



AGENDA

REGULAR MEETING

CLAYTON CITY COUNCIL

TUESDAY, November 17, 2020

6:00 P.M.

and

7:00 P.M.

***** NEW LOCATION*****

To protect our residents, officials, and staff, and aligned with the Governor's executive order to Shelter-at-Home, this meeting is being conducted utilizing teleconferencing means consistent with State order that that allows the public to address the local legislative body electronically.

Mayor: Julie K. Pierce

Vice Mayor: Jeff Wan

Council Members

Tuija Catalano

Jim Diaz

Carl Wolfe

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review on the City's website at www.ci.clayton.ca.us
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda is available for review on the City's website at www.ci.clayton.ca.us
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7300.

Instructions for Virtual City Council Meeting – November 17

To protect our residents, officials, and staff, and aligned with the Governor’s executive order to Shelter-at-Home, this meeting is being conducted utilizing teleconferencing means consistent with State order that that allows the public to address the local legislative body electronically.

To follow or participate in the meeting:

1. **Videoconference:** to follow the meeting on-line, click here to register:

https://us02web.zoom.us/webinar/register/WN_bVID0Hu8Q_qaj8HU0uQ23A

After clicking on the URL, please take a few seconds to submit your first and last name, and e-mail address then click “Register”, which will approve your registration and a new URL to join the meeting will appear.

Phone-in: Once registered, you will receive an e-mail with instructions to join the meeting telephonically, and then dial Telephone: 877 853 5257 (Toll Free)

2. using the *Webinar ID* and *Password* found in the e-mail.

E-mail Public Comments: If preferred, please e-mail public comments to the City Clerk, Ms. Calderon at jcalderon@ci.clayton.ca.us by 5 PM on the day of the City Council meeting. All E-mail Public Comments will be forwarded to the entire City Council.

For those who choose to attend the meeting via videoconferencing or telephone shall have 3 minutes for public comments.

Location:

Videoconferencing Meeting (this meeting via teleconferencing is open to the public)

To join this virtual meeting on-line click here:

https://us02web.zoom.us/webinar/register/WN_bVID0Hu8Q_qaj8HU0uQ23A

To join on telephone, you must register in the URL above, which sends an e-mail to your inbox, and then dial (877) 853-5257 using the *Webinar ID* and *Password* found in the e-mail.

*** CITY COUNCIL ***
November 17, 2020

6:00 P.M.

1. **CALL TO ORDER AND ROLL CALL** – Mayor Pierce.
2. **CLOSED SESSION**
 - A. Public Employment/Appointment
Government Code section 54957
Title: City Manager
 - B. Conference with Labor Negotiator
Government Code section 54957.6
Agency Designated Representatives: Mayor Pierce and Vice Mayor Wan
Unrepresented Employee: City Manager
 - C. Conference with Legal Counsel – Existing Litigation
Government Code section 54956.9(d)(1)
Aman Pohyar vs. City of Clayton
Contra Costa Superior Court - Case No. C20-02167

- Short Recess -

* * * * *

7:00 P.M.

3. **CALL TO ORDER AND ROLL CALL** – Mayor Pierce.
4. **PLEDGE OF ALLEGIANCE** – led by Councilmember Diaz.
5. **CONSENT CALENDAR**

Consent Calendar items are typically routine in nature and are considered for approval by one single motion of the City Council. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question, discussion or alternative action may request so through the Mayor.

 - (a) Approve the minutes of the City Council's regular meeting of October 20, 2020 and City Council Special Meetings of October 22, 2020, October 23, 2020, October 27, 2020 and November 2, 2020. (City Clerk) ([View Here](#))
 - (b) Approve the Financial Demands and Obligations of the City. (Finance) ([View Here](#))

- (c) Approve the denial of a liability claim filed against the City by Ms. Jessica Raska and authorize the City Clerk to send the Notice of Rejection. (City Clerk) [\(View Here\)](#)
- (d) Award of Contract to Emergency Planning Consultants to provide professional services in preparing a Hazard Mitigation Plan. (City Engineer/Community Development Director) [\(View Here\)](#)
- (e) Adopt a Resolution amending the Purchasing Guidelines Policy to allow the use of other municipal agencies procurement processes for purposes of acceptance of contracts for the same types of services (City Manager) [\(View Here\)](#)
- (f) Adopt a Resolution Approving Amendment No. 1 to the Lease Agreement with the Clayton Historical Society for use of City owned property for the Clayton Museum and Garden Plaza Located at 6101 Main Street. (Assistant to the City Manager) [\(View Here\)](#)
- (g) First Quarter Ending September 30, 2020 FY 2020-21 Investment Portfolio Report and Annual Review of City Investment Policy. (Finance Director) [\(View Here\)](#)
- (h) Approve Proposed Schedule for Calendar Year 2021 Saturday “Concerts in The Grove” Series, Provided County/State Health Regulations Will Allow. (City Clerk) [\(View Here\)](#)

6. RECOGNITIONS AND PRESENTATIONS

- (a) A Proclamation in Appreciation of Frances “Fran” Robustelli for her term as interim City Manager. [\(View Here\)](#)
- (b) Proclamations honoring Robert “Bob” Hoyer and Richard “Dick” Ellis for receiving the title “President Emeritus” and being bestowed with the “Clayton Historical Society Stewardship Award” at the Clayton Historical Society Annual Meeting on November 12, 2020. [\(View Here\)](#)
- (c) A Proclamation honoring Rory Richmond with the Clayton Historical Society’s “Special Recognition” award at their meeting on November 12, 2020. [\(View Here\)](#)
- (d) A Proclamation declaring November 30 – December 6, 2020 as “United Against Hate Week”. [\(View Here\)](#)

7. REPORTS

- (a) Planning Commission – Report of October 27, 2020 meeting.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

8. PUBLIC COMMENT ON NON - AGENDA ITEMS

Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may at its discretion request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

9. PUBLIC HEARINGS – None.

10. ACTION ITEMS

- (a) Formation of Ad Hoc Committee to Review June 30, 2020 Draft Financial Statements. (Finance Director) ([View Here](#))
- (b) Adopt a Resolution approving the City Master Fee Schedule for FY 2020-21 regarding certain fees for user-benefit municipal services and rental of City facilities. (Finance Director) ([View Here](#))
- (c) Consideration of Adopting a Resolution Establishing a City of Clayton Legislative Policy (Assistant to the City Manager) ([View Here](#))
- (d) Authorize the Mayor to Execute the City Manager Employment Agreement. (City Attorney) ([View Here](#))

11. COUNCIL ITEMS – limited to Council requests and directives for future meetings.

12. ADJOURNMENT

The next regularly scheduled meeting of the City Council will be December 1, 2020.

#

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, October 20, 2020

Agenda Date: 11-17-2020

Agenda Item: 5a

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 p.m. by Mayor Pierce on a virtual web meeting and telephonically (877) 853-5257. Councilmembers present: Mayor Pierce, Vice Mayor Wan, and Councilmembers Catalano, Diaz, and Wolfe. Councilmembers absent: None. Staff present: Interim City Manager Fran Robustelli, Community Development Director Matthew Feske, City Attorney Mala Subramanian, and City Clerk/HR Manager Janet Calderon.

2. **PLEDGE OF ALLEGIANCE** – led by Councilmember Diaz.

3. **CONSENT CALENDAR**

It was moved by Councilmember Catalano, seconded by Councilmember Wolfe, to approve the Consent Calendar as submitted. (Passed 5-0; vote).

- (a) Approved the minutes of the City Council's regular meeting of October 6, 2020 and City Council Special Meeting of October 12, 2020. (City Clerk)
- (b) Approved the Financial Demands and Obligations of the City. (Finance)
- (c) Adopted Resolution No. 52-2020 Accepting the Downtown Planter Box Replacement Project Performed by Kerex, Inc. as Complete. Approving the attached Notice of Completion to be Executed by the City Manager, Directing the City Clerk to Record Same with the County Recorder and Authorizing Payment of All Retained Funds to Kerex 35 Days After Recording the Notice of Completion. (City Engineer)
- (d) Accepted Agreement with Stria for Document Conversion Services. (City Clerk)
- (e) Adopted Resolution No. 53-2020 Amending Conflict of Interest Code. (City Clerk)

6. **RECOGNITIONS AND PRESENTATIONS**

- (a) Proclamation declaring November 4, 2020 as "Shelter in Place Education Day."

Mayor Pierce read the Proclamation and indicated staff will send it to the requestor.

- (b) Proclamation recognizing retiring Principal Patti Bannister for her service at Diablo View Middle School.

Mayor Pierce presented Principal Patti Bannister a proclamation recognizing her service to the Clayton community, declaring November 13, 2020 as "Patti Bannister Day".

7. REPORTS

- (a) Planning Commission –Chair A.J. Chippero stated the Commission's agenda at its meeting of October 13, 2020, included a Public Hearing to review and consider the six-lot planned development project known as Oak Creek Canyon. The applicant requested this item be continued to November 10, 2020. He also noted the Planning Commission will meet next week to consider the Diablo Meadows subdivision project.

- (b) Trails and Landscaping Committee – No meeting held.

- (c) City Manager/Staff

Interim City Manager Fran Robustelli announced the City parks are open, however large gatherings are not permitted; if a large gathering is observed to please contact Police at the time the gathering is witnessed. She also noted the North Valley Tot Lot renovation project is complete; and the removal of the rock and gravel from the box culvert behind the library on Clayton Road has been completed

- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Vice Mayor Wan attended the virtual Annual League of California Cities Conference, he also had some comments on Housing Element FAQ's, and emailed/called constituents.

Councilmember Catalano attended the virtual East Contra Costa Habitat Conservancy meeting, and noted City staff has completed the Housing Element FAQ's for the City website.

Councilmember Diaz spoke with citizens of the community, met with the Interim City Manager and Police Chief, and attended the virtual League of California Cities Conference.

Councilmember Wolfe attended the virtual Closed Session of the City Council, the virtual League of California Cities Conference, the virtual Planning Commission meeting, met with the Interim City Manager, and emailed/called constituents.

Mayor Pierce attended the virtual League of California Cities Conference, met with local City Managers and planning staff regarding the RHNA methodology, attended several joint Association of Bay Area Governments and Metropolitan Transportation Commission Board meetings including the Legislation Committee, the East Bay Leadership Council meeting, the Association of Bay Area Governments Housing Committee meeting, and a meeting of Transportation Partnership and Cooperation of Central Contra Costa (TRANSPAC).

8. PUBLIC COMMENT ON NON - AGENDA ITEMS

Mayor Pierce noted that during City elections, it is City Council Policy that candidates for City Council are allowed 3 minutes to introduce themselves and share a few remarks at each City Council meeting if they are in attendance and wish to do so in ballot order each meeting then after rotate ballot order (i.e. the first same will go last at the next meeting, whereas the second name will go first).

The following candidates introduced themselves and provided remarks about their candidacy:

Tuija Catalano

Peter Cloven

Letecia "Holly" Tillman

Frank Gavidia

Glenn Miller

Jim Diaz

Lisa Cloven expressed support for City Council Candidate Peter Cloven.

Dan Hummer expressed support for City Council Candidates Frank Gavidia and Jim Diaz.

Rosy Straka gave kudos to Sergeant Shaw for contacting her after the last City Council meeting; also thanking Mayor Pierce, and City Council candidates Tuija Catalano, Holly Tillman and Peter Cloven for also reaching out to her. She also expressed her support of members of the Clayton community.

A.J. Chippero addressed some misinformation regarding The Olivia project; noting there was no legal reason to deny the proposed project. He expressed his support for City Council candidates Tuija Catalano, Peter Cloven, and Holly Tillman.

Christina Pratt expressed support for Holly Tillman, Tuija Catalano and Peter Cloven.

Irina Liskovich expressed her concerns with local campaigns and encouraged everyone to vote.

Erin Bennett expressed support for City Council Candidates Peter Cloven, Holly Tillman, and Tuija Catalano

Denise Pursche expressed her concerns regarding local control.

Drina Rubiales expressed her concerns with local campaigns.

Jeff Weiner expressed his experience with the City Council regarding the Regency Drive parking issue.

Bassam Altwal expressed his concerns with Vice Mayor Wan and City Council Candidates Frank Gavidia, Jim Diaz, and Glenn Miller.

Karen Amos expressed support for City Council Candidates Tuija Catalano, Peter Cloven and Holly Tillman.

Aaron Levy expressed support for City Council Candidates Holly Tillman, Peter Cloven, and Tuija Catalano.

Nancy Topp expressed support for City Council Candidates Tuija Catalano, Peter Cloven, and Holly Tillman.

Dee Vieira expressed support for City Council Candidates Holly Tillman, Tuija Catalano, and Peter Cloven.

Brooke Halliday expressed support for City Council Candidates Holly Tillman, Tuija Catalano, and Peter Cloven.

Mayor Pierce closed public comment.

9. **PUBLIC HEARINGS** – None.

10. **ACTION ITEMS**

- (a) City owned property located at Clayton Road, Oak Street, and Main Street vision input. APN118-560-010. (Community Development Director)

Community Development Director Matthew Feske presented the report.

Following questions by City Council, Mayor Pierce opened the item to public comment.

Glenn Miller as a licensed civil engineer expressed his concerns on the limitations of the property that may have not been captured in the report; particularly stormwater runoff criteria and flood zone criteria has changed and become more stringent and the property appears to be a retention basin for the flood zone of the City of Clayton.

A.J. Chippero expressed his support for option 1.

Holly Tillman expressed her support for options 2 or 3.

Dan Hummer expressed his support for community input on this item.

Drina Rubiales expressed her support for community input on this item.

Denise Pursche expressed her support for option 1 or 2.

Mayor Pierce closed public comment.

It was moved by Councilmember Catalano, seconded by Councilmember Wolfe, to direct staff to move forward with Option 3 consisting of Community meetings and Charrette Sessions with consultant resources and public meetings with the Planning Commission and City Council. (Passed; 5-0 vote)

11. **COUNCIL ITEMS**

Mayor Pierce requested a future agenda item to reevaluate the insurance requirements on the lease between the City and the Clayton Historical Society.

12. **CLOSED SESSION**

Mayor Pierce announced the City Council will adjourn into Closed Session for the following noticed item (9:39 p.m.) after a ten-minute break:

A. Public Employment/Appointment
Government Code section 54957
Title: City Manager

B. Conference with Labor Negotiator
Government Code section 54957.6
Agency Designated Representatives: Mayor Pierce and Vice Mayor Wan
Unrepresented Employee: City Manager

Report out of Closed Session (11:11 p.m.)
Mayor Pierce reported there was no reportable action.

13. **ADJOURNMENT**– on call by Mayor Pierce, the City Council adjourned its meeting at 11:12 p.m.

The next regularly scheduled meeting of the City Council will be November 3, 2020.

#

Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Julie Pierce, Mayor

#

**MINUTES
OF THE
SPECIAL MEETING
CLAYTON CITY COUNCIL**

THURSDAY, October 22, 2020

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:00 p.m. by Mayor Pierce in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Pierce, Councilmembers Catalano, and Diaz. Councilmembers absent: Vice Mayor Wan and Councilmember Wolfe. Staff present: Pam Derby, Consultant CPS HR Consulting.

2. **PUBLIC COMMENTS** – None.

3. **CLOSED SESSION**
Mayor Pierce announced the City Council will adjourn into Closed Session for the following noticed item (6:03 p.m.):

(a) Public Employee Appointment
 Government Code Section 54957
 Title: City Manager - Interview Candidates

4. **RETURN TO OPEN SESSION**

Report out of Closed Session (7:49 p.m.)
Mayor Pierce reported there was no reportable action.

5. **ADJOURNMENT**– on call by Mayor Pierce, the City Council adjourned its meeting at 7:50 p.m.

The next regularly scheduled meeting is Tuesday, November 3, 2020.

#

Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Julie Pierce, Mayor

#

MINUTES
OF THE
SPECIAL MEETING
CLAYTON CITY COUNCIL
FRIDAY, October 23, 2020

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 4:30 p.m. by Mayor Pierce in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Pierce, Councilmembers Catalano, and Diaz. Councilmembers absent: Vice Mayor Wan and Councilmember Wolfe. Staff present: Pam Derby, Consultant CPS HR Consulting.

2. **PUBLIC COMMENTS** – None.

3. **CLOSED SESSION**
Mayor Pierce announced the City Council will adjourn into Closed Session for the following noticed item (4:34 p.m.):

(a) Public Employee Appointment
 Government Code Section 54957
 Title: City Manager - Interview Candidates

4. **RETURN TO OPEN SESSION**

Report out of Closed Session (7:29 p.m.)
Mayor Pierce reported there was no reportable action.

5. **ADJOURNMENT**– on call by Mayor Pierce, the City Council adjourned its meeting at 7:30 p.m.

The next regularly scheduled meeting is Tuesday, November 3, 2020.

#

Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Julie Pierce, Mayor

#

MINUTES
OF THE
SPECIAL MEETING
CLAYTON CITY COUNCIL

TUESDAY, October 27, 2020

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:04 p.m. by Mayor Pierce on a virtual web meeting and telephonically (877) 853-5257. Councilmembers present: Mayor Pierce, Councilmembers Catalano, and Diaz. Councilmembers absent: Vice Mayor Wan and Councilmember Wolfe. Staff present: Pam Derby, Consultant CPS HR Consulting and Janet Calderon City Clerk/HR Manager.

2. **PUBLIC COMMENTS** – None.

3. **CLOSED SESSION**
Mayor Pierce announced the City Council will adjourn into Closed Session for the following noticed item (6:05 p.m.):

 (a) Public Employment Appointment
 Government Code Section 54957
 Title: City Manager

4. **RETURN TO OPEN SESSION**

 Report out of Closed Session (8:32 p.m.)
 Mayor Pierce reported there was no reportable action.

5. **ADJOURNMENT**– on call by Mayor Pierce, the City Council adjourned its meeting at 8:33 p.m.

The next regularly scheduled meeting is Tuesday, November 3, 2020.

#

Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Julie Pierce, Mayor

#

**MINUTES
OF THE
SPECIAL MEETING
CLAYTON CITY COUNCIL**

MONDAY, November 2, 2020

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 5:00 p.m. by Mayor Pierce on a virtual web meeting and telephonically (877) 853-5257. Councilmembers present: Mayor Pierce, Vice Mayor Wan, Councilmembers Catalano, Diaz, and Wolfe. Councilmembers absent: None. Staff present: Pam Derby, Consultant CPS HR Consulting and Janet Calderon City Clerk/HR Manager.
2. **PUBLIC COMMENTS** – None.
3. **CLOSED SESSION**
Mayor Pierce announced the City Council will adjourn into Closed Session for the following noticed item (5:01 p.m.):

(a) Public Employment Appointment
 Government Code Section 54957
 Title: City Manager
4. **RETURN TO OPEN SESSION**

Report out of Closed Session (5:38 p.m.)
Mayor Pierce reported there was no reportable action.
5. **ADJOURNMENT**– on call by Mayor Pierce, the City Council adjourned its meeting at 5:39 p.m.

The next regularly scheduled meeting is Tuesday, November 17, 2020.

#

Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Julie Pierce, Mayor

#



Agenda Date: 11-17-2020

Agenda Item: 5b

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JENNIFER GIANTVALLEY, ACCOUNTING TECHNICIAN

DATE: 11/17/2020

SUBJECT: FINANCIAL DEMANDS AND OBLIGATIONS OF THE CITY

RECOMMENDATION:

It is recommended the City Council, by minute motion, approve the financial demands and obligations of the City for the purchase of services and goods in the ordinary course of operations.

Attached Report	Purpose	Date	Amount
Open Invoice Report	Accounts Payable	11/10/2020	\$ 155,472.88
Cash Requirements Report	Payroll, Taxes	11/4/2020	127,098.52
	Total Required		\$ 282,571.40

Attachments:

1. Open Invoice Report, dated 11/10/20 (4 pages)
2. Cash Requirements report PPE 11/01/20 (1 page)

City of Clayton Open Invoice Report Obligations

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Advanced Elevator Solutions, Inc								
Advanced Elevator Solutions, Inc	11/1/2020	11/1/2020	41274	Elevator service	\$124.00	\$0.00		\$124.00
				<i>Totals for Advanced Elevator Solutions, Inc</i>	<i>\$124.00</i>	<i>\$0.00</i>		<i>\$124.00</i>
American Fidelity Assurance Company								
American Fidelity Assurance Company	10/30/2020	10/30/2020	2083826	FSA PPE 11/1/20	\$83.07	\$0.00		\$83.07
				<i>Totals for American Fidelity Assurance Company</i>	<i>\$83.07</i>	<i>\$0.00</i>		<i>\$83.07</i>
AT&T (CalNet3)								
AT&T (CalNet3)	10/22/2020	10/22/2020	15506058	Phones 9/22/20-10/21/20	\$1,242.72	\$0.00		\$1,242.72
				<i>Totals for AT&T (CalNet3)</i>	<i>\$1,242.72</i>	<i>\$0.00</i>		<i>\$1,242.72</i>
Authorize.net								
Authorize.net	10/31/2020	10/31/2020	Oct20	Credit card gateway fee October 2020	\$32.95	\$0.00		\$32.95
				<i>Totals for Authorize.net</i>	<i>\$32.95</i>	<i>\$0.00</i>		<i>\$32.95</i>
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	10/26/2020	10/26/2020	15778	Street signs	\$1,625.79	\$0.00		\$1,625.79
				<i>Totals for Bay Area Barricade Serv.</i>	<i>\$1,625.79</i>	<i>\$0.00</i>		<i>\$1,625.79</i>
California Board of Accountancy								
California Board of Accountancy	11/3/2020	11/3/2020	CPA52557	CPA license renewal - Paul	\$250.00	\$0.00		\$250.00
				<i>Totals for California Board of Accountancy</i>	<i>\$250.00</i>	<i>\$0.00</i>		<i>\$250.00</i>
CalPERS Retirement								
CalPERS Retirement	11/2/2020	11/2/2020	110120	Retirement PPE 11/1/20	\$18,378.64	\$0.00		\$18,378.64
				<i>Totals for CalPERS Retirement</i>	<i>\$18,378.64</i>	<i>\$0.00</i>		<i>\$18,378.64</i>
Cintas Corporation								
Cintas Corporation	10/22/2020	10/22/2020	4065149637	PW uniforms through 10/22/20	\$49.44	\$0.00		\$49.44
Cintas Corporation	9/3/2020	9/3/2020	1901607080	KN95 masks	\$245.11	\$0.00		\$245.11
				<i>Totals for Cintas Corporation</i>	<i>\$294.55</i>	<i>\$0.00</i>		<i>\$294.55</i>
City of Concord								
City of Concord	10/28/2020	10/28/2020	86051	Dispatch services December 2020	\$24,418.92	\$0.00		\$24,418.92
				<i>Totals for City of Concord</i>	<i>\$24,418.92</i>	<i>\$0.00</i>		<i>\$24,418.92</i>
Clean Street								
Clean Street	10/31/2020	10/31/2020	98558	Street sweeping October 2020	\$4,500.00	\$0.00		\$4,500.00
				<i>Totals for Clean Street</i>	<i>\$4,500.00</i>	<i>\$0.00</i>		<i>\$4,500.00</i>
Comcast Business								
Comcast Business	11/5/2020	11/5/2020	110520	Internet 11/10/20-12/09/20	\$386.09	\$0.00		\$386.09
				<i>Totals for Comcast Business</i>	<i>\$386.09</i>	<i>\$0.00</i>		<i>\$386.09</i>

City of Clayton

Open Invoice Report

Obligations

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Galaxy Press	11/3/2020	11/3/2020	33796	Form printing	\$131.00	\$0.00		\$131.00
				<i>Totals for Galaxy Press.</i>	<i>\$131.00</i>	<i>\$0.00</i>		<i>\$131.00</i>
Globalstar LLC								
Globalstar LLC	10/16/2020	10/16/2020	7011185	Sat phone 10/16/20-11/15/20	\$110.37	\$0.00		\$110.37
				<i>Totals for Globalstar LLC.</i>	<i>\$110.37</i>	<i>\$0.00</i>		<i>\$110.37</i>
Hammons Supply Company								
Hammons Supply Company	11/2/2020	11/2/2020	115030	Library janitorial supplies	\$172.51	\$0.00		\$172.51
Hammons Supply Company	11/2/2020	11/2/2020	115027	CCP janitorial supplies	\$29.43	\$0.00		\$29.43
Hammons Supply Company	11/2/2020	11/2/2020	115028	The Grove Park janitorial supplies	\$58.01	\$0.00		\$58.01
Hammons Supply Company	11/4/2020	11/4/2020	115060	The Grove Park janitorial supplies	\$108.13	\$0.00		\$108.13
Hammons Supply Company	11/2/2020	11/2/2020	115029	CH janitorial supplies	\$85.12	\$0.00		\$85.12
				<i>Totals for Hammons Supply Company</i>	<i>\$453.20</i>	<i>\$0.00</i>		<i>\$453.20</i>
ICMA Retirement Corporation								
ICMA Retirement Corporation	11/1/2020	11/1/2020	110120	457 plan contributions PPE 11/1/20	\$23,347.91	\$0.00		\$23,347.91
				<i>Totals for ICMA Retirement Corporation</i>	<i>\$23,347.91</i>	<i>\$0.00</i>		<i>\$23,347.91</i>
J&R Floor Services								
J&R Floor Services	11/1/2020	11/1/2020	Eleven 2020	Janitorial services November 2020	\$3,168.70	\$0.00		\$3,168.70
				<i>Totals for J&R Floor Services</i>	<i>\$3,168.70</i>	<i>\$0.00</i>		<i>\$3,168.70</i>
Larson Pools, Inc								
Larson Pools, Inc	10/30/2020	10/30/2020	BP49-2020	C&D refund	\$1,000.00	\$0.00		\$1,000.00
				<i>Totals for Larson Pools, Inc.</i>	<i>\$1,000.00</i>	<i>\$0.00</i>		<i>\$1,000.00</i>
Nationwide								
Nationwide	11/1/2020	11/1/2020	110120	457 plan contribution PPE 11/1/20	\$500.00	\$0.00		\$500.00
				<i>Totals for Nationwide.</i>	<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
Pacific Office Automation								
Pacific Office Automation	10/23/2020	10/23/2020	210936	Copier usage 9/20/20-10/19/20	\$70.92	\$0.00		\$70.92
Pacific Office Automation	11/6/2020	11/6/2020	211301	Copier lease pmt 44 of 60	\$106.09	\$0.00		\$106.09
				<i>Totals for Pacific Office Automation</i>	<i>\$177.01</i>	<i>\$0.00</i>		<i>\$177.01</i>
Paychex								
Paychex	11/4/2020	11/4/2020	2020110201	Payroll fees PPE 11/1/20	\$199.82	\$0.00		\$199.82
Paychex	11/5/2020	11/5/2020	877376	Time and Attendance - setup, 5 years of servi	\$7,491.50	\$0.00		\$7,491.50
Paychex	11/20/2020	11/5/2020	877376	Time and attendance October 2020	\$147.00	\$0.00		\$147.00
				<i>Totals for Paychex.</i>	<i>\$7,838.32</i>	<i>\$0.00</i>		<i>\$7,838.32</i>
Paysafe Payment Processing								
Paysafe Payment Processing	10/31/2020	10/31/2020	October2020	OTC bankcard fees October 2020	\$115.10	\$0.00		\$115.10
Paysafe Payment Processing	10/31/2020	10/31/2020	October2020	Online bankcard fees October 2020	\$175.67	\$0.00		\$175.67

City of Clayton
Open Invoice Report
Obligations

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<i>Totals for Paysafe Payment Processing</i>					\$290.77	\$0.00		\$290.77
Pond M Solutions								
Pond M Solutions	11/2/2020	11/2/2020	7020	Fountain maintenance October 2020	\$650.00	\$0.00		\$650.00
<i>Totals for Pond M Solutions</i>					\$650.00	\$0.00		\$650.00
Site One Landscape Supply, LLC								
Site One Landscape Supply, LLC	10/23/2020	10/23/2020	104396815-001	Irrigation parts	\$688.03	\$0.00		\$688.03
<i>Totals for Site One Landscape Supply, LLC</i>					\$688.03	\$0.00		\$688.03
Sprint Comm (PD)								
Sprint Comm (PD)	10/29/2020	10/29/2020	703335311-227	Cell phones 9/26/20-10/25/20	\$717.52	\$0.00		\$717.52
<i>Totals for Sprint Comm (PD)</i>					\$717.52	\$0.00		\$717.52
Staples Business Credit								
Staples Business Credit	10/25/2020	10/25/2020	1631449377	Office supplies	\$96.02	\$0.00		\$96.02
<i>Totals for Staples Business Credit</i>					\$96.02	\$0.00		\$96.02
Stria, LLC								
Stria, LLC	10/27/2020	10/27/2020	14389	City council agenda packet digital conversion	\$4,750.50	\$0.00		\$4,750.50
<i>Totals for Stria, LLC.</i>					\$4,750.50	\$0.00		\$4,750.50
Swenson's Mobile Fleet Repair								
Swenson's Mobile Fleet Repair	10/26/2020	10/26/2020	1002178	Service to '99 F450	\$991.55	\$0.00		\$991.55
<i>Totals for Swenson's Mobile Fleet Repair</i>					\$991.55	\$0.00		\$991.55
US Bank - Corp Pmt System CalCard								
US Bank - Corp Pmt System CalCard	10/22/2020	10/22/2020	Stmnt end 10/22/20	Cal Card Stmnt end 10/22/20	\$19,280.19	\$0.00		\$19,280.19
<i>Totals for US Bank - Corp Pmt System CalCard</i>					\$19,280.19	\$0.00		\$19,280.19
US Bank Voyager Fleet Systems								
US Bank Voyager Fleet Systems	10/24/2020	10/24/2020	869471458043	Fleet setup fees	\$92.25	\$0.00		\$92.25
<i>Totals for US Bank Voyager Fleet Systems</i>					\$92.25	\$0.00		\$92.25
Workers.com								
Workers.com	10/23/2020	10/23/2020	128472	Seasonal workers week end 10/18/20	\$4,563.35	\$0.00		\$4,563.35
Workers.com	10/23/2020	10/23/2020	128511	Seasonal workers week end 10/12/20	\$319.80	\$0.00		\$319.80
Workers.com	10/30/2020	10/30/2020	128518	Seasonal workers week end 10/25/20	\$4,612.55	\$0.00		\$4,612.55
<i>Totals for Workers.com.</i>					\$9,495.70	\$0.00		\$9,495.70
GRAND TOTALS:					\$155,472.88	\$0.00		\$155,472.88

CASH REQUIREMENTS

CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 11/04/20: \$127,098.52

IMPORTANT COVID-19 INFORMATION: If you filed IRS Form 7200, please notify your Paychex representative to avoid owing a balance at the end of the quarter and ensure your Form 941 is accurate.

TRANSACTION SUMMARY

SUMMARY BY TRANSACTION TYPE -	TOTAL ELECTRONIC FUNDS TRANSFER (EFT)	127,098.52
	CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR EFT	127,098.52
	TOTAL REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES	36,709.82
	CASH REQUIRED FOR CHECK DATE 11/04/20	163,808.34

TRANSACTION DETAIL

ELECTRONIC FUNDS TRANSFER - Your financial institution will initiate transfer to Paychex at or after 12:01 A.M. on transaction date.

<u>TRANS. DATE</u>	<u>BANK NAME</u>	<u>ACCOUNT NUMBER</u>	<u>PRODUCT</u>	<u>DESCRIPTION</u>		BANK DRAFT AMOUNTS & OTHER TOTALS
11/03/20	BANK OF AMERICA, NA	xxxxxx4799	Direct Deposit	Net Pay Allocations	86,047.99	
11/03/20	BANK OF AMERICA, NA	xxxxxx4799	Direct Deposit	Deductions with Direct Deposit	663.50	86,711.49
11/03/20	BANK OF AMERICA, NA	xxxxxx4799	Readychex®	Check Amounts	12,909.11	12,909.11
11/03/20	BANK OF AMERICA, NA	xxxxxx4799	Garnishment	Employee Deductions	75.00	75.00
11/04/20	BANK OF AMERICA, NA	xxxxxx4799	Taxpay®			
				EFT FOR 11/03/20		99,695.60
				Employee Withholdings		
				Social Security	1,153.31	
				Medicare	2,247.78	
				Fed Income Tax	14,631.10	
				CA Income Tax	5,880.33	
				Total Withholdings	23,912.52	
				Employer Liabilities		
				Social Security	1,153.31	
				Medicare	2,247.79	
				Fed Unemploy	14.10	
				CA Unemploy	72.85	
				CA Emp Train	2.35	
				Total Liabilities	3,490.40	27,402.92
				EFT FOR 11/04/20		27,402.92
				TOTAL EFT		127,098.52



Agenda Date: 11-17-2020

Agenda Item: 5C

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Janet Calderon, City Clerk
DATE: November 17, 2020
SUBJECT: Rejection of Liability Claim Filed by Jessica Raska

RECOMMENDATION

Approve the denial of liability claim against the City filed by Jessica Raska for alleged damages reportedly occurring on March 7, 2020.

BACKGROUND

On August 4, 2020 the City received a liability claim filed by Jessica Raska for alleged personal injury incurred at Clayton Station Shopping Center. The City is self insured for general liability purpose and the Municipal Pooling Authority of Northern California administers the self-insured program. On August 5, 2020 the liability claim was transmitted to the Municipal Pooling Authority for processing and investigation.

Liability adjusters for the Municipal Pooling Authority has advised the City to deny the claim and issue a notice of rejection to the claimant.

FISCAL IMPACT

None.

Attachment: Copy of Claim (3 pgs)
Rejection letter (1 page)

CLAIM PRESENTED TO THE CITY OF CLAYTON

Please read the instructions on the back before completing.

FORM 4.1

Reserved for Filing Stamp

RECEIVED

AUG 04 2020

City of Clayton

City Claim No.:

1. Claimant's Name: (Please Print)

Jessica Raska

Claimant's Address:

2037 Sierra Road, #5

City, State, Zip:

Concord, CA 94518

Day Phone:

(925) 529-7117

Evening:

2. When did the damage or injury occur?

Month:

3

Day:

7

Year:

20

Time:

11:00 a.m.

Police Report No.:

day time

3. At which location did the damage or injury occur?

Clayton Station Shopping Center, Clayton, CA

4. a. What happened and why is the City responsible?

Claimant fell in water box located on property

b. Name and position of responsible City Employee(s), if known:

5. What damage or injury occurred?

Broken foot/toe

6. Claim amount (only if less than \$10,000):

If the amount exceeds \$10,000, please check the court for appropriate jurisdiction:

☐ Municipal Court (claims up to \$25,000)

☒ Superior Court (claims over \$25,000)

7. How did you arrive at the amount claimed? Please attach documentation.

injury, past + future medicals, wage loss, loss of earning capacity, general damages

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on 8/3, 2020 at Concord CA.

Signature of Claimant or Representative

9. Official Notices and Correspondence

If represented by an insurance company or an attorney, please provide the information requested below:

Name and Capacity: (please print)

Thuy Le

Address:

2450 Stanwell Dr

City, State, Zip:

Concord, CA 94520

Daytime Phone:

(925) 602-2727

Evening:

PROOF OF SERVICE (CCP §§ 1013a, 2015.5)


I, the undersigned, declare: I am a resident of the United States, and employed in the County of Contra Costa. I am over the age of eighteen years and not a party to the within action. My business address is 2450 Stanwell Drive, Concord, California 94520. On the date set forth below, I served the following documents:

CLAIM AGAINST THE CONTRA COSTA WATER DISTRICT (CCWD)

- ☐ **BY MAIL.** By placing the document(s) in a sealed envelope, with First Class postage thereon fully prepaid and addressed to the addressee(s) indicated below, to be deposited in the U.S. mail, at Concord, California, in the ordinary course of business. I am readily familiar with this firm's practice of collection and processing of documents for mailing with the U.S. Postal Service. Under that practice, documents are deposited with the U.S. Postal Service on that same day, with postage thereon fully prepaid, in the ordinary course of business.
- ☐ **BY PERSONAL SERVICE.** By placing the document(s) in a sealed envelope and causing such envelope to be delivered by hand to the offices of the addressee(s) as indicated below.
- ☐ **VIA FACSIMILE TRANSMISSION.** By transmitting a true and correct copy of said document(s) to the addressee(s) indicated below on this date before 5:00 p.m.
- ☒ **VIA FEDERAL EXPRESS OVERNIGHT SERVICE.** By placing the document(s) in a sealed envelope and depositing such envelope in the Federal Express pick-up box prior to 4:30 p.m. addressed as indicated below.
- ☐ **BY ELECTRONIC SERVICE.** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above.

The City Clerk of the City of Clayton 6000 Heritage Trail Clayton, CA 94517	

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on **August 3, 2020** at Concord, California.


Thuy Le

PROOF OF SERVICE

SCRANTON LAW FIRM

August 3, 2020

Via FedEx – Overnight

The City Clerk of the City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Re: Claim Form
My client: Jessica Raska
Date of Loss: 3/7/20

Dear Clerk of the City of Clayton:

My office represents the above-named client.

Enclosed please find the completed claim form. Please send all correspondence to my office.

Also enclosed is a self-addressed stamped envelope for a copy of the stamped claim.

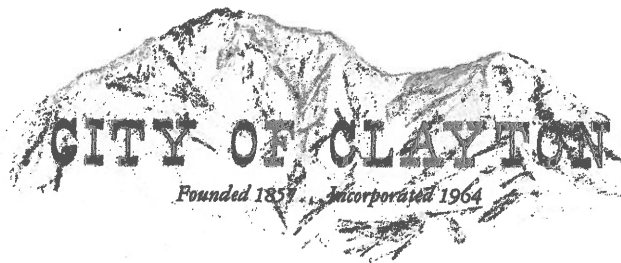
If you need any other information to evaluate this claim, please feel free to contact me.

SCRANTON LAW FIRM



Thuy M. Le, Esq.

Enclosure



COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 969-8181

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
JULIE PIERCE, MAYOR
JEFF WAN, VICE MAYOR
TUIJA CATALANO, COUNCILMEMBER
JIM DIAZ, COUNCILMEMBER
CARL C.W. WOLFE, COUNCILMEMBER

November 18, 2020

Sent: Certified and
Regular US Mail

Scranton Law Firm
2450 Stanwell Drive
Concord, CA 94520
Attn: Thuy Le

RE: Liability Claim Against the City of Clayton, by Jessica Raska (Claim No. GL-013989)

NOTICE OF REJECTION OF CLAIM

Dear Mr. Le:

Notice is hereby given that the liability claim, presented to the City of Clayton on August 3, 2020 was rejected by the City of Clayton on November 17, 2020.

WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action in a municipal or superior court of the State of California on this claim. See *Government Code*, Section 945.6.

You may wish to seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Janet Calderon, City Clerk

[Reference: California Government Code, Section 913]



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: Fran Robustelli, Interim City Manager

**By: Matthew Feske, Community Development
Director Scott Alman, City Engineer**

DATE: November 17, 2020

SUBJECT: Award of Contract to Emergency Planning Consultants to provide professional services in preparing a Hazard Mitigation Plan.

RECOMMENDATION

It is recommended that the City Council:

1. Award a contract to Emergency Planning Consultants (EPC) to provide professional services to prepare a Hazard Mitigation Plan, not to exceed an amount of \$67,500 without City Council authorization;
2. Approve said Agreement for one (1) year beginning December 1, 2020 and expiring on January 31, 2021, with a one (1) year extension if needed;
3. Reject all other proposals;
4. Authorize the City Manager to execute and administer said Agreement in substantially the form attached, and in such final form as approved by the City Attorney;

BACKGROUND

The Federal Emergency Management Agency (FEMA) requires that State, tribal and local governments develop and adopt Hazard Mitigation Plans to receive certain types of non-emergency disaster assistance, including funding for mitigation projects. Local governments must update their Hazard Mitigation Plan(s) and submit them for FEMA review and approval every five (5) years to qualify for eligibility of funding.

The City of Clayton has previously been a participant in the Association of Bay Area Governments (ABAG) Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) beginning in 2006. The ABAG Resilience Program created a process that supports local governments in planning for existing hazards and preparing for future hazards due to climate change. ABAG helped with the update and development of the hazard mitigation and climate adaptation plan. They integrated hazard mitigation planning, which focused on historic risks, with climate adaptation planning, which focused on future risks. This effort provided guidance and a unified strategy that would support community sustainability and resilience in the event of an emergency. With ABAG, as the lead agency, hazard mitigation strategies were created and participants made recommendations, comments and changes on the MJHMP strategies. With ABAG's MJHMP as the template, the City developed a Local Hazard Mitigation Plan (LHMP) specific to the needs and potential emergency projects the City may need to undertake.

The City opted out of a 2017 Countywide LHMP/Annex and intends to establish a stand-alone LHMP with CalOES/FEMA using the consultant selected from those responding to this Request for Proposal (RFP).

The City of Clayton plans to create the City's first stand-alone Local Hazard Mitigation Plan (LHMP) through CalOES/FEMA. An LHMP identifies the hazards a community or region faces, assesses their vulnerability to those hazards and identifies specific actions that can be taken to mitigate, manage and reduce the risk from those hazards. The Federal Disaster Mitigation Act of 2000 (DMA 2000) outlines a process which cities, counties, and special districts follow to develop an LHMP. Development of this plan is a requirement for certain benefits from CalOES and FEMA.

DISCUSSION

Request for Proposals (RFP)

In anticipation of the preparation of the Hazard Mitigation Plan, Staff circulated a RFP on October 1, 2020 to solicit proposals from consulting firms, groups, or individuals, who specialize in the preparation of such plans. The RFP was circulated requesting qualifications to prepare a Local Hazard Mitigation Plan for 2022-2027.

The City received four (4) proposals by the October 23, 2020 deadline, as identified in Table 1.

Table 1. RFP Participants

KJ Consultants	\$93,000
Emergency Planning Consultants	\$67,500
Risk Management Professionals	\$31,525
Integrated Solutions Consulting	Unknown

Staff evaluated all submitted proposals based on the criteria in the RFP, and determined Emergency Planning Consultants was the most responsive, responsible and competitive bid.

Therefore, based on the above-mentioned information, Staff recommends that the City Council award a contract to Emergency Planning Consultants.

FISCAL IMPACTS

The Local Hazard Mitigation Plan was not originally budgeted for the FY 2020-21 or FY 2021-22. However, it is anticipated that no additional funding outside of the grant will be required and the grant required contingency will be fully accounted for with staff time that is already part of the approved FY2021-22 budget.

ATTACHMENTS

- A. Professional Services Agreement
- B. Emergency Planning Consultants Proposal (dated October 20, 2020)

*****MODEL - REMOVE THIS TITLE WHEN USED*****

*****FOR PROFESSIONAL SERVICES – DEFINED AS:**

**SPECIALIZED SERVICES SUCH AS FINANCIAL, ECONOMIC, ACCOUNTING, LEGAL, ENGINEERING
OR ADMINISTRATIVE SERVICES**

******PLEASE NOTE: THIS PROFESSIONAL SERVICES AGREEMENT MAY NOT BE
USED TO CONTRACT FOR DESIGN SERVICES******

CITY OF CLAYTON PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as _____, 20____ by and between the City of Clayton, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 6000 Heritage Trail, Clayton, California 94517 ("City"), and *****INSERT NAME*****, a *****INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY***** with its principal place of business at *****INSERT ADDRESS***** (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

(hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit "A." **[Alternatively, Scope of Services can be included here and all subsequent exhibits renumbered accordingly.]**

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B." **[Alternatively, Schedule of Charges may be included here and all subsequent exhibits renumbered accordingly.]**

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of \$_____ **[Insert amount of compensation]**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City.

5. **[Insert "Term" or "Time of Performance"]**.

[If engaging the Consultant for a particular term, use the following provision]

The term of this Agreement shall be from **[Insert start date]** to **[Insert end date]**, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project. Consultant shall perform its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). **[If the City has specific milestones or timelines for performance, please input those requirements in the "Activity Schedule" attached as Exhibit C, otherwise delete Exhibit C.]** The Notice to Proceed shall set forth the date of commencement of work.

[If engaging the Consultant to perform a discrete task with a specified deadline, use the following provision]

Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). Consultant shall complete the services required hereunder within **[Insert number of calendar days for performance of the services – if more detail is required attach "Activity Schedule" as Exhibit C, otherwise delete Exhibit C.]** The Notice to Proceed shall set forth the date of commencement of work.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; pandemics, war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Contractor

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. Insurance. [City Risk Manager to Review] Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Agreement
- (8) Property Damage
- (9) Independent Contractors Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give City, the City Council and each member of the City Council, its officers, employees, agents and City designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give City, the City Council and each member of the City Council, its officers, employees, agents and City designated volunteers additional insured status.

(iv) Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
------------------------------	-----------------------------------------------------------------------------------------------------------

Automobile Liability	\$1,000,000 combined single limit
Employer's Liability	\$1,000,000 per accident or disease
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide a waiver of subrogation in favor of the

City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the City nor the City Council, nor any member of the City Council, nor any of the officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG

20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the

Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

[Delete the following title and text and insert "Reserved" in title, if not applicable.]

15. City Material Requirements.

Consultant is hereby made aware of the City's requirements regarding materials, as set forth in **[Insert the name of the document that contains the City's standard material requirements]**, which are deemed to be a part of this Agreement.

16. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Contra Costa, State of California.

17. Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be

entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

18 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

19. Organization

Consultant shall assign [REDACTED] as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

20. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

21. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Clayton

6000 Heritage Trail

Clayton, CA 94517

Attn: [***INSERT NAME & DEPARTMENT***]

CONSULTANT:

[***INSERT NAME, ADDRESS & CONTACT PERSON***]

and shall be effective upon receipt thereof.

22. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal

Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid or illegal.

26. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either Party, unless such waiver is specifically specified in writing.

28. Time of Essence

Time is of the essence for each and every provision of this Agreement.

29. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

30. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall

have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31. Federal Requirements *****INCLUDE THIS SECTION ONLY IF APPLICABLE; DELETE OTHERWISE AND DELETE ASSOCIATED EXHIBIT. YOU MAY ALSO NEED TO INCLUDE SOME INFORMATION IN THE RFP DUE TO FEDERAL FUNDING GUIDELINES. CONSULT LEGAL COUNSEL IF NECESSARY*****

When funding for the services is provided, in whole or in part, by an agency of the federal government, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (Federal Requirements) attached hereto and incorporated herein by reference ("Federal Requirements"). With respect to any conflict between such Federal Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF CLAYTON
AND [***INSERT NAME***]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF CLAYTON

[INSERT NAME OF CONSULTANT]

By: _____
[INSERT NAME]
[INSERT TITLE]

By: _____

Its: _____

Printed Name: _____

ATTEST:

By: _____
City Clerk

EXHIBIT A
Scope of Services

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Activity Schedule

EXHIBIT D
Federal Requirements

EXHIBIT B



October 20, 2020

This is a response to the City of Clayton's Request for Proposal (RFP) to prepare its first stand-alone Local Hazard Mitigation Plan (LHMP). Emergency Planning Consultants (EPC) has written more than 112 FEMA-approved hazard mitigation plans as well as another 30+ in the plan writing or formal review phase.

Hazard mitigation planning has been at the very core of "recovery planning" for decades but the Disaster Mitigation Act of 2000 elevated the importance of developing pre-disaster mitigation activities. Mitigation activities includes projects, programs, and plans that assist with minimizing or eliminating threats associated with hazards. Since the passage of DMA 2000 there have been numerous case studies proving that the steps taken ahead to minimize and/or eliminate risks has greatly reduced damages and loss of life. Like wearing a seat belt in a car, mitigation has revolutionized disaster outcomes. Whether thought of as "insurance" or a "good investment", there is no doubt that mitigation is the right thing to do. If that's not enough incentive, federal regulations require public jurisdictions to maintain a FEMA-approved LHMP in order to be eligible for post-disaster Hazard Mitigation Grant Program funds. Additionally, recently there has been considerable discussion among other federal agencies about the future need for LHMPs to qualify for other types of post-disaster funding.

EPC maintains the outstanding qualifications required to conduct hazard research and mapping, facilitate a robust planning process, actively encourage public involvement, negotiate with the California Office of Emergency Services (Cal OES) and the Federal Emergency Management Agency (FEMA) during the formal review process, and garner adoption by the City of Clayton City Council. EPC President Carolyn Harshman has enjoyed two careers: City Planning and Emergency Management. Both careers required continued improvement in professional skills of research, data collection, mapping, stakeholder involvement and community outreach, technical writing, public speaking, training design and delivery. Without a doubt, Emergency Planning Consultants is the subject matter expert in the field of hazard mitigation in California having written more plans and the most FEMA-approved plans (112 to date).

This proposal is valid for a period of one year and is signed by the sole proprietor of Emergency Planning Consultants.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Carolyn J. Harshman'.

Carolyn J. Harshman, CEM
Owner and President
Emergency Planning Consultants
epc@pacbell.net
www.carolynharshman.com

PROJECT APPROACH AND SCHEDULE OF WORK

At present, the City of Clayton is not in compliance with DMA 2000 and therefore not eligible to complete for Hazard Mitigation Grant Program funds which are made available to jurisdictions within the declared area following a Presidential Disaster Declaration. In order to accomplish eligibility, a FEMA-approved Hazard Mitigation Plan must be developed that accomplishes the following:

The intent of DMA 2000 is three-fold:

- a) To gather hazard, vulnerability, and mitigation information from the local level for use in state-level planning.
- b) To ensure that state and local hazard mitigation planning is coordinated to the greatest extent practical.
- c) To ensure that local jurisdictions are made aware of the hazards and vulnerabilities within their jurisdiction and to develop strategies to reduce those vulnerabilities.

To meet all of those objectives, FEMA developed a "checklist" for use by the State and Federal reviewers. The Region IX Local Hazard Mitigation Plan Review Tool (FEMA Review Tool) includes the following tasks:

- Element A: Planning Process
- Element B: Hazard Identification and Risk Assessment
- Element C: Mitigation Strategy
- Element D: Plan Review, Evaluation, and Implementation
- Element E: Plan Adoption (by City Council)

It is important to note that it is especially important to hire a firm with an extensive history of preparing FEMA-approved Hazard Mitigation Plans. Without adequate experience, it would not be unusual to spend as much time in the "Cal OES and FEMA review phase" as in preparing the actual plan. EPC prepares approvable plans and in the event a Cal OES or FEMA reviewer disagrees, knows how to discuss the difference in interpretation to gain approval. Specific strategies for accomplishing Element A-E are discussed below in **Methodology and Quality Control**.

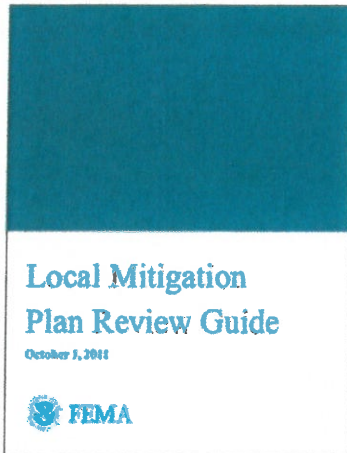
Methodology and Quality Control

Preparation of the Hazard Mitigation Plan will incorporate all of the federal requirements relating to local hazard mitigation plans. EPC's hazard mitigation planning approach has been perfected since 2005 when the federal government first required plans for local jurisdictions. Since that time great effort and time has gone into tracking the changes of "interpretations" by the regulatory agencies of the DMA 2000 legislation. Without publishing updates to the originating legislation, FEMA instead has published guidelines (see below) and has amended the FEMA Review Tool used to judge the adequacy of plans. Understanding all the changes in interpretation is critical to writing a plan that can go through the state and FEMA reviewers with only minor revisions. State and FEMA have both made significant staffing changes over the past year resulting in more consistent reviews and fewer unjustified requested changes. Recently, FEMA review staff have worked closely with state review staff to better understand the requirements in order to streamline the review process. With so many FEMA approved plans, obviously EPC clearly understands both the regulations and "interpretations" so goes into the review process as aligned as possible. All said, the key to a successful review is to be certain that every required component is clearly marked in the plan and on the FEMA Review Tool.

Nothing can replace EPC's years of experience and track record at facilitating and writing FEMA-approved Hazard Mitigation Plans. This experience has also prepared us for any

unexpected challenges with other aspects of the planning process – Planning Team Meetings, community outreach, and participating in the adoption meeting. EPC prides itself on working closely with the jurisdiction's Point of Contact to bend and adjust to the content, format, and scheduling needs.

Planning Process



Preparation of the Hazard Mitigation Plan will be completed in compliance with the requirements of the federal government Disaster Mitigation Act of 2000 (DMA 2000), FEMA's Local Multi-Hazard Mitigation Planning Guidance published July 2008, the Local Mitigation Plan Review Guide published in October 2011, and the Local Mitigation Planning Handbook published March 2013. Building on those materials and other FEMA mitigation "how-to guides", the following methodology will be utilized:

- **Planning Tools** have been developed by EPC that will significantly decrease the amount of jurisdictional staff time required for completion of the LHMP. EPC developed these tools during preparation of the 2014 update to the County of

Los Angeles All-Hazards Mitigation Plan.

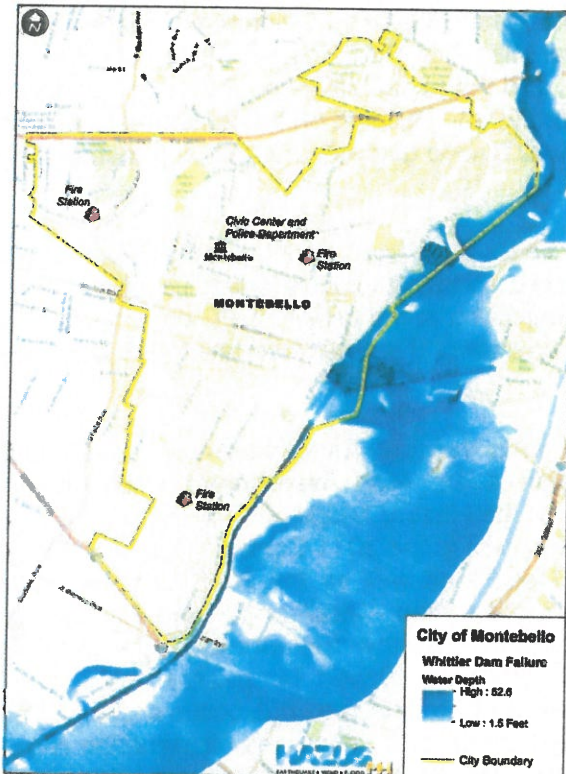


- **Risk and Vulnerability Assessment** includes preparing the Hazard Identification, Risk Assessment, and Vulnerability Analysis portion of the Hazard Mitigation Plan. EPC will build off of the Risk Assessment in the 2011 Contra Costa County Hazard Mitigation Plan Update as well as the 2018 State of California Multi-Hazard Mitigation Plan. Additionally, the City of Clayton 2000 General Plan – Safety Element and the Emergency Operations Plan will be reviewed for hazard and risk-related information as well as history of previous occurrences. EPC also maintains a broad range of resources for information regarding historical disasters. The EPC Team will base its research on the hazards on those as identified in the California Multi-Hazard Mitigation Plan. During the first Planning Team meeting, the hazards will be discussed, and EPC will provide recommendations on a final hazards list. The Risk Assessment

in the LHMP will include hazard-specific chapters including EPC-produced hazard maps showing location of critical and essential facilities and HAZUS-MH (see below).

- **Community Profile** will be developed for the project area. More than just demographics and organizational structure, the Profile will reflect the history and unique characteristics of the community.
- **Mapping** resources within the jurisdiction will be utilized by EPC to assist the reader in understanding the location and vulnerability to hazards. Additionally, EPC will produce any other maps necessary to properly explain the location of hazards as they relate to critical and essential facilities. Also, see below for a discussion on HAZUS-MH.

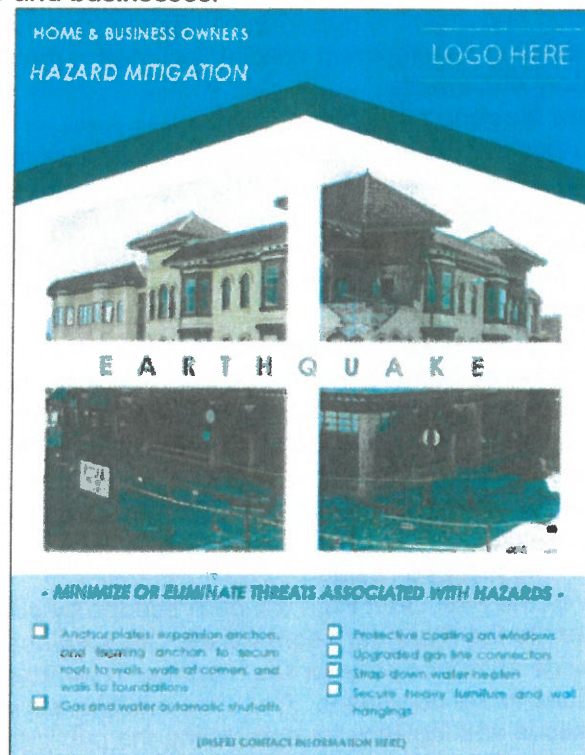
- **HAZUS-MH** (Hazards United States – Multi-Hazard) is software produced by FEMA designed to estimate loss projections for earthquake, hurricane, flooding, and tsunami. EPC will provide a total of ten HAZUS-MH Level 2 maps and reports – 6 earthquake scenarios and 4 flood scenarios. The scenarios will be selected by the Planning Team. HAZUS-MH utilizes data from the most recent U.S. Census. That information is overlaid with a hazard scenario (e.g. San Andreas Fault - Northern). In the case of an earthquake scenario, the HAZUS-MH output is a map showing shaking intensities along with a very detailed report on impacts to people, structures, infrastructure, and utilities. A sample HAZUS-MH flood map prepared by EPC is shown below:



- **Capability Assessment** includes a list of the programs (budgets, facility improvement plans), policies, and personnel available to each of the participating jurisdictions to complete the Mitigation Strategy.
- **Mitigation Strategy** is the comprehensive list of each existing and future mitigation action item for the jurisdiction. The Planning Team members will be relied on to identify the jurisdiction's ongoing mitigation action (e.g. tree trimming before a storm, etc.) while ideas for the future will be drawn from the General Plan-Safety Element and Capital Improvement Program along with ideas from the Planning Team members. During this brainstorming process, members will be encouraged to think through the various hazards and come up with projects and programs that could be funded through HMGP and other pre- and post-disaster funding mechanisms. EPC Tools will facilitate this process. FEMA regulations, each of the mitigation action items will include a description of the action item, identification of coordinating department, timeline, priority, cost, benefit, goals accomplished, impacts to new and existing structures, and planning tools for implementation. EPC will present simple tools for ranking cost and benefit. The resulting Mitigation Actions Matrix is the very core of the mitigation planning process and

will include action planning tools to be used by the Planning Team during the implementation process.

- **First Draft LHMP** will be distributed in advance of Planning Team Meeting #5. Corrections and contributions will be added to create the Second Draft Plan. This is version that will be made available to the general public, external agencies, and other stakeholders.
- **Community Outreach** will be discussed at the Planning Team Meeting #1. In order to comply with FEMA requirements, it is critical that individuals and organizations outside of the Planning Team have access to the Plan during the "plan writing process".
 - Numerous methods including social media will be utilized to announce the availability of the Second Draft Plan and the opportunity to provide input. In addition to encouraging participation in contributing to the Second Draft Plan, EPC will provide the following community outreach tools:
 - Distribution of EPC-produced handouts sharing mitigation techniques available to residents and businesses.



- Links to hazard information allowing home and business owners to identify specific hazards impacting their own properties (State of California's MyHazards).



- **Planning Team**

The Planning Team will consist of representatives from the City as well as contracted providers of service. As participants are selected, it's important to keep in mind that hazard mitigation focuses on regulatory controls as well as construction and construction/maintenance of buildings and infrastructure. EPC will provide agendas, handouts, minutes, and PowerPoints for each meeting. EPC President Carolyn Harshman will facilitate each of the meetings. At this point in time, the meetings will be planned for virtual deliveries via EPC's GoToMeeting account or other service providers as determined by the City.

- **Planning Team Meeting #1 (2 hours)**

- The purpose of the first meeting is to provide a general overview of the project, timeline, gather pertinent documents, confirm roles and membership of the Planning Team, review the concepts and standards contained in the DMA 2000 regulations and FEMA Review Tool, discuss availability of mapping resources, and discuss opportunities for public participation.
 - Initial review of hazards.

- **Planning Team Meeting #2 (2 hours)**

- The purpose of the second meeting is to review best practices in hazard mitigation and examine opportunities to integrate the mitigation plan with the City's existing development policies included in the General Plan and other regulatory documents.

- **Planning Team Meeting #3 (2 hours)**

- The purpose of the second meeting is to begin work on the Mitigation Strategy. This will involve capturing existing mitigation activities along with developing mitigation action items for the future. EPC will work in advance of the meeting to review the General Plan-Safety Element, Annual Budget, and Capital Improvement Program in order to capture any already identified mitigation-related projects.

- **Planning Team Meeting #4 (2 hours)**

- The purpose of the third meeting is to continue to develop new mitigation action items. During the meeting EPC will distribute a planning tool that contains a comprehensive list of mitigation actions from a wide variety of jurisdictional plans. The use of this comprehensive list will assist and expedite the Planning Team's process of identifying existing and future mitigation actions.

- **Planning Team Meeting #5 (2 hours)**

- Review of the First Draft Plan will be preceded by advance distribution of the document to the Planning Team via the City's Point of Contact. The meeting will provide an opportunity for the Planning Team to share comments and corrections to the document. Also, this meeting will include a discussion on preparations and logistics for conducting the public participation process and soliciting input from the general public and external agencies during the distribution of the Second Draft Plan.

- **General Public and External Agency Input**

FEMA requires the Second Draft Plan be made available to the general public and external agencies (e.g. adjoining jurisdictions, servicing special districts, etc.). EPC recommends posting the Second Draft Plan on the City's website and using existing notification methods perhaps including a newsletter or other means to inform the general public of the Plan's availability. As for the external agencies, EPC will provide email content for distribution to the various agencies (not yet including Cal OES and FEMA)

including a link to the posting of the Second Draft Plan. All information gathered will be included in the Third Draft Plan.

- **Finalization** will include sending the Third Draft to Cal OES along with a cover letter and completed FEMA Review Tool. Following any DMA 2000-justified revisions by EPC, Cal OES will forward the Plan to FEMA for review and issuance of an Approval Pending Adoption. As with the review by Cal OES, EPC will complete any DMA 2000-justified revisions while being certain to protect the City from unfair and unjustified revisions. EPC guarantees the LHMP will receive an Approval Pending Adoption. Upon receipt of the Approval Pending Adoption letter from FEMA, the Final Draft Plan will be scheduled for presentation to the City Council for adoption. EPC will prepare a staff report and resolution. EPC President Carolyn Harshman will be available for the presentation to the City Council should that be desired. Following the meeting, proof of adoption will be forwarded to FEMA. FEMA will then send an email and letter of Final Approval which will be incorporated into the Final Plan. EPC will continue to lead the planning process until the Final Approval is received from FEMA, proof of adoption by the decision maker body is submitted to FEMA, and said documents are incorporated into the Final Plan. As identified in the RFP, EPC will provide all plan copies as identified.

Project Schedule

Task	October 2020	November	December	January 2021	February	March	April	May	June	July
Research										
Research for Risk Assessment	X	X								
Prepare HAZUS	X	X								
Plan Writing										
First, Second, Third, and Final Drafts, Final Plan		X	X	X	X	X	X	X	X	X
Planning Team Meetings										
Meeting #1 LHMP Overview and Initial Hazard Briefing		X								
Meeting #2 Best Practices and Plan Integration		X								
Meeting #3 HAZUS and Mitigation Action Items		X								
Meeting #4 Mitigation Action Items			X							
Meeting #5 Review First Draft Plan			X							
Community Outreach										
Encouraging Public Participation in Mitigation Activities				X						
General Public and External Agencies Input to Present Second Draft Plan				X						
Adoption and Approval of Plan										
Submit Third Draft Plan to Cal OES/FEMA. Complete Mandated Revisions.				X	X	X	X	X		
Receive FEMA's Approval Pending Adoption								X		
Post and Conduct City Council Meeting to Adopt the Final Draft Plan and submit Proof of Adoption to FEMA									X	
Receive FEMA Final Approval									X	
Incorporate FEMA Final Approval into Final Plan									X	

STATEMENT OF QUALIFICATIONS

Emergency Planning Consultants offers a full range of emergency management professional services including plans, training, and exercises to various forms of government. A complete listing of clients and services is included later in this section.

Emergency Planning Consultants was established in 1997 through the City of San Diego and filing for a "Doing Business As" through the County of San Diego. EPC's only employee is owner and sole proprietor, Carolyn J. Harshman. As needed, EPC tasks independent contractors to provide services including hazard research, mapping, graphics, and document design. The company's location is in San Diego, California. Ms. Harshman maintains a Certified Emergency Manager designation that requires 5-year updates through the International Association of Emergency Managers, a non-profit professional association.

The EPC Project Team selected for this project is the perfect balance of subject matter expertise, background, and local knowledge. Following are introductions to the EPC Team members.



Name: Carolyn J. Harshman, CEM

Education: Master of Public Administration

Professional Affiliations: International Association of Emergency Managers, California Emergency Services Association, National Hazard Mitigation Association

Professional Licenses and Certifications: Certified Emergency Manager

Carolyn Harshman, CEM is the Owner and President of Emergency Planning Consultants and will serve as the Project Manager and Principal Planner. Preparing a Hazard Mitigation

Plan requires subject matter expertise in the areas of emergency response planning, hazard mitigation planning, mapping, and land use planning. With backgrounds in both land use planning and emergency management, Ms. Harshman is the right fit for facilitating the planning project. Ms. Harshman will serve as the Project Manager to the designee at the City of Clayton and maintains responsibility for all aspects of the contracted services. Monthly status updates will be provided. Invoices will be submitted according to the terms of the contract. As Principal Planner, Ms. Harshman will lead the project by facilitating and participating at all Planning Team meetings and the City Council. She will serve as the principal author and maintain quality control over the document at all times. Ms. Harshman will also manage relationships and contributions from EPC independent contractors, ensuring quality control and continuous improvement by conducting weekly meetings with the EPC Team.

Prior to working in the field of emergency management, Ms. Harshman enjoyed a combined 20-year career as a city, regional, and redevelopment planner for the County of San Diego, City of San Diego, and Southeastern Economic Development Corporation. In her role as a land use planner Ms. Harshman prepared General Plan Amendments, Community Plans, Zoning Ordinance revisions, and conducted hundreds of community meetings. As a local government staff member for so many years, Carolyn is very familiar with the organization, roles, and responsibilities of government entities. Ms. Harshman began work in the field of emergency management in 1984 when she was hired as a hazard planner for the County of San Diego's Office of Emergency Services. There she updated the County's Emergency Operations Plan and also served as the Hazards Officer. Responding to requests from other jurisdictions to provide consulting services, Carolyn began part-time work as a consultant in 1986 writing Multi-Hazard Functional Plans and providing mandated trainings. In 1996, she ended her career with local government and established Emergency Planning Consultants.

Ms. Harshman has been a member of FEMA's Emergency Management Institute's Planning Advisory Board since 2005, involved in each update to the Emergency Planning Course (G235). Also, she taught FEMA's pilot deliveries for the Comprehensive Preparedness Guide (CPG) 101. The revised CPG 101 regulations provide guidance on styles and content for emergency operations plans, placing emphasis on engaging the "whole community" – including those with access and functional needs, children, and those with household pets and service animals. Carolyn has completed and teaches FEMA Master Trainer Program courses as well as a variety of other courses at the Emergency Management Institute, California Specialized Training Institute, and as an adjunct instructor at a variety of educational facilities. Ms. Harshman holds a Master of Public Administration (MPA) degree from San Diego State University and is a

Certified Emergency Manager (CEM), as conferred by the International Association of Emergency Managers.

Actively engaged in professional development, Ms. Harshman was in FEMA's first cohort of the National Emergency Management Executive Academy. Ms. Harshman is an active leader in the International Association of Emergency Managers, serving as Chair of the Conference Committee from 2006-2011, Chair of the Leadership Symposium from 2011-2013, Chair of the Membership & Marketing Committee from 2014-2016, President of IAEM- USA Region 9 (California, Arizona, Nevada, Hawaii, and Pacific Territories) and presently Second Vice President for IAEM-USA.

Ms. Harshman's resume is an attachment to this proposal.



Name: Alex L. Fritzler

Education: Bachelor of Arts – Business Administration

Professional Affiliations: California Emergency Services Association

Alex Fritzler is a part-time EPC staff member serving as the Lead Research and Mapping Analyst. He will be responsible for hazard and demographic research, writing, technical services, graphics, data analysis, and mapping services in support to the EPC Team. Alex has assisted with the preparation of more than thirty local government hazard mitigation plans since joining EPC in 2010.



Name: Megan R. Fritzler

Education: Bachelor of Science – Liberal Arts

Megan Fritzler is a part-time EPC staff member serving as the Hazard Research and Plan Writing Analyst. She is responsible for hazard and demographic research and writing in support of hazard mitigation plans. To date, Megan has assisted with the preparation of eight local government hazard mitigation plans including three in the FEMA review phase: Los Angeles Metro, Morongo Unified School District, and Sonoma County Office of Education.

EPC Qualifications

Following is EPC's List of Clients and Projects. EPC began work on Hazard Mitigation Plans in 2005 when FEMA first required the development of plans.

Emergency Planning Consultants Client and Project List

	Scope of Work
Federal Government	
Federal Emergency Management Agency (FEMA)	Course design and deliveries for FEMA's Emergency Management Institute
National Disaster Preparedness Training Center (NDPTC-University of Hawaii)	Course design and deliveries of Advanced Disaster Recovery Course, Leveraging Tools for Conducting Damage Assessments, Coastal Community Resilience, Community Planning for Disaster Recovery
State Governments	
California	Office of Emergency Services: Multi-Hazard Functional Plan Template, California Specialized Training Institute: Course deliveries
Indiana	Comprehensive Emergency Management Plan (CEMP) Template, Facilitated completion of CEMP for 15 Indiana Counties
Missouri	HSEEP agro-terrorism functional exercise, HSEEP regional WMD exercises
New Hampshire	State Operations Plan, EOC Standard Operating Procedures
Hawaii	Department of Education: Grant writing - Readiness and Emergency Management for Schools Grant (2008), State Civil Defense: Course and exercise deliveries
City and County Governments	
City of Anaheim	Update Hazard Mitigation Plan
City of Bellflower	Hazard Mitigation, Grant Writing, Update Hazard Mitigation, Update General Plan Safety Element and Technical Background Report, Update Emergency Operations Plan
City of Bradbury	Hazard Mitigation Plan
City of Buena Park	Hazard Mitigation Plan, Update Emergency Operations Plan
City of Carlsbad	Emergency Operations Plan, EOC Trainings and Exercises, Full-Scale Active Shooter Exercise (multi-jurisdictional law enforcement event)
City of Carson	Hazard Mitigation Plan
City of Cerritos	Hazard Mitigation Plan
City of Chula Vista	Pre-Disaster Recovery Plan
City of Claremont	Hazard Mitigation Plan, Update Hazard Mitigation Plan, Continuity of Operations Plan
City of Coachella	EOC Tabletop Exercise
City of Compton	Hazard Mitigation Plan, Update Hazard Mitigation Plan

City of Covina	Hazard Mitigation Plan, Emergency Operations Plan, Update Hazard Mitigation Plan
City of Duarte	Update Hazard Mitigation Plan
City of El Monte	Hazard Mitigation Plan, Update Hazard Mitigation Plan
City of El Segundo	Hazard Mitigation Plan
City of Glendora	Hazard Mitigation Plan, SEMS EOC Course
City of Hawaiian Gardens	Hazard Mitigation Plan
City of Hermosa Beach	Hazard Mitigation Plan, Emergency Operations Plan, EOC Trainings and Exercises, Update Emergency Operations Plan
City of Hesperia	EOC Trainings and Functional Exercise
City of Huntington Park	Hazard Mitigation Plan
City of Indio	Incident Command System 300 and 400 Training Courses, EOC Section-Specific Training
City of Irwindale	Update Hazard Mitigation Plan
City of La Habra Heights	Hazard Mitigation Plan, Update Hazard Mitigation Plan
City of La Mirada	Hazard Mitigation Plan
City of La Puente	Update Hazard Mitigation Plan, Update Emergency Operations Plan, EOC Training
City of Lakewood	Update Emergency Operations Plan
City of Lomita	Update Hazard Mitigation Plan, Update Emergency Operations Plan
City of Long Beach	Hazard Mitigation Plan, Update Hazard Mitigation Plan, Update Emergency Operations Plan, Continuity of Operations Plan
City of Lynwood	Hazard Mitigation Plan
City of Manhattan Beach	Hazard Mitigation Plan, Emergency Operations Plan, EOC Training and Exercises
City of Palos Verdes Estates	Emergency Operations Plan, Continuity of Operations Plan, Training and Exercises
City of Rancho Cucamonga	Emergency Operations Plan, Continuity of Operations Plan, Continuity of Government Plan, EOC Training and Exercises
City of Rancho Palos Verdes	Multi-Jurisdictional Hazard Mitigation Plan, Emergency Operations Plan, EOC Trainings and Exercises, Update Multi-Jurisdictional Hazard Mitigation Plan, Continuity of Operations Plan, Update Multi-Jurisdictional Hazard Mitigation Plan
City of Rolling Hills	Hazard Mitigation Plan, Update Hazard Mitigation Plan
City of Rolling Hills Estates	Multi-Jurisdictional Hazard Mitigation Plan, Update Multi-Jurisdictional Hazard Mitigation Plan, Update Multi-Jurisdictional Hazard Mitigation Plan

City of Rosemead	Update Hazard Mitigation Plan
City of San Fernando	Update Hazard Mitigation Plan
City of Santa Ana	Update Emergency Operations Plan, Update Hazard Mitigation Plan
City of Santa Fe Springs	Hazard Mitigation Plan
City of Sierra Madre	Update Hazard Mitigation Plan
City of Signal Hill	Hazard Mitigation Plan, Update Hazard Mitigation Plan
City of South El Monte	Hazard Mitigation Plan, Update Hazard Mitigation Plan
City of South Gate	Hazard Mitigation Plan
City of Twentynine Palms	Update Hazard Mitigation Plan
City of Upland	Emergency Operations Plan, EOC Training and Exercises, EOC Design
City of Vernon	Hazard Mitigation Plan
City of Walnut, Mt. San Antonio Community College District, Walnut Valley Unified School District	Hazard Mitigation Plan
City of Whittier	Hazard Mitigation Plan, Update Hazard Mitigation Plan, Update Hazard Mitigation Plan
County of San Bernardino	Exercise Evaluator, EOC Course deliveries, SEMS Introduction Online Course
County of San Diego	Multi-Hazard Functional Plan, Emergency Management Contracted Services
County of Los Angeles	Update Hazard Mitigation Plan, Emergency Management Contracted Services
Town of Yucca Valley	Hazard Mitigation Plan, Update Hazard Mitigation Plan
Educational Institutions	
Chula Vista Elementary School District	Hazard Mitigation Plan, District Emergency Operations Plan, Site Emergency Plans, Needs & Capabilities Assessment, District Hazard Analysis, Risk/Vulnerability Assessments, Site Exercises
Covina-Valley Unified School District	Hazard Mitigation Plan, District Hazard Analysis, Needs & Capability Assessment
East Whittier City Elementary School District	Hazard Mitigation Plan
El Camino Community College District	Comprehensive Emergency Management Program - Hazard Mitigation Plan, District Emergency Operations Plan, Site Emergency Plans, Needs & Capabilities Assessment, District Hazard Analysis, Risk/Vulnerability Assessments, Site Trainings and Exercises
El Segundo Unified School District	Hazard Mitigation Plan

Granite School District (Salt Lake City, Utah)	Hazard Mitigation Plan
Little Lake City Elementary School District	Hazard Mitigation Plan
Los Angeles Unified School District	Update Hazard Mitigation Plan
Los Nietos Elementary School District	Hazard Mitigation Plan
Morongo Unified School District	Comprehensive Emergency Management Program – District Emergency Operations Plan, Site Emergency Plans, Site Assessments, EOC and Site Training and Exercises, Hazard Mitigation Plan
Mountains Recreation Conservation Authority	Hazard Mitigation Plan
Palomar Community College District	Comprehensive Emergency Management Program - District Emergency Operations Plan, Site Emergency Plans, EOC and Site Training and Exercises
Palos Verdes Peninsula Unified School District	Hazard Mitigation Plan, Update Hazard Mitigation Plan
San Diego Community College District	Comprehensive Emergency Management Program - Hazard Mitigation Plan, District Emergency Operations Plan, Site Emergency Plans, EOC and Site Trainings and Exercises, Risk/Vulnerability Assessments
San Diego Unified School District	Comprehensive Emergency Management Program - Hazard Mitigation Plan, District Emergency Operations Plan, Site Emergency Plans, Needs & Capabilities Assessment, District Hazard Analysis, Risk/Vulnerability Assessments, 200 Site Functional Exercises, EOC Functional Exercises, Full-Scale Active Shooter Exercise, EOC Section-Specific Training and Tabletop Exercise
Santa Clara County Office of Education	Comprehensive Emergency Management Program - District Emergency Operations Plan, Site Emergency Plans, District Hazard Analysis, Site Safety Assessments, EOC Trainings, Site Command Team Trainings, EOC Tabletop Exercises
Sonoma County Office of Education	Multi-Jurisdictional Hazard Mitigation Plan including SCOE and 40 School Districts
South Whittier School District	Hazard Mitigation Plan
Southwestern Community College District	District Emergency Operations Plan, Site Emergency Plans, District Hazard Analysis, EOC Trainings, Site Command Team Trainings, EOC Tabletop Exercises, Grant Writing, Hazard Mitigation Plan
Whittier City School District	Hazard Mitigation Plan
Whittier Union High School District	Hazard Mitigation Plan, Update Hazard Mitigation Plan
San Bernardino Community College District	Update Hazard Mitigation Plan

Utility and Transit Providers	
Antelope Valley Transit Authority	Hazard Mitigation Plan, EOC/Field Functional Exercise, Security and Emergency Preparedness Plan, EOC/Field Functional Exercise, ICS and EOC Training
Cucamonga Valley Water District	Hazard Mitigation Plan, Risk and Resilience Assessment, Update Emergency Response Plan
Jurupa Community Services District	Hazard Mitigation Plan, Update Hazard Mitigation Plan, Risk and Resilience Assessment
Los Angeles County Metropolitan Transportation Organization (Metro)	Hazard Mitigation Plan
Omnitrans	Hazard Mitigation Plan, Update System Security Emergency Response Preparedness Plan, Update Emergency Procedures, Deliver ICS Trainings, Exercises, Update Hazard Mitigation Plan
Non-Profit Organizations	
The Old Globe Theatre	Site Emergency Response Plan

References

Each of the projects below started in either late 2018 or early 2019. Many other projects available for references also including start dates in 2020.

Client Name / Project Description	Point of Contact	Service Area (square miles)	Phone	Public Involvement	Project Status
City of Duarte Update Hazard Mitigation Plan (2020)	Mr. Jason Golding, Planning Division Manager	6.7	(626) 357-7931 x231	Community Outreach – web based	Completed
Morongo Unified School District Hazard Mitigation Plan, Emergency Operations Plan	Mr. David Daniels, Director of Facilities and Maintenance	1,300	760 367-9191 x4231	Community Outreach – web based	Third Draft Plan reviewed by Cal OES and forwarded to FEMA
Cucamonga Valley Water District Update Hazard Mitigation Plan (2020)	Ms. Rossana Ammari, Risk Management Analyst	50	(909) 987-2591 x7404	Community Outreach – web based	Completed

City of Walnut, San Antonio Community College District, Walnut Valley Unified School District Update Multi-Jurisdiction Hazard Mitigation Plan	Ms. Joelle Guerra, City of Walnut Senior Management Analyst	212	(909) 595-7543 x405	Community Outreach – web based	Completed
City of Long Beach 2017 Hazard Mitigation Plan, 2017 Emergency Operations Plan, 2018 Continuity of Operations Plan	Mr. Reggie Harrison, Director of Disaster Preparedness and Emergency Communications	51	(562) 570-9460	Community Outreach – web based	Completed
* All projects were completed on time and within budget.					

Cost Proposal

Task	Staff Assigned CH (\$250/hr) AF (\$150/hr) MF (\$100/hr)	Cost
Research		
Research for Risk Assessment	CH 14 hrs MF 80 hrs	\$11,500
Prepare HAZUS	CH 16 hrs AF 40 hrs	\$10,000
Plan Writing		
First Draft, Second Draft, Third Draft, Final Draft, Final	CH 48 hrs MF 80 hrs	\$20,000
Planning Team Meetings		
Meeting #1	CH 16 hrs	\$4,000
Meeting #2	CH 16 hrs	\$4,000
Meeting #3	CH 16 hrs	\$4,000
Meeting #4	CH 16 hrs	\$4,000
Meeting #5	CH 16 hrs	\$4,000
Community Outreach		
Encourage Public Participation in Household and Business Mitigation Activities		\$0
External Agencies Provide Input to Second Draft Plan (includes inclusion of input into the Third Draft Plan)	CH 4 hrs	\$1,000
Adoption and Approval of Plan		
Submit Third Draft Plan to Cal OES/FEMA. Complete Mandated Revisions.	CH 16 hrs	\$4,000
Receive FEMA's Approval Pending Adoption		\$0
Post and Conduct City Council Meeting to Adopt the Final Draft Plan (includes staff report, resolution, PowerPoint presentation materials)	CH 4 hrs	\$1,000
Submit Proof of Adoption to FEMA		\$0
Receive FEMA Final Approval		\$0
Incorporate FEMA Final Approval into Final Plan (includes 5 hard copies to City of Long Beach)		\$0
Project Management		
Monthly Meetings with City's Point of Contact		\$0
Not to Exceed Total		\$67,500
Note: RFP "Optional Tasks" including Hazards maps and Vulnerability Analysis are already included in EPCs proposal. In addition, for no additional charges, EPC will coordinate the LHMP update with the City's update to the General Plan Safety Element.		

Attachment: Harshman Resume

Carolyn J. Harshman, MPA, CEM
3665 Ethan Allen Avenue
San Diego, CA 92117
Telephone: (858) 483-4626
Fax: (858) 483-2862
E-Mail: epc@pacbell.net
Web: www.carolynharshman.com

CAROLYN J. HARSHMAN, MPA, CEM

E D U C A T I O N

MASTER OF PUBLIC ADMINISTRATION, SAN DIEGO STATE UNIVERSITY, 1977
BACHELOR OF ARTS, PSYCHOLOGY, SAN DIEGO STATE UNIVERSITY, 1974

C E R T I F I C A T I O N

Certified Emergency Manager (CEM), International Association of Emergency Managers

E X P E R I E N C E

President (1984 to Present), *Emergency Planning Consultants*, San Diego, California. Consulting contracts include the Federal Emergency Management Agency (subject matter expert/trainer), U.S. Department of Homeland Security - FEMA (training development and delivery); U.S. Department of Defense - Center for Excellence in Disaster Management & Humanitarian Assistance (training); National Disaster Preparedness Training Center (recovery course developer and faculty); State of Hawaii (training and exercises); State of California (Multi-Hazard Functional Plan template); State of New Hampshire (emergency operations plan/standard operating procedures and guidelines); State of Indiana (grant administration, local CEMP courses, project management tools, and development of county CEMP & hazard analysis documents); State of Missouri (HSEEP agroterrorism functional exercise, HSEEP regional WMD exercises); State of Wyoming (training and exercises); State of Nebraska (training and exercises); County of Los Angeles (all-hazard mitigation plan); County of San Diego (multi-hazard functional plan); County of San Bernardino (training and exercises); City of Long Beach (hazard mitigation plan, emergency operations plan); City of Anaheim (hazard mitigation plan); City of Oakland (catastrophic plans); City of Carlsbad (comprehensive program of plans, training, and exercises); City of Chula Vista (pre-disaster recovery & reconstruction plan); City of Bellflower (hazard mitigation plan, emergency operations plans, general plan safety element); City of Upland (comprehensive program of plans, training, and exercises); City of Rancho Cucamonga (comprehensive program of plans, training, and exercises); City of Rancho Palos Verdes (comprehensive program of plans, training, and exercises); City of Clayton (emergency operations plan); City of Buena Park (hazard mitigation plan, emergency operations plans); Los Angeles Unified School District (hazard mitigation plan); San Diego Unified School District (comprehensive program of plans, training, exercises, and REMS grant administration); San Diego Community College District (comprehensive program of plans, training, and exercises); Chula Vista Elementary School District (comprehensive

program of plans, training, and exercises); Hawaii Department of Education (REMS grant writing, consulting); Santa Clara Office of Education (comprehensive program of plans, training, and exercises); Southwestern Community College District (comprehensive program of plans, training, and exercises) and numerous other local governments, school districts, and other government organizations. Training services have included California SEMS Introduction and EOC courses; ICS 100, 200, 300, 400, 402, 800; NIMS 700; and a wide variety of FEMA courses. Exercise services have included full-scale/field exercises (8), functional exercises (250), and tabletops (1,500).

Faculty (1984 to Present), *National University, FEMA's Emergency Management Institute, University of Hawaii, San Diego State University, Cal Poly San Luis Obispo, California State Fire Marshal, California Specialized Training Institute.*

Senior Projects Manager (1995 to 1996), *Southeastern Economic Development Corporation*, San Diego, California. Management of Projects & Development Division for City of San Diego's Redevelopment Agency.

Director of Training & Development (1987 to 1995), *City of San Diego*, San Diego, California. Management of organizational effectiveness and training programs for City Planning Department and the Building Inspection Department.

City Planner (1985 to 1987), *City of San Diego Planning Department*, San Diego, California.

Operations Officer (1982 to 1985), *County of San Diego Office of Disaster Preparedness*, San Diego, California. Project Manager on County's Emergency Operations Plan, Hazard Analysis, Dam Evacuation Plans, Drought Plan, and Damage Assessment Process. Public Information Officer and Exercise Officer. Operational responsibilities included Emergency Operations Center activations.

Regional Land Use Planner (1977 to 1982), *County of San Diego Department of Planning and Land Use*, San Diego, California.

SPECIAL RECOGNITION

National StormReady Board, U.S. National Weather Service, Member, 2008-present

FEMA Emergency Management Institute

Advisory Group on Emergency Planning, 2005-present

National Emergency Management Executive Academy, First Cadre, 2012-2013

International Association of Emergency Managers (IAEM), Member, 1996-present

IAEM - USA First Vice President 2020-2021

IAEM-USA Second Vice President 2019-2020

IAEM-USA Region 9 President 2016-2017, 2017-2018, 2018-2019

Membership & Marketing Chair 2014, 2015

Leadership Symposium Chair 2012, 2013
Conference Committee Chair 2006, 2007, 2008, 2009, 2010, 2011
California State Representative 2004, 2005, 2006, 2007, 2008, 2009
Speaker, 1998 Annual Conference
Topic: *Standardized Emergency Management System 101*
Topic: *Grassroots Recovery – The Recovery Task Force*
Speaker, 1997 Annual Conference
Topic: *Creative Financing Techniques for Hazard Mitigation*
Speaker, 2012 Annual Conference
Topic: *Recovery & Reconstruction Planning – Avoiding the Rush to Normalcy*
Speaker, 2016 Annual Conference
Topic: *Demystifying Pre-Disaster Recovery Planning*
Speaker, 2017 Annual Conference
Topic: *Force Multiplier – Enlisting Property Owners in Hazard Mitigation*
Speaker, 2018 Annual Conference
Topic: *Will You Win or Lose at the Game of Debris Management?*

California Emergency Services Association (CESA), Member, 2000-present
Webinar Speaker, March 2015
Topic: *Optimizing Opportunities for Mitigation*
Speaker, October 2015
Topic: *Demystifying Pre-Disaster Recovery Planning*
Speaker, 2018 Annual Conference
Topic: *Will You Win or Lose at the Game of Debris Management?*

National Hazard Mitigation Association (NHMA), Member, 2017-present



Agenda Date: 11-17-2020

Agenda Item: 5e

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: Fran Robustelli, City Manager

DATE: November 17, 2020

SUBJECT: Adopt a Resolution Amending the Purchasing Guidelines Policy For The Purchase Of Goods, Services, Supplies and Equipment

RECOMMENDATION

Staff recommends the City Council adopt by resolution the amended purchasing guidelines policy for the purchase of goods, services, supplies and equipment.

BACKGROUND

On May 4, 2004 the City Council of the City of Clayton adopted Ordinance No. 376 establishing procedures and guidelines for the purchasing of goods, services, supplies and equipment by resolution. Resolution No. 10-2004 was adopted by the City Council of the City of Clayton on April 20, 2004 establishing a Purchasing Guidelines Policy (Attachment-1) that became effective upon adoption of Ordinance No. 376. The goal of establishing a Purchasing Guidelines Policy was to set and maintain appropriate fiscal controls and procedures on expenditures of public funds; to maximize the City's purchasing dollar by encouraging competitive prices; and to provide a timely, effective method of procurement for city departments. City staff has identified an opportunity to further maximize the city's procurement process to increase efficiency and potentially save time and money.

DISCUSSION

City staff propose an amendment to the Purchasing Guidelines Policy to provide three changes: 1.) Provide for increased spending limits on single transactions at all levels within the organization; 2.) Provide guidelines for sole sourcing; and 3.) Provide for an exception to the procurement procedures that allows for purchasing when competitive procurement procedures have already been completed by another public agency and the price and terms to the City are equal to or better than the price and terms to that public agency.

The first two changes are largely administrative in nature and update internal processes with current industry standard practices. Implementing the procurement exception will allow the City to become more efficient in certain procurements and maximize the City's procurement flexibility. The proposed amendment to the guidelines (Attachment 2) provides the following exception:

"As an exception to the procurements procedures in these Purchasing Guidelines, purchases may be made, except for Public Projects, when the City Manager or City Council (subject to the dollar limits in these Purchasing Guidelines) determines that: (1) it is in the City's best interests to rely upon a contract procured by another public agency; (2) a competitive procurement procedure has been conducted for that contract by the public agency (i.e., another local agency, the State through the California Multiple Award Schedule (CMAS), the federal government through the General Services Administration (GSA), or a joint powers agency, authority or alliance that procures competitive contracts); and (3) the price and terms to the City are equal to or better than the price and terms to that public agency."

FISCAL IMPACTS

The update to the policy and proper utilization of the exception could save the city time and money in the procurement process for products and services that we would otherwise have to conduct our own individual request for proposals, evaluation and selection process.

ATTACHMENTS

Attachment-1 - Ordinance No. 376

Attachment 2 - Purchasing Policy Guidelines – Approved April 20, 2004

Attachment 3 – Red-Line Version of Amended Purchasing Guidelines

Attachment 4 – Exhibit A - Resolution Adopting Amended Purchasing Guidelines

Ordinance No. 376

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON REPLACING
CHAPTER 3.10 OF THE CLAYTON MUNICIPAL CODE WITH A NEW CHAPTER 3.10
ADOPTING NEW POLICIES, ESTABLISHING PROCEDURES AND GUIDELINES FOR
THE PURCHASING OF GOODS, SERVICES, SUPPLIES AND EQUIPMENT

WHEREAS, Government Code Sections 54201 - 54205 provide for the adoption by ordinance of policies and procedures, including bidding regulations, governing purchases of supplies and equipment by a city; and

WHEREAS, the City Manager has proposed upgraded policies establishing new and revised guidelines and procedures for the purchase of supplies and equipment. Further, the City Manager has proposed a new policy establishing the use of the City-issued cards for the purchasing of goods, services, supplies and equipment.

NOW, THEREFORE, the City Council of the City of Clayton does ordain as follows:

SECTION 1. Ordinance No. 296, dated 1992, regarding Chapter 3.10, entitled PURCHASING POLICIES AND PROCEDURES, of Title 3 of the Clayton Municipal Code is hereby replaced with the following new Chapter 3.10 to read in its entirety as follows, with Exhibit A deleted.

Chapter 3.10
PURCHASING POLICIES AND PROCEDURES

Sections:

- 3.10.010 General Provisions
- 3.10.020 Purchasing Guidelines
- 3.10.030 Purchasing Through State Department of General Services
- 3.10.040 Emergencies
- 3.10.050 Credit card usage

3.10.010 General Provisions

A. The goal of establishing purchasing policies and procedures is to establish and maintain appropriate fiscal controls on expenditures of public funds; to maximize the city's return on purchasing dollar by encouraging competitive prices; and to provide a timely, effective method of procurement for city departments.

B. The City Council designates the City Manager as the purchasing officer for the City of Clayton. Further delegation of purchasing authority, responsibility, and accountability to Department Heads may be authorized in writing by the City Manager, within the guidelines of the policy. Specifically, prior approval authority as required in the guidelines may be delegated by the City Manager in his/her absence. (Ord. 296, 1992, Ord. 376, 2004)

3.10.020 Purchasing Guidelines. All purchases of goods, supplies, equipment, and services shall be made in accordance with purchasing guidelines policy in effect at the time of the purchase. The purchasing guidelines policy shall be established by Resolution of the City Council. Such guidelines may be changed from time to time by City Council Resolution. (Ord. 296, 1992, Ord. 376, 2004)

3.10.030 Purchasing Through State Department of General Services. Purchases made through the State Department of General Services (DGS) are authorized and the bidding procedures therein specified are acceptable for such purchases and shall be in lieu of the bidding procedures established by City policy. The City may also utilize DGS purchasing programs, such as the Cal-Card Program, by obtaining City Council authorization. (Ord. 296, 1992, Ord. 376, 2004)

3.10.040 Emergencies. These purchasing guidelines may be temporarily suspended by the City Manager in the case of a timely emergency threatening life and/or major property losses. Any such suspension will be reported within twenty-four hours to the Mayor and City Attorney. Any such suspension for emergency purposes will be reviewed by the City Council at its next regular Council meeting following the initiation of the suspension and may not continue past the date of the next regular Council meeting without approval of the City Council. (Ord. 296, 1992)

3.10.050 Credit card usage. The City Council, by Resolution, shall establish a City Credit Card Policy. The policy will establish regulations under which the city may contract for, and control the use of credit cards that will be assigned to and utilized by selected employees to purchase materials, supplies, equipment and services on behalf of the city. The policy will adhere to the current purchasing guidelines policy. (Ord. 376, 2004)

SECTION 2. Severability Clause. If any provision or clause of this ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions, clauses, or applications thereof which can be implemented without the invalid provision, clause, or application, and to this end such provisions and clauses of this ordinance are declared to be severable.

SECTION 3. Within fifteen (15) days after the passage of this ordinance, the City Clerk shall cause it to be posted in the three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

This ordinance shall become effective thirty (30) days from and after its passage.

The foregoing Ordinance was introduced at its regular meeting of the City Council of the City of Clayton held Tuesday, April 20, 2004.

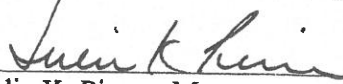
Passed, adopted and ordered posted at a regular meeting of the City Council of the City of Clayton held on Tuesday, May 4, 2004, by the following vote:

AYES: Councilmembers Laurence, Shuey, Walcutt, Vice Mayor Manning and Mayor Pierce.

NOES: None.

ABSENT: None.

CLAYTON CITY COUNCIL


Julie K. Pierce, Mayor

Attest:

Rhonda K Basore
Rhonda K. Basore, City Clerk

Approved as to form:

Maury Huguet
Maury Huguet, City Attorney

Approved as to administration:

Gary A. Napper
Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance No. 376 was duly introduced at a regular meeting of the City Council of the City of Clayton held April 6, 2004, and was duly adopted, passed and ordered posted at a regular meeting of the City Council held on May 4, 2004. This Ordinance becomes effective June 4, 2004.

Rhonda K Basore
Rhonda K. Basore, City Clerk

RESOLUTION NO. 10-2004

**A RESOLUTION ESTABLISHING A PURCHASING GUIDELINES POLICY
FOR THE PURCHASE OF GOODS, SERVICES, SUPPLIES AND EQUIPMENT**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, on May 4, 2004 the City Council of the City of Clayton adopted Ordinance No. 376 establishing procedures and guidelines for the purchasing of goods, services, supplies and equipment by resolution; and

WHEREAS, the goal of establishing a purchasing guidelines policy is to set and maintain appropriate fiscal controls and procedures on expenditures of public funds; to maximize the City's purchasing dollar by encouraging competitive prices; and to provide a timely, effective method of procurement for city departments; and

WHEREAS, the Purchasing Guidelines Policy dated May 4, 2004, is included herein as Attachment A.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Clayton, California, does hereby adopt Resolution No. 10-2004, to become effective with the effective date of Ordinance No. 376, June 3, 2004.

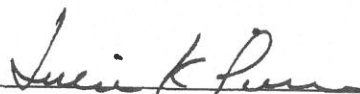
PASSED, APPROVED AND ADOPTED on the 20th day of April, 2004 by the following vote:

AYES: Councilmember Laurence, Shuey, Walcutt, Vice Mayor Manning, and Mayor Pierce.

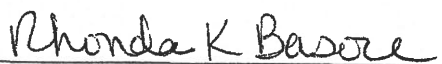
NOES: None.

ABSENT: None.

THE CITY COUNCIL OF CLAYTON, CA.


Julie K. Pierce, Mayor

ATTEST:


Rhonda K. Basore, City Clerk

**PURCHASING GUIDELINES
AS ESTABLISHED BY RESOLUTION NO. 10-2004**

(Ordinance No. 376)

Purchase amounts reflect the total amount spent on an order, or on a single transaction.

Under \$100.00: *All employees*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Petty cash may be used for purchases not exceeding \$50.00 (or higher with the approval of the City Manager in an emergency).
- C. Requires the review approval of the respective Department Head.
- D. Documentation: Requires one of the following:
 - 1. Petty cash receipt with attached receipt /invoice.
 - 2. Authorized check request.
 - 3. Authorized invoice.
- E. Consistent with Council-approved budget.

Over \$100.00 but under \$2,000.00: *All employees, with Dept. Head Approval*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Requires the approval and authorization of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
 - The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.
 - If this information does not appear on the receipt or invoice, it should be added.
 - 2. An approved contract.
- D. Consistent with Council-approved budget.

Over \$2,000.00 but under \$10,000.00: Department Heads

- A. Obtain and document verbal quotes from a minimum of three sources.
- B. Requires the prior approval of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
 - The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.
 - If this information does not appear on the receipt or invoice, it should be added.
 - 2. A Requisition/ Purchase Order.
 - 3. An approved contract.

- D. Consistent with Council-approved budget.

Over \$7,000.00 but under \$20,000.00

Department Heads, with City Manager prior approval

- A. Materials (not part of a Public Project as defined in the State Public Contract Code):
1. Obtain written quotes from a minimum of three sources.
 2. Requires the prior approval of the City Manager.
- B. Professional Services:
1. Obtain written proposals from a minimum of three sources.
 2. Requires the prior approval of the City Manager.
- C. Capital Equipment:
1. Obtain sealed quotes from a minimum of three sources.
 2. Requires the prior approval of the City Manager.
- D. Documentation: Requires one of the following:
1. Itemized receipt/ invoice.
The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.If this information does not appear on the receipt or invoice, it should be added.
 2. A Requisition/ Purchase Order with invoice.
 3. An approved contract for billing.
- E. Consistent with Council-approved budget.

Note: The Procurement process for any Public Project as defined in the Public Contract Code section 20161, shall follow the State statutory process.

Over \$20,000.00: City Manager with City Council approval

All purchases exceeding \$20,000.00 will require either an RFQ/ RFP process (professional services) or a formal bidding process (materials, equipment, and improvements), and must be approved by the City Council. All purchases shall be consistent with the Council-approved budget.

RESOLUTION NO. 11-2004

**A RESOLUTION ESTABLISHING A CITY-ISSUED CREDIT CARD POLICY
FOR THE PURCHASE OF GOODS, SERVICES, SUPPLIES AND EQUIPMENT**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, on May 4, 2004 the City Council of the City of Clayton adopted Ordinance No. 376 establishing procedures and guidelines for the purchasing of goods, services, supplies and equipment by resolution; and

WHEREAS, the goal of establishing a city-issued credit card policy is to establish that the City may contract for credit card services; to establish and maintain appropriate fiscal controls and procedures on expenditures of public funds; and to provide a timely, effective method of procurement for city departments; and

WHEREAS, the policy will minimize the City of Clayton's legal liability from inappropriate and/or unlawful use of City-issued credit cards; and

WHEREAS, the policy will establish internal controls and accountability for the business-only use of credit cards; and will provide a convenient and adequate method of funding for employees who must procure purchases for the City in an economy universally accepting of credit card purchases rather than government-issued purchase orders; and

WHEREAS, the City-issued Credit Card Policy dated May 4, 2004, is included herein as Attachment A.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Clayton, California, does hereby adopt Resolution No. 11, 2004, to become effective with the effective date of Ordinance No. 376.

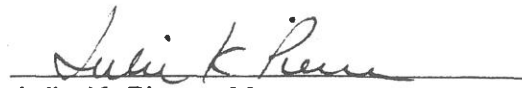
PASSED, APPROVED AND ADOPTED on the 20th day of April, 2004 by the following vote:


AYES: Councilmembers Laurence, Shuey, Walcutt, Vice Mayor Manning and Mayor Pierce.

NOES: None.

ABSENT: None.

THE CITY COUNCIL OF CLAYTON, CA


Julie K. Pierce, Mayor

ATTEST:

Rhonda K. Basore, City Clerk

CITY OF CLAYTON
CITY-ISSUED CREDIT CARD POLICY
Effective _____

POLICY OBJECTIVE

To establish a policy under which the City of Clayton may contract for, and control the use of City-issued credit cards that will be assigned to and utilized by selected employees to purchase materials, supplies, equipment and services on behalf of the City.

STATEMENT OF POLICY

GOAL:

This Administrative Policy is intended to accomplish the following:

- Ensure that procurement with credit cards is accomplished in accordance with the City of Clayton purchasing ordinance, policies, and procedures (Res __, Ord. __, 2004)
- Establish internal controls and accountability for the business-only use of credit cards.
- Minimize the City of Clayton's legal liability from inappropriate and/or unlawful use of City-issued credit cards.
- Provide a convenient and adequate method of funding for employees who must procure purchases for the City in an economy universally accepting of credit card purchases rather than government-issued purchase orders.

SCOPE:

This policy is applicable to those departments and individual Cardholders who have been selected to use credit cards for purchasing materials, supplies, equipment, and services, or for specific expenditures incurred under conditions approved by this policy. The decision to issue or not issue and the respective limits of purchase, by individual, will be determined by the City Manager, or his specified designee.

APPLICABILITY:

This Administrative Policy applies to all departments of the City of Clayton.

DEFINITION OF TERMS

1. **Approving Cal-card Official Summary Statement (R090) (AOS)** - Summary sent to Department Heads detailing their Cardholder's charges and their department totals during the billing cycle. (Example B)
2. **Bank Contractor - Cal-card:** U.S. Bank I.M.P.A.C. Government Services, contractor for the State of California's Cal-card Visa Purchasing Card program. (I.M.P.A.C. stands for International Merchant Purchase Authorization Card.) Others may include Bank of America.
3. **Cardholder** - A City employee who is issued a credit card.
4. **Cardholder Cal-card Statement of Account (SOA)** - This statement is mailed to the Cardholder within five days of the cycle date. For each purchase, the date, merchant, location and amount are listed. (Example A)

5. **Credit Card** - Any City-issued credit card including Cal-card. The Cal-card program requires close monitoring and requires special procedures.
6. **Department Head** - A City employee who approves Cardholder purchases and verifies that purchases are only made for official government use.
7. **Single Transaction Limit** - This limit represents the maximum dollar amount that may be spent on one purchase.
8. **Individual Thirty (30) Day Limit** - This limit represents the maximum dollar amount that may be spent by any one Cardholder within a 30 day period.
9. **Department Thirty (30) Day Limit** - This limit represents the maximum dollar amount that may be spent by all Cardholders reporting to one Department Head (including Department Head) within a 30 day period.

POLICY AND PROCEDURES FOR USE OF CITY-ISSUED CREDIT CARDS

General Information

The use of City-issued credit cards is designed to improve the effectiveness and efficiency of the purchasing process and assign accountability and responsibility to those who are required in their official capacity to make purchases on behalf of the City. Credit cards will be issued to those employees who have been recommended by their respective Department Head and whose spending limits have been set and approved by the City Manager, in accordance with the City's policies and procedures.

The credit card will be used to obtain supplies, etc. within the current purchasing guidelines policy, and the credit limits approved by the Department Head and City Manager. To properly evaluate the effectiveness of the credit card, all Cardholders must adhere to their limits, and ensure careful attention to detail when making and recording authorized purchases.

Each credit card will be issued in the name of the City of Clayton and the Cardholder. Each Cardholder will sign an agreement form upon receipt of the card. (Exhibit 1-Cardholder Acceptance Form) The Cal-card will contain the employee number, City account number and expiration date. No other personal information will be revealed to the Bank Contractor nor to the vendors, except the work address of the Cardholder.

WARNING: Any personal or other misuse of City-issued credit cards is considered an illegal gift or taking of public funds, is an improper use of City property, and subjects the user to disciplinary action up to and including termination. Filing of criminal charges will be considered for misuse.

IMMEDIATELY REPORT LOST, STOLEN OR MISPLACED CREDIT CARD TO THE BANK BY TELEPHONE AND TO THE FINANCE DEPARTMENT IN WRITING.

CARDHOLDER PROCEDURES

The Cardholder is responsible for ensuring the credit card is securely maintained, used appropriately and that all purchases are in compliance with the City of Clayton purchasing procedures and policies. (See Resolution ____-2004, Ordinance ____.) No other person may use

another's assigned credit card. Upon receipt of a card, the Cardholder must sign a "Cardholder Acceptance Form" (See Exhibit 1).

Making Purchases

The Cardholder may use the credit card to make purchases in person, by telephone or via the Internet. In each case, the Cardholder will require the vendor to itemize the receipt/ invoice. An itemized receipt/ invoice consists of the following information:

- Description and cost of items(s);
- Quantity purchased;
- Amount of sales tax and shipping charges, if any;
- Total amount.

All items purchased using the credit card must be immediately available for pickup or delivery. Back ordering is not allowed. Items that are not available will not be charged on the account until the item is available for pickup or delivery.

Credit Card Receipt/ Invoice/ Credit Card Log

Each purchase must be listed on the Monthly Credit Card Log (Exhibit 2). The required information should include the date, vendor's name, description of purchase, receipt or invoice number, the dollar amount, and the finance accounting code number. All receipts should be attached. Separate Credit Card Logs should be kept for each individual credit card.

If the purchasing transaction is made in person, the Cardholder should require the vendor to itemize the receipt or invoice as described above. If the receipt or invoice is not itemized, the Cardholder must write in the quantity and price of each item or type of service and total dollar amount, or fill out the Credit Card Log with this information. If the purchasing transaction is made by telephone or via the Internet and a receipt is not available for printout, a complete description of the purchase should be recorded on the Credit Card Log.

The Monthly Credit Card Log should be used as transactions occur and submitted to the Department Head at the end of the month. The Department Head will forward the originals to Finance with invoice. The Department Head is to keep a copy of the Logs for any items that were not on the invoice.

If the Cardholder loses receipts/invoice, the vendor must be contacted by the Cardholder to request a duplicate copy.

Permitted Uses and Available Merchant Category Codes

- A Airline fares, Airports, Travel Agencies
- B Hotel, Motel
- C Vehicle rental
- D Miscellaneous Transportation (Railroad, Taxi, Bus, Freight)
- E Gasoline, Parts, Towing
- F Courier Services

- G Food Stores, Drug Stores
- H Caterers, Restaurants
- I Mail Order, Telephone, On-line Purchases
- J Department/Discount, Miscellaneous, Specialty, General Merchandise Stores
- K Lumber, Hardware, Lawn & Garden Stores
- L Appliance, Furniture Stores
- M Miscellaneous Business Services

The following uses of the credit card are strictly prohibited by the City:

1. Splitting of purchases to circumvent the single transaction or monthly limitation
2. Alcoholic beverages
3. Art work
4. Cash Advances
5. Consultants, instructors and speakers
6. Centralized Maintenance Agreements
7. Lease/Purchase Agreements
8. Long-term Service Agreements
9. Personal items
10. Personal services
11. Purchase of telephone services
12. Gambling, Betting
13. Securities
14. Political or Religious Organizations
15. Tax Payments
16. Court Costs, Fines, Bail, Bond Payments

Cal-card Auditing and Submitting Statements of Account (SOA)

Cardholders will receive an individual monthly Cal-card SOA (See Example A) at the close of each billing cycle. Within three (3) working days of receiving it, the Cardholder will verify all transactions and reconcile the SOA with the monthly Credit Card Log (if applicable) and vendor receipts/invoices, then attach the Credit Card Log with corresponding receipts/invoices to the SOA in the order they are listed. The appropriate expense account number should be indicated for each transaction on the Accounting Code line. The Cardholder will then forward these documents to the respective Department Head for verification and approval. A copy of the entire package is to be retained by the Cardholder for no less than 90 days to ensure all transactions are processed correctly.

Cal-card Discrepancies

If an item is billed incorrectly, the Cardholder must provide a complete explanation on the Cal-card SOA in addition to completing a Cardholder Statement of Questioned Item form (See Exhibit 3).

The following reasons appear on the Statement of Questioned Item form and should be used as follows:

- A. Unauthorized Mail/Phone Order/Internet
This justification should be only for telephone, mail order or Internet transactions. If a sales slip is signed or imprinted with the Cardholder's card, this reason does not apply.
- B. Duplicate Processing
This reason is used when a transaction has been multiple billed to an account. The amounts must be the same. The Cardholder should provide the transaction details of the original billing, such as dollar amounts, transaction dates, etc. A copy of the Statement of Account on which the billings occur and a copy of the original sales slip should be forwarded with the Cardholder's Statement of Questioned Item form.
- C. Merchandise Not Received
The Cardholder should attempt to resolve the dispute with the vendor. The Cardholder should detail this attempt and provide the date of expected delivery of the merchandise. In the event merchandise was canceled, full details should be provided such as why the transaction was canceled and date of cancellation.
- D. Merchandise Returned
In the event merchandise was returned and a credit has not yet posted, the Cardholder should describe the reason for returning the merchandise and the date the item was returned. A copy of the reference number on the invoice/statement, postal, UPS or other official receipt proving the merchandise was returned should be forwarded with the Cardholder's Statement of Questioned Item form.
- E. Credit Not Received
This reason may be used when the Cardholder has received a credit voucher or written refund acknowledgment from the vendor, but the credit was not posted to the Cardholder's account within 30 days from the date on the voucher or acknowledgment. The Cardholder should state the amount of credit they are expecting and provide a copy of the Statement of Account and credit voucher or acknowledgment letter and forward these with the Cardholder's Statement of Questioned Item form.
- F. Alteration of Amount
This reason is used when the Cardholder participated in the transaction and indicates that the amount was altered without permission. The Cardholder must acknowledge the amount before the alteration and a copy of the Cardholder's draft must be provided as support. The amount of the credit would be difference between the amount before alteration and after alteration. The sales draft copy should be forwarded with a copy of the Statement of Account and Cardholder's Statement of Questioned Item form.
- G. Copy of Request
This reason should be used when the Cardholder recognizes the charge, but requires a copy of the sales draft for their records. The Cardholder should keep all other supporting documentation such as catalog information, magazine ads, shipping documents, etc., as evidence of their purchase. The copy of the applicable Statement of Account should be forwarded with the Cardholder's Statement of Questioned Item form.
- H. Services not Received
This reason should not be used.
- I. Not as Described
This reason is used when the Cardholder claims goods were not received as described.

The written document of what was to be delivered must be different from what was actually delivered. It is important that the sales draft be specific as to what was purchased.

In a telephone order or internet order situation, the verbal or electronic description is considered the "document characterization." The Cardholder must explain in a memo how the verbal description differs from what was actually received.

An attempt must be made to return the goods and must be stated in the Cardholder complaint. If merchandise was returned, proof of such return should be forwarded with a copy of the Statement of Account and Cardholder's Statement of Questioned Item form.

J. Other Dispute Reasons

This reason should be considered only after reviewing other specific charge back reasons. In the event the reasons discussed here and identified on the Cardholder's Statement of Questioned Item form do not fit the Cardholder's dispute circumstances, the Cardholder should submit a Cardholder's Statement of Questioned Item form with the transaction detail, a copy of the applicable Statement of Account and a detailed memo of the circumstances of the dispute. Reference should be made to any contact with the vendor, names, telephone numbers, etc., that would be helpful for research.

The Cardholder is responsible for contacting U.S. Bank regarding Questionable or disputed items which appear as transactions on the SOA within 30 days after the date of the invoice report. The Cardholder must also complete the Statement of Questioned Item form, have it approved by the Department Head, make a copy, and mail as instructed on the bottom of the form.

The Cardholder will attach a copy of the Statement of Questioned Item and cross the transaction off the SOA.

Defective Items

If items purchased with the credit card are found to be defective, the Cardholder has the responsibility to return the item(s) to the merchant for replacement or to receive a credit on the purchase. If the merchant refuses to replace the faulty item, then the purchase of this item will be considered to be in dispute.

Lost of Stolen Cards

The Cardholder will immediately contact the Finance Department if a credit card is lost or stolen.

For Cal-card, immediately contact U.S. Bank, the Department Head and the Finance Manager with his/her name, card number, date reported to the policy (if applicable), and the date the bank contractor was notified. U.S. Bank customer service is as follows:

U.S. Bank Customer Service
P.O. Box 6346
Fargo, ND 58125-6346

Phone 1-800-227-6736
FAX 1-701-461-3910

Worn Out or Defective Card

If a credit card needs to be replaced because it is worn out or defective, a memorandum from the Department Head requesting a credit card replacement should be submitted along with the worn out or defective credit card to the Finance Manager. (Exhibit 4)

DEPARTMENT HEAD PROCEDURES

The Department Head will reconcile the credit card invoice with the Cardholder's Monthly Credit Card Log. The Department Head will reconcile the documentation with the invoice, review charges to ensure that all purchases are for appropriate City business, budgeted, not on the prohibited list, and that all applicable documentation (Credit Card Log and receipts/invoices) is included. The Department Head will insure that the appropriate expense account numbers are indicated for each transaction on the Accounting Code line. The Department Head will approve, sign and date the Cardholder's Log submitted with the items checked off that are included on invoice, and forward the entire package to the Finance Department

For Cal-card, U.S. Bank will send the Department Head the "Approving Official Summary Statement" (AOS-See Example B). This summary details each Cardholder's charges and their department totals during the billing cycle. Within three (3) business days of receipt of the Cardholder's Statements of Account (SOAs) and documentation, the Department Head will reconcile the documentation with the AOS, review charges to ensure that all purchases are for appropriate City business, budgeted, not on the prohibited list, and that all applicable documentation (Credit Card Log and receipts/invoices) is included. The Department Head will insure that the appropriate expense account numbers are indicated for each transaction on the Accounting Code line. The Department Head will approve, initial and date the SOAs submitted by the Cardholders and forward the entire package to the Finance Department.

The Department Head is responsible for assuring that Cardholders are complying with City rules and these procedures.

Surrender of Card

Upon notice of termination of employment by a Cardholder, the Department Head shall immediately collect all credit cards issued from the employee. A memo regarding the employee's termination shall be submitted along with the credit card to the Finance Manager. In the event the Department Head is not able to collect the credit card when the employee leaves, he or she shall notify the Finance Manager immediately by telephone and follow up with a memo. The Cardholder's final paycheck will be withheld until the credit card is returned and all final charges are verified. The Finance Director will notify the credit card company to void the credit card to prevent any purchases after the employee terminates.

Cardholder Transfer to Another Department of the City

Should a Cardholder be transferred within the City of Clayton to another Department Head's area of responsibility, the existing credit card will be immediately collected and forwarded to the Finance Director to be destroyed. The new Department Head will determine if the employee should be issued a new credit card in the new position and submit a "request for New Cardholder or Credit Card" form (see Exhibit 4).

Lost or Stolen Cards

A memorandum from the Department Head documenting the lost card shall be submitted to the Finance Director. The Finance Manager will contact the credit card company to request a replacement if required. A replacement card will be ordered within two (2) working days of receipt of the memorandum.

Worn Out or Defective Card

If a credit card needs to be replaced because it is worn out or defective, a memorandum from the Department Head requesting a credit card replacement should be submitted along with the worn out or defective credit card to the Finance Manager.

Request for a New Cardholder or Changes to Credit Cards

All department requests for a new Cardholder or change in purchase limits or category codes for an existing Cardholder will be processed by submitting a "request for New Cardholder or Credit Card" form (see Exhibit 4). This form will be submitted to the City Manager for approval and then sent to the Finance Department for processing.

SUPPORT STAFF PROCEDURES

For Cal-card, U.S. Bank will send the I.M.P.A.C. Financial Summary (R060) to the Finance Department. This is the official agency invoice containing the total charges for Department Heads and their Cardholders, with a grand total.

The Finance Department will combine all statements from the Departments and issue one check to U.S. Bank per billing cycle. If late payment penalties are incurred, they will be charged to any Department(s) creating the delay in prompt payment.

The Finance Department is responsible for payment of all credit card invoices; coordinating the Cal-card program and the State Department of General Services and U.S. Bank; requesting various management reports; requesting new or replacement cards and canceling an/or destroying credit cards.

**CITY OF CLAYTON
CARDHOLDER ACCEPTANCE FORM**

Cardholder Name _____ Employee # _____

Department _____

Credit Card Account Number _____ Expiration Date _____

Single Transaction Limit _____

Individual 30 Day Limit _____

Category codes approved for use by this Employee:

Please circle each one that would be applicable:

- A Airline fares, Airports, Travel Agencies
- B Hotel, Motel
- C Vehicle rental
- D Miscellaneous Transportation (Railroad, Taxi, Bus, Freight)
- E Gasoline, Parts, Towing
- F Courier Services
- G Food Stores, Drug Stores
- H Caterers, Restaurants
- I Mail Order, Telephone, On-line Purchases
- J Department/Discount, Miscellaneous, Specialty, General Merchandise Stores
- K Lumber, Hardware, Lawn & Garden Stores
- L Appliance, Furniture Stores
- M Miscellaneous Business Services
- N Other: _____

THIS CARD IS FOR OFFICIAL USE ONLY

The following uses of the credit card are strictly prohibited by the City:

1. Splitting of purchases to circumvent the single transaction or monthly limitation
2. Alcoholic beverages
3. Art work
4. Cash Advances
5. Consultants, instructors and speakers
6. Centralized Maintenance Agreements
7. Lease/Purchase Agreements
8. Long-term Service Agreements
9. Personal items
10. Personal services
11. Purchase of telephone services
12. Gambling, Betting
13. Securities

- 14. Political or Religious Organizations
- 15. Tax Payments
- 16. Court Costs, Fines, Bail, Bond Payments

WARNING: Any personal or other misuse of City-issued credit cards is considered an illegal gift or taking of public funds, is an improper use of City property, and subjects the user to disciplinary action up to and including termination. Filing of criminal charges will be considered for misuse.

ACKNOWLEDGMENTS:

Cardholder Signature

Date

Department Head Signature

Date

cc: Finance Department

**CITY OF CLAYTON
MONTHLY CREDIT CARD LOG**

Cardholder Name _____ Department: _____ Month _____

Billed	Date	Vendor Name	Description of Purchase	Recpt/Inv #	\$ Amount	Acct. #

Cardholder's Signature _____ Date _____ Department Head Signature _____ Date _____
 Attach receipts, turn in monthly to Department Head

Cal-Card Cardholder Statement of Questioned Item**Purchasing GPP** (Please print or type in black ink.)_____
Cardholder Name_____
Account Number_____
Cardholder Signature_____
Date_____
(Area Code) Telephone #

The transaction in question as shown on Statement of Account

Transaction Date	Reference #	Merchant	Amount	Statement Date
_____	_____	_____	_____	_____

Please read carefully each of the following situations and check the one most appropriate to your particular dispute. If you have any questions, please contact us at 1-800-227-6736. We will be more than happy to advise you in this matter.

1. UNAUTHORIZED MAIL OR PHONE ORDER
2. DUPLICATE PROCESSING - THE DATE OF THE FIRST TRANSACTION WAS _____
3. MERCHANDISE OR SERVICE NOT RECEIVED IN THE AMOUNT OF \$ _____
4. MERCHANDISE RETURNED IN THE AMOUNT OF \$ _____
5. CREDIT NOT RECEIVED
6. ALTERATION OF AMOUNT
7. INADEQUATE DESCRIPTION / UNRECOGNIZED CHARGE
8. COPY REQUEST
9. SERVICES NOT RECEIVED
10. NOT AS DESCRIBED
11. If none of the above reasons apply - please describe the situation:

(Note: Provide a complete description of the problem, attempted resolution and outstanding issues. Use a separate sheet of paper, if necessary, and sign your description statement)

Send to:

I.M.P.A.C. Government Services, P.O. Box 6346, Fargo, ND 58125-6346

FAX: 701-461-3466

CITY OF CLAYTON

To: City Manager
 From: _____, Department Head
 Date: _____

Subject: Request for New Cardholder or Change in Credit Card

Please check one:

_____ New Cardholder
 _____ Change in existing Cardholder limits

I request the following employee be issued a _____ Credit Card:

Full Name: _____

Sample Signature: _____

Title: _____

Department: _____

	Single Purchase Limit:	30 Day Limit:
Current Individual Limits:	_____	_____
Requested New Individual Limits:	_____	_____

_____ NO CHANGE REQUESTED ON LIMITS (Please check here if Category Code changes are requested: **Category codes approved for use by this Employee:**

Please circle each one that would be applicable:

- A Airline fares, Airports, Travel Agencies
- B Hotel, Motel
- C Vehicle rental
- D Miscellaneous Transportation (Railroad, Taxi, Bus, Freight)
- E Gasoline, Parts, Towing
- F Courier Services
- G Food Stores, Drug Stores
- H Caterers, Restaurants
- I Mail Order, Telephone, On-line Purchases
- J Department/Discount, Miscellaneous, Specialty, General Merchandise Stores
- K Lumber, Hardware, Lawn & Garden Stores
- L Appliance, Furniture Stores
- M Miscellaneous Business Services
- N Other: _____

IF CREDIT CARD IS LOST OR STOLEN, IMMEDIATELY CONTACT THE FINANCE DEPARTMENT. IF CAL-CARD IS LOST, IMMEDIATELY CALL 1-800-227-6736.

**PURCHASING GUIDELINES
AS ESTABLISHED BY RESOLUTION NO. 10-2004
(Ordinance No. 376)**

Purchase amounts reflect the total amount spent on an order, or on a single transaction.

Under \$100.00: *All employees*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Petty cash may be used for purchases not exceeding \$50.00 (or higher with the approval of the City Manager in an emergency).
- C. Requires the review approval of the respective Department Head.
- D. Documentation: Requires one of the following:
 - 1. Petty cash receipt with attached receipt /invoice.
 - 2. Authorized check request.
 - 3. Authorized invoice.
- E. Consistent with Council-approved budget.

Over \$100.00 but under \$2,000.00: *All employees, with Dept. Head Approval*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Requires the approval and authorization of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.If this information does not appear on the receipt or invoice, it should be added.
 - 2. An approved contract.
- D. Consistent with Council-approved budget.

Over \$2,000.00 but under \$10,000.00: *Department Heads*

- A. Obtain and document verbal quotes from a minimum of three sources.
- B. Requires the prior approval of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.If this information does not appear on the receipt or invoice, it should be added.
 - 2. A Requisition/ Purchase Order.
 - 3. An approved contract.
- D. Consistent with Council-approved budget.

Over \$10,000.00 but under \$20,000.00: *Department Heads, with City Manager prior approval*

- A. Materials (not part of a Public Project as defined in the State Public Contract Code):
 - 1. Obtain written quotes from a minimum of three sources.
 - 2. Requires the prior approval of the City Manager.

- B. Professional Services:
 - 1. Obtain written proposals from a minimum of three sources.
 - 2. Requires the prior approval of the City Manager.
- C. Capital Equipment:
 - 1. Obtain sealed quotes from a minimum of three sources.
 - 2. Requires the prior approval of the City Manager.
- D. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
 - The receipt or invoice should consist of the following information:
 - a. Vendor name.
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 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.
 - If this information does not appear on the receipt or invoice, it should be added.
 - 2. A Requisition/ Purchase Order with invoice.
 - 3. An approved contract for billing.
- E. Consistent with Council-approved budget.

Note: The Procurement process for any Public Project as defined in the Public Contract Code section 20161, shall follow the State statutory process.

Over \$20,000.00: *City Manager with City Council approval*

All purchases exceeding \$20,000.00 will require either an RFQ/ RFP process (professional services) or a formal bidding process (materials, equipment, and improvements), and must be approved by the City Council. All purchases shall be consistent with the Council-approved budget.

PURCHASING GUIDELINES
AS ESTABLISHED BY RESOLUTION NO. 10-2004 AND UPDATED BY RESOLUTION
NO. 10-2004
(Ordinance No. 376)

Purchase amounts reflect the total amount spent on an order, or on a single transaction.

Under \$~~100.00~~ \$500.00: *All employees*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Petty cash may be used for purchases not exceeding \$50.00 (or higher with the approval of the City Manager in an emergency).
- C. Requires the review approval of the respective Department Head.
- D. Documentation: Requires one of the following:
 - 1. Petty cash receipt with attached receipt /invoice.
 - 2. Authorized check request.
 - 3. Authorized invoice.
- E. Consistent with Council-approved budget.

Over \$\$500~~100.00~~ but under \$\$5000~~2,000.00~~: *All employees, with Dept. Head Approval*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Requires the approval and authorization of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
 The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.
 If this information does not appear on the receipt or invoice, it should be added.
 - 2. An approved contract.
- D. Consistent with Council-approved budget.

Over \$\$5000~~2,000.00~~ but under \$\$15,000~~10,000.00~~: *Department Heads*

- A. Obtain and document verbal quotes from a minimum of three sources.
- B. Requires the prior approval of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
 The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.
 If this information does not appear on the receipt or invoice, it should be added.
 - 2. A Requisition/ Purchase Order.
 - 3. An approved contract.
- D. Consistent with Council-approved budget.

Over \$\$15,000~~10,000.00~~ but under \$\$30,000~~20,000.00~~: *Department Heads, with City Manager prior approval*

- A. Materials (not part of a Public Project as defined in the State Public Contract Code):
 - 1. Obtain written quotes from a minimum of three sources.
 - 2. Requires the prior approval of the City Manager.

- B. Professional Services:
 - 1. Obtain written proposals from a minimum of three sources.
 - 2. Requires the prior approval of the City Manager.
- C. Capital Equipment:
 - 1. Obtain sealed quotes from a minimum of three sources.
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 - If this information does not appear on the receipt or invoice, it should be added.
 - 2. A Requisition/ Purchase Order with invoice.
 - 3. An approved contract for billing.
- E. Consistent with Council-approved budget.

Note: The ~~P~~procurement process for any Public Project as defined in the Public Contract Code section 20161, shall follow the State statutory process.

Over \$~~30,000~~~~20,000.00~~: *City Manager with City Council approval*

All purchases exceeding \$~~30,000~~~~20,000.00~~ will require either an RFQ/ RFP process (professional services) or a formal bidding process (materials, equipment, and improvements), and must be approved by the City Council. All purchases shall be consistent with the Council-approved budget.

Exception to these Purchasing Guidelines

As an exception to the procurements procedures in these Purchasing Guidelines, purchases may be made without engaging in the competitive procurement procedures set forth herein, except for Public Projects, when the City Manager or City Council (subject to the dollar limits in these Purchasing Guidelines) approve of such non-competitive procurement under any of the following circumstances:

- A. Where the procurement of goods, supplies, equipment, materials, or services is necessitated by reason of emergency circumstances where the procurement is required to prevent the immediate interruption or cessation of necessary City services or to safeguard life, property, or the public health and welfare.
- B. Where (1) it is in the City's best interests to rely upon a contract procured by another public agency; (2) a competitive procurement procedure has been conducted for that contract by the public agency (i.e., another local agency, the State through the California Multiple Award Schedule (CMAS), the federal government through the General Services Administration (GSA), or a joint powers agency, authority or alliance that procures competitive contracts); and (3) the price and terms to the City are equal to or better than the price and terms to that public agency.
- C. When only one known source of the goods, supplies, equipment, materials, or services is available.

- D. When the procurement is for (1) utility services; (2) services necessary to conduct City meetings or events; (3) IT related services; (4) banking services; (5) the acquisition, lease or rental of real property; or (6) services and equipment necessary to maintain standardization with existing services or equipment utilized by the City.
- E. If competitive procurement would not produce an advantage, or it is impracticable to obtain what is required because of the unique nature of the procurement.
- F. Where it is in the best interests of the City to do so as otherwise permitted by applicable law.

Prior to award of a contract under any of the foregoing exceptions, the City Manager shall certify that the contract is exempt from competitive procurement and shall set forth in the certification reasons for that determination.

RESOLUTION NO. __ - 2020
A RESOLUTION OF THE CLAYTON CITY COUNCIL
ADOPTING THE AMENDED PURCHASING GUIDELINES POLICY FOR THE PURCHASE OF
GOODS, SERVICES, SUPPLIES AND EQUIPMENT

WHEREAS, on May 4, 2004 the City Council of the City of Clayton adopted Ordinance No. 376 establishing procedures and guidelines for the purchasing of goods, services, supplies and equipment by resolution; and

WHEREAS, Resolution No. 10-2004 was adopted by the City Council of the City of Clayton on April 20, 2004 establishing a Purchasing Guidelines Policy that became effective upon adoption of Ordinance No. 376; and

WHEREAS, the goal of establishing a Purchasing Guidelines Policy was to set and maintain appropriate fiscal controls and procedures on expenditures of public funds; to maximize the City's purchasing dollar by encouraging competitive prices; and to provide a timely, effective method of procurement for city departments; and

WHEREAS, the City Council desires to amend the Purchasing Guidelines Policy to increase the various thresholds for competitive procurement and provide exceptions to the competitive procurement procedures in extraordinary circumstances; and

WHEREAS, implementing these higher limits and exceptions will allow the City to become more efficient in certain procurements and maximize the City's procurement flexibility; and

WHEREAS, the amended Purchasing Guidelines Policy is attached hereto as Exhibit A.

BE IT RESOLVED that, the City Council of the City of Clayton, California, does hereby adopt Resolution No. __ - 2020 to become effective immediately.

PASSED AND ADOPTED by the Clayton City Council, State of California, on this 17th day of November, 2020, by the following vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Julie Pierce, Mayor

ATTEST:

Janet Calderon, City Clerk

EXHIBIT A

PURCHASING GUIDELINES
AS ESTABLISHED BY RESOLUTION NO. 10-2004 AND UPDATED BY RESOLUTION
NO. [REDACTED]
(Ordinance No. 376)

Purchase amounts reflect the total amount spent on an order, or on a single transaction.

Under \$[500.00]: *All employees*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Petty cash may be used for purchases not exceeding \$50.00 (or higher with the approval of the City Manager in an emergency).
- C. Requires the review approval of the respective Department Head.
- D. Documentation: Requires one of the following:
 - 1. Petty cash receipt with attached receipt /invoice.
 - 2. Authorized check request.
 - 3. Authorized invoice.
- E. Consistent with Council-approved budget.

Over \$[500] but under \$[5000]: *All employees, with Dept. Head Approval*

- A. Use best judgment in selecting a vendor; price checking is encouraged, if available.
- B. Requires the approval and authorization of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
The receipt or invoice should consist of the following information:
 - a. Vendor name.
 - b. Description and cost of item(s).
 - c. Quantity purchased.
 - d. Amount of sales tax and shipping charges, if any.
 - e. Total amount.If this information does not appear on the receipt or invoice, it should be added.
 - 2. An approved contract.
- D. Consistent with Council-approved budget.

Over \$[5000] but under \$[15,000]: *Department Heads*

- A. Obtain and document verbal quotes from a minimum of three sources.
- B. Requires the prior approval of the respective Department Head.
- C. Documentation: Requires one of the following:
 - 1. Itemized receipt/ invoice.
The receipt or invoice should consist of the following information:
 - a. Vendor name.
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 - e. Total amount.If this information does not appear on the receipt or invoice, it should be added.
 - 2. A Requisition/ Purchase Order.
 - 3. An approved contract.
- D. Consistent with Council-approved budget.

Over \$[15,000] but under \$[30,000]: *Department Heads, with City Manager prior approval*

- A. Materials (not part of a Public Project as defined in the State Public Contract Code):
 - 1. Obtain written quotes from a minimum of three sources.
 - 2. Requires the prior approval of the City Manager.
- B. Professional Services:
 - 1. Obtain written proposals from a minimum of three sources.

2. Requires the prior approval of the City Manager.
- C. Capital Equipment:
 1. Obtain sealed quotes from a minimum of three sources.
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 2. A Requisition/ Purchase Order with invoice.
 3. An approved contract for billing.
- E. Consistent with Council-approved budget.

Note: The procurement process for any Public Project as defined in the Public Contract Code section 20161, shall follow the State statutory process.

Over \$[30,000: *City Manager with City Council approval*

All purchases exceeding \$[30,000] will require either an RFQ/ RFP process (professional services) or a formal bidding process (materials, equipment, and improvements), and must be approved by the City Council. All purchases shall be consistent with the Council-approved budget.

Exception to these Purchasing Guidelines

As an exception to the procurements procedures in these Purchasing Guidelines, purchases may be made without engaging in the competitive procurement procedures set forth herein, except for Public Projects, when the City Manager or City Council (subject to the dollar limits in these Purchasing Guidelines) approve of such non-competitive procurement under any of the following circumstances:

- A. Where the procurement of goods, supplies, equipment, materials, or services is necessitated by reason of emergency circumstances where the procurement is required to prevent the immediate interruption or cessation of necessary City services or to safeguard life, property, or the public health and welfare.
- B. Where (1) it is in the City's best interests to rely upon a contract procured by another public agency; (2) a competitive procurement procedure has been conducted for that contract by the public agency (i.e., another local agency, the State through the California Multiple Award Schedule (CMAS), the federal government through the General Services Administration (GSA), or a joint powers agency, authority or alliance that procures competitive contracts); and (3) the price and terms to the City are equal to or better than the price and terms to that public agency.
- C. When only one known source of the goods, supplies, equipment, materials, or services is available.
- D. When the procurement is for (1) utility services; (2) services necessary to conduct City meetings or events; (3) IT related services; (4) banking services; (5) the acquisition, lease or rental of real property; or (6) services and equipment necessary to maintain standardization with existing services or equipment utilized by the City.

- E. If competitive procurement would not produce an advantage, or it is impracticable to obtain what is required because of the unique nature of the procurement.
- F. Where it is in the best interests of the City to do so as otherwise permitted by applicable law.

Prior to award of a contract under any of the foregoing exceptions, the City Manager shall certify that the contract is exempt from competitive procurement and shall set forth in the certification reasons for that determination.



Agenda Date: 11-17-2020

Agenda Item: SF

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Laura Hoffmeister, Assist. to the City Manager
DATE: November 17, 2020
SUBJECT: A Resolution Approving Amendment No. 1 to the Lease Agreement with the Clayton Historical Society for use of City owned property for the Clayton Museum and Garden Plaza located at 6101 Main Street.

RECOMMENDATION

Staff recommends the City Council adopt the attached Resolution, authorizing the City Manager to execute Amendment No. 1 to the Lease Agreement on behalf of the City of Clayton with the Clayton Historical Society, for its continued use of City owned property for the Clayton Museum and Garden Plaza located at 6101 Main Street.

BACKGROUND

The Clayton Historical Society, a 501 c3 non-profit corporation, was founded in 1974 to research, collect, record, preserve, display, borrow, share, and interpret local history information and memorabilia, and to promote understanding of Clayton origins and development to the public. Its volunteers finance, maintain and operate the non-profit Clayton Historical Museum and Garden as the major local history resource for students, writers, genealogical researchers, city and county needs, developers, businesses, existing and new residents, and visitors including many from other states and countries. It locates, records, inventories, publicizes and marks historic sites, buildings and natural features. The Society operates the Clayton Museum in Joel Clayton's farmhouse, and a garden area with exterior exhibits that emphasize the local history and memorabilia of the Clayton area, which is made available to the public.

In 1978 the Clayton Historical Society officially opened to the public the doors of the Clayton Museum building. Museum Building, Garden Plaza, and ancillary exhibits resides on City-owned property. The Clayton Historical Society maintains these improvements which include the buildings and grounds as well as the collections of historic artifacts, antiques, photos and other items dating from Native American habitation to present day. Between 2014 and 2018 the Clayton Historical Society made improvements to the property including the garden and tractor display area.

In March 2018, the City Council approved a new lease agreement with the Clayton Historical Society to allow the location of the Joel Clayton Home for a public history museum and associated improvements on City property located at 6101 Main Street in Clayton's Town Center.

The lease agreement Section 3.10 specified "Insurance" of \$2 million for General Liability per occurrence for bodily injury, personal injury, and property damage; and it required the tractor exhibit area to have a minimum of \$5 million General Liability per occurrence for bodily injury.

Subject: Resolution Authorizing the City Manager to Execute Amendment No. 1 to the Lease Agreement on behalf of the City with the Clayton Historical Society for its continued use of City owned property located at 6101 Main Street for the Clayton Museum and Garden Plaza

Date: November 17, 2020

Page 2 of 2

DISCUSSION

The Clayton Historical Society has formally requested the \$5 million coverage term for the tractor area be deleted, which would therefore result in the overall coverage term of \$2 million to continue. The Interim City Manager has reviewed the request with our Risk Management (Municipal Pooling Authority); has visited the tractor area and verified it is fully surrounded by a locked and secured fence; and agrees the \$5 million coverage can be eliminated; and

Staff has prepared the attached resolution approving the change, and allow the Interim City Manager on behalf of the City of Clayton, to execute Amendment No. 1 which eliminates the language requiring the on \$5 million General Liability per occurrence for bodily injury the tractor area. This would result in the remaining language which requires coverage of \$2 million.

In 2014 during the review for the Museum Garden Plaza it was determined that the agreement for the present location at 6101 Main Street was never further extended nor a new agreement entered into. As a condition of approval for the Garden Plaza improvements, staff was instructed to review the original Museum/Historical Society lease and/or use agreement for this City-owned property to determine if it warranted any refreshing as to understandings of improvements ownership, maintenance, repair, liability, and removal should the City Council ever decide to sell the underlying real property, and to return any recommended lease modifications or understandings to the City Council for its consideration and formal acceptance.

FISCAL IMPACT

There is no fiscal impact to the City, all required insurance is the responsibility of the Clayton Historical Society.

Attachments:

1. Resolution
2. Exhibit A to Proposed Amendment No. 1 to the Lease
3. CHS President Letter requesting amendment
4. Current Full Lease
5. Resolution 11-2018 (March 2018)
6. Minutes of March 20, 2018 City Council Meeting
7. Staff Report from March 20, 2018 City Council Meeting re: current lease terms

RESOLUTION NO. -2020

**A RESOLUTION APPROVING AN AMENDMENT NO. 1, TO THE LEASE
AGREEMENT WITH THE CLAYTON HISTORICAL SOCIETY FOR ITS
CONTINUED USE OF CITY-OWNED PROPERTY FOR THE CLAYTON MUSEUM
AND GARDEN PLAZA
LOCATED AT 6101 MAIN STREET**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City of Clayton and the Clayton Historical Society, a 501 c(3) organization, entered into a new lease agreement in March 2018 to allow the location of the Joel Clayton Home for a public history museum and associated improvements on City property located at 6101 Main Street in Clayton's Town Center (APN 119-011-004); and

WHEREAS, Section 3.10 "Insurance" in addition to the \$2 million for General Liability per occurrence for bodily injury, personal injury, and property damage; it required the tractor exhibit area to have a minimum of \$5 million General Liability per occurrence for bodily injury; and

WHEREAS, the Clayton Historical Society has formally requested the \$5 million coverage term for the tractor area be deleted, which would therefore result in the overall coverage term of \$2 million to continue; and

WHEREAS, staff reviewed the request with our Risk Management (Municipal Pooling Authority); has visited the tractor area and verified it is fully surrounded by a locked and secured fence; and agrees the \$5 million coverage can be eliminated; and

WHEREAS, staff has prepared the Amendment No. 1 to eliminate the language requiring the on \$5 million General Liability per occurrence for bodily injury the tractor area which would result in coverage of \$2 million, which is already required, and has generated this amendment for formal approval, attached as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED the City Council of Clayton, California does hereby approve the proposed lease amendment and authorizes its City Manager to execute the Amendment No. 1 to the Lease Agreement between the City of Clayton and the Clayton Historical Society, on behalf of the City.

ATTACHMENT 1

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on November 17, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Julie Pierce, Mayor

ATTEST

Janet Calderon, City Clerk

I hereby certify that the foregoing resolution was duly adopted and passed by the City Council of Clayton, California at a regular public meeting thereof held on November 17, 2020.

Janet Calderon, City Clerk

AMENDMENT NO. 1
to the
LEASE AGREEMENT
between
CITY OF CLAYTON
a California municipal corporation
AND
Clayton Historical Society
a California 501(c)3 non-profit corporation

The following amendment (shown as strikeout) is hereby made:

3.10 Insurance.

Lessee shall procure and maintain appropriate levels of insurance for Lessee's use of the Leased Premises at limits no less than: (1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage. ~~; tractor exhibit area a minimum of \$5 million General Liability per occurrence for bodily injury.~~ If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Insurance shall name the City of Clayton its officers and employees as additional insured as a Policy Endorsement, without offset to the City's insurance policies.

SIGNATURE PAGE FOLLOWING

**SIGNATURE PAGE TO THE
AMENDMENT NO. 1
LEASE AGREEMENT BETWEEN
THE CITY OF CLAYTON AND
THE CLAYTON HISTORICAL SOCIETY**

IN WITNESS WHEREOF, the Parties hereby execute this Agreement and make it effective as of the Effective Date.

CITY:

CITY OF CLAYTON,

a California municipal corporation

By: _____

Fran Robustelli,
Interim City Manager

Date: _____

ATTEST:

Janet Calderon
City Clerk

APPROVED AS TO LEGAL FORM:

Best, Best & Krieger LLP
City Attorney

LESSEE:

Clayton Historical Society,
a California nonprofit corporation

By: _____

Ted Meriam
President

Date: _____



6101 Main Street

Clayton Historical Society

PO BOX 94 • CLAYTON, CALIFORNIA • 94517

(925) 672-0240

www.claytonhistory.org

Oct 26, 2020

Fran Robustelli
Interim City Manager
City of Clayton

Delivered via email: frobustelli@ci.clayton.ca.us

Dear Fran,

The Clayton Historical Society leases land at 6101 Main Street from the City, from which we own and operate the Clayton Museum. Via Resolution No. 11-2018, the City executed its most recent lease with the Society on March 20, 2018, which covers the next 10 years. We are grateful to work with the City to have a home for our Museum.

Request

The Board of the Society is now requesting that the City consider an amendment to the Lease, specifically section 3.10 Insurance. Specifically, we are asking for the removal of the \$5M general liability coverage for the tractor area and simply apply the existing \$2M minimum coverage to the entire property.

3.10 Insurance.

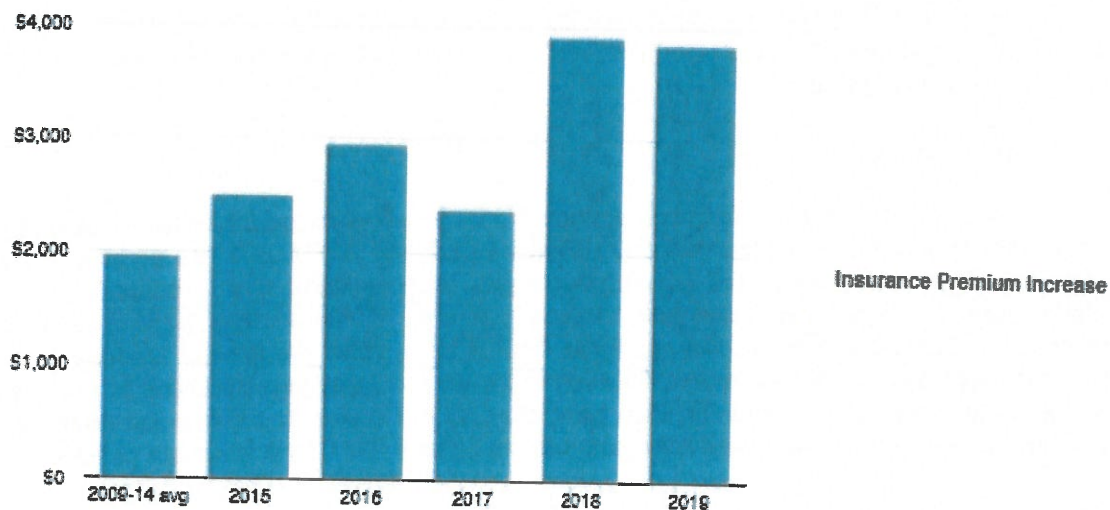
Lessee shall procure and maintain appropriate levels of insurance for Lessee's use of the Leased Premises at limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage; tractor exhibit area a minimum of \$5 million General Liability per occurrence for bodily injury. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Insurance shall name the City of Clayton its officers and employees as additional insured as a Policy Endorsement, without offset to the City's insurance policies.

History

When the Lease was originally executed in 2018, the Society was in the middle of a City-approved renovation to its outdoor educational garden. We acquired a historic tractor from the CBCA that was going to be placed on the property for educational purposes. In response, the City required a \$5M general liability just for the tractor area with a \$2M GL coverage for the remaining property. While the Museum complied with this coverage, we were required to buy \$5M coverage for the whole property as we are unable to carve out a unique coverage limit for just the tractor area.

The Museum is entirely operated by volunteers and funded through donors (we are an 501c3 nonprofit public benefit corporation). The increase in coverage for liability insurance has almost doubled the liability premium each following year. Insurance currently accounts for roughly 10% (\$3,846) of our operating expense; to open the doors, it costs on average \$35,000 a year.

CHS INSURANCE			
YEAR	LIABILITY	D&O	TOTAL
2009-14 avg	\$1,084	\$891	\$1,955
2015	\$1,600	\$891	\$2,491
2016	\$1,600	\$1,350	\$2,950
2017	\$1,462	\$921	\$2,383
2018	\$2,882	\$1,021	\$3,903
2019	\$3,015	\$831	\$3,846



Current Risk Management Strategies

Now that the outdoor Education Garden is completed, the Society has implemented several measures since 2018 to reduce our risk exposure. Specifically, since the Lease was executed, the Society has taken these steps to reduce risk in the Tractor area:

1. Installed fencing around the entirety of the outdoor tractor exhibit area.
2. Installed locks on the fence gate that always remain locked.
3. Installed "keep out" signage.
4. Installed exterior security cameras, which record the area 24x7x365.
5. Installed motion-activated outdoor flood lights.
6. Worked with legal counsel to understand overall risk and how to proactively mitigate it.

Thank you for the City's consideration of this lease amendment, which will allow us to redirect funds from insurance into educational programs while still mitigating risk.

My best,

Ted Meriam

Ted Meriam
President, Clayton Historical Society

Appendix – Photos of Physical Security Measures at Clayton Museum Educational Garden





LEASE AGREEMENT

between

CITY OF CLAYTON
a California municipal corporation

AND

Clayton Historical Society
a California 501(c)3 non-profit corporation

1. Parties and Date.

This Lease Agreement ("Agreement") is made and entered into this 29 day of March, 2018 (the "Effective Date"), by and between the City of Clayton ("City" or "Lessor"), a California municipal corporation, with its principal place of business at 6000 Heritage Trail, Clayton, California, 94517, and the Clayton Historical Society ("Lessee"), a 501(c)3 non-profit corporation, with its principal mailing address at P.O. Box 94, Clayton California, 94517. The City and Lessee are sometimes herein referred to individually as "Party" and collectively as "Parties."

2. Recitals.

2.1 City Property as Leased Premises.

City is the owner of the real property commonly known as Clayton Historical Museum and Garden, located at 6101 Main Street, Clayton California, (Assessor's Parcel Number- APN: 119-011-004 ("Leased Premises"), which is more particularly described and depicted in Exhibit "A" and its attachments, which are all attached hereto and incorporated herein by this reference.

2.2 Purpose of Agreement.

City desires to lease to Lessee, and Lessee desires to lease from City, the Leased Premises for due and adequate consideration, the receipt and sufficiency of which are acknowledged by the Parties and further described and set forth in this Agreement. The purpose is for the placement of improvements and the continued of operation and maintenance of the Clayton Museum Building and Garden in accordance with Use Permit No. 52-76-89 (Museum Building and exterior exhibits display) approved by the Planning Commission on January 27, 1976; and Resolution 14-2014 (Museum Garden and exterior display improvements) approved by the City Council on May 20, 2014.

2.3 Description of Public Benefit

The Clayton Historical Society, a 501 c3 non- profit corporation, was founded in 1974 to research, collect, record, preserve, display, borrow, share, and interpret local history information and memorabilia, and to promote understanding of Clayton origins and development to the public. Its volunteers finance, maintain and operate the non-profit Clayton Historical Museum and Garden as the major local history resource for students, writers, genealogical researchers, city and county needs, developers, businesses, existing and new residents, and visitors including many from other states and countries. It locates, records, inventories, publicizes and marks historic sites, buildings and natural features.

The Society operates the Clayton Museum in Joel Clayton's farmhouse, and garden area with exterior exhibits that emphasize the local history and memorabilia of the Clayton area, which is made available to the public. In addition to maintaining regular museum hours, the Society hosts student classes and special tours and opens the Museum upon request. The Society has developed a "twinning" bond with the City of Clayton's founder and namesake, Joel Clayton, and his birth town, Bugsworth, England.

3. Terms.

3.1 Description of Leased Premises.

City hereby leases to Lessee, and Lessee leases from City, on the terms and conditions set forth in this Agreement, the Leased Premises, which generally consists of the following areas, which are more specifically described and depicted in Exhibit "A" hereto and its attachments:

6101 Main Street, Clayton California

Assessor's Parcel Number (APN): 119-011-004

3.2 Term.

The term of this Agreement shall commence on the effective date contained herein and may be terminated by either Party with six (6) months advance written notice to the other Party.

3.3 Lease Payment.

The Leased Premises are leased to the Lessee for the sum of ten dollars (\$10.00) per year during the Term of this Agreement ("Lease Payments"). Lease Payments shall be paid in full in advance on a decennial (every 10 years) basis with first payment due July 1, 2018 as shown payment schedule Exhibit B. Payments received after July 10th will be considered past due and be assessed a 25% late fee

3.4 Use.

The Lessee shall be deemed to have accepted the Leased Premises as being in good condition. The Leased Premises are leased to Lessee solely for the purpose of operating the Clayton Museum Building and Garden in accordance with Use Permit No. 52-76-89 (Museum Building and exterior exhibits display) approved by the Planning Commission on January 27, 1976; and Resolution 14-2014 (Museum Garden and exterior display improvements) approved by the City Council on May 20, 2014.

3.5 Termination; Removal of Improvements.

The Lessee shall be deemed to have accepted the Leased Premises as being in good condition for the above stated uses. Except as otherwise provided herein, Lessee or City may terminate this Agreement at any time after giving six (6) months prior written notice to the other party. The Lessee shall, upon the termination or default or abandonment of the Agreement term, surrender the Leased Premises in as good condition. During the six (6) month termination time period, or after default or abandonment, the Lessee shall be responsible for, at Lessee's sole cost, the removal and/or relocation of all improvements, including but not limited to buildings, exhibits, and garden improvements. Should Lessee fail to remove all such improvements within a six (6) month time period after notice of termination, default, or abandonment, every unremoved improvements or structures shall immediately become the property of the City of Clayton, together with all improvements incidental thereto, and the City shall have full right and sole discretion to dispose or reuse as allowed by law.

3.6 Reasonable Access to Leased Premises.

City and its agents shall have the right at all reasonable times to enter the Leased Premises to:

- a. Inspect the Leased Premises to ensure Lessee is complying with the terms of the lease.
- b. Access for surveys or other matters related to City needs.
- c. Serve, post, and keep posted notices required by law or that City considers necessary for the protection of the City or the Leased Premises.

3.7 Hours of Operation.

The Lessee shall not open the leased premises to the public earlier than 8:00 a.m. and no later than 10:00 p.m. without prior written City approval, Sunday through Saturday. Lessee may seek City approval to be open to the public earlier or later for Special Events.

3.8 Lessee's Obligations

3.8.1 Improvements

3.8.1.2 Procedures for Improvements. Lessee shall not make any initiate or make any alterations, additions or other improvements to the Building or premises ("Improvements"), without prior written consent of the Lessor, which approval may be withheld in the Lessor's sole and absolute discretion.

3.8.1.3 Lessee is aware of the City's requirements to comply with California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If applicable, when Improvements are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Lessee agrees to fully comply with such Prevailing Wage Laws and any other laws applicable to the Improvements. In addition to its other obligations under this Agreement, Lessee shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.8.2 Lawful Operation.

From the Effective Date, Lessee shall meet all local, county, state, and federal guidelines for administering any of Lessee's programs and for using the Leased Premises as allowed per this Agreement. Lessee shall operate "the Clayton Museum and Gardens" at the Leased Premises in accordance with all applicable federal, state, and City laws and regulations, and this Agreement.

3.8.3 Payment of Taxes.

Lessee is solely responsible for and agrees to pay any levied possessory interest tax or any other taxes imposed against the Lessee or the Leased Premises for Lessee's use of the Leased Premises per this Agreement.

3.8.4 Utilities and Janitorial Services.

Lessee is solely responsible for and agrees to pay for any and all utility, telephone, internet and maintenance services associated with the Leased Premises.

3.8.5 Signage.

Lessee shall provide, at its own cost and expense, signage in a manner consistent with all applicable local laws, rules and regulations.

3.8.6 Damage Reporting

Lessee shall immediately report to Lessor and damage to property of the Leased Premises.

3.8.7 Maintain Clean, Safe Environment.

Lessee is solely responsible for and agrees to maintain the Leased Premises in a clean, orderly, and safe manner at all times during the term of this Agreement and shall adhere to all applicable federal, state, and local laws for its use.

3.9 City Obligations - Maintenance and Repair.

City shall have no obligation to maintain any improvements made upon its property. All maintenance obligations are that of the Lessee.

3.10 Insurance.

Lessee shall procure and maintain appropriate levels of insurance for Lessee's use of the Leased Premises at limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage; tractor exhibit area a minimum of \$5 million General Liability per occurrence for bodily injury. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Insurance shall name the City of Clayton its officers and employees as additional insured as a Policy Endorsement, without offset to the City's insurance policies.

3.11 No Joint Venture or Partnership.

City and Lessee shall not, by virtue of this Agreement, in any way or for any reason, be deemed to be or have become a partner of the other in the conduct of its business or otherwise, or a joint venture.

3.12 Independent Contractor.

Neither Lessee, nor any of its agents, volunteers, employees, invitees, licensees, or guests shall constitute employees of the City.

3.13 Violations.

Lessee shall not engage in, or permit or authorize any of Lessee's employees, agents, licensees, invitees, or guests to engage in any activity which constitutes a violation of any applicable state, federal, or local law, ordinance, rule, or regulation.

3.15 Indemnity.

Lessee shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and, agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions or willful misconduct of Lessee, its officials, officers, employees, agents (including any person or entity chosen or allowed by Lessee to operate on the Leased Premises), consultants and contractors arising out of or in connection with this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. Lessee shall defend, at Lessee's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the City, its directors, officials, officers, employees, agents or volunteers. Lessee shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents or volunteers, in any such suit, action, or other legal proceeding. Lessee shall reimburse City and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Lessee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials, officers, employees, agents, or volunteers.

3.16 Default or Abandonment by Lessee; Waiver

3.16.1 Lessee shall be deemed to be in material default of this Agreement if during the term of this Agreement Lessee shall have not performed any of its material obligations under this Agreement, and shall have failed to remedy any such default within a period of time of not less than 30 days after written notice is given to Lessee by the City.

3.16.2 In the event of any of the above-described material defaults, the City shall have the right to:

3.16.2.1 Re-enter the Leased Premises, at the City's option, without further demand or notice, and eject Lessee in possession of the Leased Premises therefrom; and

3.16.2.2 Re-let the Leased Premises for the account of Lessee upon such terms and conditions as the City shall deem advisable.

3.16.3 The waiver by the City of any material default by Lessee of any term, covenant or condition hereof shall not be effective unless made in writing and shall not operate as a waiver of any subsequent default of the same or any other term, covenant or condition hereof.

3.17 Assignment/Sublease.

Lessee shall not either voluntarily or by operation of laws, assign, sell, encumber, pledge or otherwise transfer all or any part of Lessee's leasehold estate hereunder, or permit the Leased Premises to be occupied by anyone other than Lessee or Lessee's employees or agents, or sublet the Leased Premises or any portion thereof, without City's prior written consent in each instance.

3.18 Severability.

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and shall not be affected, impaired, or invalidated thereby.

3.19 Attorneys' Fees.

In case either Party brings an action to enforce any term or condition of this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees as determined by the court, and all other costs and expenses related to such action.

3.20 Waivers.

The waiver by either Party of the breach of any provision of this Agreement shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

3.21 Binding on Successors.

This Agreement shall apply to and be binding upon the heirs, successors in interest, executors, administrators, and assigns of the respective Parties hereto. The terms Lessee, City, Party, and Parties shall include the heirs, successors in interest, executors, administrators, assigns, agents, employees, officers, or officials of such party or parties hereto.

3.22 Captions.

The various headings contained herein and the grouping of the provisions of this Agreement into separate paragraphs are for the purpose of convenience only, and shall not be considered in interpreting the provisions of this Agreement.

3.23 Notices.

Any and all notices which are required under the terms and conditions of this Agreement or which either City or Lessee desire to serve upon the other, shall be in writing and, unless otherwise noted herein, shall be deemed served when delivered personally or faxed, or when deposited in the United States mail, postage prepaid, return receipt requested, addressed as follows:

CITY:

City of Clayton
Attn: City Manager
6000 Heritage Trail
Clayton, CA 94517

LESSEE:

Clayton Historical Society
Attn: President
P. O. Box 94
Clayton, CA 94517

Any notice so given shall be considered served on the other Party five (5) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the Party at its applicable address. Actual notice, including by fax, shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

3.24 Governing Law.

This Agreement, and the rights and obligations of the Parties, shall be governed and interpreted in accordance with the laws of the State of California. Venue shall be in Contra Costa County, California.

3.25 Entire Agreement.

This Agreement, along with any exhibits and attachments attached hereto and incorporated herein by reference, constitutes the entire agreement between the City and the Lessee relative to the Leased Premises, and may only be modified by mutual consent of the Parties in writing.

3.26 Authority to Enter Agreement.

Lessee has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.27 Counterparts.

This Agreement may be signed in counterparts, each of which shall constitute an original.

**SIGNATURE PAGE TO THE
LEASE AGREEMENT BETWEEN
THE CITY OF CLAYTON AND**

IN WITNESS WHEREOF, the Parties hereby execute this Agreement and make it effective as of the Effective Date.

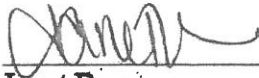
CITY:
CITY OF CLAYTON,
a California municipal corporation

By: 

Gary A. Napper
City Manager

Date: 29 MARCH 2018

ATTEST:



Janet Brown

City Clerk

APPROVED AS TO LEGAL FORM:



Best, Best & Krieger LLP
City Attorney

LESSEE:
Clayton Historical Society,
a California nonprofit corporation

By: 

Michael Wendorf
President

Date: 3-29-2018

EXHIBIT "A"

DESCRIPTION OF LEASED PREMISES

6101 Main Street Clayton, California

Assessor's Parcel Number (APN): 119-011-004

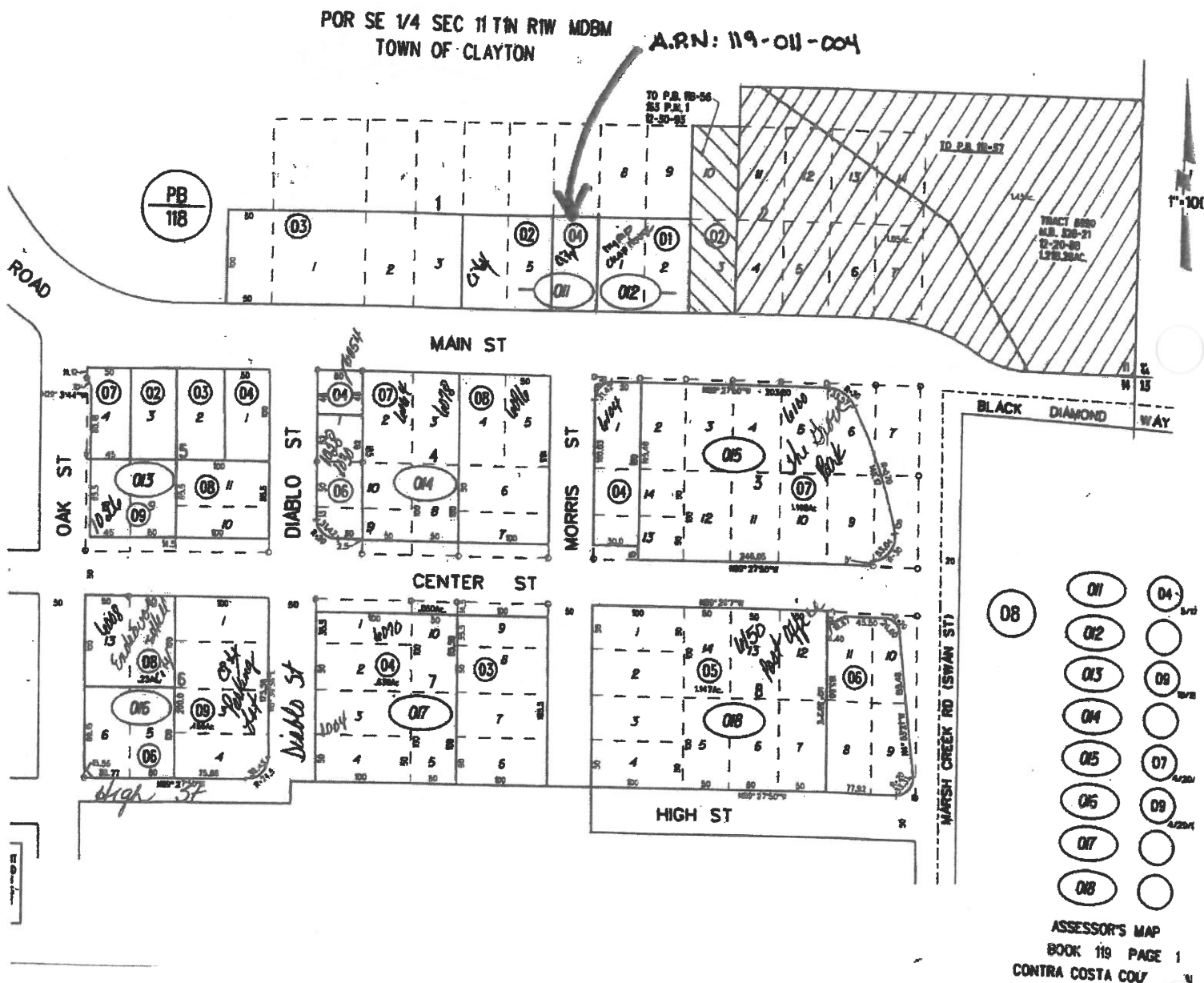


EXHIBIT "B"
FEE SCHEDULE

The Leased Premises are leased to the Lessee for the sum of ten (10) dollars per year during the Term of this Agreement. Lease Payments shall be paid in full in advance on a decennial (10 year basis) as shown in the schedule below. Payments received after July 10th will be considered past due and be assessed a 25% late fee.

PAYMENT SCHEDULE	PAYMENT DUE DATE
July 1, 2018 – June 30, 2028: \$100.00	July 1, 2018 <i>pd 4/1/2019</i>
July 1, 2028- June, 2038: \$100.00	July 1, 2028
July 1, 2038- June, 2048: \$100.00	July 1, 2038
July 1, 2048- June, 2058: \$100.00	July 1, 2048

RESOLUTION NO. 11-2018

**A RESOLUTION APPROVING A LEASE AGREEMENT WITH THE CLAYTON
HISTORICAL SOCIETY FOR ITS CONTINUED USE OF CITY-OWNED PROPERTY
FOR THE CLAYTON MUSEUM AND GARDEN PLAZA
LOCATED AT 6101 MAIN STREET**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City of Clayton and the Clayton Historical Society, a 501 c(3) organization, entered into a 10-year lease in 1976, ("Permissive Use Agreement"), to allow the location of the Joel Clayton Home for a public history museum and associated improvements on City property located at 6101 Main Street in Clayton's Town Center (APN 119-011-004); and

WHEREAS, in 1978, the Clayton Historical Society officially opened to the public the doors of the Clayton Museum building; and

WHEREAS, the Museum Building, Garden Plaza, and ancillary exhibits resides on City-owned property and the Clayton Historical Society maintains these improvements which include collections of local historic artifacts, antiques, photos and other items dating back from Native American habitation to present day; and

WHEREAS, in 1986 the City of Clayton granted a one-year extension in order to consider if it would be necessary for the Museum building to be relocated in order to re-establish Morris Street extension for vehicles as part of the Town Center planning process, or incorporate the Museum building as a part of the area planned for the Library, DiMartini Building, and the Keller House; and

WHEREAS, beginning in 1987 and continuing through 1997 City staff and the community were involved in the planning for the area containing the current Library, Keller House, and DiMartini Building; the relocation of the Museum was not included in the final plans and therefore remained at its present location; and

WHEREAS, in 2014 during the review for the Museum Garden Plaza it was determined the agreement for the present location at 6101 Main Street was not further extended nor a new agreement entered into; and

WHEREAS, as a condition of approval in 2014 for the Garden Plaza improvements, staff was instructed to review the original Museum/Historical Society lease and/or use agreement for this City-owned property to determine if it warrants any refreshing as to understandings of improvements ownership, maintenance, repair, liability, and removal should the City Council ever decide to sell the underlying real property, and to return any recommended lease modifications or understandings to the City Council for its consideration and formal acceptance; and

ATTACHMENT 5

WHEREAS, staff has conducted the above review and determined that a new lease agreement is appropriate and necessary, and has generated it for formal approval, attached as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED the City Council of Clayton, California does hereby approve the proposed lease and authorizes its City Manager to execute the Lease Agreement on behalf of the City.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on March 20, 2018 by the following vote:

AYES: Mayor Haydon, Vice Mayor Shuey, Councilmembers Catalano and Diaz.

NOES: None.

ABSENT: None.

ABSTAIN: Councilmember Pierce.

THE CITY COUNCIL OF CLAYTON, CA


Keith Haydon, Mayor

ATTEST


Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly adopted and passed by the City Council of Clayton, California at a regular public meeting thereof held on March 20, 2018.


Janet Brown, City Clerk

**MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL**

TUESDAY, March 20, 2018

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Haydon in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. **Councilmembers present:** Mayor Haydon, Vice Mayor Shuey, and Councilmembers Catalano, Diaz and Pierce. **Councilmembers absent:** None. **Staff present:** City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, and City Clerk/HR Manager Janet Brown.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Haydon.

3. **CONSENT CALENDAR**

Mayor Haydon noted Item 3 (e) contains a typo which will cause the minutes to be approved “as amended.”

It was moved by Vice Mayor Shuey, seconded by Councilmember Catalano, to approve the Consent Calendar with the amendment on Item 3 (e).

Councilmember Pierce noted before the vote that she approves of Items 3 (a) through 3 (d) but must recuse herself from voting on Item 3(d). City Attorney Subramanian added Councilmember Pierce is recusing herself from that vote as Councilmember Pierce is a Board Member of the Clayton Historical Society. Councilmember Pierce confirmed she is a Board Member of the Clayton Historical Society.

Motion passed (5-0 vote), except for a 4-0-1 vote on Item 3(e) with Councilmember Pierce abstaining.

- (a) Approved the minutes of the City Council's regular meeting of March 6, 2018.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 9-2018 setting the City's Equivalent Runoff Unit (ERU) real property parcel assessment levy in FY 2018-19 at current rates to pay for local storm water/clean water programs and series required by the unfunded federal and state-mandated National Pollution Discharge Elimination System (NPDES) Program (storm water pollution prevention).
- (d) Adopted Resolution No. 10-2018 approving the City's 2017 Annual Progress Report regarding its HCD-certified Housing Element.
- (e) Adopted Resolution No. 11-2018 approving a Lease Agreement with the Clayton Historical Society for its continued use of City property for the Clayton Museum and exterior ground improvements.

ATTACHMENT 6



Agenda Date: 3-20-2018

Agenda Item: 3e

Approved: _____

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Laura Hoffmeister, Assist. to the City Manager
DATE: March 20, 2018
SUBJECT: A Resolution Approving a Lease Agreement with the Clayton Historical Society for its continued use of City owned property for the Clayton Museum and Garden Plaza located at 6101 Main Street

RECOMMENDATION

Staff recommends the City Council adopt the attached Resolution, authorizing the City Manager to execute the Lease Agreement on behalf of the City of Clayton with the Clayton Historical Society for its continued use of City owned property for the Clayton Museum and Garden Plaza located at 6101 Main Street.

BACKGROUND

The Clayton Historical Society, a 501 c3 non-profit corporation, was founded in 1974 to research, collect, record, preserve, display, borrow, share, and interpret local history information and memorabilia, and to promote understanding of Clayton origins and development to the public. Its volunteers finance, maintain and operate the non-profit Clayton Historical Museum and Garden as the major local history resource for students, writers, genealogical researchers, city and county needs, developers, businesses, existing and new residents, and visitors including many from other states and countries. It locates, records, inventories, publicizes and marks historic sites, buildings and natural features. The Society operates the Clayton Museum in Joel Clayton's farmhouse, and a garden area with exterior exhibits that emphasize the local history and memorabilia of the Clayton area, which is made available to the public. In addition to maintaining regular museum hours, the Society hosts student classes and special tours and opens the Museum upon request. The Society has developed a "twinning" bond with the City of Clayton's founder and namesake, (Joel Clayton's) birth town, Bugsworth, England.

In 1976, the City of Clayton and the Clayton Historical Society a 501 c(3) organization, entered into a 10-year lease ("Permissive Use Agreement") to allow the location of the Joel Clayton home for a public history museum and associated improvements on City property located at 6101 Main Street in Clayton's Town Center (APN 119-011-004). In 1978 the Clayton Historical Society officially opened to the public the doors of the Clayton Museum building. Museum Building, Garden Plaza, and ancillary exhibits resides on City-owned property. The Clayton Historical Society maintains these improvements which include the buildings and grounds as well as the collections of historic artifacts, antiques, photos and other items dating from Native American habitation to present day.

Subject: Resolution Authorizing the City Manager to Execute a Lease Agreement on behalf of the City with the Clayton Historical Society for its continued use of City owned property located at 6101 Main Street for the Clayton Museum and Garden Plaza

Date: March 20, 2018

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In 1986 the City of Clayton granted a one-year extension to the agreement to consider if it would be necessary for the Museum building to be relocated in order to re-establish Morris Street extension for vehicles as part of the Town Center planning process; or incorporate the Museum building as a part of the area planned for the Library, DiMartini Building, and the Keller House area. From 1987 through 1997 city staff and the community were involved in the planning for the area containing the current Library, Keller House, and DiMartini Building and the Town Center Specific Plan. The relocation of the Museum was not included in the final plans for either and therefore remained at its present location.

In 2014 during the review for the Museum Garden Plaza it was determined that the agreement for the present location at 6101 Main Street was never further extended nor a new agreement entered into. As a condition of approval for the Garden Plaza improvements, staff was instructed to review the original Museum/Historical Society lease and/or use agreement for this City-owned property to determine if it warranted any refreshing as to understandings of improvements ownership, maintenance, repair, liability, and removal should the City Council ever decide to sell the underlying real property, and to return any recommended lease modifications or understandings to the City Council for its consideration and formal acceptance.

DISCUSSION

Staff has conducted its review of the prior documents, meeting minutes and correspondence and determined that a new lease agreement is appropriate and necessary, and has generated it for formal approval attached to the Resolution as Exhibit A. The purpose is for continuing to allow the improvements and the continued of operation and maintenance of the Clayton Museum Building and Garden in accordance with Use Permit No. 52-76-89 (Museum Building and exterior exhibits display) approved by the Planning Commission on January 27, 1976; and Resolution 14-2014 (Museum Garden and exterior display improvements) approved by the City Council on May 20, 2014.

Staff provided the major terms of the proposed lease with the Clayton Historical Society President, Mike Wendorf, who reviewed it with the CHS Board. Mr. Wendorf provided a follow up email that they had no objection with the proposed terms. These terms were then included in a new comprehensive Lease Agreement document prepared by the City Attorney office and is attached to the Resolution as Exhibit A.

The following are the major terms of the Lease Agreement:

- The term of this Agreement shall commence on the effective date contained herein and may be terminated by either Party with six (6) months advance written notice to the other Party.
- The Leased Premises are leased to the Lessee for the sum of ten dollars (\$10.00) per year during the Term of this Agreement ("Lease Payments"). Lease Payments shall be paid in full in advance on a decennial (every 10 years) basis with first payment due July 1, 2018.

Subject: Resolution Authorizing the City Manager to Execute a Lease Agreement on behalf of the City with the Clayton Historical Society for its continued use of City owned property located at 6101 Main Street for the Clayton Museum and Garden Plaza

Date: March 20, 2018

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- During the six (6) month time period of termination of the Agreement the Lessee shall be responsible for, at Lessee's sole cost, the removal and/or relocation of all improvements, including but not limited to buildings, exhibits, and garden improvements. Should Lessee fail to remove all such improvements within the six (6) month termination period, every unremoved improvement or structure shall immediately become the property of the City of Clayton, together with all improvements incidental thereto, and the City shall have full right and sole discretion to dispose as allowed by law.
- Lessee is solely responsible for and shall pay any levied possessory interest tax or any other taxes imposed against the Lessee or the Leased Premises for Lessee's use of the Leased Premises per this Agreement.
- Lessee is solely responsible for and agrees to pay for any and all utility, telephone, internet costs and maintenance services associated with the Leased Premises
- Lessee is solely responsible for and agrees to maintain the Leased Premises in a clean, orderly, and safe manner at all times during the Term and shall adhere to all applicable federal, state, and local laws for its use.
- City shall have no obligation to maintain any improvements made upon its property. All maintenance obligations are that of the Lessee.
- Lessee shall procure and maintain appropriate levels of insurance for Lessee's use of the Leased Premises at limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage; tractor exhibit area a minimum of \$5 million General Liability per occurrence for bodily injury. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Insurance shall name the City of Clayton its officers and employees as additional insured as a Policy Endorsement, without offset to the City's insurance policies.
- Lessee shall not initiate or make any alterations, additions or other improvements to the Building or premises ("Improvements") without prior written consent of the Lessor, which approval may be withheld in the Lessor's sole and absolute discretion.
- Lessee is aware of the City's requirements to comply with California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If applicable, when Improvements are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Lessee agrees to fully

Subject: Resolution Authorizing the City Manager to Execute a Lease Agreement on behalf of the City with the Clayton Historical Society for its continued use of City owned property located at 6101 Main Street for the Clayton Museum and Garden Plaza

Date: March 20, 2018

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comply with such Prevailing Wage Laws and any other laws applicable to the Improvements. In addition to its other obligations under this Agreement, Lessee shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

FISCAL IMPACT

There is no fiscal impact to the City. The Lease Agreement calls for payment of \$10 a year lease paid in advance for a ten year period, beginning July 1st. This will result in a nominal positive financial impact to the City in exchange for the use of its public property.

CONCLUSION

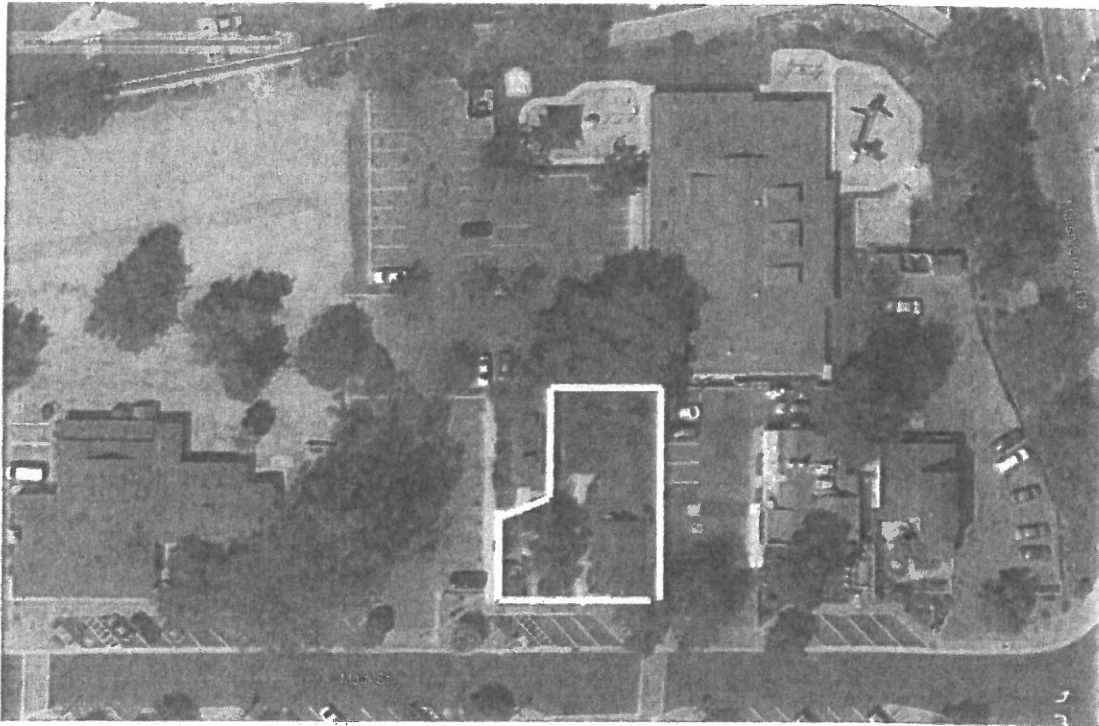
To continue the use of public property a new Lease Agreement is necessary. The proposed lease agreement is comprehensive, does not have any specific expiration clause, but allows each party to terminate with six month written notification; identifies maintenance, insurance responsibility, as well as modest lease payment in recognition public benefit provided by the Clayton Historical Society Museum and Garden Plaza.

Attachments:

1. Resolution
2. Proposed Lease
3. Location Information
4. CHS President email

chs lease with city ccsr

6101 Main Street – Clayton Historical Society Museum and Garden Improvments Location Map



Laura Hoffmeister

From: Mike Wendorf <mike_wendorf@yahoo.com>
Sent: Wednesday, March 14, 2018 11:10 AM
To: Laura Hoffmeister
Subject: Re: CHS and City deal terms for a new lease

I have reviewed the terms of the new lease agreement for the Clayton Historical Society and have no objections.

Thank you.

Michael Wendorf
President
Clayton Historical Society
925-381-9837

On Tuesday, March 13, 2018, 3:25:08 PM PDT, Laura Hoffmeister <lhoffmeister@ci.clayton.ca.us> wrote:

The current lease expired in the 1980's it was to have been redone but at that time the city was working on the Library and City Hall site area and there was thought to maybe incorporate the Joel Keller house to that area, it was not included and the city got involved and in the planning of the Library and renovation of DeMartini building for city hall, and with later staff changes seemed to never have been followed up with a new lease and forgotten

about.

So here are the main proposed deal terms for a new lease: I would need to wrap the lease up this Friday for scheduled action by the City Council at their March 20 meeting.

The term of this Agreement shall commence on the effective date contained herein and may be terminated by either Party with six (6) months advance written notice to the other Party.

The Leased Premises are leased to the Lessee for the sum of ten dollars (\$10.00) per year during the Term of this Agreement ("Lease Payments"). Lease Payments shall be paid in full in advance on a decennial (every 10 years) basis with first payment due July 1, 2018.

During the six (6) month time period of termination of the Agreement the Lessee shall be responsible for, at Lessee's sole cost, the removal and/or relocation of all improvements, including but not limited to buildings, exhibits, and garden improvements. Should Lessee fail to remove all such improvements within the six (6) month termination period, every unremoved improvement or structure shall immediately become the property of the City of Clayton, together with all improvements incidental thereto, and the City shall have full right and sole discretion to dispose as allowed by law.

Lessee is solely responsible for and shall pay any levied possessory interest tax or any other taxes imposed against the Lessee or the Leased Premises for Lessee's use of the Leased Premises per this Agreement.

Lessee is solely responsible for and agrees to pay for any and all utility, telephone, internet costs and maintenance services associated with the Leased Premises

Lessee is solely responsible for and agrees to maintain the Leased Premises in a clean, orderly, and safe manner at all times during the Term and shall adhere to all applicable federal, state, and local laws for its use.

City shall have no obligation to maintain any improvements made upon its property. All maintenance obligations are that of the Lessee.

Lessee shall procure and maintain appropriate levels of insurance for Lessee's use of the Leased Premises at limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage; tractor exhibit area a minimum of \$5 million General Liability per occurrence for bodily injury. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Insurance shall name the City of Clayton its officers and employees as additional insured as a Policy Endorsement, without offset to the City's insurance policies.

Lessee shall not initiate or make any alterations, additions or other improvements to the Building or premises ("Improvements") without prior written consent of the Lessor, which approval may be withheld in the Lessor's sole and absolute discretion.

Lessee is aware of the City's requirements to comply with California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If applicable, when Improvements are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Lessee agrees to fully comply with such Prevailing Wage Laws and any other laws applicable to the Improvements. In addition to its other obligations under this Agreement, Lessee shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

Laura Hoffmeister

Assistant to the City Manager

City of Clayton

6000 Heritage Trail

Clayton, CA 94517



Agenda Date: 11-17-2020

Agenda Item: 5g

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: PAUL L. RODRIGUES, FINANCE DIRECTOR *PR*
DATE: NOVEMBER 17, 2020
SUBJECT: FIRST QUARTER ENDING SEPTEMBER 30, 2020 FY 2020-21 INVESTMENT PORTFOLIO REPORT AND ANNUAL REVIEW OF CITY INVESTMENT POLICY

RECOMMENDATION

It is recommended the City Council, by minute motion, accept the City Investment Portfolio Report for the first quarter (July, August, September) of the fiscal year ending June 30, 2021 (FY 2020-21).

BACKGROUND

Pursuant to section XIII of the City of Clayton Investment Policy, the Finance Director is required to submit a quarterly investment report to the City Council. This quarterly report is also designed to meet the local agency reporting requirements outlined in *California Government Code* section 53646. The FY 2020-21 first quarter report is provided herein.

The City's Investment Policy guides staff and its advisors for all investment activities. Permitted investment activities are primarily governed by state law (*California Government Code* sections 53600-53610) and the City's adopted Investment Policy. The City's Investment Policy is consistent with state law and is designed to be more restrictive for the purpose of added safety and liquidity, which take precedence over yield. Section XVI of the Investment Policy states it shall be periodically reviewed by the City Treasurer and the City Council to ensure its consistency with the overall objectives of preservation of principal, liquidity, and return on investments, along with its relevance to current law, financial and economic trends, and to meet the needs of the City. The policy was last amended by the City Council, following recommendation by the former Finance Manager and City Treasurer on November 20, 2018 to add the California Asset Management Program (CAMP) as an authorized investment type. As required by the City Investment Policy, it is presented in attachment 2 for annual review by the City Treasurer and the City Council. No revisions to the Policy are being recommended at this time.

DISCUSSION

With the first quarter of the 2020-2021 fiscal year complete, year-to-date interest earnings for the General Fund is \$22,587 or 23% of forecasted General Fund interest revenues per the FY 2020-21 adopted budget of \$100,000. City-wide investment earnings solely attributable to pooled investments (i.e. not related to cash with fiscal agents such as bond proceeds) through the first quarter of FY 2020-21, totaled \$58,015.

This quarter, the highest yielding investment type, investments in certificates of deposit, government agency bonds, and corporate bonds and notes comprised approximately 75% of the portfolio with a collective weighted average interest rate of 1.43%. Deposits held with pooled investment accounts at CAMP and LAIF, making up 19.3% of the portfolio, with weighted average interest rates of .27% and .51% respectively were the second highest yielding investment type.

The market value of the total investment portfolio was \$14,191,315, which is \$293,276 higher than total carrying value as of September 30, 2020. Currently, the estimated market value exceeds the cost of securities in the investment portfolio due to the City's heavy investment in two to five year fixed income securities during the last year at rates averaging higher than current rates. The increase in market value demonstrates how the cautious nature of the City's investment strategy mitigates the risk of the City incurring large unrealized losses during market retractions. On the other hand, given less risk exposure, more predictable and modest investment returns will be realized following this same strategy.

While the earnings outcome of the first quarter of FY 2020-21 are lower than budgeted expectations, management is expecting that investment income will continue to decline over the next several quarters of the fiscal year as the Federal Reserve cut interest rates to zero in March 2020. Accordingly, we expect many of the investments purchased at higher yields will be called and replaced with lower yielding investments in CD's and government obligation instruments in the remainder of this fiscal year.

The City of Clayton Investment Portfolio was managed in accordance with the City's Investment Policy. Furthermore, the City's cash management program provides sufficient liquidity to meet the next ten months expenditures. The attached City of Clayton Investment Holdings Summary – First Quarter of Fiscal Year 2020-21 (Attachment 1) provides additional analysis and the specific investment reporting criteria required by *California Government Code* section 53646.

FISCAL IMPACT

The acceptance of this report has no direct fiscal impact to the City of Clayton.

Attachments:

1. City of Clayton Investment Holdings Summary – First Quarter of Fiscal Year 2020-21 (July1, 2020 – September 30, 2020)
2. City of Clayton Investment Policy

City of Clayton
Investment Holdings Summary
Qtr. Ending: Sept. 30, 2020

ATTACHMENT 1

Investment Account	Investment Type	Institution	CUSIP	Carrying Value	Rate	Current Yield	Settlement Date	Maturity Date	Market Value
CAMP	Local Agency Pool	California Asset Management Program	n/a	890,142.44	0.27%	0.27%	n/a	n/a	890,142.44
LAIF	Local Agency Pool	Local Agency Investment Fund	n/a	1,786,467.36	0.69%	0.69%	n/a	n/a	1,786,467.36
UBS Financial Services Inc.	Cash	UBS Cash Holding	n/a	29,169.55	0.01%	0.01%	n/a	n/a	29,169.55
UBS Financial Services Inc.	Money Market Fund	UBS Bank USA MMF Yield	n/a	-	0.01%	0.01%	n/a	n/a	-
	Certificate of Deposit	Beneficial Mut, PA	08173QBT2	200,000.00	1.35%	1.35%	10/7/16	10/7/20	200,048.00
	Certificate of Deposit	Morgan Stanley Bk, UT	61747MG96	245,000.00	2.45%	2.43%	1/25/18	1/25/21	246,901.20
	Certificate of Deposit	Truist Bank Charlotte, NC	89788HAH6	100,000.00	1.70%	1.69%	2/4/20	2/3/21	100,573.00
	Certificate of Deposit	Synchrony Bank, UT	87164XLH7	94,000.00	1.70%	1.69%	3/4/16	3/4/21	94,738.84
	Certificate of Deposit	Connectone England Cliffs, NJ	20786ACD5	100,000.00	2.60%	2.57%	3/28/18	3/29/21	101,258.00
	Certificate of Deposit	Townebank Portsmouth, VA	89214PBL2	200,000.00	2.80%	2.76%	4/30/18	4/30/21	203,180.00
	Certificate of Deposit	BLC Comenity Bank, WI	05549CGN4	198,000.00	2.00%	1.97%	11/30/17	5/28/21	200,518.56
	Certificate of Deposit	Wells Fargo Bank NA, SD	9497485W3	50,000.00	1.75%	1.73%	6/17/16	6/17/21	50,543.00
	Certificate of Deposit	UBS BK USA Salt LA UT US	90348JMG2	148,000.00	2.10%	2.07%	7/3/19	7/6/21	150,291.04
	Certificate of Deposit	Barclays Bank, DE	06740KKC0	100,000.00	2.00%	1.97%	7/12/17	7/12/21	101,514.00
	Certificate of Deposit	First Internet Bk IN	32056GCP3	100,000.00	1.95%	1.92%	7/14/17	7/14/21	101,475.00
	Certificate of Deposit	Comenity Cap Bank UT	20033AUX2	245,000.00	2.00%	1.97%	7/17/17	7/16/21	248,736.25
	Certificate of Deposit	UBS BK USA Salt LA UT US	90348JAU4	50,000.00	1.50%	1.48%	7/20/16	7/20/21	50,551.00
	Certificate of Deposit	Synchrony Bank, UT	87164XNA0	50,000.00	1.45%	1.43%	7/22/16	7/22/21	50,554.50
	Certificate of Deposit	Morgan Stanley Prv NY US	61760AR50	250,000.00	2.10%	2.06%	8/1/19	8/2/21	254,272.50
	Certificate of Deposit	Bank Hapoalim, NY	06251AU32	147,000.00	3.00%	2.92%	8/23/18	8/23/21	150,880.80
	Certificate of Deposit	Firstbank Puerto Rico	33767A4K4	157,000.00	2.05%	2.01%	8/25/17	8/25/21	159,786.75
	Certificate of Deposit	Enerbank UT	29266N3H8	50,000.00	1.45%	1.43%	8/26/16	8/26/21	50,618.50
	Certificate of Deposit	Privatebank, IL	74267GVM6	147,000.00	1.50%	1.48%	8/29/16	8/30/21	148,868.37
	Certificate of Deposit	Commercial BK, TN	20143PDR8	197,000.00	3.00%	2.92%	6/21/18	9/21/21	202,596.77
	Certificate of Deposit	Medallion Bk, UT	58403B5Q5	198,000.00	2.05%	2.00%	12/16/16	12/16/21	202,676.76
	Certificate of Deposit	Mercantil Comm Ban FL US	58733ADT3	150,000.00	2.10%	2.05%	1/27/17	1/27/22	153,961.50
	Certificate of Deposit	Franklin Syn Bank, TN	35471TCV2	204,000.00	2.00%	1.95%	1/31/17	1/31/22	209,159.16
	Certificate of Deposit	Sallie Mae Bank, UT	7954502C8	197,000.00	2.65%	2.55%	4/3/19	4/4/22	204,535.25
	Certificate of Deposit	Live Oak Banking, NC	538036CM4	97,000.00	2.25%	2.18%	4/7/17	4/7/22	100,141.83
	Certificate of Deposit	First National Bank of McGregor, TX	36A99U934	145,000.00	2.35%	2.27%	12/20/17	6/20/22	150,024.25
	Certificate of Deposit	Bank of New England, NH	06426KAL2	246,000.00	3.15%	2.99%	7/31/18	7/29/22	259,581.66
	Certificate of Deposit	Ally Bank UT US	02007GKY8	247,000.00	2.15%	2.07%	8/1/19	8/1/22	256,163.70
	Certificate of Deposit	Enerbank UT	29278TKG4	100,000.00	2.05%	1.98%	8/7/19	8/8/22	103,561.00
	Certificate of Deposit	First Bank Highland, IL	319141HN0	247,000.00	2.20%	2.12%	9/7/17	9/7/22	256,842.95
	Certificate of Deposit	Capital One Bank	1404205H9	99,000.00	2.30%	2.20%	10/4/17	10/4/22	103,281.75
	Certificate of Deposit	Commercial Savings Bank, IA	202291AD2	247,000.00	2.10%	2.02%	10/18/17	10/18/22	256,867.65
	Certificate of Deposit	Wells Fargo Bank NA, SD	949495AQ8	248,000.00	1.90%	1.83%	1/17/20	1/17/23	257,897.68
	Certificate of Deposit	Goldman Sachs Bank, UT	38149MNT6	145,000.00	1.90%	1.83%	1/22/20	1/23/23	150,837.70
	Certificate of Deposit	Texas Cap Bank, NY	88224PLY3	250,000.00	0.30%	0.30%	7/31/20	2/7/23	250,812.50
	Certificate of Deposit	Industrial & Coml NY	45581EAR2	250,000.00	2.65%	2.50%	1/29/18	2/14/23	264,720.00
	Certificate of Deposit	Belmont Svgs Bk, MA	080515CH0	200,000.00	2.70%	2.54%	2/28/18	2/28/23	212,200.00
	Certificate of Deposit	Bank Leumi, NY	063248KR8	250,000.00	1.45%	1.41%	3/31/20	3/31/23	258,005.00
	Certificate of Deposit	Citibank, NA SD	17312QJ26	200,000.00	2.90%	2.71%	4/11/18	4/11/23	213,780.00

City of Clayton
Investment Holdings Summary
Qtr. Ending: Sept. 30, 2020

ATTACHMENT 1

Investment Account	Investment Type	Institution	CUSIP	Carrying Value	Rate	Current Yield	Settlement Date	Maturity Date	Market Value
	Certificate of Deposit	Synchrony Bank, UT	87164XZL3	100,000.00	1.30%	1.26%	4/17/20	4/17/23	102,868.00
	Certificate of Deposit	Capital One Bank	14042TDM6	150,000.00	1.40%	1.36%	4/15/20	4/17/23	154,683.00
	Certificate of Deposit	Goldman Sachs Bank, UT	38148P7B7	100,000.00	2.65%	2.49%	5/8/19	5/8/23	106,441.00
	Certificate of Deposit	Enerbank UT	29278TCG3	100,000.00	3.20%	2.95%	7/31/18	7/31/23	108,528.00
	Certificate of Deposit	Third Fed S&L Assn OH	88413QCT3	200,000.00	0.25%	0.25%	8/5/20	8/21/23	200,360.00
	Certificate of Deposit	JP Morgan Chase, OH	48128LEK1	50,000.00	2.00%	2.00%	10/17/19	10/17/23	50,037.00
	Certificate of Deposit	Bank of Baroda, NY	06063HBH5	250,000.00	3.55%	3.21%	12/28/18	12/28/23	276,910.00
	Certificate of Deposit	Wells Fargo Bank NA, SD	949763A48	197,000.00	2.75%	2.54%	5/3/19	5/3/24	213,439.65
	Certificate of Deposit	BMO Harris BK NA IL	05600XAN0	250,000.00	0.55%	0.55%	7/31/20	7/29/24	250,092.50
	Certificate of Deposit	HSBC Bank, NY	44329MB36	150,000.00	2.10%	2.10%	10/7/19	10/7/24	150,060.00
	Certificate of Deposit	HSBC Bank, NY	44329MBX10	99,000.00	2.05%	2.04%	11/26/19	11/26/24	99,317.79
	Certificate of Deposit	Texas Exchange BK TX	88241TJG6	198,000.00	0.50%	0.50%	9/2/20	12/11/24	198,180.18
	Certificate of Deposit	CPTL One Natl Assn	14042RPW5	259,817.50	1.45%	1.38%	7/22/20	4/22/25	262,617.50
	Certificate of Deposit	Flagstar Bank, FSB, MI	33847E3D7	250,000.00	1.15%	1.11%	4/29/20	4/29/25	259,252.50
	Certificate of Deposit	JP Morgan Chase, OH	48128L7E3	250,000.00	1.20%	1.20%	4/23/20	4/30/25	250,190.00
	Certificate of Deposit	Delta Natl B&T Co NY	2477RBW4	250,000.00	0.55%	0.54%	7/22/20	7/21/25	252,442.50
	Certificate of Deposit	USAlliance Fed Cre NY	90352RBD6	149,000.00	0.55%	0.55%	4/28/20	4/30/25	149,642.19
				<u>\$ 9,550,817.50</u>					<u>\$ 9,818,018.23</u>
	Corporate Bonds & Notes	Protective Life Global	74368CAP9	271,575.00	3.10%	2.88%	7/22/20	4/15/24	269,782.50
	Corporate Bonds & Notes	Apple Inc NTS	037833DM9	145,599.00	1.80%	1.72%	9/11/19	9/11/24	156,984.00
	Corporate Bonds & Notes	Wal Mart Stores Inc	931142DV2	100,000.00	2.65%	2.45%	10/20/17	12-15.24	108,305.00
	Corporate Bonds & Notes	Westpac Banking Corp	961214EH2	258,612.50	2.35%	2.20%	10/20/17	12/15/24	266,790.00
				<u>\$ 775,786.50</u>					<u>\$ 801,861.50</u>
	Government Agency								
	Government Agency								
	Government Agency								
	Government Agency								
				<u>\$ -</u>					<u>\$ -</u>
	Total UBS Financial Services Inc.			<u>\$ 10,355,773.55</u>					<u>\$ 10,649,049.28</u>
Morgan Stanley	Money Market Fund	Morgan Stanley	n/a	-	0.00%	0.00%	n/a	n/a	-
	No Activity or holdings in this account left at 9/30/2019. Account closed.								
	Total Morgan Stanley			<u>-</u>					<u>-</u>
Bank of America (book balance)	Cash (checking account)	Bank of America		865,656.02	0.00%	0.00%	n/a	n/a	865,656.02

Revised - AS 11/7/22

EXHIBIT A
ATTACHMENT 2

INVESTMENT POLICY

CITY OF CLAYTON, CALIFORNIA

I. POLICY

It is the policy of the City of Clayton [and the Redevelopment Agency of the City of Clayton] {together, referred to as the "City"} to meet the short and long-term cash flow demands of the City in a manner which will provide for the safety of principal monies with sufficient liquidity, while providing a reasonable investment return. The purpose of this Investment Policy is to identify and outline various methods and procedures for the prudent and systematic investment of public funds.

II. SCOPE

This Investment Policy applies to all investment activities and financial assets of the City {hereinafter, the "Funds"}. The following Funds are covered by this Investment Policy and are accounted for in the City's Comprehensive Annual Financial Report:

- (A) General Fund
- (B) Special Revenue Fund
- (C) Debt Service Fund
- (D) Capital Project Funds
- (E) Enterprise Funds
- (F) Internal Services Funds
- (G) Trust and Agency Funds
- (H) Any new funds created by the City Council.

Bond proceeds shall be invested in accordance with the requirements and restrictions outlined in the bond documents. Bond proceeds are not considered part of the Funds nor subject to this Investment Policy.

III. DELEGATION OF AUTHORITY

The City Treasurer is expressly authorized to invest the City's Funds, pursuant to California Government Code Sections 53600, 16429.1 and 53684 et seq. The City Treasurer will meet with, and obtain the approval of, the City Manager prior to investment of the Funds. Investments made routinely by the Finance Manager are restricted to the State Pool [Local Agency Investment Fund, LAIF], California Asset Management Program (CAMP), or to securities maturing within six (6) months. Prior to investing in securities, the Finance Manager will consider the cash flow requirements of the City and may invest in securities maturing over six (6) months if directed by the City Treasurer or the City Manager in writing or verbally, if confirmed in writing within thirty (30) days.

IV. ASSIGNMENTS AND DUTIES

- A. City Council.** The City Council is elected by the registered voters of Clayton. The Council establishes policies for the City and approves the expenditure of City Funds.
- B. City Manager.** The City Manager is appointed by the City Council and implements policies established by the City Council. The City Manager is responsible for all City departments and is also the Chief Fiscal Officer and is responsible for general management of all investments of Funds.
- C. City Treasurer.** The City Treasurer is appointed by the City Council and serves at the will and pleasure of the Council. Pursuant to the California Government Code, the City Treasurer is primarily responsible for the proper and prudent investment of Funds, and periodically reviews, makes recommendations regarding, and approves the investments of Funds and investment policies.
- D. Finance Manager.** The Finance Manager is appointed by the City Manager and is responsible for the daily supervision of all financial transactions of the City, including but not limited to the administration, monitoring, reporting and the restricted placement of Fund investments.

Together, the City Treasurer, City Manager and the Finance Manager function and operate as a check-and-balance system for the prudent and proper investment of all Funds.

V. PRUDENCE

Investments shall be made pursuant to the "Prudent Investor" standard, mandated by California Government Code Section 53600.3, which states:

"When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the City. Within the limitations of this section and considering individual investments as part of an overall strategy, a trustee is authorized to acquire investments as authorized by law."

The "Prudent Investor" standard shall be applied in the context of managing the Funds. The City Treasurer and each investment employee, acting within the intent and scope of this Investment Policy and other written procedures and exercising due diligence, shall

be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely manner and appropriate action is taken to control adverse developments.

VI. INVESTMENT OBJECTIVES

The objective of the investment portfolio is to meet the short and long-term cash flow demands of the City. To achieve this objective, the portfolio will be structured to provide Safety of Principal, Liquidity and Return on Investments.

A. Safety of Principal.

Safety of the City's investments is the primary objective. Investments of the Funds shall be undertaken in a manner that seeks to ensure that capital losses are minimized, whether from institution default, broker-dealer default, or erosion of the market value of securities. The City shall seek to preserve principal by mitigating two types of risk, in order of importance:

1. **Credit Risk.** Credit risk, defined as the risk of loss due to failure of an issuer of a security, shall be mitigated by purchasing Treasuries or high-grade securities. All investments beyond Treasury securities will be diversified so that the failure of any one issuer would not unduly harm the City's cash flow. Credit risk shall also be mitigated by pre-qualifying financial institutions, broker-dealers, intermediaries and advisors with which the City does business.
2. **Market or Interest Rate Risk.** Interest rate risk is the risk the market value of securities in the portfolio will fall due to changes in general interest rates. Interest rate risk may be mitigated by structuring Funds so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity, and by investing operating funds primarily in shorter-term securities. The cash flow is updated on a daily basis and will be considered prior to investment of securities in order to limit the need to sell investments for liquidity purposes.

Long-term securities shall not be purchased for the sole purpose of short-term speculation. Securities shall not be sold prior to maturity with the following exceptions: 1). A declining credit security would be sold early to minimize loss of principal; 2). A security swap would improve the quality, yield, or target duration in the portfolio; or 3). Liquidity needs of the portfolio require the security be sold.

The weighted average maturity of the Funds is limited to three (3) years or less. Purchases of investments will be restricted to securities with a final stated maturity not to exceed five (5) years.

B. Liquidity.

Liquidity is the second most important objective of City investments. The Funds shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Since all possible cash demands cannot be anticipated, the Funds will maintain a liquidity buffer and invest primarily in securities with active secondary or resale markets (dynamic liquidity).

C. Return on Investments.

Return on investment should be considered and maximized after the basic objectives of safety and liquidity have been met. The Funds shall be designed to attain a return on investments through budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed.

VII. AUTHORIZED INVESTMENTS

The investments set forth in this section are authorized investments pursuant to Section 53601 of the California Government Code and are herewith authorized investments for City Funds:

- A. The State of California Investment Pool, known as the Local Agency Investment Fund (LAIF);
- B. Passbook savings accounts, demand deposits;
- C. Certificate of Deposit placed with insured banks, savings and loans, or credit unions up to a maximum of \$250,000 per insured depository institution for each account ownership category;
- D. Bonds issued by the City, including bonds payable solely out of, controlled, or operated by the City or by an agency or authority of the City;
- E. United States Treasury notes, bonds bills or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest;

- F. Registered state warrants or treasury notes or bonds of the State of California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency or authority of the state; and/or
- G. Mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, or U. S. corporate bond of a maximum of five (5) years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuers debt, as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service.

Purchase of securities authorized by this subdivision may not exceed twenty percent (20%) of the City's surplus money that may be invested pursuant to this Section.

- H. Federal Agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There are no limits on the dollar amount or percentage that the City may invest in government-sponsored enterprises.
- I. Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (q), inclusive, and including but not limited to CAMP. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issued the shares shall have retained an investment adviser that meets all of the following criteria:
 - 1. The adviser is registered or exempt from registration with the Securities and Exchange Commission.
 - 2. The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (q), inclusive.
 - 3. The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

For all other recommended investment of Funds by the City Treasurer and the City Manager, the City Council shall adopt the individual authorized instrument by resolution at a regular public meeting thereof.

VIII. PROHIBITED INVESTMENTS AND TRANSACTIONS

- A. The City shall not invest any Funds in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages or reverse purchase agreements.
- B. The City shall not purchase or sell securities on margin.
- C. The City shall not invest any Funds in any security that could result in zero interest accrual if held to maturity date.

IX. ALLOCATION OF INTEREST EARNINGS

When a single investment is made from a single Fund, interest on that investment is to be credited to that source Fund. When an investment represents multiple Funds, the interest shall be distributed based on the proportionate share of each Fund included in the aggregate investment.

When investments result in interest paid for a period greater than one (1) month, the interest shall be distributed proportionately based on the average of the monthly beginning balances of each involved Fund.

X. DIVERSIFICATION

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions. In a diversified portfolio it is recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

XI. PUBLIC TRUST

All participants in the investment process shall act as custodians of the public trust. Investment officials shall recognize the investment portfolio is subject to public review, scrutiny and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the highest ideals of the public trust.

XII. ETHICS AND CONFLICTS OF INTEREST

The City Treasurer and other employees or elected officials involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions. The City Treasurer and investment employees and elected

officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio and shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of their entity.

During the course of the year, if there is an event subject to disclosure that could impair the ability of the City Treasurer or investment employees to make impartial decisions, the City Council shall be notified in writing within ten (10) days of the event.

XIII. REPORTING REQUIREMENTS

The Finance Manager shall submit a quarterly investment report to the City Council. This report will include the following elements:

- A. Type of each investment.
- B. Financial institution.
- C. Date of Maturity.
- D. Amount of deposit or cost of security.
- E. Current market value of securities.
- F. Rate of Interest
- G. Weighted average maturity of the investments.

XIV. INTERNAL CONTROLS

The City Manager shall ensure the development of a system of internal investment controls and a segregation of duties and responsibilities of investment functions in order to assure an adequate system of internal control over the investment function. This segregation of duties will take into account the authorized staffing levels of the City. Internal control procedures shall address wire controls, separation of duties, delivery of securities to a third party for custodial safekeeping, and written procedures for placing investment transactions.

XV. GENERAL FUND RESERVE CONTINGENCY

The City Manager shall set aside Funds designated as *General Fund Reserve Contingency (GFRC)* to protect the City from unexpected financial expenses and to absorb the impact of deficiencies in cash flow not anticipated at the time the fiscal year budget was adopted.

The General Fund Reserves of the City shall include \$250,000.00 (two hundred fifty thousand dollars) designated as *GFRC – Emergency Component*. Further, the City will make every effort to maintain a *GFRC*, cash flow component, in an amount not less than fifty percent (50%) of the adopted annual General Fund budget. The amounts of

the *GFRCs* will be reviewed annually prior to adoption of the General Fund budget. City Council approval shall be required for any expenditure that would decrease the amount of the *GFRC* below the level established at the time of budget adoption.

XVI. POLICY REVIEW

The Investment Policy shall be reviewed at least annually by the City Treasurer and the City Council to ensure its consistency with the overall objectives of preservation of principal, liquidity, and return on investments, along with its relevance to current law, financial and economic trends, and meets the needs of the City.

* * * * *

Established:	30 July 2002
City Council adopted revisions:	21 April 2015
	03 August 2010
	05 May 2005
	06 August 2002
	21 April 2015
	20 November 2018



Agenda Date: 11-17-2020

Agenda Item: 5h

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Janet Calderon, City Clerk

DATE: November 17, 2020

SUBJECT: APPROVE PROPOSED SCHEDULE FOR CALENDAR YEAR 2021
SATURDAY "CONCERTS IN THE GROVE" SERIES, PROVIDED
COUNTY/STATE HEALTH REGULATIONS WILL ALLOW.

RECOMMENDATION

As requested by Mr. Howard Geller, Concerts' Organizer, by minute motion it is recommended the City Council authorize, provided County/State Health Regulations will allow, the use of The Grove Park for ten (10) Saturday "Concerts in The Grove" series and approve the following dates in calendar year 2021:

Saturday

May 8, 2021

May 22, 2021

June 5, 2021

June 19, 2021

July 3, 2021

July 17, 2021

July 31, 2021

August 14, 2021

August 28, 2021

September 11, 2021

Calendar Comment

Mothers' Day Weekend

Father's Day Weekend

BACKGROUND

The popular "Concerts in The Grove" series on selected Saturdays requires the City Council's official approval for use of the public park for this purpose at no rental fee. In addition, the City Council's approval accompanies its allowance of alcohol consumption in The Grove Park only during the times of this community event, since the *Clayton Municipal Code* prohibits alcohol consumption in any municipal park unless otherwise expressly permitted by the City (ref. CMC Section 11.04.190; which, by definition, include public open spaces, recreation areas, and City trails). Currently County/State Health Regulations due to COVID do not allow. This approval is subject to concerts being allowed per County/State Health Regulations.

May 2021

◀ April

June ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4 City Council Meeting	5 Cinco De Mayo	6	7	8 Saturday Concerts in The Grove
9 Mother's Day	10	11 Planning Commission Meeting	12	13	14	15 Armed Forces Day
16	17	18 City Council Meeting	19	20	21	22 Saturday Concerts in The Grove
23	24	25 Planning Commission Meeting	26	27	28	29
30	31 Memorial Day – City Hall Closed					

◀ May

June 2021

July ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 City Council Meeting	2	3	4	5 Saturday Concerts in The Grove
6	7	8 Planning Commission Meeting	9	10	11	12
13	14 Flag Day	15 City Council Meeting	16	17	18	19 Saturday Concerts in The Grove
20 Start of Summer (Summer Solstice)	21	22 Planning Commission Meeting	23	24	25	26
27	28	29	30			

◀ June

July 2021

August ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3 Saturday Concerts in The Grove
4 Indep. Day	5 City Hall Closed	6 City Council Meeting	7	8	9	10
11	12	13 Planning Commission Meeting	14	15	16	17 Saturday Concerts in The Grove
18	19	20 City Council Meeting	21	22	23	24
25	26	27 Planning Commission Meeting	28	29	30	31 Saturday Concerts in The Grove

◀ July

August 2021

September ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 City Council Meeting	4	5	6	7
8	9	10 Planning Commission Meeting	11	12	13	14 Saturday Concerts in The Grove
15	16	17 City Council Meeting	18	19	20	21
22	23	24 Planning Commission Meeting	25	26	27	28 Saturday Concerts in The Grove
29	30	31				

◀ August

September 2021

October ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 Labor Day – City Hall Closed	7 City Council Meeting	8	9	10	11 Patriot Day Saturday Concerts in The Grove
12	13	14 Planning Commission Meeting	15	16	17	18
19	20	21 City Council Meeting	22 Start of Fall (Autumnal Equinox)	23	24	25
26	27	28 Planning Commission Meeting	29	30		

Agenda Date: 11-17-2020

Agenda Item: 6a

In Appreciation of Frances "Fran" Robustelli

Whereas, The City of Clayton would like to express our sincere gratitude to Frances Robustelli for her term as interim City Manager while we worked to fill the position full-time, and

Whereas, during her time in Clayton, despite Covid, Fran embraced the challenges of dealing with the pandemic, and

Whereas, Fran got to know many of our local community members and initiated a Clayton presence on social media, including Facebook and Next Door, populating these pages with regular updates and information about our community, including the Clayton Employee of the Week and Fun Fact Fridays, and

Whereas, Fran kept the community informed on social media with regular updates of the Planning Department and Police Department as well as on progress made in the battle with the wild, feral pigs damaging our Community Park and homeowners yards, and

Whereas, Fran utilized the services of a volunteer college intern to begin the development of a City-wide Communications and Outreach Strategy. This program will keep citizens updated on issues at City Hall by initiating a "list-serve" database, where citizens can sign up on our website to receive agendas, meeting notices, and information about city business, and

Whereas, Fran negotiated a new 2-year contract with our Miscellaneous employees group, and

Whereas, Fran worked with staff to upgrade City Hall computer systems to current standards and to help initiate a digitizing platform storage program whereby archived paper records can be scanned into searchable PDF records for easier reference, and

Whereas, Fran has addressed the Covid challenges by improving the telework capabilities of employees when necessary to work remotely, and augmented our PPE resources for the safety of all staff, and

Whereas, Fran oversaw the improvement of our virtual online Zoom meetings, adding attributes for a more friendly interface with the public, and

Whereas, Fran worked with our planning department to secure REAP & LEAP and SB2 grants to help with the preparation of plans for the next Housing Element and RHNA.

Now therefore, I Julie Pierce, Mayor, on behalf of the entire Clayton City Council do hereby thank Frances Robustelli for her service as our Interim City Manager, for her energy and creativity. We look forward to having her visit us regularly for community events post-Covid. We wish her well in all her future endeavors.

Honoring Robert "Bob" Hoyer

Whereas, Robert "Bob" Hoyer was Clayton's first mayor who will celebrate his 100th birthday in March of 2021, and is still an active member of our wonderful community, and

Whereas, Bay Area native of Oakland, Bob went to the University of Nevada in Reno where he earned a degree as a mining engineer. After serving in the US Army during WWII in the Philippines, Bob returned to Reno to finish his degree, where he met his wife Eldora after she returned home from serving as a Navy flight instructor stationed in Florida during the war, and

Whereas, Bob had a varied and interesting career. He worked for the Natomas mining company in Battle Mountain, NV. As mining declined after the war, Bob and Eldora moved back to the Bay Area, where Bob worked for Dow Chemical in Pittsburg. After his father's death, Bob returned to the family business in Oakland. He later worked for the East Bay Regional Park District as a construction inspector, and

Whereas, 1956, the Hoyers purchased a lovely lot on the hill, built their home in Clayton, and became leaders in the drive to incorporate Clayton as a city. Bob became Clayton's first Mayor in March 1964, serving on the Council until 1980. Bob was Mayor from 1964-67 and again 1970-71, and

Whereas, that early City Council set the recreational landscape for the Clayton we enjoy today when they hired David Whittet, a professional land planner, to lay out the city-wide trail system along the creeks, before the houses were built, creating our highly-regarded trail system. Whittet also created the current layout for Dana Hills, preserving the greenbelt which was not part of the original plans for the project, and

Whereas, Bob and Eldora were part of the committee to create the Clayton Historical Society (CHS), chartered in 1976. After securing a \$26,000 grant from the county, in 1976, the historic Joel Clayton and Pape houses were moved from their respective locations on the Keller Ranch and Oak Street and joined as one building on the current location on Main Street, creating the current Museum. Bob served as President of the CHS board and with Dick Ellis, on the Historic Marker committee raising money to place the many monuments to Clayton history around our town, and

Whereas, always active, Bob has continued to serve on Clayton committees, including The Grove Park Blue Ribbon Task Force to design the park, the Keller Ranch Master Plan committee and many others. Bob and his family donated the flagpoles at City Hall, The Grove Park and the Museum,

Now therefore, I, Julie Pierce, Mayor, on behalf of the City Council and the Clayton community do hereby thank Robert "Bob" Hoyer for being an inspiring leader and keeper of history, for being active in making Clayton the wonderful community we enjoy today, and congratulate him on receiving the title "**President Emeritus**" and being bestowed with the "**Clayton Historical Society Stewardship Award**" at the CHS Annual Meeting on November 12, 2020.

Honoring Richard "Dick" Ellis

Whereas, Richard "Dick" Ellis has always been an ardent believer in the role of photography as an educational tool and a way to bridge the past with the present, some years ago he lead a gaggle of elementary schoolchildren through downtown Clayton, telling them about its history and holding up giant photographs of buildings as they appeared in the past, and

Whereas, Dick was born in San Francisco, attended St. Mary's College on a full football scholarship, earned a Master's degree in Industrial & Technical Arts, and was a Marine from 1951-1954, and

Whereas, Dick, his wife Mary Lou, and their 5 children moved to Clayton in 1961 when a friend asked Dick to join him as a teacher at newly-built Clayton Valley High School, where he planned the curriculum for the department of Graphic Arts, Photography & Mechanical Drawing and taught for almost 30 years. During that period, he also found time to work for the county and the State of California coordinating new educational frameworks, and

Whereas, the booklet, "Clayton, Small but Proud," was the product of a CVHS summer project spearheaded by Dick that involved 100 students and 5 teachers from different departments within the high school, providing a written history illustrated with photographs that was used as a device to garner support for Clayton's 1964 incorporation: its bid to be its own city and not just another part of Concord, and

Whereas, four dollars from each booklet sold was put into a fund to establish an entity dedicated to preserving the city's history, and in the 1970's, Dick and other city residents drew up a constitution to create the Clayton Historical Society, where Dick served for over 20 years on the board and several terms as president, at the same time assembling numerous binders with historical pictures and information, and

Whereas, Dick was asked by a fellow CVHS teacher to join a group traveling to China as their photographer, and it was this trip that inspired him and Mary Lou to keep traveling in subsequent years, and

Whereas, they were the Clayton residents who went to Buxworth, England and fostered friendships that led to our city's twinning with the little town where Joel Clayton was born. They visited Buxworth several times over the years to collect information about the Clayton family, and this research, along with Dick's photos, fills the numerous binders that are available for anyone to peruse today.

Now therefore, I, Julie Pierce, Mayor, on behalf of the City Council and the Clayton community do hereby thank Richard "Dick" Ellis for being an inspiring educator, a dedicated preserver of history, and enthusiastic supporter of the town of Clayton, and congratulate him on receiving the title "**President Emeritus**" and being bestowed with the "**Clayton Historical Society Stewardship Award**" at their Annual Meeting on November 12, 2020.

In Honor of Rory Richmond

Whereas, Rory Richmond may not have been someone that many Claytonians have heard of, but he was the very best of Clayton, and

Whereas, Rory & Becky haven't lived in Clayton as long as some old-timers, what they lacked in duration, Rory made up for in energy for the community. Rory jumped into Clayton with both feet! He joined the CBCA, volunteering on committee after committee, the Clayton Valley Garden Club and the Historical Society and got to know everyone he could, and,

Whereas, when the time was right, Rory took on the challenge of expanding the Clayton BBQ Cook-off from a small annual event held at the Clayton Club, into a full-blown, CBCA sponsored, citywide festival. BBQ became Rory's passion! So much so that he spent his own time and money to attend various Kansas City Barbecue Society events around the country and got to know the KCBS management, and

Whereas, the Clayton BBQ Cook-off became an official KCBS sanctioned event, drawing thousands of BBQ lovers from all over northern California. Pitmasters from all over the West Coast traveled to Clayton to try to impress the KCBS judges for bragging rights, prizes, and valuable championship points, and

Whereas, Rory got the community involved by holding annual KCBS judging classes, where several hundred Claytonians have become officially sanctioned KCBS judges, and

Whereas, Rory Richmond passed away on August 22, 2020, just before the last weekend in August that would have been the 11th annual BBQ Cook-off in Clayton.

Whereas, Rory earned a degree in Geology at UC Riverside, but preferred his long career in the produce industry. Given this, he was well known for promoting, almost equally, Kale (yes, *that* leafy green) and the annual Clayton BBQ Cook Off, his true pride and joy, and

Whereas, Rory loved gardening and growing succulents, he was an avid volunteer for the Clayton Valley Garden Club, propagating plants, working in the hoop-house, helping with plant sales, and doing whatever needed doing, and

Whereas, Rory also had a passion for history, he became a main-stay member of the Clayton Historical Society, helping with the never-ending maintenance of the historic Museum, or working in the garden, or volunteering for fundraisers, Rory was always there, and

Whereas, Rory Richmond was honored with the Clayton Historical Society's "Special Recognition" award at their annual meeting on November 12, 2020, and

Whereas, Rory was about so much more than just BBQ, Art & Wine or Oktoberfest, Garden Club or Clayton Historical Society or any other event that needed a volunteer. He was a kind, gentle, giving soul that believed in the good in all people. He was a true friend that LOVED Clayton and has left us much too soon.

Now therefore, I Julie Pierce, Mayor of the City of Clayton on behalf of the Council and our entire community, extend our heartfelt thanks to Rory Richmond, and our sincerest condolences to Rory's partner Becky, and his family. Rory truly represented the absolute best of Clayton.

declaring

November 30 - December 6, 2020

as

"United Against Hate Week"

WHEREAS, the Constitution of the United States confers equality to all individuals, regardless of race, gender, orientation, religion, or political beliefs; and

WHEREAS, "United Against Hate Week" was created by civic leaders in direct response to the increase in expressions of hate and rhetoric of divisiveness in our communities; and

WHEREAS, the City of Clayton is dedicated to preventing and opposing hate in our community, and does not tolerate any prejudice, racism, bigotry, hatred, bullying, or violence towards any groups or persons within our community; and

WHEREAS, the City of Clayton supports the "United Against Hate" campaign, which empowers residents to take action in their local communities and alter the course of growing intolerance;

WHEREAS, the City of Clayton seeks to join other Bay Area cities, towns and communities in "United Against Hate Week," as an important step in bridging divisions, building inclusivity, and strengthening our community;

NOW THEREFORE, I, Julie Piece, Mayor, on behalf of the Clayton City Council, do hereby proclaim November 30 - December 6, 2020 as "United Against Hate Week" in Clayton, California



Agenda Date: 11-17-2020

Agenda Item: 10a

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: Paul Rodrigues, Finance Director

DATE: November 17, 2020

SUBJECT: Formation of Ad Hoc Committee to review June 30, 2020 Draft Financial Statements

RECOMMENDATION

Form Ad Hoc Committee to meet and review the annual June 30, 2020 draft financial statements.

BACKGROUND

It has been the past practice for the City of Clayton's Finance Committee to review the draft financial statements prior to presentation before the full City Council. Currently the City does not have a Finance Committee, as the current City Council presided over the entire 2020-2021 budget process rather than delegate a portion of the process to a subcommittee.

DISCUSSION

Staff recommends the City Council create an Ad Hoc Committee of two City Council members to review in detail, the draft financial statements for the fiscal year ending June 30, 2020. This will give the Committee an opportunity to meet and discuss any questions they might have regarding the draft financial statements with the auditors and Finance Director.

Upon approval of the draft financial statements by the Committee, the approved audited financial statements will then be brought before the full City Council for a presentation by the auditing firm of Cropper Accountancy Corporation.

FISCAL IMPACTS

No fiscal impact.



Agenda Date: 11-17-2020

Agenda Item: 10b

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Paul Rodrigues, Finance Director

MEETING DATE: November 17, 2020

SUBJECT: Revised Master Fee Schedule for Certain User-Benefit, Regulatory, and Rental Fees

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution amending the existing fee schedule for certain user-benefit, regulatory and rental fees for the fiscal year ending June 30, 2021 (FY 2020-21).

BACKGROUND

The City of Clayton annually reviews user-benefit, regulatory and rental fees to ensure they are set appropriately to cover costs attributable to providing the underlying services and issuing permits. All such fees are consolidated into the City's Master Fee Schedule, which is reviewed and approved by the City Council via Resolution at a publicly-held meeting and thereafter made publicly available on the City's website and at City Hall. The Master Fee Schedule currently effective for such fees was established by Resolution No. 34-2019 on July 16, 2019.

Although cost recovery is a goal when annually evaluating the suitability of existing fees in the Master Fee Schedule, other factors considered when determining reasonable fee rates may include but are not limited to: (1) whether the benefit is user-specific versus community-wide, (2) the impact of fees on service use, (3) the feasibility of collection, (4) consideration of discounted rates, and (5) comparisons with other neighboring municipalities. User-Benefit fees apply to services where a specific user receives some or all of the benefit of the underlying service provided rather than the general public. The City collects user-benefit fees for many activities including: generation of police reports, document recording, audio or video reproductions of recorded public meetings, etc. Regulatory fees are charges imposed on a regulated activity to pay for the cost of public programs necessary to regulate a business or other activity. The City charges regulatory fees to help defray costs associated with several

regulated activities including: development plan checking, engineering inspections, noise level, parking, soliciting, etc. Despite the fact the community as a whole may benefit from the regulatory program, the ultimate “driver” of the need for the service should pay most if not all of the costs. In contrast to user-benefit and regulatory fees, public facility and park rental fees are not restricted to covering the reasonable costs of the underlying program or activity. Although cost recovery should be considered when reviewing and setting rental rates, other important considerations include an assessment of policy objectives as well as market rates for similar rentals in neighboring communities.

Unlike user-benefit and regulatory fees, fines and penalties are generally designed to discourage undesired behavior rather than cost-recovery alone. Fines and penalties are considered “involuntary” fees, and the beneficiaries of the service are ultimately the general public through the City’s discouragement of illegal or otherwise undesirable activity. For this reason, a “Uniform Penalty Schedule of Parking Violations” enforced by the Police Department is periodically reviewed by the Chief of Police and any changes deemed necessary are presented to the City Council for review and approval at a publicly-held meeting. Given the difference in policy objectives, the Uniform Penalty Schedule of Parking Violations is a separate and distinct document from the Master Fee Schedule and no modifications to that existing document are being proposed in this staff report.

Adjustments being proposed to the City’s existing Master Fee Schedule are consistent with the longstanding public policy that voluntary user-driven municipal services bear their own costs. The proposed changes would accomplish this objective and in each instance no fee is higher than the true cost to provide the underlying service or use.

DISCUSSION

Proposed Rate Increases

In consideration of inflationary growth in the Bay Area, the San Francisco-Oakland-Hayward June 2019 to June 2020 Consumer Price Index (CPI) growth rate published by the United States Bureau of Labor and Statistics was 1.6%. Since the agreement with Harris & Associates for City Engineering services specifies a growth equal to 90% of the CPI for retainer services covered by the General Fund, it is recommended all Engineering Fees included in the attached Master Fee Schedule be increased by a rate of 1.44%. Pursuant to longstanding policy, any activity regulated by the City’s Engineering Department requiring a refundable deposit shall be billed at actual cost incurred by the City, including an overhead recovery rate of fifteen percent (15%).

The Miscellaneous Employee group labor agreement approved by the City Council on October 6, 2020 incorporates a cost of living adjustment of 2.1% effective July 1, 2020. All user-benefit and regulatory fees pertaining to services provided by employees of the Miscellaneous Employee Group are recommended to increase by 2.1% necessary to defray budgeted cost increases in these underlying service areas.

It has been the practice of the City to only adopt Master Fee Schedule increases in whole dollar increments. As applied in past years, staff does not recommend individual fee increases resulting from annual CPI/COLA growth until the resulting fee increase equals or exceeds one whole dollar. This method serves to simplify the fee increase process, as well as to satisfy prevailing law that City fees cannot recoup more than its actual expense (i.e. "rounding-up" may result in excessive fees). In circumstances where the prior year CPI/COLA adjustments did not result in a fee increase, a two or other multi-year CPI/COLA rate, as applicable, was applied in the current year to ascertain whether a fee increase should be recommended. On the far right column of the attached proposed fee schedule (Exhibit A to the Resolution) fees with one asterisk [*] indicate a single year CPI/COLA adjustment. Fees with two asterisks [**] indicates a multi-year CPI/COLA adjustment was used as applicable.

These proposed increase methodologies allow the City to recover organizational year-to-year operational cost increases for most user-benefit and regulatory related fees. Certain fees remain unchanged as they are set by state law, fixed by a specific *Clayton Municipal Code* section, or the current year CPI/COLA adjustment was insufficient to justify a proposal to increase the existing fee.

Development related fees are presented in exhibit B for informational purposes only. There are no proposed changes to these fees at this time; any proposed changes to development related fees would be brought separately for consideration.

New Fees Being Proposed

Included in the proposed FY 2020-21 Master Fee Schedule are two new Police Department fees:

- Subpoena Duces Tecum – a subpoena for production of evidence, the fee is the clerical cost, capped at \$24 per hour, \$6 per quarter hour.
- Repossession Filing Fee – fee fixed by CA Govt Code Sec 41612 at \$15.

Effective Date of Rate Changes

Most fees included in the Proposed FY 2020-21 Master Fee Schedule will become effective upon adoption of the attached Resolution (Attachment 1). The exception to this rule is that certain fees in the Proposed Master Fee Schedule pertaining to planning and land use have been identified with a tick mark [>] on the left column and are subject to the requirements of *California Government Code* § 66017 and therefore would not be effective until 60 days after the adoption of the attached Resolution in accordance with the law.

In accordance with *California Government Code* § 66016, prior to levying a new fee or service charges, or prior to approving an increase in an existing fee or service charge, a local agency must notice the time and place of public meeting at least fourteen (14) days prior to the

meeting to any interested party who files a written request with the local agency. Furthermore, at least ten (10) days prior to the meeting to adopt new or increases to existing fee or service charges a local agency must make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied. On Monday October 26, 2020 the City issued a public notice (Attachment 2), published the Proposed FY 2020-21 Master Fee Schedule on the City's website, and provided it to all requesting parties thereby fulfilling the requirements of the aforementioned section of the *California Government Code*.

ALTERNATIVE ACTION

Although Staff's recommendation is to accept and adopt the proposed 2020-2021 Master Fee Schedule with the proposed fee increases, an alternative action would be to continue the 2019-2020 Master Fee Schedule and not raise any fees in 2020-2021.

FISCAL IMPACT

Increases to fees are largely offset by increases in the employee cost of providing the service that generates the fee. Due to the COVID-19 pandemic, fee-based revenues were budgeted at significantly lower amounts than prior years, and the effect of the fee adjustment is negligible to this year's operating budget. However, adoption of the fee adjustment annually provides the ability to keep pace with increasing costs year over year.

- Attachments:
1. Resolution __-2020 (2 pp.)
 - o Exhibit A to Resolution __-2020 (8 pp.)
 - o Exhibit B to Resolution __-2020 (1 p.)
 2. Public Meeting Notice (1 p.)

RESOLUTION NO. __-2020

**A RESOLUTION AMENDING
THE CITY MASTER FEE SCHEDULE
FOR CERTAIN USER-BENEFIT, REGULATORY, AND
RENTAL CITY SERVICES AND ACTIVITIES**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City of Clayton previously adopted Resolution No. 34-2019 revising and establishing a Master Fee Schedule for various user-benefit, regulatory and rental fees to assist in defraying the cost of the underlying voluntary municipal services and activities; and

WHEREAS, the Master Fee Schedule is reviewed periodically to capture increases in costs to provide municipal services and activities associated with said user-benefit, regulatory, and rental fees; and

WHEREAS, the City staff did develop data to substantiate proposed changes to fees which would not exceed the estimated reasonable cost of providing the underlying service or facility use and made proposed changes available to the public on October 26, 2020 satisfying the fourteen (14) day public noticing pursuant to *California Government Code* Section 66016; and

WHEREAS, the only two new fees and deposits proposed pertain to the Police Department for Subpoena Duces fees and Repossession Filing fees; and

WHEREAS, all other fees included in the Master Fee Schedule already existence prior to the adoption of this Resolution are either: (1) being adjusted to account for operational and inflationary cost increases, or (2) being reduced or frozen to reflect past and current City Council policy directives; and

WHEREAS, operational and inflationary cost increase considerations incorporate the June 2019 to June 2020 growth in the consumer price index (CPI) for the San Francisco-Oakland-Hayward area as published by the United States Bureau of Labor Statistics (1.60%) as well as the terms of any City Council approved employee labor agreements effective the 1st of July 2020 through the 30th of June 2021; and

WHEREAS, the City Council did consider recommendations for modifications at its regular scheduled public meeting on November 17, 2020; and

WHEREAS, the fees will become effective upon adoption of said Resolution, except for those fees marked by an arrow on the attached Exhibit "A" which are subject to *California Government Code* Section 66017 and become effective 60 days upon adoption of said Resolution.

NOW THEREFORE BE IT RESOLVED that the City Council of Clayton, California does hereby set, adjust and approve the various fees for certain user-benefit, regulatory, and rental City services and activities as set forth in the attached Exhibit "A" as the City Master Fee Schedule.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on 17th day of November 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, CA

Julie Pierce, Mayor

ATTEST:

Janet Calderon, City Clerk

City of Clayton User Benefit, Regulatory and Rental Fees			
Fee/Deposit Description	Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit	
COMMUNITY DEVELOPMENT DEPARTMENT			
Annexations			
Annexation	Time - \$5,000 minimum deposit	No change	
General Plan /Zoning Ordinance Amendments			
General Plan Map or Text Amendment	Time - \$5,000 minimum deposit	No change	
Pre Zoning / Re Zoning	Time - \$5,000 minimum deposit	No change	
Zoning Ordinance Text Amendment	Time - \$5,000 minimum deposit	No change	
Site Plans / Development Plans			
Site Plan Review Permit - Residential	Time - \$1,000 minimum deposit	No change	
Site Plan Review Permit - Residential Amendment	Time - \$1,000 minimum deposit	No change	
Site Plan Review Permit - Non Residential	Time - \$5,000 minimum deposit	No change	
Site Plan Review Permit - Non Residential Amendment	Time - \$2,000 minimum deposit	No change	
Development Plan	Time - \$5,000 minimum deposit	No change	
Subdivisions			
Tentative Subdivision Map Application	Time - \$5,000 minimum deposit	No change	
Lot Line Adjustment	Time - \$1,000 minimum deposit	No change	
Lot Merger	Time - \$2,000 minimum deposit	No change	
Parcel Maps			
Tentative Parcel Map Application	Time - \$2,000 minimum deposit	No change	
Environmental Review			
Environmental Impact Report	Time - \$5,000 minimum deposit	No change	
Negative Declaration with Mitigations (Mitigated Neg. Dec.)	Time - \$2,500 minimum deposit	No change	
Negative Declaration without Mitigations	Time - \$1,500 minimum deposit	No change	
Mitigation Monitoring and Reporting Plan	Included with Mitigated Neg Dec/ EIR	No change	
Categorical Exemption	County filing fee + Time	No change	
Permits			
Home Occupation Permit - Administrative Review	\$195	\$199	*
Home Occupation Permit - Planning Commission Review	Time - \$750 minimum deposit	No change	
> Use Permit - Fences Administrative Review	\$195	\$199	*
Use Permit - Residential - Planning Commission Review	Time - \$1,000 minimum deposit	No change	
Use Permit - Non- Residential - Planning Commission Review	Time - \$5,000 minimum deposit	No change	
Temporary Use Permit - Administrative Review	\$195	\$199	*
Temporary Use Permit - Planning Commission Review	Time \$500 minimum deposit	No change	
> Sign Permit - Administrative Review	\$63	\$65	*
Sign Permit - Planning Commission Review	Time - \$1,000 minimum deposit	No change	
> Temporary Storage Permit	\$63	\$65	*
> Accessory Dwelling Unit (ADU) Permit - Administrative Review	\$324	\$331	*
> Tree Removal Permit - Administrative Review without notice (per tree - min. applies see below)	\$12	No change	
> Tree Removal Permit - Administrative Review Without Notice (Minimum)	\$39	\$40	*
> Tree Removal Non-Compliance Penalty (Admin Review Without Notice)	\$39	\$40	
> Tree Removal Permit - Administrative Review with Notice (per tree - minimum applies see below)	\$59	\$60	*
> Tree Removal Permit - Administrative Review with Notice (minimum)	\$129	\$132	*
> Tree Removal Non-Compliance Penalty (Notice Required)	\$129	\$132	*
Tree Removal Permit - Planning Commission Review	Time - \$500 minimum deposit	No change	
Tree Replacement in-Lieu Fee (CMC §15.70.040 F & 15.70.55) (per 24" box tree)	\$800	No change	
Building Moving Permit	Time - \$1,000 minimum deposit	No change	
Noise Permit - Administrative Review	\$195	\$199	*
Reasonable Accommodations Permit - Administrative Review	\$195	\$199	*
Reasonable Accommodations Permit - Planning Commission Review	Time - \$500 minimum deposit	No change	
> Outdoor Seating Permit (CMC §17.24.020 -H/Standard Policy No 3)	\$102	\$104	*
COMMUNITY DEVELOPMENT DEPARTMENT (CONTINUED)			
Miscellaneous			
Variance - Residential	Time - \$1,000 minimum deposit	No change	
Variance - Non Residential	Time - \$5,000 minimum deposit	No change	
Appeal - Administrative Decisions	\$63	\$65	*
Appeal-Administrative Code Enforcement Citation	Time - \$1,800 minimum deposit	No change	
> Appeal - Planning Commission Decisions - Residential	\$324	\$331	*
> Appeal - Planning Commission Decisions - Non Residential	\$649	\$664	*
Time Extension Request	Time - \$500 minimum deposit	No change	
Contract Administration	Time - \$1,000 minimum deposit	No change	
Large Family Day Care Home Permit	Time - \$500 minimum deposit	No change	
Pre Application Consultation Deposit	Time - \$1,000 minimum deposit	No change	
Construction and Demolition (C&D) Recycling Plans			
> Permit processing Fee - Single Family	\$168	\$172	*
> Permit processing Fee - Commercial & Multifamily	\$338	\$346	*
Mgmt. Plan Deposit - Single Family (Minor Projects Including: re-roof, additions, remodeling, tenant improvements, etc.)	\$1,000 plus \$1/sq. ft. over 2,000 sq. ft.	No change	
Mgmt. Plan Deposit - Single Family (New Construction) per unit	\$2,000 plus \$1/sq. ft. over 2,000 sq. ft.	No change	
Mgmt. Plan Deposit - Commercial & Multifamily (New Construction)	\$2,000 plus \$1/sq. ft. over 2,000 sq. ft.	No change	
Habitat Conservation Area Compliance			
Habitat Conservation Plan/Natural CC Plan	Time - \$1,000 minimum deposit		

City of Clayton User Benefit, Regulatory and Rental Fees			
Fee/Deposit Description	Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit	
CITY ENGINEERING DEPARTMENT			
Bid or Plan Sets	Actual Cost	No change	
> Deed Restriction / Covenant Agreement Preparation (Does not include recordation extra cost. See Administrative Fees.)	\$485	\$492	#
Subdivisions			
> Final Map Filing Fee (per map)	\$798	\$810	#
Final Map Checking Fee ¹	Time - \$2,500 minimum deposit	No change	
Construction Plans Checking Fee ¹	Time - \$2,500 minimum deposit	No change	
Construction Inspection Fee - Public Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Private Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Sanitary Sewer	3% of Bond Estimates	No change	
Parcel Maps			
> Final Parcel Map Filing Fee (per map)	\$159	\$161	#
Final Parcel Map Plan Checking Fee ¹	Time - \$1,000 minimum deposit	No change	
Construction Plan Checking Fee ¹	Time - \$1,000 minimum deposit	No change	
Construction Inspection Fee - Public Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Private Improvements	9% of Bond Estimates	No change	
Construction Inspection Fee - Sanitary Sewer	3% of Bond Estimates	No change	
Major Grading			
> Grading Permit Filing Fee (per permit)	\$239	\$243	#
Grading Permit Plan Check ¹	Time - \$1,000 minimum deposit	No change	
Grading Inspection ¹	Time - \$1,000 minimum deposit	No change	
Minor Construction Activity Permits (Including Encroachment, Stormwater, Wireless Installations, and Grading)			
> Projects that do not disturb the ground (i.e. interior remodels, roof replacement, etc.) ¹ (per permit + time - \$500 minimum deposit)	\$145	\$147	#
> Room additions (including other projects that disturb the ground) ¹ (per permit + time - \$2,000 minimum deposit)	\$145	\$147	#
> Minor concrete repairs or replacement (i.e. sidewalks, curb & gutter) ¹ (per permit + time - \$1,000 minimum deposit)	\$267	\$271	#
> New driveway construction or replacement (Work may require the granting of additional street right of way requiring the preparation of grant deed and recordation. See Deed Restriction/Covenant Agreement Preparation fee above and Document Recording fee in Administrative Fees section.) ¹ (per permit + time - \$2,000 minimum deposit)	\$267	\$271	#
> Pool installation or total removal of existing pool (requires inspection and testing by applicant's third party soils engineer) ¹ (per permit + time - \$2,000 minimum deposit)	\$267	\$271	#
> Partial removal of existing pool (Work requires a grading permit and the preparation and recording of a restricted use covenant. See Deed Restriction/Covenant Agreement Preparation fee above and Document Recording fee in Administrative Fees section.) ¹ (per permit + time - \$2,000 minimum deposit)	\$267	\$271	#
Wireless Installation Encroachment Permit ¹	Time - \$2,000 minimum deposit	No change	
Major Construction Activity Permits			
> Major Construction Activity Permit (per permit)	\$77	\$78	#
Major Plan Check ¹	Time - \$2,500 minimum deposit	No change	
Major Inspection ¹	Time - \$2,500 minimum deposit	No change	
Cash Bond Major Encroachments (may be surety if more than \$10,000)	Per City Engineer	No change	
Post Construction Stormwater Compliance			
Post construction Annual Verification Inspection - Individual Single Family Lot Non-HOA (per lot)	\$255	\$259	#
Post construction Annual Verification Inspection - Single Family HOA (per HOA - first 10 lots)	\$255	\$259	#
Post construction Annual Verification Inspection - Single Family HOA (per HOA - additional lots >10)	\$72	\$73	#
Post construction Annual Verification Inspection - Commercial (per acre - min. 1 acre)	\$255	\$259	#
Documentation Compliance Review Fee - Individual Single Family (per lot)	\$255	\$259	#
Documentation Compliance Review Fee - HOA (per HOA)			
- First 10 lots	\$255	\$259	#
- Each additional lot after 10th	\$74	\$75	#
Documentation Compliance Review Fee - Commercial (per acre - min. 1 acre)	\$255	\$259	#
Annual State Reporting preparation/filing Fee - Individual Single Family Lot (per lot)	\$92	\$93	#
Annual State Reporting preparation/filing Fee - Single Family HOA (per HOA)	\$178	\$180	#
Annual State Reporting preparation/filing Fee - Commercial (per acre - min. 1 acre)	\$178	\$180	#

City of Clayton User Benefit, Regulatory and Rental Fees		
Fee/Deposit Description	Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit
POLICE DEPARTMENT		
Residential Alarm System Registration Fee (per residential unit)	\$33	\$34 *
Commercial Alarm System Registration Fee (per commercial occupancy)	\$67	\$69 *
Vehicle Release (per vehicle - cash, credit, debit only)	\$168	\$172 *
Police Reports (per report)	\$33	\$34 *
VIN Verification (per vehicle)	\$45	\$46 *
Clearance Letters (Notary fee extra. See Administrative Fees section) (per letter)	\$33	\$34 *
Police Enforcement on Party Ordinance (CMC §6.19.040)	Time - Maximum \$500	No change
Police Enforcement of DUI Involving Accident (CA Vehicle Code §53150-53158)	Time - Maximum \$12,000	No change
City Alcohol Beverage Permit	\$63	\$65 *
Booking Fees	As established by County or agreement w/ Concord	No change
False Alarm Fee (Fixed per City Ordinance 9.18.060(a)(b))	\$50	No change
Tobacco Sales Permit (City Ordinance 8.16.130)	\$97	\$99 *
Tobacco Sales Permit Fee Renewal (City Ordinance 8.16.130)	\$48	\$49 *
Taxicab Permit Fee (City Ordinance 5.36.050) (per taxicab)	\$327	\$335 *
Taxicab Permit Fee - Renewal (City Ordinance 5.36.190) (per taxicab)	\$122	\$125 *
Witness Fees per California Gov. Code §68096.1 if City Employee subpoenaed (per employee subpoena per day + IRS reimbursement min. rate per CA Gov. Code)	\$275	No change
Subpoena Duces Tecum (Per CA Evidence Code 1563).	New Fee 2020-21	\$24/hr, \$6/qtr hr
Repossession Filing Fee (Fixed per CA Gov Code Sec 41612)	New Fee 2020-21	\$15
Administrative Fee for Failure to Display Disabled Placards per vehicle code §40226 (per violation)	\$30	No change
Firearms Seizure and Processing Fee (per violation)	\$130	\$133 *
RV Public parking Permit Fee - Bona fide guest of Clayton Resident (per permit)	\$33	\$34 *
RV Public Parking Permit Fee - Clayton Resident	No charge	No change
Solicitation Permit (Not including live scan. Applicant pays for Livescan directly to Livescan entity) (per permit)	\$86	\$88 *
Citation Sign off for correctable offenses - Non Resident (per citation)	\$27	\$28 *
Citation Sign off for correctable offenses - Resident	No charge	No change
Late Fee- Parking Violations (per citation)	\$45	\$46 *

City of Clayton User Benefit, Regulatory and Rental Fees			
Fee/Deposit Description		Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit
PUBLIC FACILITIES AND PARKS RENTAL FEES			
Library Meeting Room - Hoyer Hall			
Non-profit (Non-Clayton Based) (per hour)	\$54	\$55	*
Non-profit (Clayton Based) (per hour)	\$28	\$29	*
Resident (per hour)	\$66	\$67	*
Non resident or Commercial (per hour)	\$81	\$83	*
Deposit (for all) - clean up/damage - refundable (per rental)	\$200	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$45	\$46	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$57	\$59	*
Rental Cancellation Fee (30 or more days prior to event)	\$28	\$29	*
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$28 processing fee	50% refund and \$29 processing fee	*
Rental Cancellation Fee (14 days or less)	No refund	No change	
Endeavor Hall Meeting Room			
Non-profits (Clayton-based and Non-Clayton-based Weekdays) (per hour Sun 5pm - Fri 5pm)	\$51	\$53	*
Clayton-based non-profit only (maximum daily weekday rental)	\$130	\$133	*
Non-profits (Clayton-based and Non-Clayton-based Weekends) (per hour Fri 5pm - Sun 5pm)	\$195	\$199	*
Resident - Weekdays (per hour Sun 5pm - Fri 5pm)	\$130	\$133	*
Non-resident or Commercial - Weekdays (per hour Sun 5pm - Fri 5pm)	\$155	\$159	*
Resident - Weekends (per hour Fri 5pm - Sun 5pm)	\$195	\$199	*
Non-resident or Commercial - Weekends (per hour Fri 5pm - Sun 5pm)	\$233	\$239	*
Deposit (all) - no alcohol or beer and wine only (clean up/damage per reservation)	\$500	No change	
Deposit (all) - hard alcohol (distilled spirits) (clean up/damage per reservation)	\$1,000	No change	
Reservation rental time change (same date) (less than 30 days prior to the event)	\$45	\$46	*
Reservation rental date change (less than 90 days prior to event)	\$57	\$59	*
Rental Cancellation Fee (181 or more days prior to event)	95% deposit refund and \$28 processing fee	95% deposit refund and \$29 processing fee	
Rental Cancellation Fee (91 - 180 days prior to event)	75% deposit refund and \$28 processing fee	75% deposit refund and \$29 processing fee	
Rental Cancellation Fee (61 - 90 days prior to event)	50% deposit refund and \$28 processing fee	50% deposit refund and \$29 processing fee	
Rental Cancellation Fee (31 - 60 days prior to event)	25% deposit refund and \$28 processing fee	25% deposit refund and \$29 processing fee	
Rental Cancellation Fee (30 days or less prior to event)	No refund	No change	
City Hall 1st Floor Conference Room			
Non-profit (Clayton-based or non-Clayton-based non profits) (per hour)	\$28	\$29	*
Resident (per hour)	\$34	\$35	*
Non-resident or Commercial (per hour)	\$42	\$43	*
Deposit (clean up/damage per reservation)	\$100	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$45	\$46	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$57	\$59	*
Rental Cancellation Fee (30 or more days prior to event)	\$28	\$29	*
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$28 processing fee	\$29	*
Rental Cancellation Fee (14 days or less)	No refund	No change	
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
City Hall Courtyard			
Non-profit (Clayton-based or non-Clayton-based non profits) (per hour)	\$54	\$55	*
Resident (per hour)	\$66	\$67	*
Non-resident or Commercial (per hour)	\$81	\$83	*
Deposit (clean up/damage per reservation)	\$100	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$45	\$46	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$57	\$59	*
Rental Cancellation Fee (30 or more days prior to event)	\$28	\$29	*
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$28 processing fee	50% refund and \$29 processing fee	*
Rental Cancellation Fee (14 days or less)	No refund	No change	

City of Clayton User Benefit, Regulatory and Rental Fees			
Fee/Deposit Description	Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit	
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
Clayton Community Park and Related Facilities			
Picnic Areas			
Picnic Area #2 - Resident (flat fee for 4 hours block)	\$21	No change	
Picnic Area #2 - Non Resident or Commercial (flat fee for 4 hour block)	\$28	\$29	*
Picnic Area #3 - Resident (flat fee for 4 hours block)	\$21	No change	
Picnic Area #3 - Non Resident or Commercial (flat fee for 4 hour block)	\$28	\$29	*
Picnic Area #4 - Resident (flat fee for 4 hour block)	\$48	\$49	*
Picnic Area #4 - Non Resident or Commercial (flat fee for 4 hour block) ²	\$61	\$62	*
Picnic Area #5 - Resident (6 separate areas)			
- 1st 2 tables - flat fee for 4 hours block (per table)	\$39	\$40	*
- Each additional table - flat fee for 4 hour block (per table)	\$7	No change	
Picnic Area #5 - Non Resident or Commercial (6 separate areas)			
- 1st 2 tables - flat fee for 4 hour block (per table)	\$50	\$51	*
- Each additional table - flat fee for 4 hour block (per table)	\$8	No change	
Picnic Area #6 Resident (Large Group Area) (per day)	\$324	\$331	*
Picnic Area #6 Resident (Large Group Area) (per hour - 4 hr min)	\$39	\$40	*
Picnic Area #6 Non Resident or Commercial (Large Group Area) (per day)	\$421	\$431	*
Picnic Area #6 Non Resident or Commercial (Large Group Area) (per hour - 4 hr min)	\$55	\$56	*
Picnic Area #5 & #6 Combined - Resident (per day)	\$517	\$530	*
Picnic Area #5 & #6 Combined - Resident (per hour - 4 hr min)	\$63	\$65	*
Picnic Area #5 & #6 Combined - Non Resident or Commercial (per day)	\$674	\$690	*
Picnic Area #5 & #6 Combined - Non Resident or Commercial (per hour - 4 hr min)	\$85	\$87	*
Picnic Area #7 - Resident (per 4 hour block)	\$51	\$53	*
Picnic Area #7 - Non Resident or Commercial (flat fee for 4 hour block)	\$66	\$67	*
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$45	\$46	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$57	\$59	*
Rental Cancellation Fee (30 or more days prior to event)	\$28	\$29	*
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$28 processing fee	50% refund and \$29 processing fee	*
Rental Cancellation Fee (14 days or less)	No refund	No change	
Rain out	Reschedule to alt. date at no additional cost (no refund)	No change	
Sports Fields			
Adult Sports Field Rental (per hour per field)	\$38	\$40	*
Youth Sports Field Rental (per hour per field)	\$23	No change	
Field Rental Change of Time, Same Date (less than 7 calendar days prior to use date)	\$45	\$46	*
Field Rental Change of Date (less than 7 calendar days prior to use date)	\$57	\$59	*
Field Rental Cancellation	No refund less than 14 days prior to use	No change	
Rain out	Reschedule to alt. date at no additional cost (no refund)	No change	
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
Grove Park and Related Facilities			
Entire Facility Security Deposits	Events without food or beverage \$1,500	No change	
Entire Facility Security Deposits	Events with food and beverage \$1,800	No change	
Entire Facility Security Deposits	Events closing street (i.e.: either Main or Center etc.) \$2,200	No change	
Special Event Permit/Application Process (non refundable) - events closing streets (Main or Center etc.) + other permit fees:TUP/NP	\$323	\$330	*
Gazebo only Rental Security Deposit	\$250	No change	
Amplified Sound - damage/security deposit if using City sound equip	\$1,000	No change	
Amplified Sound Equipment Use Fee (Noise Permit also required) (per hour)	\$28	\$29	*
City provided Sound Equipment Tech if needed for use of City equip	Cost	No change	
Reservation rental time change (same date) (less than 7 calendar days prior to use date)	\$45	\$46	*
Reservation rental date change (less than 7 calendar days prior to use date)	\$57	\$59	*
Rental Cancellation Fee (30 or more days prior to event)	\$28	\$29	*
Rental Cancellation Fee (15-29 days prior to event)	50% refund and \$28 processing fee	50% refund and \$29 processing fee	*
Rental Cancellation Fee (14 days or less)	No refund	No change	
Rain out	Reschedule to alt. date at no additional cost (no refund)	No change	

to be Considered at City Council Meeting November 17, 2020 7:00 pm via State approved teleconferencing means.

City of Clayton User Benefit, Regulatory and Rental Fees			
Fee/Deposit Description	Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit	
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
Entire Grove Park Facility			
Rental Entire Facility - Resident -- Weekends (per hour)	\$195	\$199	*
Rental Entire Facility - Resident -- Weekends (per day)	\$1,556	\$1,592	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekends (per hour)	\$195	\$199	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekends (per day)	\$1,556	\$1,592	*
Rental Entire Facility - Non-resident or Commercial -- Weekends (per hour)	\$233	\$239	*
Rental Entire Facility - Non-resident or Commercial -- Weekends (per day)	\$1,867	\$1,910	*
Rental Entire Facility - Resident -- Weekdays (per hour)	\$130	\$133	*
Rental Entire Facility - Resident -- Weekdays (per day)	\$1,037	\$1,061	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekdays (per hour)	\$130	\$133	*
Rental Entire Facility - Non-profit (verification req'd) -- Weekdays (per day)	\$1,013	\$1,036	*
Rental Entire Facility - Non-resident or Commercial -- Weekdays (per hour)	\$155	\$159	*
Rental Entire Facility - Non-resident or Commercial -- Weekdays (per day)	\$1,369	\$1,401	*
Gazebo Only			
Rental Gazebo only -Resident - Weekends (per hour)	\$136	\$139	*
Rental Gazebo only -Resident - Weekends (per day)	\$1,090	\$1,115	*
Rental Gazebo only -Non-profit (verification req'd) - Weekends (per hour)	\$136	\$139	*
Rental Gazebo only -Non-profit (verification req'd) - Weekends (per day)	\$1,090	\$1,115	*
Rental Gazebo only - Non-resident or Commercial - Weekends (per hour)	\$163	\$167	*
Rental Gazebo only - Non-resident or Commercial - Weekends (per day)	\$1,306	\$1,337	*
Rental Gazebo only -Resident - Weekdays (per hour)	\$97	\$99	*
Rental Gazebo only -Resident - Weekdays (per day)	\$389	\$398	*
Rental Gazebo only -Non-profit (verification req'd) - Weekdays (per hour)	\$97	\$99	*
Rental Gazebo only -Non-profit (verification req'd) - Weekdays (per day)	\$389	\$398	*
Rental Gazebo only - Non-resident or Commercial - Weekdays (per hour)	\$115	\$118	*
Rental Gazebo only - Non-resident or Commercial - Weekdays (per day)	\$467	\$478	*
PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)			
Group Picnic Area (Near Tot Lot)			
Group Picnic Area - Resident - Weekends (per hour - 4 hour minimum)	\$33	\$34	*
Group Picnic Area - Resident - Weekends (per day)	\$226	\$231	*
Group Picnic Area - Non-profit (verification req'd) - Weekends (per hour - 4 hour minimum)	\$33	\$34	*
Group Picnic Area - Non-profit (verification req'd) - Weekends (per day)	\$226	\$231	*
Group Picnic Area - Non-resident or Commercial - Weekends (per hour - 4 hour minimum)	\$39	\$40	*
Group Picnic Area - Non-resident or Commercial - Weekends (per day)	\$272	\$278	*
Group Picnic Area - Resident - Weekdays (per hour - 4 hour minimum)	\$27	\$28	*
Group Picnic Area - Resident - Weekdays (per day)	\$207	\$212	*
Group Picnic Area - Non-profit (verification req'd) - Weekdays (per hour - 4 hour minimum)	\$27	\$28	*
Group Picnic Area - Non-profit (verification req'd) - Weekdays (per day)	\$207	\$212	*
Group Picnic Area - Non-resident or Commercial - Weekdays (per hour - 4 hour minimum)	\$32	\$33	*
Group Picnic Area - Non-resident or Commercial - Weekdays (per day)	\$249	\$255	*
Plaza Picnic Area (Per Table)			
Plaza Picnic Area - Resident - Weekends (per hour - 4 hour minimum)	\$33	\$34	*
Plaza Picnic Area - Resident - Weekends (per day)	\$226	\$231	*
Plaza Picnic Area - Non-profit (verification req'd) - Weekends (per hour - 4 hour minimum)	\$33	\$34	*
Plaza Picnic Area - Non-profit (verification req'd) - Weekends (per day)	\$226	\$231	*
Plaza Picnic Area - Non-resident or Commercial - Weekends (per hour - 4 hour minimum)	\$39	\$40	*
Plaza Picnic Area - Non-resident or Commercial - Weekends (per day)	\$272	\$278	*
Plaza Picnic Area - Resident - Weekdays (per hour - 4 hour minimum)	\$27	\$28	*
Plaza Picnic Area - Resident - Weekdays (per day)	\$207	\$212	*
Plaza Area - Non Profit (verification req'd) - Weekdays (per hour - 4 hour minimum)	\$27	\$28	*
Plaza Picnic Area - Non-profit (verification req'd) - Weekdays (per day)	\$207	\$212	*
Plaza Picnic Area - Non-resident or Commercial - Weekdays (per hour - 4 hour minimum)	\$32	\$33	*
Plaza Picnic Area - Non-resident or Commercial - Weekdays (per day)	\$249	\$255	*
Fountain operation with geysers (per 48 hour block)	\$420	\$430	*
Special Event Liability Insurance purchased through City's 3rd party carrier	Insurance cost per schedule rates by insurance provider when purchasing insurance through City 3rd party carrier	No change	
Special Event Liability Insurance Administrative Fee (per certificate)	\$39	\$40	*

City of Clayton User Benefit, Regulatory and Rental Fees			
Fee/Deposit Description	Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit	
ADMINISTRATIVE FEES			
Document Copying (10 pages or less)	No charge	No change	
Document Copying (per page > 10 pages)	\$0.10	No change	
Document Recording [with County Clerk Recorders Office] (Actual recording fee costs plus staff time & mileage) (per document)	\$135	\$138	*
Trail Maps (Fixed - per map)	\$2	No change	
Video/Audio Recording(s) of City Council or Planning Commission Meetings (placed on CD, DVD, flash drive, etc. as applicable)	Cost	No change	*
Printed documents (i.e. general plan, budget, zoning ord., etc.)	Cost	No change	
Video Recordings of Meetings	Cost	No change	
FPPC Document Copying (per page - State law) (per page)	\$0.10	No change	
Notary Public Fee (per document - State law) (per document)	\$15	No change	
Business License Initial Registration Fee - New Business	\$65	No change	
Duplicate Business License Fee (CMC \$5.04.790)	\$13	No change	
First Returned Check Service Charge - Fixed	\$25	No change	
Subsequent Returned Check Service Charge - Fixed	\$35	No change	
Late Payment Charges for Administrative Fines	Ten percent (10%) of original fine for every 30 days or portion thereof. The Late Payment Charge shall not exceed 100 percent (100%) of the original fine.	No change	
Street Closure Fee	\$130	\$133	*
Administrative penalty for City issued permits after the fact (encroachment permit; tree removal permit, etc.)	Double the original permit fee	No change	
Code Enforcement non-compliance re-inspection after the first inspection (in addition to any citation fines) (per inspection)	\$38	\$39	*

City of Clayton User Benefit, Regulatory and Rental Fees		
Fee/Deposit Description	Adopted 2019-20 Fee/Deposit	Proposed FY 2020-21 Fee/Deposit
NOTES		
"Time" is defined as the cost per hour for an employee at the time the costs are incurred. Costs included salary, benefits, employer taxes, overhead and overtime, as applicable. Time also means City Engineer billing (plus 15%), as well as costs of other contracts and expenses. Detail of costs are available upon request.		
"Cost" is defined as the cost of equipment use, non-returnable flash drive (video/audio recordings), materials, labor, and supplies.		
Deposits are required upon submittal of an application. A minimum deposit is stipulated by these fees. At City Manager's discretion, deposit requirement can be reduced. Also, if it is the judgment of staff a minimum deposit is not sufficient, the required deposit may be increased. If, after a deposit is made, more funds are needed, the applicant will be notified when approx. 30% of the deposit remains, any additional funds estimated by staff are to be provided to replenish the deposit account for continuing work on the project, until such funds are received work on the project may be suspended.		
If a development project requires multiple applications, only a single deposit shall be required. In such cases, the amount of the deposit shall be the largest single deposit required by any of the applications, or an amount determined by the City Manager, not to exceed the sum of the deposits.		
All fixed-cost development application fees are refundable based upon the City amount of staff work completed on the process of the application and subject to approval		
* Fees increased over the prior year by 2.1%, reflecting the cost of living adjustment included in the City Council-approved Miscellaneous Employee Group labor		
**COLA/CPI in prior year Master Fee Schedule (FY 2020) did not result in a fee increase due to the COLA impact being too trivial to warrant a full dollar increase as fees are adopted in whole dollars only. As a result, current year increase incorporates a multi-year COLA/CPU adjustment rate covering two or more calendar years.		
¹ Amount reflects minimum engineering deposit for standard project requirements. However additional amounts may be required as determined by the City Engineer based on the size of the project and for unusual or non-standard circumstances. All costs for inspection and administration relating to this permit shall be deducted from the inspection service deposit(s) or cash bond.		
² This specified Clayton Community Park picnic area is only available for rent in 4 hour block increments.		
# Proposed increase change in rate incorporates City Engineering services retainer approved by the City Council on August 21, 2018 adjusted for 90% of the June 2019 to June 2020 CPI (90% x 1.6% =1.44%).		
> Indicates fee increases and will take effect 60 days after adoption that may be subject to California Government Code §66017. All other fees will take effect upon		

City of Clayton Development Related Fees		
Fee Description	Current Fee	Proposed Fee
DEVELOPMENT IMPACT MITIGATION FEES		
Childcare Facilities - CMC §16.60.050¹		
Single Family Residential - per unit	\$205.00	No change
Multiple Family Residential - per unit	\$205.00	No change
Non-Residential - per gross sq ft	\$0.10	No change
Offsite Arterial Street Improvement (Resolutions 36-81 & 14-86)		
Single Family Residential - per unit	\$1,456	No change
Multiple Family Residential - per unit	\$1,019	No change
Non-Residential - per gross sq ft	\$3.37	No change
Fire Development Protection - Municipal Code §3.18.040		
Single Family Residential - per unit	\$300	No change
Mobile Home - per unit	\$200	No change
Multiple Family Residential - per unit	\$200	No change
Non-Residential - per gross sq ft	\$0.20	No change
Community Facilities Development - Municipal Code §3.16.020		
Single Family Residential - per unit	\$450	No change
Multiple Family Residential - per unit	\$125	No change
Non-Residential - per gross sq ft	\$0.50	No change
Parkland Dedication - Municipal Code §16.12.010		
Single Family Residential - per unit	\$2,569	No change
Multiple Family Residential - per unit	\$1,666	No change
Duplex - per unit	\$2,180	No change
DEVELOPMENT IN-LIEU AND PASSTHROUGH FEES		
Open Space In Lieu - CMC §17.28.100(c)		
Single Family Residential - per unit	Per Project-Specific Plan	No change
Multiple Family Residential - per unit	Per Project-Specific Plan	No change
Non-Residential - per gross sq ft	Per Project-Specific Plan	No change
Tree Replacement In Lieu Fee - CMC §17.70.040		
Any Development Type/Size	Per Project-Specific Plan	No change
Habitat Conservation Plan Implementation Fee (HCP) - CMC §15.55.060(c)²		
Fee Zone II - \$ per/acre	\$24,155	No change
Fee Zone III - \$ per/acre	\$6,039	No change
NOTES		
¹ Senior housing units, 2nd-dwelling units, affordable housing units, and churches are exempt.		
² HCP implementation fees only apply to projects permanently disturbing one acre or more of land which is not mapped within an "urban" land cover in the HCP. See Clayton Municipal Code §16.55 for additional information		



CITY OF CLAYTON CITY COUNCIL PUBLIC MEETING NOTICE

The Clayton City Council, at its regular meeting of November 17, 2020, beginning at 7:00 pm or thereafter as may be heard, will consider its annual review and update to the City of Clayton Master Fee Schedule for certain user-benefit, regulatory, and rental City services and activities.

The proposed Master Fee Schedule incorporates minor adjustments to existing fees to capture operational and inflationary cost increases considering both the San Francisco-Oakland-Hayward June 2019 to June 2020 consumer price index (CPI) growth rate of 1.60% published by the United States Bureau of Labor and Statistics as well as the terms of employee group labor agreements effective July 1, 2020. The proposed Master Fee Schedule may be examined for no charge at the City of Clayton City Clerk's Office, 6000 Heritage Trail in Clayton between 9:00 a.m. and 5:00 p.m., Monday through Friday. It is also now available on the City of Clayton website at www.ci.clayton.ca.us.

Interested citizens are invited to attend and participate in the meeting and present written and/or oral testimony concerning the Master Fee Schedule proposal. If one cannot attend the hearing, one may send written comments to the City Clerk prior to the hearing at the address below or via email to jcalderon@ci.clayton.ca.us.

The complete staff report will be available on the City's website after 5:00 pm on Friday November 13, 2020. If one has questions concerning the proposal, please contact the Finance Director at 925-673-7300.

Date Posted on Notice Boards: October 26, 2020

Paul L. Rodrigues, CPA
Finance Director



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Laura Hoffmeister, Asst. to the City Manger 
DATE: November 17, 2020
SUBJECT: Consideration of Adopting a Resolution Establishing a City of Clayton Legislative Policy.

RECOMMENDATION

The Ad Hoc committee (Pierce and Wan) recommend the City Council review the proposed Legislative Policy and approve it by adoption of the attached Resolution.

BACKGROUND

The City Council at its October 15, 2019 meeting, reviewed and considered the need for the City of Clayton to have a written Legislative Policy. The policy would allow for Clayton to be able to voice timely support or opposition to Bills being considered.

Furthermore, because State law makers can, in some years, consider more than 2500 pieces of legislation, and that legislation may be taken up with as little as 72 hours notification, the policy would need to consider timeliness. Furthermore, with limited staff the policy also needs to take into account protentional impact to the staff workload.

DISCUSSION

The Ad Hoc Committee met and reviewed several examples of local city legislative policies. After review and discussion, the Ad Hoc committee has provided the attached, City of Clayton Legislative Policy, for full City Council consideration.

The purpose of the Legislative Policy is to provide the process in which the City may provide official positions on various legislation to legislators of the positive or negative impacts on our City of proposed legislation.

The Policy is broken into three sections: (I) Philosophy, (II) Method (process), and (III) Legislative Priorities. The Legislative Priorities section states it will be a separate program or document that will be provided to the City Council on an annual basis (typically after the annual legislative session begins and bill information is known). A sample of an Annual Legislative Program/Priorities is also attached; however, this is not being acted upon at this meeting only an example that the Ad Hoc committee prepared.

Attachments:

1. Resolution approving a Legislative Policy for the City of Clayton
2. Exhibit A: City of Clayton Legislative Policy
3. Example of Calendar year Legislative Program/Priorities
4. October 15, 2019 City Council minutes
5. October 15, 2019 Staff Report

RESOLUTION NO. __ -2020

**A RESOLUTION APPROVING A LEGISLATIVE POLICY
FOR THE CITY OF CLAYTON**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, State law makers in Sacramento are continually tasked with addressing a wide variety of challenging issues, and in response to these issues, law makers often times propose State Senate/Assembly Bills that can become laws that impact Clayton; and

WHEREAS, in order for Clayton to be able to voice timely support or opposition to Bills being considered, the Clayton City Council wishes to establish and adopt a Legislative Policy; and

WHEREAS, in some years, the State legislature considers more than 2500 pieces of legislation, and that state legislation may be taken up with as little as 72 hours notification; and

WHEREAS, the legislative policy needs to take into account the impact to the staff workload and needs to consider being broad enough in topics and that timely responses can be provided; and

WHEREAS, at its October 15, 2019 meeting, the City Council determined it was interested in establishing a Legislative Policy and appointed an Ad Hoc committee (Councilmembers Pierce and Wan) to review the details with City staff, and prepare a draft City of Clayton Legislative Policy, for consideration by the entire City Council; and

WHEREAS, the Ad Hoc Committee met and worked with City Staff on a draft City of Clayton Legislation Policy; and

WHEREAS, the Legislative Policy is intended to provide the process and procedure by which the City expresses written positions to legislators on proposed State and Federal legislation of the positive or negative impacts on our City of Clayton; and

WHEREAS, as set forth in the Legislative Policy a Legislative Program will be brought before the City Council for review, discussion and future direction on an annual basis.

WHEREAS, the Ad Hoc Committee recommends the City Council consider and approve the attached Exhibit A, City of Clayton Legislation Policy.

ATTACHMENT 1

NOW, THEREFORE, BE IT RESOLVED the City Council of Clayton, California does hereby approve the proposed City of Clayton Legislation Policy (Exhibit A).

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Julie Pierce, Mayor

ATTEST

Janet Calderon, City Clerk

I hereby certify that the foregoing resolution was duly adopted and passed by the City Council of Clayton, California at a regular public meeting thereof held on November 17, 2020.

Janet Calderon, City Clerk

City of Clayton Legislation Policy

Responsible Department: City Manager's Office

Approval Authority: City Council

Approval Date: _____

Resolution No: _____

I. Philosophy

To establish the guidelines and procedures by which the City expresses written positions on proposed State and Federal legislation. Legislative positions are taken to express to legislators the positive or negative impacts on our City of proposed legislation.

II. Method

- A. For proposed legislation, either consistent with the current City's Legislative Priorities or Positions, City staff shall be authorized to prepare position letters for the Mayor's signature and place the correspondence on the City Council consent agenda for potential comment prior to being sent.
- B. For legislative action or signature requests within the scope of the Council's legislative priorities that are time-sensitive and there is insufficient time to schedule for a City Council meeting, the Mayor is authorized to sign on behalf of the City Council. Copies of these letters will be included in the City Council consent agenda packet referenced in "A" above for potential comment by Councilmembers, albeit after-the-fact; or included at the end of the agenda as correspondence category.
- C. Should availability be an issue, the Vice Mayor shall be authorized to sign position letters in lieu of the Mayor.
- D. If neither the Mayor nor Vice Mayor is available, upon direction of the Mayor or Vice Mayor the City Manager may be authorized to sign the position letter.
- E. All members of the City Council shall receive copies of sent position letters and a copy will be kept on file.

- F. These legislative priorities may only address issues directly relevant to our community general welfare impacting the provision of municipal services.
- G. Generally, the City will not address matters that are not pertinent to the City's local government services such as partisan, socially divisive or international issues.
- H. For a formal City position on proposed legislation that is not be addressed in the City's Legislative Priorities, these may be placed on the City Council agenda by either a Councilmember or the City Manager.

III. Legislative Priorities

The Legislative Program will be brought before the City Council for review, discussion and future direction on an annual basis.

Note: A sample of an Annual Legislative Program/Priorities is attached- this is not being acted upon at this meeting only an example.



Example of Calendar Year Legislation Program

_____Calendar Year City of Clayton Legislative Program

Purpose

Throughout each year, the State Legislature and the United States Congress propose and enact legislation, some of which affects local municipal government. At times, it is in the interests of the City to take a position on proposed legislation. This program follows City Council Policy. The priorities for addressing the legislation are shown below.

Priorities

The Legislative Program would provide guidelines for the City of Clayton's legislative advocacy. The primary priority areas include:

- Protect funding for vital community services
- Protect local control of land-use decision-making
- Public Safety

More specific City interests include:

PROTECT FUNDING FOR VITAL COMMUNITY SERVICES

- Support full reimbursement to cities for all State and federal mandates.
- Protect or enhance local government revenue resources.
- Oppose State and Federal budget cuts targeting critical local programs and services.
- Protect local control by the City of Clayton of land use decision making and oppose legislation that would hinder or threaten local control.
- Additional mandated storm water pollution prevention measures must be accompanied by funding or a mechanism to provide funding.
- Support fire funding for fire mitigation support.
- Support funding from existing revenues by State and Federal resources to maintain existing roadways and improvements.
- Support bills that use existing revenue for local law enforcement equipment, services and personnel (i.e.: without new taxes or bonds).
- Support bills that use existing revenue for local emergency operations including, equipment, services and personnel (i.e.: without new taxes or bonds).

Mayor Catalano attended the Contra Costa County Mayors' Conference hosted by Antioch, the City Council Closed Session, and the Clayton Business and Community Association annual Oktoberfest.

- (e) Other – None.

7. PUBLIC COMMENT ON NON - AGENDA ITEMS

Ann Stanaway, 1553 Haviland Place, expressed her concerns related to Accessory Dwelling Units (ADUs) as they benefit homeless and low income. She further noted potential privacy issues, high density, and high risk rentals.

Glenn Miller, Peacock Creek, expressed praise to Interim City Manager Joe Sbranti and Maintenance Supervisor Jim Warburton items he pointed out in the Peacock Creek areas have been resolved.

Roger Petersen, 502 Raven Place, brought to the attention of the City Council the Oakhurst Medallions have been missing for a long time and looks like an eyesore. He also suggested the use of plastic medallion.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

- (a) Consideration of Establishing a City of Clayton Legislative Policy.

City Manager Joe Sbranti presented the report.

Mayor Catalano opened the item to public comments.

Glenn Miller recommended the two newly elected City Councilmembers serve on the ad-hoc committee as this item could run into the 2020 Election Cycle.

Mayor Catalano closed public comment.

Following feedback by the City Council:

It was moved by Councilmember Wolfe, seconded by Mayor Catalano, to select Vice Mayor Pierce and Councilmember Wan to establish a draft City of Clayton Legislative Policy to be reviewed and adopted by the full City Council at a later date. (Approved; 5-0 vote).

- (b) Consideration of a Moratorium on the use of Glyphosate (Round Up).

City Manager Joe Sbranti presented the report.


Following questions by the City Council, Mayor Catalano opened the item to public comments.



Agenda Date: 10-15-2019

Agenda Item: 8a

STAFF REPORT

Approved: 
Joseph A. Sbraghi
Interim City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: City Manager

DATE: October 15, 2019

SUBJECT: Consideration of Establishing a City of Clayton Legislative Policy

RECOMMENDATION

During the past two weeks, Staff has researched several alternatives for the establishment of a Legislative Policy. Staff has determined that there are multiple alternatives worth consideration that could require a detailed and lengthy discussion. Staff is recommending the formation of an Ad Hoc committee of two (2) Council Members that could meet with staff and thoroughly evaluate the many options available.

BACKGROUND

State law makers in Sacramento are continually tasked with addressing a wide variety of challenging issues. In response to these issues, law makers often times propose State Senate/Assembly Bills that can become laws that impact Clayton. In order for Clayton to be able to voice timely support or opposition to Bills being considered, Clayton may wish to establish and adopt a Legislative Policy. However, because State law makers can, in some years, consider more than 2500 pieces of legislation, the policy adopted by the City must take into account the impact to the staff workload. In addition the legislation may be taken up with as little as 72 hours notification, therefore timeliness also needs to be taken into account.

Currently, the City of Clayton is a member of the California League of Cities'. Clayton pays \$5,990 / year for this Membership. The League's mission is to grow and expand local funding for vital services while protecting local control. The League strives to accomplish this through education and advocacy to enhance the quality of life for all Californians. Each year, the League's policy committees take up legislation, positions are confirmed by the statewide Board of Directors, and the League then advocates for its members and provides resources so that they too have a voice. Since the voices of Member cities make the League stronger, the League strives to make it as easy as possible for cities to act on legislation by providing sample letters, organizing Legislative

meetings and providing educational resources and information via Webinars, frequent newsletters and more.

In 2019 the League of Cities requested review and or action on 113 Bills being consider by the State. In the past two years, the Clayton City Council has taken only one formal action on a State Bill.

Attached for reference are existing legislative policies adopted by the Culver City and the City of Encinitas.

DISCUSSION

There are many Legislative Policy alternatives for the City Council to consider. Some, but not all of those alternatives include:

- Cancelling the City's Membership with the League of Cities and voicing no opinions on state law maker decisions,
- Complete dependence on the California League of Cities to voice opinions on behalf of Clayton,
- Utilizing the League to identify important bills being considered by the state and taking a formal council action on those bills whenever possible,
- Forming a legislative policy ad - hoc committee that meets as needed to review bills being considered by the State, and bringing bills to the full council for consideration when appropriate.
- Forming a legislative policy sub-committee that meets regularly to track bills being considered by the State, and bringing bills to the full council for consideration when appropriate.

Each of the alternatives above have a different fiscal and staffing impact and require a different level of policy detail that would be required to be developed and adopted by Council. For this reason, staff believes that a detailed discussion with a Council Ad Hoc Committee would be the most effective approach to developing a legislative policy.

FISCAL IMPACT

The Fiscal Impact would be is dependent upon the Legislative Policy adopted. If an ad-hoc committee is used for developing Legislation Policy recommendation for the full City Council consideration, the fiscal impact of their recommendation would be brought forward at that time.



Agenda Date: 11-17-2020

Agenda Item: 10d

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: CITY ATTORNEY

DATE: November 17, 2020

**SUBJECT: AUTHORIZE THE MAYOR TO EXECUTE THE CITY MANAGER
EMPLOYMENT AGREEMENT**

RECOMMENDATION

Authorize the Mayor to execute the City Manager's Employment Agreement.

BACKGROUND

The City Council has been in the process of looking for a City Manager since the resignation of the City Manager. The City Council directed the City Attorney to prepare an employment agreement with Reina Schwartz for City Manager.

Reina Schwartz serves as the Assistant City Manager for the City of San Pablo and prior to that as the Director of the Department of General Services for the City of Sacramento. She has over 30 years of professional local government experience working in diverse communities with a broad background and skills, including municipal finance, budgeting, and labor and operations.

The City Manager's Employment Agreement provides for a start date of December 14, 2020, salary of \$215,000, a car allowance of \$400 per month and a technology allowance. The Interim City Manager's Employment Agreement is attached here for your consideration.

EMPLOYMENT AGREEMENT

THIS AGREEMENT is between the City of Clayton, a municipal corporation of the State of California (the "City") and Reina J. Schwartz ("Employee"). It is made effective as of the first date of Employee's employment with the City.

This Agreement is entered into on the basis of the following facts, among others:

- A. The City desires to employ the qualified professional services of Employee as City Manager of the City of Clayton, as provided by the Clayton Municipal Code.
- B. Employee desires to accept employment by the City as its City Manager.
- C. The City Council and Employee desire to establish this employment relationship, subject to the terms and conditions set forth in this Agreement pertaining to compensation and benefits, performance evaluations, and related matters.

BASED UPON THE FOREGOING, THE CITY AND EMPLOYEE AGREE AS FOLLOWS:

1. Employee Appointed. The City appoints and employs Employee as City Manager, and Employee accepts the appointment and employment. Employee will commence work on December 14, 2020 (the "Effective Date").

2. Duties of Employee. Employee shall perform the duties established for the City Manager by State law, the Clayton Municipal Code, the City Manager job description, the directions of the City Council, or as otherwise provided by law, ordinance, or regulation.

(a) Full Energy and Skill. Employee shall faithfully, diligently, and to the best of Employee's abilities, perform all duties that may be required under this Agreement. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to the City. Employee shall devote the whole of Employee's working time, skill, experience, knowledge, ability, labor, energy, attention, and best effort exclusively to the City's business and affairs.

(b) No Conflict. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Employee's duties for the City. Further, Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City of Clayton.

(c) Outside Activities. Employee shall not spend more than eight (8) hours per month in teaching, consulting, expert witness testimony, speaking, or other non-City connected business for which compensation is paid without express prior consent of the City Council. Employee will take personal leave (i.e. vacation time) for all outside activities of this nature.

3. Hours of Work. Employee is an exempt employee and is expected to engage in those hours of work that are necessary to fulfill the obligations of the City Manager's position. Employee does not have set hours of work as Employee is expected to be available at all times. It is recognized that Employee must devote a great deal of time to the business of the City outside of the City's customary office hours, and to that end Employee's schedule of work each day and week shall vary in accordance with the work required to be performed and in accordance with any specific direction provided by the City Council.

4. Term. The term of this Agreement shall be for three (3) years from the Effective Date through December 14, 2023, unless terminated earlier by either party in accordance with the provisions set forth in Paragraph 8.

5. Annual Evaluation. Each year on or about the Employee's anniversary date, the City Council shall conduct an evaluation of Employee's performance and provide guidance and direction regarding the City Council's goals and objectives which Employee shall

be tasked with implementing. At the time of the evaluation, Employee shall be eligible to receive an increase in base salary, as determined by the City Council in its sole discretion. Employee shall be eligible for the first increase on Employee's first anniversary date, and then annually with the performance evaluation thereafter. Employee is not automatically entitled to any increase, which is subject to the sole discretion of the Council. While a formal evaluation will be conducted annually, the Council, at more frequent intervals and at times selected by the Council, can also conduct an informal review and/or provide other input to Employee regarding Employee's job performance.

6. Compensation. Employee shall receive the base annual salary of Two Hundred Fifteen Thousand Dollars (\$215,000), payable on a pro-rata basis on established paydays and in accordance with payroll in the same manner as all full time City employees, and subject to all applicable payroll taxes and withholdings.

7. Regular Benefits and Allowances. Employee shall be entitled to those employee benefits (in the form of health insurance and retirement benefits), adopted by Employer for department manager employees from time to time, subject to applicable qualification requirements and regulatory approval requirements, if any. Employer agrees to provide and pay the City allowance for vision, dental, and medical insurance for Employee and his/her dependents, if any, equal to that which is provided to department manager employees of Employer. Similarly, Employer agrees to enroll Employee in the City-provided disability insurance program and to obtain a life insurance policy in the amount of \$50,000, for which Employee can designate the beneficiary(ies). All benefits provided to Employee are subject to change consistent with City policy, Council approval, and applicable law.

8. Additional Benefits and Allowances. In addition to the benefits specified in section 7, Employee shall receive the following additional benefits and allowances.

(a) Vacation; Sick Leave; Administrative Leave

(i) Vacation. Employee shall accrue fifteen (15) days of vacation each year, earned on a pro rata basis each pay period, and subject to use in accordance with the vacation policy established for all full-time City employees.

(ii) Sick Leave. Employee shall be allowed to accrue and use paid sick leave in accordance with the sick leave policy established for all full-time City employees.

(iii) Administrative Leave. Employee will be granted up to a maximum of one hundred twenty (120) hours of paid Administrative Leave each fiscal year. This amount is awarded to Employee on July 1 of each fiscal year. If Employee has any amount of Administrative Leave remaining at the conclusion of the fiscal year, on July 1, the Employee will be awarded with however many hours are necessary to bring the total number of Administrative Leave hours to 120. (For example, if Employee has 80 hours of Administrative Leave remaining on June 30, 2021, Employee will be awarded with 40 hours on July 1, 2021, so that the total Administrative Leave equals 120 hours). Unused Administrative Leave will not be paid in cash or any other form of compensation upon separation from City employment. It remains available to Employee only to use in connection with active employment. On the Effective Date of this Agreement, Employee will be awarded one hundred (120) hours of Administrative Leave, on account of commencing employment part-way through the current fiscal year.

(b) Automobile. Employee shall receive a monthly vehicle allowance of Four Hundred Dollars (\$400.00) per month. The parties intend for this taxable allowance to be in

in lieu of reimbursement on an itemized basis for mileage, gas, maintenance of a vehicle, etc.

Employee shall not be separately reimbursed for mileage driven in a personal vehicle.

(c) Retirement.

(i) CalPERS: Employer agrees to enroll Employee into the California Public Employees Retirement System ("CalPERS") and shall pay the PERS Employer share subject to this section. Employee shall be responsible for paying the PERS Employee share.

(ii) Deferred Compensation: Employer maintains a deferred compensation plan pursuant to Internal Revenue Code Section 457 ("the Plan"). Employer shall provide a monthly contribution of \$400, paid directly into the Plan on Employee's behalf. In addition, Employee shall be allowed to make contributions from her own wages to the Plan, subject to limitations and restrictions imposed by the Plan and applicable law.

(d) Technology Allowance. Employee shall receive either a City-owned cell phone and (accompanying City-paid plan) or a \$50 monthly taxable technology allowance to use towards her personal discretionary technological purchases and expenses in furtherance of City employment (e.g. cellular phone, tablet, data plan, laptop computer). The parties intend this allowance to cover all technology-related costs that Employee incurs in the course and scope of employment with the City.

9. Termination of Employment.

(a) No Property Interest. Employee understands and agrees that Employee has no constitutionally-protected property or other interest in Employee's employment as City Manager. Employee understands and agrees that Employee works at the will and pleasure of the City Council, and that Employee may be terminated, or asked to resign, at any time, with or without cause, by a majority vote of its members. Notice of termination shall be provided to Employee in writing. "Termination," as used in this Agreement, shall also include 1) a request that

Employee resign; 2) a reduction in salary or other financial benefits provided by the City in a significant amount which is inconsistent with a reduction in salary or financial benefits for employees in the executive management unit; or 3) the elimination of the City Manager's position.

(b) Termination Immediately Before or Following City Council Election. No action by the City Council to terminate Employee, other than for gross mismanagement or an act of moral turpitude (as described in Section 8(e)), will be made within ninety (90) days either before a City Council election or immediately following a City Council election. Nothing in this paragraph alters the "at will" status of Employee's employment with City.

(c) Notice Required Of Employee. Employee may voluntarily terminate employment at any time by giving not less than sixty (60) days notice.

(d) Severance Pay. If Employee is asked to resign or is terminated as City Manager, then Employee shall be eligible to receive a cash payment equivalent to the sum of Employee's then-current monthly salary multiplied by three (3) (or by the remaining number of months in the Agreement, whichever is less) and the cash value, as determined by the City, of Employee's monthly non-salary COBRA-eligible benefits multiplied by three (3) (or [pursuant to Government Code section 53260] by the remaining number of months in the Agreement, whichever is less). Notwithstanding the above, if in or around December 2021, Employee receives a positive annual performance evaluation, as determined in the sole discretion of the City Council, then the amount of severance Employee is eligible to receive under this paragraph shall be equivalent to the sum of the Employee's then-current monthly salary multiplied by six (6) (or by the remaining number of months in the Agreement, whichever is less) and the cash value, as determined by the City, of Employee's monthly non-salary COBRA-eligible benefits multiplied by six (6) (or [pursuant to Government Code section 53260] by the remaining number of months in

the Agreement, whichever is less). This cash payment will be made on a pro-rated, monthly basis over the number of months involved, subject to termination of the severance requirement set forth below. Employee shall also be paid for any accrued, but unused, vacation leave, but not accrued sick leave. Eligibility for such severance payment is expressly conditioned upon Employee's execution of (i) a waiver and release of any and all of Employee's claims against City, and (ii) a covenant not to sue. All normal payroll taxes and withholdings as required by law shall be made with respect to any amounts paid under this section. Employee expressly agrees to provide notice to the City within two (2) business days of accepting employment elsewhere, and the City's obligation to pay any remaining severance benefits to Employee shall terminate upon Employee's acceptance of such alternative employment.

(e) Long-Term Disability. If Employee is unable to perform assigned duties because of sickness, accident, injury, mental incapacity or health for a period of four consecutive months (with or without reasonable accommodation), Employer shall have the option to terminate this Agreement. Employee agrees that, due to the importance of Employee's position with the City, an inability to perform duties for a period in excess of four consecutive months could not be reasonably accommodated. If Employee is terminated because of long-term disability, Employee shall be compensated in a lump sum for any accrued and unused vacation. Employer shall have no further responsibility to make, and Employee shall be deemed ineligible for, severance payments pursuant to subdivision (d). Eligibility for such severance payment is expressly conditioned upon Employee's execution of (i) a waiver and release of any and all of Employee's claims against Employer, and (ii) a covenant not to sue in a form provided by Employer.

(f) Ineligibility for Severance Under Certain Conditions. If the termination of Employee is the result of "good cause," Employee shall not be paid any severance

pay. For purposes of this section, “good cause” includes: (1) gross neglect of duties which has a negative impact on City operations; (ii) gross mismanagement which has a negative impact on City operations, and/or (iii) an act or acts of moral turpitude determined to have a negative impact on City operations or the Employee’s ability to serve the City. If Employee disagrees with the City’s determination of “good cause,” Employee’s sole remedy shall be a judicial action in declaratory relief to determine whether there was evidence of “good cause” as established above. If the court determines there was not substantial evidence of “good cause,” Employee shall receive the severance pay provided in this subsection, but no other damages.

10. Statutory Requirements. This Agreement shall be deemed to incorporate by reference the provisions of Sections 53243 *et seq.* of the Government Code, as it may be amended or renumbered.

11. Payment of Expenses of Employment. The City shall pay to Employee the usual and customary employment expenses incurred while performing the duties described in this Agreement, which may include travel, meals, lodging expenses, and parking fees, consistent with the City’s reimbursement policies. Employee shall submit a receipt and a description of the expenses to the City’s Finance Manager within thirty (30) days of the date each expense is incurred as a condition of obtaining reimbursement. In addition to these expenses, the City shall pay:

(a) The cost of any fidelity or other bonds required by law for the City Manager.

(b) Subject to Section 10 of this Agreement, the cost to defend and indemnify Employee to the full extent of the law as provided by the California Government Claims Act (Government Code §810 *et seq.*), or otherwise. Notwithstanding the foregoing, City’s obligation to defend and indemnify Employee shall extend only to the entry of a final judgment by

the trial court, and shall not extend to providing defense or indemnity in connection with an appeal of the judgment, unless otherwise specifically provided by law. City will determine, in its sole discretion, whether to compromise and settle any such claim or suit against Employee and the amount of any settlement or judgment rendered thereon.

(c) Subject to budget approval, reasonable dues for Employee's membership in the International City Management Association ("ICMA") and the California City Management Foundation ("CCMF"). The City will allow Employee reasonable time away from the City to participate in the annual conferences of these organizations.

(d) Subject to budget approval, the cost of attending conferences or other events (i.e. retirement dinners, out-of-town meetings, professional seminars, etc.) necessary for the proper discharge of Employee's duties. The City will not reimburse Employee for any expenses related to membership in service clubs.

12. Miscellaneous.

(a) Notices. Notices given under this Agreement shall be in writing and shall be:

- (i) served personally; or
- (ii) sent by facsimile (provided a hard copy is mailed within one (1) business day); or
- (iii) delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or
- (iv) Sent by Federal Express, or some equivalent private overnight delivery service.

Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the

addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

CITY:

City of Clayton
Attn: Mayor
6000 Heritage Trail
Clayton, CA 94517
Phone: (925) 673-7300
Fax: (925) 672-4917

EMPLOYEE:

Reina J. Schwartz
(Address in Employee's Personnel File)

(b) Compliance with Government Code §§53243, 53243.1, & 53243.2.

If Employee is convicted of a crime involving an abuse of his office or position, all of the following shall apply:

- (i) if Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse the City for such amounts paid;
- (ii) if the City pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is not generally required to pay for a criminal defense), Employee shall be required to fully reimburse City such amounts paid; and
- (iii) if this Agreement is terminated, any cash settlement related to the termination that Employee may receive from the City shall be fully reimbursed to the City or void if not yet paid to Employee.

For this subsection, "abuse of office or position" means either (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority, or (2) a

crime against public justice, including but not limited to a crime described in Title 7

(commencing with Section 92) of Part 1 of the Penal Code.

(c) Entire Agreement/Amendment. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated, and signed by the parties and attached hereto.

(d) Attorney's Fees. If any legal action or proceeding is brought to enforce or interpret this Agreement, each party shall bear their own fees, including such fees and costs as may be incurred in enforcing any judgment or order entered in any such action.

(e) Severability. In the event any portion of this Agreement is declared void, such portion shall be severed from this Agreement and the remaining provisions shall remain in effect, unless the result of such severance would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.

(f) Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

(g) Representation by Counsel. The parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.

(h) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Employee and City agree that venue for any dispute shall be in Contra Costa County, California.

(i) Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

(j) No Assignment. Employee may not assign this Agreement in whole or in part.

Dated: _____

CITY OF CLAYTON

By _____
Julie K. Pierce, Mayor

Dated: _____

EMPLOYEE

Reina J. Schwartz

Attest:

Janet Calderon, City Clerk

Approved as to Form:

Mala Subramanian, City Attorney