



AGENDA

REGULAR MEETING

*** * ***

CLAYTON CITY COUNCIL

*** * ***

TUESDAY, July 20, 2021

7:00 P.M.

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

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19 and the Governor's Executive Orders N-25-20 and N-29-20 that allow members of the City Council, City staff and the public to participate and conduct a meeting by teleconference, videoconference or both. In order to comply with public health orders, the requirement to provide a physical location for members of the public to participate in the meeting has been suspended.

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

Instructions for Virtual City Council Meeting – July 20

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

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

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

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

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

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

Location:

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

To join this virtual meeting on-line click here:

https://us02web.zoom.us/webinar/register/WN_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 ***

July 20, 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 special meeting of June 29, 2021.
(City Clerk) ([View Here](#))
- (b) Approve the Financial Demands and Obligations of the City. (Finance) ([View Here](#))
- (c) Waive Second Reading and Adopt an Ordinance Amending the Clayton Zoning Map to Rezone 9.03 Acres from R-10 District and PF District to PD District for the Oak Creek Canyon Residential Project (ZOA-01-18).
(Interim Community Development Director) ([View Here](#))
- (d) Adopt a Resolution to Approve the Award of a Sole Source Construction Contract to J.J.R. Construction, Inc. of Concord, California in the Amount of \$288,738.00 for the City of Clayton Curb Ramp Improvement Project.
(City Engineer) ([View Here](#))
- (e) Adopt a Resolution Making Findings in Support of Waiving Competitive Bidding Requirements and Approving Award of a Sole Source Contract to Bay Cities Paving & Grading, Inc., for the Neighborhood Pavement Preservation Project (CIP No. 10449). (City Engineer) ([View Here](#))
- (f) Adopt a Resolution Naming the Private Street in the Approved Diablo Meadows Residential Project as “Diablo Meadows Court”. (Assistant Planner) ([View Here](#))

5. **RECOGNITIONS AND PRESENTATIONS**

- (a) “Sustainable Contra Costa” by Cleaner Contra Costa Challenge.
(Tina Neuhausel, President and Co-founder and Colleen Noland, Community Organizer) ([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

- (a) Public Hearing on Proposed Real Property Assessments for the Diablo Estates at Clayton Benefit Assessment District (BAD); Ordering Improvements and Levying Annual Assessments in FY 2021/22 incorporating a 3.8% Adjustment. (City Engineer) ([View Here](#))
- (b) Public Hearing on the Appeal of the Planning Commission Approval of the Extension of a Density Bonus (DBA-01-19), Site Plan Review Permit (SPR-04-17) and Tree Removal Permit (TRP-24-17) for The Olivia on Marsh Creek Development. (Interim Community Development Director) ([View Here](#))

9. ACTION ITEMS

- (a) Adopt a Resolution of the City Council of the City of Clayton Adopting a General Fund Reserve Policy. (City Manager) ([View Here](#))

10. CLOSED SESSION – None.

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

12. ADJOURNMENT

The next regularly scheduled meeting of the City Council will be August 3, 2021.

#

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

TUESDAY, June 29, 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, City Attorney Mala Subramanian, Interim Community Development Director Dana Ayers, Assistant to the City Manager Laura Hoffmeister, Finance Director Paul Rodrigues, and City Clerk/HR Manager Janet Calderon.
2. **MEETING PROTOCOL VIDEO** – City Clerk.
3. **PLEDGE OF ALLEGIANCE** – led by Councilmember Diaz.
4. **CONSENT CALENDAR**

It was moved by Councilmember Diaz, 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 May 15, 2021. (City Clerk)
 - (b) Approved the Financial Demands and Obligations of the City. (Finance)
 - (c) Adopted Resolution No. 31-2021 ordering the levy and collection of special taxes and setting forth the special tax amount for Community Facilities District (CFD) 2006-1 (Downtown “The Grove” Park Maintenance) on the Fiscal Year 2021/22 Tax Assessment. (Assistant to the City Manager)
 - (d) Adopted Resolution No. 32-2021 ordering the levy and collection of special taxes and setting forth the special tax amount for Community Facilities District (CFD) 2007-1 (City Wide Landscape Maintenance) on the Fiscal Year 2021/22 Tax Assessment). (Assistant to the City Manager)
 - (e) Adopted Resolution No. 33-2021 Approving the Engineer’s Report and Declare Intent to Levy and Collect Real Property Assessments for the Diablo Estates at Clayton Benefit Assessment District for Fiscal Year 2021/22 and Give Notice of a Public Hearing to be held on July 20, 2021 at 7:00PM at the City of Clayton City Hall on the Levy of the Proposed Assessments. (City Engineer)

- (f) Adopted Resolution No. 34-2021 of the City Council of the City of Clayton Appointing CalPERS Retired Annuitant Sandra Sato to the Position of Interim Finance Director and Approving an Employment Contract Pursuant to California Government Code Section 21221(h). (City Manager)
- (g) Adopted Resolution No. 35-2021 Approving a Three (3) Year Collective Bargaining Agreement with the Clayton Police Officers' Association (CPOA) – July 1, 2021 – June 30, 2024. (City Manager)
- (h) Adopted Resolution No. 36-2021 Approving the City of Clayton's List of Local Transportation Improvement Projects for Fiscal Year 2021/22 using Road Maintenance and Rehabilitation Account – Local Streets and Road Funds (RMRA-LSR; SB1). (City Engineer)

5. RECOGNITIONS AND PRESENTATIONS – None.

6. REPORTS

- (a) City Manager/Staff

City Manager Reina Schwartz requested the City Council consider moving the Oakhurst Geological Hazard Abatement portion of the meeting prior to the Public Hearing this evening.

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

Vice Mayor Cloven attended the Clayton Business and Community Association General Membership meeting.

Councilmember Tillman attended the Clayton Business and Community Association General Membership meeting, met with the City Manager, met with the Police Chief, and called and emailed constituents.

Councilmember Wan toured the Cemex Quarry with Councilmember Diaz and called and emailed constituents.

Councilmember Diaz called and emailed constituents, went on the Cemex Quarry tour with Councilmember Wan, met with the City Manager, met with the Chief of Police, and spoke briefly about the relationship between the city and the Clayton Business and Community Association.

Mayor Wolfe attended the Clayton Business and Community Association General Membership meeting, a meeting of Association of Bay Area Governments, a meeting of the East Contra Costa Habitat Conservancy, called and emailed constituents, met with the City Manager, met with Vice Mayor Cloven, and met with Assemblymember Grayson regarding SB9 and SB10. Mayor Wolfe also announced the splash pad is closed due to the severe drought and infrastructure issues.

It was moved by Vice Mayor Cloven, seconded by Councilmember Tillman, to rearrange the agenda to consider the Oakhurst Geological Hazard Abatement items prior to the Public Hearings this evening. (Passed 5-0).

7. PUBLIC COMMENT ON NON - AGENDA ITEMS

Frank Gavidia clarified some previous comments he made regarding the Clayton Business and Community Association.

Edward Miller clarified some comments made against him during the Planning Commission interview by a Councilmember.

Councilmember Jeff Wan responded to Mr. Miller's public comment.

Mayor Wolfe closed public comment.

**10. RECESS THE CITY COUNCIL MEETING – Mayor Wolfe
(until after the conclusion of the Oakhurst Geological Hazard Abatement District meeting)**

Mayor Wolfe announced the City Council will adjourn to a Oakhurst Geological Hazard Abatement District Meeting [7:24 p.m.].

11. RECONVENE THE CITY COUNCIL MEETING – Mayor Wolfe

Mayor Wolfe announced the City Council will reconvene the City Council meeting [7:40 p.m.].

8. PUBLIC HEARINGS

- (a) Public Hearing on the City of Clayton Budget for FY 2021/22, and the 5-year Capital Improvement Program (CIP) For Fiscal Years 2021/22 Through 2025/26. (Finance Director)

Finance Director Paul Rodrigues presented the report. City Manager Schwartz clarified that the Resolution being requested for adoption will be amended to reflect that the CIP will be adopted for FY2021/22 and not the Five-Year CIP as originally published.

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

It was moved by Councilmember Wan, seconded by Councilmember Tillman, adopt Resolution No. 37-2021 Adopting the Annual Budget for the City of Clayton for the 2021/22 Fiscal Year Commencing July 1, 2021 and Ending June 30, 2022, Adopting the FY2021/22 Appropriations Limit, and the Capital Improvement Program (CIP) for Fiscal Year 2021/22. (Passed 5-0).

- (b) Oak Creek Canyon Project, Applicant's Appeal of the Planning Commission Recommendation of Denial. (Interim Community Development Director)

Vice Mayor Cloven disclosed he attended the Planning Commission meeting virtually when this item was initially presented and has had past conversations with Mr. Moita; details of the project were not discussed.

Councilmember Tillman disclosed overhearing a Planning Commission meeting that her spouse was listening to.

Councilmember Wan disclosed he has had conversation with both property owners regarding general matters.

Councilmember Diaz had no disclosures.

Mayor Wolfe disclosed a text conversation with former Mayor Catalano regarding continuance with no resolution.

Dana Ayers, Interim Community Development Director, presented the report.

Doug Chen and Louis Parsons from West Coast Home Builders provided a PowerPoint presentation.

Christina Bergland Attorney, Hanson Bridgett representing West Coast Home Builders clarified some information in the letter that was emailed prior to this evening's city council meeting.

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

Cheryl Morgan expressed concerns with the applicant and requested postponement of the City Council's decision this evening.

Jim Moita expressed concerns with the applicant and requested this item be continued to a later date.

Vince Moita expressed concerns regarding the width of the street and requested this item be brought back to the City Council on August 17, 2021.

Mayor Wolfe closed public comment.

Councilmember Wan suggested the developer include a paved path from the development toward Clayton Community Park.

City Attorney Mala Subramanian also clarified Condition 77 to indicate that the wording will be modified from "Warranty Bond" to "Performance Bond, Letter of Credit or Certificate of Deposit for full value of the work".

It was moved by Councilmember Wan, seconded by Councilmember Diaz, to Amend Condition of Approval No. 77 modifying the Bond as recommended by the City Attorney, Amend Condition of Approval No. 105 Clarifying the Utility Easement, Amend Condition of Approval No. 129 extending the decomposed granite path from the west to Clayton Community Park; Adopt Resolution No. 38-2021 Adopting the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Oak Creek Canyon Residential Project; Adopt Resolution No. 39-2021 Amending the General Plan Land Use Map for the Oak Creek Canyon Residential Project Located on Marsh Creek Road, North of the Intersection with

Diablo Parkway (GPA-02-18); Adopt Resolution No. 40-2021 Amending the Marsh Creek Road Specific Plan Land Use Map for the Oak Creek Canyon Residential Project Located on Marsh Creek Road, North of the Intersection with Diablo Parkway (SPA-01-18); Introduced Ordinance No. 493 Rezoning 9.03 Acres from R-10 District and PF District to PD District for the Oak Creek Canyon Residential Project Located on Marsh Creek Road, North of its Intersection with Diablo Parkway (ZOA-01-18); and Adopt Resolution No. 41-2021 Approving a Vesting Tentative Map, Development Plan Permit and Tree Removal Permit for the Oak Creek Canyon Residential Project Located on Marsh Creek Road, North of the Intersection with Diablo Parkway (MAP-01-16, DP-01-19, TRP-31-19). (Passed 5-0).

9. ACTION ITEMS

- (a) Consideration of a Resolution Authorizing an Appeal of Clayton's Regional Housing Needs Assessment Allocation. (City Manager)

City Manager Reina Schwartz presented the report.

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

It was moved by Vice Mayor Cloven, seconded by Councilmember Tillman, adopt Resolution No. 42-2021 Authorizing an Appeal of the City of Clayton's 6th Cycle Regional Housing Needs Assessment (RHNA) Allocation. (Passed 5-0).

- (b) Adopt a Resolution of the City Council of the City of Clayton Adopting the City of Clayton's Salary Schedule Effective July 1, 2021 in Conformance with CalPERS Requirements to Provide a Publicly Available Salary Schedule. (City Manager)
Vice Mayor Cloven provided a brief background.

City Manager Reina Schwartz presented the report.

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

It was moved by Councilmember Wan, seconded by Councilmember Tillman, adopt Resolution No. 43-2021 Adopting the City of Clayton's Salary Schedule Effective July 1, 2021 in Conformance with CalPERS Requirements to Provide a Publicly Available Salary Schedule. (Passed 5-0).

10. COUNCIL ITEMS

Councilmember Diaz requested a microphone for Assistant to the City Manager Laura Hoffmeister as it is difficult to hear her via Zoom.

City Manager Reina Schwartz also announced the July 6, 2021 regular meeting of the City Council has been cancelled and noted Contra Costa County has banned fireworks throughout the county.

Councilmember Wan requested a future agenda item concerning a Ballot Measure for General Revenue, update to the Engineering portion of the City's website to include the Pavement Condition Index report, requested in-person City Council meetings to begin prior to September 30, 2021, and requested the city write letters of any concerns once the proposed reclamation plan is submitted to the County by Cemex Quarry.

11. **CLOSED SESSION** – None.

12. **ADJOURNMENT**— on call by Mayor Wolfe, the City Council adjourned its meeting at 10:33 p.m.

The next regularly scheduled meeting of the City Council will be July 20, 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: 7/20/21

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
Open Invoice Report-Paid via check prior to meeting	Accounts Payable	7/2/2021	\$ 250.00
Open Invoice Report	Accounts Payable	7/13/2021	\$ 1,328,470.39
Payroll Reconciliation Summary-Employee last day	Payroll, Taxes	7/1/2021	\$ 6,881.03
Payroll Reconciliation Summary	Payroll, Taxes	7/14/2021	\$ 92,760.07
		Total Required	\$ 1,428,361.49

Attachments:

1. Open Invoice Report, dated 7/2/21 (1 page)
2. Open Invoice Report, dated 7/13/21 (7 pages)
3. Payroll Reconciliation Summary report PPE 7/1/21 (1 page)
4. Payroll Reconciliation Summary report PPE 7/11/21 (1 page)

City of Clayton
Open Invoice Report
Obligations

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Jeffrey M Brown								
Jeffrey M Brown	7/2/2021	7/2/2021	070721	Classic Car Show/DJ 7/7/21	\$250.00	\$0.00		\$250.00
				<i>Totals for Jeffrey M Brown</i>	<i>\$250.00</i>	<i>\$0.00</i>		<i>\$250.00</i>
				GRAND TOTALS:	\$250.00	\$0.00		\$250.00

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
All City Management Services, Inc.								
All City Management Services, Inc.	6/16/2021	6/16/2021	71149	School crossing guard svcs 5/30/21-6/12/21	\$108.50	\$0.00		\$108.50
				<i>Totals for All City Management Services, Inc.</i>	<i>\$108.50</i>	<i>\$0.00</i>		<i>\$108.50</i>
All-Guard Systems, Inc.								
All-Guard Systems, Inc.	7/1/2021	7/1/2021	A327740	CH Annual alarm monitoring FY 2022	\$663.12	\$0.00		\$663.12
All-Guard Systems, Inc.	7/1/2021	7/1/2021	A327734	Library Annual alarm monitoring FY 2022	\$998.64	\$0.00		\$998.64
				<i>Totals for All-Guard Systems, Inc.</i>	<i>\$1,661.76</i>	<i>\$0.00</i>		<i>\$1,661.76</i>
American Fidelity Assurance Company								
American Fidelity Assurance Company	7/9/2021	7/9/2021	6007393	FSA PPE 7/11/21	\$128.45	\$0.00		\$128.45
American Fidelity Assurance Company	6/30/2021	6/30/2021	D319348	Supplemental insurance June 2021	\$617.70	\$0.00		\$617.70
American Fidelity Assurance Company	6/27/2021	6/27/2021	6005587	FSA PPE 6/27/21	\$128.45	\$0.00		\$128.45
				<i>Totals for American Fidelity Assurance Company</i>	<i>\$874.60</i>	<i>\$0.00</i>		<i>\$874.60</i>
Bassam Atwal								
Bassam Atwal	6/30/2021	6/30/2021	PC06-21	Planning Commission June 2021	\$120.00	\$0.00		\$120.00
				<i>Totals for Bassam Atwal</i>	<i>\$120.00</i>	<i>\$0.00</i>		<i>\$120.00</i>
Authorize.net								
Authorize.net	6/30/2021	6/30/2021	June2021	Online credit card gateway fee June 2021	\$37.35	\$0.00		\$37.35
				<i>Totals for Authorize.net</i>	<i>\$37.35</i>	<i>\$0.00</i>		<i>\$37.35</i>
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	6/17/2021	6/17/2021	22923	Library hours stickers	\$38.42	\$0.00		\$38.42
				<i>Totals for Bay Area Barricade Serv.</i>	<i>\$38.42</i>	<i>\$0.00</i>		<i>\$38.42</i>
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	6/30/2021	6/30/2021	909809	Legal svcs June 2021	\$9,574.00	\$0.00		\$9,574.00
Best Best & Kreiger LLP	6/30/2021	6/30/2021	909810	Project legal svcs June 2021	\$3,136.00	\$0.00		\$3,136.00
Best Best & Kreiger LLP	6/30/2021	6/30/2021	909811	Labor legal svcs June 2021	\$233.10	\$0.00		\$233.10
Best Best & Kreiger LLP	6/30/2021	6/30/2021	909812	Kelok Wy legal svcs June 2021	\$133.20	\$0.00		\$133.20
				<i>Totals for Best Best & Kreiger LLP</i>	<i>\$13,076.30</i>	<i>\$0.00</i>		<i>\$13,076.30</i>
Big O Tires								
Big O Tires	6/8/2021	6/8/2021	5011-178305	Trailer tires	\$332.01	\$0.00		\$332.01
				<i>Totals for Big O Tires</i>	<i>\$332.01</i>	<i>\$0.00</i>		<i>\$332.01</i>
Jeffrey M Brown								
Jeffrey M Brown	7/21/2021	7/21/2021	072121	Classic car show/DJ 7/21/21	\$250.00	\$0.00		\$250.00
Jeffrey M Brown	8/4/2021	8/4/2021	080421	Classic car show/DJ 8/4/21	\$250.00	\$0.00		\$250.00
				<i>Totals for Jeffrey M Brown</i>	<i>\$500.00</i>	<i>\$0.00</i>		<i>\$500.00</i>
Craig M Bryant								
Craig M Bryant	9/11/2021	9/11/2021	091121	Concert in The Grove 9/11/21	\$2,000.00	\$0.00		\$2,000.00

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 Craig M Bryant</i>					\$2,000.00	\$0.00		\$2,000.00
CalPERS Retirement								
CalPERS Retirement	6/24/2021	6/24/2021	100000016470188	1959 Survivor benefit FY 2021	\$405.60	\$0.00		\$405.60
CalPERS Retirement	6/24/2021	6/24/2021	100000016470400	1959 Survivor benefit FY 2021	\$234.00	\$0.00		\$234.00
CalPERS Retirement	7/1/2021	7/1/2021	100000016477302	UAL FY 2022	\$382,175.00	\$0.00		\$382,175.00
CalPERS Retirement	7/11/2021	7/11/2021	071121	Retirement PPE 7/11/21	\$18,240.80	\$0.00		\$18,240.80
CalPERS Retirement	6/27/2021	6/27/2021	062721	Retirement PPE 6/27/21	\$17,700.48	\$0.00		\$17,700.48
<i>Totals for CalPERS Retirement</i>					\$418,755.88	\$0.00		\$418,755.88
Andrew Carellos								
Andrew Carellos	8/28/2021	8/28/2021	082821	Concert in The Grove 8/28/21	\$2,500.00	\$0.00		\$2,500.00
<i>Totals for Andrew Carellos</i>					\$2,500.00	\$0.00		\$2,500.00
CERCO Analytical, Inc.								
CERCO Analytical, Inc.	6/28/2021	6/28/2021	2106139	Well testing	\$375.00	\$0.00		\$375.00
CERCO Analytical, Inc.	6/22/2021	6/22/2021	2106105	Well testing	\$400.00	\$0.00		\$400.00
<i>Totals for CERCO Analytical, Inc.</i>					\$775.00	\$0.00		\$775.00
Anthony Chippero								
Anthony Chippero	6/30/2021	6/30/2021	PC06-21	Planning Commission June 2021	\$120.00	\$0.00		\$120.00
<i>Totals for Anthony Chippero</i>					\$120.00	\$0.00		\$120.00
Cintas Corporation								
Cintas Corporation	6/24/2021	6/24/2021	4088187506	PW uniforms through 6/24/21	\$50.72	\$0.00		\$50.72
Cintas Corporation	6/30/2021	6/30/2021	4088812698	PW uniforms through 7/1/21	\$50.72	\$0.00		\$50.72
Cintas Corporation	7/9/2021	7/9/2021	4089607299	PW uniforms through 7/9/21	\$50.72	\$0.00		\$50.72
<i>Totals for Cintas Corporation</i>					\$152.16	\$0.00		\$152.16
City of Concord								
City of Concord	7/1/2021	7/1/2021	88994	Dispatch svcs August 2021	\$25,639.87	\$0.00		\$25,639.87
<i>Totals for City of Concord</i>					\$25,639.87	\$0.00		\$25,639.87
Clayton Pioneer								
Clayton Pioneer	7/1/2021	7/1/2021	2021016	Concerts in The Grove flyers	\$1,100.00	\$0.00		\$1,100.00
<i>Totals for Clayton Pioneer</i>					\$1,100.00	\$0.00		\$1,100.00
Clean Street								
Clean Street	4/30/2021	4/30/2021	99913CS	Street sweeping April 2021	\$4,500.00	\$0.00		\$4,500.00
<i>Totals for Clean Street</i>					\$4,500.00	\$0.00		\$4,500.00
Cocktail Monkeys								
Cocktail Monkeys	8/14/2021	8/14/2021	081421	Concert in The Grove 8/14/21	\$1,500.00	\$0.00		\$1,500.00
<i>Totals for Cocktail Monkeys</i>					\$1,500.00	\$0.00		\$1,500.00

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
Cole Supply Co., nc								
Cole Supply Co., nc	7/12/2021	7/12/2021	466128-2	Trash liners	\$2,553.83	\$0.00		\$2,553.83
				<i>Totals for Cole Supply Co., nc</i>	<u>\$2,553.83</u>	<u>\$0.00</u>		<u>\$2,553.83</u>
Comcast Business (PD)								
Comcast Business (PD)	6/30/2021	6/30/2021	124945053	PD Internet June 2021	\$991.64	\$0.00		\$991.64
				<i>Totals for Comcast Business (PD)</i>	<u>\$991.64</u>	<u>\$0.00</u>		<u>\$991.64</u>
Comcast Business								
Comcast Business	7/5/2021	7/5/2021	070521	Internet 7/10/21-8/9/21	\$386.16	\$0.00		\$386.16
				<i>Totals for Comcast Business</i>	<u>\$386.16</u>	<u>\$0.00</u>		<u>\$386.16</u>
Contra Costa County - Office of the Sheriff								
Contra Costa County - Office of the She	6/29/2021	6/29/2021	21-90188	SART exam billing May 2021	\$1,700.00	\$0.00		\$1,700.00
				<i>Totals for Contra Costa County - Office of the Sherif</i>	<u>\$1,700.00</u>	<u>\$0.00</u>		<u>\$1,700.00</u>
Contra Costa County Auditor-Controller (LAFCO)								
Contra Costa County Auditor-Controller	7/1/2021	7/1/2021	2122-0003	LAFCO net cost FY 2022	\$1,109.54	\$0.00		\$1,109.54
				<i>Totals for Contra Costa County Auditor-Controller (LAFCO)</i>	<u>\$1,109.54</u>	<u>\$0.00</u>		<u>\$1,109.54</u>
CopWare, Inc.								
CopWare, Inc.	7/1/2021	7/1/2021	85651	Peace officers sourcebook 9/21-8/22	\$400.00	\$0.00		\$400.00
				<i>Totals for CopWare, Inc.</i>	<u>\$400.00</u>	<u>\$0.00</u>		<u>\$400.00</u>
CR Fireline, Inc								
CR Fireline, Inc	6/4/2021	6/4/2021	119391	EH Fire sprinkler inspection	\$200.00	\$0.00		\$200.00
CR Fireline, Inc	6/4/2021	6/4/2021	119390	Library Fire sprinkler inspection	\$200.00	\$0.00		\$200.00
CR Fireline, Inc	6/4/2021	6/4/2021	119393	CH Fire sprinkler inspection	\$200.00	\$0.00		\$200.00
				<i>Totals for CR Fireline, Inc</i>	<u>\$600.00</u>	<u>\$0.00</u>		<u>\$600.00</u>
Cropper Rowe, LLP								
Cropper Rowe, LLP	6/30/2021	6/30/2021	317	CFA Audit FY 2021	\$3,000.00	\$0.00		\$3,000.00
				<i>Totals for Cropper Rowe, LLP</i>	<u>\$3,000.00</u>	<u>\$0.00</u>		<u>\$3,000.00</u>
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	7/1/2021	7/1/2021	72949435	Copier lease July 2021	\$1,004.48	\$0.00		\$1,004.48
				<i>Totals for De Lage Landen Financial Services, Inc.</i>	<u>\$1,004.48</u>	<u>\$0.00</u>		<u>\$1,004.48</u>
Terri Denslow								
Terri Denslow	6/30/2021	6/30/2021	PC06-21	Planning Commission June 2021	\$120.00	\$0.00		\$120.00
				<i>Totals for Terri Denslow</i>	<u>\$120.00</u>	<u>\$0.00</u>		<u>\$120.00</u>
Digital Services								
Digital Services	6/30/2021	6/30/2021	11929	IT services 6/7/21-7/6/21	\$3,120.00	\$0.00		\$3,120.00
				<i>Totals for Digital Services</i>	<u>\$3,120.00</u>	<u>\$0.00</u>		<u>\$3,120.00</u>

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
Lynndi & Andre Ernst								
Lynndi & Andre Ernst	6/25/2021	6/25/2021	CAP0378	Deposit refunds	\$2,620.50	\$0.00		\$2,620.50
				<i>Totals for Lynndi & Andre Ernst</i>	<u>\$2,620.50</u>	<u>\$0.00</u>		<u>\$2,620.50</u>
Frank Gavidia								
Frank Gavidia	6/30/2021	6/30/2021	PC06-21	Planning Commission June 2021	\$120.00	\$0.00		\$120.00
				<i>Totals for Frank Gavidia</i>	<u>\$120.00</u>	<u>\$0.00</u>		<u>\$120.00</u>
Geoconsultants, Inc.								
Geoconsultants, Inc.	6/30/2021	6/30/2021	19187	Well monitoirng June 2021	\$1,546.50	\$0.00		\$1,546.50
				<i>Totals for Geoconsultants, Inc.</i>	<u>\$1,546.50</u>	<u>\$0.00</u>		<u>\$1,546.50</u>
Globalstar LLC								
Globalstar LLC	6/16/2021	6/16/2021	16827367	Sat phone 6/16/21-7/15/21	\$113.19	\$0.00		\$113.19
				<i>Totals for Globalstar LLC</i>	<u>\$113.19</u>	<u>\$0.00</u>		<u>\$113.19</u>
Hammons Supply Company								
Hammons Supply Company	7/2/2021	7/2/2021	117142	The Grove janitorial supplies	\$330.77	\$0.00		\$330.77
				<i>Totals for Hammons Supply Company</i>	<u>\$330.77</u>	<u>\$0.00</u>		<u>\$330.77</u>
Harris & Associates, Inc.								
Harris & Associates, Inc.	6/17/2021	6/17/2021	48808	Engineering svcs 5/2/21-5/29/21	\$10,004.03	\$0.00		\$10,004.03
Harris & Associates, Inc.	6/17/2021	6/17/2021	48809	Project engineering svcs 5/2/21-5/29/21	\$7,500.00	\$0.00		\$7,500.00
Harris & Associates, Inc.	6/17/2021	6/17/2021	48810	CIP engineering svcs 5/2/21-5/29/21	\$3,895.00	\$0.00		\$3,895.00
Harris & Associates, Inc.	6/17/2021	6/17/2021	48829	AD/GHAD Engineering svcs 5/2/21-5/29/21	\$25,348.75	\$0.00		\$25,348.75
				<i>Totals for Harris & Associates, Inc.</i>	<u>\$46,747.78</u>	<u>\$0.00</u>		<u>\$46,747.78</u>
HdL Software, LLC								
HdL Software, LLC	7/1/2021	7/1/2021	SIN009549	Business license software FY 2022	\$4,072.48	\$0.00		\$4,072.48
				<i>Totals for HdL Software, LLC</i>	<u>\$4,072.48</u>	<u>\$0.00</u>		<u>\$4,072.48</u>
Leo Herrera								
Leo Herrera	7/17/2021	7/17/2021	071721	Concert in The Grove 7/17/21	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Leo Herrera</i>	<u>\$2,000.00</u>	<u>\$0.00</u>		<u>\$2,000.00</u>
Hinderliter de Llamas & Associates								
Hinderliter de Llamas & Associates	6/30/2021	6/30/2021	SIN009242	Sales Tax Contract svcs Q4 FY 2021	\$1,006.44	\$0.00		\$1,006.44
				<i>Totals for Hinderliter de Llamas & Associates</i>	<u>\$1,006.44</u>	<u>\$0.00</u>		<u>\$1,006.44</u>
Honey Bucket								
Honey Bucket	6/11/2021	6/11/2021	0552153832	Porta-potty rental for The Grove Park	\$1,170.51	\$0.00		\$1,170.51
				<i>Totals for Honey Bucket</i>	<u>\$1,170.51</u>	<u>\$0.00</u>		<u>\$1,170.51</u>
Ron A Jamison								
Ron A Jamison	7/31/2021	7/31/2021	073121	Concert in The Grove 7/31/21	\$2,500.00	\$0.00		\$2,500.00

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 Ron A Jamison</i>					\$2,500.00	\$0.00		\$2,500.00
Ken Joiret								
Ken Joiret	8/28/2021	8/28/2021	082821	Sound, Concert in The Grove 8/28/21	\$1,200.00	\$0.00		\$1,200.00
Ken Joiret	9/11/2021	9/11/2021	09112021	Sound, Concert in The Grove 9/11/21	\$1,200.00	\$0.00		\$1,200.00
Ken Joiret	9/11/2021	9/11/2021	091121	Sound, Concert in The Grove 9/11/21	\$1,200.00	\$0.00		\$1,200.00
Ken Joiret	7/17/2021	7/17/2021	071721	Sound, Concert in The Grove 7/17/21	\$1,200.00	\$0.00		\$1,200.00
Ken Joiret	8/14/2021	8/14/2021	081421	Sound, Concert in The Grove 8/14/21	\$1,200.00	\$0.00		\$1,200.00
Ken Joiret	7/31/2021	7/31/2021	073121	Sound, Concert in The Grove 7/31/21	\$1,200.00	\$0.00		\$1,200.00
<i>Totals for Ken Joiret</i>					\$7,200.00	\$0.00		\$7,200.00
Edward Miller III								
Edward Miller III	6/30/2021	6/30/2021	PC06-21	Planning Commission June 2021	\$120.00	\$0.00		\$120.00
<i>Totals for Edward Miller III</i>					\$120.00	\$0.00		\$120.00
Mission Square Retirement								
Mission Square Retirement	7/11/2021	7/11/2021	071121	457 Plan contributions PPE 7/11/21	\$2,209.62	\$0.00		\$2,209.62
Mission Square Retirement	6/27/2021	6/27/2021	062721	457 Plan contributions PPE 6/27/21	\$2,209.62	\$0.00		\$2,209.62
<i>Totals for Mission Square Retirement</i>					\$4,419.24	\$0.00		\$4,419.24
Moore Iacofano Golstman, Inc								
Moore Iacofano Golstman, Inc	6/30/2021	6/30/2021	0070293	Housing element svcs 5/18/21-5/31/21	\$1,888.75	\$0.00		\$1,888.75
Moore Iacofano Golstman, Inc	6/25/2021	6/25/2021	0070162	Downtown property Comm. Eng. svcs May 2	\$2,475.00	\$0.00		\$2,475.00
<i>Totals for Moore Iacofano Golstman, Inc</i>					\$4,363.75	\$0.00		\$4,363.75
MPA								
MPA	7/1/2021	7/1/2021	918-24223	Life/LTD July 2021	\$1,766.70	\$0.00		\$1,766.70
MPA	7/1/2021	7/1/2021	INV001979	Insurance FY 2022	\$237,245.00	\$0.00		\$237,245.00
<i>Totals for MPA.</i>					\$239,011.70	\$0.00		\$239,011.70
Nationwide								
Nationwide	7/11/2021	7/11/2021	071121	457 Plan contributions PPE 7/11/21	\$500.00	\$0.00		\$500.00
Nationwide	6/27/2021	6/27/2021	062721	457 Plan contributions PPE 6/27/21	\$500.00	\$0.00		\$500.00
<i>Totals for Nationwide</i>					\$1,000.00	\$0.00		\$1,000.00
Neopost (add postage)								
Neopost (add postage)	7/2/2021	7/2/2021	070221	Postage added	\$300.00	\$0.00		\$300.00
<i>Totals for Neopost (add postage)</i>					\$300.00	\$0.00		\$300.00
Pacific Office Automation								
Pacific Office Automation	7/6/2021	7/6/2021	215931	Copier lease pmt 52 of 60	\$106.58	\$0.00		\$106.58
<i>Totals for Pacific Office Automation</i>					\$106.58	\$0.00		\$106.58
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	7/1/2021	7/1/2021	2069756	Courtyard payphone July 2021	\$70.00	\$0.00		\$70.00

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 Pacific Telemanagement Svc</i>					\$70.00	\$0.00		\$70.00
Parmeter General Engineer & Services								
Parmeter General Engineer & Services	6/30/2021	6/30/2021	2339	Business license refund	\$65.00	\$0.00		\$65.00
<i>Totals for Parmeter General Engineer & Services</i>					\$65.00	\$0.00		\$65.00
Paysafe Payment Processing								
Paysafe Payment Processing	6/30/2021	6/30/2021	June21	Online bankcard fee June 2021	\$620.36	\$0.00		\$620.36
Paysafe Payment Processing	6/30/2021	6/30/2021	June21	OTC bankcard fee June 2021	\$204.93	\$0.00		\$204.93
<i>Totals for Paysafe Payment Processing</i>					\$825.29	\$0.00		\$825.29
Performance Trailer Service/West Coast Hunts								
Performance Trailer Service/West Coast H	6/21/2021	6/21/2021	5353	Repair park benches	\$3,467.89	\$0.00		\$3,467.89
Performance Trailer Service/West Coast H	6/9/2021	6/9/2021	060921	Pig control	\$7,800.00	\$0.00		\$7,800.00
<i>Totals for Performance Trailer Service/West Coast Hunts</i>					\$11,267.89	\$0.00		\$11,267.89
Professional Convergence Solutions, Inc								
Professional Convergence Solutions, Inc	7/5/2021	7/5/2021	PCS0705211	Repair phones @ Library	\$861.63	\$0.00		\$861.63
<i>Totals for Professional Convergence Solutions, Inc</i>					\$861.63	\$0.00		\$861.63
Reliance Realty Group								
Reliance Realty Group	6/25/2021	6/25/2021	CAP0230	Deposit refund	\$1,627.69	\$0.00		\$1,627.69
<i>Totals for Reliance Realty Group</i>					\$1,627.69	\$0.00		\$1,627.69
Rent-A-Fence.com								
Rent-A-Fence.com	6/19/2021	6/19/2021	12197-2979	The Grove fencing	\$654.13	\$0.00		\$654.13
<i>Totals for Rent-A-Fence.com</i>					\$654.13	\$0.00		\$654.13
Rex Lock & Safe, Inc.								
Rex Lock & Safe, Inc.	7/9/2021	7/9/2021	131273	Keys made	\$20.85	\$0.00		\$20.85
<i>Totals for Rex Lock & Safe, Inc.</i>					\$20.85	\$0.00		\$20.85
Site One Landscape Supply, LLC								
Site One Landscape Supply, LLC	6/16/2021	6/16/2021	110305346-001	Irrigation controller	\$15,736.34	\$0.00		\$15,736.34
Site One Landscape Supply, LLC	6/10/2021	6/10/2021	110087689-001	PVC pipe	\$76.06	\$0.00		\$76.06
Site One Landscape Supply, LLC	6/21/2021	6/21/2021	110441526-001	Irrigation parts	\$92.88	\$0.00		\$92.88
Site One Landscape Supply, LLC	6/22/2021	6/22/2021	110475055-001	Irrigation parts	\$83.02	\$0.00		\$83.02
<i>Totals for Site One Landscape Supply, LLC</i>					\$15,988.30	\$0.00		\$15,988.30
Sprint Comm (PD)								
Sprint Comm (PD)	6/30/2021	6/30/2021	703335311-235	PD cell phones 5/26/21-6/25/21	\$715.32	\$0.00		\$715.32
<i>Totals for Sprint Comm (PD)</i>					\$715.32	\$0.00		\$715.32
Staples Business Credit								
Staples Business Credit	6/25/2021	6/25/2021	1636415228	Office supplies	\$328.39	\$0.00		\$328.39

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 Staples Business Credit</i>					\$328.39	\$0.00		\$328.39
Stericycle Inc								
Stericycle Inc	6/30/2021	6/30/2021	3005601380	Medical waste disposal	\$68.25	\$0.00		\$68.25
<i>Totals for Stericycle Inc</i>					\$68.25	\$0.00		\$68.25
Andrea Stillwell								
Andrea Stillwell	6/30/2021	6/30/2021	3036	Business license refund	\$26.00	\$0.00		\$26.00
<i>Totals for Andrea Stillwell</i>					\$26.00	\$0.00		\$26.00
Swenson's Mobile Fleet Repair								
Swenson's Mobile Fleet Repair	6/21/2021	6/21/2021	1003162	Repair 99 F450	\$215.19	\$0.00		\$215.19
<i>Totals for Swenson's Mobile Fleet Repair</i>					\$215.19	\$0.00		\$215.19
TRC Environmental Corporation								
TRC Environmental Corporation	6/30/2021	6/30/2021	481541	Project svcs through 6/25/21	\$12,498.67	\$0.00		\$12,498.67
<i>Totals for TRC Environmental Corporation</i>					\$12,498.67	\$0.00		\$12,498.67
US Bank (CM 9690)								
US Bank (CM 9690)	7/1/2021	7/1/2021	6167834	CFA Admin 6/1/21-5/31/22	\$2,541.00	\$0.00		\$2,541.00
<i>Totals for US Bank (CM 9690)</i>					\$2,541.00	\$0.00		\$2,541.00
US Bank Ops Center								
US Bank Ops Center	7/12/2021	7/12/2021	CLAYCFD90197	CFD bond payment	\$463,393.56	\$0.00		\$463,393.56
<i>Totals for US Bank Ops Center</i>					\$463,393.56	\$0.00		\$463,393.56
Voyager - CalCard								
Voyager - CalCard	6/24/2021	6/24/2021	062421	Fuel stmt end 6/24/21	\$4,130.56	\$0.00		\$4,130.56
<i>Totals for Voyager - CalCard</i>					\$4,130.56	\$0.00		\$4,130.56
Workers.com								
Workers.com	6/18/2021	6/18/2021	130119	Seasonal workers week end 6/13/21	\$1,881.91	\$0.00		\$1,881.91
Workers.com	6/25/2021	6/25/2021	130180	Seasonal workers week end 6/20/21	\$1,881.91	\$0.00		\$1,881.91
Workers.com	6/30/2021	6/30/2021	130235	Seasonal workers week end 6/27/21	\$1,881.91	\$0.00		\$1,881.91
<i>Totals for Workers.com</i>					\$5,645.73	\$0.00		\$5,645.73
GRAND TOTALS:					\$1,328,470.39	\$0.00		\$1,328,470.39

PAY-BL070-008 V7.1
GENRECSM BRANCH 31
CURRENT DATE 06/30/2021

2021-005-01
14:39:57

BL070 CITY OF CLAYTON
PAYROLL RECONCILIATION SUMMARY

PAGE 1
PERIOD ENDING 06/30/2021
CHECK DATE 07/01/2021

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	7,109.07	6,781.69	6,781.69		1,281.80	0.00		1,281.80
SOCIAL SECURITY - EMPLOYEE	94-1568979	7,109.07	6,851.19	0.00	6.2000	0.00	0.00		0.00
MEDICARE - EMPLOYEE	94-1568979	7,109.07	6,851.19	6,851.19	1.4500	99.34	0.00		99.34
SOCIAL SECURITY - EMPLOYER	94-1568979	7,109.07	6,851.19	0.00	6.2000	0.00	0.00		0.00
MEDICARE - EMPLOYER	94-1568979	7,109.07	6,851.19	6,851.19	1.4500	0.00	99.34		99.34
FEDERAL SUB-TOTAL						1,381.14	99.34		1,480.48
FEDERAL UNEMPLOYMENT TAX	94-1568979	7,109.07	6,851.19	0.00	.6000	0.00	0.00		0.00
STATE INCOME TAX WITHHOLDING									
CA STATE	69813822	7,109.07	6,781.69	6,781.69		554.18	0.00		554.18
STATE W/H SUB-TOTAL						554.18	0.00		554.18
STATE UNEMPLOYMENT TAXES (EMPLOYER)									
CA SUTA	69813822	7,109.07	6,851.19	0.00	2.6000	0.00	0.00		0.00
SUTA SUB-TOTAL						0.00	0.00		0.00
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		7,109.07	6,851.19	0.00	.1000	0.00	0.00		0.00
OTHER W/H SUB-TOTAL						0.00	0.00		0.00
TOTAL TAX LIABILITY						1,935.32	99.34		2,034.66
=====									
PAYROLL LIABILITY TOTALS									
TOTAL NET DIRECT DEPOSITS						0.00			
TOTAL PARTIAL DIRECT DEPOSITS						0.00			
TAX LIABILITY FROM ABOVE						2,034.66			
** YOUR ACCOUNT 0982504799 AT BANK 121000358 HAS BEEN DEBITED FOR						2,034.66	**		
TOTAL NET CHECKS						1	4,846.37		
GRAND TOTAL PAYROLL CASH						6,881.03			

PAY-BL070-008 V7.1
GENRECSM BRANCH 31
CURRENT DATE 07/13/2021

2021-006-01
08:24:43

BL070 CITY OF CLAYTON
PAYROLL RECONCILIATION SUMMARY

PAGE 1
PERIOD ENDING 07/11/2021
CHECK DATE 07/14/2021

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	105,326.07	90,703.11	90,703.11		13,068.18	0.00		13,068.18
SOCIAL SECURITY - EMPLOYEE	94-1568979	105,326.07	101,596.17	4,907.14	6.2000	304.24	0.00		304.24
MEDICARE - EMPLOYEE	94-1568979	105,326.07	101,596.17	101,596.17	1.4500	1,473.17	0.00		1,473.17
SOCIAL SECURITY - EMPLOYER	94-1568979	105,326.07	101,596.17	4,907.14	6.2000	0.00	304.24		304.24
MEDICARE - EMPLOYER	94-1568979	105,326.07	101,596.17	101,596.17	1.4500	0.00	1,473.17		1,473.17
FEDERAL SUB-TOTAL						14,845.59	1,777.41		16,623.00
FEDERAL UNEMPLOYMENT TAX	94-1568979	105,326.07	101,596.17	0.00	.6000	0.00	0.00		0.00
STATE INCOME TAX WITHHOLDING									
CA STATE	69813822	105,326.07	90,703.11	90,703.11		4,939.40	0.00		4,939.40
STATE W/H SUB-TOTAL						4,939.40	0.00		4,939.40
STATE UNEMPLOYMENT TAXES (EMPLOYER)									
CA SUTA	69813822	105,326.07	101,596.17	4,907.14	2.6000	0.00	127.59		127.59
SUTA SUB-TOTAL						0.00	127.59		127.59
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		105,326.07	101,596.17	4,907.14	.1000	0.00	4.91		4.91
OTHER W/H SUB-TOTAL						0.00	4.91		4.91
TOTAL TAX LIABILITY						19,784.99	1,909.91		21,694.90
=====									
PAYROLL LIABILITY TOTALS									
TOTAL NET DIRECT DEPOSITS						28	63,556.71		
TOTAL PARTIAL DIRECT DEPOSITS						3	2,200.00		
** YOUR ACCOUNT 0982504799	AT BANK 121000358	HAS BEEN DEBITED FOR					65,756.71	**	
TAX LIABILITY FROM ABOVE							21,694.90		
** YOUR ACCOUNT 0982504799	AT BANK 121000358	HAS BEEN DEBITED FOR					21,694.90	**	
TOTAL NET CHECKS						2	4,644.96		
TOTAL VENDOR ACH PAYMENTS						10	663.50		
** YOUR ACCOUNT 0982504799	AT BANK 121000358	HAS BEEN DEBITED FOR					663.50	**	
GRAND TOTAL PAYROLL CASH							92,760.07		



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: Reina Schwartz, City Manager

BY: Dana Ayers, AICP, Interim Community Development Director

DATE: July 20, 2021

SUBJECT: Adoption of an Ordinance Amending the Clayton Zoning Map to Rezone 9.03 Acres from R-10 District and PF District to PD District for the Oak Creek Canyon Residential Project (ZOA-01-18)

RECOMMENDATION

Staff recommends that the City Council adopt the attached Ordinance amending the Clayton Zoning Map incorporated by reference into Clayton Municipal Code Section 17.08.010, to rezone 9.03 acres from R-10 (Single-Family Residential, 10,000 square foot minimum lot size) District and PF (Public Facility) District to PD (Planned Development) District for the Oak Creek Canyon Residential Project (ZOA-01-18).

BACKGROUND

On June 29, 2021, the City Council conducted a public hearing on an appeal filed by West Coast Home Builders, Inc., of the Planning Commission recommendation that the City Council deny land use entitlements requested for the Oak Creek Canyon Residential Project, a subdivision of six single-family residential lots and residences on 9.03 acres located on Marsh Creek Road, north of its intersection with Diablo Parkway (Project). After accepting written and spoken testimony, the Council closed the public hearing and moved to uphold the appeal, adopting the Initial Study/Mitigated Negative Declaration prepared for the Project; approving the land use entitlements requested for the Project (General Plan Land Use Map Amendment, Marsh Creek Road Specific Plan Amendment, Vesting Tentative Map, Development Plan Review and Tree Removal Permit); and introducing and waiving first reading of the Ordinance approving the Rezoning request.

The Ordinance amends the City's Zoning Map to rezone the 9.03-acre Project site from R-10 and PF District to PD District.

STAFF ANALYSIS

After introducing an ordinance, the City Council must approve the action by adopting the ordinance by a majority vote at the next meeting. The ordinance becomes effective 30 days after the date of its adoption.

FISCAL IMPACT

None.

ATTACHMENT

A. Ordinance

ORDINANCE NO. -2021

**AN ORDINANCE REZONING 9.03 ACRES FROM R-10 DISTRICT AND PF DISTRICT
TO PD DISTRICT FOR THE OAK CREEK CANYON RESIDENTIAL PROJECT
LOCATED ON MARSH CREEK ROAD, NORTH OF ITS INTERSECTION WITH
DIABLO PARKWAY
(ZOA-01-18)**

**THE CITY OF CLAYTON
City of Clayton, California**

The City Council of the City of Clayton DOES ORDAIN as follows:

Section 1. Recitals

- A. The City received an application from West Coast Home Builders (Applicant) requesting review and consideration of applications for Environmental Review pursuant to the California Environmental Quality Act (ENV-02-16), a Tentative Subdivision Map (MAP-01-16), a General Plan Map Amendment (GPA-02-18), a Specific Plan Map Amendment (SPA-01-18), a Zoning Map Amendment (ZOA-01-18), a Development Plan Permit (DP-01-19) and a Tree Removal Permit (TRP-31-19) for the subdivision and development of six single-family residences on approximately 9.03-acres ("Project"). The Oak Creek Canyon Residential Project site is located on the north side of Marsh Creek Road at its intersection with Diablo Parkway, Assessor's Parcel Number 119-070-008.
- B. State Planning and Zoning Law, and specifically Government Code Section 65850, authorizes cities' legislative bodies to adopt ordinances to regulate land use and establish standards for development of lands within their boundaries.
- C. The Zoning Ordinance of the City of Clayton is contained in Title 17 (Zoning) of Clayton Municipal Code (CMC), and the "Official Zoning Map of the City of Clayton" classifying properties within the City into zoning districts is incorporated into the Zoning Ordinance by reference in CMC Section 17.08.010.
- D. The Planning Commission is an advisory body to the City Council with respect to amendments to the Zoning Ordinance, and the Planning Commission held duly-noticed public hearings on December 22, 2020 and February 23, 2021, to accept written and spoken testimony on the requested Zoning Map Amendment to change the zoning of the 9.03-acre Project site from R-10 (Single-Family Residential, 10,000 square foot minimum lot size) District and PF (Public Facility) District to PD (Planned Development) District (ZOA-01-18).
- E. On March 9, 2021, after closing the public hearing on the item on February 23, 2021, the Planning Commission adopted Resolution No. 01-2021 finding the proposed Project plans to be inadequate for an affirmative decision and thereby recommending that the City Council deny the requested entitlements for the Project, without prejudice, which terminated proceedings on the Project in accordance with CMC Section 17.28.140.

- F. Notice of the Planning Commission Decision was sent to the City Clerk and the Applicant on May 7, 2021, and on May 10, 2021, the Applicant submitted an appeal of the Planning Commission decision, along with revised plans intended to address comments and concerns raised by Planning Commissioners following close of their public hearing.
- G. On June 1, 2021, at the request of the Applicant/Appellant and with concurrence from City staff, the City Council continued the duly-noted public hearing on the appeal of the Planning Commission recommendation on SPA-01-18 to June 29, 2021.
- H. On June 29, 2021, the City Council held a continued public hearing on the appeal of the Planning Commission recommendation on SPA-01-18, at which time spoken and written testimony was considered.
- I. Prior to acting on the appeal of the Planning Commission recommendation on SPA-01-18, the City Council adopted a Resolution adopting the Initial Study/Mitigated Negative Declaration prepared for the Project (ENV-02-16), pursuant to the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 *et seq.*) and State CEQA Guidelines (California Code of Regulations, Section 15000 *et seq.*), and the City Council considered the information contained in the adopted IS/MND prior to acting on this Zoning Ordinance amendment request.

Section 2. Findings

Based on the information in the Community Development Department files on this project, incorporated here by reference and available for review at City Hall, 6000 Heritage Trail in Clayton, the City Council finds that:

- A. The City Council does hereby find and affirm the above noted Recitals are true and correct and are hereby incorporated in the body of this Resolution as if restated in full.
- B. Proper notice of this public hearing was given in all respects as required by law, including publication in a newspaper of general circulation; first class mailing to the Applicant/Appellant, interested parties and agencies, and owners of property within 300 feet of the Project site; and posting on three community notice boards within the City.
- C. There is no evidence in light of the record that the proposed amendment will have the potential for any individual or cumulative adverse effect on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Wildlife Code.
- D. The proposed zoning amendment is consistent with the General Plan goals, policies, and implementation programs. More specifically, the proposed rezoning

would facilitate residential development on the property that is consistent with General Plan Land Use Objective 1 to “retain the rural character of Clayton through a predominance but not exclusive use of single-family, low-density residential development balancing needs of the housing element and preservation of open space.”

- E. The proposed zoning amendment is generally consistent with the goals and policies of the Marsh Creek Road Specific Plan (MCRSP), as the zoning amendment will facilitate construction of a single-family residential development on lands designated Low Density Residential in Figure 6 of the MCRSP (as amended). Consistent with MCRSP policies LU-5a, LU-6, LU-8 and DD-2, the development that will occur under the PD District will not occur on any ridgelines or slopes over 40 percent, will occur on lower elevation portions of the site where slopes are predominantly less than 26 percent, will cluster the residential units at the lower elevation so as to retain the higher elevation lands as open space, and will comply with MCRSP development regulations including but not limited to the 80-foot building setback from Marsh Creek Road.
- F. The public necessity, conveniences, and general welfare require the adoption of the proposed amendment. The PD District will support the City’s ongoing efforts to increase its housing stock with low-density single-family residential development. The Project site is within a half-mile walking distance of the Clayton Community Park, is within a mile of a public middle school, and is adjacent to Marsh Creek Road for convenient access to other goods and services in the City. Water, wastewater and stormwater utility lines to which the development could be connected are currently in the vicinity of the Project site in the Marsh Creek Road right-of-way

Section 3. Zoning Map Amendment

Based on the findings and the authority set forth above, the City Council hereby amends the Official Zoning Map of the City of Clayton to change the zoning of 9.03 acres located on the north side of Marsh Creek Road at its intersection with Diablo Parkway (currently Assessor’s Parcel Number 119-070-008), from R-10 (Single-Family Residential, 10,000 square foot minimum lot size) District and PF (Public Facility) District to PD (Planned Development) District, as depicted on the attached Exhibit A.

Section 4. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 5. Conflicting Ordinances Repealed.

Any Ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. Effective Date and Publication.

This Ordinance shall become effective thirty (30) days from and after its passage. Within 15 days after the passage of the Ordinance, the City Clerk shall cause the Ordinance, with the names of those City Council members voting for and against it, to be posted in three public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Clayton held on June 29, 2021, and was adopted and ordered posted at a meeting of the City Council held on _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Carl Wolfe, Mayor

ATTEST:

Janet Calderon, City Clerk

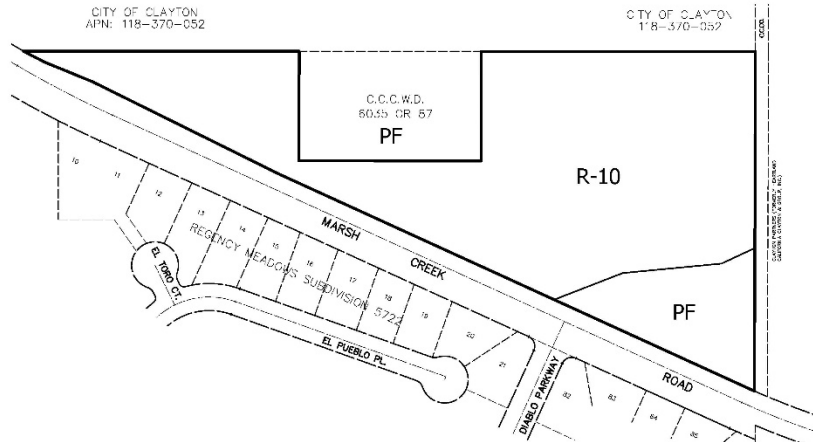
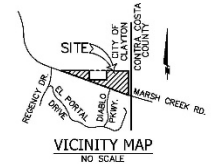
Exhibit A: Oak Creek Canyon, Zoning Map Amendment

ZONING EXHIBIT

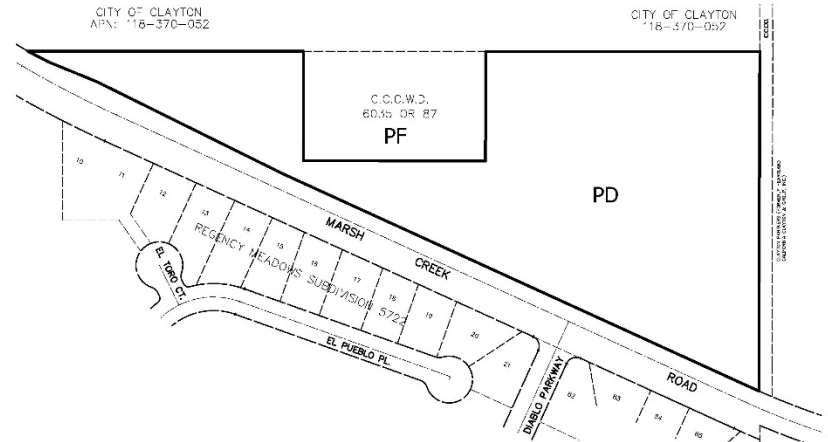
"OAK CREEK CANYON"

SUBDIVISION 6826

CITY OF CLAYTON
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA



EXISTING ZONING



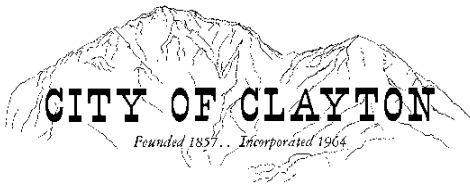
PROPOSED ZONING

LEGEND

PD - PLANNED DEVELOPMENT
PF - PUBLIC FACILITY
R10 - 10,000 SF MIN LOT SIZE

SUBDIVISION 6826		OAK CREEK CANYON	
CLAYTON		CONTRA COSTA COUNTY CALIFORNIA	
		Isakson & Assoc. Inc. civil engineering and surveying 2 Mt Diablo Court, Clayton, CA 94517 Phone (925) 876-0889	
DATE: 08-05-19	DESIGNED BY: DOI	DRAWN BY: FLB	CHECKED BY: DOI
			NOV 200514 SHEET 1 OF 1

200514 - OAK CREEK CANYON (SUBD. 6826) ZONING EXHIBIT - 09-05-2019



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: BILL STRACKER, CITY ENGINEER

DATE: July 20 2021

SUBJECT: APPROVE THE AWARD OF A SOLE SOURCE CONSTRUCTION CONTRACT TO J.J.R. CONSTRUCTION, INC. OF CONCORD, CALIFORNIA IN THE AMOUNT OF \$288,738.00 FOR THE CITY OF CLAYTON CURB RAMP IMPROVEMENT PROJECT.

RECOMMENDATION

Adopt Resolution:

- Awarding a Construction Contract for the City of Clayton Curb Ramp Improvement Project, to J.J.R. Construction, Inc. of Concord, California in the amount of \$288,738.00.

BACKGROUND

The City of Clayton Curb Ramp Improvement Project was initially combined with similar projects within the City of Martinez and bid as one project by Martinez as the lead government agency. Clayton's Capital Improvement Program budget for FY 2020-21 includes the construction of the FY2020 Pavement Rehabilitation Project (a separate paving award). The ADA law requires that the roadways receiving more than a micro-surfacing or slurry seal conform to current ADA requirements. The rehabilitation project in the budget was broken into two components: one for bringing the roadways up to ADA standards (installation of curb ramps) and one for treating the pavement. The City of Clayton Curb Ramp Improvement Project is the first of these two projects. The Project improvements include the installation of the detectable warning surface on ramps that would otherwise meet current standards based on slopes and other geometric requirements, that are out of compliance with current ADA standards, and the installation of new ramps.

The work for the Clayton Project was listed separately in the Martinez bid specifications as reflected in Additive Alternative Bid Schedule (Clayton). Martinez solicited bids pursuant to a statutory strict competitive bidding process, and seven bids were received by the deadline on March 23, 2021, which were publicly opened and read aloud by the Martinez City Clerk. Bidders were also required to complete the Additive Alternative Bid which provided prices for the improvements in the City of Clayton. Since the City of Martinez decided not to join Clayton and follow through with the project award, Clayton, with concurrence by the City Attorney, decided to award the City's project based upon the results of the Additive Alternate Bid (Clayton).

DISCUSSION

The Notice Inviting Bids for this project was issued on March 3, 2021, and notice was published as required. The Notice Inviting Bids, Plans and Specifications was posted online via a commercial website and notice of the bid opening provided to Bay Area Bid Services and Plan Rooms. No addendums were issued as no questions were raised by bidders.

Seven bids were received and were publicly opened (virtually) and publicly read in the order received at 3:00 PM on March 23, 2021. The bids for the Base Bid (Martinez), and the Additive Alternate Bid (Clayton) are listed below:

Contractor	Base Bid (Martinez)	Additive Alternate Bid (Clayton)	Total Bid (Basis of Award)
Engineer's Estimate	\$454,250.00	\$344,150.00	\$798,400.00
JJR Construction, San Mateo, CA	\$332,842.75	\$288,738.00	\$621,580.75
Ghilotti Brothers, Inc., San Rafael, CA	\$376,173.50	\$314,883.50	\$691,057.00
FBD Vanguard Construction, Inc., Livermore, CA	\$396,125.00	\$328,360.00	\$724,485.00
Sposeto Engineering Inc., Livermore, CA	\$442,105.00	\$390,415.00	\$832,520.00
Yerba Buena Engineering & Construction Inc., San Francisco, CA	\$505,575.00	\$385,750.00	\$891,325.00
Kerex Engineering Inc., Martinez, CA	\$542,350.00	\$440,150.00	\$982,500.00
F. Loduca Co., Stockton, CA	\$576,920.00	\$443,800.00	\$1,020,720.00

The City of Clayton has become the lead agency for the project as the result of Martinez not wishing to proceed. J.J.R. Construction, Inc. of Concord submitted the lowest bid, and since Martinez decided not to proceed with the award, only the Additive Alternate Bid (Clayton) in the amount of \$288,738.00, was counted.

The bid submitted by J.J.R. Construction, Inc. was complete in every respect, included a bid bond and was accurately filled out. The company is properly licensed to perform the work and has been performing similar work for more than 28 years. The City Engineer has therefore determined that J.J.R. Construction, Inc. submitted the lowest responsive, responsible bid for this project.

ANALYSIS

The funds to be used to construct this project include SB 1, the Road Repair and Accountability Act of 2017, and gas tax. The funds budgeted are as follows:

Measure J LSM or HUTU	\$288,738.00
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Staff therefore recommends that the Council adopt the attached resolution finding that the bid submitted by J.J.R. Construction is the lowest responsive, responsible bid and awarding the contract to J.J.R. Construction in the amount of the Alternate Clayton Bid (\$288,738.00).

FISCAL IMPACT

Funding for the Project is provided for in the Capital Improvement Program for Fiscal Year 2022.

Attachments: 1. Resolution [2 pp.]

RESOLUTION NO. ____-2021

**RESOLUTION MAKING FINDINGS IN SUPPORT OF WAIVING
COMPETITIVE BIDDING REQUIREMENTS AND APPROVING AWARD
OF A SOLE SOURCE CONTRACT TO J.J.R. CONSTRUCTION, INC. IN
THE AMOUNT OF \$288,738.00 FOR THE CITY OF CLAYTON CURB
RAMP IMPROVEMENT PROJECT**

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

WHEREAS, the City of Clayton Curb Ramp Improvement Project ("Clayton Project") was initially combined with similar projects within the City of Martinez and bid as one project by Martinez as the lead procurement agency.

WHEREAS, the work for the Clayton Project was listed separately in the Martinez bid specifications as reflected in Additive Alternative Bid Schedule (Clayton).

WHEREAS, Martinez solicited bids pursuant to a statutory strict competitive bidding process, and seven bids were received by the deadline on March 23, 2021, publicly opened and read aloud by the Martinez City Clerk.

WHEREAS, the apparent low bidder for the Clayton Project is J.J.R. Construction, Inc. ("J.J.R."), with a bid amount of \$288,738.00.

WHEREAS, City staff has reviewed the bid submitted by J.J.R. and determined they are the lowest responsible bidder submitting a responsive bid for the Clayton Project.

WHEREAS, the Martinez City Council declined to approve moving forward with the coordination agreement between Clayton, and Martinez, which in turn resulted in Martinez not moving forward with awarding the scope of work for the Clayton Project to J.J.R..

WHEREAS, it is in the City's best interests to proceed with the Clayton Project notwithstanding Martinez's not moving forward to award the Clayton Project scope of work.

WHEREAS, J.J.R. has agreed to hold its bid pricing submitted to Martinez for the Clayton Project under a direct contract with the City.

WHEREAS, California case law excuses compliance with competitive bidding requirements in exceptional circumstances such as where requests for competitive bids would be futile, unavailing or would not produce an advantage, including when there is only one party who can complete the work (*Los Angeles Dredging Co. v. Long Beach*

(1930) 210 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631).

NOW THEREFORE, BE IT RESOLVED, the City Council of Clayton does determine the foregoing recitals are true and correct and hereby sets for the following as the official Order of Business of the City Council:

Further competitive bidding would be futile, unavailing and would not produce an advantage because a strict competitive bidding process that mirrors the process the City would have engaged in for the Clayton Project has already been completed by Martinez. J.J.R. has also agreed to honor its bid for the Clayton Project without revision of any kind.

The foregoing order of business may be formally changed from time to time by duly adopted resolution of the City Council.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 20th day of July, 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: BILL STRACKER, CITY ENGINEER

DATE: July 20, 2021

SUBJECT: RESOLUTION MAKING FINDINGS IN SUPPORT OF WAIVING COMPETITIVE BIDDING REQUIREMENTS AND APPROVING AWARD OF A SOLE SOURCE CONTRACT TO BAY CITIES PAVING & GRADING, INC., FOR THE NEIGHBORHOOD PAVEMENT PRESERVATION PROJECT (CIP NO. 10449)

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution to approve the award of a sole source contract to BAY CITIES PAVING & GRADING, INC in the amount of \$898,877.20 for the Neighborhood Pavement Preservation Project (CIP No. 10449).

BACKGROUND

Included in the FY2020/21 and FY2021/22 Capital Improvement Program (CIP) budgets is a Neighborhood Pavement Preservation project (CIP No. 10449) that is intended to elevate neighborhood streets to a Pavement Condition Index (PCI) of 80 or greater (where a PCI score of 100 is equivalent to a brand-new street). Initially, the project was intended to be combined with similar projects within the cities of Martinez and Pittsburg and bid as one project by Martinez as the lead procurement agency. The work for the Clayton Project was listed separately in the Martinez bid specifications as reflected in Addendum 5 Alternative Bid Schedule B (Clayton).

DISCUSSION

Martinez solicited bids pursuant to a statutory strict competitive bidding process, and three bids were received by the deadline on April 6, 2021. Bids were opened and read aloud by the Martinez City Clerk. The summary of the bids received is attached hereto. The apparent low bidder for the Clayton Project is Bay Cities Paving and Grading, Inc. ("Bay Cities"), with a bid amount of \$898,877.20. City staff has reviewed the bid submitted by Bay Cities and determined they are the lowest responsible bidder submitting a responsive bid for the Clayton Project.

In awarding their paving contract, the Martinez City Council ultimately did not approve moving forward with the coordination agreement between Clayton, Martinez and Pittsburg, which in turn resulted in Martinez not moving forward with awarding the scope of work for the Clayton Project to Bay Cities.

City staff believes it is in the City's best interests to proceed with the Clayton Project notwithstanding Martinez's decision to award only Martinez's portion of the project. While statutory competitive bidding laws applicable to construction projects would ordinarily require the City to engage a contractor via a strict competitive bidding process for the Clayton Project, that process has already been completed by Martinez. California case law excuses compliance with competitive bidding requirements in exceptional circumstances such as where requests for competitive bids would be futile, unavailing or would not produce an advantage, including when there is only one party who can complete the work (*Los Angeles Dredging Co. v. Long Beach* (1930) 210 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631). In this case, further competitive bidding would be futile, unavailing and would not produce an advantage because competitive bidding has already been performed by Martinez and Bay Cities has agreed to hold their bid pricing submitted to Martinez for a contract with Clayton for the Clayton Project.

FISCAL IMPACT

Full funding for this project is included in the adopted FY2021/22 CIP budget. The sources of funding for the project include Measure J and Gas Tax (HUTA and RMRA).

Attachments:

1. Resolution [2pp.]
2. Bid Summary

RESOLUTION NO. ____-2021

**RESOLUTION MAKING FINDINGS IN SUPPORT OF WAIVING
COMPETITIVE BIDDING REQUIREMENTS AND APPROVING AWARD
OF A SOLE SOURCE CONTRACT TO BAY CITIES PAVING &
GRADING, INC., FOR THE NEIGHBORHOOD PAVEMENT
PRESERVATION PROJECT (CIP NO. 10449)**

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

WHEREAS, the City of Clayton Neighborhood Pavement Preservation Project – CIP No. 10449 (“Clayton Project”) was initially combined with similar projects within the cities of Martinez and Pittsburg and bid as one project by Martinez as the lead procurement agency;

WHEREAS, the work for the Clayton Project was listed separately in the Martinez bid specifications as reflected in Addendum 5 Alternative Bid Schedule B (Clayton);

WHEREAS, Martinez solicited bids pursuant to a statutory strict competitive bidding process, and three bids were received by the deadline on April 6, 2021, publicly opened and read aloud by the Martinez City Clerk;

WHEREAS, the apparent low bidder for the Clayton Project is Bay Cities Paving and Grading, Inc. (“Bay Cities”), with a bid amount of \$898,877.20.

WHEREAS, City staff has reviewed the bid submitted by Bay Cities and determined they are the lowest responsible bidder submitting a responsive bid for the Clayton Project;

WHEREAS, the Martinez City Council declined to approve moving forward with the coordination agreement between Clayton, Martinez and Pittsburg, which in turn resulted in Martinez not moving forward with awarding the scope of work for the Clayton Project to Bay Cities;

WHEREAS, it is in the City’s best interests to proceed with the Clayton Project notwithstanding Martinez’s not moving forward to award the Clayton Project scope of work;

WHEREAS, Bay Cities has agreed to hold its bid pricing submitted to Martinez for the Clayton Project under a direct contract with the City; and

WHEREAS, California case law excuses compliance with competitive bidding requirements in exceptional circumstances such as where requests for competitive bids would be futile, unavailing or would not produce an advantage, including when there is

only one party who can complete the work (*Los Angeles Dredging Co. v. Long Beach* (1930) 210 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631).

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Clayton does determine the foregoing recitals are true and correct.

BE IT FURTHER RESOLVED, further competitive bidding would be futile, unavailing and would not produce an advantage because a strict competitive bidding process that mirrors the process the City would have engaged in for the Clayton Project has already been completed by Martinez. Bay Cities has also agreed to honor its bid for the Clayton Project without revision of any kind.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 20th day of July, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Carl Wolfe, Mayor

ATTEST:

Janet Calderon, City Clerk

PROPOSAL

TO: THE CITY ENGINEER OF THE CITY OF MARTINEZ, COUNTY OF CONTRA COSTA,
STATE OF CALIFORNIA

FOR: THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT

THE UNDERSIGNED, AS BIDDER, HEREBY AGREES AND DECLARES THAT:

PROPOSAL RETENTION

Proposals delivered to the City at the time set for opening shall be irrevocable, and no Bidder may withdraw his or her bid for a period of forty (40) days after the date set for the opening.

BIDDER'S SECURITY

A certified or cashier's check or bid bond in the amount of not less than ten percent (10%) of the total bid shall be given as a guarantee that the Bidder will enter into the contract and furnish the required securities, liability insurance coverage and other contract documents. The bidder's attention is directed to Section 5, Beginning and Progress of Work, of the General Requirements and Conditions which outlines the required schedule for completing and submitting contract documents.

PROPOSAL RESPONSIBILITY

The following figures have been carefully checked, and the City shall not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

CITY'S RIGHT OF REJECTION

The City reserves the right to reject any or all bids or portions thereof or to waive any informalities in the bid.

LEGAL COMPLIANCE

The only persons or parties interested in this Proposal as Principals are those named herein; that this Proposal is made without collusion with any other person, firm or corporation; that he or she has carefully examined the location of the proposed work, the proposed form of Contract and the Plan therein referred to; and he or she proposes and agrees that if this Proposal is accepted, he or she will contract with the City of Martinez in the form or the copy of the Contract as set forth in said Specifications of the City of Martinez to provide all necessary labor, machinery, tools, apparatus, and other means for construction, and to do all the work and furnish all the materials specified in the Contract, in the manner and time therein prescribed; that he or she will accept full payment therefore the following prices as proposed in the following Schedule of Prices.

SCHEDULE OF BID PRICES

All applicable sales taxes, State and/or Federal, and any other special taxes, patent rights or royalties are included in the price quoted in this Proposal. Bidder's attention is directed to the Instruction to Bidders.

**THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT
ADDENDUM 3**

BASE BID SCHEDULE (MARTINEZ)					
No.	Item	Unit	Quantity	Unit Price	Amount
1	Mobilization City of Martinez	LS	1	\$ 340,000.00	\$ 340,000.00
2	Project Signs	EA	2	\$ 200.00	\$ 400.00
3	Traffic Control City of Martinez	LS	1	\$ 223,703.33	\$ 223,703.33
4	Storm Water Protection City of Martinez	LS	1	\$ 25,296.34	\$ 25,296.34
5	Roadway Reconstruction	Ton	410	\$ 130.00	\$ 53,300.00
6	Grind and 2" HMA Overlay	Ton	10,820	\$ 130.00	\$ 1,406,600.00
7	Grind and 4" HMA Overlay	Ton	6,020	\$ 139.13	\$ 837,562.60
8	Base Repair Dig-out 6" depth HMA	SF	3,980	\$ 16.65	\$ 66,267.00
9	Crack Sealing	RLF*	1,465	\$ 4.00	\$ 5,860.00
10	Rubber Chip Seal	SY	5,845	\$ 9.00	\$ 52,605.00
11	Type II Microsurfacing	SY	1,045	\$ 13.00	\$ 13,585.00
12	Type III Microsurfacing	SY	7,730	\$ 3.20	\$ 24,736.00
13	Adjust Iron to Grade	LS	1	\$ 352,800.00	\$ 352,800.00
14	Striping, Marking, and Marker Removal City of Martinez	LS	1	\$ 13,000.00	\$ 13,000.00
15	Striping CL Detail 2	LF	44,95	\$ 0.60	\$ 2,697.00
16	Striping CL Detail 22	LF	7,705	\$ 1.35	\$ 10,401.75
17	Striping Detail 29	LF	2,290	\$ 1.20	\$ 2,748.00
18	Striping Detail 32	LF	1,960	\$ 1.20	\$ 2,352.00
19	Striping Detail 38	LF	2,150	\$ 1.00	\$ 2,150.00
20	Bike Lane Striping Detail 39	LF	12,985	\$ 0.60	\$ 7,791.00
21	Bike Lane Striping Detail 39A	LF	1,605	\$ 0.55	\$ 882.75
22	Thermoplastic White Markings and Legends	SF	5,990	\$ 3.00	\$ 17,970.00
23	Thermoplastic Yellow Markings and Legends	SF	640	\$ 3.00	\$ 1,920.00
24	Fire Hydrant Reflectors	EA	20	\$ 25.00	\$ 500.00
	TOTAL BASE BID				\$ 3,465,127.77

*Roadway linear foot

**THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT
ADDENDUM 3**

ADDITIVE ALTERNATE BID SCHEDULE A (PITTSBURG)					
No.	Item	Unit	Quantity	Unit Price	Amount
1	Mobilization City of Pittsburgh	LS	1	\$ 54,000.00	\$ 54,000.00
2	Project Signs	EA	6	\$ 200.00	\$ 1,200.00
3	Traffic Control City of Pittsburgh	LS	1	\$ 27,202.00	\$ 27,202.00
4	Storm Water Protection City of Pittsburgh	LS	1	\$ 10,644.95	\$ 10,644.95
5	Rubber Chip Seal	SY	54,065	\$ 4.50	\$ 243,292.50
6	Type II Microsurfacing	SY	54,065	\$ 2.25	\$ 121,646.25
7	Type III Microsurfacing	SY	54,065	\$ 2.60	\$ 140,569.00
8	Adjust Iron to Grade	LS	1	\$ 125,500.00	\$ 125,500.00
9	Striping, Marking, and Marker Removal City of Pittsburgh	LS	1	\$ 1,200.00	\$ 1,200.00
10	Striping CL Detail 21	LF	400	\$ 2.45	\$ 980.00
11	Thermoplastic White Markings and Legends	SF	505	\$ 3.00	\$ 1,515.00
12	Fire Hydrant Reflectors	EA	20	\$ 25.00	\$ 500.00
	TOTAL ADDITIVE ALTERNATE BID A (PITTSBURG)				\$ 728,249.70

**THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT
ADDENDUM 5**

ADDITIVE ALTERNATE BID SCHEDULE B (CLAYTON)					
No.	Item	Unit	Quantity	Unit Price	Amount
1	Mobilization City of Clayton	LS	1	\$ 80,000.00	\$ 80,000.00
2	Project Signs	EA	6	\$ 200.00	\$ 1,200.00
3	Traffic Control City of Clayton	LS	1	\$ 41,872.77	\$ 41,872.77
4	Storm Water Protection City of Clayton	LS	1	\$ 7,825.68	\$ 7,825.68
5	Grind and 4" HMA Overlay	Ton	285	\$ 153.21	\$ 43,664.85
6	Base Repair Dig-out 6" depth HMA	SF	2,850	\$ 8.96	\$ 25,536.00
7	Crack Sealing	RLF*	2,265	\$ 3.10	\$ 7,021.50
8	Rubber Chip Seal	SY	76,725 141,365	\$ 4.50	\$ 345,262.50
9	Type III Microsurfacing	SY	76,723 141,365	\$ 2.30	\$ 176,462.90
10	Adjust Iron to Grade	LS	1	\$ 159,000.00	\$ 159,000.00
11	Striping, Marking, and Marker Removal City of Clayton	LS	1	\$ 3,850.00	\$ 3,850.00
12	Striping CL Detail 2	LF	515	\$ 0.60	\$ 309.00
13	Striping CL Detail 22	LF	1,150	\$ 1.35	\$ 1,552.50
14	Striping Detail 29	LF	90	\$ 1.20	\$ 108.00
15	Striping Detail 38	LF	135	\$ 1.00	\$ 135.00
16	Bike Lane Striping Detail 39	LF	1,385	\$ 0.90	\$ 1,246.50
17	Thermoplastic White Markings and Legends	SF	755	\$ 3.00	\$ 1,065.00
18	Thermoplastic Yellow Markings and Legends	SF	355	\$ 3.00	\$ 2,265.00
19	Fire Hydrant Reflectors	EA	20	\$ 25.00	\$ 500.00
	TOTAL ADDITIVE ALTERNATE BID B (CLAYTON)				\$ 898,877.20

*Roadway linear foot

**THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT
ADDENDUM 3**

BID SCHEDULE	AMOUNT
Base Bid (Martinez)	\$ 3,465,127.77
Additive Alternate Bid (AAB) A (Pittsburg)	\$ 728,249.70
Additive Alternate Bid (AAB) B (Clayton)	\$ 898,877.20
TOTAL BASE + AAB A + AAB B (Basis for low bid calculation)	\$ 5,092,254.67

TOTAL BID IN WORDS: Five Million Ninety Two Thousand Two Hundred Fifty Four Dollars and Sixty Seven Cents

BIDDER Benjamin L. Rodriguez, Jr.
Bay Cities Paving & Grading, Inc.

THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT
ADDENDUM 3

ADDITIVE ALTERNATE C (MARTINEZ)					
No.	Item	Unit	Quantity	Unit Price	Amount
1	Traffic Control City of Martinez	LS	1	\$ 120,000.00	\$ 120,000.00
2	Storm Water Protection	LS	1	\$ 22,000.00	\$ 22,000.00
3	Roadway Reconstruction	Ton	890	\$ 170.00	\$ 151,300.00
4	Grind and 2" HMA Overlay	Ton	2,990	\$ 190.00	\$ 568,100.00
5	Grind and 4" HMA Overlay	Ton	0	\$ 0.00	\$ 0.00
6	Base Repair Dig-out 6" depth HMA	SF	1,790	\$ 20.00	\$ 35,800.00
7	Crack Sealing	RLF*	3,500	\$ 2.10	\$ 7,350.00
8	Rubber Chip Seal	SY	17,390	\$ 6.30	\$ 109,557.00
9	Type II Microsurfacing	SY	10,765	\$ 3.40	\$ 36,601.00
10	Type III Microsurfacing	SY	27,375	\$ 3.25	\$ 88,968.75
11	Adjust Iron to Grade	LS	1	\$ 165,500.00	\$ 165,500.00
12	Striping, Marking, and Marker Removal City of Martinez	LS	1	\$ 7,765.00	\$ 7,765.00
13	Striping CL Detail 2	LF	4,085	\$ 0.60	\$ 2,451.00
14	Striping CL Detail 22	LF	1,090	\$ 1.35	\$ 1,471.50
15	Striping Detail 29	LF	650	\$ 1.20	\$ 780.00
16	Striping Detail 32	LF	760	\$ 1.20	\$ 912.00
17	Striping Detail 38	LF	125	\$ 1.00	\$ 125.00
18	Bike Lane Striping Detail 39	LF	5,115	\$ 0.60	\$ 3,069.00
19	Bike Lane Striping Detail 39A	LF	1,065	\$ 0.55	\$ 585.75
20	Thermoplastic White Markings and Legends	SF	1,040	\$ 3.00	\$ 3,120.00
21	Thermoplastic Yellow Markings and Legends	SF	655	\$ 3.00	\$ 1,965.00
22	Fire Hydrant Reflectors	EA	14	\$ 25.00	\$ 350.00
	TOTAL ADDITIVE ALTERNATE BID C				\$ 1,327,771.00

*Roadway linear foot

THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT
ADDENDUM 3

ADDITIVE ALTERNATE D (CLAYTON) (will not be awarded unless Additive Alternate B is awarded)					
No.	Item	Unit	Quantity	Unit Price	Amount
1	Traffic Control	LS	1	\$ 45,000.00	\$ 45,000.00
2	Storm Water Protection	LS	1	\$ 9,500.00	\$ 9,500.00
3	Base Repair Dig-out 6" depth HMA	SF	730	\$ 25.00	\$ 18,250.00
4	Crack Sealing	RLF*	6,340	\$ 1.70	\$ 10,778.00
5	Rubber Chip Seal	SY	28,690	\$ 5.00	\$ 143,450.00
6	Type II Microsurfacing	SY	0	\$ 0.00	\$ 0.00
7	Type III Microsurfacing	SY	43,525	\$ 2.50	\$ 108,812.50
8	Adjust Iron to Grade	LS	1	\$ 47,400.00	\$ 47,400.00
9	Striping, Marking, and Marker Removal Mountaire Pkwy	LS	1	\$ 9,600.00	\$ 9,600.00
10	Striping CL Detail 2	LF	2,725	\$ 0.60	\$ 1,635.00
11	Striping CL Detail 22	LF	425	\$ 1.35	\$ 573.75
12	Striping CL Detail 32	LF	1,540	\$ 1.20	\$ 1,848.00
13	Striping Detail 38	LF	230	\$ 1.00	\$ 230.00
14	Bike Lane Striping Detail 39	LF	6,700	\$ 0.60	\$ 4,020.00
15	Bike Lane Striping Detail 39A	LF	700	\$ 0.55	\$ 385.00
16	Thermoplastic White Markings and Legends	SF	3,805	\$ 3.00	\$ 11,415.00
17	Thermoplastic Yellow Markings and Legends	SF	170	\$ 3.00	\$ 510.00
18	Fire Hydrant Reflectors	EA	8	\$ 25.00	\$ 200.00
	TOTAL ADDITIVE ALTERNATE BID D				\$ 413,607.25

*Roadway linear foot

**THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT
ADDENDUM 3**

ADDITIVE ALTERNATE E (MARTINEZ)					
No.	Item	Unit	Quantity	Unit Price	Amount
1	Incremental Increase to use RHMA for reconstruct and overlays on Base Bid	Tons	17,245	50 ⁰⁰	862,250 ⁰⁰
2	Incremental Increase to use RHMA for reconstruct and overlays on Add Alternate Bid C	Tons	3,880	60 ⁰⁰	232,800 ⁰⁰
	TOTAL ADDITIVE ALTERNATE BID E				1,095,050⁰⁰

ADDITIVE ALTERNATE F (CLAYTON)					
No.	Item	Unit	Quantity	Unit Price	Amount
1	Incremental Increase to use RHMA for overlay on Add Alternate B	Tons	285	80 ⁰⁰	22,800 ⁰⁰
	TOTAL ADDITIVE ALTERNATE BID E				22,800⁰⁰

LIST OF SUBCONTRACTORS

Pursuant to the California Public Contract Code 4100 et seq., the Bidder shall list below the names and location of place of business of each subcontractor who will perform Work or labor or who will render service to the prime Contractor in or about the construction of the Work or improvement, or a subcontractor duly licensed who, under subcontract to the prime Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed Drawings contained in the Contract Documents, in an amount in excess of 1/2 of 1 percent of the prime Contractor's total Bid. After the opening of Bids, no changes or substitutions will be allowed except as otherwise provided by law. The listing of more than one subcontractor for each item of Work to be performed with the words "and/or" will not be permitted.

Subcontractor's Name Address	CA Contractor's License No.	Work to be performed	% of total contract and/or \$ amount
Anrak Corporation 5820 Mayhew Rd. Sacramento, CA 95827	256390	Cold Plane Machine Rental	\$207,000.00
Global Road Sealing, Inc. 10832 Dorothy Ave. Garden Grove, CA 92843	757584	Crack Sealing	\$5,860.00
Pavement Coatings Co. 2150 Bell Ave., Ste. 125 Sacramento, CA 95838	303609	Rubber Chip Seal, Microsurfacing	\$1,211,000.00
Chrisp Company 43650 Osgood Rd. Fremont, CA 94539	374600	Striping	\$120,000.00
Johnson Construction Co. PO Box 6481 Concord, CA 94524	981209	Adjust Iron	\$822,000.00
Pacific Northwest Oil 3310 E. Miner Ave. Stockton, CA 95205	705296	Tack Oil	\$83,000.00

Bidder shall signify receipt of all Addenda here (if any).

Addenda No(s) 1, 2, 3, 4, 5, 6

Respectfully submitted,

Bay Cities Paving & Grading, Inc.
Legal Name of Firm



(Seal)

1450 Civic Ct., Bldg. B - #400, Concord, CA 94520

Business Address (complete)

238650

Contractor's California License No.

06/30/2021

Expiration Date of License

Signature of Representative, Title

President

925-687-6666

Telephone Number

(If Bidder is a corporation, show State in which incorporated.): California

The full names and residences of all persons and parties interested in the foregoing Proposal as principals are as follows:

(NOTICE): Give first and last names in full; in case of corporation, give names of President, Secretary, Treasurer, and Manager, and in case of partnership and joint ventures, give names and Post Office addresses of all the individual members.

Bay Cities Paving & Grading, Inc.

Benjamin L. Rodriguez, Jr. - President

Marlo Manqueros - Vice President

Kim Rodriguez - Secretary/Treasurer

Eric Barker - General Manager

(This Affidavit to be fully executed)

NON-COLLUSION AFFIDAVIT

STATE OF California)
COUNTY OF Contra Costa)SS.

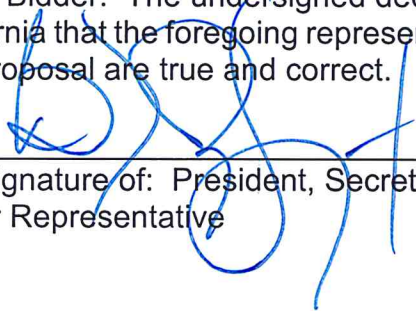
Benjamin L. Rodriguez, Jr.
affiant,

the President of
President, Secretary, Manager, Owner or Representative

Bay Cities Paving & Grading, Inc.
Name of Company or Corporation or Owner

The person, corporation or company who makes the accompanying Proposal (Bid), having first been duly sworn, deposes and says:

That such Proposal is genuine, and not sham or collusive, nor made in the interest or behalf of any person not herein named, and that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the Bidder has not in any manner sought by collusion to secure for itself an advantage over any other Bidder. The undersigned declares under penalty of perjury under the laws of the State of California that the foregoing representations and all other representations made in the undersigned's proposal are true and correct.



Signature of: President, Secretary, Manager, Owner,
or Representative

(Notary Acknowledgment)

Benjamin L. Rodriguez, Jr. - President
Print Name and Title



California Jurat Certificate

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

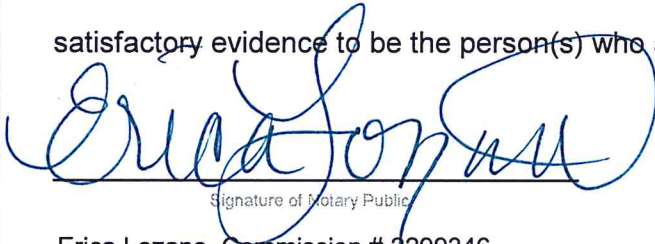
} S.S.

Subscribed and sworn to (or affirmed) before me on this 5th day of April,
Month

20 21, by Benjamin L. Rodriguez, Jr. and
Name of Signer (1)

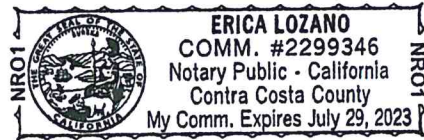
N/A, proved to me on the basis of
Name of Signer (2)

satisfactory evidence to be the person(s) who appeared before me.


Signature of Notary Public

Erica Lozano, Commission # 2299346

For other required information (Notary Name, Commission No. etc.)



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this jurat to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The certificate is attached to a document titled/for the purpose of

containing _____ pages, and dated _____

Additional Information

Method of Affiant Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Affiant(s) Thumbprint(s) ☐ Describe: _____

(In lieu of this form, the Proposal may be accompanied by a similar Bidder's Bond of a surety company.)

BIDDER'S BOND

(10% of the Proposal Price)

KNOW ALL PERSONS BY THESE PRESENT,

That we, Bay Cities Paving & Grading, Inc., as principals, and Travelers Casualty and Surety Company of America, as surety, are held and firmly bound unto the City of Martinez, Contra Costa County, California in the sum of Ten Percent of Amount Bid (\$ 10%) to be paid to the said City, its successors and assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these present.

Three City Pavement Preventative Maintenance Project

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if the certain proposal of the above bounden, Bay Cities Paving & Grading, Inc. is accepted by the City of Martinez and if the above bounden, Bay Cities Paving & Grading, Inc. his or her heirs, executors, administrators, successors, and assigns, shall duly enter into and execute a Contract for such construction, and shall execute and deliver and Labor and Material Bond, Performance Bond, and other Contract Documents described, within ten (10) calendar days from the date of the award and notice to the above bounden Bay Cities Paving & Grading, Inc. by and from the said City that said Contract is ready for execution, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

IN WITNESS WHEREOF,

We hereunto set our hand and seals this 29th day of March, 2021.

Travelers Casualty and Surety Company of America

Name of Surety

(notary acknowledgment)

100 California Street, Suite 300, San Francisco, CA 94111

Address

NOTE: To be signed by Principal for Contractor and Surety with acknowledgment and notarial seal for both attached.

Signature of Representative Chelsea Arnold, Attorney-in-Fact

925-884-2286

Telephone Number

Bay Cities Paving & Grading, Inc.

Name of Contractor

(Notary acknowledgment)

1450 Civic Ct, Building B - #400, Concord, CA 94520

Address

Signature of Representative Benjamin L. Rodriguez, Jr. - President

(925) 687-6666

Telephone Number



California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

} S.S.

On April 5th, 2021 before me, Erica Lozano, Notary Public,
Name of Notary Public, Title

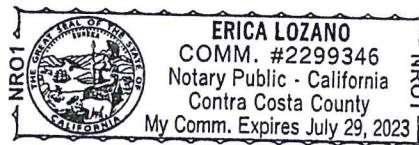
personally appeared Ben L. Rodriguez, Jr.
Name of Signer (1)

Name of Signer (2)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature of Notary Public

Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-fact
☐ Corporate Officer(s) _____
Title(s)

- ☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- ☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- ☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

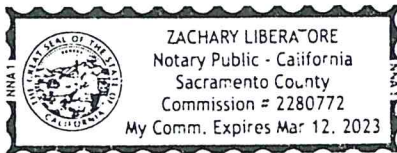
State of California }

County of Sacramento }

On MAR 29 2021 before me, Zachary Liberatore, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Chelsea Arnold
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature [Signature]
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☒ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

TRAVELERS

Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **CHELSEA ARNOLD** of **SAN RAMON California**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th** day of **January** 2019.



State of Connecticut

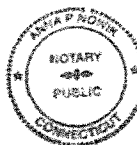
City of Hartford ss.

By: 
 Robert L. Raney, Senior Vice President

On this the **17th** day of **January**, 2019, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2021




 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is


FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **29th** day of **March**, 2021




 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.

BIDDER'S QUALIFICATIONS

The following statements as to experience and financial qualifications of the Bidder are submitted as a part of this Proposal and the truthfulness and accuracy of the information is guaranteed by the Bidder. Failure to submit these qualification statements may disqualify the bidder.

EXPERIENCE DATA

A. The Bidder has been engaged in the contracting business, under the present business name and license number for 57 years as a general contractor. Experience in work of a nature similar to that covered in this Proposal extends over a period of 57 years.

B. Has the Bidder ever been licensed under a different name or a different license number?
No

If yes, give name and license number:

N/A

Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.

Any bidder or contractor not properly licensed with the State of California shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board.

C. List or attach a brief description of the work previously executed, the location of the major projects, giving the year in which it was done, the manner of its execution, and such other information as will tend to show ability to prosecute vigorously the work required by the Specifications.

List the projects (10 maximum) your organization has completed during the last three years in the following tabulation -- be specific. (Use as many spaces as required to complete your answer.)

Year Completed	Type of Work	Value of Work Performed	For Whom Performed, City and State, Contact Person
----------------	--------------	-------------------------	----------------------------------------------------

SEE ATTACHMENT A

D. List a maximum of 10 subcontractors with whom the bidder worked in the last two years?

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
<u>Bridgeway Civil Constructors</u>	<u>4950 Allison Pkwy., #A, Vacaville, CA</u>	<u>707-455-7033</u>
<u>FBD Vanguard Construction</u>	<u>550 Greenville Rd., Livermore, CA</u>	<u>925-245-1300</u>
<u>ABSL Construction</u>	<u>29393 Pacific St., Hayward, CA</u>	<u>510-727-0900</u>
<u>Anrak Corporation</u>	<u>5820 Mayhew Rd., Sacramento, CA</u>	<u>916-383-3000</u>
<u>Chrisp Company</u>	<u>43650 Osgood Rd., Fremont, CA</u>	<u>510-656-2840</u>
<u>Johnson Construction Co.</u>	<u>PO Box 6481, Concord, CA</u>	<u>925-370-6067</u>

E. Explain any Stop Notice(s) filed against the firm in the past 3 years.

<u>Date</u>	<u>By Whom</u>	<u>How Resolved</u>	<u>Why Filed (Explain below)</u>
-------------	----------------	---------------------	----------------------------------

PLEASE SEE ATTACHMENT D

F. Has the firm or any of its principals ever petitioned for bankruptcy? No

If the answer is "yes", enter the date(s) N/A

G. Has the Bidder as a contractor ever failed to satisfactorily complete a contract? (Name and all exceptions, dates, and reasons therefore.)

No

H. Has the Bidder been assessed liquidated damages for any project in the past three years?
Yes

If "Yes," explain.

PLEASE SEE ATTACHMENT B

I. Has the bidder been in litigation on a question relating to your performance on a contract during the past three years? Yes

If "Yes," explain.

PLEASE SEE ATTACHMENT C

BANKS

Reference is hereby made to the following bank or banks as to the financial responsibility of the Bidder:

- A. Name of Bank(s) Address Phone
- California Bank of Commerce
- 3595 Mt. Diablo Blvd., 2nd Flr., Lafayette, CA 94594
- 925-444-2937
- B. Name of Loan Officer
- Michele Wirfel
- _____
- _____

SURETY

Reference is hereby made to the following surety companies as to the financial responsibility and general reliability of the bidder:

- A. Name and Address of Surety Company
- Travelers Casualty & Surety Co. of America
- 100 California St., Ste. 300, San Francisco, CA 94111
- 415-732-1400
- B. Has the firm or any of its principals defaulted so as to cause a loss to a surety?
- No
- If the answer is "Yes," enter the date(s), name and address of surety and details.
- N/A
- _____
- _____

INSURANCE ACKNOWLEDGMENT

(Contractor may need to submit more than one acknowledgment)

TO: CITY OF MARTINEZ

INSURANCE COMPANY Travelers Property Casualty Company of America

INSURED Bay Cities Paving & Grading, Inc.

POLICY NO. VTC2JCO3K990282TIL20 General Liability

REFERENCED PROJECT: THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT

I, an officer or authorized representative of the above-named insurance company, have received the insurance requirements of the above referenced project (notably Exhibits A through D of the contract documents). If the insured (bidder) indicated above is awarded the contract, Exhibits A through D or equivalent CG 20 10 11-85 or CG 20 10 10 01 Acord forms as approved by the California Department of Insurance will be completed and forwarded to the City of Martinez no later than ten (10) days after award of contract.

I, hereby, certify that the above insured has, or can obtain, the coverage required for the referenced project.

Linda Reynolds

4/5/2021

SIGNATURE DATE

Linda Reynolds

TYPED NAME

Account Executive

TITLE

Andreini and Company

COMPANY NAME

220 W. Twentieth Avenue

ADDRESS

San Mateo, CA 94403

CITY/ZIP

(650) 573-1111

PHONE NO.

INSURANCE ACKNOWLEDGMENT

(Contractor may need to submit more than one acknowledgment)

TO: CITY OF MARTINEZ

INSURANCE COMPANY Allied World Assurance Company

INSURED Bay Cities Paving & Grading, Inc.

POLICY NO. 03120303 Excess Liability

REFERENCED PROJECT: THREE CITY PAVEMENT PREVENTATIVE MAINTENANCE PROJECT

I, an officer or authorized representative of the above-named insurance company, have received the insurance requirements of the above referenced project (notably Exhibits A through D of the contract documents). If the insured (bidder) indicated above is awarded the contract, Exhibits A through D or equivalent CG 20 10 11-85 or CG 20 10 10 01 Acord forms as approved by the California Department of Insurance will be completed and forwarded to the City of Martinez no later than ten (10) days after award of contract.

I, hereby, certify that the above insured has, or can obtain, the coverage required for the referenced project.

Linda Reynolds

4/5/2021

SIGNATURE DATE

Linda Reynolds

TYPED NAME

Account Executive

TITLE

Andreini and Company

COMPANY NAME

220 W. Twentieth Avenue

ADDRESS

San Mateo, CA 94403

CITY/ZIP

(650) 573-1111

PHONE NO.

BCPG	Project Name, Location, Description	Owner (Name, Address, Email, Phone)	Prime Contractor (Name, Address, Email, Phone)	Architect/Engineer (Name, Email, Phone)	Project/Construction Manager (Name, Address, Email, Phone)	Scope of Work Performed	Initial Contract Price	Final Contract Price	Scheduled Completion	Actual Completion	Time extensions
3968	Cherryland K8 School Increment 2 Cherryland K8 School, Hayward Construction of new public school campus	Hayward Unified School District 24411 Amador St., Hayward, CA 94544 510-784-2600	BHM Construction, Inc. 221 Gateway Rd., #405, Napa, CA 94558	Chuck Hack, Lionakis chuck.hack@lionakis.com 916-558-1900	Daniel Rodriguez, Bay Cities drodriguez@baycities.us 925-446-6033	Demolition, Earthwork, Lime Treatment, Paving, Storm Drain	\$2,088,000.00	\$2,107,927.00	December-2018	February-2019	40 WD
3976	CDOT 04-4G1154 I-680, Stoneridge Ramp metering and traffic operation systems	Caltrans 1727 30th St., Sacramento, CA 95816 530-822-4315	Bay Cities Paving & Grading, Inc. 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520	Romy Fuentes, Caltrans romy_f.fuentes@dot.ca.gov 510-622-8803	Dave Pezel, Bay Cities dpezel@baycities.us 925-446-6007	Drainage Work, Concrete Work	\$10,587,365.00	\$10,834,231.30	November-2018	December-2018	20 WD
3985	2018 Measure J&L Pavement Rehabilitation Various Locations, Orinda and Moraga Pavement rehabilitation and storm drain improvements	City of Orinda 22 Orinda Way, Orinda, CA 94563 925-253-4200	Bay Cities Paving & Grading, Inc. 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520	Farah Khorashadi, City of Orinda fkhorashadi@cityoforinda.org 925-253-4282	Tom Warner, Bay Cities twarner@baycities.us 925-446-6030	AC, Base Failure Repair, Earthwork, Grading & Paving, Excavation	\$15,101,659.80	\$15,269,516.85	October-2018	December-2018	40 WD
3942	J&J Ranch Orinda, CA	J&J Ranch, LLC 3800 Mt. Diablo Blvd., #200, Lafayette, CA 94549	Bay Cities Paving & Grading, Inc. 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520		Dave Pezel, Bay Cities dpezel@baycities.us 925-446-6007				September-2018		
3859	CDOT 04-2J0704 I-880, Fremont to Oakland Concrete median barrier, CIDH foundation and lighting	Caltrans 1727 30th St., Sacramento, CA 95816 530-822-4315	Bay Cities Paving & Grading, Inc. 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520	Bahadur Singh, Caltrans bahadur.r.singh@dot.ca.gov 510-670-7831	David Nott, Bay Cities dnott@baycities.us 925-446-6006	Bridge Work, Underground Utilities, AC	\$49,896,755.00	\$53,879,300.00	June-2018	December-2018	100 WD
3842	Hazel Avenue Improvement Project Phase 2 Hazel Avenue, Sacramento Widening of Hazel Avenue	County of Sacramento 9660 Ecology Lane, Sacramento, CA 95827 916-874-6291	Bay Cities Paving & Grading, Inc. 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520	Stephen White, County of Sacramento whitest@saccounty.net 916-874-5354	Tom Warner, Bay Cities twarner@baycities.us 925-446-6030	Roadway Excavation, AC, Curb, Footing Excavation, Underground RCP	\$19,190,059.99	\$22,254,798.57	October-2017	August-2018	200 WD
3845	I-80 San Pablo Dam Road Interchange Project Phase 1 1-80, San Pablo Construction of on-ramp, masonry sound CDOT 03-3797U4	Contra Costa Transportation Authority 2999 Oak Rd., Suite 100, Walnut Creek, CA 94596 925-256-4700	Brosamer & Wall, Inc. 1777 Oakland Blvd., Suite 100, Walnut Creek, CA 94596	Nick Panayotou, The Hanna Group nick@hannagrp.com 510-232-3262	Kevin Barker, Bay Cities kbarker@baycities.us 925-446-6008	Remove Concrete, Roadway Excavation, Retaining Wall	\$4,960,235.40	\$5,827,136.19	February-2017	February-2018	240 WD
3642	Highway 80, West Sacramento Replace PCCP, place HMA, widen bridges and construct soundwalls	Caltrans 1727 30th St., Sacramento, CA 95816 530-822-4315	Bay Cities Paving & Grading, Inc./C.C. Myers JV 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520	Rizwan Tanvir, Caltrans rizwan_tanvir@dot.ca.gov 530-945-8921	Dave Pezel, Bay Cities dpezel@baycities.us 925-446-6007	Roadway Excavation, Grading & Paving, General Sitework	\$21,893,473.20	\$28,559,048.84	November-2016	July-2017	160 WD
3871	North Lane Storm Water Mitigation North Lane, Orinda Storm drain pipe installation	City of Orinda 22 Orinda Way, Orinda, CA 94563 925-253-4200	Bay Cities Paving & Grading, Inc. 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520 925-687-6666	Daniel Chavarria, City of Orinda dchavarria@cityoforinda.org 925-253-4200	Eric Barker, Bay Cities ebarker@baycities.us 925-446-6002	Demolition, Excavation	\$2,298,827.00	\$2,599,464.90	September-2016	December-2018	280 WD
3855	Industrial Avenue Bridge Replacemet Industrial Avenue, Roseville Replace Industrial Avenue bridge over Pleasant Grove Creek	City of Roseville 311 Vernon St., Roseville, CA 95678 916-774-5200	MCM Construction, Inc. PO Box 620 North Highlands, CA 95660 916-334-1221	Hossein Naghibzadeh, City of Roseville hnaghibzadeh@roseville.ca.us 916-746-1300	Cale Sherman, Bay Cities 925-687-6666	Remove Concrete, Roadway Excavation, Storm Drain	\$1,119,166.35	\$1,234,279.08		June-2017	
3893	Balfour Interchange Project Balfour Road, Brentwood Construct girder bridges, retaining walls roadway pavement	Contra Costa Transportation Authority 2999 Oak Rd., Suite 100, Walnut Creek, CA 94596 925-256-4700	Bay Cities Paving & Grading, Inc./Brossamer & Wall JV 1450 Civic Ct., Bldg. B, #400, Concord, CA 94520 925-687-6666	Ivan Ramirez, CCTA iramirez@ccta.net 925-256-4737	Dave Pezel, Bay Cities dpezel@baycities.us 925-446-6007	AC, Remove Concrete, Excavation	\$16,756,219.05	\$17,696,414.72		January-2019	

Attachment B
Response to Liquidated Damages Question

Bay Cities was the prime contractor for Caltrans Contract CDOT 10-1C4214. M&M Hansen Communications was Bay Cities' electrical subcontractor on the Project. Due to delays in completion of the electrical work, Caltrans assessed liquidated damages against Bay Cities as the project's prime contractor. In turn, Bay Cities notified M&M that they were responsible for the liquidated damages if Caltrans was correct. M&M alleged that Caltrans should have extended the time for completion due to extra work and changes. Bay Cities filed a demand for arbitration on behalf of M&M and the arbitration is pending.

In 2019, M&M Hansen filed suit against Bay Cities regarding its work on Caltrans Contract CDOT 10-1C4214. Bay Cities subcontracted the electrical work to M&M Hansen Services. M&M alleges that Caltrans should have extended the time for completion, and paid for, extra work and changes. Since M&M's Hansen's claims were pass-through claims to Caltrans, the Court stayed M&M's lawsuit and it ordered M&M to arbitrate its dispute. M&M's claims against Caltrans are in arbitration and the arbitration is pending.

In 2019, Gene Amato Masonry, Inc. (AGAM@) filed suit against Bay Cities for approximately \$15,000 for its work on a City of Healdsburg project. The monies GAM is claiming is its retention on the project. GAM was a subcontractor to Bay Cities and installed a stone wall that the City had not accepted due to alleged defects. The lawsuit is pending.

In 2019, R.E. Maher, Inc. (AMaher@) filed suit against Bay Cities in Contra Costa County Superior Court. Maher claimed monies owed on two projects. One for the City of Healdsburg and one for the City of Santa Rosa. Maher's claim included a claim for extra work on the City of Santa Rosa which the City had denied and for retention on the City of Healdsburg project that the City had not released to Bay Cities. That lawsuit is pending.

Bay Cities and the City of Santa Rosa had a contract for the construction of the Stony Point Widening Project. In June of 2019, Bay Cities' subcontractor R.E. Maher filed suit against Bay Cities claiming monies owed on this project including claims for extra work that the City had rejected. In October of 2019, Bay Cities filed suit against the City for non-payment of work, delays, differing conditions and other issues for Bay Cities' work and that of Bay Cities' subcontractors. This lawsuit is pending.

Attachment D
Response to Stop Notice Question

10/9/18 – M&M Hanson Project: CDOT #10-1C4214. \$559,477.58

Caltrans had taken deductions for M&M Hanson's work that they were not in agreement with, they have since filed an arbitration against Caltrans. Bay Cities is passing the claim through to Caltrans.

2/11/20 Pavement Recycling Systems Project: CDOT #03-0F3514 \$3,676.86 Released 6/25/20.

Owner had not funded sub's work, once funded Pavement Recycling Systems was paid & stop notice was released.

3/3/20 California Land Surveying Project: CDOT #03-0F3514 \$16,200.00 Released 5/14/20.

Owner had not funded sub's work, once funded California Land Surveying was paid & stop notice was released.

3/19/18 Pacific Northwest Oil Project: CDOT #04-4K5704 \$68,048.68 Released 5/10/18

CDOT #03-0F3514 \$8,296.25 Released 5/14/20.

Owner had not funded sub's work, once funded Pacific NW Oil was paid & stop notice was released.

3/23/20 Centerline Striping CDOT #03-0F3514 \$8,296.25 Released 10/22/20.

Owner had not approved sub's extra work, once approved and funded Centerline Striping was paid & stop notice was released.

Addendum A
AGREEMENT TO BE BOUND

[Date]
[Addressee]
[Address]

Re: City of Martinez Project Labor Agreement -- Agreement to be Bound

Dear Mr./Ms. _____:

The undersigned confirms that it agrees to be a party to and bound by the City of Martinez Project Labor Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement to be Bound, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements as set forth in Section 9.1, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate Subscription Agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

The obligation to be a party to and bound by this Agreement shall extend solely to all work covered by the City of Martinez Project Labor Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of this Agreement by signing an identical Agreement to be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: Bay Cities Paving & Grading, Inc.

California Contractor State License No. or Motor Carrier (CA) Permit No.: 238650

Name of Authorized Person (print): Benjamin L. Rodriguez, Jr.

Signature of Authorized Person: _____

Title of Authorized Person: President

Telephone Number of Authorized Person: 925-687-6666

Address of Authorized Person: 1450 Civic Ct., Bldg. B - #400, Concord, CA 94520

State Public Works Registration Number: 1000005981

135534\ 1016721



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MILAN J. SIKELA, JR., ASSISTANT PLANNER

DATE: JULY 20, 2021

SUBJECT: DIABLO MEADOWS RESIDENTIAL SUBDIVISION STREET NAME SELECTION

RECOMMENDATION

Staff recommends the City Council approve the preferred street name for the private street providing access to the 18 single-family residential lots as well as to the five remaining parcels established for drainage, private roadway, and open space areas in the Diablo Meadows Residential Subdivision.

BACKGROUND AND DISCUSSION

On December 8, 2020, the Planning Commission recommended City Council adoption of the Diablo Meadows Residential Subdivision Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-2020) and also recommended City Council approval of the applications for Rezoning (ZOA-02-2020), Vesting Tentative Subdivision Map (MAP-01-2020), Development Plan (DP-01-2020), and Tree Removal Permit (TRP-09-2020) for the Diablo Meadows Residential Subdivision ("Project") located on vacant land located west of Mitchell Canyon Road and north/west of Herriman Court (please see **Attachment 1** for the Project's Vesting Tentative Map). The Project included subdividing two adjacent properties into 18 single-family residential lots and five remaining parcels for drainage, private roadway, and open space.

On February 2, 2021, the City Council adopted the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; approved the requests for Vesting Tentative Subdivision Map, Development Plan, and Tree Removal Permit for the Project; and introduced the Ordinance to Rezone the Project site. On February 16, 2021, the City Council conducted a second reading and adopted the Ordinance to Rezone the Project site.

The City of Clayton Street Naming Policy (Resolution No. 68-2003) requires street names to be based on one of the following themes: 1) local geographical features; 2) local historical figures; 3) area plants or animals; 4) mining era terms; or 5) western terms (please see **Attachment 2** for the City of Clayton Street Naming Policy).

The developer of the Project has proposed the following street names for the privately-owned street (identified as “Street A” on the Project’s Vesting Tentative Map [**Attachment 1**]):

Diablo Meadows Court
Diablo Meadows Lane
Mitchell Meadows Court
Meadows View Court
Meadow Vista Court

The preferred street name being requested by the developer/applicant, DeNova Homes, is Diablo Meadows Court. The proposed preferred street name is based on the prominence of Mt. Diablo and its importance to local geography, history, and culture. Since there are plentiful meadows around and on Mt. Diablo, including in parts of the open space areas being retained on the Project site, the proposed preferred street name would meet the Street Naming Policy Guidelines. The list is in order of the developer’s preference with the preferred name being Diablo Meadows Court. City staff has already routed the Project street names to internal departments as well as affected outside agencies and received one comment from the Contra Costa Water District in support of the proposed preferred street name. No other comments were received.

FISCAL IMPACT

None.

ATTACHMENTS

1. Proposed Resolution
2. Vesting Tentative Map
3. City of Clayton Street Naming Policy

RESOLUTION NO. ____-2021

**A RESOLUTION NAMING THE PRIVATE STREET IN THE APPROVED
DIABLO MEADOWS RESIDENTIAL PROJECT AS “DIABLO MEADOWS COURT”**

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

WHEREAS, on February 2 and February 16, 2021, the City Council adopted an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-2020); and approved requests for Rezoning (ZOA-02-2020), Vesting Tentative Subdivision Map (MAP-01-2020), Development Plan (DP-01-2020), and Tree Removal Permit (TRP-09-2020) for the Diablo Meadows Residential Subdivision Project, a residential subdivision of two parcels into 18 single-family residential lots and five remaining parcels for drainage, a private street, and open space on currently vacant land located west of Mitchell Canyon Road and north/west of Herriman Court (“Project”); and

WHEREAS, the approved vesting tentative map includes a privately-owned street, identified as “Street A” on the Project’s vesting tentative map; and

WHEREAS, the City of Clayton Street Naming Policy (Resolution No. 68-2003) authorizes the City Council to select names for new streets in new subdivisions and specifies that street names be based on one of the following themes: 1) local geographical features; 2) local historical figures; 3) area plants or animals; 4) mining era terms; or 5) western terms; and

WHEREAS, following the procedure in the City of Clayton Street Naming Policy, the developer of the Project proposed five street names for the privately-owned street identified as “Street A” on the Project’s vesting tentative map, with the developer’s preference being Diablo Meadows Court; and

WHEREAS, following the procedure in the City of Clayton Street Naming Policy, City staff circulated the list of proposed Project street names to internal departments as well as affected outside agencies and received only one comment, a comment from the Contra Costa Water District in support of the proposed preferred street name.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Clayton, California, finds that the proposed street name of “Diablo Meadows Court” captures the prominence of Mt. Diablo and its importance to local geography, history, and culture; is reflective of the many meadows around and on Mt. Diablo, including in parts of the open space areas being retained on the Project site; and is consistent with the City of Clayton Street Naming Policy Guidelines.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of the City of Clayton, California, selects the name “Diablo Meadows Court” for the street identified as “Street A” on the vesting tentative map for the Diablo Meadows Residential Subdivision Project. The final subdivision map submitted by the developer for City Council acceptance shall incorporate this name for the Project’s private roadway.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California, at a regular public meeting thereof held on the____day of____2021, by the following vote:

AYES:

NOES:

ABSENT:

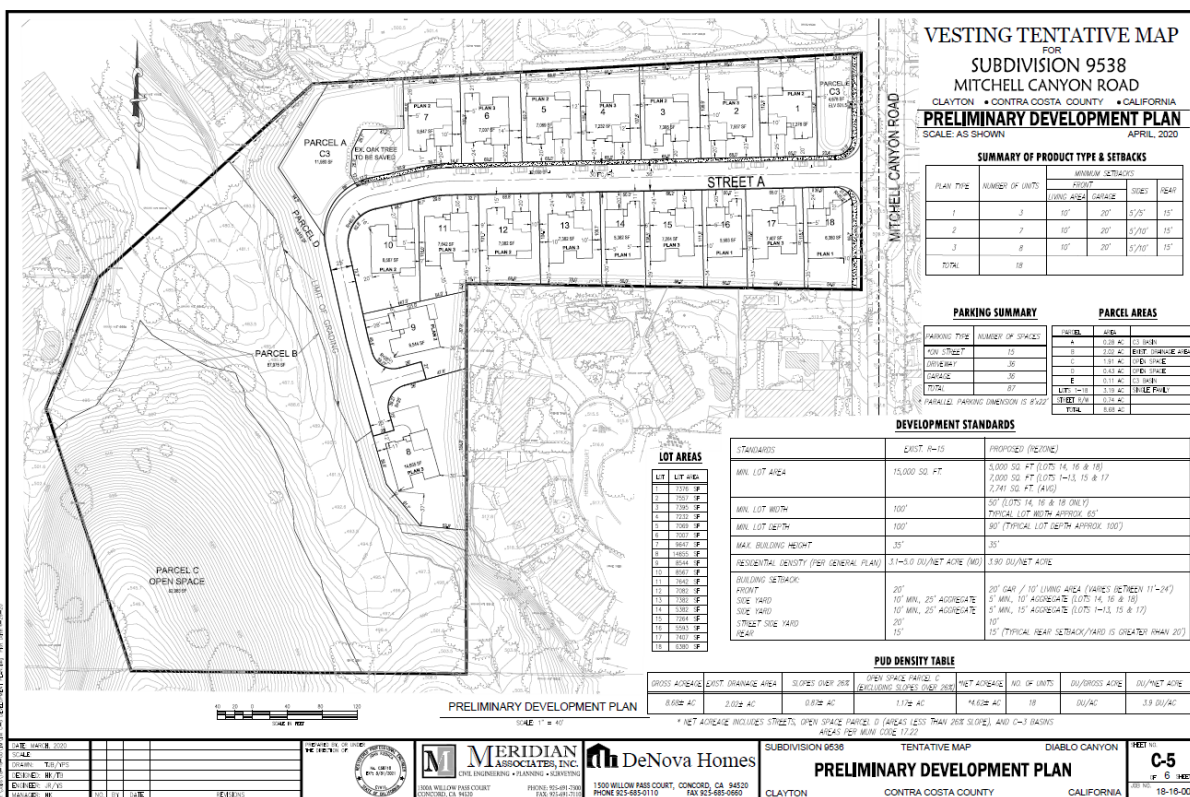
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Carl Wolfe, Mayor

ATTEST:

Janet Calderon, City Clerk



RESOLUTION NO. 68-2003

**A RESOLUTION ESTABLISHING A STREET NAMING POLICY
(CDD 03-03)
THE CITY COUNCIL
City of Clayton, California**

WHEREAS, Section 16.20.054.A7 of the *Municipal Code* which states, "Street names shall be subject to the approval of the City" does not identify the specific City entity responsible for such approvals; and

WHEREAS, the City Council wishes to clarify the City's procedures for approval of public and private street names and to provide developers and property owners guidance on the naming of streets.

NOW, THEREFORE, BE IT RESOLVED that the City Council approves the attached exhibit, entitled "Street Naming Policy - City of Clayton," which provides guidelines and procedures for the naming of public and private streets, as well as private driveways.

Passed, approved, and adopted by the City Council of the City of Clayton at a regular meeting thereof held on October 7, 2003 by the following vote:

AYES: Councilmembers Manning, Shuey, Walcutt; Vice-Mayor Pierce; Mayor Lawrence

NOES:

ABSENT:

THE CITY COUNCIL OF CLAYTON



Peter A. Laurence, Mayor

ATTEST:



Rhonda K. Basore, City Clerk

City of Clayton Street Naming Policy

Street Naming Guidelines

1. Street names should be based upon one of the following themes:
 - a. Local geographic features;
 - b. Local historical figures (individuals should be deceased; the Clayton Historical Society may be contacted for suggestions);
 - c. Area plants or animals;
 - d. Mining era terms; or
 - e. Western terms.
2. Streets within a subdivision should use a consistent theme. New streets which are a continuation of existing streets stubbed to the project site should use the existing street name.
3. Streets which continue across an intersection should use the same street name.
4. Cul-de-sacs which line up on opposite sides of a street should use different street names.
5. Street name suffixes (e.g., street, drive, road, way, place, court, circle) shall be appropriate to the street classification and configuration.
6. In order to avoid confusion for emergency service providers and visitors, street names should not duplicate street names in nearby cities or unincorporated areas.

Street Naming Procedure

New Subdivisions

1. Following Planning Commission approval of a parcel map or tentative subdivision map, the developer shall propose street names which are consistent with the above street-naming guidelines. At a minimum, the number of proposed street names must be at least three times the number of streets, with a minimum of five proposed street names.
2. The staff shall submit the proposed street names to affected agencies, including emergency service providers, for comment. Following receipt of comments, the staff shall schedule City Council review of the proposed street names.
3. The City Council may reject or approve some or all of the proposed street names, or approve alternate street names identified by the City Council. If the City Council does not approve a sufficient number of street names, the developer shall submit additional street names for the City Council's consideration.
4. The final map submitted by the developer for City Council acceptance shall use the approved street names.

Existing Private Driveways

1. Property owners of parcels accessed by a common, privately-owned driveway (or vehicular access easement) which serves four or more residential parcels may request the City to establish a name for the driveway. Five proposed street names which are consistent with the street-naming guidelines and approved in writing by all property owners shall be submitted, plus a deposit sufficient to cover the staff processing costs of the request.
2. The staff shall submit the proposed street names to affected agencies, including emergency service providers, for comment. Following receipt of comments, the staff shall schedule City Council review of the proposed street names.
3. The City Council may approve one of the proposed street names. If the City Council does not approve any of the street names, the property owners may submit additional street names for the City Council's consideration.
4. The property owners shall provide a deposit sufficient to cover the installation costs of new street signage.
5. The staff shall notify affected utilities and agencies, including emergency service providers, of the approved street name. The staff shall install appropriate street signage.
6. The property owners are responsible for notification of private parties of the approved street name as well as for all future maintenance/replacement costs of the City-approved street signage.

CDD\2003\03-03-Resolution-2

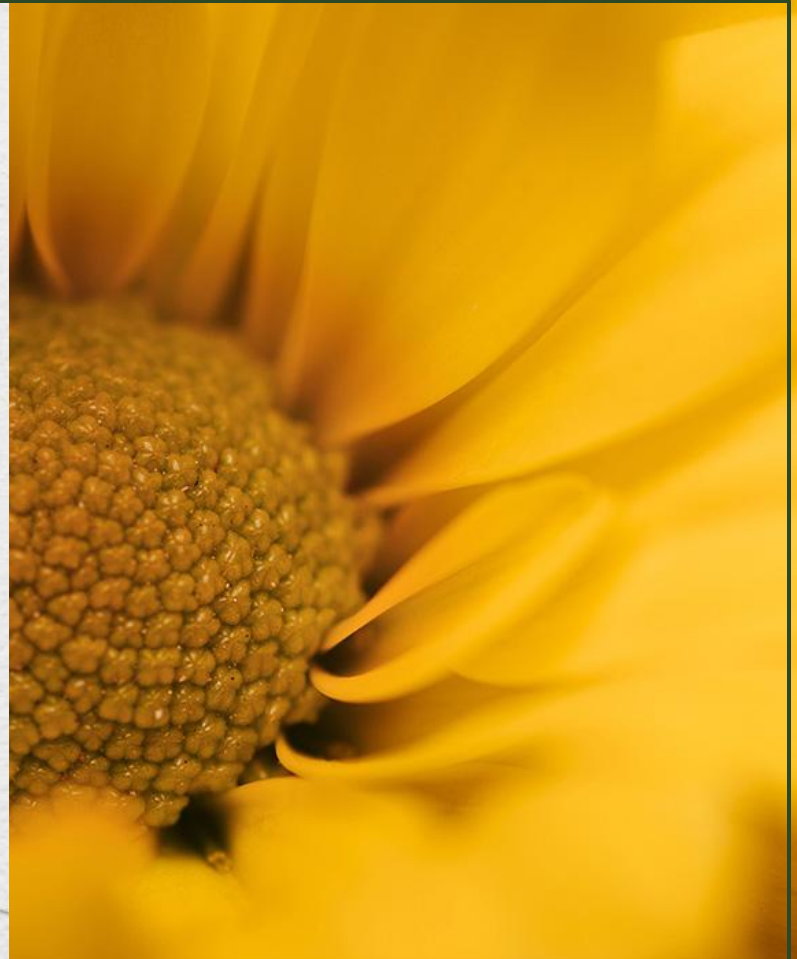


Presentation to Clayton City Council
July 20, 2021

Tina Neuhausel
President & CEO

Colleen Noland
Community Organizer

www.sustainablecoco.org





A community of citizens, organizers, leaders and educators working together to inspire healthy, connected and regenerative communities.

Committed to creating ecologically sustainable, economically vibrant, and socially just communities.

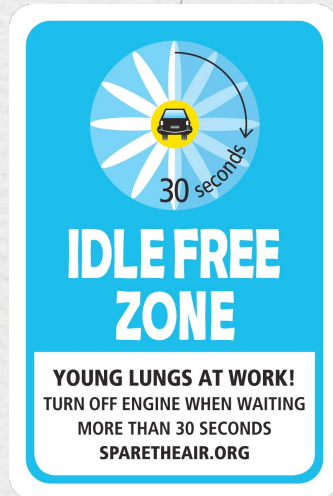


**We are guided by the 10
One Planet Living Principles**





A trusted partner with business, government, educators, and community groups to achieve mutual sustainability goals.





2020-21 Accomplishments



CLEANER
CONTRA COSTA
CHALLENGE
www.cleanercontracosta.org

1808

Households taking
action in the Cleaner
Contra Costa Challenge



53,000+

People-powered
Actions registered
since 2012



Mobilizing Action

Regional Events & Networks

Recognizing Leadership
and fostering connections



90 Honored
Individuals,
Organizations,
and Businesses
since 2009



Sustainable Living Workshops & Sustainability LIVE! Online Show



Schools Programs



2000+
Students Reached
In 2020-21



Sustainable Leaders in Action

Youth Leadership Team



“We work in partnership with Sustainable Contra Costa (SCOCO) to promote sustainable practices within our community and provide leadership advancement for the next generation of climate activists.”

SUSTAINABLE

LEADERS IN ACTION





01

**Youth Actions of
the Month**



02

**Industry
Professional
Panels**



03

**Monthly
E-Newsletter**

Major Projects

Action of the Month

Every month SLIA members commit to doing an action on the cleaner contra costa challenge. We post about our experiences and can see our collective impact.

Actions we've completed...

- Shorter Showers
- Stay Cool
- Eating Lower Down the Food Chain
- Have a Say
- Climate 101

NO SINGLE USE PLASTIC

Swap out disposable shopping bags for a reusable ones. Invest in silicone Ziploc bags, Tupperware, and stretch lids so you can reduce plastic waste.

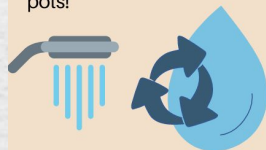


SAVE GIFT WRAPPING

Save bags, bows, and tissue paper for when you need to give a gift. You can also wrap gifts in a dishcloth, a reusable canvas bag, or origami boxes!

GET CREATIVE

Take old materials and repurpose them! Make clothes into masks, jars into gifts, scratch paper into origami, plastic containers into Tupperware or plant pots!



REUSE WATER

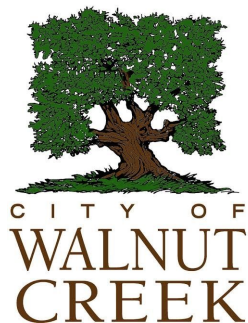
Put a bucket in your kitchen sink to wash your hands over and use that to rinse food off the dishes! You can also collect shower water as it heats up and use for plants, cleaning surfaces, or flushing the toilet.

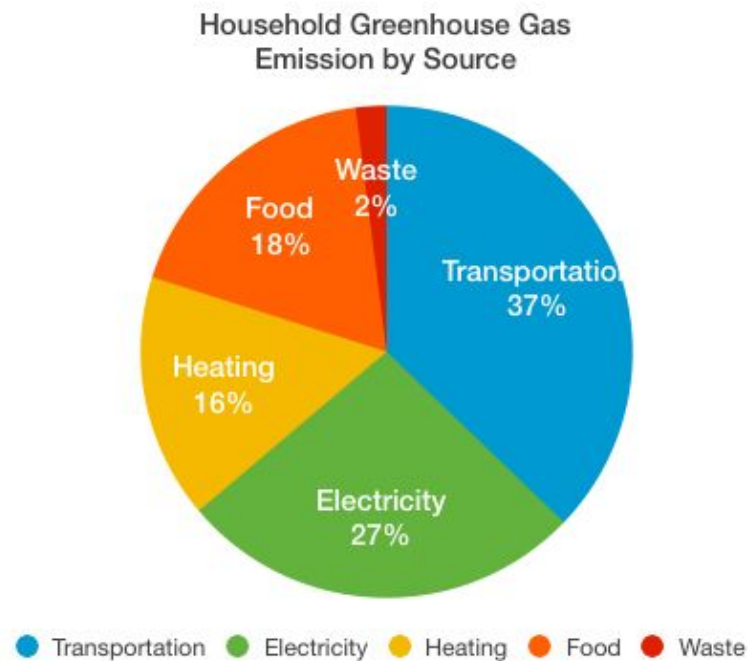
REDUCE \$ REUSE





**Welcome to the
Cleaner Contra Costa Challenge!**





40% of emissions in the U.S. come from 5 basic household activities

We Have Solutions



Household Actions = Big Impact

Join the Cleaner Contra Costa Challenge to
create a cleaner, healthier community and
save money!

[JOIN THE CHALLENGE](#)[WHY JOIN? →](#)

2,500

HOUSEHOLDS BY
DECEMBER 2021
PARTICIPATION GOAL



1,000

TONS OF CO2 BY
DECEMBER 2021
REDUCTION GOAL

TOP COMMUNITY GROUP
Campolindo High School

TOP TEAM
Jackman Living Earth 20-21

Find Actions Right for Your Household

☰ Action Categories

🔍 Recommended Actions

Refine your results: What is most important to you?

Recommendations based on your Energy Profile

Priority

☐ Impact ☒ Savings / Year

Add a filter

Difficulty

Easy

Upfront Cost

< \$50

Time Required
(hours)

< 0.5

Renter Friendly



Eat Lower Down the Carbon Chain


Did you know cows create a powerful greenhouse gas?

[Choose](#)

☐ I already do this

★ Easy 1830 \$ 100

[Customize](#)



Go Paperless


Save trees and create cleaner air & water!

[Choose](#)

☐ I already do this

★ Easy 670 \$ 40

[Customize](#)



Buy Local, Buy Organic


Good for you, good for your community, good for the planet

[Choose](#)

☐ I already do this

★ Easy 600 \$ 0

[Customize](#)



Recycle

Find out all the things you can put in that recycle bin!

[Choose](#)

☐ I already do this

★ Easy 550 \$ 0

[Customize](#)



Find Actions Right for Your Household

Make a Meal Plan

Did you know the average American throws away more than 200 pounds of food every year, costing the average household of four \$1,800? That's a lot of food and money to throw out! And food waste creates methane, a powerful greenhouse gas. The great news - it's easy to reduce food waste and save money by creating a meal plan!

[VIEW DISCUSSION](#)[+ CREATE POST](#)

Your Impact **390 points**

[SHARE](#)

UPFRONT COST

\$0 - \$0

TIME COMMITMENT

0.5 hours

0 1 2 3 4 5

RESOURCE SAVINGS

ANNUAL SAVINGS

\$390

\$ \$ \$ \$

I/We will reduce cups of food waste a week.

Action Steps & Tips **4 Steps**

[GET STARTED](#)

Introduction

Studies show that Americans today waste 50% more food than we did in the 1970s. While this is clearly going in the wrong direction, it also means we have a big opportunity to improve! Just a few easy changes can make a big difference.

It all starts with a bit of planning. By taking just a bit of time to make a weekly meal plan



Steps and How-To Guides

Action Steps & Tips 4 Steps

GET STARTED

Introduction

Studies show that Americans today waste 50% more food than we did in the 1970s. While this is clearly going in the wrong direction, it also means we have a big opportunity to improve! Just a few easy changes can make a big difference.

It all starts with a bit of planning. By taking just a bit of time to make a weekly meal plan based on your favorite foods before you shop, you'll streamline your shopping and cooking - and save time, money and food.

Why is this important? Right now, about 8% of global greenhouse gas emissions come from food waste. Reducing your household food waste by making a meal plan helps eliminate some of those emissions, and means that the land, water and energy that produced your food will go to good use.



1 Think about what you eat

2 Make a plan

3 Use your plan and enjoy the benefits!

4 Figure out how much food you're saving

Custom Resources

1 Think about what you eat



2 Make a plan



3 Use your plan and enjoy the benefits!



4 Figure out how much food you're saving



Resources

INFORMATION

[Bay Area Recycling Outreach Coalition](#)

The Bay Area Recycling Outreach Coalition (BayROC) is a collaboration of over 40 San Francisco public agencies working together on waste reduction and buy-recycled concepts through promotion of personal action and behavior change.

INFORMATION

[Fridge Reality Check](#)

See for yourself how much food goes to waste!

PROGRAMS

[What's in My Fridge Recipe Finder](#)

Enter 2 Ingredients you have on hand and it'll give you matching recipes!

INFORMATION

[Use this Shopping List!](#)

"Shop" your fridge, freezer, and cupboards for ingredients first!

PROGRAMS

[Ends + Stems](#)

Easy Meal Plans for Busy Families

Team Page



There is No Planet B
Let's keep taking action as a SCOCO team! This team is for staff and board members.

Team Rank #3

Team progress



20,010

TOTAL POINTS ⓘ



48

ACTIONS COMPLETED



\$1,620

DOLLARS SAVED

Team members

Team Page



Team members



Team Leader
SCOCO Admin

 info@sustainablecoco.org



Snortum-Phelps Family



Clary-Kujanek



Low Impact Turtles



The Deffner Household



Lam & Abeyrathna



The Bears

Team Page

Team standings

#3 OF 8 TEAMS IN CLEANER CONTRA COSTA CHALLENGE

7 TONS CO₂ REDUCED

1 

Rossmoor Climate Crusaders Team

27,660

2 

Teachers Take It On!

21,320

3 

There is No Planet B

20,330

4 

Undead Roller Derby

15,950

[See all \(8\)](#)

Something for Everyone

Quick Boost

- Adjust Thermostat
- Choose 100% Green Electricity
- Compost

Step it Up

- Buy or Lease and Electric Vehicle
- Install Solar Panels
- Host a Virtual Party, Start a Team

On a Budget

- Take Shorter Showers
- Turn Stuff Off
- Have a Say

Family Friendly

- Eat Lower Down the Carbon Chain
- Wash Clothes Wisely
- Reduce & Reuse

Contra Costa County Progress!



2,500

HOUSEHOLDS BY
DECEMBER 2021
PARTICIPATION GOAL



1,000

TONS OF CO2 BY
DECEMBER 2021
REDUCTION GOAL

TOP COMMUNITY GROUP
Campolindo High School

TOP TEAM
Jackman Living Earth 20-21

Our progress



1,662/2,973

NEW/PREVIOUS ACTIONS
COMPLETED



749

ACTIONS COMMITTED



\$212,423

DOLLARS SAVED

548

TONS CO₂E SAVED

144,255

KWH SAVED

9,425

THERMS SAVED

16,338

GALLONS GAS SAVED

1,045,684

GALLONS WATER
SAVED



CleanerContraCosta.org

Tina Neuhausel

President and Co-founder

tina@sustainablecoco.org

Colleen Noland

Community Organizer

colleen@sustainablecoco.org





2020-2021 Accomplishments

Inspiring Healthy, Connected, and Regenerative Communities for All Since 2008



An online resource for local households to calculate their carbon footprint, save water, energy, and money with local resources, and track their household and community's progress. SCOCO staff supports individuals and teams to encourage widespread action and reduce carbon emissions in Contra Costa County.

1780 HOUSEHOLDS
HAVE JOINED

120 EVENTS REACHING
5,900 PEOPLE

53,000 PEOPLE POWERED
ACTIONS SINCE 2012

PARTICIPANTS SAVED

1,035,800 GALLONS
OF WATER

16,270 GALLONS
OF GAS

540 TONS
OF CO2



Leadership in Sustainability Awards

These annual awards showcase the "solution-aries" who demonstrate outstanding commitment & innovation in sustainability

90 HONORED INDIVIDUALS,
ORGANIZATIONS, AND
BUSINESSES SINCE 2009

Home Energy Upgrade Rebates & Resources

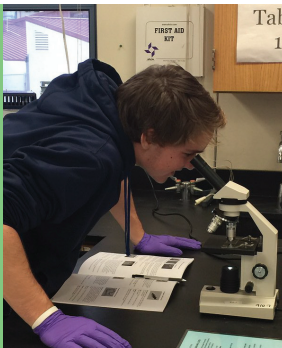
In-person and online workshops for the BayREN program providing energy efficiency upgrade education.

900
WORKSHOP
ATTENDEES
IN 2019 & 2020

Water Awareness for Youth

Teaching grade school and high school students on behalf of Central San about the systems that provide clean, fresh water to their communities and process wastewater back into the environment.

1000 PRE-K THROUGH 5th
STUDENTS REACHED
IN 2019 & 2020



SCOCO Network

A growing community of residents, businesses, and organizations that connect with each other to post events, start groups, and share ideas for creating a healthy and resilient Contra Costa. Join us at: www.SustainableCoco.ning.com!

OVER
925
MEMBERS

Sustainability LIVE

A monthly series of fun and engaging online programs to reach and empower a broader audience.

13 EPISODES
530
VIEWERS

SUSTAINABLE LEADERS IN ACTION

Our new youth leadership team, cultivating a network of next-generation activists and providing Contra Costa youth with opportunities for professional development and camaraderie.

45-60
STUDENTS

We are organizers, conveners, leaders, innovators, and educators, passionate about sustainability, and guided by the One Planet Living Principles.



For more information please visit: sustainablecoco.org



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Bill Stracker, P.E., City Engineer

DATE: July 20, 2021

SUBJECT: Public Hearing on Proposed Real Property Assessments for the Diablo Estates at Clayton Benefit Assessment District (BAD); Ordering Improvements and Levying Annual Assessments in FY 2021/22 incorporating a 3.8% Adjustment

RECOMMENDATION

Open the Public Hearing, receive public comments, close the Public Hearing, and approve the attached Resolution.

BACKGROUND

The City Council, at its June 29, 2021 meeting, approved the Engineer's Report dated June 11, 2021 including the proposed assessment amounts which included an allowable 3.8% increase over FY 2020/21 assessments. The majority of the assessments are to pay for the maintenance of various improvements benefiting real property owners within the Diablo Estates at Clayton development.

As required by law, a notice regarding the public hearing was mailed to the property owners. We attached the Engineer's Report to the notice. For the benefit of the residents, the Engineer's Report was expanded to include the expenditures of the District and an accounting of the reserve funds.

Tonight, the City Council will open the required public hearing to hear any comments from the assessed property owners. Upon completion of public testimony, the City Council should close the public hearing. The City Council may then consider any public comments received and proceed to act on this Resolution levying the annual assessments on the real properties within the District for FY 2021/22.

FISCAL IMPACT

If the annual assessment is approved as recommended, the City will continue to manage for the maintenance duties specified in the Engineer's Report on behalf of the benefited real property owners.

Should the 3.8% increase not be levied as recommended on the assessments, any increase of costs must then be funded by drawing on District reserves. Further, bypassing the allowable CPI increase can never be recouped by the District in the future as each annual increase allowed is strictly limited to that year's adjustment in annual CPI increase.

The BAD fund balance will cover the District's costs until receipt of the first tax payment from the County in December. Therefore, this action will not impact the City's General Fund.

CONCLUSION

Staff recommends the City Council approve this Resolution confirming the levy of assessments within the Diablo Estates at Clayton Benefit Assessment District FY 2021/22.

Attachments: Resolution confirming Assessments [2 pp.]
 Notice to Property Owners [1 pg.]
 BAD FY 2021-22 Engineer's Report Packet [41 pp.]

RESOLUTION NO. - 2021

A RESOLUTION CONFIRMING ASSESSMENTS FOR THE OPERATION AND MAINTENANCE OF IMPROVEMENTS WITHIN THE DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT FOR FISCAL YEAR 2021/22.

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

WHEREAS, by adoption of Resolution No. 33-2021 on June 29, 2021, the Clayton City Council approved the Engineer's Report on the proposed assessment levy for maintaining various improvements within the Diablo Estates at Clayton Benefit Assessment District during fiscal year 2021/22, and set a public hearing thereon for July 20, 2021, to be held at the regular meeting place of the Clayton City Council; and

WHEREAS, notice of said hearing and the adoption of Resolution No. 33-2021 was duly given as required by Section 54954.6 of the Government Code; and

WHEREAS, on July 20, 2021, the City Council held the noticed public hearing on the proposed assessment for the fiscal year 2021/22 and heard and considered all oral statements and written communications made and filed thereon by interested persons;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Clayton as follows:

1. The City Council hereby orders the levy of an assessment in the amount of \$3,904.65 on each lot within the Diablo Estates at Clayton Benefit Assessment District and this Resolution shall constitute the levy and confirmation of such assessment for fiscal year 2021/22.

2. The City Clerk shall immediately file a certified copy of this resolution, together with any required diagrams and a list of lots so assessed, with both the Tax Collector and the Auditor of Contra Costa County, with the Assessment to thereafter be collected in the same manner as the property taxes are collected.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton at a regular public meeting thereof held on July 20, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Carl Wolfe, Mayor

ATTEST:

Janet Calderon, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular public meeting held on July 20, 2021.

Janet Calderon, City Clerk



Diablo Estates at Clayton Benefit Assessment District

NOTICE TO PROPERTY OWNERS FOR LEVY OF ASSESSMENT

Reason for Assessment

At the request of the original project developer, Toll Bros., Inc., the City of Clayton City Council (“Council”) approved Resolution No. 04-2012 on February 7, 2012, forming the Diablo Estates at Clayton Benefit Assessment District (“District”) to fund and to pay for the oversight and maintenance of certain facilities solely benefiting land owners in the District, such as the stormwater treatment facilities, storm drain collection system, common area landscape and irrigation, private street lighting and weed abatement of natural slope areas, all as described in the original Engineer’s Report approved by the Council on March 20, 2012.

NOTICE

This notice informs you, as a real property owner within the Diablo Estates at Clayton Benefit Assessment District that on June 29, 2021, the Clayton City Council adopted a Council Resolution approving the Engineer’s Report for FY 2021-22, declaring its intent to levy assessments for fiscal year 2021-22 and setting a public hearing on the issue of the proposed assessments:

PUBLIC HEARING: 7:00 p.m. July 20, 2021
ZOOM City Council Regular Meeting

Assessment Information

1. Total District Assessment for the fiscal year beginning on July 1, 2021 and ending June 30, 2022 \$93,711.64.
2. Proposed assessment per parcel: The assessment for each parcel is proposed to be \$3,904.65 which includes a 3.8% increase in the existing assessment of \$3,761.70 per year in accordance with the annual adjustment by the applicable Consumer Price Index (Apr. 2020 – Apr. 2021; San Francisco-Oakland- Hayward, CA MSA – All Urban Consumers), as allowed by property owner balloting in 2012.
3. Duration of assessment: The assessment will be levied annually at the rate proposed above and collected via one’s real property tax bill in fiscal year 2021-22. The assessment may only be increased (other than the authorized allowable annual CPI-U increase described above) in the future by approval of a majority of the property owners.
4. Comments and protests may be submitted to the city prior to or at the public hearing.
5. Engineer’s Report: Attached is a copy of the approved Engineer’s Report for fiscal year 2021-22.

Questions

If any questions arise regarding the proposed real property assessments for fiscal year 2021-22, please contact Clayton City Engineer Bill Stracker. He may be contacted at (925) 969-8181 and at cityengineer@ci.clayton.ca.us.

ENGINEER'S REPORT

DATE: JUNE 11, 2021
TO: CITY COUNCIL
FROM: CITY ENGINEER
RE: DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT FISCAL YEAR 2021-22

STATEMENT OF ASSESSMENT ENGINEER

ENGINEER'S REPORT FOR FISCAL YEAR 2021/22

The preparation of this Annual Engineers Report (Report) is in conformance with the obligation of the City of Clayton City Council to provide the required services upon each lot or parcel of land in the established district in proportion to the estimated benefit received by each such lot or parcel of land for Fiscal Year 2021/22. Services will be provided through June 30, 2022.

This Engineer's Report has been prepared in accordance with the requirements of the Landscaping & Lighting Act of 1972 (Section 22500 et seq. of the Government Code) and includes provisions of the Assessment Act of 1982.

CITY OF CLAYTON BENEFIT ASSESSMENT DISTRICT

Hereinafter referred to as the "District".

I, William Stracker, P.E., the duly appointed Assessment Engineer submit the following Report that consists of the four parts and appendices required.

1. **Description of Improvements:** The District improvements consist of landscape maintenance, storm drains, public improvements, and streetlights located on residential streets within the District. The plans and specifications include the detailed work referenced in this Report are filed in the City Clerk's office.
2. **Estimate of Costs:** The cost estimate of the proposed maintenance, energy, and incidental expenses for FY 2021/22 are presented.
3. **District Diagram:** This section incorporates the external boundaries of the District. The lines and dimensions of each parcel within the District are those lines and dimensions shown on the maps of the Contra Costa County Assessor for the year in which the Report was prepared and are incorporated by reference herein and made a part of this Report. The District Diagram is filed under separate cover with the City Clerk.
4. **Method of Assessment:** This section describes the method of apportionment of the assessments, based upon parcel classification of the District land in proportion to the benefit received and pursuant to the initial methodology established by the resolution approved on the day of the original District hearing that approved the original Engineers Report.

Appendices

Appendix A Assessment Roll
Appendix B District Boundary residing in The Office of the City Clerk
Appendix C Resolution

It is my opinion that the costs and expenses of the District have been accurately assessed to the lots and parcels within the boundaries of the District in proportion to the estimated benefits to be received by each assessable lot or parcel from the services provided.

DATED: this 11th day of June 2021



Harris & Associates

William Stracker, PE, Assessment Engineer
RCE No, 25082
Engineer of Work
County of Contra Costa
State of California



This Engineer's Report has been prepared in accordance with the requirements of the Landscaping & Lighting Act of 1972 (Section 22500 et seq. of the Government Code) and provisions of the Assessment Act of 1982.

HISTORICAL REVIEW

In 2012, at the request of Toll Brothers, the developer of the Diablo Estates at Clayton project (Subdivision 8719), the City Council formed the Diablo Estates at Clayton Benefit Assessment District ("District" per Resolution No. 04-2012). The purpose of the District is to generate funds for the maintenance of various improvements constructed as part of the development which solely benefit the real property owner(s). The duties specified in the original Engineer's Report (prepared by SCI Consulting Group, dated March 2012) included maintenance of landscaping and irrigation, weed abatement, storm drainage facilities, and private street lighting. In addition to maintenance, the District is responsible for the repair or replacement of any facilities due to vandalism, accidents, or age. The original Engineers Report dated in March 2012 is filed in the office of the City Engineer and City Clerk.

The District was formed under the auspices of the Landscaping and Lighting Act of 1972 (Section 22500 et seq. of the Government Code) and the Benefit Assessment Act of 1982 (Section 54703 et seq. of the Government Code). The initial per lot annual assessment, approved by the property owner (Toll Bros.), was \$3,027.62. The approval also allowed for an annual increase in the assessment amount equal to the annual increase in the Consumer Price Index ("CPI"; San Francisco-Oakland-San Jose CA MSA, All Urban Consumers), not to exceed 4% in any one year.

While the Benefit Assessment Act of 1982 does not require further action prior to the levy of annual assessments, the Landscaping and Lighting Act of 1972 requires the preparation of an Engineer's Report and notice to property owners of a public hearing each year. Since no increase, other than the already authorized and approved CPI increase, is proposed, the provisions of Proposition 218 do not apply.

DETERMINATION OF SPECIAL BENEFIT, METHOD OF ASSESSMENT AND DESCRIPTION OF DISTRICT IMPROVEMENTS

See the original Engineer's Report Attached hereto and made a part of this report. The original Engineer's Report can be found as Attachment 3.

ESTIMATED COSTS

The original budget included maintenance and District administrative costs, as well as reserve funds for future replacement of the maintained items. See Attachment 2 for the District's budgeted expenditures for FY 2020-21.

The relevant CPI adjustment for the twelve-month period beginning April 2020 and ending April 2021 is 3.8% rounded down. Following is a breakdown of the District's FY 2020-20 and FY 2021-22 budgeted costs incorporating the allowable CPI adjustment:

Item	FY 2020-21 Budget	CPI Increase (3.8%)	FY 2021-22 Budget
District Maintenance:			
Common Area Landscape	\$23,648.71	\$898.65	\$24,547.36
Weed Abatement	\$14,799.19	\$562.37	\$15,361.56
Storm Drain System	\$6,834.21	\$259.70	\$7,900.91
Street Lighting	\$1,814.16	\$68.94	\$1,883.10
District Administration*	\$20,999.69	\$797.99	\$21,797.68
District Reserves	\$22,185.00	\$843.00	\$23,028.00
Total Annual Budget	\$90,280.96	\$3,430.68	\$93,711.64

* Includes monthly site inspections, maintenance oversight and contract services management, City Engineer services, legal notices and mailing costs, County fees for levying and collection of the assessment.

RESERVE FUNDS

The reserve fund balance at the end of FY 2020/21 will be approximately \$178,985. This balance will increase to approximately \$201,947 at the end of FY 2021/22. The purpose of the Reserve is for both scheduled and unexpected replacement of the capital investments, per the original Engineer's Report.

See Attachment 1 for a more detailed discussion of the reserve funds and balances.

PER UNIT ALLOCATION

Based upon the proposed budget, the per-unit assessment will be \$3,904.65 (\$93,711.64 / 24 units). Assessments must be evenly divisible by 2.

ASSESSMENT HISTORY

Proposed FY 21-22	\$3,904.65
FY 20-21	\$3,761.70
FY 19-20	\$3,720.78
FY 18-19	\$3,565.94
FY 17-18	\$3,454.70
FY 16-17	\$3,328.82
FY 15-16	\$3,241.00
FY 14-15	\$3,162.00
FY 13-14	\$3,100.26

ATTACHMENT 1

RESERVE FUND ACCOUNTS

DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT ("District") RESERVE FUNDS

The purpose of the various reserve accounts is to ensure the District will have funds available to repair or reconstruct the facilities that are the responsibility of the District.

The fund amounts were established using the initial cost of construction and amortizing them over the anticipated life of the facilities. In addition, there is a general reserve fund set aside to act as a contingency reserve for any of the District's responsibilities.

The funds as initially established are as follows:

ITEM	QUANTIT Y	UNIT	UNIT COST	TOTAL COST	SERVICE LIFE (YRS)	ANNUAL DEPOSIT
Tree Replacement	33	EA	\$285	\$9,405	40	\$235
Entry Monument Replacement	1	EA	\$4,000	\$4,000	25	\$160
V-ditch Repair/Replacement	2038	LF	\$50	\$101,900	25	\$4,076
Vortsentry Replacement	1	EA	\$100,000	\$100,000	100	\$1,000
Stormwater Basin Replacement*	48	EA	\$2,000	\$96,000	10	\$9,600
CB/MH/SD Pipe Replacement	1	LS	\$79,000	\$79,000	100	\$790
General						\$2,000
				Total**		\$17,861

* Removal and replacement of plants and filter material only

** First year assessment (increased each following year by the CPI increase)

Following are reserve analysis sheets showing each year's contribution to the various funds and the current balance of each fund.

**DIABLO ESTATES AT CLAYTON
BENEFIT ASSESSMENT DISTRICT
RESERVE FUNDS ANALYSIS**

FY 2012/2013 (INITIAL YEAR)

RESERVE FUNDS - FACILITIES						
ITEM	QUANTITY	UNIT	UNIT COST	TOTAL COST	SERVICE LIFE (yrs)	ANNUAL DEPOSIT
Tree Replacement	33	EA	\$285.00	\$9,405.00	40	\$235.13
Entry Monument Replacement	1	EA	\$4,000.00	\$4,000.00	25	\$160.00
V-Ditch Repairs	2038	LF	\$50.00	\$101,900.00	25	\$4,076.00
Vortsentry Replacement	1	EA	\$100,000.00	\$100,000.00	100	\$1,000.00
Stormwater Basin Replacement/Repair	48	EA	\$2,000.00	\$96,000.00	10	\$9,600.00
CB/MH/SD Pipe replacement	1	LS	\$79,000.00	<u>\$79,000.00</u>	100	<u>\$790.00</u>
				\$390,305.00		\$15,861.13
RESERVE FUNDS - GENERAL						
Annual General Reserve						<u>\$2,000.00</u>

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2013: \$17,861.13

FY 2013/14 (CPI = 2.4% INCREASE)

RESERVE FUNDS - FACILITIES						
ITEM	FY 2012/13 ASSESS.	INCR.	FY 2013/14 ASSESS.	AMT. PRIOR TO FY 2013/14	AMT. @ END FY 2013/14	
Tree Replacement	\$235.13	2.40%	\$240.77	\$235.13	\$475.89	
Entry Monument Replacement	\$160.00	2.40%	\$163.84	\$160.00	\$323.84	
V-Ditch Repairs	\$4,076.00	2.40%	\$4,173.82	\$4,076.00	\$8,249.82	
Vortsentry Replacement	\$1,000.00	2.40%	\$1,024.00	\$1,000.00	\$2,024.00	
Stormwater Basin Replacement/Repair	\$9,600.00	2.40%	\$9,830.40	\$9,600.00	\$19,430.40	
CB/MH/SD Pipe replacement	\$790.00	2.40%	<u>\$808.96</u>	\$790.00	<u>\$1,598.96</u>	
			\$16,241.79		\$32,102.92	
RESERVE FUNDS - GENERAL						
Annual General Reserve	\$2,000.00	2.40%	<u>\$2,048.00</u>	\$2,000.00	<u>\$4,048.00</u>	
	FY 2013-14 Assess.:		\$18,289.79			

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2014: \$36,150.92

Check #: \$18,289.79

Check #: \$36,150.92

FY 2014/15 (CPI = 2.0% INCREASE)

RESERVE FUNDS - FACILITIES					
ITEM	FY 2013/14 ASSESS.	INCR.	FY 2014/15 ASSESS.	AMT.PRIOR TO FY 2014/15	AMT. @ END FY 2014/15
Tree Replacement	\$240.77	2.00%	\$245.58	\$475.89	\$721.48
Entry Monument Replacement	\$163.84	2.00%	\$167.12	\$323.84	\$490.96
V-Ditch Repairs	\$4,173.82	2.00%	\$4,257.30	\$8,249.82	\$12,507.12
Vortsentry Replacement	\$1,024.00	2.00%	\$1,044.48	\$2,024.00	\$3,068.48
Stromwater Basin Replacement/Repair	\$9,830.40	2.00%	\$10,027.01	\$19,430.40	\$29,457.41
CB/MH/SD Pipe replacement	\$808.96	2.00%	<u>\$825.14</u>	\$1,598.96	<u>\$2,424.10</u>
			\$16,566.63		\$48,669.54
RESERVE FUNDS - GENERAL					
Annual General Reserve	\$2,048.00	2.00%	<u>\$2,088.96</u>	\$4,048.00	<u>\$6,136.96</u>
	FY 2014-15 Assess.:		\$18,655.59		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2015: \$54,806.50Check #: **\$18,655.59**Check #: **\$54,806.50****FY 2015/16 (CPI = 2.5% INCREASE)**

RESERVE FUNDS - FACILITIES					
ITEM	FY 2014/15 ASSESS.	INCR.	FY 2015/16 ASSESS.	AMT.PRIOR TO FY 2015/16	AMT. @ END FY 2015/16
Tree Replacement	\$245.58	2.50%	\$251.72	\$721.48	\$973.20
Entry Monument Replacement	\$167.12	2.50%	\$171.29	\$490.96	\$662.25
V-Ditch Repairs	\$4,257.30	2.50%	\$4,363.73	\$12,507.12	\$16,870.86
Vortsentry Replacement	\$1,044.48	2.50%	\$1,070.59	\$3,068.48	\$4,139.07
Stromwater Basin Replacement/Repair	\$10,027.01	2.50%	\$10,277.68	\$29,457.41	\$39,735.09
CB/MH/SD Pipe replacement	\$825.14	2.50%	<u>\$845.77</u>	\$2,424.10	<u>\$3,269.87</u>
			\$16,980.79		\$65,650.34
RESERVE FUNDS - GENERAL					
Annual General Reserve	\$2,088.96	2.50%	<u>\$2,141.18</u>	\$6,136.96	<u>\$8,278.14</u>
	FY 2015-16 Assess.:		\$19,121.98		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2016: \$73,928.48Check #: **\$19,121.98**Check #: **\$73,928.48**

FY 2016/17 (CPI = 2.7% INCREASE)

RESERVE FUNDS - FACILITIES					
ITEM	FY 2015/16 ASSESS.	INCR.	FY 2016/17 ASSESS.	AMT.PRIOR TO FY 2016/17	AMT. @ END FY 2016/17
Tree Replacement	\$251.72	2.70%	\$258.52	\$973.20	\$1,231.72
Entry Monument Replacement	\$171.29	2.70%	\$175.92	\$662.25	\$838.17
V-Ditch Repairs	\$4,363.73	2.70%	\$4,481.55	\$16,870.86	\$21,352.41
Vortsentry Replacement	\$1,070.59	2.70%	\$1,099.50	\$4,139.07	\$5,238.57
Stromwater Basin Replacement/Repair	\$10,277.68	2.70%	\$10,555.18	\$39,735.09	\$50,290.27
CB/MH/SD Pipe replacement	\$845.77	2.70%	<u>\$868.60</u>	\$3,269.87	<u>\$4,138.47</u>
			\$17,439.27		\$83,089.61

RESERVE FUNDS - GENERAL

Annual General Reserve	\$2,141.18	2.70%	<u>\$2,199.00</u>	\$8,278.14	<u>\$10,477.14</u>
	FY 2016-17 Assess.:		\$19,638.27		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2017: \$93,566.75

Check #: \$19,638.27

Check #: \$93,566.75

FY 2017/18 (CPI = 3.78% INCREASE)

RESERVE FUNDS - FACILITIES					
ITEM	FY 2016/17 ASSESS.	INCR.	FY 2017/18 ASSESS.	AMT.PRIOR TO FY 2017/18	AMT. @ END FY 2017/18
Tree Replacement	\$258.52	3.78%	\$268.29	\$1,231.72	\$1,500.01
Entry Monument Replacement	\$175.92	3.78%	\$182.57	\$838.17	\$1,020.74
V-Ditch Repairs	\$4,481.55	3.78%	\$4,650.96	\$21,352.41	\$26,003.37
Vortsentry Replacement	\$1,099.50	3.78%	\$1,141.06	\$5,238.57	\$6,379.63
Stromwater Basin Replacement/Repair	\$10,555.18	3.78%	\$10,954.17	\$50,290.27	\$61,244.44
CB/MH/SD Pipe replacement	\$868.60	3.78%	<u>\$901.44</u>	\$4,138.47	<u>\$5,039.91</u>
			\$18,098.48		\$101,188.09

RESERVE FUNDS - GENERAL

Annual	\$2,199.00	3.78%	<u>\$2,282.12</u>	\$10,477.14	<u>\$12,759.26</u>
	FY 2017-18 Assess.:		\$20,380.60		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2018: \$113,947.35

Check #: \$20,380.60

Check #: \$113,947.35

FY 2018/19 (CPI = 3.22% INCREASE)

RESERVE FUNDS - FACILITIES					
ITEM	FY 2017/18 ASSESS.	INCR.	FY 2018/19 ASSESS.	AMT.PRIOR TO FY 2018/19	AMT. @ END FY 2018/19
Tree Replacement	\$268.29	3.22%	\$276.93	\$1,500.01	\$1,776.94
Entry Monument Replacement	\$182.57	3.22%	\$188.45	\$1,020.74	\$1,209.19
V-Ditch Repairs	\$4,650.96	3.22%	\$4,800.72	\$26,003.37	\$30,804.09
Vortsentry Replacement	\$1,141.06	3.22%	\$1,177.80	\$6,379.63	\$7,557.43
Stromwater Basin Replacement/Repair	\$10,954.17	3.22%	\$11,306.89	\$61,244.44	\$72,551.33
CB/MH/SD Pipe replacement	\$901.44	3.22%	<u>\$930.46</u>	\$5,039.91	<u>\$5,970.37</u>
			\$18,681.25		\$119,869.34

RESERVE FUNDS - GENERAL

Annual	\$2,282.12	3.22%	<u>\$2,355.60</u>	\$12,759.26	<u>\$15,114.86</u>
	FY 2018-19 Assess.:		\$21,036.85		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2019: \$134,984.20

Check #: \$21,036.85

Check #: \$134,984.20

FY 2019/20 (CPI = 4.01% INCREASE)

RESERVE FUNDS - FACILITIES					
ITEM	FY 2018/19 ASSESS.	INCR.	FY 2019/20 ASSESS.	AMT.PRIOR TO FY 2019/20	AMT. @ END FY 2019/20
Tree Replacement	\$276.93	4.01%	\$288.04	\$1,776.94	\$2,064.98
Entry Monument Replacement	\$188.45	4.01%	\$196.00	\$1,209.19	\$1,405.19
V-Ditch Repairs	\$4,800.72	4.01%	\$4,993.23	\$30,804.09	\$35,797.31
Vortsentry Replacement	\$1,177.80	4.01%	\$1,225.03	\$7,557.43	\$8,782.46
Stromwater Basin Replacement/Repair	\$11,306.89	4.01%	\$11,760.30	\$72,551.33	\$84,311.63
CB/MH/SD Pipe replacement	\$930.46	4.01%	<u>\$967.77</u>	\$5,970.37	<u>\$6,938.14</u>
			\$19,430.37		\$139,299.71

RESERVE FUNDS - GENERAL

Annual	\$2,355.60	4.01%	<u>\$2,450.06</u>	\$15,114.86	<u>\$17,564.92</u>
	FY 2018-19 Assess.:		\$21,880.43		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2020: \$156,864.63

Check #: \$21,880.43

Check #: \$156,864.63

FY 2020/21 (CPI = 1.1% INCREASE)**RESERVE FUNDS - FACILITIES**

ITEM	FY 2019/20 ASSESS.	INCR.	FY 2020/21 ASSESS.	AMT.PRIOR TO FY 2020/21	AMT. @ END FY 2020/21
Tree Replacement	\$288.04	1.10%	\$291.20	\$2,064.98	\$2,356.18
Entry Monument Replacement	\$196.00	1.10%	\$198.16	\$1,405.19	\$1,603.35
V-Ditch Repairs	\$4,993.23	1.10%	\$5,048.15	\$35,797.31	\$40,845.46
Vortsentry Replacement	\$1,225.03	1.10%	\$1,238.51	\$8,782.46	\$10,020.97
Stromwater Basin Replacement/Repair	\$11,760.30	1.10%	\$11,889.66	\$84,311.63	\$96,201.29
CB/MH/SD Pipe replacement	\$967.77	1.10%	<u>\$978.42</u>	\$6,938.14	<u>\$7,916.56</u>
			\$19,644.10		\$158,943.82

RESERVE FUNDS - GENERAL

Annual	\$2,450.06	1.10%	<u>\$2,477.01</u>	\$17,564.92	<u>\$20,041.93</u>
	FY 2019-20 Assess.:		\$22,121.12		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2021: \$178,985.75Check #: \$22,121.12Check #: \$178,985.75**FY 2021/22 (CPI = 3.8% INCREASE)****RESERVE FUNDS - FACILITIES**

ITEM	FY 2020/21 ASSESS.	INCR.	FY 2021/22 ASSESS.	AMT.PRIOR TO FY 2021/22	AMT. @ END FY 2021/22
Tree Replacement	\$291.20	3.80%	\$302.27	\$2,356.18	\$2,658.45
Entry Monument Replacement	\$198.16	3.80%	\$205.69	\$1,603.35	\$1,809.05
V-Ditch Repairs	\$5,048.15	3.80%	\$5,239.98	\$40,845.46	\$46,085.44
Vortsentry Replacement	\$1,238.51	3.80%	\$1,285.57	\$10,020.97	\$11,306.54
Stormwater Basin Replacement/Repair	\$11,889.66	3.80%	\$12,341.47	\$96,201.29	\$108,542.75
CB/MH/SD Pipe replacement	\$978.42	3.80%	\$1,015.60	\$7,916.56	\$8,932.16
			\$20,390.58		\$179,334.39

RESERVE FUNDS - GENERAL

Annual	\$2,477.01	3.80%	\$2,571.14	\$20,041.93	\$22,613.07
	FY 2020-21 Assess.:		\$22,961.72		

BAD RESERVE FUNDS - TOTAL AS OF 06/30/2022:**\$201,947.47**Check # \$22,961.72Check#: \$201,947.47

ATTACHMENT 2

BAD PROJECTED BUDGET FOR FY 2021-22

INCLUDING PROJECTED

BAD EXPENDITURES IN FY 2020-21

City of Clayton
Diablo Estates Benefit Assessment District - Fund 231
Proposed Budget 21/22

Account Number	Account Name	2019/20 Actual	2020/21 Adopted Budget	2020/21 Amended Budget	2020/21 Projected	2021/22 Proposed Budget
7335	Gas & Electric Serv.	145	300	300	300	300
7338	Water Service	3,759	5,700	5,700	8,050	8,600
7381	Property Tax Admin Cost	270	270	270	270	270
7384	Legal Notices	-	100	100	100	100
7411	Legal Services Retainer	-	-	-	-	-
7413	Special Legal Services	-	-	-	-	-
7419	Other Prof. Services	54,235	59,390	59,390	59,390	59,390
7420	Administrative Costs	2,277	2,302	2,302	2,302	2,389
Total Expenditures		60,686	68,062	68,062	70,412	71,049
4611	Fiduciary Fund Assessment	85,583	86,524	86,524	93,997	93,712
5601	Interest Income	3,102	1,200	1,200	2,400	2,400
5606	Unrealized Investment Gain/Loss	3,357	-	-	-	-
Total Revenue		92,042	87,724	87,724	96,397	96,112
Increase (Decrease) in Fund Balance		31,356	19,662	19,662	25,985	25,063
Beginning Fund Balance		144,651	163,802	163,802	176,007	201,992
Ending Fund Balance		176,007	183,464	183,464	201,992	227,055

For financial reporting purposes, the Diablo Estates Benefits Assessment District Fund (No. 231) meets the definition of and is reported as an *Agency Fund*. In accordance with GASB Statement No. 34, no fund balance is reported for Agency Funds. For budgeting purposes, however, this fund is reported on a modified accrual basis to better reflect the cash position of the fund as well as debt service transactions which would otherwise be excluded from expenditures following GASB 34.

ATTACHMENT 3

INITIAL ENGINEER'S REPORT (19 pp)



CITY OF CLAYTON

DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT FOR LANDSCAPE AND LIGHTING AND BENEFIT ASSESSMENT

ENGINEER'S REPORT FISCAL YEAR 2012-13

MARCH 2012

PURSUANT TO
THE LANDSCAPING AND LIGHTING ACT OF 1972,
THE BENEFIT ASSESSMENT ACT OF 1982, AND
ARTICLE XIID OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:
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CITY OF CLAYTON

MAYOR

Howard Geller

CITY COUNCIL

Joseph A. Medrano

Julie K. Pierce

David T. Shuey

Hank Stratford

CITY MANAGER

Gary Napper

CITY ENGINEER

Rick Angrisani

CITY ATTORNEY

Malathy Subramanian

CITY CLERK

Laci Jackson

ENGINEER OF WORK

SCI Consulting Group

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INTRODUCTION

BACKGROUND

Formation of the "Diablo Estates at Clayton Benefit Assessment District" (the "Assessment District") within the City of Clayton (the "City") is proposed to provide funding for the maintenance, operation and improvement of the landscaping, street lighting, drainage and stormwater treatment facilities to benefit the properties in the Diablo Estates at Clayton subdivision that forms the Assessment District. The Diablo Estates at Clayton subdivision consists of 24 parcels east of Regency Drive and north of Rialto Drive with an approximate area of 19 acres.

This Engineer's Report (the "Report") was prepared to establish the budget for the services and improvements that would be funded by the proposed 2012-13 assessments and to determine the benefits received from the maintenance and improvements by property within the Assessment District and the method of assessment apportionment to lots and parcels. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972 and the Benefit Assessment Act of 1982 (the "Acts") and Article XIID of the California Constitution (the "Article").

Following submittal of this Report to the City of Clayton City Council (the "City Council") for preliminary approval, the City Council may call for an assessment ballot proceeding and Public Hearing on the proposed establishment of assessments for the improvements.

If it is determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted), the City Council may take action to form the Assessment District and approve the levy of the assessments for fiscal year 2012-13. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in August 2012 for inclusion on the property tax roll for Fiscal Year 2012-13.

LEGISLATIVE ANALYSIS

PROPOSITION 218

The Right to Vote on Taxes Act was approved by the voters of California on November 6, 1996, and is now Article XIII C and XIII D of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property. This Assessment District will be balloted and approved by property owners in accordance with Proposition 218.

SILICON VALLEY TAXPAYERS ASSOC., INC. V SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. vs. Santa Clara County Open Space Authority (SVTA). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special benefits to property, not general benefits.
- The services and/or improvements funded by assessments must be clearly defined.
- Assessment districts must be drawn to contain all parcels that receive a special benefit from a proposed public improvement.
- Assessments paid in the assessment district must be proportional to the special benefit received by each such parcel from the improvements and services funded by the assessment.

This Engineer's Report and the process used to establish these proposed assessments for fiscal year 2012/2013 are consistent with the SVTA decision and with the requirements of Article XIII C and XIII D of the California Constitution based on the following factors:

1. The Assessment District is narrowly drawn to include only the properties that receive special benefit from the specific Improvements and Services. Thus, zones of benefit are not required and the assessment revenue derived from real property in each Assessment District is extended only on the Services in the Assessment District.
2. The Improvements which are constructed and/or maintained with assessment proceeds in the Assessment District are located in close proximity to the real property subject to the assessment. The Improvements and Services provide illumination to streets and sidewalks

enabling improved access to the owners, residents, and guests of such assessed property. The proximity of the Improvements to the assessed parcels and the improved access and increased safety provided to of the residents of the assessed parcels by the Improvements provides a special benefit to the parcels being assessed pursuant to the factors outlined by the Supreme Court in that decision.

3. Due to their proximity to the assessed parcels, the Improvements and Services financed with assessment revenues in the Assessment District benefit the properties in the Assessment District in a manner different in kind from the benefit that other parcels of real property in the City derive from such Improvements and Services, and the benefits conferred on such property in the Assessment District are more extensive than a general increase in property values.
4. The assessments paid in the Assessment District are proportional to the special benefit that each parcel within that Assessment District receives from the Services because:
 - a. The specific lighting Improvements and maintenance Services and utility costs thereof in the Assessment District and the costs thereof are specified in this Report; and
 - b. The cost of the Services in the Assessment District is allocated among different types of property located within the Assessment District, and equally among those properties which have similar characteristics, such as single-family residential parcels, multi-family residential parcels, commercial parcels, or industrial parcels.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of

the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the requirements of Article XIIIC and XIID of the California Constitution and with the SVTA decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment District; and the Improvements and Services provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with Beutz and Dahms because the Improvements and Services will directly benefit property in the Assessment District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with Bonander because the Assessments have been apportioned based on the overall cost of the Improvements and Services and proportional special benefit to each property.

PLANS & SPECIFICATIONS

The work and improvements proposed to be undertaken by the City of Clayton and the Diablo Estates at Clayton Benefit Assessment District (the "Assessment District"), and the costs thereof paid from the levy of the annual assessments, provide special benefit to Assessor Parcels within the Assessment District as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972 and the Benefit Assessment Act of 1982 (the "Acts"), the work, services and improvements are generally described as follows:

Maintenance and servicing of public improvements, including but not limited to, storm drain system, landscaping and lighting and all necessary appurtenances, and labor, materials, supplies, utilities and equipment, and incidental costs as applicable, for property within the Assessment District that is owned or maintained by the City of Clayton (the "Improvements"). Any plans and specifications for these improvements will be filed with the City Engineer of the City of Clayton and are incorporated herein by reference. More specifically the improvements and associated plans are the storm drain system in the Improvement Plans, Diablo Pointe by David Evans and Associates Inc., the lighting in the Joint Trench Composite Plan, Diablo Pointe by Lighthouse Design Inc., and the shared landscaping, fencing, irrigation and entry monument in the Diablo Estates at Clayton Landscape Improvements plan by Thomas Bank and Associates LLP.

As applied herein, "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvement, including repair, removal or replacement of all or any part of any improvement; providing for the life, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste; the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti; the cleaning and replacement of storm drain pipes, drop inlets, catch basins and manholes.

"Servicing" means the cost of maintaining any facility used to provide any service, the furnishing of electric current, or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; or water for the irrigation of any landscaping, or the maintenance of any other improvements.

The figure shown below displays the improvements, maintenance, replacement costs and services to be provided with the Diablo Estates at Clayton Benefit Assessment District.

FIGURE 1 – SUMMARY OF ESTIMATED ANNUAL COSTS FOR DIABLO ESTATES AT CLAYTON

CITY OF CLAYTON
Diablo Estates at Clayton Benefit Assessment District
Summary of Estimated Annual Cost
Fiscal Year 2012-13

Installation, Maintenance & Servicing Costs	
Common Landscaping	\$19,426.99
Weed Abatement (On-lot)	\$11,910.00
Storm Drain System	\$27,966.00
Street Lighting	\$1,460.00
Subtotal - Installation, Maintenance and Servicing	\$60,762.99
Incidental Expenses and Administration Costs	\$11,900.00
Totals for Installation, Maintenance, Servicing and Incidentals	\$72,662.99
Net Cost of Maintenance, Servicing and Incidentals (Net Amount to be Assessed)	\$72,662.99

Budget Allocation to Property	
Total Assessment Budget	\$72,662.99
Single Family Equivalent Benefit Units	24
Assessment per Single Family Equivalent Unit	\$3,027.62

ESTIMATE OF COST AND BUDGET – FISCAL YEAR 2012-13

FIGURE 2 – COST ESTIMATE BREAKDOWN FOR DIABLO ESTATES AT CLAYTON

CITY OF CLAYTON					
Diablo Estates at Clayton Benefit Assessment District					
Estimate of Maintenance, Replacement, and Administrative Costs					
Item	Units	Unit Cost	Service Life (years)	Annual Cost	Annual Cost per Lot
Common Landscaping					
Landscape Maintenance	24,600 SF	\$0.30		\$7,380.00	
Landscape Replacement	24,600 SF	\$0.05		\$1,230.00	
Tree Maintenance	33 EA	\$95.00		\$3,135.00	
Tree Replacement - Materials	33 EA	\$285.00	40	\$235.13	
Water Usage	1,476 100CF	\$2.85		\$4,221.36	
Meter Charges	12 Mo	\$51.00		\$612.00	
Irrigation Maintenance & Repair	24,600 SF	\$0.03		\$738.00	
Fence Maintenance & Repair	1,870 LF	\$0.65		\$1,215.50	
Entry Monument Maintenance	1 EA	\$500.00		\$500.00	
Entry Monument Repair	1 LF	\$4,000.00	25	\$160.00	
				\$19,426.99	\$809.46
Weed Abatement (On-lot)					
Weed Abatement	397,000 SF	\$0.03		\$11,910.00	
				\$11,910.00	\$496.25
Storm Drain System					
Ditch - debris removal & maint	1 LS	\$1,000.00		\$1,000.00	
Ditch Repair	2,038 LF	\$50.00	25	\$4,076.00	
Vorsentry Maintenance	1 LS	\$1,500.00		\$1,500.00	
Vorsentry Replacement	1 LS	\$100,000.00	100	\$1,000.00	
Bio-Retention Basin Maintenance*	48 EA	\$		\$0.00	
Bio-Retention Basin Replacement	48 EA	\$2,000.00	10	\$9,600.00	
Stormwater Reporting Fee	1 LS	\$5,000.00		\$5,000.00	
Annual City Report Fee	1 LS	\$2,000.00		\$2,000.00	
Catch Basin/Manhole Cleaning	15 EA	\$200.00		\$3,000.00	
CB/MH/pipe repair	1 LS	\$79,000.00	100	\$790.00	
				\$27,966.00	\$1,165.25
Street Lighting					
Maintenance and Repair	1 LS	\$500.00		\$500.00	
Electricity	4 EA	\$240.00		\$960.00	
				\$1,460.00	\$60.83
Annual Administration					
Property Manager	12 Mo	\$600.00		\$7,200.00	
Annual City Engineer Services	1 LS	\$2,500.00		\$2,500.00	
Legal Notice/Mailing	1 LS	\$100.00		\$100.00	
County Collection	1 LS	\$100.00		\$100.00	
General Reserve	1 LS	\$2,000.00		\$2,000.00	
				\$11,900.00	\$495.83
Total				\$72,662.99	\$3,027.62
Number of Lots:				24	
Cost per Lot				\$3,027.62	
* Homeowner responsibility					
** Assumes covenant with Toll Brothers, Inc. for 5 year maintenance period					
Unit costs per direction of City of Clayton City Engineer					

METHOD OF APPORTIONMENT

METHOD OF APPORTIONMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the installation, maintenance and servicing of improvements and the methodology used to apportion the total assessment to properties within the Assessment District.

The Diablo Estates at Clayton Benefit Assessment District consists of all Assessor Parcels within the boundaries as defined by the Assessment Diagram included within this Report and the Assessor Parcel Numbers listed within the included Assessment Roll. The method used for apportioning the assessments is based upon the proportional special benefits to be derived by the properties in the Diablo Estates at Clayton Benefit Assessment District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two step process: the first step is to identify the types of special benefit arising from the Improvements, and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

DISCUSSION OF BENEFIT

In summary, the assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the District's storm drain system, streets and sidewalks, corridor landscaping, lighting, or a property owner's specific demographic status. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the Improvements."

The Benefit Assessment Act of 1982 states in Government Code Section 54711:

"The amount of the assessment imposed on any parcel of property shall be related to the benefit to the parcel which will be derived from the provision of service"

Proposition 218, as codified in Article XIII D of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing of the Improvements to be provided with the assessment proceeds. These categories of special benefit are derived in part from the statutes passed by the California Legislature and other studies which describe the types of special benefit received by property from the installation, maintenance and servicing of improvements such as those proposed by the City of Clayton and the Diablo Estates at Clayton Benefit Assessment District. These types of special benefit are summarized as follows:

- Creation of individual lots for residential use that, in absence of the services and improvements to be funded by the assessments, would not be created.
- Improved utility and usability of property
- Improved safety and security lighting for property
- Enhanced visual experience, and desirability of the area.
- Protection of views, scenery and other resources values and environmental benefits enjoyed by residents and guests and preservation of public assets maintained by the City
- Moderation of temperatures, dust control, and other environmental benefits.

These benefit factors, when applied to property in the Assessment District, specifically increase the utility of the property within the Assessment District. For example, the assessments will provide funding to maintain lighting that improves safety and access to the property after dark and landscaping that provides visual and environmental benefits to the properties within the Assessment District. Such improved and well-maintained public facilities enhance the overall usability, quality, desirability and safety of the properties. Moreover, funding for the maintenance and servicing of such public facilities is a condition of development of Diablo Estates at Clayton that is needed to mitigate the negative impacts of this development on the City. Without the Assessment District, this condition of development would not be satisfied, which could affect the approval of new homes on the property. This is another special benefit to the properties in the Assessment District.

GENERAL VERSUS SPECIAL BENEFIT

The proceeds from the Diablo Estates at Clayton Benefit Assessment District would be used to fund improvements and increased levels of maintenance to the public facilities that serve and benefit the properties in the Assessment District. In absence of the Diablo Estates at Clayton Benefit Assessment District, such Improvements would not be properly maintained. Therefore, the Assessment District is specifically proposed to ensure that the necessary and beneficial public facilities for property in the Assessment District are properly maintained and repaired over time. The assessments will ensure that landscaping and street lighting within and adjacent to the Assessment District are functional, well maintained, clean and safe. These public resources directly benefit the property in the Assessment District and will confer distinct and special benefits to the properties within the Assessment District.

In absence of the assessments, a condition of development would not be met and future home construction in the Assessment District could be denied. The creation of residential lots and the approval for the construction of homes in Diablo Estates at Clayton is the overriding clear and distinct special benefit conferred on exclusively on property in the Assessment District and not enjoyed by other properties outside the Assessment District. Moreover, benefits to the public at large, if any, will be offset by benefits residents within the Assessment District receive from the use of other similar public facilities not funded by the Assessment District. Therefore, the assessments solely provide special benefit to property in the Assessment District (100% special benefit) over and above the general benefits conferred to the public at large or properties outside the Assessment District.

METHOD OF ASSESSMENT

This process of apportioning assessments for each property involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalent dwelling units (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated an SFE value, which is each property's relative benefit in relation to a single family home on one parcel. In this case, the "benchmark" property is the single family detached dwelling which is one Single Family Equivalent unit or one SFE.

ASSESSMENT APPORTIONMENT

The proposed assessments for the Diablo Estates at Clayton Benefit Assessment District would provide direct and special benefit to properties in the Assessment District. Diablo Estates at Clayton is a residential single family development project consisting of a total of 24 single family homes, each on a separate parcel. As such, each residential property receives similar benefit from the proposed Improvements. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all parcels is on a dwelling unit or single family residence basis. All improved properties or properties proposed for development are assigned an SFE factor equal to the number of dwelling units developed or planned for the property. In other words, developed parcels and vacant parcels with proposed development will be assessed 1 SFE. The assessments are listed on the Assessment Roll in Appendix A.

APPEALS AND INTERPRETATION

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the City of Clayton City Engineer or his or her designee. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the City of Clayton City Engineer or his or her designee will promptly review the appeal and any information provided by the property owner. If the City of Clayton City Engineer or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the City of Clayton City Engineer or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any property owner who disagrees with the decision of the City of Clayton City Engineer or her or his designee may refer their appeal to the City Council of the City of Clayton and the decision of the City Council of the City of Clayton shall be final.

CERTIFICATES

DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT

1. The undersigned respectfully submits the enclosed Engineer's Report and does hereby certify that this Engineer's Report, and the Assessment and Assessment Diagram herein, have been prepared by me in accordance with the order of the City Council of the City of Clayton.


Engineer of Work, License No. C052091

2. I, the City Clerk, City of Clayton, County of Contra Costa, California, hereby certify that the enclosed Engineer's Report, together with the Assessment and Assessment Diagram thereto attached, was filed and recorded with me on March 14, 2012.


City Clerk

3. I, the City Clerk, City of Clayton, County of Contra Costa, California, hereby certify that the Assessment in this Engineer's Report was approved and confirmed by the City Council on _____, 2012, by Resolution No. _____.

City Clerk

4. I, the City Clerk of the City of Clayton, County of Contra Costa, California, hereby certify that a copy of the Assessment and Assessment Diagram was filed in the office of the County Auditor of the County of Contra Costa, California, on _____, 2012.

City Clerk

5. I, the County Auditor of the County of Contra Costa, California, hereby certify that a copy of the Assessment Roll and Assessment Diagram for fiscal year 2012-13 was filed with me on _____, 2012.

County Auditor, County of Contra Costa

And I do hereby assess and apportion said net amount of the cost and expenses of said Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Diablo Estates at Clayton Benefit Assessment District in accordance with the special benefits to be received by each parcel or lot from the Improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within the Diablo Estates at Clayton Benefit Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from said Improvements.

The assessments are subject to an annual adjustment tied to the Consumer Price Index for Urban Consumers (CPI-U) for the San Francisco Bay Area as of April of each succeeding year, with the maximum annual adjustment not to exceed 4%. In the event that the annual change in the CPI exceeds 4%, any percentage change in excess of 4% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 4%.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Contra Costa for the fiscal year 2012-13. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Rolls, the amount of the assessment for the fiscal year 2012-13 for each parcel or lot of land within the said Diablo Estates at Clayton Benefit Assessment District.

Dated: March 6, 2012



Engineer of Work

By

John W. Bliss, License No. C052091

ASSESSMENT

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the assessment districts and an assessment of the estimated costs of the Improvements upon all assessable parcels within the assessment district;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Acts and the order of the City Council of the City of Clayton, hereby make the following assessment to cover the portion of the estimated cost of said Improvements, and the costs and expenses incidental thereto to be paid by the assessment district.

The amounts to be paid for said Improvements and the expense incidental thereto, to be paid by the Diablo Estates at Clayton Benefit Assessment District for the fiscal year 2012-13, are generally as follows:

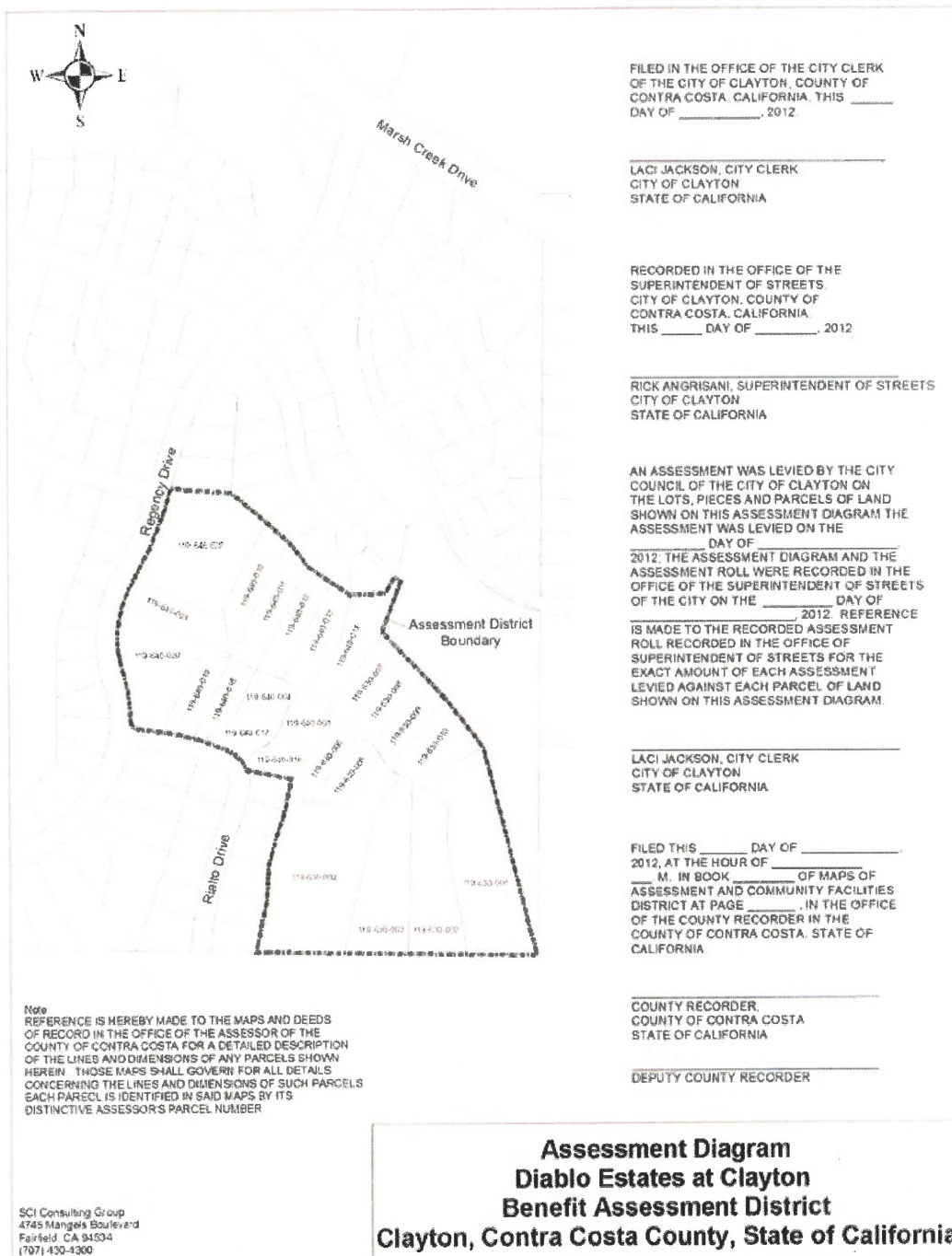
FIGURE 3 – SUMMARY COST ESTIMATES – FISCAL YEAR 2012-13

CITY OF CLAYTON	
Diablo Estates at Clayton Benefit Assessment District	
Summary Cost Estimate FY 2012-13	
Installation, Maintenance & Servicing Costs	\$60,763
Incidental Costs	\$11,900
Total Budget	<u>\$72,663</u>
Budget to Assessment	
Total Budget	\$72,663
Total SFE Units	24
Rate per SFE Unit	<u>\$3,027.62</u>

As required by the Acts, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Diablo Estates at Clayton Benefit Assessment District. The distinctive number of each parcel or lot of land in said Diablo Estates at Clayton Benefit Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

ASSESSMENT DIAGRAM

The boundaries of the Diablo Estates at Clayton Benefit Assessment District are displayed on the following Assessment Diagram.



APPENDICES

APPENDIX A – ASSESSMENT ROLL, FISCAL YEAR 2012-13

An Assessment Roll (a listing of all parcels assessed within the Assessment District and the amount of the assessment) will be filed with the City Clerk and is, by reference, made part of this Report and is available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.

FIGURE 4 – ASSESSMENT ROLL

**CITY OF CLAYTON
Diablo Estates at Clayton Assessment District
Assessment Roll**

PARCEL NUMBER	OWNER	SITUS	SFE Units	ASSESSMENT
119-630-001	TOLL CA XIX L P	27 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-002	TOLL CA XIX L P	26 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-003	TOLL CA XIX L P	22 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-004	TOLL CA XIX L P	18 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-005	TOLL CA XIX L P	14 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-006	TOLL CA XIX L P	10 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-007	TOLL CA XIX L P	9 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-008	TOLL CA XIX L P	15 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-009	TOLL CA XIX L P	19 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-630-010	TOLL CA XIX L P	23 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-640-001	TOLL CA XIX L P	6 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-640-004	TOLL CA XIX L P	7 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-010	TOLL CA XIX L P	16 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-011	TOLL CA XIX L P	12 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-012	TOLL CA XIX L P	8 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-013	TOLL CA XIX L P	4 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-014	TOLL CA XIX L P	5 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-640-016	TOLL CA XIX L P	2 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-640-017	TOLL CA XIX L P	3 SEMINARY RIDGE PL CLAYTON CA 94517	1	\$3,027.62
119-640-018	TOLL CA XIX L P	11 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-019	TOLL CA XIX L P	17 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-020	TOLL CA XIX L P	21 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-021	TOLL CA XIX L P	24 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
119-640-022	TOLL CA XIX L P	20 PROMONTORY PL CLAYTON CA 94517	1	\$3,027.62
			24	\$72,662.88

ATTACHMENT 4

MAINTENANCE MANAGEMENT SCOPE OF SERVICES

EXHIBIT "A"
SCOPE OF SERVICES

PROPERTY MANAGEMENT SERVICES

The property management duties to be included in this contract shall generally include, but not necessarily limited to, the following:

- a) Contracting with, overseeing and being responsible for, various State-licensed contractors as needed to complete the maintenance services specified below. Consultant shall provide copies of all executed contracts (including detailed scopes of work, and work, manpower and payment schedules) and contractor insurance certificates;
- b) Periodic inspections of the property and improvements to verify current conditions and to ensure satisfactory performance of the various contractors hired by the Proposer to complete the maintenance duties specified in the maintenance document;
- c) Periodic inspections of the property and improvements to ensure satisfactory performance of the homeowners in providing the maintenance services specified below as being the homeowners' responsibility.;
- d) Preparation and submittal of a monthly report to the City Engineer describing the findings of the periodic inspections, the maintenance work completed that month and anticipated for the following month;
- e) Satisfaction of Regional Water Quality Control Board requirements relating to the operation and maintenance of stormwater treatment facilities, including the preparation and submittal of annual reports.

COMMON LANDSCAPING (ALONG REGENCY AND RIALTO DRIVES)

DESCRIPTION AND DETAILED SCOPE OF WORK

Description

As part of the projects approval conditions, the Developer was required to install landscaping and irrigation over a strip of land adjacent to the sidewalks along the project's frontage on Regency and Rialto Drives. The strip of land is variable in width (but generally 25 feet wide, more or less, from the back of sidewalk) and is delineated by an open wire fence except along the frontage of Lot 9 where it is delineated by a wooden "Good Neighbor" fence.

Along with the perimeter fencing, the improvements include trees, shrubs, groundcover and a complete automatic irrigation system. In addition, a subdivision entry monument has been constructed on Lot 8. All of the land covered by the improvements has been encumbered by a recorded landscape maintenance easement in favor of the City of Clayton.

Detailed Scope of Work – City's Responsibility

Maintenance of the Common Landscaping shall occur twice a month by a maintenance crew comprised of at least 3 men for a period of at least 4 hours on each visit.

Trees

The scope of normal tree care shall include, but not be limited to, the following:

- Pruning will be performed under the direction of a qualified maintenance supervisor using appropriate tools and equipment in general accordance with industry standards.

- Pruning shall promote structural strength and accentuate the plants natural forms and features within the limitation of space.
- Trees stakes and guides will be checked regularly and removed or replaced as necessary.
- Minor pesticide application.
- Tree pruning over the 12 foot height.
- Insect and disease control including pest control spraying.
- Deep root feeding on an annual basis.
- Replacement of dead trees.

Shrubs and Groundcover

The scope of shrub and groundcover care shall include, but not be limited to, the following:

- On a continual basis, shrubs shall be checked for appropriate pruning and thinning, shearing or hedging. Hard pruning or cutting back will be done in winter to allow new growth or flushing out during the oncoming spring season.
- On a continual basis, ground covers shall be checked for proper coverage within the planting areas, and general health and condition. Required mowing or shearing of ground covers will be done in the winter to allow new growth during the spring season.
- Shrub pruning, thinning and trimming shall be accomplished on a regular basis to maintain a neat appearance.
- Shrubs shall be pruned to promote strength and accentuate the shrubs natural forms and features, minimize balling, shearing, etc.
- Ground covers shall be mowed on an annual basis as necessary.
- Plant material shall be fertilized on a regular basis before showing any sign of nutritional deficiencies.
- Minor pesticide application.
- Replacement of dead shrubs and groundcover plantings.

Irrigation

The scope of the irrigation check shall include, but not be limited to, the following:

- The system shall be routinely checked twice each month.
- Adjust programming to apply water in accordance with plant requirements based upon weather and soil conditions, and to minimize water runoff.
- Clean and adjust the sprinkler heads and nozzles as needed. Adjust spray patterns to insure coverage and prevent overspray on to the paved areas and buildings.
- Remote control valves shall be checked for proper operation. Valve boxes shall be cleared on top and clean on the inside.
- Minor irrigation repairs (e.g., pipe cracks, joint leaks, damaged spray heads or nozzles, etc.) shall be repaired immediately. The need for more significant repairs shall be brought to the attention of the City for authorization prior to the work being undertaken.

WEED ABATEMENT

DESCRIPTION AND DETAILED SCOPE OF WORK

Description

The City has placed significant restrictions on the use of the large sloped areas within each of the lots. These areas are intended to remain unimproved and covered with "native" vegetation installed by the Developer. Such vegetation tends to become a fire hazard during the summer months if left unchecked.

The Contra Costa Fire District requires that all vegetation be maintained at a height of no more than 3 inches. Weeds and grasses must be mowed with the material raked, bagged, and removed from the

property. This work must be accomplished by the end of June, at the very latest. Re-growth could necessitate additional abatement during the fire season.

Detailed Scope of Work – City's Responsibility

The scope of weed abatement work shall include, but not be limited to, the following:

- Each spring, prior to the date established by the Contra Costa Fire District, all sloped areas between the open wire fences at the rear of each building pad and the lot property line, shall be mowed by hand to a height of less than 3 inches. The excess materials generated by the mowing shall be raked, placed in bags, and legally disposed of offsite.
- When needed due to re-growth of the vegetation, the process as specified shall be repeated.

STORM DRAINAGE FACILITIES

DESCRIPTION AND DETAILED SCOPE OF WORK

Description

As part of the subdivision construction, a storm drainage system has been constructed within the streets of the project. The system includes concrete collection ditches (known as "J" and "V" ditches), storm drain pipes interconnecting and running between manholes and catch basins. The system also includes five large storage pipes (36" and 48" in diameter with a total length of 728 feet). The storage pipes also include observation structures for inspection and cleaning, if required. These storage pipes have been designed to collect the storm runoff from the streets and delay the discharge of the runoff into the remainder of the storm drain system by metering the discharge flows. The intent of this delay is to keep the peak flow rate of the storm water discharge leaving the project at the same or lower rate that existed prior to construction of the project.

In order to continue to work as designed, the system must be kept clear of sediment, trash and debris.

Detailed Scope of Work – City's Responsibility

The scope of storm drain facility maintenance work shall include, but not be limited to, the following:

- Each year, by October 15th, each storm drain structure and facility (concrete ditches, manholes, catch basins, and storage pipes) shall be inspected for build-up of sediment and debris.
- Each structure shall be cleaned as necessary using a truck-mounted vacuum system.
- The concrete ditches shall be cleaned of all weeds and trash by hand. The materials generated shall be placed in bags, and legally disposed of offsite.
- Cracks in the concrete ditches and structures shall be repaired.
- If necessary, the structures shall be treated for vector (mosquitoes) infestation as necessary with Larvicide dunks.
- Upon completion of the inspection and work, the contractor shall file a written report, including photos of the findings and maintenance work, with the City indicating the results of the inspection and work, including a description of amount and type of debris removed, depth of sediment observed in the structures, and a description of repairs that the Contractor believes necessary to maintain the integrity of the storm drainage facilities.
- Any major repairs deemed necessary by the City shall be performed under separate written authorization.

STORMWATER TREATMENT FACILITIES

DESCRIPTION AND DETAILED SCOPE OF WORK

Description

As part of the subdivision construction, stormwater treatment facilities have been constructed both in the street and on each lot. The in-street facility consists of a single Vortech 3000 Hydrodynamic Separator unit located near Rialto Drive. The on-lot treatment facilities consist of one or two bioretention filtration planters ("planters") on each lot as well as small collection pipes which convey the runoff to the planters. In addition, the collection systems on some lots may include trench drains adjacent to the end of the driveways to collect runoff from the driveways.

The planters have been sized to accept and treat all of the on-lot runoff from impervious surfaces. The planters include 18" of filter soils placed on top of a thick layer of permeable rock. The runoff that enters the planter is cleaned as it percolates through the filter soils and into the permeable rock. The permeable rock layer includes a 24" storage pipe and smaller perforated drains to collect the runoff. The outflow from the storage pipes is metered by a small orifice opening to limit the rate of discharge as required by the latest stormwater regulation.

In addition to the filter soils, treatment of the runoff is accomplished by the vegetation planted in the filter soils. It is the responsibility of the individual property owners to maintain the vegetation and surface condition of the planters as well as the on-lot collection pipe system. It should be understood that the types of plantings installed by the Developer were selected from a pre-approved list of plant materials published by the Contra Costa Clean Water Program. Any vegetation that must be replaced, at any time, can only be replaced with the same or another pre-approved plant.

The stormwater treatment regulations require routine and annual inspections of all facilities, the results of which are required to be reported to the Regional Water Quality Control Board. If these inspections note that the property owner has not properly maintained the on-lot collection system, planters or vegetation, or replaced any plantings with non-approved types, a notice of deficiency will be issued to the property owner. If the property owner fails to satisfy the notice of deficiency within the time period specified on the notice, such failure shall be reported to the Regional Water Quality Control Board and may subject the property owner to fines as high as \$10,000 per day.

Detailed Scope of Work – Homeowners' Responsibility

The scope of the property owners' responsibility shall include, but not be limited to, the following routine work:

- Inspect the driveway trench drain, its entrances (grates) and exits. Look for obstructions, vegetation, debris, litter, sediment, etc., blocking the entrances and exits of the trench drain. If necessary, clear trench drain, exits and entrances by hand and with hand tools. Ensure that water flows freely into and out of the trench drain.
- Inspect for large vegetation growing within 4" of the trench drain entrance or exit. Remove any invasive plants, weeds, shrubs, or any plant with a woody stem within 4" of trench drain entrance or exit.
- Inspect the outlets of the collection system in each of the planters for plugging caused by debris. Look for evidence of erosion in the planter surface. Inspect side soils and/or rocks placed around the edges of the planters. Repair and/or replace any erosion or missing rocks. Clear outlets as necessary.
- Examine vegetation to ensure it is healthy and dense enough to provide filtering and to protect soils from erosion. Replenish mulch as necessary, remove fallen leaves and debris, prune large

shrubs or trees. Replace dead plants and remove invasive vegetation. Confirm that the irrigation is adequate and not excessive.

Detailed Scope of Work – City's Responsibility

The scope of the City's responsibility shall include, but not be limited to, the following:

- Each year, prior to the rainy season, the City, or its contractor, shall undertake a complete inspection and testing of the in-street and on-lot stormwater treatment systems in accordance with the project's Stormwater Control Operation & Maintenance Manual.
- Maintain Vortech 3000 Hydrodynamic Separator unit in accordance with the manufacturer's operation and maintenance requirements. This work shall include removal and disposal of accumulated sediment. Monitor and treat for vector (mosquitoes) infestation as necessary with Larvicide dunks.
- Upon completion of the inspection and work, the contractor shall file a written report, including photos of the findings and the maintenance work, with the City indicating the results of the inspection and work, including a description of amount and type of debris removed, depth of sediment observed in the structures, and a description of repairs that the Contractor believes necessary to maintain the integrity of the stormwater treatment facilities.
- Standard City fees will be paid to the City directly by the BAD and are not a part of this contract.
- Any major repairs deemed necessary by the City shall be performed under separate written authorization.

STREET LIGHTING FACILITIES

DESCRIPTION AND DETAILED SCOPE OF WORK

Description

As part of the subdivision construction, a street lighting system, consisting of four street lights and associated wiring and boxes, was installed.

Detailed Scope of Work – City's Responsibility

The scope of streetlighting system work shall include, but not be limited to, the following:

- Routinely inspect and replace parts as needed
- Payment for the supply of electricity from PG&E. (Note: the electrical billing for the street lights will be paid by the City directly to PG&E and is not a part of the contract)

APPENDIX A
Diablo Estates Benefit Assessment District
Assessment Roll FY 2021-22

<u>Parcel Number</u>	<u>Levy Amount</u>
119630003	\$3,904.64
119630004	\$3,904.64
119630005	\$3,904.64
119630006	\$3,904.64
119630008	\$3,904.64
119630009	\$3,904.64
119630010	\$3,904.64
119630012	\$3,904.64
119630013	\$3,904.64
119630014	\$3,904.64
119640001	\$3,904.64
119640004	\$3,904.64
119640010	\$3,904.64
119640011	\$3,904.64
119640012	\$3,904.64
119640013	\$3,904.64
119640016	\$3,904.64
119640017	\$3,904.64
119640018	\$3,904.64
119640019	\$3,904.64
119640020	\$3,904.64
119640021	\$3,904.64
119640022	\$3,904.64
119640023	\$3,904.64
Total:	\$93,711.36



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: Reina Schwartz, City Manager

BY: Dana Ayers, AICP, Interim Community Development Director

DATE: July 20, 2021

SUBJECT: Appeal of the Planning Commission Approval of the Extension of a Density Bonus (DBA-01-19), Site Plan Review Permit (SPR-04-17) and Tree Removal Permit (TRP-24-17) for The Olivia on Marsh Creek Development.

RECOMMENDATION

That the City Council conduct the public hearing, accept written and spoken testimony, close the public hearing and move to deny the appeal of the Planning Commission decision to grant a 1-year extension to exercise the development approvals granted by the Clayton City Council on March 3, 2020, for The Olivia at Marsh Creek Project, an 81-unit senior rental housing development proposed to be built on 3.02 acres located at 6170 High Street, 6450 Marsh Creek Road and 6490 Marsh Creek Road (Assessor's Parcel Nos. 119-021-063, 119-021-055 and 119-021-013).

SUMMARY OF PROJECT ENTITLEMENTS AND APPEAL

On March 3, 2020, the City Council, by vote of 3 to 2, adopted two resolutions that: a) found The Olivia on Marsh Creek Project (Project) to be exempt from the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 *et seq.*) pursuant to Class 32 of the State CEQA Guidelines (Resolution No. 06- 2020); and b) approved the development entitlements requested for the Project (Resolution No. 07-2020). In adopting Resolution No. 07-2020 approving land use entitlements for the Project, the City Council adopted Project-specific Condition No. 16, which granted the entitlement approvals a 2-year term that could be extended for up to one additional year upon the applicant's showing of good cause and the Planning Commission's approval. On March 19, 2021, in accordance with the provisions

of Condition No. 16 of City Council Resolution No. 07-2020, William Jordan (Applicant) filed a timely request for a 1-year extension of the development entitlements granted for the Project.

On May 25, 2021, the Planning Commission conducted a public hearing and considered the Applicant's request for extension. After considering written and spoken testimony from the Applicant and interested parties, the Planning Commission by vote of 3-1-1 approved the extension request. On June 4, 2021, Clayton resident Glenn Miller (Appellant) filed an appeal of the Planning Commission's decision.

BACKGROUND

The Olivia at Marsh Creek is an approved multi-family residential development at the corner of High Street and Marsh Creek Road on three separate parcels: 6170 High Street, 6450 Marsh Creek Road, and 6490 Marsh Creek Road (see Attachment H: Vicinity Map). The Project site has General Plan land use designations of Multifamily High Density (6450 and 6490 Marsh Creek Road) and Town Center Commercial (6170 High Street); a Town Center Specific Plan land use designation of Multi-Family High Density Residential; and is zoned PD (Planned Development) District. The approved development consists of 81 one- and two-bedroom rental units and would be rented to residents aged 55 and older. The Project includes seven affordable units designated for Very Low-Income households as defined by the U.S. Department of Housing and Urban Development.

Entitlement History

On November 12, 2019, the Planning Commission held a public hearing to consider the Applicant's request for planning entitlements and an exemption from CEQA for the Project. After receiving testimony at that hearing, the Planning Commission continued the hearing to December 10, 2019, to allow for additional information gathering and public comment. At the December 10 meeting, the Planning Commission, by 3 to 1 vote, adopted a resolution determining that the Project qualified for an exemption from CEQA pursuant to section 15332 (Class 32, Infill Development Projects) of the State CEQA Guidelines (California Code of Regulations Section 15000 *et seq.*). On the same date, the Planning Commission voted 2 to 2 on a motion to adopt a resolution to approve the Affordable Housing Density Bonus application, Site Plan Review Permit, and Tree Removal Permit, resulting in a "no decision" action.

The Applicant and three interested parties filed separate appeals of the Planning Commission's December 10, 2019, actions. On February 4, 2020, the City Council held a public hearing to receive testimony on the four submitted appeals. The Council continued the public hearing to March 3, 2020, and directed staff to provide clarifications and additional information on several topics relevant to the Project. On March 3, 2020, after receiving additional testimony at the continued public hearing, the Council, by vote of 3 to 2, adopted two resolutions that: a) found the Project to be exempt from CEQA pursuant to Class 32 of

the State CEQA Guidelines (ENV-01-19, Resolution No. 06-2020); and b) approved the development entitlements requested for the Project (Resolution No. 07-2020).

The development entitlements approved for the Project by the City Council include:

- An Affordable Housing Density Bonus (DBA-01-19) pursuant to the State's Density Bonus Law (California Government Code sections 65915 to 65918) and the City's Affordable Housing Density Bonus Requirements Ordinance (chapter 17.90 of the Clayton Municipal Code). The approved Affordable Housing Density Bonus allows a greater number of residential units than is normally permitted on the site under the General Plan land use designation and zoning (81 units as compared to 60 units) in exchange for the provision of the seven affordable units, in accordance with State and local Density Bonus law provisions;
- Site Plan Review Permit approval (SPR-04-17) of the architecture, landscaping, parking, lighting and fencing for the construction of three multi-unit residential buildings on three separate parcels, each consisting of between 25 and 30 units (SPR-04-17); and
- Tree Removal Permit approval (TRP-24-17) allowing the removal of 106 trees from the three parcels to accommodate construction of the buildings and other improvements, with a tree replacement plan provided.

A legal challenge of the City Council's approval of the Project was filed by Clayton for Responsible Development, a group of interested residents who opposed the Project. The Court ultimately upheld the City's approval in October 2020.

Extension Request

Section 17.64.030 of Clayton Municipal Code (CMC) allows permittees and development applicants to request extensions of the approvals of development entitlements:

Upon showing of good cause therefore, the Planning Commission may extend the period of a permit in which it is to be exercised, used or established, for a maximum of twelve (12) months at a time or as otherwise specified on the permit.

In adopting Resolution No. 07-2020 approving land use entitlements for the Project, the City Council adopted the following, Project-specific Condition No. 16 with respect to granting of extensions of the Project's permit entitlements:

This approval expires two years from the date of approval (expires March 3, 2022), unless a building permit has been issued and construction has diligently commenced thereon and has not expired, or an extension has been approved by the Planning Commission. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one-year extension shall be granted.

On March 19, 2021, in accordance with the provisions of Condition No. 16 of City Council Resolution No. 07-2020, William Jordan filed a timely request for a one-year extension of the development entitlements granted for the Project, inclusive of the Affordable Housing Density Bonus, Site Plan Review Permit and Tree Removal Permit (DBA-01-19, SPR-04-17 and TRP-24-17). The Applicant requested the extension due to the months of litigation between the City Council's action (March 2020) and the end of the appeal period following the Court's decision (January 2021), during which time progress toward construction of the Project was suspended.

Planning Commission Decision

Under CMC section 17.64.080, the Planning Commission shall make its findings and render its decision on the extension in writing, and “[i]ts decision may order additional terms, limitations or conditions, a specified probationary period for correction or implementation of new requirements, a future review at a time specified, or a combination of these, or revocation.” In approving the extension request, the Planning Commission found that the extension would “adjust for time spent in litigation of the Project until January 2021, during which preparation of construction drawings for Project building permits could otherwise have occurred,” and that this delay constituted good cause for granting the 1-year extension request. The Planning Commission's decision and findings on which that decision was based are documented in Resolution No. 04-2021, attached to this staff report as Attachment D.

Appeal

In his filed appeal, the Appellant describes two main points on which his appeal is based. These points are summarized below:

- The Applicant has already been afforded a reprieve from the customary 1-year entitlement period and has failed to perform. Allowing the extension request commits the City without recourse or ability to require the Applicant to make adjustments, and it would not prevent the Applicant from selling the Project to another developer that the City could vet.
- Approving the extension request would preclude the City's ability to: 1) demand or negotiate Project adjustments; 2) add conditions to address the procedural shortcomings of the initial entitlement process and mitigation for public safety hazards and other stresses on the community; and 3) re-align the Project with upcoming revised zoning and Housing Element processes.

The letters of detailed explanation of the bases of the Appellant's appeal are attached to this staff report under Attachment B.

ANALYSIS

Staff believes the Applicant has shown good cause for the extension request and that the bases of the Appellant's appeal do not provide sufficient justification to uphold the appeal and reverse the decision of the Planning Commission.

As noted by the Appellant, the default term of a land use approval is 1 year (CMC section 17.64.010), and the City Council's initial approval action granted a longer term of 2 years (Condition No. 16 of Resolution No. 07-2020), consistent with the allowance in the CMC for the permit entitlement to specify a greater or lesser term of approval. The longer term of approval granted to the Project was appropriate given the complexity of the Project, which encompasses multiple buildings as well as site preparations consisting of grading, installation of subsurface utilities and of at-grade construction work including parking lots, landscaping and foundations in addition to the buildings themselves. The additional year above the default 1-year term specified in CMC accommodates the longer time necessary for the iterations of drawing, checking, revising, resubmitting, rechecking and ultimately finalizing the detailed civil engineering and architectural construction plans for the Project. As noted by the Applicant, however, 10 months of litigation absorbed much of that initial 2-year term, diminishing the benefit of the relief from the default 1-year approval term granted in Condition No. 16. Thus, staff does not believe that this point of appeal provides adequate basis to uphold the appeal.

An additional objection to the extension request as raised by the Appellant suggests that denying the extension would protect the City from a new developer purchasing the Project from the Applicant. The Appellant also suggests that the City should be able to vet another developer that might purchase and build the Project. Because the Project is a private development, the construction of which would not be wholly or partially funded by the City nor occur on land owned by the City, the City has no authority under municipal code or state statutes to prevent or intervene in the private sales transaction should the Applicant sell the Project, nor does the City have authority to vet the Project's builder/developer. If the entitlements for the Project were sold to another builder/developer, the conditions of approval of the Project previously imposed with Resolution No. 07-2020 would hold, as the entitlements for the Project carry with the land and not the individual(s) developing the Project. Staff does not believe, therefore, that this point of appeal provides adequate basis to uphold the appeal.

The Appellant's additional objections in his appeal suggest that approval of the extension request would preclude the City's ability to demand or negotiate Project adjustments, to add conditions to correct shortcomings of the initial entitlement process or mitigate Project impacts, and to revise the Project to comply with future land planning decisions. The request of the Applicant was limited exclusively to the extension of the previous entitlements granted to the Project; no changes to the Project's concept or design were requested that would have provided an avenue for the Commission to review or revise Project conditions of approval previously adopted by the City Council. Thus, the Commission's discretion was properly limited to the granting of an extension of time to obtain building permits for the Project and did

not include amendments to any of the Project's conditions of approval. Likewise, the findings on which the Council's initial approval was based, and procedural process followed by the Council, are documented in the Council's adopted resolutions and also fell outside the Commission's purview.

As summarized above, the Appellant's last point of objection to the extension is that its approval would preclude the City from requiring the Project to be changed to align with upcoming zoning and Housing Element revisions. Because those amendments are in early phases and at present undefined, and until the amendments are adopted by the City Council, they cannot form the basis for present land use decisions. Further, as previously noted, the Commission's discretion was properly limited to the request for extension of entitlement approval and not on the consistency of the Project with potential changes in future land use policies or regulations. Staff does not believe, therefore, that the Appellant's last point of appeal provides adequate basis to uphold the appeal.

Construction of The Olivia on Marsh Creek Project would add to the City's stock of senior and affordable housing, thereby facilitating age and income diversity in the City's population. The 1-year extension requested by the Applicant would restore the initial roughly 2-year term of approval granted by the Project conditions of approval, with permit expiration extended from March 3, 2022, to March 3, 2023. The extension would adjust for time spent in litigation of the Project, when preparation of construction drawings for Project building permits would otherwise have occurred.

The Applicant requests no amendments that would trigger new discretionary review or revision of the land use entitlements previously granted by the City. With the 1-year extension, all conditions of approval adopted by the City Council with Resolution No. 07-2020 would continue to be applicable to the Project. Should the Council, in its consideration of the appeal approve the extension with additional conditions, any such condition should be reasonably required and limited to address a change that has occurred since the approval of the Project.

Under CMC section 17.68.030, in considering an appeal of a Planning Commission decision, the City Council must also document its conclusions and the findings on which that conclusion is based. Pursuant to this same code section, the City Council, "[i]n its conclusions...may approve with conditions, or deny the appeal. The conclusion of the City Council shall be final and the application shall be disposed of in accordance with the City Council's decision with no further administrative action being taken on the application."

ENVIRONMENTAL

Section 15378 of the State CEQA Guidelines defines a "project" as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The CEQA Guidelines further define a "project" as "the activity which is being approved and which may be subject to

several discretionary approvals by governmental agencies. The term ‘project’ does not mean each separate governmental approval.”

Prior to approving The Olivia on Marsh Creek Project on March 3, 2020, the City Council adopted Resolution No. 06-2020 determining the Project to be exempt from CEQA pursuant to section 15332, (Class 32, Infill Development) of the State CEQA Guidelines. With the Council’s determination of that The Olivia on Marsh Creek Project is exempt from CEQA, no additional findings are necessary for CEQA compliance for the current request for extension of entitlements of the approved Project.

The impacts of approving the extension of time—separate and apart from any development—would be limited to the impacts of signing a piece of paper. Signing a piece of paper, if separated from the underlying development it allows, cannot qualify as a project subject to CEQA because it would not result in either a direct or reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (c)(1)-(3), 15378, subd. (a).)

PUBLIC COMMENTS

As of the writing of this agenda report, City staff has received seven written comments on the extension request. Those comments are attached to this agenda report as Attachment D.

ATTACHMENTS

- A. Proposed Resolution
- B. Appeal Packet
- C. Applicant’s Extension Request
- D. Planning Commission Resolution No. 04-2021
- E. City Council Adopted Resolution No. 07-2020
- F. Public Comments
- G. Approved Project Plans (online at <https://ci.clayton.ca.us/community-development/planning/development-activity/clayton-senior-housing-project/>)
- H. Vicinity Map

RESOLUTION NO. ____-2021

**A RESOLUTION DENYING THE APPEAL AND UPHOLDING THE DECISION OF
THE CLAYTON PLANNING COMMISSION TO GRANT A ONE-YEAR EXTENSION
OF THE LAND USE ENTITLEMENTS FOR AN AFFORDABLE HOUSING DENSITY
BONUS (DBA-01-19), SITE PLAN REVIEW PERMIT (SPR-04-17) AND TREE
REMOVAL PERMIT (TRP-24-17) FOR
THE OLIVIA ON MARSH CREEK HOUSING PROJECT**

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

WHEREAS, on February 4 and March 3, 2020, the Clayton City Council held a public hearing on appeals of the Clayton Planning Commission's actions taken on December 10, 2019, with respect to The Olivia on Marsh Creek Project (Project), an 81-unit senior rental housing development approved to be built on 3.02 acres located at 6170 High Street, 6450 Marsh Creek Road and 6490 Marsh Creek Road (Assessor's Parcel Nos. 119-021-063, 119-021-055 and 119-021-013); and

WHEREAS, on March 3, 2020, after closing the public hearing, the Council, by vote of 3 to 2, adopted Resolution No. 07-2020 approving development entitlements for the Project that included: a) an Affordable Housing Density Bonus (DBA-01-19) pursuant to the State's Density Bonus Law (California Government Code sections 65915 to 65918) and the City's Affordable Housing Density Bonus Requirements Ordinance (Chapter 17.90 of the Clayton Municipal Code); b) Site Plan Review Permit approval (SPR-04-17) of the architecture, landscaping, parking, lighting and fencing for the construction of three multi-unit residential buildings; and c) and Tree Removal Permit approval (TRP-24-17) allowing the removal of 106 trees from the three parcels to accommodate construction of the Project; and

WHEREAS, prior to approving the Project on March 3, 2020, the City Council adopted Resolution No. 06-2020 determining the Project to be exempt from the California Environmental Quality Act ("CEQA," Public Resources Code Section 21000 *et seq.*) pursuant to Categorical Class 32, Infill Development Projects, Section 15332 of the State Guidelines for Implementation of CEQA ("CEQA Guidelines," California Code of Regulations Section 15000 *et seq.*); and

WHEREAS, Condition No. 16 of Resolution No. 07-2020 set the expiration date for the approvals of DBA-01-19, SPR-04-17 and TRP-24-17 on March 3, 2022, two years after the Council's approval of the Project entitlements; and

WHEREAS, in accordance with Section 17.64.030 of the Clayton Municipal Code and Condition No. 16 of Resolution No. 07-2020, upon timely request from the applicant and the applicant's showing of good cause, the Planning Commission may grant a one-time, one-year extension of the development approvals granted to the Project by the City Council; and

WHEREAS, on March 19, 2021, in accordance with the provisions of Condition No. 16 of City Council Resolution No. 07-2020, William Jordan, Applicant for the Project, filed a timely request for a one-year extension of the development entitlements granted for the Project, inclusive of the Affordable Housing Density Bonus, Site Plan Review Permit and Tree Removal Permit (DBA-01-19, SPR-04-17 and TRP-24-17); and

WHEREAS, on May 25, 2021, the Clayton Planning Commission held a duly-noticed public hearing on the request for extensions of the Affordable Housing Density Bonus (DBA-01-19), Site Plan Review Permit approval (SPR-04-17), and Tree Removal Permit approval (TRP-24-17) for The Olivia on Marsh Creek Project; received and considered testimony and evidence, both oral and documentary; and after closing the public hearing, adopted Resolution No. 04-2021 granting a one-year extension to the term of approvals of the approved permits; and

WHEREAS, on June 4, 2021, Clayton resident Glenn Miller filed an appeal of the Planning Commission's May 25, 2021 decision; and

WHEREAS, on July 9, 2021, notice of the public hearing to consider the appeal of the Planning Commission's extension of approval of the Project was published in the Contra Costa Times; posted at the notice boards at Clayton City Hall, Clayton Community Library, and at the Ohm's posting board on Diablo Street at Main Street in the Town Center; and mailed to the Appellant, Applicant and owners of property within 300 feet of the Project site; and

WHEREAS, on July 20, 2021, the Clayton City Council held a public hearing on the appeal of the Planning Commission's extension of approval of the Affordable Housing Density Bonus (DBA-01-19), Site Plan Review Permit approval (SPR-04-17), and Tree Removal Permit approval (TRP-24-17) for The Olivia on Marsh Creek Project, and received and considered testimony and evidence, both oral and documentary.

NOW, THEREFORE, BE IT RESOLVED, the City Council does determine the foregoing recitals are true and correct and makes the following findings:

- A. The Applicant has shown good cause for extension of the development entitlements for The Olivia on Marsh Creek. Construction of The Olivia on Marsh Creek Project will add to the City's stock of senior and affordable housing, thereby facilitating age and income diversity in the City's population. The one-year extension requested by the Applicant will restore the initial roughly two-year term of approval granted by the conditions of approval, with permit expiration extended from March 3, 2022, to March 3, 2023. The extension will adjust for time spent in litigation of the Project until January 2021, during which preparation of construction drawings for Project building permits could otherwise have occurred.

- B. The bases of the Appellant's appeal do not provide sufficient justification to uphold the appeal and reverse the decision of the Planning Commission. The City Council was within its codified authority to grant an initial two-year term of approval of land use entitlements, and the two-year approval was appropriate due to the complexity of the Project design and construction which includes site grading, subsurface utilities installations, and at- and above-grade construction consisting of parking areas, landscaping and the three, multi-unit residential buildings. In its initial entitlement approvals, the Council also found the Project to be consistent with adopted land use policies and development regulations, and with no changes to the Project requested by the Applicant, the Planning Commission's decision was properly limited to the granting of an extension of time to obtain building permits for the Project and did not include amendments to any of the Project's conditions of approval.
- C. Nothing in the Applicant's request for extension of current entitlements for the Project triggers new discretionary review or revision of the land use entitlements previously granted by the City. With the one-year extension, all conditions of approval adopted by the City Council with Resolution No. 07-2020 will continue to be applicable to the Project. Acquisition and construction of the privately-owned development Project by a developer other than the Applicant would also have no affect on the City's ability to impose the adopted conditions of approval of the Project.
- D. Prior to approving The Olivia on Marsh Creek Project on March 3, 2020, the City Council adopted Resolution No. 06-2020 determining the Project to be exempt from CEQA pursuant to section 15332, (Class 32, Infill Development) of the State CEQA Guidelines. With the Council's determination of that The Olivia on Marsh Creek Project is exempt from CEQA, and pursuant to Section 15378 of the State CEQA Guidelines, no additional findings are necessary for CEQA compliance for the current request for extension of entitlements of the approved Project. The impacts of approving the extension of time—separate and apart from any development—would be limited to the impacts of signing a piece of paper. Signing a piece of paper, if separated from the underlying development it allows, cannot qualify as a project subject to CEQA because it would not result in either a direct or reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (c)(1)-(3), 15378, subd. (a).)

NOW THEREFORE BE IT FURTHER RESOLVED, the City Council hereby denies the appeal and approves the request for a one-year extension, to March 3, 2023, of the term of the approvals of the Affordable Housing Density Bonus (DBA-01-19), Site Plan Review Permit approval (SPR-04-17), and Tree Removal Permit approval (TRP-24-17) for The Olivia on Marsh Creek Project. The City Council hereby directs and authorizes staff to prepare, execute, and file with the Contra Costa County Clerk a notice of exemption within five working days of the approval of this Resolution. The record of proceedings for this matter is located at the City of Clayton, City Hall, 6000 Heritage Trail, Clayton, CA 94517. The custodian of records is the City Clerk.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California,
at a regular public meeting thereof held on the ____ day of ____ 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Carl Wolfe, Mayor

ATTEST:

Janet Calderon, City Clerk

Attachment B

Appeal Packet



6000 Heritage Trail, Clayton, CA 94517
Phone No. 925.673.7300 Fax No. 925.672.4917
www.ci.clayton.ca.us

Appeal of a Planning Commission Decision

As Provided in the Clayton Municipal Code Title 17, Chapter 17.68

FOR APPEAL OF: Below: Office Use Only

DEBA-01-19, SPR-04-17

File No: AD TRP-24-17

Total Fee(s) \$331.-

Residential Fee: \$331.-

Non-Residential Fee: N/A

Received By: [Signature]

Date: 6/4/2021

Receipt No:

cc APPROVAL CODE 01207D

Please clarify any questions with the Planning Staff prior to completing this form. Please print or type legibly. Attach additional sheets if necessary. Incomplete applications will not be accepted.

1. Appellant Contact Information:

Appellant Name: GLENND. MILLER

Appellant Address: 1005 PEBBLE BEACH DR.
CLAYTON, CA. 94517

Appellant Phone#: 925-787-1578

2. Appeal Instructions:

To file an appeal, take the form and appeal fee to the City Clerk at City Hall, Third Floor, 6000 Heritage Trail. City Hall is open Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays.

The appeal must be filed within 10 calendar days of the Planning Commission Notice of Decision.

A public hearing will be held by the City Council. The appellant, agent, applicant, and any other person(s) who requested notice of an appeal hearing in writing will be mailed a notice of the appeal hearing.

3. Submittal Requirements:

☒ Community Development General Application

☒ Appeal of a Planning Commission Decision Application

☒ Processing Fee: Residential \$ 331.00 Non-Residential \$ _____ (Make check payable to the City of Clayton)

☒ Copy of the written decision/ruling to be appealed

☒ Date of the Planning Commission decision on the project/matter: 5/25/21

☒ Letter of Explanation: ☒ Mark if response is attached

State your rationale for arguing that the Planning Commission ruling was an improper or erroneous interpretation of the Ordinance:

SEE ATTACHED

RECEIVED

JUN 4 2021

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT.

4. Important Implementing Information from the City of Clayton Municipal Code:

17.68.020 Appeal--Allowed when.

Appeal from any decision of the Planning Commission shall be governed by the provisions of this section and Section 17.68.030. For the purpose of appeal from any action of the Planning Commission, an aggrieved person must be either a subdivider, if he is dissatisfied with any action with respect to the tentative map, or to the kinds, nature and extent of the improvements required for a subdivision, or an applicant or any person alleging:

- A. That his/her property rights or the value of his property is adversely affected and the decision does not comply with the General Plan, if one is in effect at the time; or
- B. That the required standards, which must be specified, are or are not satisfied by the evidence presented at the hearing for rezoning, land use permit, or variance permit; or
- C. That specified findings of the Planning Commission are not supported by the evidence; or
- D. That specified limitations or conditions imposed in granting a permit are not reasonably required; or
- E. That specified limitations or conditions recommended but not imposed are reasonably required in granting a permit. (Ord. 52 Ch. III Sec. 5(a), 1968).

17.68.030 Appeal--Notice--Fee--Hearing and notice--Council conclusions.

An aggrieved party may appeal a decision of the Planning Commission to the City Council by filing a written notice of appeal with the City Clerk specifying the grounds for the appeal along with an appeal fee in such amount as may from time to time be fixed by resolution of the City Council, within ten days after the filing with the appropriate officials of the decision being appealed. When an appeal from the decision of the Planning Commission is properly filed, the City Clerk shall transmit to the City Council copies of the letter of appeal, the application and findings and decision of the Planning Commission. Upon receipt of said matter, the City Council shall order the matter heard before itself. The City Council shall proceed to schedule a public hearing in the matter before it and cause notice of the hearing time, place and nature of the appeal to be given by mailing copies of such notice by United States mail, first-class, postage prepaid to the appellant, the applicant or subdivider, and any other interested person or persons who shall have recorded his name and mailing address along with a request for a notice of hearing on appeal with the City Clerk and/or Secretary of the Planning Commission. The City Council shall then hear the matter as directed in the order fixing hearing and following this shall make its findings and conclusions in writing and file them with the City Clerk within thirty days after the close of the hearing, with copies being forwarded to the Planning Commission, the appellant and the applicant or subdivider. In its conclusions the City Council may approve with conditions, or deny the appeal. The conclusion of the City Council shall be final and the application shall be disposed of in accordance with the City Council's decision with no further administrative action being taken on the application. (Ord. 172 Sec. 5, 1977; Ord. 52 Ch. III Sec. 5(b), 1968).

5. Certification:

General Certification:

I (We):

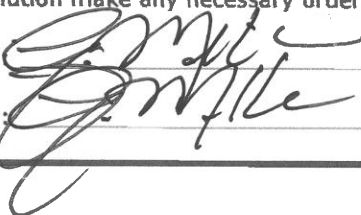
- consent to the submission of this application.
- understand that an incomplete application may be denied.
- hereby declare under penalty of perjury under the laws of the State of California that the information in this application and its attachments is true, complete and correct.
- certify that I (We) have read and understand Title 17, Chapter 17.68 found in Part 4 of this application and in the City of Clayton's Municipal Code.

Form Specific Certification:

I (We):

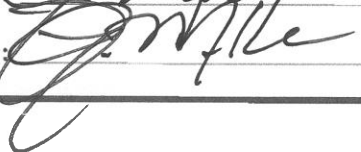
- recognize that the Clayton City Council may, in conformity with the Unified Development Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may by a resolution make any necessary order, requirement, decision or determination.

Appellant's Signature



Date: 6/4/21

Appellant's Signature:



Date: 6/4/21

June 4th, 2021

RE: Appeal of Planning Commission Decision in the matter of:

The Olivia on Marsh Creek – Request for Extension of approvals of a Density Bonus (DBA-01-019), site Plan Review Permit (SPR-04-17) and Tree Removal Permit (TRP-24-17)

City of Clayton Mayor Wolfe, Vice Mayor Cloven and Council members Diaz, Tillman, and Wan:

I Glenn D. Miller, a Clayton resident at 1005 Pebble Beach Drive, herein respectfully request your review and subsequent reversal (denial) of this decision by the City of Clayton's Planning Commission as filed on May 26, 2021 (copy attached to this request).

The basis for this appeal and request for denial are twofold:

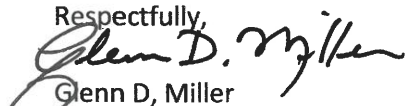
1. The applicant has already been afforded a reprieve from the customary and normal 1 year period (the project was approved on March 3 2020) and has since failed to perform. Allowing such an extension commits the City without any recourse or ability for necessary adjustments from this specific applicant nor does it protect the City from this applicant selling the "entitlements" associated with this application that could be passed along with the property to an applicant or developer that the City could either not properly vet or consider as appropriate Developer to perform this project in our Community.
2. If the city Council were to allow rather than deny this extension request; this decision would put the Council and the Community in the untenable position where we would not be able to demand or have any opportunity to negotiate the perceived and real necessary adjustments and it would be impossible to add conditions to address the procedural shortcomings of the original process (Environmental, Land Use, Zoning issues etc.) nor would you be easily able to align this project with upcoming revised zoning and housing element process. In addition, the Council and the Community would be realistically unable to nor have the ability to address and enforce those conditions needed to mitigate the Public safety issues including the real and future costs to our community that would be required to address the numerous adverse and negative impacts, Public Safety hazards and other stresses to the community that were just not addressed in the previous application process. (There are both real and future costs associated with addressing these items which are further detailed in the rational and basis sections of this application).

It is on this basis that I hereby request that this Council overturn the Planning Commission decision and deny the request for extension.

Finally, I would like to add respectfully, that should the City Council decide to deny this extension request, it is my opinion you could do so in manner that would not prejudice or even affect the current land use Agenda that seems to have been the driving force for the initial approval of both this project and this specific applicant. Thus denial would permit the City and the Community to regroup and move forward in a more thoughtful, consensual and comprehensive process that would benefit the entire community.

Thank you for your time and consideration.

Respectfully,


Glenn D. Miller
Clayton, Ca.

RECEIVED
JUN 4 2021
CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT.

June 4th, 2021

RE: Appeal of Planning Commission Decision in the matter of:

The Olivia on Marsh Creek – Request for Extension of approvals of a Density Bonus (DBA-01-019), site Plan Review Permit (SPR-04-17) and Tree Removal Permit (TRP-24-17)

Background of Appellant: For the purpose of background I want to take a moment to inform the members of this Council and those in the Public that I am speaking on this matter from 20 plus years of involvement in commercial, retail, and municipal projects each with an approval "process" similar to the one that was undertaken for the Olivia Project. My experience and expertise has been as an advocate for projects (both Public and private sector), a builder of projects who had to comply with all of the conditions put on the project both prior to and after their completion and on time, and as a participant in similar approval processes in Clayton as a Planning Commissioner.

Rationale as to why this ruling by the Planning Commission was an improper or erroneous interpretation:

1. The Developer has already been afforded a reprieve from the customary and normal 1 year period (the project was approved on March 3, 2020) and has since failed to perform. During my service on the Planning Commission 3 projects were reviewed and approved that involved changes to both zoning and project density adjustments. Each time, these Developers were required to and able to complete their plans and start within the 1 year requirement. The same rules should apply to this Developer.
2. The Planning Commission failed to recognize that by allowing such an extension this commits the City to this Developer without any recourse or ability for necessary adjustments from the specifics of their prior approvals. As such, it does not protect the City from this applicant selling the "entitlements" associated with this application which could be passed along with the property to an applicant or developer that the City can neither properly vet, control, or even be allowed to consider whether or not this would be an appropriate Developer to perform this project in our Community.
3. Despite the fact that new concerns were pointed out to the Commission subsequent to their initial approval and at the time of this current hearing about both the negative impacts to quality of life, and the real costs to the City that would result should this project be permitted to proceed as it is currently conditioned, the Planning Commission, instead of taking time to further examine and determine the validity of these issues, in their haste to approve, chose to ignore these concerns. Examples of some of these issues that have surfaced since the original approval and that were brought to the attention of the Commission at the hearing but not addressed are:
 - Addressing costs associated with providing for offsite parking accommodations to meet the demand caused by this project both in real infrastructure, maintenance and compliance costs.
 - Related issues to pedestrian safety infrastructure that will be needed for the areas adjacent to this project and the real costs to not only to provide this infrastructure initially but the costs to maintain the infrastructure as well.
 - Addressing the imposition of and the payment of the necessary annual fees that need to be assessed to fund the added stress and impacts on our parks both Community and Downtown due to the number of persons that this project will add to our community. (We all pay these fees and assessments on per household basis why shouldn't this project?)

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**CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT.**

- Addressing the Public Safety Issue of the overhead power lines that need to be addressed (put underground) as part of this project. (Why should the rate payers have to be burdened with this expense when it is solely for the project's benefit?)

Further rationale as the why the Council should rule to deny this extension:

It is my view that we have had several iterations of this project since this project was first proposed that have been presented in a manner that seemed to be lacking in proper public inclusion, vetting and collaborative discussion with each new iteration. It also seems to me that the intentions that were presented, were presented with a predetermined outcome in mind, as they were mostly influenced by the interests (agenda) of the Developer, some in City Management (including several City Planning Department heads since moved on), and a consultant as well as other influences by former Council members.

Was the process undertaken in such a way as to be biased towards a certain outcome or was there an overriding agenda that clouded this process? This can be a matter of debate but if you allow the extension there will be no further discussion or an ability to make suitable adjustments. Denial is your opportunity to remedy this, it is your discretion and duty.

Correspondingly, from the start of this project there has been an inconsistent enforcement (at least when viewed against historical practice and precedent) in the matters of environmental review, application of public safety and zoning standards and ordinances. If you study the evolution of this project, it appears that the matter of housing density and not working towards and arriving at a Project that was complimentary to the community were at odds. It seems also that the scales and balance of outcomes were constantly being tipped towards the Developer and not to Clayton's standards, tradition and precedents.

To illustrate as an example of this inconsistency, for the Clayton Community Church's original downtown project it was insisted to by the Council to have a full environmental review including traffic studies, soil and geologic studies, parking studies etc. complete with story poles erected to show the mass of the project. This review deemed necessary for a project that supposedly had the same potential environmental, parking, zoning, historical use impacts as well as other Public Safety issues was not done for the current Olivia project. In fact it can be suggested that the Olivia project in its present form will have a far more negative impact on the community than a downtown Church. Therefore it seems that it is rather rational that the Council deny this extension so you have the opportunity to revisit this decision, require a more comprehensive review and as they are determined require mitigations to address the issues and negative impacts that have been overlooked.

Conclusion and Recommendation: In conclusion it would appear that Olivia Project was given a fair and reasonable window of opportunity to move forward with this project. They have failed to perform. On this basis alone the Olivia Project be denied an extension.

A denial of this extension would not only be an opportunity to permit the City and the Community to regroup and move forward in a more thoughtful, consensual and comprehensive process that would benefit the entire community and still resolve the issues surrounding appropriate re-zoning and a higher density project allowance. This is why I recommend overturning the Planning Commission decision and a denial of the extension.

Respectfully submitted Glenn D. Miller June 4 2021.

Attachment C

Applicant's Extension Request

3/19/21

To: Reina Schwartz

From: William Jordan

Re: Extension of Entitlements for The Olivia on Marsh Creek

In March of 2020, my project called The Olivia on Marsh Creek was approved by city council. The approvals were on ENV-01-17, DBA-01-19, SPR-04-17, and TRP-24-17 applications. And the Resolutions were No. 06-2020, and No. 07-2020.

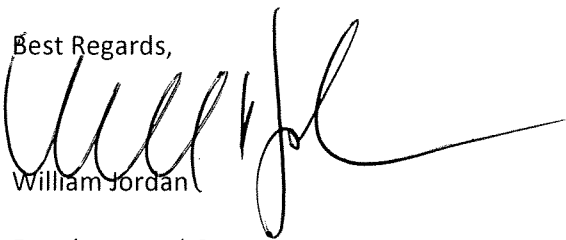
The Olivia on Marsh was also challenged after the approvals by a group called Clayton for Responsible Development. I went through the litigation process with the City of Clayton for a ruling in favor of City of Clayton and myself, William Jordan at end of October 2020.

Because of the litigation, I was effectively put on hold until January 2021 after the appeal period expired to move forward on the construction documents.

The project approvals in March 2020 were for two years. Because of the the litigation, I'd like to get in writing the city's position on whether I need to go back to planning commission for the extension of one year or can it be done ministerially over the counter by right.

I look forward working with the City of Clayton as we move forward.

Best Regards,

A handwritten signature in black ink, appearing to read 'William Jordan', with a long horizontal flourish extending to the right.

William Jordan
Developer and Owner

925-872-7249



6000 Heritage Trail, Clayton, CA 94517
 Phone No. 925.673.7300 Fax No. 925.672.4917
www.ci.clayton.ca.us

Community Development General Application Form

Below: Office Use Only

File No:

Fee(s) Deposit(s):

Received By:

Date:

Receipt No:

Please clarify any questions with the Planning Staff prior to completing this form. Please print or type legibly. Attach additional sheets if necessary. Incomplete applications will not be accepted.

1. Type of Application(s) Requested:

- | | | |
|-------------------------------------------------------|------------------------------------------------------|-----------------------------------------------------------------------------|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Lot-Line Adjustment/Merger | <input type="checkbox"/> Tentative Map |
| <input type="checkbox"/> Appeal - Administrative | <input type="checkbox"/> Prezoning/Rezoning | <input type="checkbox"/> Tentative Parcel Map |
| <input type="checkbox"/> Appeal - Planning Commission | <input type="checkbox"/> Second Dwelling Unit Permit | <input type="checkbox"/> Use Permit |
| <input type="checkbox"/> Development Plan | <input type="checkbox"/> Site Plan Review Permit | <input type="checkbox"/> Use Permit- Fences |
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Specific Plan Amendment | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Large Family Day Care Permit | <input type="checkbox"/> Temporary Use Permit | <input checked="" type="checkbox"/> Other: <u>Extension of Entitlements</u> |

2. Property/Site Information: 119021063, 119021055, 119021063

Assessors Parcel Number(s):

Address: 6170 High St. 6450 & 6490 Marsh Creek Rd

Zoning Classification: PD

General Plan Designation: MHD

Total Square Feet: 131,551

Total Acres: 3.02

3. Requested Action: ☒ Mark if response is attached

Entitlement Extension for The Olivia on Marsh Creek

4. Property Owner:

In signing this application, I, as property owner, have full legal capacity to, and hereby do authorize the filing of this application. I understand that any conditions of approval for this application are binding. I agree to be bound by those conditions, subject only to the right to object at the hearings or during the appeal period.

Signature: [Signature]

Name: William Jordan

Company:

Address: 6690 Marsh Creek Rd
Clayton CA 94517

Home Phone No: 925 872 7249

Cell Phone No:

Work Phone No:

Fax No:

Email: billjordan@sbcglobal.net

5. Applicant/Agent:

In signing this application, I, as applicant/agent have obtained authorization of the property owner to file this application. I understand that any conditions of approval for this application are binding. I agree to be bound to conditions of approval, subject only to the right to object at the hearings or during the appeal period. If this application has not been signed by the property owner, I have attached a separate documentation of full legal capacity to file this application and agreement to conditions of approval subject to the right to object at the hearings or during the appeal period.

Signature: [Signature]

Name:

Company:

Address: 6690 Marsh Creek Rd
Clayton CA 94517

Home Phone No: 925 872 7249

Cell Phone No:

Work Phone No:

Fax No:

Email: billjordan@sbcglobal.net

6.Certification:

As the Property Owner and/or Applicant/Agent in the request made by this filing, I hereby certify that I acknowledge, understand and concur with the following statements:

- This application might be subject to the California Environmental Quality Act (CEQA) of 1970. The City of Clayton (City) in granting this application may attach any condition(s) necessary to ensure that the proposal will not be injurious or detrimental to the welfare of persons residing or working in the neighborhood or city.
- Property Owner and/or Applicant/Agent agree to hold the City of Clayton (City) harmless for all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the City in connection with the City's defense of its actions in any proceeding brought in any state or federal court challenging the City's actions with respect to the applicant's project.
- There are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision making regarding this application.
- Changes to the proposed project may require a new application and payment of new fees.
- That to the best of my knowledge the information I have presented in this form and the accompanying materials is true and correct. I also understand that additional data and information may be required prior to final action on this application.

Applicant's Signature: _____

Date: 3/19/21

Property Owner's Signature: _____

Date: 3/19/21

Attachment D

Planning Commission
Resolution No. 04-2021

CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 04-2021

A RESOLUTION OF THE CLAYTON PLANNING COMMISSION APPROVING A ONE-YEAR EXTENSION OF THE APPROVALS OF AN AFFORDABLE HOUSING DENSITY BONUS (DBA-01-19), SITE PLAN REVIEW PERMIT (SPR-04-17) AND TREE REMOVAL PERMIT (TRP-24-17) FOR THE OLIVIA ON MARSH CREEK HOUSING PROJECT

WHEREAS, on February 4 and March 3, 2020, the Clayton City Council held a public hearing on appeals of the Clayton Planning Commission's actions taken on December 10, 2019, with respect to The Olivia on Marsh Creek Project (Project), an 81-unit senior rental housing development approved to be built on 3.02 acres located at 6170 High Street, 6450 Marsh Creek Road and 6490 Marsh Creek Road (Assessor's Parcel Nos. 119-021-063, 119-021-055 and 119-021-013); and

WHEREAS, on March 3, 2020, after closing the public hearing, the Council, by vote of 3 to 2, adopted Resolution No. 07-2020 approving development entitlements for the Project that included: a) an Affordable Housing Density Bonus (DBA-01-19) pursuant to the State's Density Bonus Law (California Government Code sections 65915 to 65918) and the City's Affordable Housing Density Bonus Requirements Ordinance (Chapter 17.90 of the Clayton Municipal Code); b) Site Plan Review Permit approval (SPR-04-17) of the architecture, landscaping, parking, lighting and fencing for the construction of three multi-unit residential buildings; and c) and Tree Removal Permit approval (TRP-24-17) allowing the removal of 106 trees from the three parcels to accommodate construction of the Project; and

WHEREAS, prior to approving the Project on March 3, 2020, the City Council adopted Resolution No. 06-2020 determining the Project to be exempt from the California Environmental Quality Act ("CEQA," Public Resources Code Section 21000 *et seq.*) pursuant to Categorical Class 32, Infill Development Projects, Section 15332 of the State Guidelines for Implementation of CEQA ("CEQA Guidelines," California Code of Regulations Section 15000 *et seq.*); and

WHEREAS, Condition No. 16 of Resolution No. 07-2020 set the expiration date for the approvals of DBA-01-19, SPR-04-17 and TRP-24-17 on March 3, 2022, two years after the Council's approval of the Project entitlements; and

WHEREAS, in accordance with Section 17.64.030 of the Clayton Municipal Code and Condition No. 16 of Resolution No. 07-2020, upon timely request from the applicant and the applicant's showing of good cause, the Planning Commission may grant a one-time, one-year extension of the development approvals granted to the Project by the City Council; and

WHEREAS, on March 19, 2021, in accordance with the provisions of Condition No. 16 of City Council Resolution No. 07-2020, William Jordan, Applicant for the Project, filed a timely request for a one-year extension of the development entitlements granted for the Project, inclusive of the Affordable Housing Density Bonus, Site Plan Review Permit and Tree Removal Permit (DBA-01-19, SPR-04-17 and TRP-24-17); and

WHEREAS, on May 14, 2021, notice of the public hearing to consider the request for extension of approval of the Project was published in the Contra Costa Times; posted at the notice boards at Clayton City Hall, Clayton Community Library, and at the Ohm's posting board on Diablo Street at Main Street in the Town Center; and mailed to the owners of property within 300 feet of the Project site; and

WHEREAS, on May 25, 2021, the Clayton Planning Commission held a duly-noticed public hearing on the request for extensions of the Affordable Housing Density Bonus (DBA-01-19), Site Plan Review Permit approval (SPR-04-17), and Tree Removal Permit approval (TRP-24-17) for The Olivia on Marsh Creek Project, and received and considered testimony and evidence, both oral and documentary.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission does determine the foregoing recitals are true and correct and makes the following findings:

- A. The Applicant has shown good cause for extension of the development entitlements for The Olivia on Marsh Creek. Construction of The Olivia on Marsh Creek Project will add to the City's stock of senior and affordable housing, thereby facilitating age and income diversity in the City's population. The one-year extension requested by the Applicant will restore the initial roughly two-year term of approval granted by the conditions of approval, with permit expiration extended from March 3, 2022, to March 3, 2023. The extension will adjust for time spent in litigation of the Project until January 2021, during which preparation of construction drawings for Project building permits could otherwise have occurred.
- B. Nothing in the Applicant's request for extension of current entitlements for the Project triggers new discretionary review or revision of the land use entitlements previously granted by the City. With the one-year extension, all conditions of approval adopted by the City Council with Resolution No. 07-2020 will continue to be applicable to the Project.
- C. Prior to approving The Olivia on Marsh Creek Project on March 3, 2020, the City Council adopted Resolution No. 06-2020 determining the Project to be exempt from CEQA pursuant to section 15332, (Class 32, Infill Development) of the State CEQA Guidelines. With the Council's determination of that The Olivia on Marsh Creek Project is exempt from CEQA, and pursuant to Section 15378 of the State CEQA Guidelines, no additional findings are necessary for CEQA compliance for the current request for extension of entitlements of the approved Project. The impacts of approving the extension of time—separate and apart from any

development—would be limited to the impacts of signing a piece of paper. Signing a piece of paper, if separated from the underlying development it allows, cannot qualify as a project subject to CEQA because it would not result in either a direct or reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (c)(1)-(3), 15378, subd. (a).)

NOW THEREFORE BE IT FURTHER RESOLVED, the Planning Commission hereby approves the request for a one-year extension, to March 3, 2023, of the term of the approvals of the Affordable Housing Density Bonus (DBA-01-19), Site Plan Review Permit approval (SPR-04-17), and Tree Removal Permit approval (TRP-24-17) for The Olivia on Marsh Creek Project. The Planning Commission hereby directs and authorizes staff to prepare, execute, and file with the Contra Costa County Clerk a notice of exemption within five working days of the approval of this Resolution. The record of proceedings for this matter is located at the City of Clayton, City Hall, 6000 Heritage Trail, Clayton, CA 94517. The custodian of records is the City Clerk.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 25th day of May, 2021.


AYES: Altwal, Chippero, Miller

NOES: Gavidia

ABSTAIN: Denslow

ABSENT: none

APPROVED:


A.J. Chippero
Chair

ATTEST:


Dana Ayers
Interim Community Development
Director

Attachment E

City Council
Resolution No. 07-2020

RESOLUTION NO. 07-2020

A RESOLUTION GRANTING THE APPEAL AND APPROVING THE AFFORDABLE HOUSING DENSITY BONUS APPLICATION (DBA-01-19), SITE PLAN REVIEW (SPR-04-17), AND TREE REMOVAL PERMIT (TRP-24-17) FOR THE OLIVIA ON MARSH CREEK SENIOR HOUSING PROJECT

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

WHEREAS, the City received an application from William Jordan requesting review and consideration of an Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17), and related Environmental Review (ENV-01-17) for development of an 81-unit senior residential project located on three adjacent parcels with a total area of 3.02 acres ("Project"), known as The Olivia on Marsh Creek, located at the southwest intersection of High Street and Marsh Creek Road (Assessor's Parcel Nos. [APNs] 119- 021-063, 119-021-055, and 119-021-013); and

WHEREAS, the City commissioned an independent analysis of the Project's eligibility for an Infill Exemption by Raney Planning & Management, Inc., entitled "Infill Exemption Environmental Analysis for Clayton Senior Housing Project," and dated June 14, 2019, which analyzes whether the Project meets all criteria of the Class 32 Infill Exemption as stated in California Environmental Quality Act (CEQA) Guidelines Section 15332; and

WHEREAS, on November 12 and December 10, 2019, the Clayton Planning Commission held duly-noticed public hearings on the Project and received and considered testimony and evidence, both oral and documentary, and

WHEREAS, on December 10, 2019, the Planning Commission, by 3-1 vote, approved a motion to adopt proposed Resolution No. 05-19 determining that the Project is Categorically Exempt from environmental review under Class 32 (Infill Development Projects) of the CEQA Guidelines; and

WHEREAS, on December 10, 2019, the Planning Commission voted 2-2 on a motion to adopt proposed Resolution No. 06-19 approving with conditions the planning entitlements for the project, including an Affordable Housing Density Bonus Application, Site Plan Review Permit, and Tree Removal Permit, resulting in an action of "No Decision";

WHEREAS, on December 30, 2019, Kent Ipsen, the owner of a property adjacent to the subject site, filed an appeal of the Planning Commission approval of the CEQA Categorical Exemption (Class 32, Infill Development Projects) for the proposed project; and

WHEREAS, on January 2, 2020, Dan Hummer, the owner of a property in the vicinity of the subject site, filed an appeal of the Planning Commission approval of the CEQA Categorical Exemption (Class 32, Infill Development Projects) for the proposed project; and

WHEREAS, on January 2, 2020, Irina and Alexander Liskovich, the owners of a property in the vicinity of the subject site, filed an appeal of the Planning Commission approval of the CEQA Categorical Exemption (Class 32, Infill Development Projects) for the proposed project; and

WHEREAS, on January 2, 2020, William Jordan, the Project applicant, filed an appeal of the “No Decision” action on the planning entitlements by the Planning Commission; and

WHEREAS, on February 4 and March 3, 2020, the City Council held duly noticed public hearings, accepting testimony from the appellant, the applicant and the public, and discussed the appeals and staff’s recommended determination of a Class 32 Categorical Exemption (Infill Development Projects) pursuant to the CEQA Guidelines and the recommended conditional approval of the planning entitlements for the project; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, on March 3, 2020, the City Council adopted Resolution No. 06-2020 determining that the project is Categorically Exempt from environmental review pursuant to CEOA, under Class 32 (Infill Development Projects) of the CEOA Guidelines.

NOW THEREFORE, BE IT RESOLVED, the City Council of Clayton does determine the foregoing recitals are true and correct and makes the following findings for approval of the Project:

Clayton Municipal Code (CMC) Section 17.90.090 and State Density Bonus law state that the City shall grant the concessions or incentives requested by a project applicant unless the City makes a written finding, based upon substantial evidence, of either of the following:

- A. The concession or incentive is not required in order to provide for Affordable Housing Costs;*
- B. The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the Federal Register of Historical Resources or any locally officially designated architecturally and historically significant buildings and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low and Moderate Income households.*

The applicant has submitted documentation demonstrating that the two requested concessions are required in order to make the development project economically feasible with inclusion of the affordable units. According to the independent analysis prepared on the applicant's behalf, and subject to a peer review by the City's independent consultant, for the cost savings of the concessions: (1) a reduction in setback requirements for buildings and parking spaces; and (2) a reduction in the required number of parking spaces; the total cost savings makes it possible to offer seven units at reduced rents to Very Low Income households.

The City further finds that the requested concessions would not have an adverse impact on public health or safety, the physical environment, or historic resources as defined in Government Code section 65589.5(d)(2). There are no environmentally sensitive areas or historic resources on or adjacent to the project site. With more than one parking space provided per dwelling unit, the project will avoid potential negative impacts related to parking.

NOW THEREFORE BE IT FURTHER RESOLVED, the City Council hereby makes the following required findings for approval of a Site Plan Review Permit:

1. That the project is consistent with the General Plan and Town Center Specific Plan designations and policies.

The General Plan designation of the project site is Multifamily High Density (MHD) (20 units per acre), and the Specific Plan designation is Multi-Family High Density Residential (15.1-20 units per acre). These designations are intended to facilitate development of apartments or condominiums, and include affordable housing, two stories or higher in areas of Clayton where higher densities are appropriate, such as near the commercial center. The proposed development is partially within and immediately adjacent to the commercial Town Center of Clayton. The proposed design is complementary to the western design theme of the Town Center Specific Plan. The land use designation allows for maximum structural coverage of 65 percent of the site area. The proposed project is well below this maximum, with lot coverages of 24.1 percent for 6170 High Street, 24.5 percent for 6450 Marsh Creek Road, and 26.1 percent for 6490 Marsh Creek Road.

The policies for the MHD land use designation encourage new development to use "Planned Development concepts and standards, with incorporation of significant design and amenity in the project." The project site is subject to the Planned Development District zoning regulations and corresponding development standards. The project is well designed, with quality building materials, articulated facades, ample open space, diverse and attractive landscaping, and other amenities including outdoor furnishings, bicycle racks and an assigned parking space for each unit.

Due to the project incorporating a density bonus, pursuant to State law and the City's Affordable Housing Density Bonus Requirements Ordinance, it exceeds the 20 unit per acre residential density for the MHD land use designation. Proposed residential density for the project with the bonus units is 26.8 units per acre. However, the state Density Bonus Law allows a development project to exceed the maximum density allowed under the General Plan when affordable housing units are included, and the granting of the density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment. Furthermore, the Density Bonus Law requires the City to approve the project with the additional density, provided that it meets all requirements of the law and does not result in specific adverse impacts as defined in Government Code section 65589.5(d)(2). Thus, in this case, the project is allowed and is consistent with State law and the City's general plan and local regulations (CMC Chapter 17.90) at the proposed density of 26.8 units per acre.

2. Meets the standards and requirements of the Zoning Ordinance.

The project meets the requirements of CMC Chapter 17.90, the Affordable Housing Density Bonus Requirements. Eleven percent of the number of 60 residential units allowed under the General Plan are set aside for households meeting the U.S. Department of Housing and Urban Development's (HUD's) definition of Very Low Income. Therefore, the project is entitled to a 35 percent density bonus, equivalent to 21 additional units. The type and size of affordable units reflects the range and sizes of units in the project as a whole (five one- bedroom units and two two-bedroom units are designated as below market rate [BMR]). The units are dispersed throughout the three buildings and are identical in design and construction quality to the market-rate units.

The applicant has submitted all required materials for the Affordable Housing Unit Plan that are listed in CMC Section 17.90.140. A requirement for an Affordable Housing Unit Agreement pursuant to CMC Section 17.90.150 has been included as a Condition of Approval for the project.

In addition, the project complies with the zoning standards of the Planned Development District in CMC Chapter 17.28. As prescribed in CMC Section 17.28.050.B, the applicable development standards are the Multiple Family Residential High Density (M-R-H) District standards in Chapter 17.20. With the exception of minor variations in required setbacks and building height and the reduced parking requirements that are permitted through the granting of concessions and waivers/reductions pursuant to the Density Bonus Law, which shall not require, or be interpreted, in and of itself, to require a zoning change, the project meets the development standards for the M-R-H District.

3. Preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.

The project is located on a mostly level site that is not impacted by landslide hazard and is not located in an area at risk of flooding. The project will comply with local and State building codes for seismic safety and fire prevention.

4. Maintains solar rights of adjacent properties.

The project is located on a relatively flat site and maintains adequate building setbacks from property lines, thereby avoiding shadow impacts and protecting solar access for adjacent properties.

5. Reasonably maintains the privacy of adjacent property owners and/or occupants.

Mature existing trees along the western property line of the subject parcels and along the southern property line of 6490 Marsh Creek Road will be maintained, helping to ensure privacy for adjacent properties to the west and south. In addition, new Oak and Bay trees will be planted along the western property line of 6170 High Street to provide additional

screening. Along the "flagpole" section of 6470 Marsh Creek Road that is located between the two subject parcels at 6450 and 6490 Marsh Creek Road, six-foot high solid wood fencing is proposed to ensure privacy for the former parcel.

6. *Reasonably maintains the existing views of adjacent property owners and/or occupants.*

The project is located on a relatively flat site and is downhill from the adjacent property to the west. Because of the significant difference in elevation between the subject site (approximate elevation of 400 feet above sea level) and the properties to the west, 6470 Marsh Creek Road and 6061 Clayton View Lane (approximate elevation of 450 feet above sea level), the proposed buildings will not obstruct views from these neighboring properties to the west. No other properties adjacent to the project site have significant views.

7. *Is complementary, although not identical, with adjacent existing structures in terms of design, materials, colors, size, and bulk.*

The applicant has requested a waiver of this standard pursuant to the Density Bonus Law. The size and bulk of the proposed buildings (three stories in height) exceed that of many of the existing structures in the surrounding area. However, the topography in the vicinity of the project site, specifically the hill immediately to the west, has the effect of lessening the visual impact of the taller buildings. In addition, variations in exterior wall planes and design articulation of the facades help to create a less bulky appearance.

Building materials such as smooth hardiplank siding, brick and composition shingle roofing, as well as stone retaining walls, are similar and complementary to the design and rustic character of nearby structures. Proposed exterior colors for the buildings are primarily neutral and natural earth-tones, such as beiges, browns, grays, and brownish shades of red, which are complementary with the character of the surrounding area.

8. *Is in accordance with the design standards for manufactured homes per Section 17.36.078. of the CMC.*

The project does not include manufactured homes.

9. *Proposed tree removal with proposed tree replacement will not adversely impact the health, safety, and general welfare of the residents, while balancing the right of an individual to develop private property per Section 15.70.010 of the CMC.*

The applicant is proposing and the City is requiring replacement trees both on-site and off-site with this proposed project.

NOW THEREFORE BE IT FURTHER RESOLVED, the City Council does hereby approve the Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17) for The Olivia on Marsh Creek Road, an 81-unit senior residential development located on three adjacent parcels with a total area of 3.02

acres, located at the southwest intersection of High Street and Marsh Creek Road (APNs 119-021-063, 119-021-055, and 119-021-013), subject to the following conditions:

PLANNING CONDITIONS

1. An Affordable Housing Unit Agreement (AUA) shall be recorded as a restriction on each parcel on which the Affordable Housing units will be constructed in a form acceptable to the City Attorney. The approval and recordation of the AUA shall take place prior to issuance of building permits. The AUA shall be binding on all future owners and successors interest. The AUA shall include, at minimum, but shall not be limited to the following:
 - a. A description of the development, including the total number of units, the number of Affordable Housing Units, and the tenure of the Affordable Housing Units;
 - b. The size, in square footage, and location of Affordable Housing Units;
 - c. A description of the household income group to be accommodated by the Affordable Housing Units, and the formula for determining the monthly rent amount for each Affordable Housing Unit;
 - d. The term of affordability for the Affordable Housing Units;
 - e. A schedule for completion and occupancy of the Affordable Housing Units;
 - f. Provisions and/or documents for rights of first refusal or rental restrictions;
 - g. The Marketing Plan for rental of the Affordable Housing Units;
 - h. Provisions for monitoring the ongoing affordability of the Affordable Housing Units, and the process for qualifying prospective resident households for income eligibility and age qualifications (55 years or older); and
 - i. A description of the concession(s) or incentive(s) provided by the City.
 - j. Specific property management procedures for qualifying and documenting tenant income eligibility, establishing affordable rent and maintaining Affordable Housing units for qualified tenants;
 - k. Provisions requiring property owners to verify household incomes and maintain books and record to demonstrate compliance with this chapter;
 - l. Provisions requiring the Property Owner to submit an annual report to the city, which includes the name(s), address, and income of each household occupying target units, and which identifies the bedroom size and monthly rent or cost of each Affordable Housing unit;
 - m. Provisions describing the amount of, and timing for payment of, Administrative Fees to be paid to the City for the mandated term of compliance monitoring in accordance with the provisions of this chapter; and
 - n. Any additional obligations relevant to the compliance with Chapter 17.90 of the Clayton Municipal Code, *Affordable Housing Density Bonus Requirements*.

2. The project is subject to development impact fees. The applicant shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Wildlife.
3. Any major changes to the project as determined by the Community Development Director shall require Planning Commission review and approval. Any minor changes to the project as determined by the Community Development Director shall be subject to City staff review and approval.
4. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and other fees that are due.
5. Parking spaces shall be assigned to specific residential units. Each unit shall have one (1) assigned parking space. The number and location of the assigned parking space shall be stated in the rental agreement for each unit.
6. The applicant shall execute a shared parking agreement between 6170 High Street and 6450 Marsh Creek Road. The shared parking agreement shall be recorded on the deed for each parcel and shall be in a form acceptable to the City Attorney.
7. Prior to issuance of a building permit, the applicant shall assure there is a recorded easement in a form acceptable to the City Attorney between Site 1 and Site 2 for pedestrian access between parking lot areas.
8. Prior to the commencement of grading, demolition, or construction activities, the applicant shall submit a recycling plan for construction materials to the City for review and approval. The plan shall include that all materials that would not be acceptable for disposal in the sanitary landfill be recycled/reused. Documentation of the material type, amount, where taken, and receipts for verification and certification statements shall be included in the plan. The applicant shall submit deposits to the City to ensure good faith efforts of construction and demolition recycling. A deposit of \$2,000 per residence shall be submitted prior to issuance of the building permit for each residence, or demolition permit. Appropriate documentation regarding recycling shall be provided to the City. All staff costs related to the review, monitoring, and enforcement of this condition shall be charged to the deposit account.
9. Prior to issuance of demolition permits for on-site structures, the applicant shall show compliance with the NPDES Municipal Regional Permit (MRP 2.0) issued by the San Francisco Regional Water Quality Control Board regarding Mercury control and disposal. Building and site assessment shall be conducted to determine if any Mercury-containing devices (i.e. thermostats, etc.) or sources exist. If the assessment identifies any Mercury-containing devices or equipment, the devices or equipment shall be properly removed and disposed of at an acceptable recycling facility or landfill, so that demolition activities do not result in Mercury being scattered on site or entering storm drains. Where applicable,

documentation of site assessment and proper disposal shall be provided to the Community Development Department prior to the issuance of any new construction permit.

10. Prior to the issuance of demolition permits, the applicant shall show compliance with the NPDES Municipal Regional Permit (MRP 2.0) issued by the San Francisco Regional Water Quality Control Board regarding polychlorinated biphenyl (PCB) control and disposal. The applicant shall ensure proper management of potential PCB-containing materials and wastes during building demolition and disposing of PCB properly, so that demolition activities do not result in PCB entering storm drains. Prior to issuance of demolition permits, the applicant shall submit to the Community Development Department an analysis of the existing structures having PCB concentrations below 50 parts per million (ppm), or provide written documentation and evidence as to the type and style of all structures to be demolished that are single-family residential and/or wood frame structures. If the applicant is unable to obtain compliance by either of these measures, the applicant shall abate any PCB at or above 50 parts per billion (ppb) in accordance with an approved disposal plan to be submitted to the Community Development Department prior to issuance of demolition permits.
11. At least thirty (30) days prior to any demolition or groundbreaking activities, the applicant shall retain an exterminator who shall evaluate the site and make recommendations for the control and/or eradication of any on-site rodents. The exterminator's recommendations shall be subject to the review and approval of the Community Development Director. The applicant shall comply with the approved exterminator's recommendations prior to initiation of any demolition or groundbreaking activities.
12. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.

GENERAL CONDITIONS

13. The project shall comply with the Clayton Municipal Code. All construction shall conform to the requirements of the California Building Code and City of Clayton standards.

14. The project shall be implemented as indicated on the application form and accompanying materials provided to the City and in compliance with the Clayton Municipal Code, or as amended by the Planning Commission.
15. No building permit will be issued unless the plan conforms to the project description and materials as approved by the Planning Commission and the standards of the City.
16. This approval expires two years from the date of approval (expires March 3, 2022), unless a building permit has been issued and construction has diligently commenced thereon and has not expired, or an extension has been approved by the Planning Commission. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one-year extension shall be granted.
17. This approval supersedes previous approvals, if any, that have been granted for this site.
18. The general contractor shall install and maintain the erosion and sedimentation control devices around the work premises per the most current NPDES Municipal Regional Permit (MRP). Current MRP Is 2.0 and upcoming permit will be MRP-3.0.
19. All required easements or rights-of-way shall be obtained by the applicant at no cost to the City of Clayton. Advance permission shall be obtained from any property owners or easement holders for any work done within such property or easements.
20. Prior to issuance of the certificate of occupancy for each property, the public Improvement for that property including streets, sewers, storm drains, street lights, and traffic signs required for access to the site shall be completed to the sole satisfaction of the City Engineer or City Traffic Engineer.
21. City staff shall inspect the site for compliance with conditions of approval and approved plans prior to final inspection approval.
22. The applicant shall obtain an encroachment permit for all work to be done within the public right-of-way or easement, and peak commute-hour traffic shall not be impeded by construction-related activity. All on-site improvements not covered by the building permit including walkways, driveways, paving, sewers, drainage, curbs, and gutters must be constructed in accordance with approved plans and/or standards and a Site Development Permit approved by the City Engineer.
23. All existing easements shall be identified on the site plan and all plans that encroach into existing easements shall be submitted to the easement holder for review and approval, and advance written permission shall be obtained from any

property owner or easement holder for any work done within such property or easement.

24. Building permits for retaining walls shall be obtained as follows:
 - a. For major walls over three feet in height to be constructed during the mass grading phase, obtain a building permit prior to issuance of the grading permit.
 - b. For all other walls, obtain a building permit prior to issuance of permits for structures on the respective lot in accordance with the applicable California Building Code Standards.

NOISE CONTROL, DUST AND CONDITIONS FOR CONSTRUCTION ACTIVITY

25. An encroachment permit is required for all work in the public right-of-way. Restoration of existing improvements (curb, gutter, sidewalk, street section, etc.) shall be to the City of Clayton standards and as approved by the City Engineer.
26. The use of construction equipment shall be restricted to weekdays between the hours of 8:00 a.m. and 5:00 p.m., or as approved in writing by the City Manager.
27. The project shall be in compliance with and supply all the necessary documentation to comply with the City of Clayton Construction and Demolition Debris Recycling Program.
28. Driveway access to neighboring properties shall be maintained at all times during construction.
29. Standard dust control methods shall be used to stabilize the dust generated by construction activities in accordance with the Bay Area Air Quality Management District standards.
30. The site shall be fenced with locked gates by 7:00 p.m. The gates shall remain locked until 7:00 a.m. Contractors shall not arrive at the site prior to the opening of the gates. The name and contact information shall be placed at locations on the site for neighbors to contact in the circumstance there is a concern that needs to be addressed to the satisfaction of the City Engineer.
31. All construction equipment utilizing combustion engines shall be equipped with "critical" grade (rather than "stock" grade) noise mufflers or silencers that are in good condition. Back up "beepers" shall be tuned to insure lowest possible noise levels while also serving the safety purpose of the backup sound indicator.
32. Stationary noise sources shall be located at least 300 feet away from any occupied residential or business dwellings unless noise-reducing engine housing enclosures or other appropriate noise screens are provided.

33. Speeds of construction equipment shall be limited to 10 miles per hour (mph). This includes equipment traveling on local streets to and from the site.
34. Access shall be maintained to all driveways at all times.
35. There shall be no parking of construction equipment or construction worker's cars on residential or business streets at any time. A staging area shall be secured prior to issuance of a grading or building permit as determined necessary by the City Engineer.
36. Truck routes for the import or export of cut/fill material shall be identified and approved by the City Engineer prior to the issuance of any permits. Applicant shall be responsible for the repair of any damage to City streets (private and public) caused by the contractor's or subcontractor's vehicles.
37. Prior to construction, applicant shall ensure that the contractor shall contact City inspector for a pre-construction meeting. Haul route shall be submitted for review and approval by the City Engineer.
38. All construction activities must be designed to minimize potential spills from equipment and to provide a planned response in the event an accidental spill occurs. The applicant shall maintain spill equipment on site; there shall be a designated area if refueling takes place on site. Applicant shall insure all construction personnel are trained in proper material handling, cleanup and disposal procedures.
39. Prior to any demolition activities, a demolition permit shall be obtained and all demolition activities be performed in accordance with the Bay Area Air Quality Management District Regulation 11 Hazardous Pollutants, Rule 2 Asbestos Demolition, Renovation, and Manufacturing. The purpose of this Rule is to control emissions of asbestos to the atmosphere during demolition, renovation, milling and manufacturing and establish appropriate waste disposal procedures. These requirements specify the appropriate methods for survey, demolition/removal, and disposal of asbestos materials to control emissions and prevent hazardous conditions. Specifications developed for the demolition activities shall include the proper packaging, manifesting and transport of demolition wastes by trained workers to a permitted facility for disposal in accordance with local, State, and Federal requirements.
40. Prior to demolition or renovation activities that may disturb suspected lead based paint (LBP), actual material samples shall be collected or an XRF survey performed in order to determine if LBP is present. It should be noted that construction activities that disturb materials or paints containing any amount of lead are subject to certain requirements of the Occupational Safety and Health Administration (OSHA) lead standard contained in 29 CFR 1910.1025 and 1926.62. If lead-based paint is identified, the paint shall be removed by a qualified lead abatement contractor. Specifications developed for the demolition

activities shall include the proper packaging, manifesting, and transport of demolition wastes by trained workers to a permitted facility for disposal in accordance with local, State, and Federal requirements.

PROPERTY MAINTENANCE

41. A parking lot sweeping program shall be implemented that, at a minimum, provides for sweeping immediately prior to the storm season and prior to each storm event.
42. The site shall be kept clean of all debris (litter, boxes, junk, garbage, etc.) at all times.
43. No signs shall be installed on this site without prior City approval.
44. Any undeveloped areas on-site shall be maintained in an attractive manner that ensures fire safety and prevents any runoff onto the adjacent sidewalks.

AGENCY REQUIREMENTS

45. Applicable requirements of other agencies including, but not limited to the Contra Costa County Fire District, the Contra Costa Water District, City of Concord (Sanitation), and the East Contra Costa County Habitat Conservancy shall be met.

FEES

46. The applicant shall pay all fees required by the City Council and other applicable agencies.
47. The applicant shall pay all required fees at the time of building permit issuance.

GRADING

48. All grading shall be required grading and drainage plan prepared by a registered Civil Engineer, a soils report prepared by a registered Geotechnical Engineer and a Grading Permit approved by the City Engineer. The grading plans and soils report shall require review by the City's geotechnical consultant with all costs to be borne by the applicant.
49. All recommendations made in the Soil Engineers report (unless amended through the City's review) and all recommendations made by the City's geotechnical consultant shall be incorporated into the design and construction of the project.
50. Contour grading techniques with spot elevations shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading.

51. Tops of cuts or toes of fills adjacent to existing public rights-of-way or easements shall be set back two feet minimum from said rights-of-way and easements.
52. Erosion control measures shall be implemented by the applicant per plans approved by the City Engineer for all grading work not completed before October 1. At the time of approval of the improvement and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer.
53. All graded slopes in excess of 5 feet in height shall be hydroseeded no later than September 15 and irrigated (if necessary) to ensure establishment prior to the onset of the rainy season
54. The applicant's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to issuance of Building Permit.
55. Any grading on adjacent properties will require written approval of those property owners affected.
56. If cultural resources are discovered during subsurface excavations, the Contractor shall cease construction and a qualified archeologist shall be contacted to make recommendations for mitigation.
57. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.
58. All elevations shown on the grading and improvement plans shall be on the USGS 1929 sea level datum or NAVD 88 with conversion information, or as approved by the City Engineer.

UTILITIES

59. In the circumstance the applicant or successor-in-interest applies to convert the project from a rental apartment project to a condominium subdivision, the applicant or successor-in-interest shall be required to underground all existing and proposed utilities in accordance with the applicable provisions of the Clayton Municipal Code (CMC) at that time.
60. Trash enclosures shall drain to sanitary sewer and shall incorporate methods to contain runoff at the front-gate and pedestrian access point to prevent storm water from entering the enclosure.
61. The sewer collection system shall be constructed to function as a gravity system. Sanitary sewer collection system shall be constructed to the standards of the City of Concord and Central Contra Costa Sanitary District. Inspections of sanitary sewer collection system shall be performed by City of Concord under contract to City of Clayton.

62. Water system facilities shall be designed to meet the requirements of Contra Costa Water District and the fire flow requirements of the Contra Costa County Fire Protection District. All requirements of the responsible agency shall be guaranteed prior to approval of the improvement plans. Any required offsite easements shall be obtained by the applicant at his/her own expense.
63. A reduced pressure backflow preventer assembly shall be installed on all water meter services.
64. Double detector check fire line backflow assemblies shall be enclosed within an easement granted to Contra Costa Water District, as needed, and at no cost to the City or the District.
65. The applicant shall provide adequate water pressure and volume to serve this development, as approved by the City Engineer. This will include a minimum residual pressure of 20 pounds per square inch (psi) with all losses included at the highest point of water service and a minimum static pressure of 50 psi.
66. All onsite utilities shall be privately maintained and connected to public facilities in accordance with City and applicable agency standards, as approved by the City Engineer.
67. All sanitary sewer system connections and improvements shall be submitted for reviewed and approved by the City Engineer and review and comment by the City of Concord (Sanitation).

DRAINAGE AND WATER QUALITY

68. For projects disturbing one (1) acre or more, the applicant shall comply with the State Construction General Permit requirements. The applicant shall be responsible for preparing the Stormwater Pollution Prevention Program (SWPPP), submit all required documents, and obtaining coverage by filing a Notice of Intent (NOI) with State Water Resource Control Board (SWRQB).
69. A copy of the SWPPP and the Notice of Intent (WDID) shall be submitted to the City prior to issuing permits for construction. The SWPPP and the WDID shall be kept at the job site during construction. The WDID number shall be included onto the cover sheet of the Grading Plans for the project.
70. Prior to approval of the grading plans, the applicant shall submit a drainage study to the City for review and approval, and to the Contra Costa County Flood Control and Water Conservation District (FC District) for review and comment. The applicant shall be responsible to pay directly for the agency's review.

71. Applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Permit (MRP) of the State Regional Water Resources Control Board NPDES Permit as applicable to this project.
72. Stormwater control facilities (C.3 facilities) shall be maintained and operated by the applicant/property owner, in perpetuity, in accordance with the Operation and Maintenance Plan. The applicant/property owner shall provide periodic and annual inspection reports.
73. Applicant shall submit a comprehensive Stormwater Control Plan, construction plans, details, and calculations in accordance with the current Contra Costa Clean Water Program (CCCWP) C.3 Guidebook. Required offsite improvements and street(s) frontage improvement work shall be considered and included as a part of this project for compliance with C.3 requirements. The Stormwater Control Plan watershed drainage map shall include all impervious surface locations (i.e. streets, buildings, parking lots, walkways, etc.) to be used in the calculations for sizing C.3 facilities.
74. CCCWP C.3 online calculator shall be used in determining the size of the required C.3 facilities. Submit a printout and attach a copy in the Stormwater Control Plan.
75. Bio-retention basin side slopes shall not be steeper than 3H:1V.
76. Using C.3 bio-retention basin(s) as a detention basin(s) for the mitigation of increased peak flows shall be subject to the City Engineer's approval. If approved by the City Engineer, applicant shall submit hydrology and hydraulic study, calculations, and details to demonstrate compliance with the C.3 requirements as well as flood control requirements. Detention basin(s) design parameters and the calculations shall also be in accordance with Contra Costa County Flood Control guidelines.
77. Prior to City Approval of the plans and issuance of permits, the applicant shall submit a signed operation and maintenance agreement. The agreement shall be the City's standard form and subject to the review and approval by the City.
78. All storm water flows shall be collected onsite and discharged into an approved public storm drain system. No onsite drainage is allowed to flow over the sidewalk.
79. Applicant shall not increase storm water runoff to adjacent downhill lots unless either: (1) a Drainage Release is signed by the property owner(s) of the affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage

system. All required releases and/or easements shall be obtained prior to issuance of any building permits.

80. A structure shall be installed at all pipe intersections, change of direction, or change in slope as approved by the City Engineer.

STREET IMPROVEMENTS

81. Sidewalks, curb, gutter, sidewalk and street pavement shall be constructed and/or replaced (if cracked, broken or damaged) in the public right-of-way along the entire project frontage as required by the City Engineer and at no cost to the City. Driveway aprons shall be removed and/or replaced with new curb, gutter and sidewalk to match the proposed development. Corner curb ramps (handicap ramps) that do not meet current Federal ADA and State Title 24 Standards shall be replaced to current standards. Existing street pavement section shall be removed and replaced along the frontage of the property to the centerline of the street if the section is cracked or damaged in any way (regardless if it is damaged by project construction or not), or other roadway preservation methods as approved by the City Engineer. All required public easements or rights-of-way shall be offered to the City. All improvements shall be designed and constructed to the satisfaction of the City Engineer.
82. All streets shall be paved and improved after utilities are installed in accordance with the City of Clayton Standard Drawings and Design Guidelines and the approved plans.

LANDSCAPING

83. Sight distance triangles shall be maintained per Chapter 12.08 of the CMC, Site Obstructions at Intersections, or as approved by the City Engineer. Landscaping and signage shall not create a sight distance problem.
84. Detailed landscaping and irrigation plans for the entire site shall be submitted to the City for review and approval. All landscaping and irrigation shall be installed in accordance with approved plans prior to the issuance of certificates of occupancy for this building.
85. Landscaping for the project shall be designed to comply with the applicable requirements of City of Clayton Municipal Code. The State Model Water Efficient Landscape Ordinance (MWELo). Prior to issuance of a building permit, the applicant shall demonstrate compliance with the applicable requirements of the MWELo in the landscape and irrigation plans submitted to the City.
86. Landscape shall show immediate results. Landscaped areas shall be watered, weeded, pruned, fertilized, sprayed, and/or otherwise maintained as necessary. Plant materials shall be replaced as needed to maintain the landscaping in accordance with the approved plans. Plant material selection shall avoid plant

species that are known to be susceptible to disease (e.g., Platanus Blood Good) or drop fruit on hard surfaces and walkways causing a maintenance or safety concern.

87. All trees shall be a minimum 15-gallon size and all shrubs shall be a minimum 5-gallon size.

PROJECT SPECIFIC CONDITIONS

88. Any cracked or broken sidewalks shall be replaced as required by the City Engineer.
89. All rooftop mechanical equipment shall be screened from the public right-of-way and the residential properties to the west of the subject property. A line of sight study shall be submitted with the building permit submittal confirming the equipment is screened.
90. Asphalt paving shall have a minimum slope of two percent (2%), concrete paving shall have a minimum slope of 0.75%, except asphalt paving for identified accessible parking stalls and access routes shall have a minimum slope of 1.5% and a maximum slope of 2%, or as approved by the City Engineer.
91. All on-site curbs, gutters and sidewalks shall be constructed of Portland cement concrete.
92. All walkways adjacent to parking areas with vehicle overhang shall be a minimum of six and a half (6½) feet wide.

TREE PROTECTION CONDITIONS

93. The following construction policies and guidelines for tree preservation and protection put forth by the City of Clayton shall be followed during project implementation:
 - a. The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all on- and off-site trees subject to City of Clayton Municipal Code Section 15.70.020.
 - b. A protective fence shall be installed around all trees subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.
 - c. Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.

- d. Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.
- 94. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees or shall be required to pay an in-lieu fee equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.
- 95. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

LANDSCAPING CONDITIONS

- 96. The project shall comply with all applicable requirements and regulations as they pertain to the Landscape Water Conservation Standards and the Water Efficient Landscape Ordinance.
- 97. Three sets of the landscape and irrigation plans shall be submitted with the grading and improvement plans for review and approval by the Community Development Department, Engineering Department, and the Maintenance Department. These plans shall be prepared by a landscape architect.
- 98. Installation of all irrigation and landscaping shall be performed by a licensed contractor. Open trench inspection of the irrigation installation in areas to be maintained by the City is subject to approval of the Maintenance Department. Prior to the final inspection by the Maintenance Department, the installation shall be approved by the landscape architect.
- 99. All trees shall be planted at least ten (10) feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight (8) feet of a sidewalk or driveway shall be installed with root guards.

EXPIRATION CONDITIONS

- 100. The Tree Removal Permit (TRP-24-17) shall expire simultaneously with the expiration of the Site Plan Review Permit (SRP-04-17), pursuant to the permit expiration provisions listed in Chapter 17.64 of the Clayton Municipal Code.

GENERAL CONDITIONS

- 101. The applicant shall obtain the necessary approvals from the Contra Costa County Fire Protection District.

102. The applicant shall provide an adequate and reliable water supply for fire protection as set forth in the Uniform Fire Code.
103. The access driveway/roadway and turnaround improvements must be completed and inspected by the Contra Costa County Fire Protection District (CCCFPD) prior to construction on the two residential lots.
104. All proposed residences are required to be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 130 or Section R313.3 of the 2013 California Residential Code. A minimum of two (2) sets of sprinkler plans shall be submitted to the CCCFPD for both residences for review and approval prior to installation.
105. Additional requirements may be imposed by the CCCFPD. Before proceeding with the project, it is advisable to check with the CCCFPD located at 4005 Port Chicago Highway, Concord, 925-941-3300.
106. The applicant shall comply with all applicable State, County, and City codes, regulations, and standards as well as pay all associated fees and charges.
107. All construction and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless specifically authorized in writing by the City Engineer (Clayton Municipal Code Section 15.01.101).
108. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department. All construction shall conform to the California Building Code.
109. Prior to issuance of a Certificate of Occupancy for any residential building, the applicant shall install security cameras to monitor primary individual building entries and parking areas with the ability to archive and monitor the imaging to the satisfaction of the Chief of Police.
110. In the circumstance the applicant or successor-in-interest applies to convert the rental apartment project to a condominium subdivision, the applicant or successor-in-interest shall pay Quimby Act fees in accordance with applicable provisions of the Clayton Municipal Code (CMC) and City adopted fee schedule in effect at that time.
111. The applicant shall prepare a property maintenance program to address on-going building maintenance, landscaping, parking lot maintenance, and tenant maintenance responsibilities to the satisfaction of the City Attorney.
112. Prior to issuance of a City demolition and/or grading permit the applicant shall complete a Green Infrastructure Feasibility analysis, as required by the San Francisco Rational Water Quality Control Board in MRP 2.0, to determine

opportunities to address existing frontage runoff into planned or new bio-retention areas behind the back of curb. If such analysis determines these are feasible, any Green Infrastructure shall be maintained by the abutting property owner in perpetuity.

113. The applicant is advised this project is subject in perpetuity to the required (annual) Operations and Maintenance inspections by the City for the C.3 facilities at the costs established and updated annually in the City Fees and Charges Schedule.
114. The trash enclosures shall have solid metal doors, a solid roof and ventilation. The proposed trash enclosures need to be enlarged in order to have internal clear dimensions that are adequate to accommodate the required refuse and recycling dumpsters/containers and resident accessibility to utilize them. The trash enclosures must be located in close proximity to the access driveway near the public right-of-way to the satisfaction of Republic Services and the City Engineer to assure accessibility for trash removal and adequate sight distance to assure the public the safety.
115. All landscaping along Marsh Creek Road and along High Street behind the back of curb shall be maintained by the abutting property owner in perpetuity.
116. Prior to the issuance of the first building permit for the project, the applicant shall submit plans for plan check that show a minimum of 106 off-street parking stalls for the project (minimum 31 stalls at 6170 High Street, minimum 37 stalls at 6450 Marsh Creek Road and minimum 38 stalls at 6490 Marsh Creek Road), consistent with the revised site plans approved by this resolution.
117. Following the City's identification of an appropriate project, and prior to the issuance of the first Certificate of Occupancy, the applicant shall pay \$5,000 to the City toward the cost of installation of multimodal safety improvements and traffic calming measures on Marsh Creek Road in the vicinity of the project site.
118. The property owner shall provide bus passes for up to two years to the tenants in the development and establish a car share program to facilitate reducing on-site parking demand to the satisfaction of the Community Development Director. Bus passes shall only be offered to tenants who request passes and provided for up to two years to tenants who demonstrate actual usage thereof.
119. Prior to the issuance of the first Certificate of Occupancy the applicant shall pay \$2,500 to the City as its sole contribution to the City's general interest in and efforts to plant trees at an off-site location within the City of Clayton to increase carbon absorption.

(Remainder of page left blank intentionally.)

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 3rd day of March 2020, by the following vote:

AYES: Mayor Pierce, Councilmembers Catalano and Wolfe.

NOES: Vice Mayor Wan and Councilmember Diaz.

ABSENT: None.

ABSTAIN: None.

THE CITY COUNCIL OF CLAYTON, CA



Julie Pierce, Mayor

ATTEST:



Janet Calderon, City Clerk

Attachment F

Public Comments

Interim CDD

From: Steve Arnett <stevearnett2002@gmail.com>
Sent: Thursday, May 20, 2021 11:21 PM
To: Interim CDD
Subject: Olivia Project Extension

To whom it may concern,

I am contacting you to voice my opposition regarding the building permit extension for the Olivia Project in Clayton.

We moved to Clayton last year for the charm, open spaces and beautiful setting. This past year we watched how divisive this project has been among neighbors, and that is absolutely not what Clayton needs in our quaint, rustic downtown. Given the political climate, we need to find ways to come together. The community support I have witnessed for this project is minimal, if not non-existent.

I also need to voice my frustration with the bait and switch we have experienced in regards to the Olivia. Even in the most recent extension letter, this project is labeled as senior housing. This project is NOT a senior housing project. This is a high density housing project in a landlocked bedroom community in one of the last small towns in the bay area. The city and the developer BOTH need to "do the right thing" and offer a transparent and honest project plan to our residents.

This is an unfortunate example of Sacramento overreach, which I believe we should oppose and combat at any cost. Any and all concessions/bonuses should be re-evaluated based on the actual project type. If water access, environment, sewage, electrical, historical context, traffic, parking, etc have not all been evaluated, then this project is not ready to break ground in our downtown.

Sincerely,
Steve Arnett
Clayton, CA

Interim CDD

From: Christopher Zwergel <chris.zwergel@zwergeltech.com>
Sent: Thursday, May 20, 2021 7:30 PM
To: Interim CDD
Subject: Olivia Project - Approvals Extension

Attention City Staff:

I oppose the extension of approvals. No go for me!! I oppose this whole dang project in general.

Thanks in Advance,

Z

Chris Zwergel
Cloud Architect / Founder
Zwergel Technology
90 Kelok Court, Clayton, CA 94517
C: 925.494.8536
E: chris.zwergel@zwergeltech.com
Skype: chris.zwergel
Twitter: @crashtesttek

Interim CDD

From: Dale Wu <r1ryder@pacbell.net>
Sent: Thursday, May 20, 2021 10:48 AM
To: Interim CDD
Subject: Olivia project

I live in Dana Hills and am opposed to any more extensions or favors for the developers of this project; they've had plenty of time already. Our household uses Marsh Creek Road to go out of and come back to Dana Hills many days a week. This project would negatively affect all of us living near Marsh Creek Road because of the increased traffic and congestion, and the disruptions to our quiet and peaceful town. Please vote not to grant extensions to the developer.

Sincerely,
Carol Wu

Interim CDD

From: Theresa Ruscitti <truscitti@me.com>
Sent: Thursday, May 20, 2021 9:08 AM
To: Interim CDD
Subject: Olivia Extension

I hope you will vote to allow the extension in time so that the proper environmental permits can be obtained for the Olivia development.

I am a 23-year resident of Clayton.

Theresa Ruscitti

Interim CDD

From: Katherine Aryeetey <kreate10@gmail.com>
Sent: Thursday, May 20, 2021 6:00 AM
To: Interim CDD

I am opposed to the construction project in the Stranahan area and object to ANY extension for the developer. Please shut it down.

Respectfully,
Katherine Aryeetey

Interim CDD

From: Brooke Arnett <broccoliarnett@gmail.com>
Sent: Thursday, May 20, 2021 9:43 AM
To: Interim CDD
Subject: Oppose Olivia Project

To whom it may concern:

This email is to advise that I oppose an extension to building permits for the Olivia Project in Clayton. This project has already divided this town enough.

- concerned neighbor on Mountaire Circle, Brooke Arnett

Interim CDD

From: Tracy Cooper <myjtrac1@gmail.com>
Sent: Wednesday, May 19, 2021 10:50 PM
To: Interim CDD
Subject: Reject Olivia project extension

City council members

Please listen to the community you are supposed to be representing and reject the Olivia project extension request.

We do not want this project nor other high density housing in our community.

Tracy Cooper

Sent from my iPhone

Attachment G

Approved Project Plans
(online at


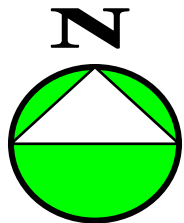
<https://ci.clayton.ca.us/community-development/planning/development-activity/clayton-senior-housing-project/>)

Attachment H

Vicinity Map



VICINITY MAP

	<p>The Olivia on Marsh Creek Project DBA-01-19/SPR-04-17/TRP-24-17 6170 High Street (APN: 119-021-063) 6450 Marsh Creek Road (APN: 119-021-055) 6490 Marsh Creek Road (APN: 119-021-013)</p>	 (Not to Scale)
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AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: Reina J. Schwartz, City Manager

DATE: July 20, 2021

SUBJECT: Resolution of the City Council of the City of Clayton, CA Adopting a General Fund Reserve Policy

RECOMMENDATION

Adopt Resolution ###-2021 establishing General Fund Reserve Policy.

BACKGROUND

Currently, the City of Clayton's budget message references a minimum General Fund reserve that has been set at \$250,000 for "never to be expended catastrophic purposes", while the "practicing policy goal is to establish and retain an undesignated reserve of 50% relative to the annual General Fund budget".

DISCUSSION

The Government Finance Officers Association (GFOA) recommends that an operating reserve of at least two months or 16.67% of operating expenditures be established. Due to the current economic situation and the relatively small size of Clayton's budget which could easily be overwhelmed with a single catastrophic event, staff recommends a series of reserves to address potential expected and unexpected costs. In surveying other cities, Staff determined that most City reserves policies incorporate the recommended practice of at least two months of operating expenditures as a minimum reserve, while also incorporating as part of the reserves, amounts for other contingencies such as revenue volatility, and extreme events such as natural disasters and other public safety emergencies and unexpected infrastructures repair and replacement.

FISCAL IMPACTS

The current estimated fund balance for the General Fund at June 30, 2022 is \$5,623,072. Staff is recommending that the City Council adopt a formal reserve policy which establishes the following General Fund Reserves (FY2021/22 amount):

- Catastrophic Reserve – Equal to 50 percent of General Fund Operating Expenditures (\$2,588,742)
- Budget Stabilization Reserve – Equal to five percent (5%) of General Fund Operating Expenditures (\$258,874)
- Undesignated Fund Balance – Remaining fund balance after other reserves are established (\$2,775,456)

In addition to the reserves noted above, the following additional specified reserves are in place and recommended to be continued:

- Rainy Day Fund Reserve – that portion of audited fund balance surplus identified to be allocated to special projects or other one-time expenses (\$181,475)
- Pension Rate Stabilization Fund – reserve to help mitigate potential increases in City pension costs (\$293,531)
- Capital Equipment Replacement Fund – established/replenished annually to meet anticipated capital equipment replacement needs (\$190,339 – net of capital assets)
- Self-Insurance Fund – reserve to help cover costs of meeting the City's self-insured retention ("deductible") for unexpected losses due to claims or accidents (\$21,708)

ATTACHMENTS

Resolution

Exhibit A – General Fund Reserve Policy

RESOLUTION NO. ##-2021

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON
ADOPTING A GENERAL FUND RESERVE POLICY**

WHEREAS, the City Council desires to manage city funds in a sustainable and prudent manner;

WHEREAS, the Government Finance Officers Association (GFOA), a nationally recognized financial organization and the National Advisory Council on State and Local Budgeting recommend that cities maintain a prudent level of reserves to protect against reducing service levels due to temporary dips in revenue or unexpected one-time expenses;

WHEREAS, cities typically set aside reserves from fifteen to fifty-five percent of their General Fund; and

WHEREAS, the level of reserves should be based on the unique characteristics and vulnerabilities of Clayton.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON, CA DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The City Council of the City of Clayton, California, finds that the above recitals are true and correct.

SECTION 2. The City Council hereby adopts the General Fund Reserve Policy dated July 20, 2021, attached as Exhibit A.

ADOPTED ON July 20, 2021 by the City Council of the City of Clayton by the following vote count:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Carl Wolfe, Mayor

ATTEST

Janet Calderon, City Clerk

DRAFT

CITY OF CLAYTON

GENERAL FUND RESERVE POLICY

Purpose

To provide guidelines for establishing, maintaining, and reviewing minimum target General Fund reserves for the City of Clayton. This policy is developed to consider the minimum level necessary to maintain the City's creditworthiness and to adequately provide for:

- Economic uncertainties and other financial hardships or downturns in the local or national economy
- Extreme events
- Future debt or capital obligations
- Cash flow requirements
- Legal requirements

The General Reserve Policy is an integral part of the City's multi-year financial business plan. The City General Fund Reserve Policy was approved by City Council Resolution No. ##-2021.

Introduction

One of the key components of a financially stable organization is the adherence to a policy of maintaining an appropriate level of reserves. Establishing a target minimum General Fund reserve is a mechanism that governments can implement to help ensure adequate levels of fund balance are available to help mitigate current and future risks. A minimum General Fund reserve is generally considered a prudent and conservative fiscal policy to deal with unforeseen situations. Some examples of unforeseen situations include, but are not limited to:

- Extreme Events
- Economic Downturns
- Reduced Revenues
- Federal/State/County Budget Cuts
- Unfunded Legislative or Judicial Mandates
- Cash Flow Requirements
- Capital Obligations
- One-Time City Council Approved Expenditures
- Innovative Opportunities for the Betterment of the Community

DRAFT

The Government Finance Officers Association (GFOA), an international organization that promotes the professional management of governments for the public interest, recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their General Fund of no less than two months of operating revenues or operating expenditures or a minimum of approximately 16.67% of General Fund operating expenditures. The GFOA further recommends that reserve levels be directly related to the degree of uncertainty the local government faces, specifically, the greater the uncertainty, the greater the financial resources necessary. Given the fact that the City of Clayton budget is overall relatively limited, the City should plan for a catastrophic reserve well in excess of the minimum two months of expenses, except in years in which the reserve is being re-built due to the need to use the reserve to manage an emergency.

Most cities choose General Fund Operating Expenditures as the basis for reserve. Typically, there is less fluctuation and risk in forecasting future expenditures. The General Fund Operating Expenditures methodology is also typically considered the more conservative basis for establishing a General Fund reserve.

There are additional benefits to establishing a minimum General Fund reserve. Credit rating agencies carefully monitor levels of fund balance and unreserved fund balance in a government's General Fund to evaluate a government's continued creditworthiness. Finally, fund balance levels are a crucial consideration in long-term financial planning.

Policy

For purposes of this policy, the term "reserve" includes unrestricted fund balance as well as certain designated reserves. It is the policy of the City of Clayton to maintain a minimum target reserve for unforeseen situations that impact the City, and whenever fiscally possible and financially prudent to maintain a greater target reserve. This reserve will be referred to as the Catastrophic Reserve Fund. The City will continue to maintain reserve funds to:

- a) Stabilize the fiscal base by anticipating fluctuations in revenues and expenditures;
- b) Provide for non-recurring, unanticipated expenditures, including those potentially associated with a natural disaster;
- c) Provide for innovative opportunities for the betterment of the community.

The minimum target reserve of the General Fund Catastrophic Reserves will be maintained at fifty percent (50%) of General Fund Operating Expenditures.

The minimum Catastrophic Reserve level will be calculated annually using the prior fiscal year's estimated General Fund Operating Expenditures. General Fund Catastrophic Reserve levels will
July 20, 2021

DRAFT

be evaluated as part of the annual budget process or more often if needed. Staff recommendations will be made to City Council on the available funds and the appropriate reserve levels at those times. In the event the General Fund reserve balance drops below the minimum reserve target, a response plan will be developed to return the General Fund reserves back to the minimum reserve level. In general, if used, the Catastrophic Reserve should be restored to the 50 percent level within three fiscal years.

The minimum General Fund Catastrophic Reserve Policy is intended to be a prudent and conservative fiscal policy, which should help contribute to the fiscal security of the City. Nothing in this policy shall prohibit the City Council from maintaining a higher level of reserves than the established minimum General Fund reserve target of fifty percent (50%).

Additional General Fund Reserves

In addition to the Catastrophic Reserve Fund, the City shall establish additional reserves as follows:

1. Budget Stabilization Reserve – equal to five percent (5%) of General Fund Operating Expenditures. These funds are held in case of smaller budget-related needs.
2. Rainy Day Fund Reserve – that portion of audited fund balance surplus identified to be allocated to special projects or other one-time expenses.
3. Pension Rate Stabilization Fund – reserve to help mitigate potential increases in City pension costs.
4. Capital Equipment Replacement Fund – established/replenished annually to meet anticipated capital equipment replacement needs.
5. Self-Insurance Fund – reserve to help cover costs of meeting the City's self-insured retention ("deductible") for unexpected losses due to claims or accidents.
6. Undesignated Fund Balance – remaining fund balance after other reserves are established.

Monitoring and Maintenance of Reserves

General Fund Reserve Levels will be monitored annually at the time of budget preparation or more often if needed. For the budget process, projected ending reserve levels shall be measured against the Reserve Policy thresholds.

If, at the time of the budget, total ending reserves actually fall below, or are estimated to fall below fifty percent (50%), the City Manager shall prepare an action plan to restore reserves to the fifty percent (50%). This action plan shall be presented to the City Council within sixty (60) days of determining that the reserve level will fall below the target percentage. The City Council will consider the City Manager's recommended corrective actions.