



# **AGENDA**

## **REGULAR MEETING**

**\* \* \***

## **CLAYTON CITY COUNCIL**

**\* \* \***

**TUESDAY, November 2, 2021**

**7:00 P.M.**

### **\*\*\* NEW LOCATION\*\*\***

*This meeting is being held in accordance with AB 361, given the proclaimed state of emergency and the Contra Costa County Health Officer's recommendation for social distancing for public meetings, which is also consistent with Cal OSHA requirements for social distancing, the City Council will be participating in meetings via phone/video conferencing. The public is invited to watch and participate via the methods listed below:*

**Mayor:** Carl Wolfe

**Vice Mayor:** Peter Cloven

#### **Council Members**

Jim Diaz

Holly Tillman

Jeff Wan

- 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](http://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](http://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](http://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 2

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\\_bVlD0Hu8Q\\_qaj8HU0uQ23A](https://us02web.zoom.us/webinar/register/WN_bVlD0Hu8Q_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 [janetc@ci.clayton.ca.us](mailto:janetc@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\\_bVlD0Hu8Q\\_qaj8HU0uQ23A](https://us02web.zoom.us/webinar/register/WN_bVlD0Hu8Q_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 2, 2021**

1. **CALL TO ORDER AND ROLL CALL** – Mayor Wolfe.

2. **MEETING PROTOCOL VIDEO**– City Clerk

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

4. **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 19, 2021.  
(City Clerk) ([View Here](#))

(b) Approve the Financial Demands and Obligations of the City. (Finance) ([View Here](#))

(c) Adopt a Resolution of the City Council of the City of Clayton Allowing for Video and Teleconference Meetings during the COVID-19 State of Emergency Under AB 361. (City Manager) ([View Here](#))

(d) Approve Proposed Schedule for Calendar Year 2022 Saturday “Concerts in The Grove” series, provided County/State Health Regulations will allow.  
(City Clerk) ([View Here](#))

5. **RECOGNITIONS AND PRESENTATIONS**

(a) Certificates of Recognition to public school students for exemplifying the “Do the Right Thing” character trait of “Respect” during the month of October.  
(Mayor Wolfe) ([View Here](#))

(b) Proclamation declaring November 3, 2021 as “Shelter in Place Education Day.”.  
(Mayor Wolfe) ([View Here](#))

(c) Proclamation declaring November, as “Native American Heritage” month in Clayton.(Mayor Wolfe) ([View Here](#))

**6. REPORTS**

- (a) City Manager/Staff
- (b) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

**7. 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.*

**8. PUBLIC HEARINGS – None.**

**9. ACTION ITEMS**

- (a) Presentation, Discussion & Direction to Staff Regarding Use of the American Rescue Plan Act (ARPA) Funds. (City Manager) ([View Here](#))
- (b) Update on SB 9 and SB 10 and Discussion of Next Steps. (City Attorney)

Recommendation: Discuss and direct. ([View Here](#))

**10. CLOSED SESSION – None.**

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

**12. ADJOURNMENT - the next regularly scheduled City Council meeting will be November 16, 2021.**

# # # # #



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

**TUESDAY, October 19, 2021**

1. **CALL TO ORDER THE CITY COUNCIL** – The meeting was called to order at 7:00 p.m. by Mayor Wolfe on a virtual web meeting and telephonically (877) 853-5257. Councilmembers present: Mayor Wolfe, Vice Mayor Cloven, and Councilmembers Diaz, Tillman, and Wan. Councilmembers absent: None. Staff present: City Manager Reina Schwartz, Finance Director Katherine Korsak, Assistant to the City Manager Laura Hoffmeister, City Attorney Mala Subramanian, and City Clerk/HR Manager Janet Calderon.
2. **MEETING PROTOCOL VIDEO** – City Clerk.
3. **PLEDGE OF ALLEGIANCE** – led by Councilmember Diaz.
4. **CONSENT CALENDAR**

Councilmember Wan requested clarification on items 4(d) and 4(f).

Councilmember Wan inquired on item 4(f) about whether the original forecast was a reasonable estimate. City Manager Schwartz advised historically the City has not broken out the General Fund versus Other Funds interest.

Councilmember Wan inquired on item 4(d) for the impact fees established, have we used the impact fees collected? Assistant to the City Manager Laura Hoffmeister advised staff will research and get back to the Council with specific information.

**It was moved by Councilmember Wan, seconded by Vice Mayor Cloven, to approve the Consent Calendar items as submitted. (Passed 5-0).**

- (a) Approved the minutes of the City Council's regular meeting of October 5, 2021.  
(City Clerk)
- (b) Approved the Financial Demands and Obligations of the City. (Finance)
- (c) Adopted Resolution No. 58-2021 of the City Council of the City of Clayton Allowing for Video and Teleconference Meetings during the COVID-19 State of Emergency Under AB 361. (City Manager)
- (d) Adopted Resolution No. 59-2021 of the City Council of the City of Clayton Finding there Remains a Reasonable Relationship Between Current Needs for the City's Development Impact Fees and the Purposes for Which they were Originally Charged (Government Code Section 66000 et. seq.) Related to the City's Annual Report on Development Impact Fees for the Fiscal Year Ended June 30, 2021.  
(Finance Director)

- (e) Adopted Resolution No. 60-2021 Authorizing the Extension of the Abandoned Vehicle Abatement Fee and Collection of the Fee by the Abandoned Vehicle Service Authority (Authority) for 10 years, Subject to Approval by Electors of the County; and Authorizing the Authority to Order an Election and Submit to the Electors of Contra Costa County the Question of Whether the Authority Program and Fee Shall be Renewed for 10 years and Upon Approval of the Fee Measured by at least Two-Thirds of the Registered Voters Voting on the Measure, the Authority will be Authorized to Impose the Fee; and the City Council Authorizes the Authority to Take all Administrative Action Necessary in the Furtherance of Ordering an Election for the Purpose of Extending the Authority and Fee. (Police Chief)
- (f) Third Quarter Ending March 31, 2021 FY 2020/21 Investment Portfolio Report. (Finance Director)
- (g) Fourth Quarter Ending June 30, 2021 FY 2020/21 Investment Portfolio Report. (Finance Director)

## **5. RECOGNITIONS AND PRESENTATIONS**

- (a) Presentation by Contra Costa County District Attorney's Office. (Diana Becton, District Attorney)

Diana Becton, District Attorney presented a brief overview of the function of the Contra Costa County District Attorney's office.

Following questions by City Council, Mayor Wolfe opened the item to public comment; no comments were offered.

## **6. REPORTS**

- (a) City Manager/Staff

City Manager Reina Schwartz announced the upcoming Housing Element Community Workshop taking place on October 20, 2021 at 6:30 pm via Zoom.

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

Councilmember Tillman met with the City Manager, attended the Contra Costa County Mayors' Conference, and assisted the Clayton Community Library sort books for their book sale; noting the book sale raised over \$5,500.

Vice Mayor Cloven attended a meeting of Transportation Partnership and Cooperation for Central Contra Costa (TRANSPAC), met with the City Manager, and spoke with various residents regarding Clayton's Housing Element.

Councilmember Diaz attended the joint Contra Costa County Supervisor Mitchoff and Supervisor Burgis meeting, the Morgan Territory Community Association meeting, the Diablo Rod and Gun Club meeting, met with the City Manager, met with the Concerts in The Grove committee, advised October 13 was the 246<sup>th</sup> Anniversary of the United

States Navy, attended the Society of Retired FBI Agents event, and met with the Police Chief.

Councilmember Wan emailed and called constituents and attended the Clayton Community Library book sale.

Mayor Wolfe attended the Clayton Community Library book sale, met with the City Manager, emailed and called constituents, spoke with the school principals regarding the increased trash at The Grove Park occurring after-school, spoke with a citizen and staff regarding the vandalized benches on Pebble Beach, attended the Contra Costa County Mayors' Conference, and noted Vice Mayor Cloven recently celebrated a birthday.

**7. PUBLIC COMMENT ON NON - AGENDA ITEMS**

AJ Chippero announced a Halloween event taking place at Clayton Community Church from 2:00 pm – 4:00 pm on Halloween.

Dee Vieira inquired if the upcoming Housing Element Workshop would be recorded.

City Manager Schwartz confirmed the House Element Workshop will be recorded.

Mayor Wolfe closed public comment.

**8. PUBLIC HEARINGS – None.**

**9. ACTION ITEMS – None.**

**10. CLOSED SESSION – None.**

**11. COUNCIL ITEMS**

Councilmember Wan requested a future item to have the City Council consider alternative City Council meeting dates in order to meet some grant funding deadlines.

City Manager Schwartz advised the second meeting in December is the week of Christmas and is looking for additional meeting dates of either November 30 or December 14 to meet some grant funding deadlines.

**12. ADJOURNMENT– on call by Mayor Wolfe, the City Council adjourned its meeting at 8:30 p.m.**

The next regularly scheduled meeting of the City Council will be November 2, 2021.

# # # # #

Respectfully submitted,

---

Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

---

Carl Wolfe, Mayor

# # # # #



# STAFF REPORT

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** JENNIFER GIANTVALLEY, ACCOUNTING TECHNICIAN

**DATE:** 11/2/2021

**SUBJECT:** FINANCIAL DEMANDS AND OBLIGATIONS OF THE CITY

---

**RECOMMENDATION:**

It is recommended the City Council, by minute action, 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
Invoice paid prior to meeting	Accounts Payable	10/8/2021	\$ 215.42
Open Invoice Report	Accounts Payable	10/29/2021	\$ 244,086.60
Payroll Reconciliation Summary	Payroll, Taxes	10/19/2021	\$ 87,038.39
		Total Required	\$ 331,340.41

**Attachments:**

1. Open Invoice Report, dated 10/8/21 (1 page)
2. Open Invoice Report, dated 10/29/21 (4 pages)
3. Payroll Reconciliation Summary report PPE 10/17/21 (1 page)

**City of Clayton**  
**Open Invoice Report**  
Obligations

<u>Vendor Name</u>	<u>Due Date</u>	<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Balance</u>	<u>Potential Discount</u>	<u>Discount Expires On</u>	<u>Net Amount Due</u>
<b>PG&amp;E</b>								
PG&E	8/2/2021	8/2/2021	080221	EH Energy 6/22/21-7/21/21	\$215.42	\$0.00		\$215.42
				<i>Totals for PG&amp;E:</i>	<u>\$215.42</u>	<u>\$0.00</u>		<u>\$215.42</u>
				<b>GRAND TOTALS:</b>	<b>\$215.42</b>	<b>\$0.00</b>		<b>\$215.42</b>

# 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
<b>All City Management Services, Inc.</b>								
All City Management Services, Inc.	10/6/2021	10/6/2021	72395	School crossing guard svcs 9/19/21-10/2/21	\$1,544.40	\$0.00		\$1,544.40
				<i>Totals for All City Management Services, Inc.</i>	<i>\$1,544.40</i>	<i>\$0.00</i>		<i>\$1,544.40</i>
<b>American Fidelity Assurance Company</b>								
American Fidelity Assurance Company	10/15/2021	10/15/2021	6014784	FSA PPE 10/17/21	\$128.45	\$0.00		\$128.45
				<i>Totals for American Fidelity Assurance Company</i>	<i>\$128.45</i>	<i>\$0.00</i>		<i>\$128.45</i>
<b>AT&amp;T (CalNet3)</b>								
AT&T (CalNet3)	10/22/2021	10/22/2021	17221823	Phones 9/22/21-10/21/21	\$1,259.83	\$0.00		\$1,259.83
				<i>Totals for AT&amp;T (CalNet3)</i>	<i>\$1,259.83</i>	<i>\$0.00</i>		<i>\$1,259.83</i>
<b>Bartel Associates, LLC</b>								
Bartel Associates, LLC	10/21/2021	10/21/2021	21-732	GASB 68 report FY 2021	\$1,750.00	\$0.00		\$1,750.00
				<i>Totals for Bartel Associates, LLC</i>	<i>\$1,750.00</i>	<i>\$0.00</i>		<i>\$1,750.00</i>
<b>Bay Area News Group</b>								
Bay Area News Group	9/1/2021	9/1/2021	0006589882	The Olivia Legal ad August 2021	\$350.88	\$0.00		\$350.88
Bay Area News Group	9/30/2021	9/30/2021	0001309583	Habitat Conserv CDD 07-2021 Legal 09/21	\$374.96	\$0.00		\$374.96
				<i>Totals for Bay Area News Group</i>	<i>\$725.84</i>	<i>\$0.00</i>		<i>\$725.84</i>
<b>CalPERS Health</b>								
CalPERS Health	10/14/2021	10/14/2021	16590979	Medical November 2021	\$35,661.84	\$0.00		\$35,661.84
				<i>Totals for CalPERS Health</i>	<i>\$35,661.84</i>	<i>\$0.00</i>		<i>\$35,661.84</i>
<b>CalPERS Retirement</b>								
CalPERS Retirement	10/17/2021	10/17/2021	101721	Retirement PPE 10/17/21	\$18,778.74	\$0.00		\$18,778.74
				<i>Totals for CalPERS Retirement</i>	<i>\$18,778.74</i>	<i>\$0.00</i>		<i>\$18,778.74</i>
<b>CCWD</b>								
CCWD	10/7/2021	10/7/2021	D Series	Water 8/6/21-10/5/21	\$38,265.50	\$0.00		\$38,265.50
				<i>Totals for CCWD.</i>	<i>\$38,265.50</i>	<i>\$0.00</i>		<i>\$38,265.50</i>
<b>Cintas Corporation</b>								
Cintas Corporation	10/14/2021	10/14/2021	4098765510	PW uniforms through 10/14/21	\$47.29	\$0.00		\$47.29
Cintas Corporation	10/7/2021	10/7/2021	4098097301	PW uniforms through 10/7/21	\$59.91	\$0.00		\$59.91
				<i>Totals for Cintas Corporation</i>	<i>\$107.20</i>	<i>\$0.00</i>		<i>\$107.20</i>
<b>City of Antioch</b>								
City of Antioch	10/15/2021	10/15/2021	1744	PD service veh 1744	\$242.65	\$0.00		\$242.65
City of Antioch	10/15/2021	10/15/2021	1738	PD service veh 1738	\$268.36	\$0.00		\$268.36
City of Antioch	10/15/2021	10/15/2021	1741	PD service veh 1741	\$389.61	\$0.00		\$389.61
City of Antioch	10/15/2021	10/15/2021	1740	PD service veh 1740	\$436.25	\$0.00		\$436.25
				<i>Totals for City of Antioch</i>	<i>\$1,336.87</i>	<i>\$0.00</i>		<i>\$1,336.87</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
<b>City of Concord</b>								
City of Concord	10/5/2021	10/5/2021	90164	Live scan September 2021	\$66.00	\$0.00		\$66.00
				<i>Totals for City of Concord</i>	<i>\$66.00</i>	<i>\$0.00</i>		<i>\$66.00</i>
<b>Clean Street</b>								
Clean Street	9/30/2021	9/30/2021	101109CS	Street sweeping September 2021	\$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>
<b>Concord Uniforms</b>								
Concord Uniforms	8/4/2021	8/4/2021	18527	PD uniform shirts	\$201.72	\$0.00		\$201.72
				<i>Totals for Concord Uniforms</i>	<i>\$201.72</i>	<i>\$0.00</i>		<i>\$201.72</i>
<b>Contra Costa County Tax Collector</b>								
Contra Costa County Tax Collector	9/10/2021	9/10/2021	FY22	Property taxes FY 2022	\$7,002.52	\$0.00		\$7,002.52
				<i>Totals for Contra Costa County Tax Collector</i>	<i>\$7,002.52</i>	<i>\$0.00</i>		<i>\$7,002.52</i>
<b>Dillon Electric Inc</b>								
Dillon Electric Inc	10/18/2021	10/18/2021	4513	Repair flag pole lights	\$698.05	\$0.00		\$698.05
Dillon Electric Inc	10/18/2021	10/18/2021	4512	Street light repairs 10/14/21	\$535.88	\$0.00		\$535.88
				<i>Totals for Dillon Electric Inc</i>	<i>\$1,233.93</i>	<i>\$0.00</i>		<i>\$1,233.93</i>
<b>Harris &amp; Associates, Inc.</b>								
Harris & Associates, Inc.	10/19/2021	10/19/2021	50209	Engineering svcs September 2021	\$10,384.15	\$0.00		\$10,384.15
Harris & Associates, Inc.	10/19/2021	10/19/2021	50211	CIP engineering svcs September 2021	\$21,320.00	\$0.00		\$21,320.00
Harris & Associates, Inc.	10/19/2021	10/19/2021	50210	Project engineering svcs September 2021	\$14,239.50	\$0.00		\$14,239.50
				<i>Totals for Harris &amp; Associates, Inc.</i>	<i>\$45,943.65</i>	<i>\$0.00</i>		<i>\$45,943.65</i>
<b>HdL Coren &amp; Cone</b>								
HdL Coren & Cone	10/21/2021	10/21/2021	SIN012015	Contract Prop tax Q2 FY 21	\$1,890.00	\$0.00		\$1,890.00
				<i>Totals for HdL Coren &amp; Cone</i>	<i>\$1,890.00</i>	<i>\$0.00</i>		<i>\$1,890.00</i>
<b>Health Care Dental Trust</b>								
Health Care Dental Trust	10/14/2021	10/14/2021	304009	Dental November 2021	\$1,808.60	\$0.00		\$1,808.60
				<i>Totals for Health Care Dental Trust</i>	<i>\$1,808.60</i>	<i>\$0.00</i>		<i>\$1,808.60</i>
<b>J&amp;R Floor Services</b>								
J&R Floor Services	10/31/2021	10/31/2021	Ten2021	Janitorial service October 2021	\$5,038.00	\$0.00		\$5,038.00
				<i>Totals for J&amp;R Floor Services</i>	<i>\$5,038.00</i>	<i>\$0.00</i>		<i>\$5,038.00</i>
<b>JJR Enterprises, Inc</b>								
JJR Enterprises, Inc	10/18/2021	10/18/2021	3356281	Copier usage 9/18/21-10/17/21	\$278.12	\$0.00		\$278.12
				<i>Totals for JJR Enterprises, Inc</i>	<i>\$278.12</i>	<i>\$0.00</i>		<i>\$278.12</i>
<b>Kreins' Consulting</b>								
Kreins' Consulting	10/27/2021	10/27/2021	1	Consultation-Executive Staff Workshop 10/2	\$1,000.00	\$0.00		\$1,000.00



# 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 Kreins' Consulting</i>					<i>\$1,000.00</i>	<i>\$0.00</i>		<i>\$1,000.00</i>
<b>Management Partners</b>								
Management Partners	7/12/2021	7/12/2021	INV09573	Placement Interim Finance Dir	\$11,000.00	\$0.00		\$11,000.00
<i>Totals for Management Partners</i>					<i>\$11,000.00</i>	<i>\$0.00</i>		<i>\$11,000.00</i>
<b>Matrix Association Management</b>								
Matrix Association Management	10/1/2021	10/1/2021	17046	Diablo Estates Mgmt September 2021	\$3,475.00	\$0.00		\$3,475.00
<i>Totals for Matrix Association Management</i>					<i>\$3,475.00</i>	<i>\$0.00</i>		<i>\$3,475.00</i>
<b>Mission Square Retirement</b>								
Mission Square Retirement	10/17/2021	10/17/2021	101721	457 Plan contributions PPE 10/17/21	\$2,209.62	\$0.00		\$2,209.62
<i>Totals for Mission Square Retirement</i>					<i>\$2,209.62</i>	<i>\$0.00</i>		<i>\$2,209.62</i>
<b>Moore Iacofano Golstman, Inc</b>								
Moore Iacofano Golstman, Inc	10/15/2021	10/15/2021	0071788	Housing element svcs September 2021	\$11,446.25	\$0.00		\$11,446.25
Moore Iacofano Golstman, Inc	8/17/2021	8/17/2021	70945	Downtown prop proj July 2021	\$555.00	\$0.00		\$555.00
Moore Iacofano Golstman, Inc	10/26/2021	10/26/2021	71942	Downtown prop proj September 2021	\$2,500.00	\$0.00		\$2,500.00
<i>Totals for Moore Iacofano Golstman, Inc</i>					<i>\$14,501.25</i>	<i>\$0.00</i>		<i>\$14,501.25</i>
<b>MSR Mechanical, LLC</b>								
MSR Mechanical, LLC	10/18/2021	10/18/2021	SVC002993	HVAC service 10/13/21	\$832.00	\$0.00		\$832.00
MSR Mechanical, LLC	10/15/2021	10/15/2021	SVC02984	CH HVAC maint September 2021	\$350.00	\$0.00		\$350.00
MSR Mechanical, LLC	10/15/2021	10/15/2021	SVC002983	Library HVAC maint September 2021	\$527.17	\$0.00		\$527.17
<i>Totals for MSR Mechanical, LLC</i>					<i>\$1,709.17</i>	<i>\$0.00</i>		<i>\$1,709.17</i>
<b>Municipal Code Corporation</b>								
Municipal Code Corporation	10/21/2021	10/21/2021	00365212	Muni code suppl	\$298.55	\$0.00		\$298.55
<i>Totals for Municipal Code Corporation</i>					<i>\$298.55</i>	<i>\$0.00</i>		<i>\$298.55</i>
<b>Nationwide</b>								
Nationwide	10/17/2021	10/17/2021	101721	457 Plan contributions PPE 10/17/21	\$500.00	\$0.00		\$500.00
<i>Totals for Nationwide</i>					<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
<b>NBS Govt. Finance Group</b>								
NBS Govt. Finance Group	9/30/2021	9/30/2021	921000414	CFA Arbitrage Rebate Analysis	\$1,200.00	\$0.00		\$1,200.00
<i>Totals for NBS Govt. Finance Group</i>					<i>\$1,200.00</i>	<i>\$0.00</i>		<i>\$1,200.00</i>
<b>Neopost (add postage)</b>								
Neopost (add postage)	10/13/2021	10/13/2021	101321	Postage Added	\$300.00	\$0.00		\$300.00
<i>Totals for Neopost (add postage)</i>					<i>\$300.00</i>	<i>\$0.00</i>		<i>\$300.00</i>
<b>Proforce Law Enforcement</b>								
Proforce Law Enforcement	10/20/2021	10/20/2021	464877	Evidence supplies	\$194.53	\$0.00		\$194.53
<i>Totals for Proforce Law Enforcement</i>					<i>\$194.53</i>	<i>\$0.00</i>		<i>\$194.53</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
<b>Quadient Leasing USA, Inc</b>								
Quadient Leasing USA, Inc	8/15/2021	8/15/2021	N8962422	Postage machine lease 5/16/21-8/15/21	\$512.53	\$0.00		\$512.53
Quadient Leasing USA, Inc	10/15/2021	10/15/2021	N9097935	Postage machine lease 8/16/21-11/15/21	\$512.53	\$0.00		\$512.53
<i>Totals for Quadient Leasing USA, Inc</i>					<i>\$1,025.06</i>	<i>\$0.00</i>		<i>\$1,025.06</i>
<b>Site One Landscape Supply, LLC</b>								
Site One Landscape Supply, LLC	10/13/2021	10/13/2021	112528308-001	Irrigation controller board	\$678.36	\$0.00		\$678.36
<i>Totals for Site One Landscape Supply, LLC</i>					<i>\$678.36</i>	<i>\$0.00</i>		<i>\$678.36</i>
<b>Swenson's Mobile Fleet Repair</b>								
Swenson's Mobile Fleet Repair	10/15/2021	10/15/2021	I003756	PW veh service '99 F450	\$411.09	\$0.00		\$411.09
<i>Totals for Swenson's Mobile Fleet Repair</i>					<i>\$411.09</i>	<i>\$0.00</i>		<i>\$411.09</i>
<b>Texas Life Insurance Company</b>								
Texas Life Insurance Company	10/15/2021	10/15/2021	SM0F1B2021101400	Supplemental insurance	\$53.00	\$0.00		\$53.00
<i>Totals for Texas Life Insurance Company</i>					<i>\$53.00</i>	<i>\$0.00</i>		<i>\$53.00</i>
<b>US Bank - Corp Pmt System CalCard</b>								
US Bank - Corp Pmt System CalCard	9/22/2021	9/22/2021	092221	Stmt end 9/22/21	\$5,148.20	\$0.00		\$5,148.20
<i>Totals for US Bank - Corp Pmt System CalCard</i>					<i>\$5,148.20</i>	<i>\$0.00</i>		<i>\$5,148.20</i>
<b>Verizon Wireless</b>								
Verizon Wireless	10/1/2021	10/1/2021	9889632191	PW cell phones 9/2/21-10/1/21	\$213.20	\$0.00		\$213.20
<i>Totals for Verizon Wireless</i>					<i>\$213.20</i>	<i>\$0.00</i>		<i>\$213.20</i>
<b>Warner Brothers Tree Service</b>								
Warner Brothers Tree Service	10/18/2021	10/18/2021	15789	Tree work in Open space	\$8,400.00	\$0.00		\$8,400.00
Warner Brothers Tree Service	10/18/2021	10/18/2021	15790	Tree work Open space	\$5,400.00	\$0.00		\$5,400.00
Warner Brothers Tree Service	10/18/2021	10/18/2021	15791	Tree work Open space	\$2,400.00	\$0.00		\$2,400.00
Warner Brothers Tree Service	10/18/2021	10/18/2021	15788	Tree work Open space, creek areas	\$4,500.00	\$0.00		\$4,500.00
<i>Totals for Warner Brothers Tree Service</i>					<i>\$20,700.00</i>	<i>\$0.00</i>		<i>\$20,700.00</i>
<b>Western Exterminator</b>								
Western Exterminator	10/4/2021	10/4/2021	21282C	Pest Control September 2021	\$461.70	\$0.00		\$461.70
<i>Totals for Western Exterminator</i>					<i>\$461.70</i>	<i>\$0.00</i>		<i>\$461.70</i>
<b>Workers.com</b>								
Workers.com	10/15/2021	10/15/2021	131090	Seasonal workers week end 10/10/21	\$5,422.71	\$0.00		\$5,422.71
Workers.com	10/8/2021	10/8/2021	131022	Seasonal workers week end 10/3/21	\$6,063.95	\$0.00		\$6,063.95
<i>Totals for Workers.com</i>					<i>\$11,486.66</i>	<i>\$0.00</i>		<i>\$11,486.66</i>
<b>GRAND TOTALS:</b>					<b>\$244,086.60</b>	<b>\$0.00</b>		<b>\$244,086.60</b>

PAY-BL070-008 V7.1  
GENRECSM BRANCH 31  
CURRENT DATE 10/19/2021

2021-013-01  
08:43:40

BL070 CITY OF CLAYTON  
PAYROLL RECONCILIATION SUMMARY

PAGE 1  
PERIOD ENDING 10/17/2021  
CHECK DATE 10/22/2021

FEDERAL ID: 94-1568979	EMPLOYER TAX ID	TOTAL GROSS	SUBJECT GROSS	TAXABLE GROSS	RATE %	EMPLOYEE TAX WITHHELD	EMPLOYER TAX	THIRD PARTY SICK	TOTAL TAXES DUE
FEDERAL INC TAX - EMPLOYEE	94-1568979	99,802.99	85,236.29	85,236.29		11,241.85	0.00		11,241.85
SOCIAL SECURITY - EMPLOYEE	94-1568979	99,802.99	95,771.12	267.75	6.2000	16.60	0.00		16.60
MEDICARE - EMPLOYEE	94-1568979	99,802.99	95,771.12	95,771.12	1.4500	1,388.70	0.00		1,388.70
SOCIAL SECURITY - EMPLOYER	94-1568979	99,802.99	95,771.12	267.75	6.2000	0.00	16.60		16.60
MEDICARE - EMPLOYER	94-1568979	99,802.99	95,771.12	95,771.12	1.4500	0.00	1,388.70		1,388.70
FEDERAL SUB-TOTAL						12,647.15	1,405.30		14,052.45
FEDERAL UNEMPLOYMENT TAX	94-1568979	99,802.99	95,771.12	0.00	.6000	0.00	0.00		0.00
STATE INCOME TAX WITHHOLDING									
CA STATE	69813822	99,802.99	85,236.29	85,236.29		4,374.51	0.00		4,374.51
STATE W/H SUB-TOTAL						4,374.51	0.00		4,374.51
STATE UNEMPLOYMENT TAXES (EMPLOYER)									
CA SUTA	69813822	99,802.99	95,771.12	9,249.55	2.6000	0.00	240.49		240.49
SUTA SUB-TOTAL						0.00	240.49		240.49
COUNTY INCOME TAX WITHHOLDING									
COUNTY W/H SUB-TOTAL						0.00	0.00		0.00
CITY WITHHOLDING TAXES									
CITY W/H SUB-TOTAL						0.00	0.00		0.00
ALL OTHER TAXES									
Calif Training		99,802.99	95,771.12	9,249.55	.1000	0.00	9.26		9.26
OTHER W/H SUB-TOTAL						0.00	9.26		9.26
TOTAL TAX LIABILITY						17,021.66	1,655.05		18,676.71
=====									
PAYROLL LIABILITY TOTALS									
TOTAL NET DIRECT DEPOSITS						25	59,877.89		
TOTAL PARTIAL DIRECT DEPOSITS						2	900.00		
** YOUR ACCOUNT 0982504799	AT BANK 121000358	HAS BEEN DEBITED FOR				60,777.89	**		
TAX LIABILITY FROM ABOVE						18,676.71			
** YOUR ACCOUNT 0982504799	AT BANK 121000358	HAS BEEN DEBITED FOR				18,676.71	**		
TOTAL NET CHECKS						3	6,971.06		
TOTAL VENDOR ACH PAYMENTS						10	612.73		
** YOUR ACCOUNT 0982504799	AT BANK 121000358	HAS BEEN DEBITED FOR				612.73	**		
GRAND TOTAL PAYROLL CASH						87,038.39			



# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCIL MEMBERS**

**FROM: CITY MANAGER**

**DATE: November 2, 2021**

**SUBJECT: Adopt a Resolution of the City Council of the City of Clayton Allowing for Video and Teleconference Meetings during the COVID-19 State of Emergency Under AB 361**

---

## **RECOMMENDATION**

Adopt a Resolution of the City Council allowing for video and teleconference meetings during the COVID-19 state of emergency under AB 361.

## **BACKGROUND**

AB 361 was recently passed by the State Legislature and signed by Governor Newsom and went into effect immediately. AB 361 continues many of the provisions related to the Brown Act that were in place under Executive Orders, which expired September 30, 2021 that allowed for video and teleconferencing during the state of emergency. Since AB 361 has been signed into law, the City can continue to meet virtually until such time as the Governor declares the State of Emergency due to COVID-19 over and measures to promote social distancing are no longer recommended.

On September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings and strongly recommends on-line meetings. If in-person meetings need to occur, the County Health Officer recommends social distancing of six feet of separation between all attendees. The proposed resolution provides that the City Council and all subsidiary City boards and commissions may continue to hold video and teleconference meetings while the state of emergency is still in effect and physical distancing is recommended.

In order to continue to hold video and teleconference meetings, the City Council will need to review and make findings every thirty days that the state of emergency continues to directly impact the ability of the members to meet safely in person and that state or local officials continue to impose or recommend measures to promote physical distancing.

Subject: Resolution Allowing for Video and Teleconference Meetings during the COVID-19 State of Emergency Under AB 361

Date: November 2, 2021

Page 2 of 2

---

**FISCAL IMPACT**

None.

**Attachment:**

Resolution of the City Council Allowing for Video and Teleconference Meetings during the COVID-19 State of Emergency Under AB 361

**RESOLUTION NO. ##-2021**  
**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON**  
**ALLOWING FOR VIDEO AND TELECONFERENCE MEETINGS DURING THE**  
**COVID-19 STATE OF EMERGENCY UNDER AB 361**

**WHEREAS**, on March 4, 2020, the Governor of the State of California proclaimed a State of Emergency for COVID-19;

**WHEREAS**, AB 361 was recently passed by the State Legislature and signed by Governor Newsom and went into effect immediately and allows the City to continue to meet virtually until such time as the Governor declares the State of Emergency due to COVID-19 over and measures to promote physical distancing are no longer recommended;

**WHEREAS**, on September 20, 2021 the Contra Costa County Health Officer issued recommendations for safely holding public meetings and strongly recommends on-line meetings and if in person meetings occur then recommends physical distancing of six feet of separation between all attendees;

**WHEREAS**, in light of this recommendation, the City Council desires for itself and for all other City legislative bodies that are subject to the Brown Act to continue to meet via video and/or teleconference; and

**WHEREAS**, pursuant to AB 361 the City Council will review the findings required to be made every 30 days.

**NOW THEREFORE BE IT RESOLVED** the City Council hereby finds on behalf of itself and all other City legislative bodies: (1) a state of emergency has been proclaimed by the Governor; (2) the state of emergency continues to directly impact the ability of the City's legislative bodies to meet safely in person; and (3) local officials continue to recommend measures to promote physical distancing.

**BE IT FURTHER RESOLVED** that the City Council and all other City legislative bodies will continue to meet via video and/or teleconference during the COVID-19 emergency.

**PASSED AND ADOPTED** by the Clayton City Council, State of California, on this 2nd day of November 2021, by the following vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

**THE CITY COUNCIL OF CLAYTON,  
CA**

---

Carl Wolfe, Mayor

**ATTEST:**

---

Janet Calderon, City Clerk



# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: Janet Calderon, City Clerk**

**DATE: November 2, 2021**

**SUBJECT: Approve Proposed Schedule for Calendar Year 2022 Saturday “Concerts in The Grove” series, provided County/State Health Regulations will allow**

---

## **RECOMMENDATION**

As requested by Mr. Howard Geller, Concerts’ Organizer, by minute action it is recommended the City Council approve the use of The Grove Park for ten (10) Saturday “Concerts in The Grove” series and approve the following dates in calendar year 2022, provided County/State Health Regulations will allow at the time:

### Saturday

May 7, 2022

May 21, 2022

June 4, 2022

June 18, 2022

July 2, 2022

July 16, 2022

July 30, 2022

August 13, 2022

August 27, 2022

September 10, 2022

### Calendar Comment

Mothers’ Day Weekend

Father’s Day Weekend

## **DISCUSSION**

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. 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). This approval is subject to concerts being allowed per County/State Health Regulations. Additional information regarding fees etc. will be brought back to the Council at a later date.



Date: October 18, 2021

To: Clayton City Council

From: Howard Geller, Volunteer Concerts in the Grove Promoter

Re: Planned 2022 Concerts in the Grove Dates

Looking at the 2022 calendar these are the Saturday dates planned for the 2022 Concerts in the Grove. Concerts will again start at 6pm and conclude apx. 8:30 pm. As has been done in the past volunteers will be used for set up and take down. Donations fund the costs for the bands, sound tech and miscellaneous supplies, (ie: pop up tents for sound tech booth, caution tape, portable toilets, any dedicated police event officer staffing, and maintenance staff as needed related to the concerts).

May	7
May	21
June	4
June	18
July	2
July	16
July	30
August	13
August	27
Sept.	10

*Howard Geller*

Howard Geller,  
Volunteer Concert Promoter

**JOCELYN JACQUES**  
for  
"Doing the Right Thing"  
at  
Mt. Diablo Elementary School  
by exemplifying great "Respect"  
October 2021

**BAILEY McNEEL-CAIRD**

for

"Doing the Right Thing"

at

Mt. Diablo Elementary School  
by exemplifying great "Respect"  
October 2021

**JACOB JEANDHEUR**

for

"Doing the Right Thing"

at

Diablo View Middle School

by exemplifying great "Respect"

October 2021

**STELLA MARKS**  
for  
"Doing the Right Thing"  
at  
Diablo View Middle School  
by exemplifying great "Respect"  
October 2021

**declaring**

**November 3, 2021**

**as**

**"Virtual Shelter-in-Place Education Day"**

**WHEREAS**, public and private schools and childcare centers throughout Contra Costa County will be participating in the virtual Shelter-in-Place Drill on November 3<sup>rd</sup>; and

**WHEREAS**, Contra Costa Community Awareness Emergency Response Group - CAER - is sponsoring the 20<sup>th</sup> Annual Shelter-in-Place Drill and assisting schools and childcare centers with their emergency preparedness; and

**WHEREAS**, emergency response agencies including fire, sheriff and health officials all recommend Shelter-in-Place as the immediate action to take in case of a hazardous release; and

**WHEREAS**, the Shelter-in-Place Drill increases public awareness about Shelter-in-Place as a protective action and gives students and teachers practice in implementing this important procedure; and

**WHEREAS**, due to COVID-19, this years' Shelter-in-Place Drill will be virtual; and

**WHEREAS**, the County Office of Education has endorsed the virtual Shelter-in-Place Drill and encouraged all sites to participate.

**NOW THEREFORE**, I, Carl Wolfe, Mayor, on behalf of the Clayton City Council, do hereby proclaim November 3, 2021 as "Shelter-in-Place Education Day" and encourages participation in the Contra Costa CAER Group's public education efforts. In support of the parents, teachers, students and staff that will be participating with hundreds of other schools and childcare centers in the virtual Shelter-in-Place Drill.

**declaring**  
**November**  
**as**  
**"Native American Heritage Month"**

**WHEREAS**, every year on November 1, Native American Heritage Month is celebrated to honor the remarkable Native Americans who have contributed to the character of the nation; and

**WHEREAS**, this month is also referred to as the American Indian and Alaska Native Heritage Month; and

**WHEREAS**, November is the time to rejoice in diverse and rich cultures, histories, and traditions and to appreciate the great contributions of Native Americans; and

**WHEREAS**, Native Americans are not a single nation but included a variety of cultures, nations, and languages; and

**WHEREAS**, there are many contributions made by the Native Americans such as the discovery of edible plants, which are widely eaten by people around the world; and

**WHEREAS**, they were the first people to raise turkeys, guinea pigs, and honeybees.

**Now, Therefore**, I, Carl Wolfe, Mayor, and on behalf of the entire Clayton City Council, proclaim November, as "Native American Heritage Month" in Clayton, CA and I call this observance to the attention of all of our citizens.



# AGENDA REPORT

**TO:** HONORABLE MAYOR AND COUNCIL MEMBERS

**FROM:** Reina J. Schwartz, City Manager

**DATE:** November 2, 2021

**SUBJECT:** Presentation, Discussion & Direction to Staff Regarding Use of the American Rescue Plan Act (ARPA) Funds

---

## **RECOMMENDATION**

Receive presentation, discuss and provide direction to staff on potential projects, priorities and next steps.

## **BACKGROUND**

In March 2021 the Federal Government passed the American Rescue Plan Act (ARPA), which had total funding of \$1.9 trillion. This included \$350 billion in funding to States, Localities, and Tribal Governments. This program is separate from Federal grants targeting both institutions and businesses that were impacted by the COVID-19 Pandemic. Attachment A provides a high-level overview of the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) including: its objectives, high level examples of how the funds can be used; and some of the eligible and ineligible uses.

On August 17, 2021 the City Council heard a presentation and overview on the ARPA funding and directed staff to engage a consultant to solicit community input and make recommendations on proposed uses for Clayton's ARPA funding. On September 21, the City Council approved an agreement with Management Partners to gather the community input and develop program recommendations.

## **DISCUSSION**

The CSLFRF portion of the ARPA provides for spending authority only for specified purposes, as discussed below.



- A)** Costs incurred as direct result of responding to COVID-19 and / or addressing the negative economic impact.
- B)** Premium Pay for Eligible Workers
- C)** Government Services to the Extent of Lost Revenue
- D)** Infrastructure Investments in Broadband, Water, and Sewer (including Storm Drainage)

The City and Management Partners solicited community and business feedback via an online survey from September 23<sup>rd</sup> to October 4<sup>th</sup>. More than 150 community surveys and 25 business surveys were completed.

Management Partners analyzed various options for the investment of Clayton's ARPA funds in the City and the community. The options that they will present during this Council meeting are informed by best practices used by other cities throughout California, the west coast, and throughout the United States. One element of those best practices is establishing a set of guiding principles on the use of ARPA funds such as:

- Consideration of City priorities;
- Addressing business/economic development impacts;
- Stimulating economic development opportunities;
- Using one-time resources such as ARPA funds for one-time uses;
- Investing in capital projects that address unfunded/underfunded projects, have opportunities to reduce ongoing maintenance costs, or enhance environmental sustainability initiatives;
- Leveraging other ARPA resources; and
- Taking a long view through 2024.

Based on City-provided information regarding the business community and capital projects, the results of the business/community survey, and review of the City's calculations regarding revenue loss which identified little to no anticipated revenue losses per Treasury regulations, Management Partners has developed options for City Council consideration for the investment of the City's ARPA funds. Their recommended options for consideration are summarized as follows:

1. Initial Response to Public Health Emergency
  - a. Provide grants to small businesses for steps taken to protect their employees and customers
  - b. Use funds to support City costs for facility maintenance, cleaning and protecting employees and customers through personal protective equipment, testing and/or vaccination
2. Economic Impacts to Households, Businesses and Public Entities
  - a. Providing grants to households negatively impacted by the pandemic
  - b. Providing loans and/or grants to small businesses for:
    - i. Economic impacts resulting from the pandemic

- ii. Building an online presence and/or pivoting to online sales/service delivery
    - iii. Coaching program
  - c. Providing seed money for grant writing assistance for non-profit organizations
  - d. Streamlining development services for small businesses
  - e. Updating the Town Center Specific Plan and implementing plan elements to spur economic development opportunities.
- 3. Infrastructure Investments
  - a. Storm Drainage Projects
    - i. Debris, catch basin and slope repair
    - ii. Creek revitalization
    - iii. Stormwater management
  - b. Economic Development
    - i. Downtown economic development infrastructure projects

The second program listed above that addresses economic impacts to households, businesses and non-profits could include direct assistance to those economically impacted by the pandemic. If the Council chooses to proceed with such a program, Management Partners developed a draft “**Clayton Cares** Grant Opportunity” program that could provide assistance under the parameters suggested below. City staff have identified at least one non-profit partner that could administer a program such as Clayton Cares and has experience administering similar programs in other jurisdictions.

- Small Business and Non-Profit Support
  - One-time cash assistance (grant) and/or no-interest forgivable loan program under two options:
    - Flat amount for each business/organization (e.g., \$10,000 per qualified business), or
    - Scaled based on revenue loss during the pandemic (e.g., one month of annualized gross receipts; 50% of revenue loss sustained during the pandemic; cap of \$25,000)
  - Small businesses qualify based on standards established by the Small Business Administration
  - Requires documentation and attestation to adverse economic impacts
- Households
  - One-time cash assistance (grant) and/or no-interest forgivable loan program of \$2,000 under two programs:
    - Low/Reduced Income program
      - Households making 50% or less of area median income, or
      - Demonstration of decreased income of at least 20% from 2019 to 2020

- Deferred Mortgage or Rent Assistance
  - Households under a current mortgage/rent deferral program

Finally, the City Council will need to determine the maximum amount of ARPA funds to devote to the various programs selected. Management Partners will present various options for consideration based on the City Council's direction of which programs to implement.

After taking public testimony, staff recommends that the City Council discuss and provide policy direction on the following at this meeting:

1. Programs to be implemented and funding allocations/ranges for ARPA funding, and
2. Feedback on the **Clayton Cares** program parameters (to the extent selected for implementation).

Staff will prepare a resolution for City Council adoption at the next meeting based on the policy direction provided. Management Partners will also prepare an implementation action plan and administrative materials to help the City administer the programs selected. They will also assist the City in developing reporting templates to support the requirements issued by the Treasury department.

### **FISCAL IMPACTS**

The City of Clayton has been allocated \$2,934,049 under the ARPA. All funds must be encumbered by December 2024 and spent no later than December 2026. Any unspent funds must be returned to the federal government.

### **ATTACHMENTS**

1. PowerPoint Presentation



# American Rescue Plan Act (ARPA) Policy Assistance and Plan Development

## *City Council Presentation*

November 2, 2021

**Dan Keen, Partner**  
**Steve Toler, Partner**



# About Management Partners

**27**

years

of service exclusively to local governments

Over  
**1,800**  
projects

successfully completed

**100+**

associates

including local government generalists and  
subject-matter experts

**3**

national  
offices

in San Jose and Costa Mesa,  
California, and Cincinnati, Ohio

**44**

states

served across the United States

## ***Our Services***

- Strategic Planning
- Organization Analysis
- Organization Development
- Process Improvement
- Operations Improvement
- Financial Planning/Budgeting
- Service Sharing
- Performance Management
- Facilitation and Training
- Executive Recruitment
- Executive Coaching



# Agenda

Recap of ARPA legislation

Eligible uses of ARPA funds

Best practices

Input from stakeholders

Initial proposed investment opportunities of ARPA Funds

Next steps



# Overview of the American Rescue Plan Act





# The American Rescue Plan Act

ARPA established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds, which make up the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Program.

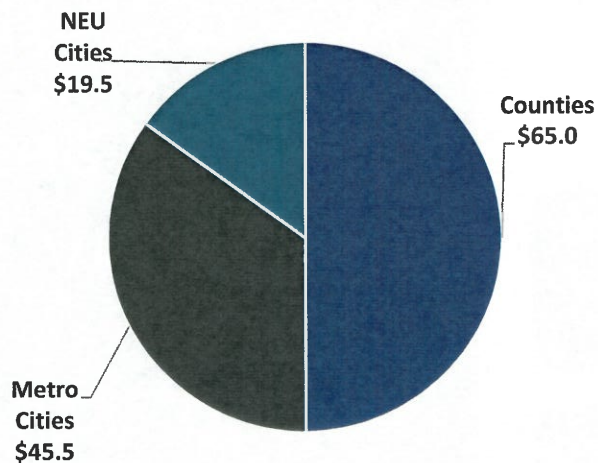
It provides support to governments for responses to the impacts of COVID-19 and to contain impacts on their communities, residents, and businesses.





# ARPA Overview and Eligible Uses

**Local Fiscal Recovery Fund**  
**\$130 billion**



## ARPA Eligible Uses

- Public Health Emergency Response
- Respond to Economic Impacts
- Premium Pay for Eligible Workers
- Services to Extent of Revenue Loss
- Infrastructure (Water, Sewer and Broadband)

# Allowable Uses of ARPA Funding

## Initial City Response to Public Health Emergency

- Expenses required to respond to pandemic
  - Public health and safety

## Address Economic Impacts to Businesses and Public Employees

- Impacts on households and businesses
- Loans/grants to small business and non-profits
- Aid to impacted industries (tourism, travel, hospitality)
- Rehiring local government staff to pre-pandemic staffing levels

## Provide Premium Pay for Essential Workers

- Premium pay paid to essential workers (e.g., public safety, public works, health care staff, grocery stores, restaurants, janitors)



# Allowable Uses of ARPA Funding

## ***Specific Exclusions: Pensions and Reducing Taxes***

### **Impacts of Revenue Loss**

- Revenue loss measured from base year prior to pandemic (i.e., FY 2019)
- Broad latitude on use of funds
  - Maintenance or pay-go infrastructure funding
  - Cybersecurity
  - Police, fire or other public safety services
- **Exclusions**
  - *Financial indebtedness*
  - *Judgments/settlement agreements*
  - *Replenishing financial reserves*

### **Investments in Infrastructure**

- Water
  - Improve access to clean drinking water
- Wastewater
  - Align with eligible projects under EPA State Revolving Fund Programs
  - Wastewater collection and treatment systems
  - Stormwater management
- Broadband
  - Unserved or Underserved
  - Definition: less than 25 Mbps download, 3 Mbps upload

# Best Practices for Using ARPA Funds





# Best Practices for Using ARPA Funds



Understand use restrictions



Use for one-time or short-term initiatives



Address unfunded/underfunded capital improvement projects



Identify creative one-time uses



Convert virtual services to permanent



Backfill allowable costs to extent of revenue losses



Address deferred maintenance to reduce future operating costs



Enhance existing infrastructure to reduce future operating costs

# Suggested Guiding Principles on ARPA Investments

- Consider the City Council's **FY 2021/22 Priority Areas**
  - Long-term financial stability
  - Land use and housing
  - Public safety
  - Quality of life
  - Good governance
- Address business/economic development **impact**
- **Stimulate** economic development **opportunities**
- Use **one-time resources for one-time uses**
- Identify appropriate **capital project investments**
  - Unfunded/underfunded projects in ARPA eligible areas (e.g., stormwater)
  - Opportunities for reduced maintenance costs, environment sustainability
- Leverage **other ARPA funding resources**
- Determine **collaborative opportunities** with other agencies
- Take the **long view**
  - Funds obligated by December 31, 2024, expended by December 31, 2026

# Input from Stakeholders



# Engagement

## Interviews

- All City Councilmembers
- Four staff members

## Surveys

- Business survey
- Community survey

- COVID-19 impacts
- Pandemic-related needs in the community
- How can the City alleviate the hardest hit aspects of the community



# Interview Themes



- City suffered little revenue loss
- Strong desire to support and address economic impacts on business community
- Small locally owned businesses suffered the greatest impacts
- Infrastructure maintenance was delayed
- Pandemic provided a chance to review economic development opportunities in the downtown area

# Survey Responses

## Community Survey

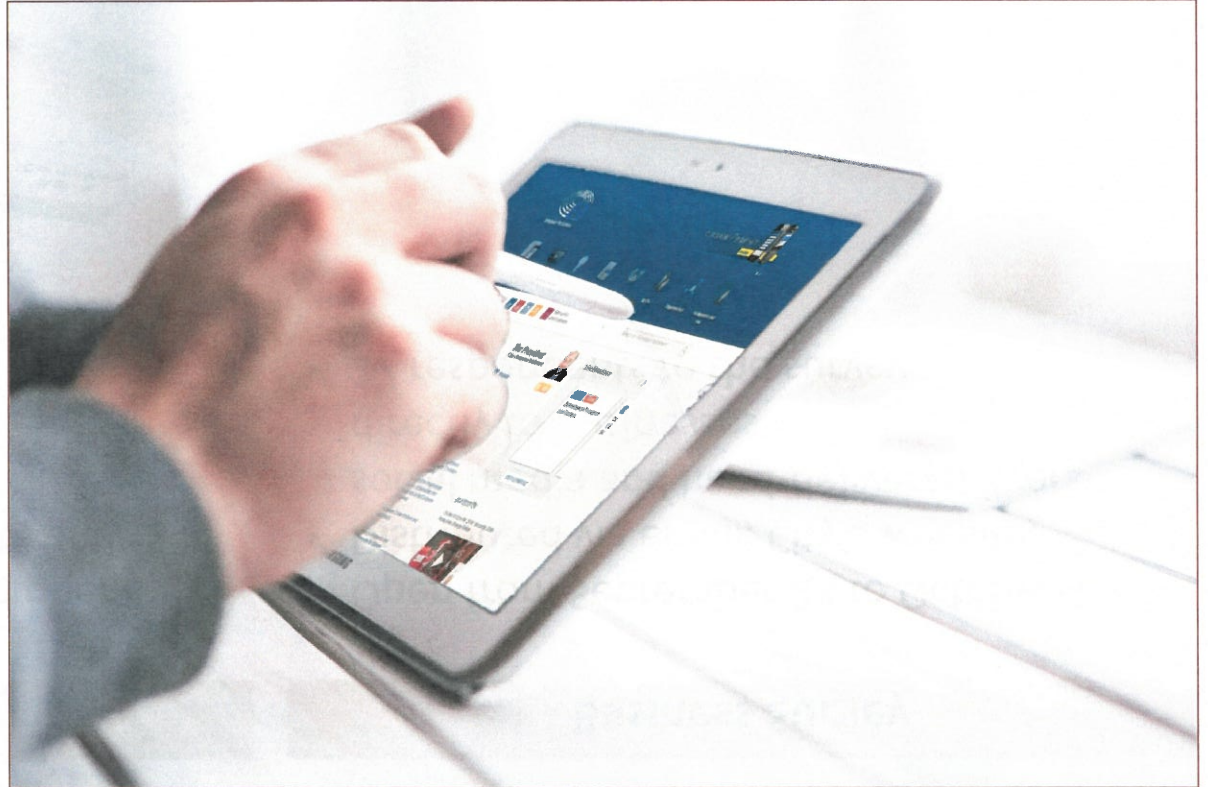
- ✓ Open from September 24 to October 4
- ✓ Distributed via the City's website and social media
- ✓ 150 respondents to the survey

## Business Survey

- ✓ Open from September 24 to October 4
- ✓ Distributed via email, City's website, social media and hand-delivered flyers directly to businesses
- ✓ 27 respondents to the survey



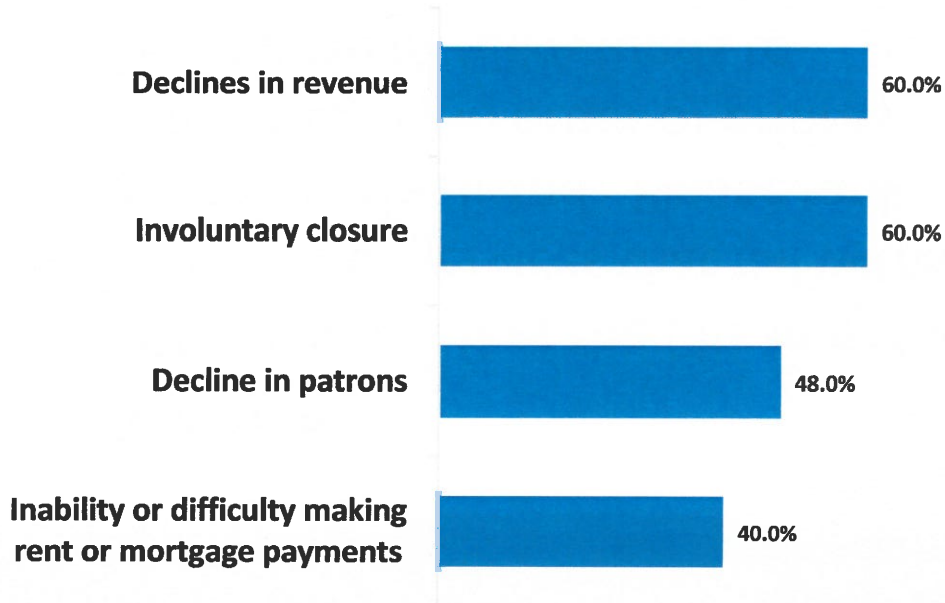
# Business Survey Results



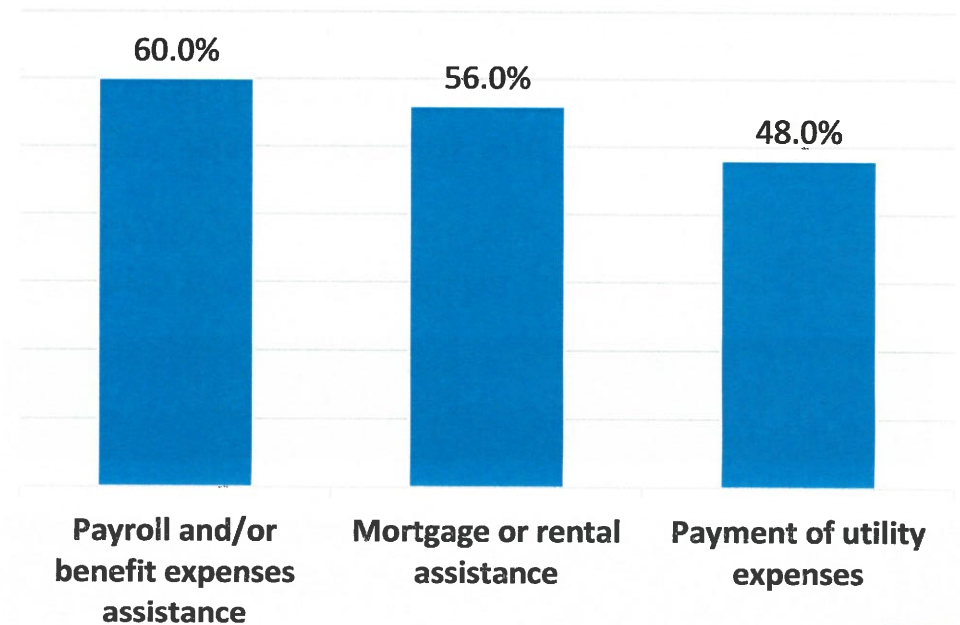


# Themes from Business Stakeholders

## Four most significant COVID-19-related impacts to businesses:



## Top three priorities for use of ARPA funds:



# Top Priorities for ARPA Spending

## Question

ARPA requires that the City invest in programs or services that fall within the categories listed. Please rank each category in order of priority for City use of ARPA funds to recover from the pandemic. (*Rank your top five priorities from first being more important to fifth*)

ARPA Spending Category	Weighted Average
Services for businesses hardest hit by COVID-19	4.42
Services for households and individuals hardest hit by COVID-19	3.88
Hazard pay for essential workers	3.41
Investments in broadband internet infrastructure	2.42
Investments in water and sewer infrastructure	2.15

# Spending Categories in Order of Importance

## Question

Please rank these spending categories in order of importance to you. (*Rank your top priorities from first being more important to seventh*)

Spending Category	Weighted Average
Payroll and benefits costs	6.04
Mortgage and rent	6.00
Costs to retain employees	5.70
Utilities and other operating costs	5.24
COVID-19 prevention or mitigation tactics	4.50
COVID-19 vaccination, testing, or contact tracing programs	3.71
Technical assistance, counseling, or other services to assist with business planning needs	3.56

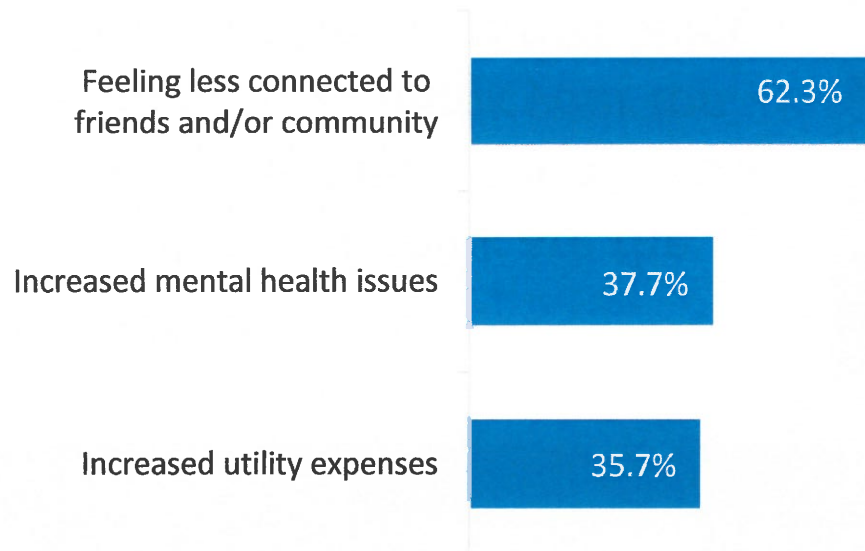


# Community Survey Results

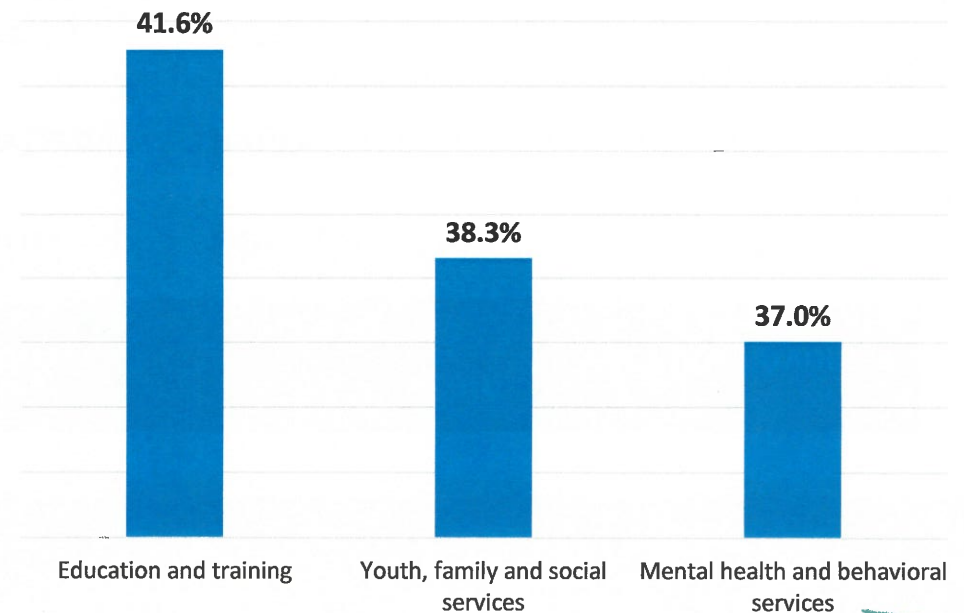


# Themes from Community Stakeholders

Top three ways the COVID-19 pandemic has most significantly impacted respondents:



Quality of life services most negatively impacted:





# Prioritization of Greatest Areas of Need

## Question

What do you think are the areas of greatest need in your community? (*Rank your top five priorities from first being more important to fifth*)

Priority	ARPA Program or Service	Weighted Average
First Priority	Education (K to 12)	3.78
Second Priority	Public Safety	3.65
Third Priority	Food Access	3.30
Fourth Priority	Clean, Safe Water	3.23
Fifth Priority	Internet Access	3.19

# ARPA Spending Priorities

## Question

If the City were to provide direct assistance to households, please rank these spending subcategories in order of importance to you.  
*(Rank your top five priorities from first being more important to fifth)*

ARPA Spending Categories	Weighted Average
Rent, mortgage, or utility assistance	3.66
Cash Assistance	3.44
Food Assistance	3.26
Emergency assistance (burials, home repairs, weatherization, or other needs)	2.97
Job training	2.87

# ARPA Eligible Uses Prioritization

## Question

ARPA specifies the eligible uses of funds the City received. Please rank each category in order of priority for how the City should use ARPA funds to recover from the pandemic (first being most important to sixth).

ARPA Eligible Uses	Weighted Average
Addressing negative economic impacts caused by the public health emergency	4.15
Supporting public health expenditures	4.15
Providing premium pay for essential workers	4.07
Investing in water, sewer and stormwater	3.67
Replacing lost public sector revenue	3.44
Investing in broadband infrastructure, including expanding access to broadband internet	2.93



# Investment Prioritization

## Question

To address the economic impacts from the pandemic, please rate how important it is for the City of Clayton to invest ARPA funds in each of the following (first being most important to fourth).

Investment Options	Weighted Average
Assistance to households/persons facing negative economic impacts due to COVID-19	2.83
Assistance to small businesses	2.81
Assistance to unemployed workers	2.75
Improve communication about programs addressing negative economic impacts	1.78

# Summary of Survey Results

## Business Community

- Small businesses were negatively impacted due to pandemic restrictions
- Decline in patrons and revenue losses impacted ability to pay fixed costs such as rent and mortgage

## Community At Large

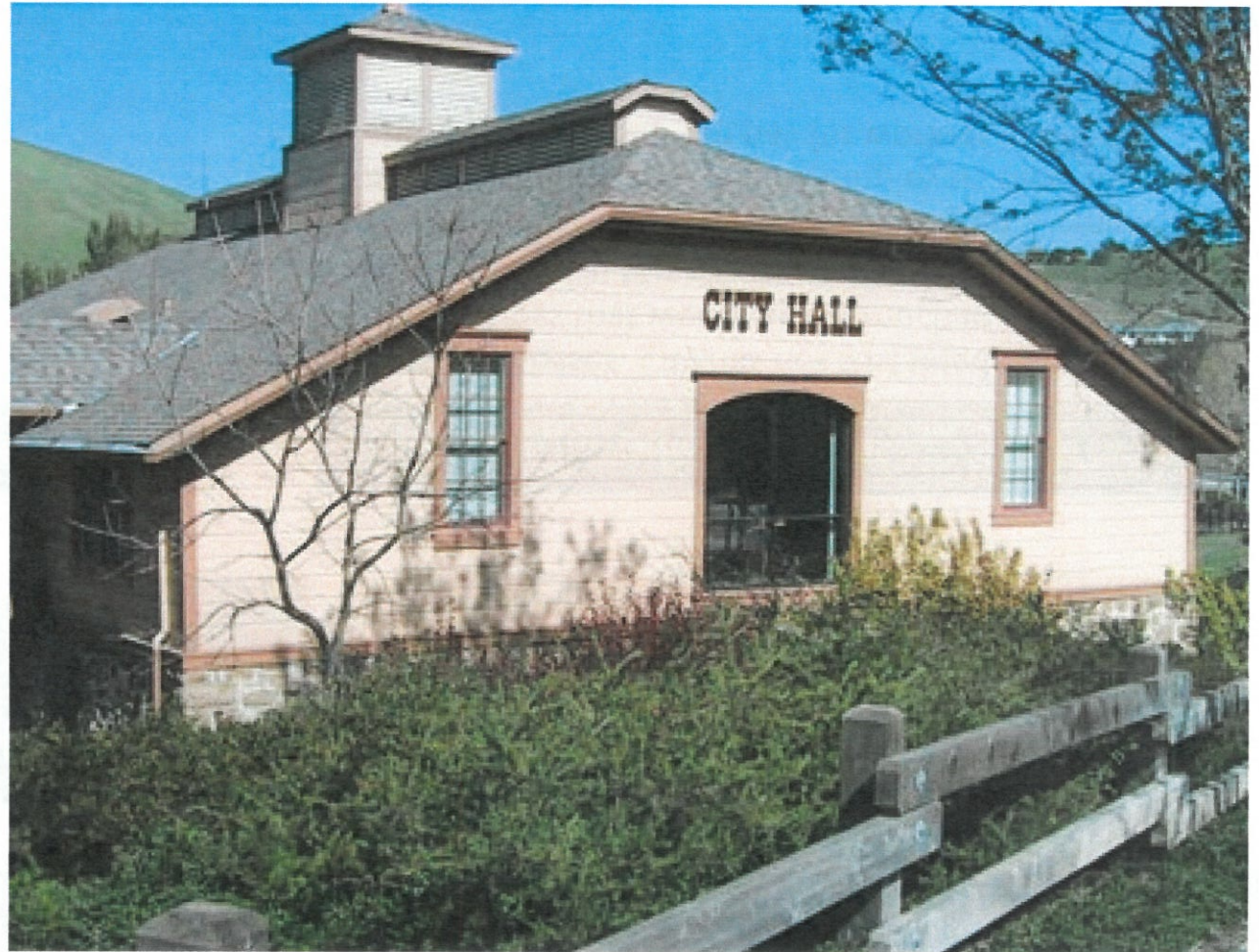
- Loss of community and connectedness
- Working families had to address education needs for their children

## Commonalities Between Business and Community At-Large

- Prioritize those suffering economic impacts by the pandemic
- Joint support for economic assistance to small businesses and individuals economically impacted



# Potential ARPA Spending Options





# Clayton's Highest Potential Uses



Clayton's Allocation is \$2.9 million

## Three potential categories for use

- **Public Health Emergency Response**
- **Respond to Economic Impacts**
- **Infrastructure (Stormwater Projects)**

## Other categories

- **Revenue Losses.** City has not sustained significant revenue loss that would justify much in the way of expenditures in this category
- **Premium Pay.** City has not implemented premium pay for City workers; private employers have not implemented premium pay for workers in Clayton

# Initial Response to Public Health Emergency

- Grants for personal protective equipment (PPE), disinfecting procedures, or other public health preventive measures
- City facility maintenance/cleaning costs
- City employee costs associated with PPE, employee testing, and/or vaccination requirements





# Economic Impacts to Businesses and Public Entities



Loans/grants to small businesses negatively impacted by pandemic



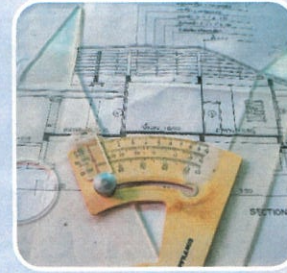
Loans/grants to small businesses to build their online presence and/or pivot to online sales/service delivery



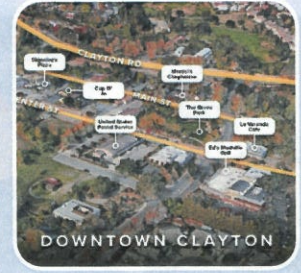
Seed monies to implement a small business coaching program



Seed money to assist with grant writing programs for non-profit organizations



Streamline development services targeted to small businesses



Update Town Center Specific Plan and implement plan elements



# Infrastructure Investments

Debris, catch basin and slope repair projects (e.g., Crow Place, Eagle Peak)

Creek revitalization projects

Other stormwater management projects

Downtown economic development projects



# Clayton Cares Grant Opportunity

Claytonian businesses, non-profits and households hit hardest by COVID-19

Reimburse costs associated with pandemic economic impacts

- Payroll and benefits
- Mortgage and rent
- PPE and other costs associated with reopening safely
- Workforce development

One-time available cash assistance and/or no-interest forgivable loan program

- Flat amount or scaled based on revenue loss during pandemic

Grant Portal on City Website

- E-mail
- E-newsletter
- Social media



# Clayton Cares

## What is a Small Business?

“Small businesses” means entities that have yearly gross revenue of \$2.5 million or less based on most recent available tax return; must have minimum yearly gross revenue of \$1,000

“Small nonprofit” means registered 501(c)(3), 501(c)(6) or 501(c)(19) nonprofit entities that have yearly gross revenue of \$2.5 million or less based on most recent available Form 990 and a minimum yearly gross revenue of \$1,000



# Clayton Cares

## Loan/Grant Opportunity for Businesses and Non-Profits

- Eligible businesses must have a physical address and operate in Clayton



- Required documents
  - Federal Tax Returns from 2019 and 2020 showing a decrease in revenue
  - Copy of Clayton Business License (businesses required to obtain a City business license) or official filing with the California Secretary of State (all other businesses)
  - Attestation acknowledging adverse economic impact by the pandemic



# Clayton Cares

## Loan/Grant Opportunity for Businesses and Non-Profits



- Award can be granted as a flat dollar amount or scaled based on revenue loss
  - \$10,000 per business/non-profit; or
  - Scaled based on one or more factors with a cap of \$25,000
    - One month of annualized gross receipts
    - Half (50%) of revenue loss sustained between 2019 and 2020

# Clayton Cares

## Small Business Technical Assistance Programs

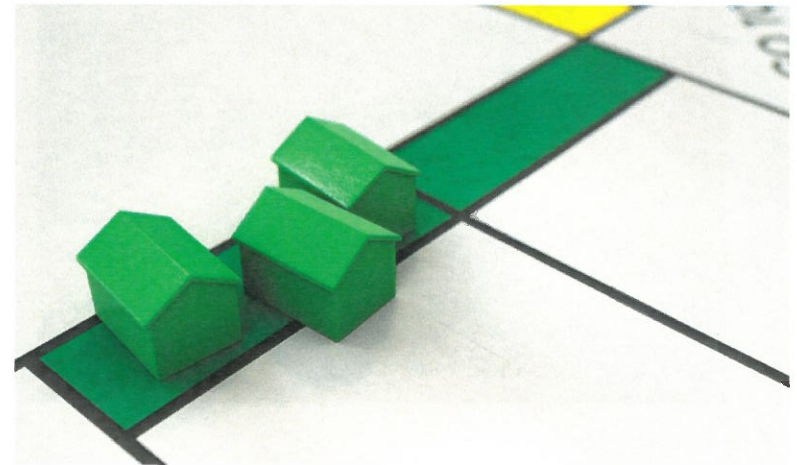
- Small business counseling and business planning services through 2024
- Help businesses pivot to online or other alternative service delivery methods
  - Safer operating procedures
  - Weather periods of closure
  - Expand outdoor spaces
  - Expand regional presence
- Assistance in streamlining City approval processes
- Potential partners
  - Small Business Administration
  - Contra Costa County Small Business Development Center
  - San Pablo Economic Development Corporation
- Available to any small business in Clayton



# Clayton Cares

## Loan/Grant Opportunity for Households

- Individuals and households (18 years or older) that reside in the City of Clayton that have been adversely impacted by the pandemic and meet income requirements are encouraged to apply for this direct cash funding support of \$2,000 per household.
- Two programs
  - **Loans/Grants for individuals suffering from low or reduced income**
    - To meet income qualifications, households must make 50% or less of area median income or show a decrease in income from 2019 to 2020 of 20%
  - **Loans/Grants for deferred mortgage or rent assistance**
    - To meet mortgage/rent qualifications, households must demonstrate current enrollment in a mortgage/rent deferral program





# Clayton Cares

## Loan/Grant Opportunity for Households

- Cash assistance to help with
  - Job preparation
  - Services such as counseling, training and employment assistance
  - Mortgage/rent assistance
  - Emergency household expenses
  - Medical expenses
- Required documentation
  - Proof of residency
  - Proof of income (reduced income program)
  - Proof of mortgage or rent deferral (mortgage/rent assistance)
  - Attestation acknowledging adverse impact by the pandemic



# Potential Targeted ARPA Funding by Program

## Initial Response to Public Health Emergency

- \$0 to \$250,000

## Economic Impacts to Businesses and Public Entities

- Small Business – Loan/Grant programs; small business counseling/technical assistance programs
  - \$0 to \$1,000,000
- Streamline Development Services/Update Town Center Specific Plan
  - \$0 to \$500,000
- Households – Grants for income and mortgage/rent assistance
  - \$0 to \$250,000

## Infrastructure Investments

- \$0 to \$2,000,000

**Clayton's Allocation is \$2.9 million**

# Next Steps

Questions  
about ARPA  
requirements

Questions/  
feedback  
on survey results

Input on priority  
spending  
opportunities

Provide policy  
direction on  
selected  
spending plan

Management  
Partners will  
complete an  
Implementation  
Action Plan for the  
programs selected



# Council Action Requested



Take public testimony



Provide direction on programs to be implemented and funding allocations/ranges for each program



Provide feedback on the **Clayton Cares** program parameters

# Questions?



Dan Keen | [dkeen@managementpartners.com](mailto:dkeen@managementpartners.com)  
Steve Toler | [stoler@managementpartners.com](mailto:stoler@managementpartners.com)



# City of Clayton

## SB 9 and SB 10

Housing Development Projects,  
Urban Lot Splits, and Optional Upzoning



# SB 9

Ministerial Review

No Discretion

No Hearings

- Housing Development Projects – ministerial consideration of no more than 2 residential units
- Urban Lot Split - ministerial consideration of parcel map for an urban lot split
- Map Extensions - allows for subdivision map extensions

# SB 9 Development Projects

## Qualifying Criteria

- The site is in a single-family residential zone
- The parcel is located within a city that has an urbanized area or urban cluster
- The parcel is not located on:
  - Prime farmland
  - Wetlands
  - Within a Very High Fire Hazard Severity Zone, but does not apply if fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures apply to the development
  - Hazard waste site

# SB 9 Development Projects

## Qualifying Criteria

- Earthquake fault zone, unless development complies with applicable seismic protection building code standards
- Special flood hazard area subject to induction by the 1 percent annual chance flood (100-year flood) or regulatory floodway as determined by FEMA, but may not apply if federal criteria are met
- Lands identified for conservation in an adopted natural community conservation plan, habitat conservation plan or other adopted natural resource protection plan
- Development is on a site with protected species habitat
- Lands under conservation easement

# SB 9 Development Project

## Qualifying Criteria

- The project does not involve demolition or alteration of affordable housing, rent controlled housing, housing that was withdrawn from rent within the last 15 years, or tenant occupied in the last 3 years
- The project does not involve demolition of more than 25% of existing exterior walls of an existing dwelling, unless either the City allows for it by ordinance or the site has not been occupied by a tenant in the last 3 years
- The site is not a historical landmark or within a designated historic district

# SB 9 Development Project

## Applicable Standards

Objective zoning standards

Objective subdivision standards

Objective design standards

- Only to the extent that the standards do not physically preclude the construction of two units of at least 800 square feet and do not conflict with SB 9

# SB 9 Development Projects

## Applicable Standards

### Setbacks

No setbacks for existing structure or a structure constructed in the same location to the same dimensions as an existing structure, otherwise may require a setback of up to 4 feet from the side and rear lot lines

### Parking

Off street parking - one space per unit. Cannot require off-street parking if the property is within ½ mile from walking distance of either a high-quality transit corridor, a major transit stop, or a car share vehicle location

### Percolation Test

Wastewater treatment system, can require a percolation test

### Short-Term Rentals

Cities must prohibit short-term rentals in any dwelling created under SB 9



# SB 9 Development Projects

## Adjacent/Connected Structures

Cannot reject an application solely because it proposes adjacent or connected structures that meet building code standards and are sufficient to allow separate conveyance

## HCD Report

Cities shall include units constructed under SB 9 in annual housing element report

## CEQA

No CEQA required

## HOAs

Not Applicable to HOAs

# SB 9 Development Projects

## Limited Grounds to Deny

The City may only deny a SB 9 development project if the building official makes written findings based upon a preponderance of the evidence that the housing development project would have a specific, adverse impact on public health and safety or the physical environment and there is no feasible satisfactory mitigation.

# SB 9 Urban Lot Splits

## Qualifying Criteria

### Size

- Each lot is at least 1,200 square feet (City can set a lower minimum)
- Results in 2 new lots of approximately equal size (60/40 split at most)

### Zoning

- The lot is zoned single-family residential
- Does not involve the demolition or alteration of affordable housing, rent controlled housing, housing that was withdrawn from rent within the last 15 years or tenant occupied in the last 3 years
- The lot is not a historic landmark or within a designated historic district

# SB 9 Urban Lot Splits

## Qualifying Criteria

- The parcel is not located on:
  - Prime farmland
  - Wetlands
  - Within a Very High Fire Hazard Severity Zone, but does not apply if fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures apply to the development
  - Hazard waste site
  - Earthquake fault zone, unless development complies with applicable seismic protection building code standards

# SB 9 Urban Lot Splits

## Qualifying Criteria

- Special flood hazard area subject to induction by the 1 percent annual chance flood (100-year flood) or regulatory floodway as determined by FEMA, but may not apply if federal criteria are met
- Lands identified for conservation in an adopted natural community conservation plan, habitat conservation plan or other adopted natural resource protection plan
- Development is on a site with protected species habitat
- Lands under conservation easement



# SB 9 Urban Lot Splits

## Qualifying Criteria

- The parcel is within a city that has an urbanized area or urban cluster
- The original lot was not established through a prior SB 9 lot split
- Neither the owner nor anyone acting in concert with the owner previously subdivided an adjacent parcel through a SB 9 lot split

# SB 9 Urban Lot Split

## Applicable Standards

Objective zoning standards

Objective subdivision standards

Objective design standards

- Only to the extent that the standards do not physically preclude the construction of 2 units of at least 800 square feet

# SB 9 Urban Lot Split

## Applicable Standards

### Setbacks

No setbacks for existing structure or a structure constructed in the same location and to the same dimensions as an existing structure, otherwise may require a setback of up to 4 feet from the side and rear lot lines

### Parking

Off street parking of up to one space per unit

But cannot require off-street parking if the property is within ½ mile from walking distance of either a high-quality transit corridor, major transit stop, or a car share vehicle location

### Short-Term Rentals

No short-term rentals in any unit created under SB 9

# SB 9 Urban Lot Split

## Applicable Standards

- The City must prohibit non-residential uses of the new lots
- Proposed adjacent or connected structures must be allowed
- No right-of-way dedications or construction of offsite improvements can be required
- Cannot require the correction of nonconforming zoning conditions

### Easement

- May require easements for provision of public services and facilities

### Access

- Parcel may be required to have access to, provide access to, or adjoin the public right-of-way

# SB 9 Urban Lot Split

## Applicable Standards

### Affidavit Intending to Occupy

- The applicant must sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for at least 3 years following the lot split
- Exemptions for community land trust and qualified nonprofit corporations
- No other owner-occupancy requirement is allowed



# SB 9 Urban Lot Split

## Applicable Standards

### ADUs

City is not required to permits ADUs on parcels that use both SB 9 lot split and SB 9 development project

### No more than 2 Units

City is not required to permit more than 2 units on any SB 9 Lot Split Parcel

# SB 9 Urban Lot Split

## Report to HCD

The City must include the number of SB 9 lot split applications in annual housing element reports

## CEQA

No CEQA

## HOAs

Not applicable to HOAs

# SB 9 Urban Lot Split

## Limited Grounds to Deny

The City may only deny a qualifying SB 9 lot split if the building official finds that the resulting housing development project would have a specific, adverse impact on public health and safety or the physical environment and there is no feasible, satisfactory mitigation.

# SB 10

## Optional Upzone

- Authorizes the City to voluntarily adopt an ordinance to upzone any parcel up to 10 residential dwelling units
- The height should be specified in the ordinance
- The parcel must be located in a transit-rich area or an urban infill site
- Cannot reduce the density of the parcel after it is upzoned
- Ordinance must be adopted before 1/1/29
- Must be adopted by 2/3<sup>rd</sup> vote if it supersedes a local initiative
- Not subject to CEQA

# Next Steps

## SB 9

- Prepare and Adopt Objective Standards
- Prepare and Adopt Implementing Ordinance
- Limitations from SB 330

## SB 10

- No action is required to be taken



## **Senate Bill No. 9**

### **CHAPTER 162**

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with  
Secretary of State September 16, 2021.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24

months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is

no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:



(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division

2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the

housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be

considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.



(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or

because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

## **Senate Bill No. 10**

### **CHAPTER 163**

An act to add Section 65913.5 to the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with  
Secretary of State September 16, 2021.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 10, Wiener. Planning and zoning: housing development: density.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to adopt an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area or an urban infill site, as those terms are defined. The bill would prohibit a local government from adopting an ordinance pursuant to these provisions on or after January 1, 2029. The bill would specify that an ordinance adopted under these provisions, and any resolution to amend the jurisdiction's General Plan, ordinance, or other local regulation adopted to be consistent with that ordinance, is not a project for purposes of the California Environmental Quality Act. The bill would prohibit an ordinance adopted under these provisions from superceding a local restriction enacted or approved by a local initiative that designates publicly owned land as open-space land or for park or recreational purposes.

The bill would impose specified requirements on a zoning ordinance adopted under these provisions, including a requirement that the zoning ordinance clearly demarcate the areas that are subject to the ordinance and that the legislative body make a finding that the ordinance is consistent with the city or county's obligation to affirmatively further fair housing. The bill would require an ordinance to be adopted by a  $\frac{2}{3}$  vote of the members of the legislative body if the ordinance supersedes any zoning restriction established by local initiative.

The bill would prohibit an ordinance adopted under these provisions from reducing the density of any parcel subject to the ordinance and would prohibit a legislative body from subsequently reducing the density of any parcel subject to the ordinance. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel zoned pursuant to these provisions from being approved ministerially or by right or from being exempt from the California Environmental Quality Act, except as specified.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65913.5 is added to the Government Code, to read:

65913.5. (a) (1) Notwithstanding any local restrictions on adopting zoning ordinances enacted by the jurisdiction that limit the legislative body's ability to adopt zoning ordinances, including, subject to the requirements of paragraph (4) of subdivision (b), restrictions enacted by local initiative, a local government may adopt an ordinance to zone a parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in one of the following:

(A) A transit-rich area.

(B) An urban infill site.

(2) A local government shall not adopt an ordinance pursuant to this subdivision on or after January 1, 2029. However, the operative date of an ordinance adopted under this subdivision may extend beyond January 1, 2029.

(3) An ordinance adopted in accordance with this subdivision, and any resolution to amend the jurisdiction's General Plan, ordinance, or other local regulation adopted to be consistent with that zoning ordinance, shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(4) Paragraph (1) shall not apply to either of the following:

(A) Parcels located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This paragraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(B) Any local restriction enacted or approved by a local initiative that designates publicly owned land as open-space land, as defined in subdivision (h) of Section 65560, or for park or recreational purposes.

(b) A legislative body shall comply with all of the following when adopting a zoning ordinance pursuant to subdivision (a):

(1) The zoning ordinance shall include a declaration that the zoning ordinance is adopted pursuant to this section.

(2) The zoning ordinance shall clearly demarcate the areas that are zoned pursuant to this section.

(3) The legislative body shall make a finding that the increased density authorized by the ordinance is consistent with the city or county's obligation to affirmatively further fair housing pursuant to Section 8899.50.

(4) If the ordinance supersedes any zoning restriction established by a local initiative, the ordinance shall only take effect if adopted by a two-thirds vote of the members of the legislative body.

(c) (1) Notwithstanding any other law that allows ministerial or by right approval of a development project or that grants an exemption from Division 13 (commencing with Section 21000) of the Public Resources Code, a residential or mixed-use residential project consisting of more than 10 new residential units on one or more parcels that are zoned pursuant to an ordinance adopted under this section shall not be approved ministerially or by right and shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) This subdivision shall not apply to a project located on a parcel or parcels that are zoned pursuant to an ordinance adopted under this section, but subsequently rezoned without regard to this section. A subsequent ordinance adopted to rezone the parcel or parcels shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code. Any environmental review conducted to adopt the subsequent ordinance shall consider the change in the zoning applicable to the parcel or parcels before they were zoned or rezoned pursuant to the ordinance adopted under this section.

(3) The creation of up to two accessory dwelling units and two junior accessory dwelling units per parcel pursuant to Sections 65852.2 and 65852.22 of the Government Code shall not count towards the total number of units of a residential or mixed-use residential project when determining if the project may be approved ministerially or by right under paragraph (1).

(4) A project may not be divided into smaller projects in order to exclude the project from the prohibition in this subdivision.

(d) (1) An ordinance adopted pursuant to this section shall not reduce the density of any parcel subject to the ordinance.

(2) A legislative body that adopts a zoning ordinance pursuant to this section shall not subsequently reduce the density of any parcel subject to the ordinance.

(e) For purposes of this section:

(1) "High-quality bus corridor" means a corridor with fixed route bus service that meets all of the following criteria:



(A) It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.

(B) It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 p.m., inclusive, on Monday through Friday.

(C) It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

(2) “Transit-rich area” means a parcel within one-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or a parcel on a high-quality bus corridor.

(3) “Urban infill site” means a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

(f) The Legislature finds and declares that provision of adequate housing, in light of the severe shortage of housing at all income levels in this state, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.