked by earthen levees. The site is located adjacent to the west levee (left river bank) and south of the Contra Costa Water District (CCWD) Los Vaqueros Pump Station. Based on the Kleinfelder Inc. geotechnical report (2004), the Old River at the site location has the following tidal water level fluctuations and information:

- 100-year Flood Elevation – 7.5 feet (ft.)
- Mean High Water Elevation – 2.4 ft.
- Mean Higher High-Water Elevation – 3.5 ft.



- Mean Lower Low Water Elevation – -0.5 ft.
- Extreme Low Water Elevation – -2.0 ft.
- Flow velocity – 3 to 4 ft./s

2.2 Original Design Specifications

The existing outfall diffuser is comprised of a multi-port diffuser system developed by Flow Science Inc., as noted in their Dye Study (December 2002).

The outfall concept (Komex 2004a, Komex 2004b) approved by the Regional Water Quality Control Board (RWQCB), consisted of the following:

- Total outfall length 228.5 feet (actual pipe length from the levee connection point);
- HDPE Pipe Diffuser length 123 ft. including concentric reducer length;
- Outfall diameter 18 inches (in.), 10 in., and 6 in.;
- Number of diffuser ports 36;
- Port spacing average of 3 feet between ports; and
- Port diameter 2 in. Series 35 Longneck Tideflex Valve

2.3 Previous Site Investigations - 2013 Underwater Survey

On May 15, 2013, Bishop Diving & Salvage completed an underwater visual inspection of the outfall including 123 ft. of HDPE pipe comprised of 18 in., 10 in. and 6 in. pipeline segments. The result of the inspection revealed that, out of the 36 diffuser ports, 2 of them were missing and no flow (except for one port) was observed in the 6-in. pipeline segment (16.5 ft. long).

3. Site visit

On December 7, 2017, WorleyParsons representatives visited the site to inspect the outfall condition. The site activities included visual inspection of the outfall (above water) and a CCTV camera inspection completed by Subtronic Corporation.

From the visual inspection, no damage of the outfall was observed above water, and no erosion along the bank slope existed. Good vegetation growth was observed next to the outfall along the bank slope as shown in Photo A.

Photo A **Old River West Bank (looking NW)**



Due to reduced clearance at the entrance point (opening at the removed Harris syphon breaker) (Photo A) the CCTV camera inspection was completed and televised using a push/rod reel with self leveling color camera and footage counter. The inspection did not reveal significant obstruction of the 18 in HDPE segment (70 ft.), except for algae growth along the walls of the pipe. Similar to the 18 in segment, algae growth was observed in the 10 in HDPE segment (30.5 ft.). At approximately 152 ft. (station 0+190 ft., C2 diffuser design drawing, Komex 2004a) the CCTV camera experienced a blockage in the 10" segment and was not able to proceed further into the pipe. As a result, no footage was recorded beyond this point. No details of the 6 in HDPE segment were obtained. It is assumed that this segment may be partially or fully obstructed (with reduced flow capacity) as described in the 2013 and 2017 (section below) underwater survey. Video files CCTV camera inspection were mailed to TDBC and Herwit.

Also, as part of the site visit, a pump test was completed for all of the five vertical turbine pumps (Photo B) at the wastewater treatment plant. The test procedure was to allow the lift station sump to fill to its volume capacity and then activate the pumps to its maximum flow. Recordings were made for approximately 5 to 10 minutes obtaining reading from the flow meter and pressure head for the pump gauges. It is important to note that one of the pump gauges (first pump from north to south) was not operating, so readings were obtained for 4 out of the 5 lift station pumps. The result of the pump test indicated an average flow of 3.11 MGD for an approximate pumping head of 20 psi gauge (psig).



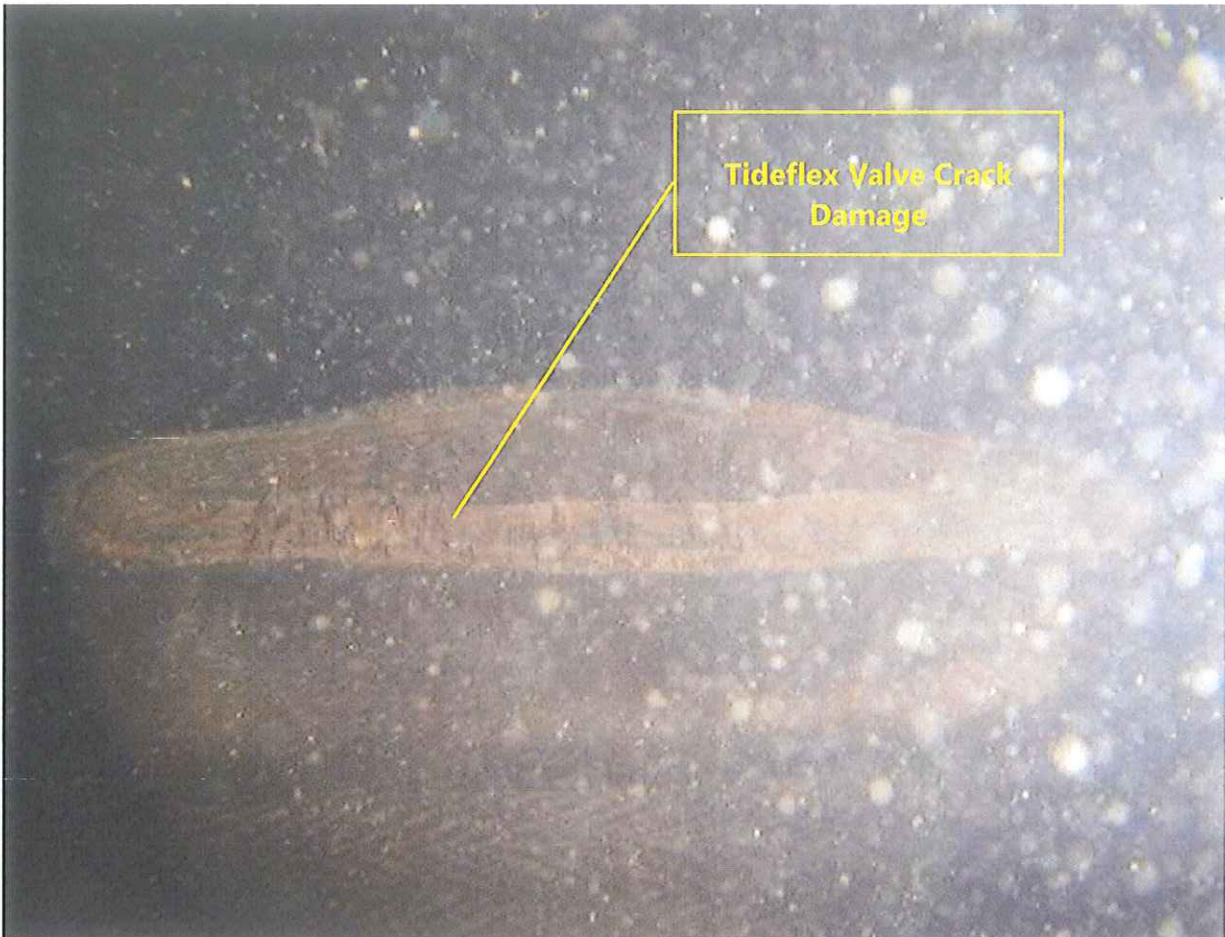
Photo B Discovery Bay Community Service District Sewage Treatment Plant Export Pump Station



4. 2017 Underwater Inspection

On December 2, 2017, Bishop Diving & Salvage completed an updated underwater survey of the outfall including 123 ft. of HDPE pipe (comprised of 18 in., 10 in. and 6 in. pipeline segments). The inspection showed similar outcomes to the 2013 survey, with 2 out of the 36 ports missing and no flow observed in the 6 in pipeline segment (16.5 ft. long). Also, some of the Tideflex valves appeared to have cracks and may not be sealing properly, therefore allowing for outside sediments into the diffuser (see Photo C). These results confirmed the observations of the CCTV camera inspection, which inferred a partial blockage at the downstream end of the 10-in. segment (weak flow out of port 28) and a complete blockage of the 6-in. segment (with no flow observed out of port 31-36).

Photo C **Discovery Bay Outfall Diffuser - Tideflex Valve Showing Crack Damage at its Opening**



5. Review of the Hydraulics of the Outfall and Pumping System

A hydraulics assessment of the TDBC pressurized effluent system has been completed. This assessment included the lift station (five vertical turbine pumps), 4079 ft. of conveyance pipe (Steel 16 in. Pipe Schedule 40) and the Old River outfall diffuser (36 discharge ports). The configuration of the system was based on the Herwit Engineering design drawings (2004a) for the Sewage Treatment Plant Export Pump Station, the Herwit Engineering Sewage Treatment Plant Export Pipeline Project design drawings (2004b) and the Komex 18 in. Sanitary Sewer Outfall Old River design drawings (2004a).

The hydraulic assessment was based on industry standard calculation methods, using a derivation of the Colebrook-White equation to define the Darcy Weisbach friction factors of the system relative roughness and associated Reynold's number. Head loss and fitting losses were calculated based on the derived friction factors and fitting loss coefficients. The system hydraulics were based on an aged pipeline system with a roughness of 3mm and river water EL 1.00 ft.



To simulate the results of the pumping test, the recorded flow of 3.11 MGD (Mega Gallons per day) was used through the system and compared to recorded pumping head of approximately 19.9 psig (45.9 ft.). The assessment indicated that for a flow of 3.11 MGD, the head losses through the system would require a pumping head of 14.6 psi (33.6 ft.). These results indicate that the current system has increased head losses and therefore the lift station has to operate at a higher pumping head to convey the flow through the system. The higher-pressure head required is a result of additional losses encountered by flow being channeled through a lower number of diffusers which increases the jet velocity and the loss at each Tideflex valve. As expected, these head losses may be attributed to the obstruction observed in the outfall diffuser.

6. Proposed Outfall Upgrade/Repair Options

Four proposed upgrade/repair options are presented for the TDBC outfall. These options include removal/replacement and abandoning/replacement of the existing HDPE sections of the diffuser. These options also include using the existing diffuser concept of 36 ports or using a new design of 3-5 ports. In addition, all options may include a flush system for periodic cleaning of the diffuser, with either a return line for disposal of flushed material onshore or with direct discharge into the river (no return line). The flush system will involve the installation of ball valves equipped with pneumatic actuators at each of the diffuser ports, and an air line to activate them. Also, the system will include a downstream discharge ball valve (6 in.) equipped with a pneumatic actuator (with a separate air line for activation) and an alternative 6 in. return line for discharge onshore. A portable air compressor can be connected to the air manifold (installed onshore) to supply air and activate the various valves for periodic maintenance cleaning. Actuators for the valves would be specified as normally open (NO) for the diffuser port valves and normally closed (NC) for the flush valve in absence of pressurized air.

It is important to note that since all options presented will include some level of disturbance of the site during the implementation of the repairs/upgrades, some regulatory requirements may be triggered as presented in Section 7.

Details for the proposed options are provided below.

6.1 Option 1

Option 1 includes removal of the diffuser HDPE segments (123 ft. of pipeline comprised of 18 in., 10 in., and 6 in. diameter sections) and replacement with a similar HDPE diffuser design with 36 ports. Installation work may include the following:

- removal of the HDPE pipeline;
- new pipe installation;
- trench excavation;
- grading of the river bed (fill trench with granular material) per original design. An alternative option to the trench installation is to install of an articulated concrete block matt ACBM).



Pros

- Will not require additional dispersion modelling or a new diffuser design;
- Since no design is required, the interim approved NPDES permit may not involve an update or review from the Regional Water Quality Control Board, Region 5, Central Valley (RWQCB5); and
- the California State Lands Commission Lease (CSLC) would not be affected because the new project footprint can be accommodated in the existing lease. However, if the ACBM is used in lieu of grading and backfilling the riverbed, the CLSC lease may need to be renegotiated.

Cons

- this option will involve disturbance of the outfall area and may require additional work to install as the current outfall will need to be removed;
- also, this option may involve similar obstruction damage as the current outfall due to its numerous port/different pipe diameters. However, if a periodic maintenance program is incorporated and flushing system installed, obstruction for this design can be reduced; and
- may require a more frequent maintenance program compared to options 2 and 3.

6.2 Option 2

Option 2 will involve removal of the HDPE segments (123 ft.) of the diffuser and replacement with a single HDPE pipe diameter (e.g. 18 in.) and 3-5 discharge ports. Tasks associated with this option will include the following:

- preparation of a dispersion model and the design of a new diffuser with reduced discharge ports.
- removal of the HDPE pipeline;
- trench excavation;
- new pipe installation
- grading of the river bed (fill trench with granular material) per original design (an alternative option to the trench installation is to install an ACBM).

Pros

- Due to its reduced ports and single pipe diameter this option may require less maintenance and may lower the chances of obstruction damage; and



- the CLSC lease would not be affected because the new project footprint can be accommodated in the existing lease. However, if the ACBM is used in lieu of grading and backfilling the riverbed, the CLSC lease may need to be renegotiated.

Cons

- this option will involve disturbance of the outfall area and may require additional work to install as the current outfall will need to be removed;
- will require additional dispersion modelling and a new diffuser design.

6.3 Option 3

Option 3 involves abandonment of the diffuser HDPE segments (123 ft.) and replacement with a new diffuser design installed on top of it (at river bed level). Tasks associated with this option will include the following:

- preparation of a dispersion model and the design of a new diffuser with reduced discharge ports;
- abandonment of the HDPE pipeline;
- removal of existing ports;
- grading of the river bed;
- installation of an articulated concrete block matt;
- installation of new diffuser with reduce ports; and
- removal of a section of steel pipe, and anchoring.

Pros

- due to its reduced ports and single pipe diameter this option may require less maintenance and may lower the chances of obstruction damage;
- this option will require less disturbance of the outfall area and may result in easier installation; and
- this option will involve shorter ports compared to the original design therefore, allowing for sufficient water depth above it without restricting boating activities in the river.

Cons

- will require additional dispersion modelling and a new diffuser design; and
- use of the ACBM on the riverbed, may require the CLSC lease to be renegotiated.



6.4 Option 4

Option 4 includes removing the 10-inch and 6-inch HDPE segments and replacing them with an 18-inch spool of the same combined length. This will result in a structure with a constant 18-inch diameter throughout the entire length of the diffuser pipe body and with 36 ports similar to Option 1. Tasks associated with this option will include the following:

- preparation of a dispersion model;
- removal of the 10 in and 6 in sections of the HDPE pipeline;
- trench excavation
- new pipe installation; and
- grading of the river bed (fill trench with granular material) per original design. An alternative option to the trench installation is to install of an articulated concrete block matt ACBM).

Pros

- might have better longevity compared to Option 1; and
- the CSLC lease would not be affected because the new project footprint can be accommodated in the existing lease. However, if the ACBM is used in lieu of grading and backfilling the riverbed, the CLSC lease may need to be renegotiated.

Cons

- will require additional dispersion modelling and may require a new diffuser design;
- flow discharge along the 36 ports may not be uniform, unless it is calibrated at the upstream ports. Therefore, this option may not meet the design dilution requirements for copper and temperature as establish in the current NPDS permit approval.
- this option will involve disturbance of the outfall area and may require additional work to install as the current outfall will need to be removed;
- also, this option may involve similar obstruction damage as the current outfall due to its numerous ports. However, if a periodic maintenance program is incorporated and flushing system installed, obstruction for this design can be reduced;
- use of the ACBM on the riverbed, may require the CLSC lease to be renegotiated.
- may require a more frequent maintenance program compared to options 2 and 3; and
- this option will trigger several regulatory requirements, including approval by RWQCB5 as a condition of the NPDES permit.



6.5 Maintenance and Proposed Additional Upgrades

Improvements can be made to the outfall diffuser pipe that would facilitate maintenance and improve the operability of the diffuser between maintenance cycles. A periodic maintenance plan should be developed and implemented to prevent failure and reduce the need for extensive future repairs.

Maintenance-related upgrades should include a means of flushing sediment trapped within the diffuser as it impedes hydraulic performance and reduces dilution effectiveness. WorleyParsons recommends the installation of flushing valves at the upstream and downstream ends of the diffuser to facilitate flushing in one of two ways noted below. An upstream valve (or flange that can be blinded during maintenance) should be installed at the shoreline downstream of the existing Harris syphon breaker to isolate the conveyance pipeline to the plant.

1. **Flushing the system using pressurized treated effluent from the export pump station** – In this case the onshore valve would remain open to allow the typical flow through the diffuser from the export pipeline. Valves installed on the diffuser ports would be closed while the flush valve on the downstream end of the diffuser would be opened.
2. **Flushing the system using supplied compressed air or water from the Old River** – In this case the valve isolating the export pipeline would be closed. A small 2" valved connection to the pipeline downstream of the valve would be used to introduce air or water into the diffuser section. Port valves and downstream flushing valve would be operated similarly to case 1 above.

Depending on the option selected for upgrade / repair of the diffuser, the outlet flush valve would be installed on the downstream end of the diffuser and would include a 18x6 in. concentric reducer to connect to a proposed 6 in. ball valve with a pneumatic actuator as described in Section 6. The flush valve would be used to flush directly into the river, or be connected to a 6 in return line that would run parallel to the diffuser and bring the flushed water back on shore where it can be managed. The return line would be terminated onshore near the Harris syphon breaker and fitted with a locked camlock cap. When maintenance is being conducted, this will be removed to attach a temporary hose to discharge the flushed water to an acceptable location or attached to a tank for storage.

TDBC indicated that some of the tideflex riser pipes are being broken off or damaged. The damage may be attributable to recreational fishing boats that drop anchor near the diffuser to fish. Anchor lines may be snagging the tideflex risers and since the riser pipes contain a break-off groove, the risers are easily lost. Another source could be the large amount of submerged debris moving through the Old River which collides with the risers and break them off during periods of high flows. The debris flow contains logs, lumber, steel propane tanks, pieces of shipwrecks, as well as mats of semi-submerged vegetation, which easily snag the riser pipes and break them off. To prevent this damage a metal cage with small openings, could be used to protect the outfall diffuser along its entire length. The cage could be held in place by using concrete weights.



7. Regulatory Considerations for Proposed Upgrade/Repair Options

7.1 Existing Approvals

TDBC received the following regulatory approvals during initial construction of the outfall diffuser structure:

7.1.1 Mitigated Negative Declaration

Authority: California Environmental Quality Act.

TDBC filed a Mitigated Negative Declaration (MND), State Clearinghouse No. 2003072160, in support of their Discovery Bay Wastewater Treatment Plant Upgrade Project, which included completing two components of the system on land adjacent to the site: solar drying facilities, an export pump station, emergency storage lagoon, pipeline and outfall. The California State Lands Commission and the California Department of Fish & Wildlife reviewed the MND as responsible agencies and filed Notices of Determination indicating that the project will not have a significant effect on the environment and that mitigation measures were made as a condition to the project.

7.1.2 California State Lands Commission Lease

Authority: California Code of Regulations, Title 2, Chapter 1 State Lands Commission.

A CSLC lease is required whenever a project is built upon the State's natural, navigable waterways, and tide and submerged lands, including those adjacent to the coast and offshore islands of the State from the ordinary high-water mark to three geographic miles offshore. Since the outfall diffuser rests on the riverbed below the ordinary high-water mark, a land lease application was prepared concurrently with the filing of the MND. TDBC received a CSLC land lease for the construction of the structure on the riverbed of the Old River.

7.1.3 US Army Corps of Engineers Regulatory Division, Nationwide Permits (NWP)

Authorities:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- Section 404 of the Clean Water Act (33 U.S.C. 1344)

TDBC applied for a NWP but USACE never responded to the application. By statute, the permittee may presume that the project qualifies for the NWP unless otherwise notified by USACE's District Engineer within 45-days after filing the application. Although an NWP was not received, TDBC proceeded to construct the facility since USACE's District Engineer expressed no objection to the project within the statutory 45-day response period.



7.1.4 Lake and Streambed Alteration Permit (LSA Permit)

Authority: California Fish and Game Code section 1602

Section 1602 requires an entity to notify the California Department of Fish and Wildlife (CDFW) prior to commencing any activity that may:

- Substantially divert or obstruct the natural flow of any river, stream or lake;
- Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- Deposit debris, waste or other materials that could pass into any river, stream or lake.

A Lake or Streambed Alteration (LSA) permit application was prepared and submitted to CDFW concurrently with the filing of the Mitigated Negative Declaration (MND). TDBC received the LSA permit from CDFW prior to construction of the outfall diffuser.

7.1.5 National Pollution Discharge Elimination System (NPDES) Permit

Authority: The National Pollutant Discharge Elimination System (NPDES) program is a federal program, under the Clean Water Act, that has been delegated to the State of California for implementation through the State Water Resources Control Board and the nine Regional Water Quality Control Boards. TDBC received NPDES Permit # 2003072160 prior to construction of the outfall diffuser. The permit describes the basic configuration of the facility as it discharges to Old River via an outfall diffuser that ensures rapid mixing in the receiving water. The diffuser is 123 feet long with 36 ports (2-inch diameter ports, spaced 3 feet on center).” TDBC’s NPDES permit was initially approved by the Regional Water Quality Control Board, Region 5, Central Valley (RWQCB5) and was renewed in 2014.

7.2 Effect of regulatory approvals on upgrade/repair options – general comments

7.2.1 NPDES Permit - Regional Water Quality Control Board, Region 5

The NPDES permit includes a basic description of the configuration of the outfall diffuser. The diffuser is designed to achieve dilution goals for copper and temperature specific to the Basin Plan. The outfall is located approximately two miles upstream of Clifton Court, where the California Department of Water Resources and the United States Bureau of Reclamation each operate large export pumping plants for the State Water Project and the Central Valley Project, respectively. Some of the exported water is diverted and treated for drinking water by State and federal water contractors. RWQCB5 is very much aware of the outfall’s proximity to the export pumping stations and requires strict monitoring and reporting of water quality parameters in order to maintain the NPDES permit. A significant alteration to the as-permitted diffuser configuration will trigger a permit review by the RWQCB5 and compel TDBC to undertake hydraulic model studies of the new diffuser configuration to ensure that dilution requirements are in compliance with the Basin Plan.



7.2.2 Nationwide Permits (NWP) – US Army Corps of Engineers

Projects constructed in waters of the United States involving minor dredging (less than 25 cubic yards) require an NWP19-Minor Dredging. Outfall construction for effluent discharges in waters of the USA requires an NWP7-Outfall Structures. Maintenance of previously authorized structures installed in waters of the USA requires an NWP3-Maintenance. Periodic maintenance to the outfall diffuser structure involving flushing of sediment, trench excavation, and backfill with granular material would fall under NWP3 and NWP19. Construction of a new outfall pipe resting on the riverbed would require a NWP7. Since TDBC did not receive written acknowledgement of their previous NWP application, WorleyParsons recommends consultation with USACE for guidance on the NWP application most appropriate for the preferred option. The USACE Regulatory Division permit process takes approximately one year from date of application to permit issuance.

7.2.3 Land Lease – California State Lands Commission

Project options having a footprint on the riverbed greater than the existing footprint will trigger consultation with CSLC. The original land lease would need to be modified to accommodate a larger structure or additional structure, such as the ACBM, which has a footprint extending outside of the leased area. WorleyParsons recommends consultation with the CSLC to determine how the existing land lease would need to be modified for the options involving the ACBM or an enlarged structure.

7.2.4 Lake and Streambed Alteration Permit – California Dept. of Fish & Wildlife

The LSA permit would need to be re-visited if the selected option involves excavation trenching, placement of granular backfill material in the trench, and/or placement of a new structure, such as the ACBM, upon the riverbed. In consultation with CDFW, it may be required to refresh the Mitigated Negative Declaration if the agency deems the project significantly different from the previous CEQA document. Most likely an Initial Study would be conducted in conjunction with a Mitigated Negative Declaration.

7.2.5 Periodic Maintenance

Maintenance work on the structure would be required to keep the system operating as intended in the permits. The regulatory agencies expect TDBC to perform periodic maintenance in order to ensure optimal hydraulic performance of the diffuser system. Maintenance involving little or no changes to the diffuser's structural configuration would be covered under the USACE's NWP3 and CDFW's LSA permit if maintenance was limited repairing broken tideflex risers and sediment flushing into the receiving water body. No new permits would be needed if the flushing operation included capturing and diverting the flush effluent into an onshore holding tank where it could be properly disposed.



7.3 Effect of regulatory approvals on upgrade/repair options – by Option

7.3.1 Option 1

Excavating the trench and placement of granular backfill material will trigger the need to review CDFW's LSA permit, especially if the footprint of the new trench is broader than the existing trench. Addition of the ACBM would trigger an amended LSA permit application, because a new structure is going into the riverbed. WorleyParsons recommends consultation with CDFW to determine the extent of the amendment required to the existing LSA permit if this option is selected.

WorleyParsons recommends contacting USACE regarding submittal of NWP applications for NWP 3-Maintenance for rehabilitation of previously authorized structures or fills and discharge of accumulated sediment, NWP-7 Outfall Structures, and NWP19-Minor Dredging, if less than 25 cu yd. of material is contemplated for trench excavation. These NWPs will cover periodic maintenance including discharge of sediment into the river, trench excavation, and placement of trench backfill. Note that the USACE permitting process may take up to one year.

Installation of the ACBM involves placement of another structure in the river and TDBC would need to amend the CSLC lease to extend the limits of the lease if the ACBM dimensions are significantly larger than the existing lease footprint. WorleyParsons recommends consultation with CSLC to determine how the existing land lease would need to be modified.

A downstream flush ball valve equipped with pneumatic actuator will be added to the diffuser pipe to allow sediment flushing as part of a periodic maintenance program. No additional permits would be needed if the maintenance procedure included capturing the flushed effluent in an onshore holding tank rather than discharging it into the river. WorleyParsons recommends the installation of a 6-in. return line on the downstream side of the flush valve to discharge the flush effluent onshore for proper disposal.

7.3.2 Option 2

This option represents a significant design change from the existing NPDES permitted design. In addition to the inclusion of NWP3, NWP7, and NWP19 from USACE as stated in Option 1, RWQCB5 would require hydraulic modeling to ensure that the new design, with fewer ports and larger diameter pipe, would achieve minimum dilution goals required in the Basin Plan. Note that the USACE permitting process may take up to one year.

The CSLC lease would not be affected because the replacement pipe structure would occupy the same or smaller footprint on the riverbed. The original land lease would need to be modified to accommodate a larger structure or additional structure, such as the ACBM, which has a footprint extending outside of the leased area. If TDBC chooses to use the ACBM in this option, WorleyParsons recommends consultation with CSLC to determine how the existing land lease would need to be modified to accommodate the ACBM.

As stated in Option 1, a downstream flush ball valve equipped with pneumatic actuator will be added to the diffuser pipe to allow sediment flushing as part of a periodic maintenance program. No additional permits



would be needed if the maintenance procedure included capturing the flush effluent in an onshore holding tank rather than discharging it into the river.

7.3.3 Option 3

This option minimizes the in-river work and eliminates the need for trench excavation. Hydraulic modeling would be required to prove that the revised diffuser design can achieve minimum dilution goals required in the NPDES permit. RWQCB5 would need to approve hydraulic model results for the new design. Presumably, the structure would occupy the same footprint on the riverbed as the previous design, so no CLSC lease modification would be required. Since a new structure is being placed upon the riverbed, CDFW should be contacted to determine if they will require an amendment to the existing LSA permit. WorleyParsons recommends applying for a USACE NWP7, due to the fact that this option includes a new outfall pipe resting on the riverbed and that no previous written documentation was received from USACE for the existing structure. Note that the USACE permitting process may take up to one year.

As stated in Options 1 and 2, a downstream flush ball equipped with pneumatic actuator will be added to the diffuser pipe to allow sediment flushing as part of a periodic maintenance program. No additional permits would be needed if the maintenance procedure included capturing the flush effluent in an onshore holding tank rather than discharging it into the river. WorleyParsons recommends installation of a 6-in. return line on the downstream side of the flush valve to discharge the flushed effluent onshore for proper disposal.

7.3.4 Option 4

Option 4 includes removing the 10-inch and 6-inch spools and replacing them with an 18-inch spool of the same combined length. This will result in a structure with a constant 18-inch diameter throughout the entire length of the diffuser pipe body. As in Option 3, hydraulic modeling will be required and the model would need to be approved by RWQCB5 as a condition of the NPDES permit.

This option calls for removal of the existing diffuser pipe and installation of an improved design of the same overall length and width. The CSLC lease would not be affected because the new project footprint can be accommodated in the existing lease.

A small amount of fill material will need to be removed from the trench in order to excavate the old pipe. Backfill would be placed over the new pipe after it is installed. The CDFW LSA permit will need to be amended to cover this work.

As stated in the previous options, USACE NWP19 and NWP7 would be needed to cover minor dredging and installation of the new outfall pipe. Concurrent with these permit applications, WorleyParsons recommends securing the NWP3 to facilitate future periodic maintenance. Note that the USACE permitting process may take up to one year.

As stated in Options 1, 2, and 3, a downstream flush ball equipped with pneumatic actuator will be added to the diffuser pipe to allow sediment flushing as part of a periodic maintenance program. No additional permits would be needed if the maintenance procedure included capturing the flush effluent in an onshore holding tank rather than discharging it into the river. WorleyParsons recommends installation of a 6-in. return line on the downstream side of the flush valve to discharge the flushed effluent onshore for proper disposal.



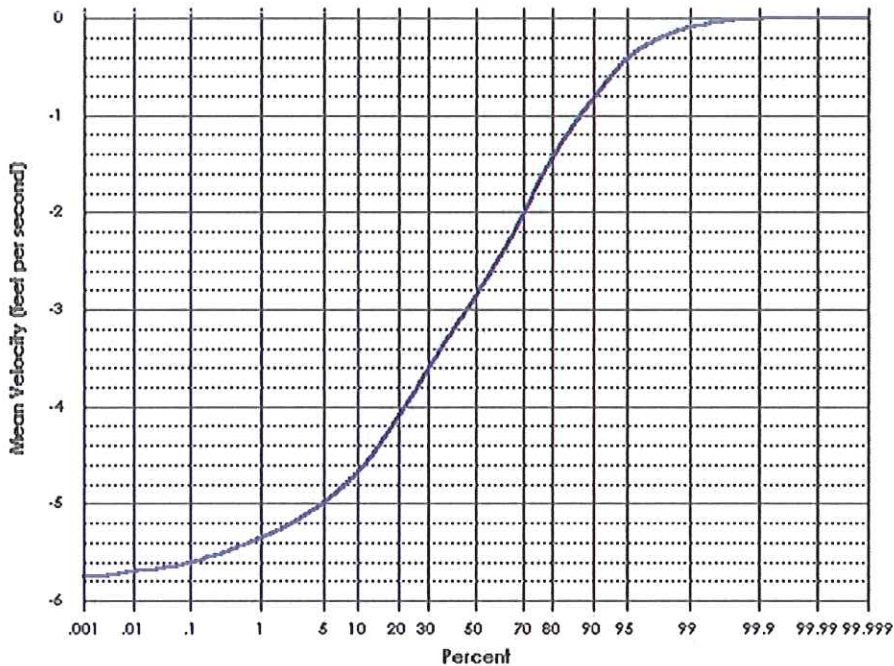
8. Review of Site Conditions, River Flow, and Proposed Scour Protection

8.1 Diffuser Scour

The geotechnical investigation (Kleinfelder 2004) indicated that the general soil profile on the river bottom consists of 1.5 to 2 feet of very loose silty sand and silty clay underlain by 2.5 to 5 feet of medium dense silty sand underlain by over 50 feet of medium stiff to stiff silty clay and sandy clay. Based upon the reported blow counts, the medium stiff to stiff silty clay and sandy clay layer provides firm bearing. The top of the medium dense silty sand layer is interpreted to represent the depth of general scour in the river, as the density of the medium dense sand layer exceeds that of river sand re-deposited on the bottom after a scour event.

Per the Komex report (Komex 2004b), The United States Geological Service (USGS) river flow data for the Old River at the Highway 4 Bridge was analyzed to determine the probability distribution of the mean velocity in the river channel. Due to limitations in how much data could be analyzed at that time (65,536 rows); the probability distribution is based upon data collected from October 13, 2001 through September 22, 2003 (data collected at 15-minute intervals). As the Old River is strongly tidal, the data were analyzed for the direction that had the highest mean velocities (the "negative" velocity direction towards the south meaning tidal inflow). Based upon an analysis of that data, the probability distribution of mean river velocity is presented in Figure A.

Figure A Old River at Highway 4 Bridge – Probability Distribution of Mean Velocity



The probability distribution of mean river velocity indicates that scour is an important criterion that must be considered in the riverbed diffuser support design. Therefore, it is recommended that for Options 1, 2 and 4 the diffuser be placed in an excavated trench below the depth of scour,



approximately 2.5 feet below the existing riverbed, and for all four options, an articulated concrete block matt (ACBM) should be installed above the header at the level of the existing bed to prevent scour in the region of the diffuser. Since the ACBM is porous, it would be important to incorporate a geotextile into the design to prevent bed material loss through the interstitial spaces.

9. Cost Estimate

A preliminary cost estimate was prepared for the upgrade/repair of the four diffuser options described above. The cost for each option is presented in Table A and includes supply and installation of the material, on-site disposal of stripped and excavated material, mobilization and de-mobilization to and from the Site. Details pertaining to the construction cost include: 2% insurance, 20% contractor overhead and profit (OH+P), a contingency of 15% and excludes tax. Costs in Table A do not include Engineering and Construction inspection costs for WorleyParsons as outlined below.

WorleyParsons estimated cost to support the regulatory applications support (dispersion modeling for NPDS permit Application) and preparation (except NPDS permit application), design, dispersion modeling, water quality monitoring, bathymetric survey and construction support is \$164,000. Items included in this cost are as follow:

- design of the selected diffuser option and dispersion modeling for Options 2, Option 3 and Option 4;
- water quality monitoring and bathymetric survey (9- 12 hr. days, 4 – 8hr. days mob/demob);
- construction support (9- 12 hr. days, 4 – 8hr. days mob/demob);
- specifications and issued for construction drawings;
- Regulatory Applications Preparation;
- construction completion report (including daily field activities, water quality monitoring and as-built drawings); and
- Tax excluded.



Table A Cost Estimate for TDBC Diffuser Upgrade/Repair Options

| Activity/Material | Estimated Cost |
|---|----------------|
| Option 1 – Removal and Replacement of Similar Diffuser Design | \$298,500 |
| Option 2 – Removal and Replacement of Diffuser with New Design | \$296,900 |
| Option 3 – Abandonment and Replacement of Diffuser with New Design | \$334,000 |
| Option 4 – Repair/ Removal and Replacement of the 10 and 6 in HDPE spools | \$183,000 |

10. Conclusions and Recommendation

10.1 Conclusions

Based on the results of this assessment, the following conclusions were made:

- Sections of the diffuser appear to be damage, either partially operating (downstream end of the 10-in. segment) or non-operating (6 in. segment). Based on the 2017 underwater survey prepared by Bishop Diving & Salvage, the 6-in. segment of the diffuser is non-operational with no flow observed in any of its ports. Also, per the underwater survey the 10-in. segment appears to have weak flow at the downstream end. The CCTV camera inspection completed by Subtronic Corporation indicated that a blockage was present at the downstream end of 10 in. segment, verifying the flow observations made by the underwater survey.
- The hydraulic assessment completed for the TDBC sanitary system (from the lift station to the outfall) indicated that the current system is operating with higher head loss compared to its original design. Therefore, the lift station has to deliver a higher pumping head to convey flow through the system. The results showed that to deliver a flow of 3.11 MGD the lift station required a pumping head of 19.9 psi, while under normal conditions the expected pumping head should be of approximately 15 psi. The higher-pressure head required is a result of additional losses encountered by flow being channeled through a lower number of diffusers which increases the jet velocity and the loss at each Tideflex valve. These increased head losses are in agreement with 2017 results of the underwater and the CCTV camera inspection.
- To improve the overall system performance, the existing diffuser should be repaired or upgraded. To this point four repair /upgrade options have been prepared as described in Section 6.



10.2 Recommendations

- Based on the results of this assessment, the following recommendations were made:
- To verify that there are no significant issues with the performance of the Lift Station (5 pumps), it is recommended to complete a pumping test using the lift station recirculation system. The result of this pump test should be then compared to the original performance result of the system to confirm no loss in original pumping performance.
- To assist the outfall repair/upgrade design, a bathymetric survey of the outfall area is recommended. This survey will provide details of the river bed, and indicate if scour or sedimentation has occurred near the outfall area and inform the bed preparation design for the selected option.
- The probability distribution of mean river velocity indicates that scour is an important criterion that must be considered in the riverbed diffuser support design. Therefore, it is recommended that for Options 1, 2, and 4 the diffuser be placed in an excavated trench below the depth of scour, approximately 2.5 feet below the existing riverbed, and for all four options, an articulated concrete block matt (ACBM) should be installed above the header at the level of the existing bed to prevent scour in the region of the diffuser. Since the ACBM is porous, it would be important to incorporate a geotextile into the design to prevent bed material loss through the interstitial spaces.
- Out of the four repair/upgrades presented in this document, WorleyParsons recommends Option 3, as it will require less disturbance of the outfall area and may require an easier installation. This option will also use reduced number of ports, which will reduce maintenance and lower the chances of obstruction damage. In addition, this option will involve shorter ports compared to the original design therefore, allowing for sufficient water depth above it without restricting boating activities in the river.
- It is recommended that for all design options a protection (e.g. metal cage) be considered to prevent damage from boating activities (e.g. vessel anchors).
- As part of the construction activities and per the State of California requirements it is recommended to implement a turbidity monitoring program for the duration of the construction activities.
- It is recommended to develop and implement a periodic (e.g. annual) maintenance plan to repair any damages, prevent failure and reduce the need for extensive future repairs.
- As part of the upgrade/repair options WorleyParsons recommends installing valves equipped with pneumatic actuator for both the diffuser ports and the downstream end of it. A 6-in. return line could be installed for discharge onshore.
- It is important to note that for all these options the diffuser will be out of commission while replacement is completed. Alternative discharge options should be considered for treated effluent including its regulatory implications.



11. Closure

We trust that this letter proposal satisfies your current requirements and provides suitable documentation for your record. If you have any questions or require further details, please contact the undersigned at any time.

Sincerely,



Efrain Giron-Maglioni, Ph.D., P.Eng.
Senior Water Resources Engineer,



Len Marino, P.E.
Senior Consultant

Senior Reviewed by



Jeff Crofton, M.A.Sc., P.Eng.
Director, Surface Water Engineering, Americas



12. References

Flow Science, 2002. Dye Study of the Discovery Bay Wastewater District Outfall Diffuser in Old River, Final Draft.

Herwit Engineering, 2004a. Design drawings, Sewage Treatment Plant Export Pump Station Project.

Herwit Engineering, 2004b. Design drawings, Sewage Treatment Plant Export Pipeline Project.

Kleinfelder, Inc., 2004. Preliminary Geotechnical Services Report Discovery Bay Outfall Diffuser in Contra Costa County, California.

Komex, 2004a. 100% design drawings, Town of Discovery Bay Community Services District 18" Diameter Sanitary Sewer Outfall Old River

Komex, 2004b. Town of Discovery Bay Community Services District & Contra Costa Water District 20% outfall design submittal.



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26 October 2018

Proj. No.: 797074-01070-Pre-Proposal-WT

Gregory Harris
Herwit Engineering
6200 Center Street, Suite 310
Clayton, CA 945117

Dear Mr. Harris:

**Re: Permit Requirements for Option 4 - Sanitary Outfall Diffuser
Upgrades for the Town of Discovery Bay**

1. Introduction / Project Understanding

Herwit Engineering (Herwit), on behalf of the Town of Discovery Bay California (TDBC), has requested Advisian (consulting arm of WorleyParsons) to provide an assessment and cost estimate for obtaining the regulatory permits required to implement upgrades to TDBC's sanitary sewage outfall diffuser structure, located on the thalweg of the Old River in Contra Costa County, California. This assessment includes a list of regulatory agencies with jurisdiction over the project, required permits, and the time requirements and cost estimates to obtain the permits.

Advisian has a strong understanding of the hydrodynamics of the Sacramento-San Joaquin Delta and vast experience working with the regulator agencies involved in this project, these allow us to assist the TDBC with all their permitting needs in a quick and effective matter.

Advisian submitted a report, dated June 8, 2018, which described the existing condition of the outfall structure and provided an evaluation of four optional proposed approaches to restore functionality to the system. TDBC chose to pursue "Option 4", which entails removing the 10-inch and 6-inch diameter HDPE pipe segments from the existing outfall diffuser structure and replacing them with a single 18-inch segment of the same combined length. The resulting structure would then consist of a continuous 18-inch diameter pipe body throughout its entire length, with same number of ports (36) as included in the original design. Since Option 4 involves in-river construction, some state and federal government regulatory agencies will need to be contacted for obtaining permits or amending previously-issued permits.

The purpose of this proposal is to provide a plan, schedule, budget and to obtain the permits from the affected government regulatory agencies with exception of the NPDES Permit – Regional Water Quality Control Board, Region 5, Central Valley (RWQCB5). The assumption of the hours for this proposal will be that Advisian will submit the permit applications, and complete one round of edits from comments provided by



regulator agencies and a final submittal. The permit affected by this project (Option 4) are provided in Section 3 below.

2. Background Information

The original outfall diffuser structure was designed to meet the effluent dilution requirements included in TDBC's National Pollution Discharge Elimination System (NPDES) permit. Over time, system performance degraded due to biotic build-up and sediment accumulation inside the outfall pipe body. The smaller diameter pipe sections were found to be susceptible to clogging and the upward-pointing tideflex valve diffuser ports were vulnerable to damage from boat operators setting anchors down near the structure. Also, the ports are susceptible to breaking off due to collisions with debris driven by elevated seasonal river flows. An underwater visual inspection on May 15, 2013 revealed that out of the 36 diffuser ports, two were missing and no flow was observed from any of the ports within the 16.5-ft long 6-in diameter segment.

3. Proposed Workplan

As stated in the June 8, 2018 report, the following permits are affected by Option 4:

- Lease – California State Lands Commission
- Nationwide Permit 3 Maintenance – U. S. Army Corps of Engineers
- Nationwide Permit 7 Outfall Structures – U. S. Army Corps of Engineers
- Nationwide Permit 19 Minor Dredging – U. S. Army Corps of Engineers
- Lake and Streambed Alteration Permit – California Dept. of Fish & Wildlife
- CEQA Mitigated Negative Declaration – California Dept. of Fish & Wildlife

The NPDES Permit – Regional Water Quality Control Board, Region 5, Central Valley (RWQCB5) will be completed by others. A description of the permit requirements and time to amend the permit from notice to proceed (NTP) by the TDBC is included below.

Lease – California State Lands Commission

Option 4 requires installation of an articulated concrete block mat (ACBM) and steel cage above the diffuser pipe structure. The modified diffuser pipe will occupy the same space as the existing structure. Depending on the size and configuration of the ACBM and steel cage, Advisian recommends verifying lease requirement with the Commission to make sure that the new structures and footprint do not exceed the lease boundaries or violate lease conditions. Advisian believes that there will be minimal, if any, work required to amend the lease to accommodate the ACBM and steel cage.

Time to amend permit: up to 2 weeks from NTP



Nationwide Permits 3, 7, and 19 – U. S. Army Corps of Engineers (USACE)

TDBC applied for a Nationwide permit but did not receive any response from the USACE during the original permitting process. Advisian recommends applying to USACE for the NWP19 and NWP7 to cover the minor dredging and installation of the upgraded outfall pipe. Concurrent with these permit applications, Advisian recommends obtaining the NWP3 to facilitate future periodic maintenance, including language to permit maintenance flushing with discharge into the river using recirculated river water. The USACE permitting process may take up to one year due to the backlog of applications currently in process with the USACE's Regulatory Division. By statute, the USACE has 45 days to respond to an NWP application. If the applicant receives no response, it can be assumed that the USACE has no objection to the work proposed in the NWP applications. However, Advisian recommends seeing this permit process through fruition in order to facilitate future maintenance or repair work without the need to go through the USACE permitting process again.

Time to amend permit: up to 52 weeks from NTP

Lake and Streambed Alteration (LSA) Permit – California Dept. of Fish & Wildlife (CDFW)

The LSA permit would need to be amended, since Option 4 involves excavation trenching, placement of granular backfill material in the trench, and placement of the ACBM and steel cage. The amendment process would be done concurrently with the application for NWP19.

Time to amend permit: up to 3 weeks from NTP

CEQA Mitigated Negative Declaration (MND) – California Dept. of Fish & Wildlife

While in consultation with CDFW regarding the LSA, there is a small chance that CDFW may require revision and recirculation of the Mitigated Negative Declaration if the Department deems the project significantly changed from the previous MND document. If this is the case, most likely an Initial Study would be conducted in conjunction with the refreshed Mitigated Negative Declaration. Advisian believes this to be unlikely since the work planned consists of repairs and maintenance to an existing structure. However, if revision and recirculation to the MND is required, it could be accomplished in approximately six weeks.

Time to amend permit: up to 6 weeks from NTP

4. Cost

Advisian's professional service fees to complete the scope of work specified in this proposal is provided on a lump sum not-to-exceed basis of \$34,735 (tax exclusive). Any work outside the current scope will be communicated to the client as a change of scope and, upon approval, will be executed at the standard rates set out in the contract with Herwit Engineering.



Advisian

WorleyParsons Group

5. Closure

We trust that this letter proposal covers the full range of permitting requirements for implementation of the Option 4 outfall diffuser upgrade project. This work plan is based on our current understanding of your intent to restore functionality to the TDBC's outfall diffuser. If you have any questions or require further details, please contact the undersigned at any time.

Sincerely,

A handwritten signature in blue ink that reads "Len Marino".

Len Marino, P.E.

Senior Consultant

Senior Reviewed by

A handwritten signature in blue ink that reads "Efrain Giron".

Efrain Giron, Ph.D., P.Eng.

Senior Water Resources Engineer

Advisian, Americas



Advisian

WorleyParsons Group

Confidentiality

This document has been prepared for the sole purpose of documenting our tender for consultancy services associated with the Permit Requirements for Option 4 - Sanitary Outfall Diffuser Upgrades for the Town of Discovery Bay.

It is expected that this document and its contents, including work scope, methodology and commercial terms will be treated in strict confidence by Herwit Engineering and that the contents will be used by Herwit Engineering only for the purpose of selecting a consultant for the project.



Town of Discovery Bay

“A Community Services District”

STAFF REPORT

Meeting Date

December 5, 2018

Prepared By: Michael Davies, General Manager
Submitted By: Michael Davies, General Manager

MRD

Agenda Title:

Discussion and Possible Action to Establish an Updated and Restated Employee Personnel Manual and Approve Resolution No. 2018-14.

Recommended Action

Approve the attached updated and restated Employee Personnel Manual and approve Resolution No. 2018-14.

Executive Summary

The Town’s Employee Personnel Manual (“Manual”) is the controlling employee relations document for all District employees. The manual was last amended by the Board on July 5, 2017. The manual has been updated with new or revised content and now provides links from the index page to the topic. All employee wages and benefits in the Manual that would require Board approval have previously been approved by the Board. The updated Manual was reviewed by the Internal Operations Committee at its Regular Meeting on November 8, 2018. The Committee recommends approval. Listed below are some of the major changes and additions.

- | | |
|---------------------|--|
| Section 1.3 | Employee Acknowledgement |
| Section 2.1.D | Employee Classifications |
| Section 2.2.A.B.C | Employee Benefits |
| Section 3.3.A.B.C.D | Milestone Policy – Service Recognition |
| Section 3.4.G | Sick Leave Incentive Program |
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| Section 4.3 | Basic Pay Structure |
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| Section 6.5 | Lactation Room |
| Section 6.8 | Safety |
| Section 7.1 | Purpose of Drug Free Policy |
| Section 7.2C | Definitions |
| Section 7.3C | Prohibited Conduct |
| Section 7.5A | Management Awareness |
| Section 7.10 | Pre-Employment Testing |
| Section 7.11 | Duty to Cooperate |

Previous Relevant Board Actions for This Item

July 5, 2017 Board Action

Attachments

Draft Personnel Manual REV 120518.
 Draft Resolution No. 2018-14.

AGENDA ITEM: G-3



Town of Discovery Bay

| | | |
|---|--|------------------------------|
| Program Area: Administrative | Policy Name: Personnel Manual | Policy Number: 005 |
| Date Established: August 20, 2003 | Date Amended: December 5, 2018 | Resolution: |

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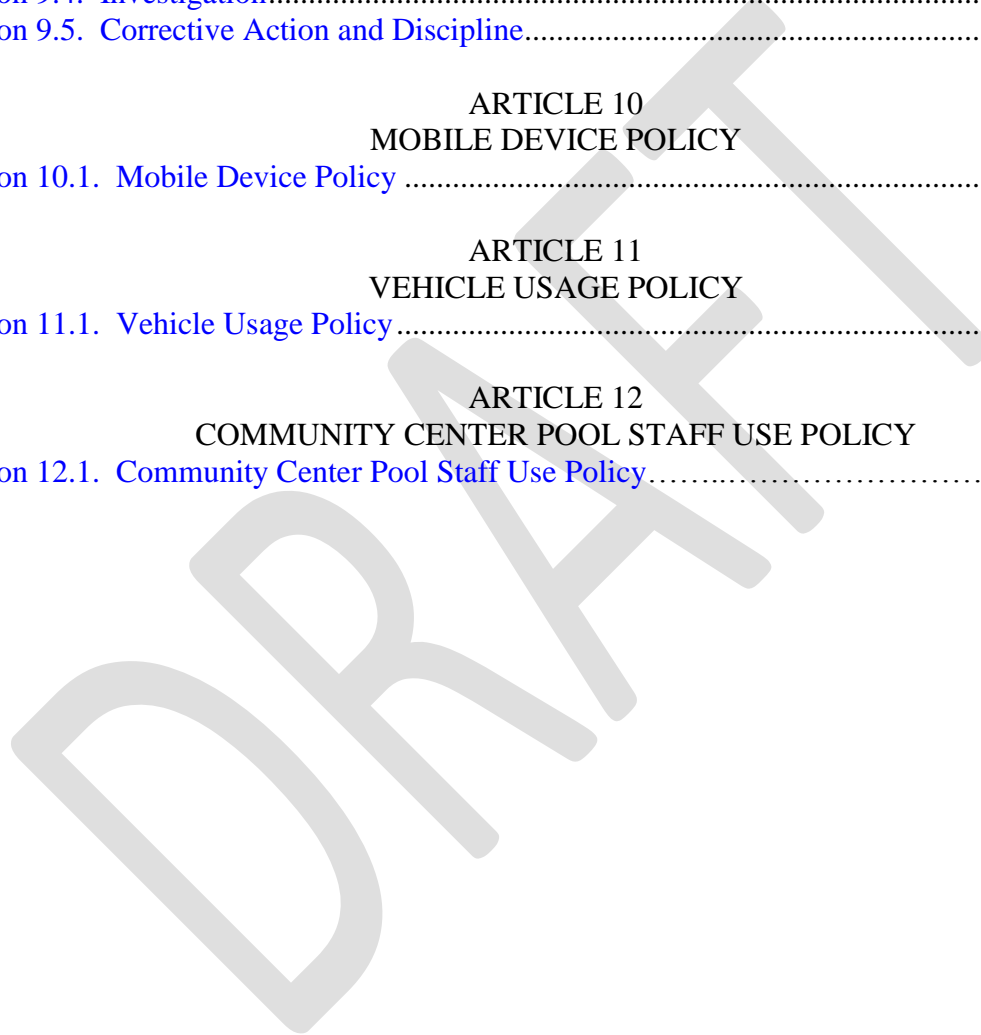
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ARTICLE 1 INTRODUCTION

Section 1.1. Personnel Manual. This Manual is intended to help employees become better acquainted with the Town of Discovery Bay (“Town”). It describes many of the Town’s employment practices, policies and procedures.

The Town reserves the right to make changes to this Manual (see Manual Revisions, below). Employees are responsible for knowing about and understanding those changes once they have been disseminated. The Town also reserves the right to interpret the provisions of this Manual. For this reason, employees should check with their supervisors to obtain information regarding specific employment guidelines, practices, policies, or procedures.

Because employment at the Town is “at will” (see Section 1.6), employees should not interpret anything in this Manual as creating a contract or guarantee of continued employment.

Section 1.2. Manual Revisions. The Town reserves the right to make changes to this Manual and to any employment policy, practice, work rule, or benefit, at any time without prior notice. However, any such change is effective only if it is in writing, and is authorized by the Board of Directors. Except as otherwise provided in this Manual, no one has the authority to make any promise or commitment contrary to what is in this Manual. This Manual replaces all earlier Manuals and supersedes all prior policies, practices, and procedures.

Section 1.3. Manual Acknowledgement. Employees are required to read the Manual in its entirety, sign the acknowledgement form at the back of this Manual, and return the form to Human Resources for placement in their personnel file. This will provide the Town with a record that each employee has read this Manual. Employees are to contact their supervisor or Human Resources if there are any questions or lack of understanding regarding any information contained in the Manual. It is the responsibility of each employee to review the Manual frequently for any changes or updates. The Manual can be accessed online at: <https://www.todb.ca.gov/town-discovery-bay-board-policies>

Section 1.4. Town of Discovery Bay. The Town is a community services district, organized under the California Government Code, and the creation of which was approved by the voters in 1997. It serves the residents of Discovery Bay, and is an independent special district. It is, in fact, a local government, and has the powers specified by law. It is governed by a Board of Directors (“Board”), consisting of five elected members. Pursuant to its formation documents, it also carries out the functions of the former Discovery Bay Municipal Advisory Committee.

Section 1.5. Equal Employment Opportunity. It is the Town’s policy to provide equal employment opportunity for all applicants and employees. The Town does not unlawfully discriminate on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender identity, national origin, ancestry, citizenship, age, physical or mental disability, legally protected medical condition or information, genetic information, family care status, military caregiver status, veteran status, marital status, domestic partner status, sexual orientation, or any other basis protected by local, state, or federal laws. When necessary, the

Town also makes reasonable accommodations for disabled employees and for pregnant employees who request an accommodation, with the advice of their health care providers, for pregnancy, childbirth, or related medical conditions.

The Town prohibits sexual harassment and the unlawful harassment of any individual. For information about the types of conduct that constitute impermissible harassment, the Town's internal procedures for addressing complaints of harassment, the legal remedies available through and complaint procedures of the appropriate state and federal agencies and directions on how to contact these agencies, please refer to the Town's Policy Against Harassment located at Section 1.7 of this Manual.

This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, disciplinary action, and social and recreational programs. It is the responsibility of every manager and employee to conscientiously follow this policy. Any employee having any questions regarding this policy should discuss them with his or her immediate supervisor or the General Manager.

Section 1.6. Employment at Will. All employment at the Town is "at-will." This means that both employees and the Town have the right to terminate employment at any time, with or without advance notice, and with or without cause. Employees also may be demoted or disciplined, and the terms of their employment may be altered at any time, with or without cause, at the discretion of the Town. No one other than a majority of the Board of Directors has the authority to alter this arrangement, to enter into an agreement for employment for a specified period of time, or to make any agreement contrary to this at-will status. Any such agreement must be in writing and must be signed by the President of the Board and by the affected employee, and must express a clear and unambiguous intent to alter the at-will nature of the employment relationship.

Section 1.7. Policy Against Harassment.

A. Purpose of Policy. The Town is committed to providing a workplace free of unlawful harassment. This includes sexual harassment (which includes harassment based on gender, gender identity, pregnancy, childbirth, or related medical conditions), as well as harassment based on such factors as race, color, creed, religion, national origin, citizenship, ancestry, age, physical disability, mental disability, medical condition, genetic information, marital status, sexual orientation, domestic partner status, family care or medical leave status, veteran status, or any other basis protected by federal, state, or local laws. The Town strongly disapproves of and will not tolerate harassment of employees by managers, supervisors, or co-workers. Similarly, the Town will not tolerate harassment by its employees of those with whom the Town employees have a business, service, or professional relationship. The Town also will attempt to protect employees from harassment by non-employees in the workplace.

B. Harassment Defined. Harassment includes verbal, physical, and visual conduct that creates an intimidating, offensive, or hostile working environment or that interferes with an employee's work performance. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the

harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Harassing conduct can take many forms and may include, but is not limited to, the following (when based upon an employee's protected status as noted above): slurs, jokes, statements, gestures, assault, impeding or blocking another's movement or otherwise physically interfering with normal work, pictures, drawings, or cartoons, violating someone's "personal space," foul or obscene language, leering, stalking, staring, unwanted or offensive letters or poems, offensive email or voicemail messages.

Sexually harassing conduct in particular may include all of these prohibited actions, as well as other unwelcome conduct, such as requests for sexual favors, conversation containing sexual comments, and other unwelcome sexual advances. Sexually harassing conduct can be by a person of either the same or opposite sex.

C. Reporting and Investigating Harassing Conduct. Any incidents of harassment, including work-related harassment by any Town personnel or any other person, should be reported immediately to the employee's supervisor or to the General Manager. Supervisors and managers who receive complaints or who observe harassing conduct should immediately inform the General Manager. The Town emphasizes that an employee is not required to complain first to his or her supervisor if that supervisor is the individual who is harassing the employee. If it is desired to make a complaint about the General Manager, the employee may report directly to the President of the Board.

Every reported complaint of harassment will be investigated thoroughly and promptly. The investigation will be handled in as confidential a manner as possible consistent with a full, fair, and proper investigation.

In addition to notifying the Town about harassment or retaliation complaints, affected employees may also direct their complaints to the California Department of Fair Employment and Housing ("DFEH"), which has the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. If the DFEH believes that a complaint is valid and settlement efforts fail, the DFEH may seek an administrative hearing before the California Fair Employment and Housing Commission ("FEHC") or file a lawsuit in court. Both the FEHC and the courts have the authority to award monetary and non-monetary relief in meritorious cases. Employees can contact the nearest DFEH office or the FEHC at the locations listed in the Town's DFEH poster or by checking the State Government listings in the local telephone directory.

D. Corrective Action. The Town will not tolerate retaliation against any employee for making a good faith complaint of harassment or for cooperating in an investigation. If harassment or retaliation is established, the Town will take corrective action. Corrective action may include, for example: training, referral to counseling, or disciplinary action ranging from a verbal or written warning to termination of employment, depending on the circumstances.

Section 1.8. Applicability. This Personnel Manual applies to all employees of the Town, except where inconsistent with a written contract of employment approved by the Board.

ARTICLE 2 EMPLOYMENT STATUS

Section 2.1. Employee Classifications. Employee classifications are as follows:

A. Regular Full-Time Employees. An employee who is regularly scheduled to work not less than thirty (30) hours per week for a period of indefinite duration is referred to as a regular full-time employee. A regular full-time employee is eligible for the benefits described in this Manual.

B. Regular Part-Time Employees. An employee who is regularly scheduled to work less than thirty (30) hours per week for a period of indefinite duration is referred to as a regular part-time employee. Regular part-time employees are eligible for benefits only as specifically described in this Manual.

C. Part Time, Seasonal, and Temporary Employees. Part Time, Seasonal, and Temporary Employees (“PST Employees”) are persons hired to work on special projects or assignments with the understanding that such work will be completed within a specified period of time. When the need arises, the Town may hire employees for a temporary period or contract out and may use a temporary staffing contract service or agency independent of the Town. PST Employees do not become regular employees as a result of the passage of time. PST Employees are not eligible for the benefits described in this Manual.

D. “Full-Time Temporary” Employees. “Full-Time Temporary” employees, at the time of employment, are expected to work one year or longer.

E. Exempt/Nonexempt Employees. Exempt employees are those employees who are exempt from earning overtime compensation; nonexempt employees are those employees eligible for overtime compensation in accordance with the provisions of applicable wage and hour laws. Overtime compensation requirements are set forth in the Section 4 of this Manual entitled “Hours of Work, Overtime, and Pay Day”. The employment positions of the General Manager, Finance Manager, Parks and Landscape Manager, and Water and Wastewater Manager are exempt. Other positions may or may not be exempt, and the status of the employee in that position will be established at the time of hiring, depending on the duties and responsibilities of the position.

F. Hiring Powers. The General Manager and Legal Counsel are hired by and serve at the pleasure of the Board. All other employees of the Town are hired by and serve at the pleasure of the General Manager, subject to this Manual and Board approval of the authorized position schedule. The authorized position schedule is located within the Town’s annual budget.

Section 2.2. Employee Benefits. Regular Full-Time Employees will receive the following benefits:

A. Medical Benefit. The Town provides medical coverage to its eligible employees and their dependents. Contact Human Resources for available plans and details.

B. Ancillary Benefits. The Town provides vision, dental and supplemental life insurance to eligible employees and their dependents. Life insurance and Employee Assistance Program is provided to eligible employees. Contact Human Resources for available plans and details.

C. Additional Benefits at Employee Cost and Election. At employee expense, the Town makes available AFLAC insurance, Flexible Spending Account and 457b retirement. If an employee declines medical insurance the Town will contribute \$250 per month into the employee's 457b account. Contact Human Resources for details.

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**ARTICLE 3
HOLIDAYS AND TIME OFF**

Section 3.1. Holidays. The Town observes the following holidays:

New Year's Day, January 1st
President's Birthday, the third Monday in February
Memorial Day, the last Monday of May
Independence Day, July 4th
Labor Day, the first Monday in September
Thanksgiving Day, the fourth Thursday of November
Friday Following Thanksgiving, the fourth Friday of November
Christmas Eve, December 24th
Christmas Day, December 25th
Winter Closure* (12/26 – 12/31)
Floating Holiday

* The Winter Closure are those four weekdays beginning December 26 up to and including December 31st of each year. Employees are required to take one of the following during the Closure: administrative time, floating holiday or vacation day. The Winter Closure only applies to non-essential personnel.

A. Eligibility. Unless otherwise provided in this policy, all regular full-time employees will receive holiday time off with pay at their normal base rate unless otherwise provided in this Manual. Regular part-time employees receive holiday time off, with pay pro-rated according to the number of weekly hours they are scheduled to work. Part-Time Seasonal Temporary Employees are not eligible for paid holiday benefits with the exception of a "Full-Time Temporary" employee who, at the time of employment, is expected to work for one year or longer will also receive paid holiday benefits. Moreover, all employees are ineligible for holiday benefits while they are on leave of absence.

B. Holidays and Weekends. Holidays are to be taken on the day they occur. Holidays which fall on Saturday will be observed the preceding Friday, and those which fall on Sunday will be observed the following Monday. Holidays that occur during an eligible employee's vacation will not be counted as vacation days taken.

C. Pay In Lieu of Time Off. The Town may, in its sole discretion, require some or all employees to work on Town-observed holidays, in which case the Town will provide pay in lieu of time off.

Section 3.2. Vacation Policy. The Town provides vacation benefits to eligible employees to enable them to take paid time off for rest and recreation. The Town believes this time is valuable for employees in order to enhance their productivity and to make their work experience with the Town personally satisfying.

A. Vacation Accrual. All regular full-time employees, whether exempt or nonexempt, are eligible to accrue vacation benefits based on their continuous service, measured from the date of hire. A “Full-Time Temporary” employee, who, at the time of employment, is expected to work one year or longer, is also eligible to accrue vacation benefits. All regular part-time employees are eligible to accrue vacation benefits on a pro rata basis, according to the number of weekly hours they are scheduled to work. “Continuous length of service” is defined as service that is uninterrupted by termination of employment and subsequent rehire by the Town or a break in service that has been bridged. No vacation may be taken during the first year of service, unless otherwise permitted by the General Manager. Vacation accrues according to the following schedule:

| Years of Continuous Service | Vacation Accrual |
|-------------------------------------|--|
| Date of hire through the first year | 5/12 of one day for each full month worked up to a maximum of 5 days (40 hours) per year. |
| Second year through fifth year | 10/12 of one day for each full month worked up to a maximum of 10 days (80 hours) per year. |
| Sixth year through tenth year | 15/12 of one day for each full month worked up to a maximum of 15 (120 hours) days per year. |
| Eleventh year and thereafter | 20/12 of one day for each full month worked up to a maximum of 20 (160 hours) days per year. |

B. PST Employees. Part-Time Seasonal Temporary employees do not accrue vacation benefits, with the exception that a “Full-Time Temporary” employee who, at the time of employment, is expected to work for one year or longer will also receive paid vacation benefits.

C. Maximum Accrual. Vacation accruals may not exceed 2 times an employee’s current annual entitlement (e.g., Maximum Accrual: 40 days for an employee with more than ten years of service. Once this maximum is reached, all further accruals of vacation will cease. Vacation accruals will recommence after the employee has taken vacation and his or her accrued hours have dropped below the maximum.

D. Pay in Lieu of Vacation. No employee will receive pay in lieu of vacation except on the termination of his or her employment, as described in Paragraph F, below, unless the employee has deferred his or her vacation at the Town’s request.

E. Vacation Accrual During Periods of Leaves of Absence. Employees do not accrue vacation during an unpaid leave of absence. Vacation accruals recommence when the employee returns to work from an unpaid leave of absence. Employees will continue to accrue vacation during paid leaves of absence or while on disability salary continuation.

F. Vacation Pay on Termination. On termination of employment, employees are paid all accrued but unused vacation through their last day worked at their base rate of pay at the time of termination.

G. Vacation Approval. All vacations must be approved in advance by the employee's immediate supervisor.

H. Vacation Scheduling. Scheduling of vacations is to be done in a manner consistent with the Town's operational requirements. Vacation requests should be submitted by employees to their immediate supervisor for approval at least four (4) weeks prior to the commencement of a vacation period. This requirement may be waived in writing at the discretion of the General Manager. Vacation requests may be disapproved or rescheduled to accommodate the Town's operational requirements.

I. Vacation Advances. An employee is not permitted to borrow on future accrual of vacation benefits. If an employee has used any vacation days before they have been accrued and their employment with the Town is then separated, the overdrawn amount must be repaid to the Town upon separation.

J. Holidays Occurring During Vacation. If an observed Town holiday (*see* Section 3.1) occurs during an employee's scheduled vacation, no deduction from accrued vacation will be made for the holiday. An employee may add to his or her vacation period by using the holiday in place of accrued vacation time.

K. Administrative Time Off. Notwithstanding any other portion of this Manual, it is recognized that exempt employees do not receive overtime compensation, and may work irregular hours, and may not be able to take vacation when desired. Accordingly, the General Manager shall be entitled to receive eighty (80) hours annually of paid administrative leave in addition to any leave otherwise authorized in the General Manager's employment contract. All other exempt employees shall be entitled to receive sixty (60) hours of paid administrative leave each fixed year. Administrative leave is not, however, a vested or earned form of compensation. Any administrative time unused at the end of the year shall be forfeited, and it shall not be compensated for upon termination.

Section 3.3. Milestone Policy – Service Recognition. The purpose of the milestone policy is to recognize and reward all regular full-time employees for their continued service to the Town.

A. Milestone Years. Milestone years are in 5-year increments beginning with an employee's tenth (10th) year of continuous service. "Continuous service" is service that is uninterrupted by termination of employment and subsequent rehire by the Town or a break in service that has been bridged. Milestone anniversary years are 10, 15, 20, 25, 30, 35, 40 & 45.

B. Bonus Leave. Bonus Leave under this policy is 40 hours of additional paid time off and is granted in a lump sum (rather than accrued) on the employee's milestone

year anniversary date. Bonus Leave is awarded only in the milestone year, beginning with year 10, and employees will not receive additional Bonus Leave until reaching the next milestone.

C. Use of Bonus Leave and Maximum Award. All Bonus Leave must be taken within one year of posting and must be used (deducted) prior to using vacation or administrative time off. Requests to take Bonus Leave must be made in the same manner as vacation scheduling. Bonus Leave may not be forfeited once awarded, but failure to use all Bonus Leave hours within the year will subject an employee to discipline, unless carryover has been approved in writing by the General Manager.

D. Pay in Lieu of Bonus Leave. No employee will receive pay in lieu of Bonus Leave except on termination of employment, in which case the employee will receive all awarded but unused Bonus Leave through their last day worked at their base rate of pay at the time of termination.

Section 3.4. Sick Leave. In order to help prevent loss of earnings that may be caused by accident or illness, the Town has established paid sick leave.

A. Eligibility. All regular full-time employees are eligible for 3.08 hours of sick leave each pay period, or ten (10) days per year. Regular part-time are eligible to accrue sick leave on a pro-rata basis. All part-time, seasonal and temporary employees who works in California for 30 or more days within a year from the beginning of employment, is entitled to paid sick leave, as stipulated in Section D, Accrual, below.

B. Use. Sick leave may be taken for a personal illness, an emergency, a disability, or for a family care or medical leave as described in the Town's "Leaves of Absence" policy (Section 3.5). Eligible employees may also use sick leave for diagnosis, care, or treatment of an existing health condition of, or preventative care for a child, parent, spouse, domestic partner, stepparent, stepchildren, in-law, grandparent, or grandchild of the employee. For an employee who is the victim of domestic violence, sexual assault, or stalking, the employee may use sick leave for the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1 of the California Labor Code. Additionally, hours missed for medical and dental appointments will be treated as sick leave. Sick leave must be taken by eligible employees in increments of at least one hour. The Town retains the right to request verification from a licensed health care provider for all absences due to illness or disability. Sick pay may be withheld if the employee does not provide a satisfactory verification.

C. Compensation for Sick Leave. Eligible employees will receive pay at their normal base rate for any sick leave taken. No employee will receive pay in lieu of sick leave, except as provided by Section 3.4.F, and employees will not be paid for any accrued but unused sick leave upon termination of employment. If an employee separates and is rehired within one year, the employee is entitled to have his or her previously accrued and unused sick leave reinstated upon rehiring.

D. Accrual of Sick Leave. Regular full-time employees accrue 3.08 hours of sick leave per pay period and regular part-time employees accrue sick leave on a *pro rata* basis. Employees, including part-time, seasonal and temporary employees, will earn at least one hour

of paid leave for every 30 hours worked, but not more than 24 hours in a calendar year. Accrual begins on the first day of employment. Eligible employees may carry over accrued but unused sick leave from one calendar year to the next. However, sick leave may only be accumulated up to a total of 160 hours for regular full-time and part-time employees and 48 hours for part-time, seasonal and temporary employees. Employees will not accrue sick leave during any unpaid leave of absence.

E. Approval. Whenever possible (e.g., for a scheduled doctor’s or dentist’s appointment), employees must seek approval from their immediate supervisor prior to taking their sick leave. Otherwise, the employees must notify their immediate supervisor as soon as practicable and, in no event, later than one hour after their scheduled starting time.

F. Coordination of Sick Leave Benefits with Other Benefits. The Town will pay sick-leave benefits to an eligible employee during the normal three-day waiting period before the employee is paid workers’ compensation benefits pursuant to the applicable state or federal law governing the industrial injury or illness. Similarly, the Town will pay sick-leave benefits during the normal seven-day waiting period before the eligible employee is paid benefits from the State Disability Insurance (SDI) program or another insured unemployment disability plan. Following the three-day and seven-day waiting periods specified above, an employee will continue to receive accrued sick pay, less the disability benefits actually received or the disability benefits that would have been received had the employee made timely application to the appropriate agency.

G. Sick Leave Incentive Program. The purpose of the Sick Leave Incentive program is to discourage sick leave abuse and absenteeism and provide incentive to employees to accumulate sick leave for when it may be needed for an extended illness for themselves or to provide care for a family member. Regular full-time employees who have been continuously employed with the Town for at least one full payroll year, may elect annually during the first week of November to exchange sick leave hours for its cash equivalent according to the following schedule:

| SICK LEAVE USAGE NOV 1 THRU OCT 31 | CASH CONVERSION |
|---|------------------------|
| Less than 8 hours | 16 hours |
| Less than 16 hours | 12 hours |
| Less than 24 hours | 08 hours |
| Less than 32 hours | 04 hours |
| 32 Hours or More | 00 hours |

Cash conversion to be paid on or before December 15th at the employee’s base rate of pay on November 1st.

Section 3.5. Leaves of Absence.

Introduction. The Town provides (1) family care, medical, and military family leave for up to 12 or 26 weeks per year, depending on the reason, see section II(D), in accordance with California’s Family Rights Act (“CFRA”) and the federal Family and Medical Leave Act of 1993, as amended (“FMLA”); (2) pregnancy leave for up to four months in accordance with the

California Fair Employment and Housing Act (“FEHA”); (3) disability leave as required to reasonably accommodate employees with a workplace injury or a qualified disability under the Americans with Disabilities Act (“ADA”) or the FEHA; and (4) leave for other legally required absences as set forth below. Employees having any questions regarding this policy should contact the General Manager.

A. **Family Care, Medical and Military Family Leave.**

(1) **Eligibility.** To be eligible for family care, medical, and military family leave, an employee must (1) have worked for the Town for at least twelve months prior to the date on which the leave is to commence; and (2) have worked at least 1,250 hours in the twelve (12) months preceding the leave.

An employee returning from fulfilling his or her National Guard or Reserve military obligation will be credited with the hours of service that would have been performed but for the period of military service in determining the 1,250 hours of service.

In the case of a pregnancy disability or other legally protected disability or medical condition or work-related injury, an employee may not need to satisfy all of the above requirements. In such circumstances, the employee should contact a Human Resources professional for clarification about his or her rights for other types of leave.

(2) **Permissible Uses of Family Care, and Medical Military Leave.**

“Family care and medical leave” may be requested for (1) the birth or adoption of an employee’s child; (2) the placement of a foster child with the employee; or (3) the serious health condition of an employee’s child, registered domestic partner, spouse, or parent; or (4) an employee’s own serious health condition.

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

“Military exigency leave” may be requested when there is a qualifying military exigency as defined by the U.S. Department of Labor arising out of the fact that an employee’s spouse, child, or parent is on active duty (or has been notified of an impending call

or order to active duty) in the Armed Forces. Qualifying military exigencies include the following:

(a) *Short-notice deployment* where the employee may take leave to attend any issue that arises from the fact that a covered military member is notified of an impending call or order to active duty seven or less calendar days prior to the date of deployment. Leave taken for this purpose can be used for a period of seven calendar days beginning on the date the covered service member receives the notification.

(b) *Military events and related activities* where the employee may take leave to attend to any official ceremonies, programs or events related to the call to active duty and to attend to family support, assistance programs, or informational briefings related to the call to active duty.

(c) *Childcare and school activities* where the employee may take leave to arrange for alternative childcare or to provide childcare on an urgent, immediate need basis when the need arises from the call to active duty, to enroll or transfer a child to a new school, to attend meetings with school or daycare facility staff regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors.

(d) *Financial and legal arrangements* where the employee may take leave to make or update financial or legal arrangements related to the covered service member's absence, such as preparing powers of attorney, wills, transferring bank accounts, and the like, or appearing or acting on behalf of the absent service member in matters related to military benefits.

(e) *Counseling* where the employee may take leave to attend counseling, the need for which arises from the call to active duty of the covered service member.

(f) *Rest and recuperation* where the employee may take up to five days of leave to spend time with a covered service member each time the service member is on short-term rest and recuperation leave during the period of deployment.

(g) *Post-deployment activities* where the employee may take leave for a period of up to 90 days following the termination of the deployment to attend arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs provided by the military, or to address issues that arise out of the death of a covered service member.

(h) *Additional activities* where the employee may take leave to address other events that arise out of the call to active duty as the Town and the employee may agree as to both timing and duration.

“Military caregiver leave” may be requested to care for a covered service member if the employee is the covered service member’s spouse, child, parent, or next of kin. For purposes of this leave, a covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness, or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the five years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy.

(3) **Substitution of Paid Leave.** Employees are required to substitute accrued vacation time and other paid leave (except sick leave) for all family care, medical leaves, and military leaves. Employees are required to substitute sick leave only for the employee’s own medical leaves. Employees may elect to substitute sick leave to attend to an illness of a child, parent, spouse or domestic partner of the employee or for other types of family care leave.

(4) **Amount of Leave.**

(a) **Family Care, Medical, and Military Caregiver Leave.** Provided all the conditions of this policy are met, an employee may take a maximum of 12 weeks of family care, medical, and military exigency leave in a rolling 12-month period measured backwards from the date the employee’s leave commences.

Employees who are unable to work due to pregnancy disability will be granted the greater of 12 weeks leave or the amount of leave to which the employee may be entitled under California state law for a pregnancy-related disability or in connection with childbirth. Family care leaves for the birth, adoption, or foster care placement of a child must be concluded within one year of the birth, adoption, or placement.

(b) **Military Caregiver Leave.** Provided all the conditions of this policy are met, an employee may take a maximum of 26 weeks of military caregiver leave in a single 12-month period, inclusive of the time the employee takes for a family care, medical, or military exigency leave during that period. This 12-month period will be measured forward from the first day leave is taken.

Spouses who are both employed by the Town may take a maximum combined total of 26 weeks in the 12-month period for the care of the service member and the birth, adoption, or foster care of their child or to care for an ill parent, provided that no more than 12 weeks of this combined 26-week period may be taken for reasons other than to care for the service member.

(c) **Intermittent Leave.** Medical leave for the employee’s own serious health condition, family care leave for the serious health condition of the employee’s spouse, parent, or child, and military caregiver leave may be taken intermittently or on a reduced schedule when medically necessary. Where the intermittent or reduced schedule leave is for planned medical treatment, the employee must make an attempt to schedule the treatment

so as not to disrupt unduly the Town's operations. Where the family care leave is to be taken in connection with the birth, adoption, or foster placement of a child, the minimum duration for each period of leave is two weeks, except that the employee may request leave of less than two weeks duration on any two occasions. Military exigency leave also may be taken intermittently or on a reduced schedule.

(5) Leave's Effect on Pay. Except to the extent that other paid leave is substituted for family care, medical, and military family leave, leave under the FMLA and the CFRA is unpaid. However, employees may be entitled to California State Disability Insurance ("SDI"). Employees also may be entitled to Paid Family Leave ("PFL") for up to six (6) weeks in any twelve-month period during leaves to care for qualifying family members. PFL provides a partial wage replacement for absences from work to care for a seriously ill or injured family member or for bonding with a minor child within one year of the birth or placement of the child in connection with foster care or adoption. Employee contributions provide funding for this program. PFL is administered like SDI by the California Employment Development Department. PFL must be taken concurrently with family care leave and does not entitle an employee to take any additional time off. In addition, an employee must use up to two weeks of any accrued but unused vacation before the employee will be eligible to receive PFL.

(6) Leave's Effect on Benefits. During an employee's family care, medical, and military family leave, the Town will continue to pay for the employee's participation in the Town's group health plans, if any, to the same extent and under the same terms and conditions as would apply had the employee not taken leave. Thus, the employee must continue to pay his or her share of the health plan premiums during the leave. If the employee substitutes paid leave for the unpaid leave, such payments will be deducted from the employee's pay through the regular payroll deductions. Otherwise, the employee must make arrangements with the Town for the payment of such premiums. All other benefits will be governed in accordance with the terms of each benefit plan and are the sole responsibility of the employee.

If the employee fails to pay his or her share of the premiums during leave, or if the employee fails to return from the leave at the expiration of 12 weeks (or 26 weeks in the case of a military caregiver leave) for a reason other than the recurrence, continuation, or onset of a serious health condition for which leave under this policy is allowed or other circumstances beyond the employee's control, the Town can recover any health plan premiums paid by the Town on the employee's behalf during any periods of the leave.

Employees on family care, medical, and military family leave accrue employment benefits such as sick leave, vacation benefits, or seniority only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

(7) Procedure for Requesting Family Care, Medical, and Military Family Leave.

(a) Notice Requirements. Employees must notify the Town of their request for family care, medical, military exigency, or military caregiver leave as soon as they are aware of the need for such leave. For foreseeable family care, medical and military caregiver leave, the employee must provide 30 calendar days' advance notice to the Town of the need for leave. For events that are unforeseeable 30 days in advance, the employee must notify the Town as soon as is practicable and generally must comply with the Town's normal call-in or notice procedures. If the leave is requested in connection with a planned, non-emergency medical treatment, the employee must make an attempt to schedule such treatment so as to avoid unduly disrupting Town operations and may be requested to reschedule the treatment so as to minimize disruption of the Town's business.

If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the Town reserves the right to delay the taking of the leave until at least 30 days after the date the employee provides notice of the need for family care or medical leave.

All requests for family care, medical, military exigency, and military caregiver leave should include enough information to make the Town aware that the employee needs qualifying leave, and the anticipated timing and duration of the leave, if known. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Town if the requested leave is for a reason for which FMLA leave was previously taken or certified.

Any requests for extensions of leave under this policy must be received as soon as is practicable and must include the revised anticipated date(s) and duration of the leave. To the extent permitted by law, the Town reserves the right to deny requests for extensions or deny reinstatement to an employee who exceeds the leave amounts provided by this policy or fails to provide requested medical certification. In addition, if you have a disability, you may be eligible for leave under the Americans with Disabilities Act ("ADA") or state law. For more detailed information on extended leaves, please contact the General Manager.

Once the Town is aware of the employee's need for leave, it will inform the employee whether he or she is eligible under the FMLA. If the employee is eligible, the notice will specify any additional information required as well as the employees' rights and responsibilities. If the employee is not eligible, the Town will provide a reason for the ineligibility.

(b) Certification. Any request for medical leave for an employee's own serious health condition, for family care leave to care for a child, spouse, domestic partner or parent with a serious health condition or for a serious injury, or for military caregiver leave must be supported by medical certification from a health care provider. For military caregiver leave, the employee must provide confirmation of a family relationship to the seriously ill or injured service member. Employees generally must provide the required

certification within 15 calendar days after the Town's request for certification. For foreseeable leaves, employees must provide the required medical certification before the leave begins. When this is not possible, employees must provide the required certification within 15 calendar days after the Town's request for certification, unless it is not practicable under the circumstances to do so, despite the employee's good faith efforts.

The medical certification for a child, spouse, domestic partner or parent with a serious health condition or for the serious injury or illness of a qualifying service member must include (a) the date on which the serious health condition or serious injury or illness commenced; (b) the probable duration of the condition or injury or illness; (c) the health care provider's estimate of the amount of time needed for family care; (d) the health care provider's assurance that the health care condition or injury or illness warrants the participation of the employee to provide family care; and (e) in the case of intermittent or reduced schedule leave where medically necessary, the probable duration of such a schedule.

The medical certification for leave for the employee's own serious health condition must include (a) the date on which the serious health condition commenced; (b) the probable duration of the condition; (c) a statement that, due to the serious health condition, the employee is unable to perform the essential functions of his or her position; and (d) in the case of intermittent leave or reduced schedule leave where medically necessary, the probable duration of such a schedule. In addition, the certification may, at the employee's option, identify the nature of the serious health condition involved.

Failure to timely provide the required certification may result in the denial of foreseeable leave until such certification is provided. In the case of unforeseeable leaves, failure to timely provide the required certification may result in a denial of the employee's continued leave. Where the employee's need for leave due to the employee's own serious health condition, or the serious health condition of the employee's covered family member, lasts beyond a single leave year, the Town may require the employee to provide a new medical certification in each subsequent leave year. Any request for an extension of the leave also must be supported by an updated medical certification.

The Town will provide forms for use in obtaining medical certifications that satisfy the requirements of this policy. For military caregiver leave, the Town will accept Invitational Travel Orders ("ITOs") or Invitational Travel Authorizations ("ITAs") in lieu of its medical certification form.

It is the employee's responsibility either to furnish a complete and sufficient certification or to furnish the health care provider providing the certification with any necessary authorization from the employee or the employee's family member in order for the health care provider to release a complete and sufficient certification to the Town to support the employee's leave request.

Where permitted by law, if the Town has reason to doubt the validity of the medical certification provided by the employee, the Town may require the employee to obtain a second opinion from a doctor of the Town's choosing at the Town's expense. If the employee's health care provider providing the original certification and the

doctor providing the second opinion do not agree, the Town may require a third opinion, also at the Town's expense, performed by a mutually agreeable doctor who will make a final determination. It is the employee's responsibility to furnish his or her health care provider with the necessary authorization for the disclosure of medical information to the doctor(s) who will provide the second and third opinions. If the employee fails to provide the necessary authorization, the request for leave may be denied, in accordance with applicable law.

(8) Designation of Protected Leave. Once the Town has enough information to determine whether the leave is FMLA-qualifying, the Town will inform the employee if leave will be designated as FMLA-protected and, if known at that time, the amount of leave that will be counted against the employee's leave entitlement. If the Town determines that the leave is not protected, the Town will notify the employee.

(9) Recertification. The employee taking leave because of his or her own serious medical condition or the serious medical condition of a family member may be required, except in cases of military caregiver leave, to provide the Town with recertification at appropriate intervals. For purposes of recertification, the employer may request the same information as allowed by law for the original certification. As part of that request, the Town may provide the health care provider with a record of the employee's absence pattern to confirm whether such a pattern is consistent with the need for leave. The employee must provide the requested recertification within 15 calendar days of such a request, unless it is not practicable to do so despite the employee's diligent, good faith efforts.

(10) Return to Work Certification. Where the leave is for the employee's own serious health condition, the Town requires employees to provide medical certification that he or she is fit for duty and able to return to work. The Town may delay restoring the employee to employment or terminate the employee without such certificate.

(11) Leave's Effect on Reinstatement. Employees timely returning from a leave covered under this policy are entitled to reinstatement to the same or equivalent position consistent with applicable law. The Town may deny reinstatement to employees who are among the highest paid ten percent of all employees employed by the Town within 75 miles of the employees' worksite and whose reinstatement would cause substantial and grievous economic injury to the Town's operations. An employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. The Town will comply with all applicable laws pertaining to reinstatement of employees, including where required, the reasonable accommodation of employees who have been on an approved leave.

The Town complies with applicable family care, medical leave, and military family leave laws. Under the FMLA it is unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided under the FMLA; or discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA. If an employer has done so, an employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family

or medical leave rights. If you have questions or would like further clarification about your rights under the FMLA or other types of leave, please contact the Human Resources Department.

B. Pregnancy-Related Disability Rights.

(1) Leaves of Absence and Transfers. Any employee who is disabled on account of pregnancy, childbirth, or related conditions may take a pregnancy-related disability leave for the period of actual disability of up to four months, in addition to any family care or medical leave to which the employee may be entitled under Section 3.5. A of this policy (Family Care, Medical and Military Family Leaves). Pregnancy-related disability leaves may be taken intermittently, or on a reduced-hours schedule, as medically necessary.

Moreover, an employee is entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions if she so requests and provides the Town with medical certification from her health care provider. In addition to other forms of reasonable accommodation, a pregnant employee is entitled to transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties if she so requests, and if the transfer request is supported by proper medical certification, and if the transfer can be reasonably accommodated.

(2) Substitution of Paid Leave for Pregnancy-Related Disability Leave. An employee taking pregnancy-related disability leave must substitute any available sick pay for her leave and may, at her option, substitute any accrued vacation time for her leave. The substitution of paid leave for pregnancy-related disability leave does not extend the total duration of the leave to which an employee is entitled.

(3) Leave's Effect on Benefits. During an employee's family care, medical, and military family leave, the Town will continue to pay for the employee's participation in the Town's group health plans, to the same extent and under the same terms and conditions as would apply had the employee not taken leave. Thus, the employee must continue to pay his or her share of the health plan premiums during the leave. If the employee substitutes paid leave for the unpaid leave, such payments will be deducted from the employee's pay through the regular payroll deductions. Otherwise, the employee must make arrangements with the Town for the payment of such premiums. All other benefits will be governed in accordance with the terms of each benefit plan and are the sole responsibility of the employee.

The Town may recover from the employee the premium that the Town paid to maintain coverage for the employee under the group health plan if the employee fails to return from leave after the period of leave has expired and the employee's failure to return is for a reason other than: (i) the employee is taking leave under the California Family Rights Act; (ii) the continuation, recurrence, or onset of a health condition that entitles the employee to leave for pregnancy disability or other circumstances beyond the employee's control.

Employees on Pregnancy-Disability leave will accrue employment benefits, such as sick leave, vacation leave, and seniority only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such

accrual. Employee benefits may be continued during the unpaid portion of the Pregnancy-Disability leave according to the provisions of the Town's various employee benefit plans.

(4) Other Terms and Conditions of Leave. The provisions of the Town's Family Care, Medical and Military Family Leave policy regarding the leave's effect on pay, notice requirements, medical certification requirements, and reinstatement also apply to all pregnancy-related disability leaves. However, for pregnancy-related disabilities, there is no process for obtaining more than one medical opinion, and there is no reinstatement exception for key employees. For the purpose of applying those provisions, an employee's pregnancy-related disability is considered to be a serious health condition.

C. **Other Disability Leaves.**

In addition to medical or pregnancy-related disability leaves, may take a temporary disability leave of absence if necessary to reasonably accommodate a workplace injury or a disability under the ADA or the FEHA. Any disability leave under this section will run concurrently with any medical leave to which the employee is entitled. Disability leaves under this section will be unpaid.

Employees taking disability leave must comply with the Family Care, Medical and Military Family Leave provisions regarding substitution of paid leaves, notice, and medical certification. For the purpose of applying these provisions, a disability leave will be considered to be a medical leave.

If a disability leave under this section extends beyond 12 weeks in a 12-month period, the employee will not be entitled to any continued employer contributions towards any employee benefit plan unless otherwise required by law. An employee, however, may elect to continue participating in such benefit plans, at the employee's own expense, to the extent permitted by such plans.

The duration of a leave under this section shall be consistent with applicable law, but in no event shall the leave extend past the date on which an employee becomes capable of performing the essential functions of his or her position, with or without reasonable accommodation. For a full explanation of leave duration and reinstatement rights, employees should contact the General Manager.

D. **Other Leaves of Absence.**

The Town also grants eligible employees leaves of absence for military leave, jury or witness duty, certain court appearances, appearances at school or daycare activities, emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel, to vote in a statewide election, for bereavement leave, for leave related to domestic violence, crime victims leave, or leave for the donation of an organ or bone marrow. Unless otherwise required by law or set forth herein, employees will not be paid for such leaves of absence.

Employees wishing to take a leave of absence for one of these reasons should refer to the procedures outlined below or contact the General Manager.

(1) Military Leave of Absence. The Town will grant employees a military leave of absence to the extent required by applicable federal and state law.

(2) Military Spouse Leave. At any time that it regularly employs 25 or more persons, or as otherwise required by applicable federal and state law, the Town will grant qualified California employees up to ten (10) days leave during that time in which the employee's spouse or domestic partner is on leave from deployment in a combat zone with the active duty or reserve military or national guard during a period of military conflict. Employees may use accrued vacation time to cover this absence. If the employee has no accrued vacation, the employee must request time off without pay.

Qualifying employees are employees who work an average of 20 hours per week and have a spouse or domestic partner who is serving as (1) a member of the U.S. Armed Forces and who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States or (2) a member of the Armed Forces Reserve Components or the National Guard and has been deployed during a period of military conflict.

Qualifying employees who wish to request this leave must provide the Town with a written request for such leave within two business days of receiving official notice that the military spouse or domestic partner will be on leave from deployment. The employee must also provide written documentation to the Town certifying that the military member will be on military leave from deployment.

(3) Jury and Witness Duty. The Town will provide employees time off to serve, as required by law, on a jury or grand jury if the employee provides reasonable advance notice. The Town will also provide employees with time off to appear in court or other judicial proceedings as a witness to comply with a valid subpoena or other court order. The Town will compensate employees up to five (5) days of service per calendar year. Any service under this Section exceeding five (5) days per calendar year will be unpaid. However, exempt employees who work any portion of a workweek in which they also serve on jury duty or appear as a witness will receive their full salary for that workweek. Employees may elect to substitute accrued vacation during any unpaid leave due to jury duty or a witness appearance. No overtime shall be paid under this Section.

Pursuant to Code of Civil Procedure Section 215(b) and Government Code Section 481.200, employees shall complete the Government Waiver Form that will stop the jury payment for days in which the Town compensates the employee for service. If the Government Waiver Form is not available, any payment or fees received by the employee for service under this Section by the Court for days in which the Town compensates the employee for service shall be submitted to the District.

Employees are required to provide reasonable advance notice of the need for jury/witness leave. Employees also are expected to report to work each day or portion of a day they are not performing jury/witness duty.

(4) Leave to Attend Children's School at Teacher's Request. The Town will grant employees who are parents or guardians of a pupil time off without pay to appear at their children's school pursuant to a teacher's request under Education Code section 48900.1, if the employee, prior to taking the time off, gives reasonable notice to the Town that he or she is requested to appear in the school.

(5) Leave for Educational/Daycare Purposes. At any time that it regularly employs twenty-five (25) or more persons, or as otherwise required by applicable federal and state law, the Town will grant employees time off without pay for up to forty (40) hours per calendar year, but no more than eight hours in any calendar month, to participate in the activities of schools or licensed child daycare facilities attended by their children. Employees must substitute accrued vacation for purposes of a planned absence under this Section.

Employees wishing to take time off under this Section must provide their supervisors with reasonable notice of the planned absence. If both parents of a child are employed by the Town at the same worksite, the request for time off under this Section will be granted to the first parent to provide notice of the need for time off. The request from the second parent will be accommodated if possible.

The Town reserves the right to request that the employee furnish written verification from the school or daycare facility as proof that the employee participated in school or daycare activities on the specific date and at a particular time. Failure to provide written verification is grounds for disciplinary action.

(6) Civil Air Patrol Leave. An employees who is a volunteer member of the California Wing of the civilian auxiliary of the United States Air Force (Civil Air Patrol) and has been directed to respond to an emergency operational mission of the California Wing of the Civil Air Patrol, are eligible for a leave of absence if he/she has been employed by the Town at least 90 days immediately preceding the commencement to his/her leave, An eligible employee may take up to 10 days per year. Leave is limited to three days on any one occasion but can be extended if authorized by the government entity that called for the mission and the Town agrees. The employee may request to use available vacation/PTO, floating holidays, or vacation days (paid time subject to your supervisor's approval). You need to give as much notice as possible to your supervisor of the start and end dates to your Civil Air Patrol leave. Certification from the proper Civil Air Patrol authority to verify the eligibility for the leave requested or taken is required.

(7) Literacy Leave. The Town of Discovery Bay will make reasonable accommodations for any employee who reveals a literacy problem and requests assistance in enrolling in an adult literacy program. Assistance to employees will also be given by either providing information on the location of local literacy programs or making arrangements for a job-site visit by a special literacy education provider. Upon request, the use of vacation or paid leave may be granted for participation in a literacy program by the employee's supervisor.

(8) Alcohol/Drug Rehabilitation Leave. The Town of Discovery Bay will attempt to reasonably accommodate employees with chemical dependencies (drugs or

alcohol), if they voluntarily wish to seek treatment and/or rehabilitation, unless the accommodation imposes an undue hardship on Town. The Town's support for treatment and rehabilitation does not obligate the Town to hire or employ any person who violates the Town's drug and alcohol abuse policy or who, because of current use of drugs or alcohol, is unable to perform his or her duties or cannot perform the duties in a manner that would not endanger his or her health or safety or the health or safety of others.

(9) Volunteer Firefighter, Reserve Peace Officer, and Emergency Rescue Personnel. Nonexempt employees will be granted time off without pay to perform emergency duties as a volunteer firefighter, reserve peace officer, or emergency rescue personnel. At any time that it regularly employs fifty (50) or more persons, or as otherwise required by applicable federal and state law, Town will grant employees who are volunteer firefighters a leave of up to 14 days per calendar year for fire or law enforcement training. Exempt employees who work any portion of a workweek in which they also perform such emergency duties or training will receive their full salary for that workweek. Otherwise, exempt employees will be granted time off without pay. Employees may substitute vacation pay for any unpaid portion of leave to perform such emergency duties or training.

(10) Voting Time Off. Employees who do not have sufficient time outside of their regular working hours to vote in a statewide election may request time off to vote. If possible, employees should make their request at least two days in advance of the election. Up to two hours of paid time off will be provided, at the beginning or end of the employee's regular shift, whichever will allow the freest time for voting and the least time off work.

(11) Bereavement Leave. All employees who suffer a death in their immediate family may have a paid leave for three (3) scheduled work days for each death of an immediate family member. For purposes of this policy, an employee's immediate family is defined to include the employee's current spouse, domestic partner, child, parent, sibling, grandparent, grandchild of employee, or child, sibling, parent or grandchild of employee's spouse or domestic partner. Employees must take this leave within a seven (7) consecutive day period and will be paid only for days and hours they were scheduled to work.

If an employee requires more than three (3) days off for bereavement leave, the employee may request additional unpaid leave or may request the opportunity to use any accrued vacation time at the discretion of the General Manager.

(12) Leave Related to Domestic Violence, Sexual Assault and/or Stalking. The Town will grant unpaid time off to an employee who is a victim of domestic violence, a victim of sexual assault or a victim of stalking for the employee to obtain or attempt to obtain any relief, including a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety or welfare of the victim or his or her child.

At any time that it regularly employs twenty-five (25) or more persons, or as otherwise required by applicable federal and state law, the Town will also grant unpaid time off to an employee who has been the victim of domestic violence or sexual assault to attend court

proceedings, to receive services from a domestic violence shelter, program or rape crisis center, counseling, medical attention, and for participation in safety planning programs.

The Town requires reasonable advance notice of the leave when feasible. If time off is taken due to an emergency, the employee must, within fifteen (15) days of the absence, provide the Town with certification of the need for the leave such as a police report, court order, documentation from a healthcare provider, victims advocate, or counselor.

(13) Crime Victims' Leave. The Town will provide time off to an employee to attend judicial proceedings related to a crime, if that employee is a victim of crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim. The Town requires that where feasible, in advance of taking leave, the employee provide it with a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice. If advance notice is not possible, the employee is required to provide the Town with a copy of the notice within a reasonable time.

(14) Leave for Organ and Bone Marrow Donation. At any time that it regularly employs twenty-five (25) or more persons, or as otherwise required by applicable federal and state law, the Town will grant an employee the following paid leaves of absence for the purpose of organ or bone marrow donation:

(a) A leave of absence of up to five (5) days in any one-year period for the purpose of donating the employee's bone marrow to another person.

(b) A leave of absence of up to thirty (30) days in any one-year period for the purpose of the employee donating his or her organ to another person.

A leave of absence for the purpose of organ or bone marrow donation will be provided with pay, however, if an employee has unused sick or vacation time available, the employee is required to first use up to five days of paid sick or vacation time for a bone marrow donation and up to two weeks of sick or vacation time for organ donation.

In order to receive a leave of absence pursuant to this policy, the employee must provide written verification to the General Manager that he or she is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

Any leave taken for the donation of an organ or bone marrow will not constitute a break in service for purposes of the employee's right to salary adjustments, sick leave, vacation, annual leave or seniority. During any leave taken under this policy, the Town will maintain and pay for coverage under any group health plan, for the full duration of this leave. Leave provided under this policy may be taken in one or more periods. Leave taken under this policy will not run concurrently with any leave taken pursuant to the federal Family and Medical Leave Act or the California Family Rights Act.

Upon expiration of a leave of absence authorized by this policy, the Town will restore the employee to the position held by the employee when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. The Town may decline to restore an employee because of reasons unrelated to the exercise of rights under this policy by the employee.

Section 3.6. Employment During Leave of Absence. An employee on any leave under this section may not accept employment with any other employer without the General Manager's written permission. An employee who accepts such employment, without permission, will be deemed to have resigned from the employment at the Town.

ARTICLE 4 HOURS OF WORK, OVERTIME, AND PAY DAY

Section 4.1. Hours of Work. The Town's office hours are generally from 8:30 a.m. to 5:00 p.m., Monday through Friday. However, employees will be assigned specific hours, shifts, and days of work, dependent upon the need of the department, by the General Manager or by the employee's supervisor. Due to the nature of Town operations, employees may be required to work shifts or hours, outside regular office hours. The General Manager or the employee's Supervisor may reschedule an employee's hours, shifts, and days whenever necessary based upon the needs of the Town. The General Manager is the final decision maker concerning employee work schedule.

Section 4.2. Meal and Rest Periods.

A. Rest Periods. The Town authorizes and permits nonexempt employees working at least three and one-half hours in a day to take a ten-minute, off-duty paid rest period for each four hours worked or major fraction thereof. The 10 minutes do not include the reasonable time it takes to walk to and from a break area. Employees who work up to six hours in a day may take a second rest period. Employees who work more than 10 hours in a day may take a third rest period. Employees should take their rest periods in the middle of each work period to the extent it is practicable to do so, and not combine them with meal periods or skip them to leave work early.

Employees who feel they were not provided the opportunity to take all rest periods authorized and permitted under this policy should inform their supervisor or manager, and (if not corrected) Human Resources immediately.

B. Meal Periods. The Town provides nonexempt employees who work more than five hours in a day with an unpaid 30-minute, uninterrupted meal period starting no later than the end of the fifth hour of work. The Town provides employees who work more than 10 hours in a day with a second unpaid 30-minute, uninterrupted meal period starting no later than the end of the 10th hour of work. Employees who work no more than six hours in a day may waive the first meal period. Employees who work no more than 12 hours in a day may waive the second meal period if they took their first meal periods. Employees are entitled, encouraged, and expected to take all meal periods provided under this policy and not waived. During meal periods, the Town will relieve employees of all duty and will not exercise control over employees' activities. Employees are free to spend their meal period time as they choose (consistent with any other Town policies that may apply during off-duty time) and are free to leave the worksite. No supervisor or manager may impede or discourage employees from taking meal periods provided under this policy.

Supervisors may assign employee meal period times to ensure that Town operations are properly staffed during business hours. Employees who feel they were not provided a meal period that complies with this policy should inform their supervisor or manager, and (if not corrected) the General Manager immediately.

Section 4.3. Basic Pay Structure. The Town has an established salary step schedule for each employee classification with a minimum and maximum pay range. Movement within the pay range is based on discipline, performance and merit. Typically, employees are evaluated on an annual basis and merit increases (not to exceed top step) are considered at that time.

Section 4.4. Overtime Pay.

A. Overtime Definition and Rates of Pay. All nonexempt employees who work more than forty (40) hours in one workweek will receive overtime pay computed as follows:

(1) Overtime at the rate of 1 ½ times the employee's regular rate of pay will be provided for all hours worked in excess of forty (40) in any one workweek.

(2) Overtime will be computed on actual minutes worked, adjusted to the nearest increment of 15 minutes. Only those hours actually worked are added together to determine an employee's overtime pay. Compensated holidays, for example, are not hours worked and are therefore not counted in making overtime calculations.

B. Workweek and Workday. Unless otherwise provided, for purposes of calculating overtime each workweek begins on Sunday and each workday begins at 12:01 a.m.

C. Pre-Authorization. No nonexempt employee may work overtime without the express prior approval of his or her supervisor.

D. Nonexempt Employees Prohibited from Working at Home. Nonexempt employees are strictly prohibited from completing any work for the Town while at home and not during regularly scheduled working hours, unless express prior approval of the General Manager in writing is obtained.

Section 4.5. Other Types of Pay.

A. Reporting Time Pay. Nonexempt employees who report to work at the Town's request, but are furnished less than half of their usual or scheduled day's work, will be paid for half the usual or scheduled day's work, but not less than two hours' pay or more than four hours' pay at their regular rate, without regard to the number of hours they actually worked, unless the reasons for the lack of work are beyond the Town's control. Reporting time pay will not be paid to an employee on paid standby status who is called to perform assigned work at a time other than the employee's scheduled reporting time. Reporting time hours are not counted as "hours worked" for overtime purposes beyond the time in which work is actually performed. For example, if an employee who is scheduled to work an eight-hour shift is sent home after three hours, the employee will receive four hours' pay for that day, but the fourth hour of reporting time pay will not be treated as time worked for overtime purposes.

B. Callback Pay. Any nonexempt employee who is called back to work for a second work period in any one workday and is furnished with less than two hours' work is paid a minimum of two hours pay at the regular straight-time rate for the second work period, without regard to the number of hours actually worked, unless the reasons for lack of work are beyond the Town's control.

C. Holiday Pay. Nonexempt employees are paid their regular straight-time wages for holidays as set forth under Article 3 of this Manual. To receive holiday pay, the employee must work the regularly scheduled workdays preceding and following the holiday, or receive prior approval from his or her Supervisor to take the time off.

D. Pay Advances. There will be no pay advances.

Section 4.6. Place and Time for Payment of Wages.

A. Regular Pay Days. Employees are paid biweekly, twenty-six (26) times annually. Employees must complete their time cards in a timely manner in order to ensure that they are paid for all hours worked. If a pay day falls on a holiday, paychecks will be distributed on the preceding workday. For employees who are not on direct deposit, checks are distributed on the date assigned for payment. If the employee is absent when the paycheck is distributed, the employee may claim the paycheck from his or her immediate supervisor when the employee returns. Exempt employees must submit a time off request for any paid leave taken during the pay period.

B. Payment on Resignation, Termination, or Completion of Assignment or Term. If an employee resigns, his or her paycheck will be available on the final day of work, provided the employee has given at least 72 hours' prior notice. If an employee resigns without

giving 72 hours' notice, his or her paycheck will be made available within 72 hours after the employee gives notice of the resignation, unless the employee requests in writing that his or her final paycheck be mailed, in which case the Town will mail the final paycheck within three days after the employee gives notice. Employees who are terminated involuntarily will be paid on the day of the discharge. If an employee is hired for a specific assignment or otherwise has a defined term of employment, his or her paycheck will be available upon the completion of the assignment or employment term. In all cases, employees' final paychecks will include payment for all wages owed and any accrued but unused vacation time.

ARTICLE 5 RULES OF CONDUCT

Section 5.1. Open Door. The Town has an Open Door Policy that encourages employee participation in decisions affecting them and their daily professional responsibilities. Employees who have job-related concerns or complaints are encouraged to talk them over with their immediate supervisor or any other management representative with whom they feel comfortable. The Town believes that employee concerns are best addressed through this type of informal and open communication.

Section 5.2. Rules of Conduct, Discipline and Termination.

A. Rules of Conduct.

(1) Policy. Employees are expected to observe certain standards of job performance and good conduct. When performance or conduct does not meet Town standards, the Town may endeavor, when it deems appropriate, to provide the employee a reasonable opportunity to correct the deficiency. If, however, the employee fails to make the correction, he or she will be subject to discipline. Discipline can include termination.

Employees are expected to conduct themselves at all times in a manner which is professional, courteous and respectful to their coworkers, customers, vendors and public. The rules set forth below are intended to provide employees with fair notice of what is expected of them. Necessarily, however, such rules cannot identify every type of unacceptable conduct and performance. Therefore, employees should be aware that conduct not specifically listed below but which adversely affects or is otherwise detrimental to the interests of the Town, other employees or the public, may also result in disciplinary action. The listing of these rules does not in any way abrogate or modify the at-will policy set forth in Section 1.6 of this Manual.

(2) Job Performance. Employees may be disciplined for poor job performance, including but not limited, to the following:

- (a) Unsatisfactory work quality or quantity;
- (b) Poor attitude (e.g. abrupt, rude, discourteous, unfriendly, passive/aggressive, negative, antagonistic, uncooperative, argumentative);
- (c) Poor interpersonal skills with coworkers and/or others;
- (d) Excessive absenteeism, tardiness, or abuse of rest break and meal period policies;
- (e) Failure to follow instructions or Town guidelines, policies and/or procedures; or
- (f) Failure to follow established safety regulations.

(3) Misconduct. Employees may be disciplined for misconduct, including, but not limited to, the following:

- (a) Insubordination;
- (b) Dishonesty;
- (c) Untruthfulness;
- (d) Theft or embezzlement;
- (e) Discourtesy;
- (f) Conduct unbecoming a District employee;
- (g) Unlawful conduct;
- (h) Unauthorized use, misuse or destruction of Town property or the property assigned to or owned by another.

- (i) Violating conflict of interest rules;
- (j) Accessing, disclosing or using confidential or proprietary information without authorization;
- (k) Falsifying or altering Town records, including the application for employment;
- (l) Interfering with the work performance of others;
- (m) Altercations, physical or verbal;
- (n) Harassing, including sexually harassing employees, customers, contractors, or others while acting within the scope of their employment;
- (o) Being under the influence of, manufacturing, dispensing, distributing, using, or possessing alcohol, cannabis (with or without prescription) or illegal or controlled substances on Town property or during the work day or while conducting Town business;
- (p) Gambling on Town premises or while conducting Town business;
- (q) Sleeping on the job or leaving your work location or worksite without authorization;
- (r) Possessing a firearm or other dangerous weapon on Town property or while conducting Town business.
- (s) Being convicted of a crime that indicates unfitness for the job or raises a threat to the safety or well-being of the Town, its employees, customers, or property;
- (t) Failing to report to the Town, within five (5) days, any conviction under any criminal drug statute for a violation occurring in the work place;
- (u) Use of foul, abusive, or offensive language; or
- (v) Smoking in non-designated areas.

(4) Attendance. Attendance and punctuality are important to your success at the Town of Discovery Bay. You are expected to be conscientious about your attendance and punctuality at work. Regular and dependable attendance is an essential function of your job. If you are going to be unable to work, contact your supervisor at least 30 minutes in advance of your reporting time. In addition to the general rules stated above, employees may be disciplined for failing to observe the following specific requirements relating to attendance:

- (a) Reporting to work on time, observing the rest break and meal period policies, and obtaining approval to leave work early; and
- (b) Notifying the supervisor in advance of anticipated tardiness or absence.

B. Discipline

Except as set forth below, discipline may take the form of verbal counselling, verbal warning, written reprimand, performance improvement plan (PIP), suspension without pay, pay reduction, demotion and termination. The Town reserves the right to proceed directly to any disciplinary step it deems appropriate, including termination, for misconduct or performance deficiency, without resort to prior disciplinary steps.

C. Termination

(1) Voluntary Termination. The Town will consider an employee to have voluntarily terminated his or her employment if an employee does any of the following:

- (a) Elects to resign from the Town;
- (b) Fails to return from an approved leave of absence on the date specified by the Town; or
- (c) Fails to report for work without notice to the Town for three (3) consecutive days.

(2) Involuntary Termination. An employee may be terminated involuntarily for reasons that may include, but are not limited to, poor performance, misconduct, or other violations of the Town's rules of conduct as set forth below. Notwithstanding this list of rules, the Town reserves the right to discharge or demote any employee with or without cause and with or without prior notice.

Section 5.3. Exit Interview. Employees who leave the Town for any reason may be asked to participate in an exit interview. This interview is intended to permit terminating employees the opportunity to communicate their views regarding their work with the Town, including job duties, job training, job supervision, and job benefits. At the time of the interview, employees are expected to return all Town-furnished property, such as uniforms, tools, equipment, I.D. cards, keys, credit cards, documents, and manuals. Arrangements for clearing any outstanding debts with the Town and for receiving final pay also will be made at this time.

Section 5.4. Employment at Will. Nothing in this Personnel Manual is intended to alter the at-will status of employment with the Town. Either you or the Town may terminate the employment relationship at any time with or without cause and with or without prior notice. The Town reserves the right to terminate any employment relationship, to demote, or to otherwise discipline an employee without resort to the above disciplinary procedures.

ARTICLE 6 WORK REGULATIONS

Section 6.1. Personnel Records.

A. Personnel Files. The information in an employee's personnel file is permanent and confidential and must be kept up to date. Employees should inform the Personnel Manager immediately whenever there are changes in personal data such as address, telephone number, marital status, number of dependents, and person(s) to notify in case of emergency.

Employees have the right to inspect their personnel files at reasonable times and on reasonable notice. In addition, employees have the right to request copies of all employment-related documents that they have signed. An employee may inspect only his or her own personnel file and only in the presence of a supervisor or the General Manager. Personnel files are the property of the Town and may not be removed from the Town's premises without written authorization from the General Manager.

B. Payroll Records. Employees also have the right to inspect and copy certain Town payroll records regarding their compensation, and deductions from their compensation, upon reasonable request to the Town. Employees wishing to review or copy payroll records should notify the General Manager.

Section 6.2. Personal Telephone Calls. Personal telephone calls are to be limited to essential matters and kept as brief as possible. Continued excessive use of phones for personal matters is subject to disciplinary action.

Section 6.3. Smoking. The Town prohibits smoking or using tobacco products, smokeless (chewing) tobacco products, e-cigarettes and other nicotine-delivery devices, such as vaporizers, in the workplace. Smoking is prohibited within the confines of any office or vehicle. Smoking will be permitted out of doors only, and in accordance with all applicable laws and regulations. All cigarettes are to be extinguished and disposed of prior to entering any office or vehicle. Employees violating this policy will be subject to disciplinary action.

Section 6.4. Dress and Grooming Standards. The Town considers the presentation of the Town image to its clients, suppliers, and the public at large to be extremely important. Accordingly, it is expected that all employees dress in a manner consistent with proper hygiene, safety, and taste. Employees whose jobs require them to come in contact with clients, customers, suppliers, or the public are expected to wear apparel the Town considers appropriate for dealing with the public. Each employee is expected to be neat and clean in appearance, with clean clothing or clean uniform and good personal hygiene. Clothing should be appropriate for the particular work area and type of work performed.

Section 6.5. Lactation Room. The Town provides a reasonable amount of time to accommodate employees desiring to express breast milk for the employee's infant child. Employees who desire to express milk in private, are to contact the General Manager so that arrangements can be made to provide a room, other than a bathroom, near the employee's work area, for the employee to express milk. During such time, the room location will stay private to the employee and free from intrusion.

Section 6.6. Employment of Relatives. The Town will only allow for the employment of relatives of existing employees under specific situations, as identified below and as set forth in this section and only with the advanced written approval of the General Manager. Relatives of present employees may be hired by the Town only if (1) the individuals concerned will not work in a direct supervisory relationship with one another, (2) the individuals concerned will not work in the same work unit or area or under the same direct supervisor, and (3) the employment will not pose difficulties for supervision, security, safety, or morale. "Relatives" are defined as spouses, domestic partners, children, sisters, brothers, mothers, or fathers, and persons related by marriage or domestic partnership. Present employees who marry or form a domestic partnership, or become related by marriage or domestic partnership, will be permitted to continue employment with the Town only if they do not work in a direct supervisory relationship with one another, or otherwise pose difficulties for supervision, security, safety, or morale. If employees who marry or form a domestic partnership, or become related by marriage or domestic partnership, do work in a direct supervisory relationship with one another, the Town will attempt to reassign one of the employees to another position for which he or she is qualified, if such a position is available. If no such position is available, then one of the employees will be required to leave the Town's employment. The decision as to which employee will separate from employment is left to the sole discretion of the employees. In the event that no alternative position is available and neither employee voluntarily leaves the Town, the employee with lesser seniority will be terminated.

Section 6.7. Conflicts of Interest. Employees are expected to devote their best efforts and attention to the full-time performance of their jobs. They are expected to use good judgment, to adhere to high ethical standards, and to avoid situations that create an actual or potential conflict between the employee's personal interest and the interest of the Town. A conflict of interest exists where the employee's loyalties or actions are divided between the Town's interest and those of another, such as a competitor, supplier, or customer. Both the fact and the appearance of a conflict of interest should be avoided. Employees unsure as to whether a certain transaction, activity, or relationship constitutes a conflict of interest should discuss it with their immediate supervisor or the General Manager for clarification. Any exceptions to this policy must be approved in writing by the General Manager.

Where it is not feasible to describe all possible conflicts of interest that could develop, some of the more common conflicts, from which employees should refrain, include the following.

- A. Unapproved personal gifts or entertainment from competitors, customers, suppliers, or potential suppliers;
- B. Working for a competitor, supplier, or customer;
- C. Engaging in self-employment in competition with the Town;
- D. Using proprietary or confidential Town information for personal gain or to the Town's detriment;
- E. Having a direct or indirect financial interest in or relationship with a customer or supplier;
- F. Using Town property or labor for personal use;
- G. Acquiring any interest in property or assets of any kind for the purpose of selling or leasing it to the Town.
- H. Committing the Town to give financial or other support to any outside activity or organization.
- I. Developing a personal relationship with a subordinate employee of the Town or with an employee of a competitor, supplier, or customer that might interfere with the exercise of impartial judgment in decisions affecting the Town or any employees of the Town.

If an employee or someone with whom an employee has a close relationship (a family member or close companion), has a financial or employment relationship with a competitor, customer, supplier, or potential supplier, the employee must disclose this fact in writing to the General Manager. Employees should be aware that if they enter into a personal relationship with a subordinate employee or with an employee of a competitor, supplier, or customer, a conflict of interest may exist which requires full disclosure to the Town.

Part-time employees may engage in outside employment, provided that they disclose such employment and get written approval from their immediate supervisor.

Failure to adhere to this policy, including failure to disclose any conflicts or to seek an exception, may result in discipline, up to and including termination of employment.

If there are questions, the employee shall discuss them with their immediate supervisor, the General Manager, or both. Please refer to the Town's adopted Conflict of Interest Code for additional information.

Section 6.8. Safety. The Town is committed to providing employees with a safe and healthy workplace. The Town has adopted an Injury Illness Prevention Program refer Board Policy No. 021. https://www.todb.ca.gov/sites/main/files/policy_021_-_injury_and_illness_prevention_program_2018_v2_-_2018-11_1.pdf

Section 6.9. Performance Evaluations. The Town supports the utilization of an "Employee Performance Review" in order to ensure that employees perform to the highest possible standard. Performance evaluations are an effective tool to foster communication between employees and their supervisors regarding performance. The Town is committed to a performance review process that incorporates regular feedback and candid discussion related to job performance, and that both recognizes highly commendable performance as well as addresses any areas where an employee may improve performance or is not meeting expected standards.

Employees should receive annual performance evaluations utilizing the District's "Employee Performance Review" document. Supervisors are responsible for ensuring that the performance reviews are prepared and discussed with individual employees on an annual basis. Employees within their first year of service should receive their initial evaluation no later than six months into their employment.

The Town is committed to ensuring that both employees and their supervisors are focused on ensuring that each employee performs to the highest possible standard. The employee performance evaluation process provides the opportunity for Town's employees to receive an assessment of their competencies, to identify how to improve performance, and to effectively address any areas where performance does not meet acceptable standards.

Section 6.10. Merit Increases. The District maintains an adopted salary schedule which identifies the minimum and maximum salary for each position. As part of the annual Employee Performance Review, employees whose salary is not yet at the maximum level, may be eligible for a merit increase. Merit increases shall not result in a salary that exceeds the maximum salary for the position. Employees have no right to a merit increase and all merit increases are at the sole discretion of the General Manager.

A. An employee who received a performance review that reflects overall performance at the "Highly Commendable" and "Proficient and Competent" level may receive a 5% merit increase.

B. An employee who receives a performance review that reflects overall performance at the “Proficient and Competent” and “Needs Improvement” level may receive a 2.5% merit increase.

C. An employee who receives a performance review that contains an “Unacceptable” rating will not receive a merit increase and may be terminated for poor performance.

ARTICLE 7 DRUG-FREE WORKPLACE

Section 7.1. Purpose of Policy. It is the intent of the Town to maintain a workplace that is free of drugs (including cannabis) and alcohol and to discourage drug and alcohol abuse by its employees. Employees who are under the influence of a drug or alcohol on the job compromise the Town’s interests and endanger their own health and safety and the health and safety of others. Substance abuse in the workplace can also cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for co-workers, behavior that disrupts other employees, and inferior quality in products or service.

The use of prescription drugs and/or over-the-counter drugs may affect an employee’s job performance and may seriously impair the employee’s value to the Town.

Employees should be aware that the legalization of cannabis in California does not impact the scope of this policy. Cannabis remains an illegal drug under federal law. For that reason, usage and possession of cannabis remains a violation of policy and will be enforced to the fullest extent possible.

To further its interest in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, and to protect its business, property, equipment, and

operations, the Town has established this policy concerning the use of alcohol and drugs. As a condition of continued employment with the Town, each employee must abide by this policy.

Section 7.2. Definitions. For purposes of this policy:

A. “Illegal drugs or other controlled substances” mean *any* drug or substance that (a) is not legally obtainable; or (b) is legally obtainable but has not been legally obtained; or (c) has been legally obtained but is being sold or distributed unlawfully.

B. “Legal drug” means any drug, including any prescription drug or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.

C. “Cannabis” means the presence of marijuana or its extracts in any form, whether prescribed or not prescribed, and whether deemed legal or illegal.

D. “Abuse of any legal drug” means the use of any legal drug (a) for any purpose other than the purpose for which it was prescribed or manufactured; or (b) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.

E. “Reasonable suspicion” includes a suspicion that is based on specific personal observations such as an employee’s manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable; or a suspicion that is based on other surrounding circumstances.

F. “Possession” means that an employee has the substance on his or her person or otherwise under his or her control.

Section 7.3. Prohibited Conduct.

A. Scope. The prohibitions of this section apply whenever the interests of the Town may be adversely affected, including any time an employee is:

- (1) On Town premises;
- (2) Conducting or performing Town business, regardless of location;
- (3) Operating or responsible for the operation, custody, or care of Town equipment, vehicles or other property; or
- (4) Responsible for the safety of others in connection with, or while performing, Town-related business.

B. Alcohol. The following acts are prohibited and will subject an employee to termination:

(1) The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol; or

(2) Being under the influence of alcohol; or

(3) Possession of alcohol containers.

C. Cannabis. The following acts are prohibited and will subject an employee to termination:

(1) Whether prescribed or otherwise, the use, cultivation, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of cannabis; or

(2) Being under the influence of cannabis; or

(3) Possession of cannabis paraphernalia.

D. Illegal Drugs. The following acts are prohibited and will subject an employee to termination:

(1) The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of any illegal drug or other controlled substance; or

(2) Being under the influence of any illegal drug or other controlled substance; or

(3) Possession of drug paraphernalia.

E. Legal Drugs. The following acts are prohibited and will subject an employee to termination:

(1) The abuse of any legal drug; or

(2) The purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription drug in a manner inconsistent with law; or

(3) Working while *impaired* by the use of a legal drug whenever such impairment might:

(a) Endanger the safety of the employee or some other person;

(b) Pose a risk of significant damage to Town property or equipment; or

(c) Substantially interfere with the employee's job performance or the efficient operation of the Town's business or equipment.

Section 7.4. Disciplinary Action.

A. Termination for Violation of Policy. A first violation of this Policy will result in *immediate discharge* whenever the prohibited conduct:

- (1) Caused injury to the employee or any other person, or, in the sole opinion of management, endangered the safety of the employee or any other person;
- (2) Resulted in significant damage to Town property or equipment, or, in the sole opinion of management, posed a risk of significant damage;
- (3) Involved the sale or manufacture of illegal drugs or other controlled substances;
- (4) Involved the possession, distribution, or dispensation of illegal drugs or other controlled substances or cannabis or alcohol;
- (5) Involved an employee who had not completed the introductory period or was a casual, seasonal, or temporary employee; or
- (6) Involved the failure of an employee to report a criminal conviction, as required by Section 7.4.C, below.

B. Discretion Not to Discharge. In circumstances other than those described above in Paragraph A, the Town, in the sole discretion of the General Manager, may choose not to discharge an employee for a first violation. The employee may be required to satisfactorily complete a Town approved drug or alcohol abuse assistance or rehabilitation program.

C. Effect of Criminal Conviction. An employee who is convicted under a criminal drug statute for a violation occurring in the workplace or during any Town-related activity or event will be deemed to have violated this Policy.

D. Discipline. An employee who is not terminated for a first violation of this Policy may nevertheless receive another form of discipline for the violation.

E. Effect of Second Violation. A second violation of this Policy at any time will result in immediate discharge.

F. Effect of Discharge on Eligibility for Rehire. Employees who are terminated for a violation of this Policy will not be eligible for rehire by the Town.

Section 7.5. Management Awareness. Managers and supervisors should be attentive to the performance and conduct of those who work with them and should not permit an employee to work in an impaired condition or to otherwise engage in conduct that violates this Policy. When management has reasonable suspicion to believe that an employee or employees are working in violation of this Policy, prompt action shall be taken.

A. Reasonable Suspicion Testing. Where there is reasonable suspicion to believe that an employee is under the influence of alcohol or drugs in violation of this policy, the employee may be required to submit to drug and/or alcohol testing. Reasonable suspicion is more than a hunch, but less than probable cause. Reasonable suspicion can arise from:

(1) Objective symptoms such as poor balance, odor of alcohol and/or cannabis; slurred or thick speech; hyper speech; disorganized thought pattern; droopy, watery, red eyes; abnormal pupil size; poor dexterity, inability to concentrate or follow directions; mood swings and/or outbursts; lethargy or hyper activity; and other related physical indicators.

(2) Possession of alcohol, cannabis, illegal drugs or drug paraphernalia; admission of use; citations, arrests or convictions involving alcohol, cannabis, and/or drugs; unexplained or significant deterioration in job performance, absenteeism or tardiness; involvement in work-related accident or near miss; and/or unexplained or significant changes in behavior.

Section 7.6. Use of Legal Drugs. The Town recognizes that employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's instructions, may result in impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to Town property, or substantially interfere with the employee's job performance. If an employee is so impaired by the appropriate use of legal drugs, he or she may not report to work. To accommodate the absence, the employee may use accrued sick leave or vacation time. The employee may also contact the General Manager to determine whether or not he or she qualifies for an unpaid leave of absence, such as family care or medical leave. Nothing in this Policy is intended to sanction the use of accrued sick leave or vacation time to accommodate absences due to the *abuse* of legal drugs. Further, nothing in this Policy is intended to diminish the Town's commitment to employ and reasonably accommodate qualified disabled individuals. The Town will reasonably accommodate qualified disabled employees who must take legal drugs because of their disability. This section (7.6) pertaining to the Use of Legal Drugs does not apply to cannabis, whether prescribed or not.

Section 7.7. Unregulated or Authorized Conduct.

A. Customary Use of Over-the-Counter Drugs. Nothing in this Policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as that activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this Policy.

B. Authorized Use of Alcohol. The Town may provide alcohol for consumption at certain events, such as social functions. The consumption of alcohol at these events does not violate this Policy.

Section 7.8. Confidentiality. Disclosures made by employees to the General Manager concerning their use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work-related reason to do so in order to determine whether it is advisable for the employee to continue working. Disclosures made by

employees to the General Manager concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

Section 7.9. Drug Testing for Safety-Sensitive Positions. Employees in safety-sensitive positions, as defined by the United States Department of Transportation regulations including those employees whose position requires possession of a Class 1 Commercial Drivers license, will be tested for drugs and alcohol as part of the Town's employment screening process and during employment in accordance with applicable state and federal law including, but not limited to, The Omnibus Transportation Employee Testing Act of 1991 and any subsequent amendments thereto. Refer Board Policy No. 019, DOT Drug & Alcohol Testing Policy.

Section 7.10. Pre-Employment Testing. Following a conditional offer of employment, all applicants are required to submit to and pass pre-employment drug testing.

Section 7.11. Duty to Cooperate. An employee who fails to cooperate in the administration of this policy is subject to termination. Failure to cooperate includes:

- A. Refusing to consent to testing, to submit a sample or to sign required forms;
- B. Refusing or obstructing any interview or investigation, including untruthfulness or making misleading statements or omissions;
- C. Tampering, diluting, switching, and/or falsifying any test sample.

ARTICLE 8 TECHNOLOGY

Section 8.1. Voice-Mail, E-Mails and Technology Policy. The Town maintains and utilizes, as part of its operations, a computer system, voice-mail, e-mail, cellular and smart phone, iPads and other methods of technological communication. These systems are provided to assist employees in the conduct of Town business. Each employee has a responsibility to use the Town's Technology Resources in a manner that increases productivity, enhances the Town's public image, and is respectful of other employees. Failure to follow the Town's policies regarding Technology Resources may lead to disciplinary measures, up to and including termination of employment.

Section 8.2. Technology Resources Definition. Technology Resources consist of all electronic devices, software, and means of electronic communication including any of the following: personal computers and workstations; laptop computers; mini and mainframe computers; computer hardware such as disk drives and tape drives; peripheral equipment such as printers, modems, fax machines, and copiers; computer software applications and associated files and data, including software that grants access to external services, such as the Internet; electronic mail; telephones; cellular and smart phones; iPads; personal organizers and other handheld devices; pagers; voicemail systems; and instant messaging systems.

Section 8.3. Authorization. Access to the Town's Technology Resources is within the sole discretion of the Town. Generally, employees are given authorized access to the Town's various technologies based on their job functions. Only authorized employees whose job performance will benefit from the use of the Town's Technology Resources are permitted to access and use the necessary technology to which they've been assigned. Additionally, employees must successfully complete any Town-required training before they are authorized to access and use the Town's Technology Resources.

Section 8.4. Use. The Town's Technology Resources are to be used by employees only for the purpose of conducting Town business and personal use of such Resources is discouraged. Employees may, however, use the Town's Technology Resources for the following incidental personal uses as long as such use does not interfere with the employee's duties, is not done for pecuniary gain, does not conflict with the Town's business, and does not violate any Town policy:

- (1) To use the telephone system for brief and necessary personal calls;
- (2) To send and receive necessary and occasional personal communications;
- (3) To prepare and store incidental personal data (such as personal calendars, personal address lists, and similar incidental personal data) in a reasonable manner; and
- (4) To access the Internet for brief personal searches and inquiries during meal times or other breaks, or outside of work hours, provided that employees adhere to all other usage policies.

The Town assumes no liability for loss, damage, destruction, alteration, receipt, transmission, disclosure, or misuse of any personal data or communications transmitted over or stored on the Town's Technology Resources. The Town accepts no responsibility or liability for the loss or non-delivery of any personal electronic mail or voicemail communications or any personal data stored on any Town property. The Town strongly discourages employees from storing any personal data on any of the Town's Technology Resources. Personal information and communications transmitted or stored on any of the Town's Technology Resources cannot be considered private and may be disclosed to management and subject to disclosure under the Public Records Act.

Section 8.5. Improper Use.

A. Prohibition Against Harassing, Discriminatory and Defamatory Use. The Town is aware that employees use electronic mail for correspondence that is less formal than written memoranda. Employees must take care, however, not to let informality degenerate into improper use. As set forth more fully in the Town's "Policy Against Harassment," the Town does not tolerate discrimination or harassment based on gender, pregnancy, childbirth (or related medical conditions), race, color, religion, national origin, ancestry, age, physical disability,

mental disability, medical condition, marital status, sexual orientation, family care or medical leave status, veteran status, or any other status protected by state and federal laws. Under no circumstances shall employees use the Town's Technology Resources to transmit, receive, or store any information that is discriminatory, harassing, defamatory, obscene, indecent, threatening, or that otherwise could adversely affect any individual, group, or entity (e.g., sexually explicit or racial messages, jokes, or cartoons).

B. Prohibition Against Violating Copyright Laws. Employees shall not use the Town's Technology Resources to copy, retrieve, forward, or send copyrighted materials unless the employee has the author's permission or is accessing a single copy only for the employee's reference.

C. Other Prohibited Uses. Employees shall not use the Town's Technology Resources for any illegal purpose, violation of any Town policy, in a manner contrary to the best interests of the Town, in any way that discloses confidential or proprietary information of the Town or third parties, or for personal or pecuniary gain. Employees shall not use the Town's Technology Resources without authorization and permission.

Section 8.6. Town Access to Technology Resources. All messages sent and received, including personal messages, and all data and information stored on the Town's Technology Resources (including on its electronic mail system, voicemail system, or computer systems) are Town property regardless of the content. As such, the Town reserves the right to access all of its Technology Resources including its computers, voicemail, and electronic mail systems, at any time, in its sole discretion. No employee, other than the President of the Board of Directors, has authority to waive, vary or amend the Town's right to access its Technology Resources.

A. No Reasonable Expectation of Privacy. On occasion, the Town may need to access its Technology Resources including computer files, electronic mail messages, and voicemail messages. Employees should understand, therefore, that they have no right of privacy with respect to any messages or information created, collected, or maintained on the Town's Technology Resources, including personal information or messages. The Town may, at its discretion, inspect all files or messages on its Technology Resources at any time for any reason. The Town may also monitor its Technology Resources at any time in order to determine compliance with its policies, for purposes of legal proceedings, to investigate misconduct, to locate information, or for any other business purpose.

B. Passwords. Certain of the Town's Technology Resources can be accessed only by entering a password. Passwords are intended to prevent unauthorized access to information. Passwords do not confer any right of privacy upon any employee of the Town. Thus, even though employees may maintain passwords for accessing Technology Resources, employees must not expect that any information maintained on Technology Resources, including electronic mail and voicemail messages, are private. Employees are expected to maintain their passwords as confidential. Employees must not share passwords and must not access coworkers' systems without express authorization.

C. Data Collection. The best way for employees to ensure the privacy of personal information is not to store or transmit it on the Town's Technology Resources. So that

employees understand the extent to which information is collected and stored, examples of information currently maintained by the Town are provided below. The Town may, however, in its sole discretion, and at any time, alter the amount and type of information that it retains.

(1) Telephone Use and Voicemail: Records are kept of all calls made from and to a given telephone extension. Although voicemail is password-protected, an authorized administrator can listen to voicemail messages and also reset the password.

(2) Electronic Mail: Electronic mail is backed up and archived. Although electronic mail is password-protected, an authorized administrator can read electronic mail and also reset the password.

(3) Desktop Facsimile Use: Copies of all facsimile transmissions are maintained in the facsimile server.

(4) Document Use: Each document stored on Town computers has a history that shows which users have accessed the document for any purpose.

(5) Internet Use: Internet sites visited, the number of times visited, and the total time connected to each site are recorded and periodically monitored.

D. Deleted Information. Deleting or erasing information, documents, or messages maintained on the Town's Technology Resources is, in most cases, ineffective. All employees should understand that any information kept on the Town's Technology Resources may be electronically recalled or recreated regardless of whether it may have been "deleted" or "erased" by an employee. Because the Town periodically backs up all files and messages, and because of the way in which computers reuse file storage space, files and messages may exist that are thought to have been deleted or erased. Therefore, employees who delete or erase information or messages should not assume that such information or messages are confidential or ever were confidential. If a legal dispute arises, or may arise in the future, it may be unlawful to attempt to delete or erase certain information. Employees shall fully comply with Town policy regarding retention or destruction of information.

Section 8.7. The Internet and On-Line Services. The Town provides authorized employees access to online services such as the Internet. The Town expects that employees will use these services in a responsible way and for business-related purposes only. Under no circumstances are employees permitted to use the Town's Technology Resources to access, download, or contribute to Internet sites that contain inappropriate content such as that which is discriminatory, harassing, defamatory, obscene, indecent, threatening, or that otherwise could adversely affect any individual, group, or entity.

Additionally, employees may not use the Town's Technology Resources to post, comment, send, or otherwise upload any information to any Web sites or other online groups, including web logs (*i.e.*, "blogs"), social networking Web sites, newsgroups, discussion groups, or non-Town email groups. These actions will likely generate junk electronic mail and may expose the Town to liability or unwanted attention because of comments or other contributions that employees may make. The Town strongly encourages employees who wish to access the

Internet for non-work-related activities to obtain their own personal Internet access accounts that are unaffiliated with the Town, and to use such accounts at home on their own personal computer without making any reference to the Town.

Authorized employees may use Town social media sites to promote Town services or Town sponsored events. Content must be approved by a supervisor.

Section 8.8. Monitoring. The Town monitors both the amount of time spent using online services and the sites visited by individual employees. The Town reserves the right to limit such access by any means available to it, including revoking access altogether. The Town, through technological tools, may also prohibit or limit access to certain Web sites considered inappropriate by the Town or its technology provider.

Section 8.9. Confidential Information. The Town is very sensitive to the issue of protection of trade secrets and other confidential and proprietary information of both the Town and third parties (“Confidential Information”). Therefore, employees are expected to use good judgment and to adhere to the highest ethical standards when using or transmitting Confidential Information on the Town’s Technology Resources.

Confidential Information should not be accessed through the Town’s Technology Resources in the presence of unauthorized individuals. Similarly, Confidential Information should not be left visible or unattended. Moreover, any Confidential Information transmitted via Technology Resources should be marked with the following confidentiality legend: “This message contains confidential information. Unless you are the addressee (or authorized to receive for the addressee), you may not copy, use, or distribute this information. If you have received this message in error, please advise [employee’s name] immediately at [employee’s telephone number] or return it promptly by mail.”

Employees should adhere to Town’s security policy with regard to Confidential Information and take all appropriate measures to safeguard the confidentiality and security of such information. Employees should avoid sending Confidential Information via the Internet, except when absolutely necessary. Employees should also verify electronic mail addresses before transmitting any messages containing Confidential Information.

Section 8.10. Software Use / License Restrictions. All software in use on the Town’s Technology Resources is officially licensed software. No software is to be installed or used that has not been duly paid for and licensed appropriately for the use to which it is being put. No employee may load any software on the Town’s computers, by any means of transmission, unless authorized in writing in advance by the General Manager or the President of the Board of Directors, and thoroughly scanned for viruses or other malware prior to installation.

Section 8.11. Software for Home Use. Employees are prohibited from transferring or copying any software from a Town Technology Resource to another computer or other device, unless employees have received written authorization from the General Manager or the President of the Board of Directors.

Section 8.12. Security. The Town has installed a variety of programs and devices to ensure the safety and security of the Town's Technology Resources. Any employee found tampering with or disabling any of the Town's security devices will be subject to discipline up to and including termination. Moreover, the Town reserves the right to advise appropriate legal authorities of any violation of law by an employee that results in the misappropriation, theft, or unlawful use of Town's property or proprietary information. To maintain the effectiveness of the Town's security measures, employees should use only secure networks established by the Town to access or use Confidential Information. Such information may not be downloaded, stored, or copied on any non-Town equipment or media (including personally owned computer, handheld devices, external memory devices, or disks) without prior written approval of the General Manager. If Confidential Information is downloaded, stored, or copied on non-Town equipment or media, employee must take all appropriate measures to safeguard against loss, theft, damage, or breach of such equipment or media. If Confidential Information is downloaded, stored, or copied on non-Town equipment or media, employees must permanently delete such information prior to selling or otherwise transferring out of their own possession or control such equipment or media. If Confidential Information is downloaded, stored, or copied on non-Town equipment or media and employee resigns, is terminated, or is requested to do so by management, employees must delete all Confidential Information they received, including any and all copies thereof. Similarly, employees may not send Confidential Information to their personal e-mail accounts, even for work-related purposes, without prior written approval of the General Manager or President of the Board of Directors.

Any loss or suspected loss of Confidential Information, or any suspicious activity such as external hacking attempts or unusual internal activity, should be reported immediately to Town management.

Section 8.13. Remote Access to Technology Resources. The Town may, at its sole discretion, provide certain employees with remote access systems such as a laptop, iPad, smart phone, or other personal organizer to allow such employees to handle the tasks associated with their jobs while working away from the office. Employees must take care to ensure the security of all Town-provided equipment. Employees must not share network passwords or other PINs with anyone. As soon as an employee believes Town-provided equipment is lost or that the security and confidentiality of the data on that equipment has been compromised, he or she must notify the General Manager. If Town-provided equipment is lost, or if it is damaged as a result of carelessness, employees may be responsible for replacement fees. The Town-provided remote access system should only be used for Town-related business. The Town may decide that it is no longer necessary for certain employees to possess a remote access system and their ability to use such systems may be discontinued, in which case such employees are expected to return any Town-issued remote access systems.

The Town does not expect or require employees to work on tasks (including e-mail, work product, etc.) during meal periods or after scheduled working times. Any and all use of remote access systems shall be made in compliance with Town's "Hours of Work, Overtime, And Pay Day Policy." Nonexempt Employees are strictly prohibited from working on any tasks outside of scheduled working hours unless with the express written authorization of the General Manager.

Use of public or home networks, such as unencrypted Wi-Fi networks, can be a threat to the security and reliability of the Town's Technology Resources. Accordingly, employees must only access Town Technology Resources via means that are specifically approved by the Town.

Section 8.14. Audits. The Town may perform auditing activity or monitoring to determine compliance with these policies. Audits of software and data stored on the Town's Technology Resources may be conducted without warning at any time.

ARTICLE 9 VIOLENCE IN THE WORKPLACE

Section 9.1. Statement of Policy. The Town recognizes that workplace violence is a concern among employers and employees across the country. The Town is committed to providing a safe, violence-free workplace. In this regard, the Town strictly prohibits employees, consultants, customers, visitors, or anyone else on Town premises or engaging in a Town-related activity from behaving in a violent or threatening manner. Moreover, the Town seeks to prevent workplace violence before it begins and reserves the right to address certain behaviors, even in the absence of violent behavior.

The Town believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs and has established procedures for responding to any situation that presents the possibility of violence.

Section 9.2. Workplace Violence Defined. Workplace violence includes, but is not limited to, the following:

- (1) Threats of any kind;
- (2) Threatening, physically aggressive, or violent behavior, such as intimidation of or attempts to instill fear in others;
- (3) Other behavior that suggests a propensity towards violence, which can include belligerent speech, excessive arguing or swearing, sabotage, or threats of sabotage of Town property, or a demonstrated pattern of refusal to follow Town policies and procedures;
- (4) Defacing Town property or causing physical damage to the facilities; or
- (5) With the exception of security personnel, bringing weapons or firearms of any kind on Town premises, in Town parking lots, or while conducting Town business.

Section 9.3. Reporting. If any employee observes or becomes aware of any of the above-listed actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify a supervisor or the General Manager immediately.

Further, employees should notify the General Manager if any restraining order is in effect, or if a potentially violent non-work related situation exists that could result in violence in the workplace.

Section 9.4. Investigation. All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, the Town will inform the reporting individual of the results of the investigation. To the extent possible, the Town will maintain the confidentiality of the reporting employee and of the investigation. The Town may, however, need to disclose results in appropriate circumstances, for example, in order to protect individual safety. The Town will not tolerate retaliation against any employee who reports workplace violence.

Section 9.5. Corrective Action and Discipline. If the Town determines that workplace violence has occurred, the Town will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts and circumstances and may include termination. If the violent behavior is that of a non-employee, the Town will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

Under certain circumstances, the Town may forego disciplinary action on the condition that the employee takes a medical leave of absence. In addition, the Town may request that the employee participate in counseling, either voluntarily or as a condition of continued employment.

ARTICLE 10
MOBILE DEVICE POLICY

Section 10.1. Mobile Device Policy. The Town prohibits the use of all handheld mobile devices including telephone, data, personal organizer, or other devices for work purposes while operating a motor vehicle or for personal purposes while operating a motor vehicle during work hours or on Town business. Moreover, all use of Town-issued mobile devices, or personally purchased mobile devices used for work-related purposes, must be made in accordance with Town policy.

Employees may use hands-free mobile devices while driving when safe to do so. Special care should be taken in situations where there is heavy traffic, inclement weather, or the employee is driving in an unfamiliar area. Employees must adhere to all federal, state, and local rules and regulations regarding the use of mobile devices while driving.

Under no circumstances are employees allowed to use text devices to type or review text messages for work purposes while operating a motor vehicle or for personal purposes while operating a motor vehicle during work hours or on Town business.

In the interest of the safety of our employees and other drivers and to comply with California law, if your job requires that you keep your cell phone turned on while you are driving, you must use a hands-free device. Unless using a hands-free device, under no circumstances should employees place phone calls while operating a motor vehicle while driving on Town business and/or Town time. Any citations for cell phone violations shall be the employee's responsibility.

ARTICLE 11 VEHICLE USAGE POLICY

Section 11.1. Vehicle Usage Policy. The Town maintains a Vehicle Usage Policy. While the policy is considered part of this Manual, it is set forth in a separate document. Refer Board Policy 017 – Vehicle Use Policy.

ARTICLE 12
COMMUNITY CENTER POOL STAFF USE POLICY

Section 12.1. Community Center Pool Staff Use Policy. As a benefit of employment by the Town, Regular Full-Time Employees and their immediate families may receive admission free use of the Town of Discovery Bay Community Center Swimming Pool (“Pool”) during regular Pool operation hours. Immediate family of Regular Full Time Employees includes spouse, registered domestic partner, child, stepchild, or eligible foster child who is a dependent of the Employee. Regular Full-Time Employees and their immediate families shall be subject to all rules and regulations associated with the Pool. Admission free use does not confer any right or privilege related to use of the Pool to the Full-Time Employee or his/her immediate family. All admission free use of the Pool shall occur during regular Pool hours on weekdays and weekends when the Pool is open to the public.

Admission free use of the Pool may be revoked at any time for violation of this section or violation of the rules and regulations associated with the Pool.

EMPLOYEE ACKNOWLEDGMENT

PLEASE READ THIS ACKNOWLEDGEMENT AND FILL OUT AND RETURN THIS DOCUMENT TO YOUR SUPERVISOR.

Employee Name: _____

I acknowledge that I have received a copy of the Town's Employee Manual ("Manual"). I acknowledge that I have had the opportunity to meet with a supervisor to answer my questions and clarify any areas I do not understand in the Manual. I understand and acknowledge that I am responsible for reading the Manual and for knowing and complying with the policies and procedures set forth in the Manual during my employment with the Town.

I further understand, however, that the information contained in the Manual is not intended to create any contractual rights or obligations, express or implied, and shall not be construed to create any type of right to a "fair procedure" prior to termination or other disciplinary action. I also understand that, except for the Town's at-will employment policy, the Town may amend, interpret, modify, or withdraw any of the provisions of the Manual at any time in its sole discretion, with or without notice. Furthermore, I understand that, because the Town cannot anticipate every issue that may arise during my employment, if I have any questions regarding any of the Town's policies, guidelines or procedures, I should consult my supervisor or the General Manager.

I understand and agree that my relationship with the Town is "at-will," which means that my employment is for no definite period and may be terminated by me or by the Town at any time and for any reason, with or without cause or advance notice. I also understand that the Town may demote or discipline me or otherwise alter the terms of my employment at any time at its sole discretion, with or without cause or advance notice.

I understand and agree that the terms of this Acknowledgment may not be modified or superseded except by a written agreement approved by a majority vote of the Board of Directors, that no other employee or representative of the Town has the authority to enter into any such agreement, and that any agreement to employ me for any specified period of time or that is otherwise inconsistent with the terms of this Acknowledgment will be unenforceable unless in writing and signed by me and the President of the Board of Directors of the Town. I further understand and agree that if the terms of this Acknowledgment are inconsistent with any policy, guideline or practice of the Town now or in the future, the terms of this Acknowledgment shall control.

Finally, I understand and agree that this Acknowledgment contains a full and complete statement of the agreements and understandings that it recites, that no one has made any promises or commitments to me contrary to the foregoing, and that this Acknowledgment supersedes all previous agreements, whether written or oral, express or implied, relating to the subjects covered in this Acknowledgment.

I have carefully read this Acknowledgement of Receipt.

Date: _____ Employee's Signature: _____

Employee's Name _____

DRAFT



**TOWN OF DISCOVERY BAY
COMMUNITY SERVICES DISTRICT**

RESOLUTION 2018-14

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE TOWN OF DISCOVERY BAY,
A CALIFORNIA COMMUNITY SERVICES DISTRICT,
ESTABLISHING AN UPDATED AND RESTATED
TOWN OF DISCOVERY BAY EMPLOYEE PERSONNEL MANUAL**

WHEREAS, On August 20, 2003 the Board of Directors approved and adopted the Employee Personnel Manual for the employees of the Town of Discovery Bay (TODB); and

WHEREAS, On August 18, 2004 the Manual was amended by the Board of Directors; and

WHEREAS, On September 4, 2013 the Manual was amended and approved by Resolution No. 2013-19; and

WHEREAS, On September 19, 2013 the Manual was amended and approved by Resolution No. 2013-20; and

WHEREAS, On February 5, 2014 the Manual was amended and approved by Resolution No. 2014-04; and

WHEREAS, On June 3, 2015 the Manual was amended and approved by Resolution No. 2015-08; and

WHEREAS, On February 3, 2016 the Manual was amended and approved by Resolution No. 2016-03; and

WHEREAS, on July 5, 2017 the Manual was amended and approved by the Board; and

WHEREAS, the proposed employee manual, which is attached and made a part of this Resolution, complies with current TODB policies and federal and state employment laws and regulations that are in place at the time this Resolution was approved.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY COMMUNITY SERVICES DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the Employee Personnel Manual is hereby adopted and is attached and made a part of this Resolution.

SECTION 2. That this action is effective immediately.

SECTION 3. The Board Secretary shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED THIS 5th DAY OF DECEMBER, 2018.

Kevin Graves
Board President

I hereby certify that the foregoing Resolution was duly adopted by the Board of Directors of the Town of Discovery Bay Community Services District at a regularly scheduled meeting, held on December 5, 2018 by the following vote of the Board:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael R. Davies
Board Secretary



EAST CONTRA COSTA FIRE PROTECTION DISTRICT

BOARD OF DIRECTORS

Stephen Smith
Susanna Thompson
Sandra Strobel

Brian Oftedal – President
Joy Benson – Vice President
Joe Young

Erick Stonebarger
Adam Langro
Susan Morgan

Meeting Minutes **Monday, October 1, 2018**

1. Call to Order: (6:30 pm)

2. Pledge of Allegiance(6:31 pm)

Jerrod Williams, who led the Pledge of Allegiance and who is a Discovery Bay resident, was recognized for outstanding work in performing CPR and Saving a life.

3. Presentations: (6:31 pm)

Along with Jerrod Williams, several other first responders to the same incident also were recognized for outstanding work in performing CPR and Saving a life:

Rodger Van Alst - Discovery Bay Resident, Captain Gil Guerrero, Engineer Joe Grima, Senior Firefighter Chris Smith - ECCFPD, Kim Jackson, Jeff Wilson - AMR, Deputy James Boswell, Deputy Suk deep Bhela – Contra Costa County Sheriff's Department

4. Roll Call : (6:56 pm)

Directors Present: Benson, Langro, Morgan, Oftedal, Smith, Strobel, Thompson, Young
Directors Absent: Stonebarger

5. Public Comment: (6:56 pm)

There was one (1) Public Speaker –Mark Whitlock

6. Consent Calendar: (6:57 pm)

- a) Approve Minutes of September 10, 2018 Board of Directors Meeting

- b) Approve Fire Boat Agreement with Contra Costa County Fire Protection District
- c) Approve Amador Contract with CalFire
- d) Approve Agreement with Contra Costa County Fire Protection District for Purchase of Extrication Equipment and Administration of Associated Grant

Motion by: Director Young to approve Consent Calendar Items a,b,c & d

Second by: Director Benson

Vote Carried 8:0:0

Ayes: Benson, Langro, Morgan, Oftedal, Smith, Strobel, Thompson, Young

Noes:

Abstained:

Absent: Stonebarger

7. Finance Committee Update

- a) Approve Contract with CSG Consultants, Inc. for Plan Review and Inspection Services: (6:58 pm)

There were no (0) Public Speakers

Motion by: Director Young to approve Contract with CSG Consultants, Inc. for Plan Review and Inspection Services

Second by: Director Smith

Vote Carried 8:0:0

Ayes: Benson, Langro, Morgan, Oftedal, Smith, Strobel, Thompson, Young

Noes:

Abstained:

Absent: Stonebarger

- b) Approve Contract with PARS and Adopt Section 115 Trust for Other Post-Employment Benefits: (7:11 pm)

There were no (0) Public Speakers

Motion by: Director Smith to approve Contract with PARS and Adopt Section 115 Trust for Other Post-Employment Benefits

Second by: Director Young

Ayes: Benson, Langro, Morgan, Oftedal, Smith, Strobel, Thompson, Young

Noes:

Abstained:

Absent: Stonebarger

- c) Repeal and Replace Resolutions Concerning the Waiver of District Fees:
(7:17 pm)

There were no (0) Public Speakers

Motion by: Director Young to Repeal and Replace Resolutions Concerning the Waiver of District Fees

Second by: Director Benson

Vote Carried 8:0:0

Ayes: Benson, Langro, Morgan, Oftedal, Smith, Strobel, Thompson, Young

Noes:

Abstained:

Absent: Stonebarger

- d) Authorize Joint Community Facilities Agreement with the City of Oakley for Oakley Community Facilities District No. 2018-1 (Fire Protection Services) : (6:57 pm)

There were no (0) Public Speakers

Motion by: Director Young to Authorize Joint Community Facilities Agreement with the City of Oakley for Oakley Community Facilities District No. 2018-1 (Fire Protection Services)

Second by: Director Langro

Vote Carried 8:0:0

Ayes: Benson, Langro, Morgan, Oftedal, Smith, Strobel, Thompson, Young

Noes:

Abstained:

Absent: Stonebarger

8. Report of the Fire Chief / Informational Staff Reports: (6:57 pm)

- a) Strategic Planning Update
- b) Legislative Update
- c) Operational Update for September 2018
- d) Public Outreach & Education Activities Update

- e) Station 55 Update
- f) CSDA Annual Conference Update: Directors Benson and Morgan, Chief Helmick and Carrie Nash attended the conference.
- g) CAL-Chief's Annual Conference Update

9. Board Reports and Requests: (7:58 pm)

Director Morgan –The next meeting for CCSDA is scheduled for October 15, 2018. Chief Helmick will be a guest speaker. The primary program is about the California Voting Rights Act.

Director Thompson - Battalion Chief Ross Macumber and Director Thompson continue to meet with concerned citizens of the Marsh Creek Territory and Deer Creek area to discuss Wildfire Preparedness and Evacuation Plans.

Director Smith – The state of the District is an issue in various city council races. Director Smith has met with the five Brentwood candidates to bring them up to date and answer questions. He is working to provide information to the four candidates from Oakley as well as the candidates for the Discovery Bay Community Services District. He has also written an op-ed and submitted it to the Brentwood Press and Contra Costa Times.

President Oftedal – Director Oftedal was very pleased that he and Engine 53 were able to attend the sign dedication to designate a portion of Highway 4 as 'Police Sergeant Scott Lunger Memorial Highway'

10. Date and Place of Next Meeting: Monday, November 5, 2018 6:30 P.M. at Brentwood City Council Chambers, 150 City Park Way, Brentwood

11. Adjourn: (8:06 pm)

Byron Municipal Advisory Council

Father Ron Schmit, Chair
Office of Supervisor Diane Burgis
Contact: Lea Castleberry
3361 Walnut Blvd., Suite 140
Brentwood, CA 94513
Respectfully submitted by:
Deputy Chief of Staff, Lea Castleberry

The Byron Municipal Advisory Committee serves as an advisory body to the Contra Costa County Board of Supervisors and the County Planning Agency.

Draft Record of Actions

6:00 p.m.

September 25, 2018

MEMBERS PRESENT: Chair Schmit, Vice Chair Thuman (late), Councilmember Larsen, Councilmember Lopez and Councilmember Nisen

MEMBERS ABSENT:

PRESENTATION OF COLORS: Led by Chair Schmit

APPROVAL OF AGENDA: Motion to approve the Agenda as presented made by Councilmember Larsen. Second by Councilmember Lopez. Motion carried 5-0. AYES: Larsen, Lopez, Schmit, Thuman and Nisen.

PUBLIC COMMENTS: Jack Nix – Neighbor concerned with St. Anne’s Village proposal.

AGENCY REPORTS:

- a. **East Contra Costa Fire Protection District:** No Report
- b. **Office of the Sheriff:** No Report
- c. **California Highway Patrol:** Officer Donnie Thomas provided the activity report for the month of August.
- d. **Office of Supervisor Diane Burgis:** Community Clean-Up Day October 20, 2018 from 8am – noon.

CONSENT ITEMS:

- a. **Approval of Record of Actions for August 28, 2018:** Motion to the Record of Actions as presented made by Councilmember Larsen. Second made by Councilmember Nisen. Motion carried: 5-0. AYES: Larsen, Lopez, Schmit, Thuman and Nisen.

PRESENTATIONS:

- a. **None.**

ITEMS FOR DISCUSSION AND/OR ACTION:

- a. **Agency Comment Request MS18-0011 Orchard & Vine – Request four Lot Minor Subdivision:** Councilmember Larsen has concerns for groundwater. Motion to approve Agency Comment Request MS18-0011 made by Councilmember Lopez. Second made by Councilmember Nisen. Motion carried 5-0. AYES: Larsen, Lopez, Thuman, Nisen and Schmit.
- b. **Consider Byron MAC Meetings for November and December:** Motion to cancel the December meeting made by Councilmember Lopez. Second made by Vice Chair Thuman. Motion carried 5-0. AYES: Larsen, Lopez, Thuman, Nisen and Schmit.

CORRESPONDENCE/ANNOUNCEMENTS:

- a. R-09/05/18 Contra Costa County Planning Commission Agenda for September 12, 2018
- b. R-09/05/18 Contra Costa County Zoning Administrator Agenda for September 17, 2018
- c. R-09/14/18 Contra Costa County Planning Commission Cancellation Notice for September 26, 2018

FUTURE AGENDA ITEMS

- a. Masterplan for Downtown Improvement Projects
- b. ECCFPD Strategic Plan Update
- c. Delta Ranch Solar Project Update
- d. St. Anne Village Update

This meeting record is provided pursuant to Better Government Ordinance 95-6, Article 25-2.205(d) of the Contra Costa County Ordinance Code.

ADJOURNMENT

There being no further business before the Byron Municipal Advisory Council, Chair Schmit adjourned the meeting at 6:32pm. The next scheduled Byron Municipal Council meeting will be held Tuesday, October 23, 2018 at 6:00p.m. located at St. Anne's Church – 2800 Camino Diablo, Room 1A in Byron.