

PIEDMONT PLEASANTON HAYWARD

EMERYVILLE DUBLIN FREMONT LIVERMORE

UNION CITY ALAMEDA COUNTY ALAMEDA ALBANY



**Governing  
Board  
Special Meeting**

SEPTEMBER 15, 2011

Open Session  
6:00 P.M.

SAN LEANDRO NEWARK



**Alameda County  
ASSOCIATED COMMUNITY ACTION PROGRAM**

**GOVERNING BOARD**

**September 15, 2011  
6:00 p.m.**

Eden Area Multiservice Center  
Lupine Conference Room, 3<sup>rd</sup> Floor  
24100 Amador Street ■ Hayward, California 94544

**Agenda**

**I. Procedural Items**

- A. Call to Order and Roll Call
- B. Additions to the Agenda
- C. Approval of Governing Board Meeting Summary Minutes June 30, 2011 1
- D. Chairperson's Report
- E. Staff Report

**II. Action Items**

- A. Review and Adopt Records Retention Policy for ACAP
- B. Recommendation for ACAP Member Agencies to Amend the ACAP Joint Powers Authority

**III. Public Forum**

**IV. Presentations/Discussion Items**

Anyone wishing to address the Governing Board on a matter not on the Agenda may do so under Public Forum. See staff for sign up cards. For further information, please contact Richard Ambrose, Interim ACAP Executive Director at (510) 690-8590

ITEM I.C. – PROCEDURAL ITEMS



**Alameda County  
Associated Community Action Program  
Governing Board Special Meeting**

**Thursday, June 30, 2011**

**SUMMARY MINUTES**

**Closed Session  
6:00 p.m.**

**Adjourned to Open Session  
7:10 p.m.**

Eden Area Multiservice Center  
Lupine Conference Room A&B, 3<sup>rd</sup> Floor  
24100 Amador Street  
Hayward, California 94544

**Governing Board Members present:**

Scott Haggerty, Supervisor, Alameda County  
Francisco Zermeño, Board Vice Chair, Hayward  
Doug deHaan, Councilmember, Alameda  
Robert Lieber, Councilmember, Albany  
Kevin Hart, Vice Mayor, Dublin  
Nora Davis, Mayor, Emeryville  
Jeffrey Williams, Councilmember, Livermore  
Ana Apodaca, Vice Mayor, Newark  
Jeff Wieler, Councilmember, Piedmont  
Ursula Reed, Councilmember, San Leandro  
Jim Navarro, Vice Mayor, Union City

**Governing Board Members absent:**

Diane Souza, Councilmember, San Leandro  
Suzanne Chan, Councilmember, Fremont  
Cheryl Cook-Kallio, Vice Mayor, Pleasanton

**Council present:**

Zachary Wasserman, Wendel, Rosen, Black & Dean

**Staff present:**

Rich Ambrose, Interim Executive Director  
Lenita Ellis, Deputy Director  
Melisa Finley, Business Manager  
Meredith Walker, Executive Assistant

## ITEM I.C. – PROCEDURAL ITEMS

### **Ad Hoc Committee present:**

Fran David, City Manager, Hayward  
Joni Pattillo, City Manager, Dublin

### **I. PROCEDURAL ITEMS**

#### **A. Call to Order and Roll Call**

Governing Board vice Chair Francisco Zermeño called the meeting to order at 7:35 p.m. Roll call was conducted by Interim Executive Director Ambrose, who confirmed a quorum.

#### **B. Closed Session and Report Out of Closed Session**

Board vice Chair Zermeño asked legal counsel, Zack Wasserman to report action taken during the Closed Session, which began at 6 p.m. Mr. Wasserman reported on the two discussions and actions taken. Regarding the case: Nanette Dillard v. Alameda County Associated Community Action Program Governing Board, Alameda County Superior Court, RG 11572661, the Governing Board took action to authorize staff to utilize the attorney services of Jarvis Fay Doporto & Gibson, LLP at the rate of \$265 an hour, subject to the approval of the Ad-Hoc Committee representing the member agencies who are currently paying the costs of the Agency, to defend the Agency in a Writ of Mandate brought on by Nanette Dillard against the Agency regarding public records grounds and Brown Act violations grounds.

The second action taken at this Closed Session was to authorize and utilize said counsel to evaluate potential lawsuit(s) against Ms. Dillard and/or any other parties, based on their actions regarding any losses the Agency may have sustained, subject to the approval of the Interim Executive Director and the approval of the Ad Hoc Committee.

#### **C. Additions to the Agenda**

There were no additions to the agenda.

#### **D. Approval of Governing Board Meeting Minutes for February 2, 2011, February 23, 2011, March 9, 2011 and March 23, 2011**

Board Vice Chair Francisco Zermeño asked if there were any questions or concerns regarding the board minutes. Councilmember deHaan stated that on the summary minutes of March 23, 2011, he was designated as representing Pleasanton and should be replaced by Alameda.

Councilmember deHaan and Councilmember Navarro reported that they would be abstaining on this motion. A motion to approve the summary minutes for February 2, 2011, February 23, 2011, March 9, 2011 and March

## ITEM I.C. – PROCEDURAL ITEMS

23, 2011 was provided by Mayor Davis, with a second by Councilmember Williams. The summary minutes were approved with 8 members voting yes and 2 members abstaining.

### **E. Chairperson's Report**

There was no report.

### **F. Staff Report**

Interim Executive Director Ambrose, representing Management Partners provided an update on his efforts to close the agency. He noted that his staff is currently working with grantors, continues to document accounting records, have paid wages to former employees and taken steps to limit the Agency's liabilities. He meets with the Ad Hoc Committee periodically to take direction and to request approval on various actions staff may need to take. He explained that the current lease has been negotiated on a month to month basis. Interim Executive Director Ambrose also explained that there are about 150 boxes with files that still need to be categorized, indexed and maintained in a storage facility as required by statutes and easily accessible should there be future requests to review. He commented that the task is interesting and challenging with delays due to responses from grantors in order to verify and document accounts as well as provide close out documentation for grants. For these reasons the previously proposed completion date of June 30 was not possible. Presently, he is responding to the Ad Hoc Committee's request for a plan for closure with emphasis on minimizing the vulnerability of ACAP and its member agencies. In response to a question from Vice Chair Zermeno, he reported that ACAP files are secure.

## **II. PUBLIC FORUM**

With no requests to speak from the public, Board Vice Chair Zermeno opened and closed this portion of the agenda.

## **III. ACTION ITEMS**

### **A. Modification to Revise ACAP's 2011 Community Services Block Grant (CSBG)**

Deputy Director Ellis provided the staff report, referring to the written document and the staff recommendation. She, Business Manager Finley, as well as Interim Executive Director Ambrose, responded to questions from the Board related to client usage, services provided and documentation of services provided, as well as accounting invoice reconciliations even from 2010. There was concern expressed on the dollar amount of liability for this. Staff responded that it could be about \$160,000 for all seven contractors.

Mayor Davis moved approval of the following recommendation, which was seconded by Councilmember Apodaca. The motion unanimously passed by

## ITEM I.C. – PROCEDURAL ITEMS

the ten members present, to authorize the acceptance of CSBG funds in the amount of \$61,171; authorize the execution of CSBG contracts with the State; and authorize payment to seven ACAP subcontractors for January and February 2011 services in amount not to exceed \$52,517.

### **IV. IV. GOVERNING BOARD CONSENT CALENDAR**

There were no items on the consent calendar.

### **V. INFORMATION ITEMS**

#### **A. Status of Audit by County Auditor**

Alameda County Auditor Controller Patrick O'Connell indicated that the draft report is complete and will be forwarded to the Interim Executive Director, who will present it to the Board. Any Board responses will then be incorporated into the final audit report.

Councilmember Williams commended, thanked and provided kudos to the following staff for their efforts, for working without pay and for their tenacity: Meredith Walker, Melisa Finley and Lenita Ellis.

On the following items there was discussion and corrections made to telephone numbers, business addresses, email addresses and vacancies on the Community Action Board Members Roster. Board members were requested to review them and provide any updates to staff. Vice Chair Zermeño commented on the Board Attendance Log, noting that he was present at every ACAP meeting during his term.

- B. Governing Board Members Address Roster**
- C. Roster of Community Action Board Members**
- D. Governing Board Attendance Log**

### **VI. OTHER BUSINESS**

A letter relative to the wind-down and closure process from Supervisor Scott Haggerty, dated June 29, 2011 was distributed at this meeting and made available to the public.

There was discussion on when the next Board meeting would be held, but no definitive answer at this time.

Board Vice Chair Zermeño adjourned the meeting of June 30, 2011 at 8:40 p.m.

**STAFF REPORT – ACAP GOVERNING BOARD MEETING SEPT. 15, 2011**

**To:** ACAP Governing Board

**From:** Interim Executive Director



**Subject:** Review and Adopt Records Retention Policy for ACAP

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One of the primary tasks of the closing of ACAP is to determine ACAP's official records and organize their final disposition. At the June 30, 2011 ACAP Governing Board meeting, there was discussion and members expressed concern for the safety and future of its official records. It was reported that there were approximately 200 boxes with files that needed to be indexed, catalogued or destroyed. In order to take such steps, an official records retention policy must be approved by the Governing Board in accordance with federal, state and local regulations as well as to maintain any contractual obligations.

Management Partners working with Meyers Nave has developed a record retention policy for ACAP. The policy has been designed so far as possible to comply with all grant obligations, reduce risks, and minimize storage costs. Without an adopted policy, the records would need to be theoretically retained in perpetuity.

Currently files are being prepared for storage in a secured storage facility. We have contracted with Angelina Reyes, a retired City Clerk with experience in records management, to prepare files for storage and destruction. Files are sorted, placed in archival boxes, and labeled with the intent that in the future should there be the need to review particular files, those files can be retrieved. Retention periods for records vary from 2 to 5 years, with some tax records and FPPC forms retained for 7 years. When the retention period is satisfied, destruction can occur.

It is recommended that the ACAP Governing Board pass the resolution and adopt the ACAP Records Retention Policy.

**RESOLUTION NO. XX - 11**

**A RESOLUTION OF THE GOVERNING BOARD OF THE ASSOCIATED COMMUNITY ACTION PROGRAM OF ALAMEDA COUNTY**

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**ADOPTING A RECORDS RETENTION POLICY**

WHEREAS, the Associated Community Action Program of Alameda County (ACAP) desires to adopt a records retention policy in accordance with state and federal legal requirements.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board of Directors of ACAP hereby adopts this policy to maintain and dispose of records.

1. For purposes of this policy, "record" means any writing that is retained by ACAP, either because a law requires it to be kept or because it is necessary or convenient to the discharge of ACAP's functions, and was made or retained for the purpose of preserving its information content for future reference. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.
2. At any time, ACAP may destroy and dispose of any copy or duplicate of an original record, so long as the original record is retained in accordance with this policy.
3. ACAP will maintain all records until the expiration of the retention period in accordance with this records retention policy and the Records Retention Schedule set forth below. Once the retention period has ended, ACAP may destroy, or cause to be destroyed, such records. Except as otherwise specified, retention periods shall begin from the date of creation of the record.
4. Any document that is not addressed in the schedule below shall be maintained for at least two years after its creation pursuant to Government Code section 26202, or for such period of time as may be required pursuant to any applicable state or federal law or regulation, whichever is longer.
5. Except as otherwise provided, any original document where a copy of the original document is created and maintained in a manner consistent with Government Code sections 26205.1 and 26205.5, and the copy is maintained for at least two years after the creation of the original document, or for such period of time as may be required pursuant to any applicable state or federal law or regulation, whichever is longer.
6. Records required to be maintained pursuant to state, federal or other grant regulations, and records otherwise reasonably considered as pertinent to program regulations or the grant agreement shall be maintained for at least three years after the close-out of the grant, or for such longer period of time as may be required pursuant to individual grant requirements, whichever is longer.
7. This policy supersedes any prior records retention policy that may have been adopted by the Governing Board.

**RECORDS RETENTION SCHEDULE**

<u>Category</u>	<u>Retention Period</u>	<u>Comments</u>
Board of Directors/Community Action Board Agendas, Minutes and Other Meeting Materials	5 years	Agency preference
Recordings of telephone communications	100 days and upon written approval of Agency Counsel	GC § 26202.6
Statement of Economic Interest (Fair Political Practices Commission Form 700)	7 years from filing (original copy must remain on file for 2 years, after which time a duplicate adhering to the requirements of GC §§ 26205.1 may be made)	GC § 81009(e)(g)
Personnel Records		Agency preference
-Cal/OSHA Form 300 (Log of Work-Related Injuries and Illnesses)	5 years	
-Retirement, pension and insurance plans, trusts, and collective bargaining agreements	6 years	
-All other personnel records (e.g. application forms, time cards, performance reviews, vacation requests, etc.)	4 years from termination of employment	
Agency Legal Counsel Opinions and Memorandums	2 years or upon dissolution of Agency, whichever is longer	Agency preference
Finance Records (unassociated with grant records)	5 years	Agency preference
Employee Tax Records		Agency preference
-Federal IRS forms	4 years	
-State FTB forms	7 years	

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_th day of \_\_\_\_\_, 2011, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Interim Executive Director

**ATTEST:**

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Board Secretary

1694510.2

# Associated Community Action Program

## STAFF REPORT – ACAP GOVERNING BOARD MEETING SEPT. 15, 2011

**To:** ACAP Governing Board

**From:** Interim Executive Director



**Subject:** Recommendation for ACAP Member Agencies to Amend the ACAP Joint Powers Authority

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The ACAP Governing Board has determined to cease all ACAP programs and to close down operations. There are several continuing obligations that ACAP cannot avoid, such as records retention, responding to lawsuits and claims, and paying for disallowed grant costs. Member agencies of a JPA are equally responsible for any expenses of the JPA. It is therefore prudent to amend the JPA to limit member exposure to future expenses and to reflect the fact that ACAP is in the process of winding up its affairs. At the Interim Executive Director's direction, John Bakker of Meyers Nave has prepared a JPA amendment that will limit future exposure for member agencies. It will also delete requirements associated with grant programs and ACAP original purposes, such as the Community Action Board.

Specifically, the amendment will:

1. Restructure ACAP's powers to be consistent with its current "wind up" task. (see Section I.C.)  
This deletes all program activities and describes ACAP as a caretaker/close out organization.
2. Specifies that by entering into the agreement none of the members are admitting that they were parties to the original JPA or that they are liable for the debts of ACAP. (See Section VI.G)  
This limits member liabilities to programs prior to adoption of the amended JPA and limits subsequent liabilities to the close out process.
3. Eliminates the Community Action Board and related actions.  
Without this change, the Governing Board would be required to continue appointing members to the CAB and for the CAB to hold quarterly meetings
4. Reconstitutes the governing board to be made up of the CEO of each member. Authorizes the CEO to send an alternate to meetings. (See Section II. A.1)  
This is recommended since the remaining close out activities will be administrative in nature.

It is recommended that the Board pass a motion to recommend to their respective governing bodies that they approve the amendment to the ACAP Joint Powers Authority. A draft JPA amendment is attached and will be finalized after review by the respective legal counsels of the member agencies.

AMENDED AND RESTATED JOINT POWERS AGREEMENT  
of the  
ASSOCIATED COMMUNITY ACTION PROGRAM

THIS AMENDED AND RESTATED JOINT POWERS AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_ 2011 by and among the County of Alameda, a political subdivision of the State of California (“County”), and the cities of Alameda, Albany, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Piedmont, Pleasanton, San Leandro, and Union City, all of which are municipal corporations (collectively “Cities”). County and Cities are collectively referred to herein as the “Members.”

RECITALS

1. County and Cities are apparent parties to that certain Joint Powers Agreement, dated July 12, 1994 (the “Original JPA”), which created the reformed joint powers agency designated as Associated Community Action Program, or ACAP.
2. The purpose of the reformed ACAP was to plan, develop, and administer programs under the federal Community Services Block Grant program (42 U.S.C. 9901 et seq.) and implementing state law.
3. For such purposes, ACAP had been designated as a Community Action Agency.
4. Due to significant financial issues, the Board of Directors of ACAP in the Spring of 2011 chose to terminate its participation in various state and federal program and to effectively “go out of business.”
5. Since that time, ACAP’s management, County, and Cities have been engaged in winding up its affairs, and the parties have found the current ACAP governance structure cumbersome for such purposes.
6. ACAP’s management proposed that the Original JPA be amended to streamline the governance of ACAP so as to reflect the current need of ACAP’s member agencies (i.e. County and Cities) to wind up ACAP’s affairs as soon as possible.
7. In accordance with ACAP management’s proposal, the parties now wish to amend and restate the Original JPA without affecting the continuing existence of ACAP.

AGREEMENT

I. ORGANIZATION

A. Name of Agency. The Agency continued for the purpose of administering this agreement shall be designated as the Associated Community Action Program.

B. Purpose of Agreement. The purpose of this agreement is to continue the existence of ACAP for the sole purpose of winding up its affairs.

C. Powers of ACAP. In furtherance of its purpose, ACAP is authorized to do all acts necessary for the exercise of its authority, including but not limited to any or all of the following:

1. To the extent necessary or appropriate for achieving the stated purposes of this agreement, consistent with Government Code Division 6, Chapter 5, Article 1, section 6500 et seq. and the provisions of this agreement, to exercise any power which is common to both Cities and County. All powers shall be exercised subject to such restrictions upon the manner of exercising such powers as are set forth in this agreement and as are imposed upon County in its exercise of similar powers, as provided in, and for the purposes of, Section 6509 of the Government Code of the State of California.

2. To wind up the affairs of ACAP;

3. To perform any contractual obligations of ACAP existing on September 30, 2011;

4. To make and enter contracts in its own name for the purposes of winding up ACAP's affairs;

5. To employ agents, including legal counsel, and employees for the purposes of winding up its affairs; provided, however, that effective October 1, 2011, ACAP shall have no employees;

6. To manage, maintain, hold or dispose of equipment, material, supplies and property;

7. To receive gifts, contributions, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, and any governmental entity.

8. To sue or be sued in its own name.

## II. GOVERNANCE

### A. Governing Board.

1. Membership. The governing body of ACAP shall consist of a representative from each of the jurisdictions that are parties to this agreement ("the Governing Board"). The representative shall be the Member's chief executive officer. The Member's representative may, from time to time, appoint in writing an alternate to attend, participate and vote at any meeting of the Governing Board. The alternate shall serve at the pleasure of and in the manner determined by the Member's representative.

2. Voting. Each Member shall have one (1) vote. An action must receive a majority of votes from Members present in order to be passed. Actions of the Governing Board shall be by motion or resolution.

3. Quorum. The presence of representatives, or their alternates, representing a majority of the Members shall constitute a quorum for the transaction of business by the Governing Board, except that less than a quorum may adjourn from time to time. Votes shall be cast only in person and may not be cast by proxy.

4. Officers. The Governing Board shall elect a Chairperson, Vice Chairperson, and Secretary from among its members. The terms of office shall each be one (1) year, beginning in April of each year. The Chairperson shall preside at meetings of the Governing Board and perform such other duties as the Governing Board shall instruct. The duties of the Vice Chair and the Secretary shall be the usual and customary duties of such officers.

5. Meetings. All meetings of the Governing Board shall be held subject to the provisions of the California Public Meetings Law (the "Brown Act"), California Government Code Section 54950 et seq.

B. Powers of Board. The Governing Board shall be the administering agency of this Joint Powers Agreement, and, as such, shall be vested with the powers set forth, and shall execute and administer this Agreement in accordance with the purposes and functions provided, herein. Without in any way limiting the generality of the foregoing, the Governing Board may appoint an executive director to administer ACAP.

C. Community Action Board. As ACAP is not longer designated as a Community Action Agency under the Community Services Block Grant program, the Community Action Board is hereby dissolved.

### III. INSURANCE

A. Insurance Requirements. ACAP shall maintain the insurance required by this Article in full force and effect at all times during the prosecution of the work and until the final completion and acceptance thereof.

B. Workers' Compensation and Employer's Liability Insurance. ACAP shall take out and maintain during the life of the Agreement Workers' Compensation and Employer's Liability Insurance for all of its employees engaged in work under the agreement. Should any work be sublet, the ACAP shall require the subcontractor similarly to provide Workers' Compensation and Employer's Liability Insurance, all in strict compliance with federal and state laws and to fully protect the Members from any and all claims arising out of occurrences on the work.

C. Public Liability Insurance. ACAP shall take out and maintain in the name of ACAP and Members during the life of the agreement, such Public Liability Insurance as shall protect itself, Members, officials, officers, directors, employees, and agents, from claims which may arise from operations under this Agreement, whether such operations be by itself, by Members, its officials, officers, directors, employees, and agents, and contractors, or by anyone directly or indirectly employed by any of them. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to

property, resulting from Members' or subcontractor's operations, use of owned or non-owned automobiles, products, and completed operations. The amount of insurance shall not be less than the following:

Single Limit Coverage applying to Bodily and Personal Injury Liability and Property Damage: \$1,400,000.00.

The following endorsements must be attached to the policy:

1. If the insurance policy covers on an "accident" basis, it must be changed to "occurrence."
2. The policy must cover personal injury as well as bodily injury.
3. The policy must cover complete contractual liability. Exclusions of contractual liability as to bodily injuries, personal injuries and property MUST BE ELIMINATED from the basic policy endorsements.
4. The policy must include a gross liability or severability of interests clause.
5. The Members must be named as additional insured under the coverage afforded. with respect to the work being performed under the amended agreement
6. An endorsement shall be provided which states that the coverage is PRIMARY INSURANCE and that no other insurance effected by the ACAP members will be called upon to contribute to a loss under this coverage.
7. Cancellation, non-renewal, or reduction in limits shall be sent to the ACAP members with at least thirty (30) days' notice.

D. Depositors' Forgery Coverage. ACAP shall also purchase depositors Forgery coverage in the amount of \$100,000.00.

E. Official Bond. The Executive Director is hereby required to file an Official bond in the amount of \$100,000.00.

#### IV. LIABILITY

A. Limited Liability. None of the debts, liabilities or obligations of ACAP shall be the debts, liabilities or obligations of any of the parties to this Agreement unless a member has assumed such debt, liability, or obligation in a particular case.

#### V. FISCAL CONTROL

A. Depository; Controller. Pursuant to Section 6505.6 of the California Government Code, the Board shall appoint one of its officers or employees to serve as either or both the treasurer and the auditor. The offices of auditor and treasurer may be held by separate

officers or employees or combined and held by one officer or employee. Such person or persons shall comply with the duties and responsibilities of the treasurer and auditor as set forth in subdivisions (a) to (d), inclusive, of California Government Code Section 6505.5 and shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505.

B. Records and Reports. ACAP shall establish and maintain such funds and accounts as may be required by good accounting practice or by law. The books and records of ACAP shall be open to inspection at all reasonable times by representatives of any signatory to this agreement.

C. Inspection and Audit. Representatives of any of the signatories to this agreement shall at all times have access for the purpose of audit or inspection to any and all books, documents, papers, records, property, and premises of ACAP.

D. Disposition of Assets; Surplus Money. Upon termination of this agreement all costs, expenses and charges legally incurred by ACAP shall be paid and discharged; and ACAP shall sell such property as may be necessary therefor and shall be distributed to the United States Government and/or the State of California such property and funds as are lawfully required, the balance of such property and any surplus money on hand shall be distributed or returned in proportion to contributions made by the effected parties except to the extent otherwise agreed upon by the affected parties.

E. Fiscal Year. Unless otherwise required by federal or state law, the fiscal year for ACAP shall be from January 1, to and including December 31.

## VI. MISCELLANEOUS PROVISIONS

A. Indefinite Term. This agreement shall become effective upon execution by the signatories hereto and shall continue in full force and effect until terminated pursuant to this section.

B. Withdrawal Not Permitted. As ACAP's current purpose is to expeditiously wind up its affairs, the Members are not permitted to withdraw.

C. Termination. This Agreement shall terminate on the happening of either of the following events:

1. The governing boards of each of the Members approve the termination.
2. The entire Governing Board of ACAP unanimously adopts a resolution of termination stating: (a) that ACAP has been completely wound up; (b) that its known debts and liabilities have been actually paid or adequately provided for; (c) that the known assets of ACAP have been distributed to the persons entitled thereto after payment of known debts and liabilities; and (d) that ACAP is dissolved.

D. Amendments. This agreement may be amended at any time by the written agreement of the Members, as long as the amendment is not in conflict with applicable law.

E. Limitation of Power. Nothing contained in this agreement shall be construed to authorize any action which any signatory is not authorized by law to undertake.

F. Severability. Should any part, term, or provision of this agreement to be decided by a court of competent jurisdiction to be illegal or in conflict with any law if the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

G. Reservation of Rights. By entering into this agreement, the purpose of which is to facilitate the orderly winding up of ACAP's affairs, none of the Members shall be deemed to be parties to the Original JPA nor shall any of the Members be deemed to have admitted responsibility for the debts, liabilities, and obligations of ACAP.

H. Submission of Notice to Secretary of State. Upon receipt of a fully executed copy of this agreement, ACAP shall prepare and file a notice of amendment with the office of the Secretary of State of California that meets the requirements of Government Code sections 6503.5 and 6503.6.

*[Execution Page Follows]*

IN WITNESS WHEREOF, the parties have duly executed this Agreement by their duly authorized signatories effective on or as of the date written at the commencement of this Agreement.

COUNTY OF ALAMEDA

CITY OF ALAMEDA

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

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

CITY OF ALBANY

CITY OF DUBLIN

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

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

CITY OF EMERYVILLE

CITY OF FREMONT

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

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

CITY OF HAYWARD

CITY OF LIVERMORE

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

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

CITY OF NEWARK

CITY OF PIEDMONT

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

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

CITY OF PLEASANTON

CITY OF SAN LEANDRO

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

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

CITY OF UNION CITY

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