



# **AGENDA**

## **REGULAR JOINT MEETINGS**

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### **CLAYTON CITY COUNCIL and CLAYTON FINANCING AUTHORITY**

\* \* \*

**TUESDAY, January 6, 2015**

**7:00 P.M.**

*Hoyer Hall, Clayton Community Library  
6125 Clayton Road, Clayton, CA 94517*

**Mayor:** David T. Shuey  
**Vice Mayor:** Howard Geller

#### **Council Members**

Jim Diaz  
Keith Haydon  
Julie K. Pierce

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail and on the City's Website at least 72 hours prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at [www.ci.clayton.ca.us](http://www.ci.clayton.ca.us)
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- 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) 673-7304.

**\* CITY COUNCIL \***  
**January 6, 2015**

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

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

3. **CONSENT CALENDAR**

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

(a) Approve the minutes of the regular meeting of December 16, 2014. ([View Here](#))

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

(c) Reject the liability claim of Mr. Laurence Eekhof for alleged injuries and losses incurred on or about October 4, 2014. ([View Here](#))

(d) Adopt a Resolution approving an Amended and Restated Facilities Use Agreement between the City of Clayton and the Mount Diablo Unified School District regarding the Clayton Community Gymnasium, the Clayton Community Park sports fields, and Diablo View Middle School. ([View Here](#))

4. **RECOGNITIONS AND PRESENTATIONS** - None

5. **REPORTS**

(a) Planning Commission – No meeting held.

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

(c) City Manager/Staff

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

(e) Other

## 6. **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 facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. 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.*

## 7. **PUBLIC HEARINGS**

- (a) Public Hearing on the Second Reading and Adoption of proposed City-initiated Ordinance No. 457 amending Chapter 10.28 Vehicle Weight Limits of the *Clayton Municipal Code* regarding truck routes and declaring certain streets as truck routes in the City. ([View Here](#))  
(City Engineer)

Staff recommendations: **1.)** Receive the staff report; **2.)** Open the Public Hearing and receive public comments; **3.)** Close the Public Hearing; **4.)** Following Council consideration of any public comment and discussion, approve a motion to have the City Clerk read Ordinance No. 457 by title and number only and waive further reading; and **5.)** On completion of the City Clerk's reading, approve a motion to adopt Ordinance No. 457 with findings its adoption will not have a significant adverse effect on the environment and is therefore exempt under CEQA.

## 8. **ACTION ITEMS**

- (a) City Council discussion to determine the date, time and location for the City Council's annual Goals and Objectives Setting Session with its City Manager.  
(City Manager) ([View Here](#))

Staff recommendation: That Council determine a suitable date and time to hold its annual Goals Setting Session, and then by motion approve the calling of a City Council special meeting for the purpose, date, time and location.

- (b) Report from the Council Ad-hoc Committee concerning its recommendation to fill the unexpired term of office existing on the City Planning Commission (through June 30, 2015). ([View Here](#))  
(Vice Mayor Geller and Council Member Haydon)

Staff recommendation: Following the Ad-hoc Committee's verbal report, Council discussion and public comment, that Council provide policy direction to staff regarding citizen appointment to the vacant Planning Commission office.

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

10. **RECESS THE CITY COUNCIL MEETING** – Mayor Shuey  
(until after the conclusion of the Clayton Financing Authority meeting)

11. **RECONVENE THE CITY COUNCIL MEETING** – Mayor Shuey

12. **CLOSED SESSION**

- (a) *Government Code Section 54956.9(d)(4)* – Conference with Legal Counsel.  
Anticipated Litigation: One (1) Potential Case.

Report Out from Closed Session: Mayor Shuey

13. **ADJOURNMENT**– the next regularly scheduled City Council meeting is January 20, 2015.

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# \* CLAYTON FINANCING AUTHORITY \*

January 6, 2015

1. **CALL TO ORDER AND ROLL CALL** – President Shuey.

2. **CLOSED SESSION** – None.

3. **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

*Members of the public may address the Board on items within the Board's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the Secretary. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the President's discretion. When one's name is called or you are recognized by the President as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Board 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 as each item is considered.*

4. **CONSENT CALENDAR**

*Consent Calendar items are typically routine in nature and are considered for approval by the Financing Authority with one single motion. Members of the Financing Authority, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment or input may request so through the President.*

(a) Approve the minutes of the regular meeting of January 7, 2014. ([View Here](#))

(b) Approve the Clayton Financing Authority's Annual Report for Calendar Year 2014. ([View Here](#))

5. **ACTION ITEMS** - None.

6. **BOARD ITEMS** – limited to requests and directives for future meetings.

7. **ADJOURNMENT** – the Clayton Financing Authority's next meeting will be scheduled when necessary.

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

Agenda Date: 1-6-2015

Agenda Item: 3a

TUESDAY, December 16, 2014

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Shuey in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Shuey, Vice Mayor Geller and Councilmembers Diaz, Haydon and Pierce. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Finance Manager Kevin Mizuno and City Clerk Janet Brown.
  
2. **PLEDGE OF ALLEGIANCE** – led by Mayor Shuey.
  
3. **CONSENT CALENDAR**

**It was moved by Vice Mayor Geller, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).**

  - (a) Information Only – No Action Necessary.
    1. Notice of Clayton City Hall Holiday Closures in December 2014.
    2. Memo by Community Development Director regarding new state law and the regulation of land use for massage businesses.
  - (b) Approved the minutes of the regular meeting of December 2, 2014.
  - (c) Approved Financial Demands and Obligations of the City.
  - (d) Adopted Resolution No. 44 – 2014 setting, adjusting and approving the salary range of the City Manager and authorizing the Mayor to execute a Second Amendment to the City Manager's Agreement to adjust compensation identical to recently-approved action for other City employees.
  - (e) Adopted Resolution no. 45 – 2014 approving and authorizing the execution of a Second Amendment to the 2009 Agreement with the City of Concord for an additional 6 month time period through June 30, 2015 for its continued provision of police dispatch, detention and information technology services to and for the City of Clayton's Police Department.
  - (f) Adopted Resolution No. 46 – 2014 approving the award of competitive contract to Miracle PlaySystems, Inc. in the contractual amount of \$54,605.61 for removal and replacement of the resilient play surface of the tot lot at The Grove Park; and allocation of project monies from The Grove Park CFD Fund (No.211).

4. **RECOGNITIONS AND PRESENTATIONS** – None.

5. **REPORTS**

(a) Planning Commission – Commissioner Chairman Dan Richardson reported at the meeting of December 9, 2014 the Commission received the resignation letter of Commissioner Keith Haydon and discussed likely options in filling the remaining term expiring June 30, 2015. The Commission also renewed the Creekside Terrace land use entitlement permits for another one year extension.

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

(c) City Manager/Staff

The City Manager reaffirmed the City Hall closures during the upcoming holidays and referred the public to the City posting boards around town and the City's website for more information.

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

Councilmember Diaz attended the Contra Costa County Mayors' Conference, Clayton Business and Community Association's Annual Tree Lighting, and the East Bay Division League of California Cities meeting. He further noted he has been appointed to the Public Safety Policy Committee of the League of CA Cities.

Vice Mayor Geller attended the Contra Costa County Mayors' Conference, "Foster a Dream" event in Concord, Clayton Valley Charter High School Board meeting, and the Clayton Business and Community Association's Annual Tree Lighting event. Vice Mayor Geller thanked many community members for their dedication and time putting on the Clayton Business and Community Association Annual Tree lighting event and the dinner following the event at Diamond Terrace.

Councilmember Haydon attended the Clayton Business and Community Association's Tree Annual Lighting event, East Contra Costa County Habitat Conservancy meeting, East Bay Hospice Tree Lighting event, and met with various City department heads about the functions of their divisions.

Councilmember Pierce attended the Regional Planning Association of Bay Area Governments meeting, Contra Costa Transportation Authority meeting, Clayton Business and Community Association's Annual Tree Lighting event, Clayton Historical Society's Annual Holiday Home Tour, a Clayton Valley Charter High School Board meeting, and was appointed to represent Association of Bay Area Governments on Metropolitan Transportation Committee for a 4-year term.

Mayor Shuey attended the Contra Costa County Mayors' Conference, Clayton Business and Community Association's Annual Tree Lighting event, a Clayton Valley Charter High School Board Meeting, and the Contra Costa County Office of Education meeting concerning the establishment of a Contra Costa Performing

Arts Charter School. Mayor Shuey also complimented the Clayton Maintenance staff for their excellent field preparation efforts in advance of the recent storms.

(e) Other – None.

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

None.

7. **PUBLIC HEARINGS** - None.

8. **ACTION ITEMS**

- (a) Consideration of the City's Annual report concerning the City's levy, collection and disposition of development impact mitigation fees during FY 2013-2014, in compliance with California Government Code (AB 1600).

Finance Manager Kevin Mizuno presented the staff report providing background on how the AB1600 state code was established and the eight requirements necessary for a local government to remain in compliance. Mr. Mizuno further noted the City's AB1600 fees are prohibited from being used for the maintenance or operation of an improvement, and can by only used for public capital facility improvements. He also confirmed the City is in compliance with the eight reporting requirements. Approval of the Resolution will affirm a reasonable relationship still exists between current needs for the fees and the purposes for which they were originally collected. In addition, staff seeks authorization in the Resolution of an inter-fund transfer of \$59,297 from the Development Impact Fee Fund (No. 304) to the CIP Fund (No. 303) to eliminate the residual 2010 Pavement Rehabilitation Project deficit.

Mayor Shuey opened the item to receive public comments on the Fiscal Year 2013-2014 compliance with California Government Code (AB1600); no public comments were offered and Mayor Shuey then closed the public comment period.

**It was moved by Councilmember Pierce, and seconded by Councilmember Haydon, to adopt Resolution No. 47-2014 approving the City's Annual Report concerning the City's levy, collection and disposition of development impact mitigation fees during Fiscal Year 2013-2014, in compliance with the California Government Code (AB 1600). (Passed; 5-0 vote).**

- (b) Consideration of a request from the Clayton Historical Society for location and design of a bronze monument plaque to be installed at The Grove Park commemorating the Eucalyptus Grove.

Councilmember Pierce presented the request from the Clayton Historical Society to resume its historic monument and plaque program which commemorates significant sites in the City of Clayton. She also noted the project would be entirely paid by donations. Councilmember Pierce asked Dick Ellis to present details of the proposal to the City Council for consideration.

Mr. Dick Ellis provided some history and noted existing locations of the Clayton Historical Society's Historic Site Markers. Mr. Ellis included with the proposal procedures, proposed markers by original committee members Bob and Eldora Hoyer, Elmer Gomez and Janet Easton, and a letter from Peter Laurence, Mayor of the City of Clayton in 1994, approving the "Heritage Preservation Task Force". Mr. Ellis noted the idea of Program is to preserve historical sites within the community for future generations. By summer 2015, the Clayton Historical Society would like to place a marker at the [Eucalyptus] Grove Park followed by a marker on the north side of the bridge leading to the Keller Ranch. The amount of funds needed for each bronze marker is approximately \$2,000.00; included is a donation from Clayton resident Ted Merriam on behalf of Microsoft.

Vice Mayor Geller inquired on the structure of the monuments? Mr. Ellis advised the Clayton Historical Society uses a bonded mason for the construction of the monuments.

Vice Mayor Geller asked about the location of the Gomez House, Eagle Saloon, Bully Ingram's Cave, and Old Baseball Field contained in the attached list? Mr. Ellis advised the Gomez House is located behind Endeavor Hall, Eagle Saloon was behind the old City Hall, Bully Ingram's Cave has been closed and is located on the hillside off Main Street, and the Old Baseball Field was located near the current Clayton Community Church parking lot.

Councilmember Haydon added that it is appropriate to resume the Clayton Historical Society bronze monument program.

**It was moved by Councilmember Haydon, and seconded by Vice Mayor Geller, to approve the Clayton Historical Society's request to donate and install bronze monuments at local historical sites in Clayton, subject to further Council review and approval of the specific details for each planned monument on City property prior to installation. (Passed; 5-0 vote).**

- (c) Accept the resignation of Keith Haydon as a member of the Planning Commission and Council discussion on the disposition of filling the Planning Commission mid-term vacancy (expires 30 June 2015)

Mayor Shuey referenced the resignation letter by former Planning Commissioner Keith Haydon.

**It was moved by Vice Mayor Geller, seconded by Councilmember Diaz, that the City Council accept Mr. Haydon's resignation from the Planning Commission.**

**Motion passed (5-0 vote).**

Council discussion then opened on the preferred procedure to fill the unexpired term of office. Councilmember Pierce noted she had received contact from a resident interested in serving on the Planning Commission and initially felt the individual might do well in that office. Mayor Shuey expressed similar sentiments with regard to that citizen and it would be appropriate to appoint an ad-hoc committee of the City Council to interview that resident.

Mayor Shuey opened the item to receive public comments; no public comments were offered and Mayor Shuey then closed the public comment period.

**Mayor Shuey appointed an Ad-hoc Committee comprised of Vice Mayor Geller and Councilmember Haydon to interview the interested resident and report back to the City Council.**

- (d) Review and determination of City Council ad-hoc, committee, inter-governmental and regional board assignments for 2015.

Mayor Shuey reviewed the list of the current assignments to ensure City Councilmember personal schedules and interests still meet the needs of the various committees and assignments. Changes were proposed for Budget/Audit Committee, Central Contra Costa Transit Authority (CCCTA), "Do The Right Thing" program, East Bay Division – League of California Cities, East Contra Costa County Habitat Conservancy, Garbage & Recycling Committee, Trails and Landscaping Committee (TLC) Liaison, and TRANSPAC.

**It was moved by Vice Mayor Geller, and seconded by Councilmember Diaz, to approve the City Council ad-hoc, committee, inter-governmental and regional board assignments for 2015 as presented by Mayor Shuey. (Passed; 5-0 vote).**

9. **COUNCIL ITEMS** – limited to requests and directives for future meetings.
10. **CLOSED SESSION** - None.
11. **ADJOURNMENT**– on call by Mayor Shuey, the City Council meeting adjourned at 7:50 p.m.

The next regularly scheduled City Council meeting is January 6, 2015.

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Respectfully submitted,

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Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

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David T. Shuey, Mayor

# # # # #



Agenda Date 1/6/2015

Agenda Item: 3b

Approved:   
Gary A. Napper  
City Manager

# STAFF REPORT

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** Kevin Mizuno, FINANCE MANAGER  
**DATE:** 1/6/2015  
**SUBJECT:** FINANCIAL OBLIGATIONS

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**RECOMMENDATION:**

Approve the following Invoices:

01/02/15	Obligations, Cash Requirements	\$ 129,669.02
12/23/14	ADP Payroll PPE 12/21/14	\$ 87,040.52
	<b>Total</b>	<b>\$ 216,709.54</b>

**Attachments:**

Cash Requirements Report dated 1/2/2015 (4 pages)  
ADP Report Week 26, PPE 12/21/14 (1 page)

# City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<b>All City Management Services, Inc.</b>								
All City Management Services, Inc.	1/6/2015	1/2/2015	37638	Crossing guard services 12/7/14-12/20/14	\$509.10	\$0.00		\$509.10
All City Management Services, Inc.	1/6/2015	1/2/2015	37426	Crossing guard services 11/23/14-12/6/14	\$254.55	\$0.00		\$254.55
<i>Totals for All City Management Services, Inc.:</i>					<u>\$763.65</u>	<u>\$0.00</u>		<u>\$763.65</u>
<b>Bay Area Barricade Serv.</b>								
Bay Area Barricade Serv.	1/6/2015	1/2/2015	0313250-IN	sand bags	\$828.40	\$0.00		\$828.40
Bay Area Barricade Serv.	1/6/2015	1/2/2015	0313655-IN	lime vests	\$86.99	\$0.00		\$86.99
<i>Totals for Bay Area Barricade Serv.:</i>					<u>\$915.39</u>	<u>\$0.00</u>		<u>\$915.39</u>
<b>CalPERS Health</b>								
CalPERS Health	1/6/2015	1/2/2015	1630	Health Benefits January 2015	\$34,077.14	\$0.00		\$34,077.14
<i>Totals for CalPERS Health:</i>					<u>\$34,077.14</u>	<u>\$0.00</u>		<u>\$34,077.14</u>
<b>CalPERS Retirement</b>								
CalPERS Retirement	1/6/2015	1/2/2015	PPE 12/21/14	retirement PPE 12/21/14	\$22,952.49	\$0.00		\$22,952.49
<i>Totals for CalPERS Retirement:</i>					<u>\$22,952.49</u>	<u>\$0.00</u>		<u>\$22,952.49</u>
<b>Caltronics Business Systems, Inc</b>								
Caltronics Business Systems, Inc	1/6/2015	12/29/2014	EB0022	contract 11/17/14-12/16/14	\$205.07	\$0.00		\$205.07
<i>Totals for Caltronics Business Systems, Inc:</i>					<u>\$205.07</u>	<u>\$0.00</u>		<u>\$205.07</u>
<b>Cintas Fire Protection</b>								
Cintas Fire Protection	1/6/2015	1/2/2015	OF44605941	inspection - supplies, EH	\$192.31	\$0.00		\$192.31
Cintas Fire Protection	1/6/2015	1/2/2015	OF44605942	extinguisher inspection, parts, Library	\$652.93	\$0.00		\$652.93
Cintas Fire Protection	1/6/2015	1/2/2015	OF44851395	battery recycling, lights, City Hall	\$454.92	\$0.00		\$454.92
Cintas Fire Protection	1/6/2015	1/2/2015	OF44605940	Fire Extinguisher inspection, parts, City Hall	\$1,015.59	\$0.00		\$1,015.59
<i>Totals for Cintas Fire Protection:</i>					<u>\$2,315.75</u>	<u>\$0.00</u>		<u>\$2,315.75</u>
<b>City of Concord</b>								
City of Concord	1/6/2015	12/29/2014	43044	printing services, letterhead, envelopes, bus.ca	\$524.21	\$0.00		\$524.21
City of Concord	1/6/2015	1/2/2015	43001	live scan service	\$73.00	\$0.00		\$73.00
City of Concord	1/6/2015	1/2/2015	43020	vehicle maintenance October 2014	\$1,351.98	\$0.00		\$1,351.98
<i>Totals for City of Concord:</i>					<u>\$1,949.19</u>	<u>\$0.00</u>		<u>\$1,949.19</u>
<b>Contra Costa County Clerk Elections Division</b>								
Contra Costa County Clerk Elections Di	1/6/2015	12/29/2014	1292	November 4, 2014 election costs	\$8,623.39	\$0.00		\$8,623.39
<i>Totals for Contra Costa County Clerk Elections Division:</i>					<u>\$8,623.39</u>	<u>\$0.00</u>		<u>\$8,623.39</u>
<b>Contra Costa County Sheriff - Forensic Svc Div (Lab)</b>								
Contra Costa County Sheriff - Forensic S	1/6/2015	1/2/2015	CLPD-1411	toxicology November 2014	\$3,240.00	\$0.00		\$3,240.00
<i>Totals for Contra Costa County Sheriff - Forensic Svc Div (Lab):</i>					<u>\$3,240.00</u>	<u>\$0.00</u>		<u>\$3,240.00</u>
<b>Contra Costa Topsoil</b>								
Contra Costa Topsoil	1/6/2015	1/2/2015	112912	sand	\$509.95	\$0.00		\$509.95
<i>Totals for Contra Costa Topsoil:</i>					<u>\$509.95</u>	<u>\$0.00</u>		<u>\$509.95</u>

# City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<b>Contra Costa Tractor Mobile Svc</b>								
Contra Costa Tractor Mobile Svc	1/6/2015	1/2/2015	016600	service for Ford 260C	\$986.25	\$0.00		\$986.25
<i>Totals for Contra Costa Tractor Mobile Svc:</i>					<u>\$986.25</u>	<u>\$0.00</u>		<u>\$986.25</u>
<b>Critical Reach</b>								
Critical Reach	1/6/2015	1/2/2015	15-105	Calendar Year 2015 access	\$145.00	\$0.00		\$145.00
<i>Totals for Critical Reach:</i>					<u>\$145.00</u>	<u>\$0.00</u>		<u>\$145.00</u>
<b>Cropper Accountancy Corp</b>								
Cropper Accountancy Corp	1/6/2015	12/29/2014	954	2nd, final progress billing for CFA Audit 201	\$1,500.00	\$0.00		\$1,500.00
<i>Totals for Cropper Accountancy Corp:</i>					<u>\$1,500.00</u>	<u>\$0.00</u>		<u>\$1,500.00</u>
<b>CVCHS</b>								
CVCHS	1/6/2015	1/2/2015	26768	Deposit refund for EH 12/19/14	\$500.00	\$0.00		\$500.00
<i>Totals for CVCHS:</i>					<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
<b>De Lage Landen Financial Services, Inc.</b>								
De Lage Landen Financial Services, Inc.	1/6/2015	12/29/2014	43882906	contract January 2015	\$362.47	\$0.00		\$362.47
<i>Totals for De Lage Landen Financial Services, Inc.:</i>					<u>\$362.47</u>	<u>\$0.00</u>		<u>\$362.47</u>
<b>EOA, Inc</b>								
EOA, Inc	1/6/2015	1/2/2015	CN01-1114	Long Term Trash Plan FY 13/14	\$4,245.47	\$0.00		\$4,245.47
<i>Totals for EOA, Inc:</i>					<u>\$4,245.47</u>	<u>\$0.00</u>		<u>\$4,245.47</u>
<b>Sandra Fischer</b>								
Sandra Fischer	1/6/2015	1/2/2015	26777	Deposit refund EH 12/14/14	\$500.00	\$0.00		\$500.00
<i>Totals for Sandra Fischer:</i>					<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
<b>Globalstar LLC</b>								
Globalstar LLC	1/6/2015	1/2/2015	1000000006132838	service 11/16/14-12/15/14	\$54.28	\$0.00		\$54.28
<i>Totals for Globalstar LLC:</i>					<u>\$54.28</u>	<u>\$0.00</u>		<u>\$54.28</u>
<b>Goldfarb &amp; Lipman</b>								
Goldfarb & Lipman	1/6/2015	12/29/2014	114459	current fees thru 11/30/14	\$728.00	\$0.00		\$728.00
<i>Totals for Goldfarb &amp; Lipman:</i>					<u>\$728.00</u>	<u>\$0.00</u>		<u>\$728.00</u>
<b>Graybar Electric Co, Inc</b>								
Graybar Electric Co, Inc	1/6/2015	1/2/2015	976228790	SO#349492961	\$801.79	\$0.00		\$801.79
Graybar Electric Co, Inc	1/6/2015	1/2/2015	976254093	SO# 349492961	\$1,154.07	\$0.00		\$1,154.07
<i>Totals for Graybar Electric Co, Inc:</i>					<u>\$1,955.86</u>	<u>\$0.00</u>		<u>\$1,955.86</u>
<b>J &amp; R Floor Services</b>								
J & R Floor Services	1/6/2015	1/2/2015	twelve	December billing	\$4,970.00	\$0.00		\$4,970.00
<i>Totals for J &amp; R Floor Services:</i>					<u>\$4,970.00</u>	<u>\$0.00</u>		<u>\$4,970.00</u>
<b>LarryLogic Productions</b>								
LarryLogic Productions	1/6/2015	12/29/2014	1469	City Council Meeting 12/16/14	\$300.00	\$0.00		\$300.00

# City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<b>League of CA cities</b>					<i>Totals for LarryLogic Productions:</i>			
League of CA cities	1/6/2015	1/2/2015	147517	Membership dues for calendar year 2015	\$300.00	\$0.00		\$300.00
<b>Legal Defense Fund</b>					<i>Totals for League of CA cities:</i>			
Legal Defense Fund	1/6/2015	1/2/2015	119362	dues, January 2015	\$5,639.17	\$0.00		\$5,639.17
<b>Kimberly Morucci</b>					<i>Totals for Legal Defense Fund:</i>			
Kimberly Morucci	1/6/2015	1/2/2015	26778	Deposit refund for EH 12/5/14	\$13.50	\$0.00		\$13.50
<b>NBS Govt. Finance Group</b>					<i>Totals for Kimberly Morucci:</i>			
NBS Govt. Finance Group	1/6/2015	12/29/2014	1214000004	qtrly admin fees 1/1/15-3/31/15	\$13.50	\$0.00		\$13.50
<b>Pacific Telemanagement Svc</b>					<i>Totals for NBS Govt. Finance Group:</i>			
Pacific Telemanagement Svc	1/6/2015	1/2/2015	711386	courtyard phone January 2015	\$5,227.63	\$0.00		\$5,227.63
<b>Peace Officers Research Assoc of CA</b>					<i>Totals for Pacific Telemanagement Svc:</i>			
Peace Officers Research Assoc of CA	1/6/2015	1/2/2015	109395	dues January 2015	\$73.00	\$0.00		\$73.00
<b>PERMCO, Inc.</b>					<i>Totals for Peace Officers Research Assoc of CA:</i>			
PERMCO, Inc.	1/6/2015	1/2/2015	10291	Cap Inspections 11/22/14-12/5/14	\$10.00	\$0.00		\$10.00
<b>PG&amp;E</b>					<i>Totals for PERMCO, Inc.:</i>			
PG&E	1/6/2015	1/2/2015	12/16/14	service 11/17/14-12/15/14	\$145.25	\$0.00		\$145.25
PG&E	1/6/2015	1/2/2015	12/23/14	service 11/22/14-12/22/14	\$3,076.99	\$0.00		\$3,076.99
<b>PMC (Planning)</b>					<i>Totals for PG&amp;E:</i>			
PMC (Planning)	1/6/2015	12/29/2014	41854	professional services November 2014	\$20,385.67	\$0.00		\$20,385.67
<b>San Diego Police Equipment Co.</b>					<i>Totals for PMC (Planning):</i>			
San Diego Police Equipment Co.	1/6/2015	1/2/2015	615505	order # 76412	\$1,695.50	\$0.00		\$1,695.50
<b>Sprint Comm (PD)</b>					<i>Totals for San Diego Police Equipment Co.:</i>			
Sprint Comm (PD)	1/6/2015	1/2/2015	703335311-157	service 11/26/14-12/25/14	\$2,554.26	\$0.00		\$2,554.26
<b>Thomson Reuters-West</b>					<i>Totals for Sprint Comm (PD):</i>			
					\$261.85	\$0.00		\$261.85

## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Thomson Reuters-West	1/6/2015	1/2/2015	6098118768	order # 200902956 - CA penal code pamphlet	\$106.33	\$0.00		\$106.33
				<i>Totals for Thomson Reuters-West:</i>	<u>\$106.33</u>	<u>\$0.00</u>		<u>\$106.33</u>
<b>US Bank Corp Pymt System (Cal Card)</b>								
US Bank Corp Pymt System (Cal Card)	1/6/2015	1/2/2015	11/24/14	Statement ending 11/24/14	\$16,846.22	\$0.00		\$16,846.22
				<i>Totals for US Bank Corp Pymt System (Cal Card):</i>	<u>\$16,846.22</u>	<u>\$0.00</u>		<u>\$16,846.22</u>
<b>Waraner Brothers Tree Service</b>								
Waraner Brothers Tree Service	1/6/2015	1/2/2015	11654	tree work - Lydia Lane & El Molino - Creek A	\$1,200.00	\$0.00		\$1,200.00
				<i>Totals for Waraner Brothers Tree Service:</i>	<u>\$1,200.00</u>	<u>\$0.00</u>		<u>\$1,200.00</u>
<b>Watch Guard</b>								
Watch Guard	1/6/2015	1/2/2015	ACCINV0002931	Order # ACCORD000311	\$57.51	\$0.00		\$57.51
				<i>Totals for Watch Guard:</i>	<u>\$57.51</u>	<u>\$0.00</u>		<u>\$57.51</u>
<b>GRAND TOTALS:</b>					<b>\$146,515.24</b>	<b>\$0.00</b>		<b>\$146,515.24</b>

-16,846.22  
Cal Card  
Approved  
Last  
City Council  
Meeting

\$ =  
129,669.02

0 Employees With Overflow Statement  
0 Overflow Statement 1 Total Statement  
Tot Cks/Vchrs:00000000034 Tot Docs in all:00000000037  
First No. Last No. Total  
Checks: ADPCHECK ADPCHECK 00000000008  
Vouchers: 00000520001 00000520026 00000000026

# Earnings Statement

PPE 12/21/14

Z7L TOTAL DOCUMENT  
CITY OF CLAYTON  
LOCATION 0001

**CHECK STUFFING, RECONCILIATION**

87040.52 GROSS  
63006.78 NET PAY (INCLUDING ALL DEPOSITS)  
11117.90 FEDERAL TAX  
188.14 SOCIAL SECURITY  
1215.80 MEDICARE  
69.16 MEDICARE SURTAX  
.00 SUI TAX  
3570.37 STATE TAX  
.00 LOCAL TAX  
68306.41 DEDUCTIONS  
2572.74 NET CHECK

**COMPANY CODE Z7L  
CITY OF CLAYTON  
TOTAL DOCUMENT  
LOCATION 0001**

VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM

**NON-NEGOTIABLE - VOID - NON-NEGOTIABLE  
NON-NEGOTIABLE - VOID - NON-NEGOTIABLE**

THE ORIGINAL DOCUMENT HAS AN ARTIFICIAL WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT



Agenda Date: 1-6-2015

Agenda Items 3c

Approved:

  
Gary A. Napper  
City Manager

# AGENDA REPORT

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** Janet Brown, City Clerk  
**DATE:** January 6, 2015  
**SUBJECT:** REJECTION OF LIABILITY CLAIM FILED BY LAURENCE EEKHOF

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## RECOMMENDATION

Approve the rejection of liability claim against the City filed by Laurence Eekhof (MPA Claim No. 011462) for alleged injury and expenses reportedly occurring on October 4, 2014.

## BACKGROUND

On October 6, 2014 the City received a liability claim filed by Laurence Eekhof for alleged injuries and damages incurred by Clayton Police Officers at the Oktoberfest sponsored by Clayton Business and Community Association. The City is self insured for general liability purpose and the Municipal Pooling Authority of Northern California administers the self-insured program. On October 6, 2014 the liability claim was transmitted to the Municipal Pooling Authority for processing.

Liability adjustors for the Municipal Pooling Authority and an independent Police Internal Affairs contractor investigated the claim. Following the investigation the Municipal Pooling Authority advised the City to issue a notice of rejection for the claim.

## FISCAL IMPACT

None.

Attachment: 1. Copy of Claim

**CLAIM PRESENTED TO THE CITY OF CLAYTON**

Please read the instructions on the back before completing.

Reserve for Filing Stamp

Received

OCT 06 2014

City of Clayton 11:00

cc:

City Claim #

1. Claimant's Name: (PLEASE PRINT) Laurence G. Eekhof

Claimant's Address: 3466 Willow Pass R.d. lot 15

City, State, Zip: Concord California 94519

Day Phone: (925) 727 5824 Eve Phone: ( ) Same

2. When did the damage or injury occur?  
Month: 10 Day: 7 Year: 2014 Time: 9:00 a.m.  p.m.

3. At which location did the damage or injury occur? Clayton Oktoberfest - near carnival workers camp ground. Police Report #

4. What happened and why is the City responsible?  
a. I was accosted and assaulted by officers of Clayton Valley Police Department.

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

5. What damage or injury occurred? Damaged items: New unused tarp has 2 holes, bicycle grip damage, bicycle chain derailed, bicycle steering dis-aligned, rear rack bent, front derailleurs, right pedal wacked, rear light missing, luggage cord cut,

6. Claim amount (only if less than \$10,000): To be calculated and submitted.

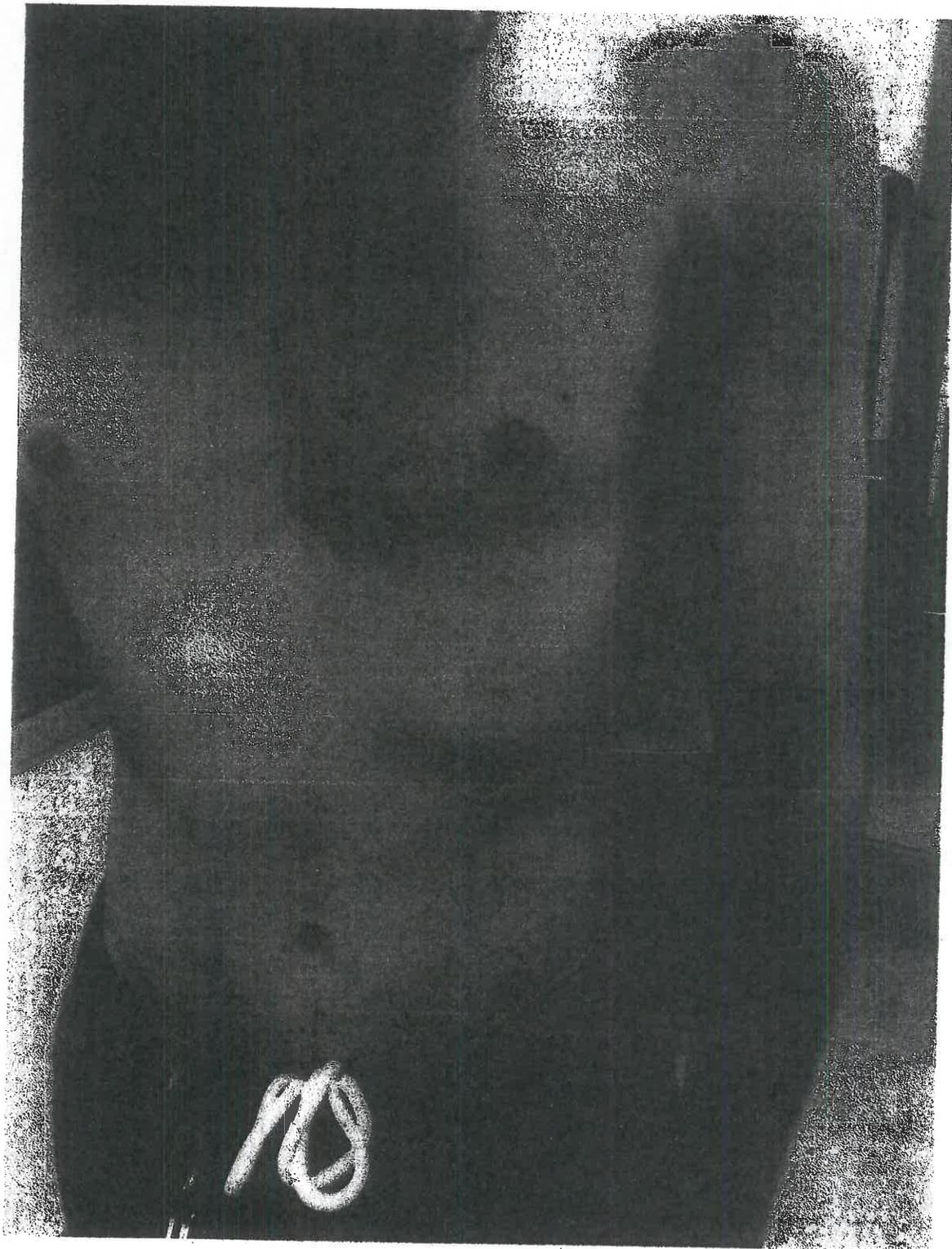
If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction:  
 Municipal Court (claims up to \$25,000)  Superior Court (claims over \$25,000)

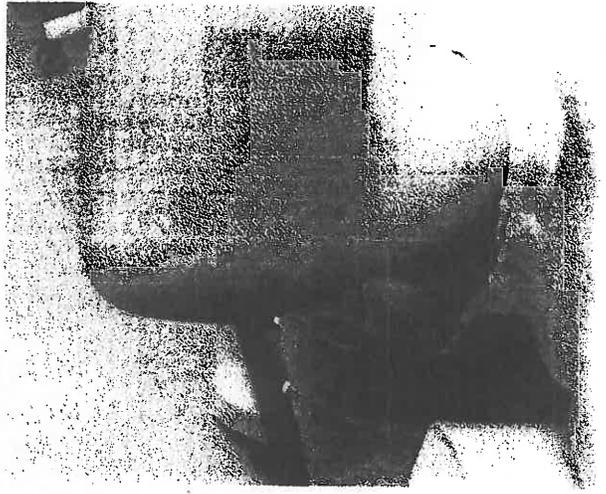
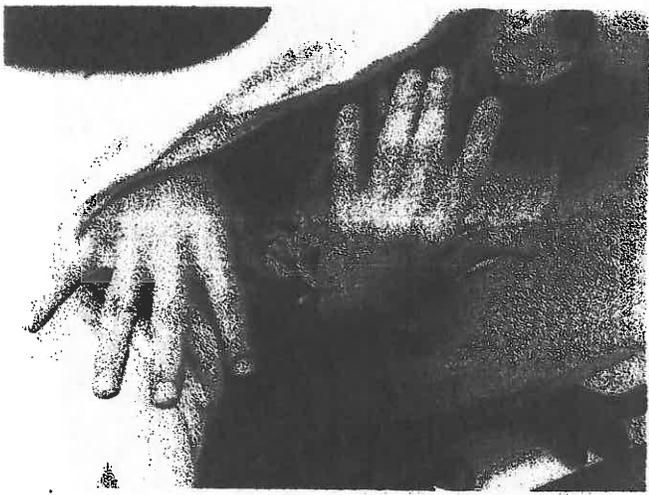
7. How did you arrive at the amount claimed? Please attach documentation.

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on October 6, 2014, at Clayton, CA.  
Laurence Eekhof  
Signature of Claimant or Representative's Signature

9. Official Notices and Correspondence  
If represented by an insurance company or an attorney, please provide the information requested below.  
Name and Capacity: (PLEASE PRINT) \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Daytime Telephone: ( ) \_\_\_\_\_ Evening Phone: ( ) \_\_\_\_\_

5. What damage or injury occurred? (continued)  
Flask of Stolichnaya vodka emptied, missing -  
K-bar 7 inch fixed blade knife, missing -  
"cane cutter" folding pocket knife, missing  
mini-bat tent stake ~~hammer~~ hammer, missing  
Item: Tryskallion & wisdom tree necklace and charm  
necklace was ~~not~~ attached to MP3 Player  
not missing; Injury: bruised ribs, ~~bruised~~ player  
sprained ankle, multiple additional <sup>bruises</sup> ~~bruises~~ elbow,  
contusions. <sup>sprained</sup>  
bruises and -







**John Muir Health**

Name	Address	Phone	Fax
JMH Concord Hospital	2540 East St Concord CA 94520-1906	925-682-8200	925-674-2436

**Laurence Eekhof** 10/5/2014 Hospital Encounter

## Emergency Department Discharge Instructions

The exam and treatment you received in the Emergency Department were for an urgent problem and are not intended as complete care. It is important that you follow-up with a doctor, nurse practitioner, or physician's assistant for ongoing care. If your symptoms become worse or you do not improve as expected and you are unable to reach your usual health care provider, you should return to the Emergency Department. We are available 24 hours a day.

**Your Treatment Team Included**

Russell Rodriguez, MD

**Diagnoses this visit**

Your diagnosis was CHEST WALL CONTUSION .

**Your Plan**

**Follow-up Information**

Follow up with your regular doctor. Call in 2 days.

If you belong to an HMO, such as Muir Diablo Medical Group, you MUST contact your primary care physician BEFORE you see a specialist to be sure that specialty care follow-up is authorized.

If you have any problem arranging the follow-up visit, immediately contact the Emergency Department.

**Medication List**

**START taking these medications**

HYDROcodone-acetaminophen 5-325 mg per tablet  
Commonly known as: NORCO  
Take 1 tablet by mouth every 8 (eight) hours as needed for pain.

**ASK your doctor about these medications**

BENADRYL ALLERGY ORAL

**Where to Get Your Medications**

These are the prescriptions that you need to pick up.

You may get the following medications from any pharmacy  
- HYDROcodone-acetaminophen 5-325 mg per tablet

## Your Visit Summary

---

### Allergies

Trileptal [Oxcarbazepine]  
"sleep paralysis"

### Medications given in the Emergency Department

None

### Procedures and tests performed during your visit

X-ray ankle right AP lateral and oblique  
X-ray chest PA and lateral  
X-ray elbow right AP lateral external oblique and radial head

### X-ray and/or EKG Interpretation

The emergency physician provided an on-the-spot interpretation of your X-ray. A specialist will do a final interpretation of these tests. If a change in your diagnosis or treatment is needed, we will contact you. It is critical that we have a current phone number for you.

Call the Medical Imaging department in Walnut Creek (925-947-5305) or Concord (925-674-2288) with 24 hours notice to pick up your X-rays before your follow-up appointment.

### MyJohnMuirHealth Signup

MyJohnMuirHealth allows you to view your lab and radiology results, medical conditions, medication list, allergy list, discharge instructions, and more. To sign up, go to <http://www.myjohnmuirhealth.com> and click on the **Sign Up** link in the Ready to Create Your Account? box. Enter your MyJohnMuirHealth Activation Code exactly as it appears below along with your Date of Birth and your Zip Code. Then create a user name and password to complete the sign-up process. If you have an iPhone, you may also simply download the MyJMH app from the App store and sign up directly from from your phone

The activation code will expire in 90 days. If you do not sign up before the expiration date, you must request a new code.

**MyJohnMuirHealth Activation Code: YZQGH-99KGZ-FAEY3**

**Expires: 1/3/2015 7:00 AM**

### Important Notice

When you activate your account, previous results will be available. Your hospital or emergency department test results will be available 24 hours after discharge.

If you have questions about information in your chart, please discuss this directly with your John Muir Health provider.

If you have questions about how to use or navigate the MyJohnMuirHealth website, please call (925) 941-2001.

MyJohnMuirHealth is NOT to be used for urgent medical needs.  
For medical emergencies, dial 911.

Larry Eekhof

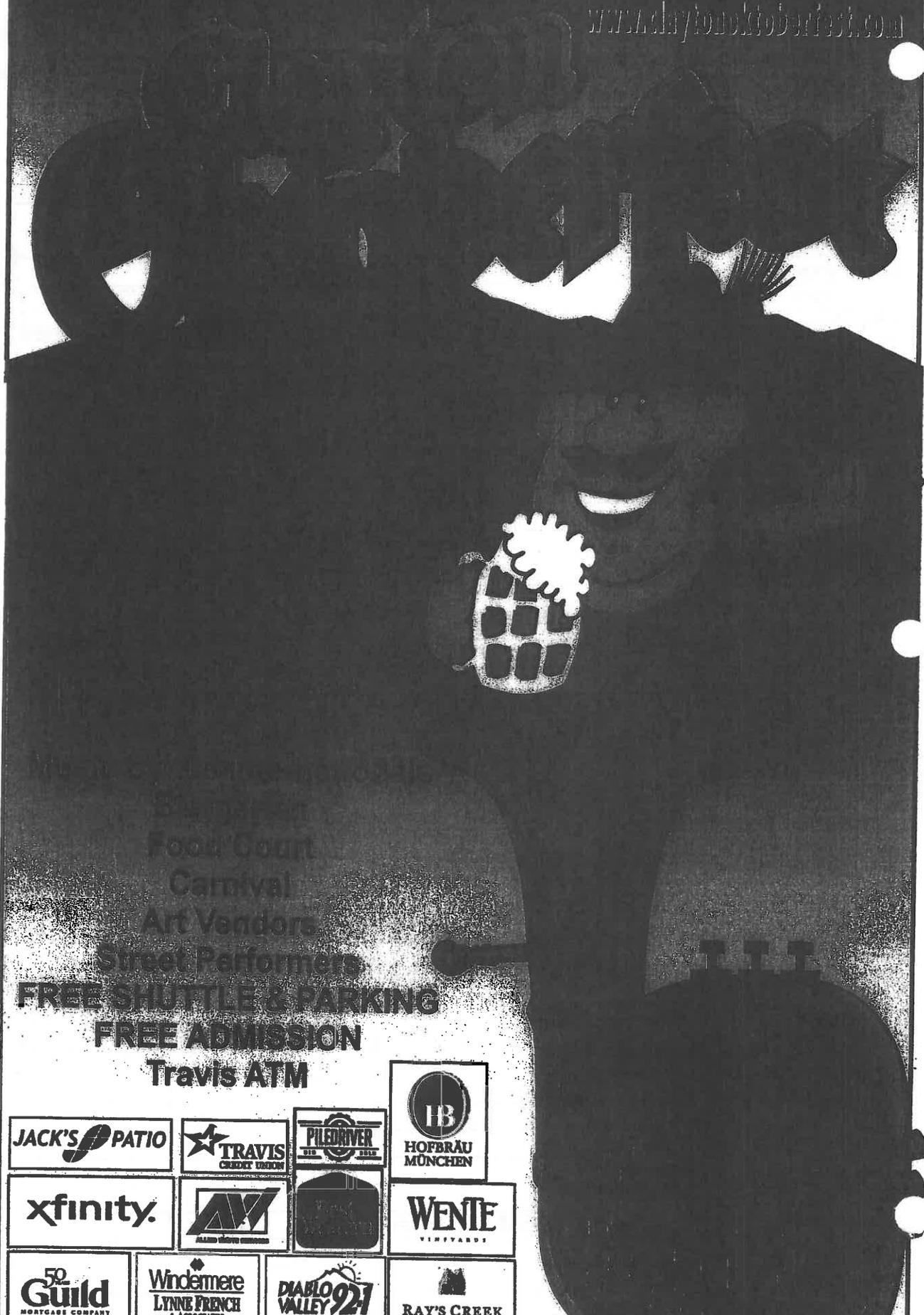
List of Belongings that I had with me on the evening of October 4, 2014:

Belongings:	Retrieved/ or in possession of:	Condition:
Tarp	x	2 holes in tarp
Hammock	x	
50 foot length of paracord	x	
bike (Schwinn Mountain/10-speed Hybrid)	x	chair was dented
Topeak back mount bike rack	x	front dented
bike lights	1/2	missing rear light
bike lock and chain	x	
3 bungee cords	x	1 cord was cut
1 collapsible camp chair	x	<del>missing</del> found
2 white T-shirts	x	
Tank top	x	
1 pair of boxer shorts	x	
1 pair of sweat pants	x	
1 pair of shorts	x	
1 bar of soap	x	
shave kit	x	
deodorant	x	
electrical tape	x	
pliers	x	
MP3 player	x	
earbuds (Skull Candy)	x	right head broken
cell phone	x	
wallet	x	
keys	x	
K-bar sheath knife	missing	
mini bat	missing	
Necklace and charm	missing	
2 tie down clip straps	x	
2 blankets	x	
zippo lighter	x	
folding pocket knife	missing	
bag of peanuts	x	
etched leather belt	x	
silver eagle belt buckle	x	
4 tent stakes	x	
eye glasses	x	
2 hair ties	x	
shoes	x	
nyalgen water bottle (anti-bacterial)	x	
wall charger for cell phone	x	
USB to Mini USB cord	x	
External battery/charger for cellphone/MP3 player	x	
towel	x	
hex wrench	x	
Sunglasses /clip on	x	
glasses case	x	

Right gear damaged  
right pedal cracked  
steering  
chair was dented  
front dented  
damaged  
missing rear light  
found

Clayton Business & Community Association Presents

[www.daytonohioartfest.com](http://www.daytonohioartfest.com)



Food Court  
Carnival  
Art Vendors  
Street Performers  
**FREE SHUTTLE & PARKING**  
**FREE ADMISSION**  
Travis ATM



Special Thanks to Safeway - Englund's Café - Skipolini's



Approved:


  
 Gary A. Napper  
 City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: CITY MANAGER**

**DATE: 06 JANUARY 2015**

**SUBJECT: RESOLUTION ADOPTING AN AMENDED AND RESTATED FACILITIES USE AGREEMENT WITH MT. DIABLO UNIFIED SCHOOL DISTRICT**

## RECOMMENDATION

It is recommended the City Council adopt the attached Resolution approving an "Amended and Restated Facilities Use Agreement" between the City and the Mt. Diablo Unified School District concerning the Clayton Community Gymnasium, the Clayton Community Park sports fields, and the Diablo View Middle School.

## BACKGROUND

In 1995 the City of Clayton by agreement allowed the public school students and faculty at Diablo View Middle School to use the adjacent Clayton Community Park sports fields and turf area, under certain restrictions, in order to satisfy its CA Education Code requirements for physical education needs. In 2001 the City and the School District agreed to the joint construction and joint use of a gymnasium to be constructed on donated City property adjacent to Diablo View Middle School. Each Agreement specified certain fees relative to each party's use of the facilities.

During subsequent City Use of the Clayton Community Gymnasium, issues and disputes arose concerning but not limited to the calculation, necessity and payment of fees and charges levied by the School District for use of the gymnasium by the general and public recreation community through the City's contracts with the Mt. Diablo YMCA and All Out Sports League. Commencing in or around 2010, neither party has paid the other for its associated and current use of the public facilities under the 1995 or 2001 Agreement.

The City and the Mt. Diablo Unified School District have now amicably resolved their differences culminating in the proposed "Amended and Restated Facilities Use Agreement". Drafted by our City Attorney and recently adopted and signed by the School District, the new Agreement waives each other's past claims and specifies no fees or charges shall be incurred by either party when using one another's public facilities as outlined in the new Agreement.

Attachments: A. City Resolution [2 pp.]

1. Amended and Restated Facilities Use Agreement [21 pp.]
2. Transmittal Letter by MDUSD [1 pg.]

## RESOLUTION NO. – 2015

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION  
OF AN AMENDED AND RESTATED FACILITIES USE AGREEMENT  
BETWEEN THE CITY OF CLAYTON AND THE MOUNT DIABLO  
UNIFIED SCHOOL DISTRICT CONCERNING THE CLAYTON COMMUNITY  
GYMNASIUM, THE CLAYTON COMMUNITY PARK SPORTS FIELDS,  
AND DIABLO VIEW MIDDLE SCHOOL FACILITIES**

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

**WHEREAS**, by separate Agreement dated February 7, 1995, the City of Clayton permitted the Mt. Diablo Unified School District's students and staff to use, under certain restrictions, Fields One through Four as its physical education facilities and grounds during public school days; and

**WHEREAS**, by separate Agreement dated May 22, 2001, the Clayton Redevelopment Agency, the City of Clayton and the Mt. Diablo Unified School District agreed to the joint construction and joint use of a gymnasium to be constructed adjacent to the Diablo View Middle School campus and the Clayton Community Park sports fields within the city of Clayton; and

**WHEREAS**, under the terms of the respective Agreements, each public entity billed the other certain fees for the privilege and its use of each other's public facilities for the benefit and enjoyment of its students, citizens and common constituency; and

**WHEREAS**, a chronic dispute arose between the School District and the City of Clayton ("Parties") regarding the calculation, necessity and payment of said fees and charges and their respective obligations under the 1995 and 2001 Agreements, culminating to the point in or about 2010 that neither public entity paid one another for its on-going and current use of the other party's public facilities; and

**WHEREAS**, recognizing each other's public facilities have comparable value and the resultant charges and fees in this dispute have commonality as to public stewardship in behalf of the same taxpaying community who ultimately paid for and desire unfettered access to and enjoyment of these joint public facilities, the Parties wish to settle their current disputes under the 1995 Park Agreement and the 2001 Gymnasium Agreement in such a manner as to permit each Party the full use of one another's Joint Facilities as set forth in an "Amended and Restated Facilities Use Agreement", attached hereto as "Attachment 1" and incorporated herein by reference as if fully set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Clayton, California does hereby approve and adopt as follows:

Section 1. The above Recitals are true and correct facts and statements regarding the manner and disposition of this item, and in part form the basis of its determination herein.

Section 2. The “Amended and Restated Facilities Use Agreement between the City of Clayton and the Mount Diablo Unified School District”, a true and correct copy attached hereto as “Attachment 1”, is hereby adopted and approved.

Section 3. The Mayor of the City of Clayton is hereby authorized and directed to sign the Agreement for and on behalf of the City Council of Clayton, California.

**PASSED, APPROVED AND ADOPTED** by the City Council of Clayton, California at a regular public meeting thereof held on the 6<sup>th</sup> day of January 2015 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

---

David T. Shuey, Mayor

ATTEST:

---

Janet Brown, City Clerk

**AMENDED AND RESTATED**  
**FACILITIES USE AGREEMENT**  
**BETWEEN**  
**THE CITY OF CLAYTON AND THE**  
**MOUNT DIABLO UNIFIED SCHOOL DISTRICT**

This AMENDED AND RESTATED FACILITIES USE AGREEMENT (“Agreement”) is entered into as of the 7<sup>th</sup> day of January, 2015 (“Effective Date”) by and between the CITY OF CLAYTON, a California municipal corporation (the “City”), and the MOUNT DIABLO UNIFIED SCHOOL DISTRICT, a regularly organized and existing school district under the laws of the State of California (the “School District”). School District and City shall be referred to collectively as the “Parties” and individually as a “Party” in this Agreement.

**RECITALS**

A. California Education Code Section 10900 *et seq.* authorizes school districts and cities to jointly organize, promote, and conduct recreational and educational programs and activities and empower school districts to cooperate with public agencies in organizing, promoting, and conducting joint programs of recreation as well as education.

B. The Parties previously executed that Facilities Use Agreement between the City of Clayton and the Mt Diablo Unified School District dated February 7, 1995 (“Park Agreement”) permitting the School District’s students and staff to use, under certain restrictions, Fields One through Four, the perimeter running trail along two sides of Field One (“Running Trail”), Stairs, Maintenance Access Road and Picnic Areas at Clayton Community Park (“Park”) under the terms and conditions set forth in the Park Agreement. Fields One through Four, the Running Trail, Stairs, Maintenance Access Road and Picnic Areas are more particularly described and identified in Exhibit A, attached hereto and incorporated by this reference.

C. In addition, the Park Agreement permits the City to use meeting rooms, an amphitheater, outdoor courts and parking areas (“School Facilities”) at Diablo View Middle School. The School Facilities are more particularly described and identified in Exhibit B, attached hereto and incorporated by this reference

D. Under the Park Agreement, the School District was required to pay the City usage fees for its use of the Park. A dispute has arisen between the School District and City regarding the payment of these fees and their respective obligations under the Park Agreement.

E. The Parties and the Redevelopment Agency for the City of Clayton also previously executed that Agreement between the Redevelopment Agency for the City of Clayton, the City of Clayton and the Mt. Diablo Unified School District for the Construction and Use of a Gymnasium at Diablo View Middle School dated May 22, 2001 (“Gymnasium Agreement”).

F. In part, the Gymnasium Agreement permits the City to use the gymnasium and parking lot at Diablo View Middle School (“Gymnasium”) during certain non-school hours for City or

City-authorized third party use. The Gymnasium is more particularly described and identified in Exhibit C, attached hereto and incorporated by this reference.

G. Under the Gymnasium Agreement, the City is required to pay the School District custodial and utility charges related to the City's use or third party-permitted use of the Gymnasium. A dispute has arisen between the School District and City regarding the calculation, necessity and payment of these charges and their respective obligations under the Gymnasium Agreement.

H. As used in this Agreement, the Park, School Facilities and Gymnasium shall be referred to as a Joint Facility or collectively as the Joint Facilities.

I. The Parties wish to settle their current disputes under the Park Agreement and Gymnasium Agreement and continue to permit the Parties to use the Joint Facilities as set forth in this Agreement.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing Recitals, which are incorporated herein by reference and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the School District further agree as follows:

#### **Section 1. GENERAL PROMISES AND WARRANTIES**

A. **School District's Warranties.** As an inducement to the City to enter into this Agreement, the School District represents, warrants, and covenants as follows:

- (i) that it is a regularly organized and existing school district under the laws of the State of California, duly organized, validly existing and in good standing under the laws of the State of California;
- (ii) that it has power and authority to carry on its functions as a school district, to enter into this Agreement, and to consummate the transaction herein contemplated;
- (iii) that all actions required to be taken by or on behalf of the School District to authorize it to make, deliver and carry out the terms of the Agreement have been duly and properly taken prior to the execution of the Agreement; and
- (iv) that this Agreement is a valid and binding obligation of the School District, enforceable in accordance with its terms, except as the same may be affected by bankruptcy, insolvency, moratoria, or similar laws, or by legal or equitable principles relating to or limiting the rights of contracting parties generally.

**B. City's Warranties.** As an inducement to the School District to enter into this Agreement, the City represents, warrants, and covenants as follows:

- (i) That it is a municipal corporation, duly organized, validly existing and in good standing under the laws of the State of California;
- (ii) that it has power and authority to carry on its function as a city, to enter into this Agreement and to consummate the transaction herein contemplated;
- (iii) that all actions required to be taken by or on behalf of the City to authorize it to make, deliver and carry out the terms of this Agreement have been duly and properly taken prior to the execution of the Agreement; and
- (iv) that this Agreement is a valid and binding obligation of the City, enforceable in accordance with its terms except as the same may be affected by bankruptcy, insolvency, moratoria or similar laws, or by legal or equitable principles relating to or limiting the rights of contracting parties generally.

**Section 2. Use of the Gymnasium, School Facilities, City Park, and Associated Parking Lots.**

**A. General Provisions.**

- (i) The Parties shall not use, or allow to be used, all or any portion of the Joint Facilities in any manner which violates any applicable law, ordinance, or regulation, whether promulgated by authority of the City, the School District, the County of Contra Costa, the State of California, the United States, or any other governmental entity in the proper exercise of its jurisdiction.
- (ii) Each Party agrees to use the Joint Facilities in a manner that does not create a dangerous condition or cause damage to the building or facility or any part thereof.
- (iii) Each Party shall be solely responsible for the cost of its own recreation programs and activities, as well as scheduling, invoicing, and collecting fees for the Joint Facility related to that Party's use thereof.
- (iv) Each Party shall be solely responsible for providing adequate operational, supervisory and security personnel for a Joint Facility when that Party is using, operating, or otherwise controlling that Joint Facility.
- (v) No Party may conduct any improvements or alterations to a Joint Facility without the express written consent of the owner of that Joint Facility, which consent may be granted or withheld in the owner's sole discretion.

(vi) Except for repairs required under paragraph (viii) below, a Party using a Joint Facility owned by the other Party shall not be required to pay any fees or charges for use and normal maintenance, including utility charges, of that Joint Facility. In the event the City charges third parties to use a Joint Facility owned by the School District, it may retain the full and complete amount of such fees or charges.

(vii) Each Party shall be responsible for ensuring all Joint Facilities owned by that Party are properly and regularly maintained and free from any defects or dangerous conditions, excepting normal wear and tear. School District shall provide water, sewer, gas, electric, custodial and solid waste removal services to the School Facilities and Gymnasium. City shall provide irrigation and electrical services to the Park. In the event any Party believes that the Party owning that facility has failed to meet its maintenance or similar obligations, it shall provide notice to the Party owning that facility along with a list of the requested corrections.

(viii) In the event any Party damages a Joint Facility owned by another Party, the damaging Party shall be responsible for the reasonable repair cost. In the event a Joint Facility is damaged, the Party owning that facility shall notify the other Party of the damage and estimated repair cost. The Party owning that facility may complete or pay for such repairs and invoice the other Party for the amount. The Parties shall work in good faith to address any disputes regarding the existence of any damage and amounts of any repairs. All repairs shall be timely commenced and completed by the Party owning that facility.

**B. Use of the Gymnasium.**

(i) The City shall have the right to use the Gymnasium Monday through Sunday during the following times:

School days	3:30 p.m. through 11:00 p.m.
Non-school days	8:00 a.m. through 11:00 p.m.

The School District's Diablo View Middle School Principal and City's City Manager may agree to extend hours for special events.

"Gymnasium" shall mean the locker rooms, meeting rooms, office space, and restrooms in the gymnasium building.

"School Days" shall mean those days designated by the School District as school days for Diablo View Middle School, including teacher in-service days. In the event a summer school or an extended year program is designated by the School District, City and School District shall renegotiate the terms of this Agreement relative to hours of use. The Parties shall work in good faith to allow the City to continue to use the Gymnasium during these programs.

(ii) During its hours of use, the City shall be entitled to exclusively use and control the use of the Gymnasium. Nothing herein prohibits the City from contracting with third parties for use of the Gymnasium during its hours of use. City shall maintain a master use calendar for its periods of use and all scheduling of events shall be the City's responsibility. A copy of the master use calendar shall be forwarded to the School District.

(iii) The School District shall maintain offices at the Gymnasium. City shall be assigned an office for its use. City may use its office at all times, expressly including during school hours.

(iv) City shall permit the School District to utilize the Gymnasium for a maximum of ten (10) one (1) day events per school year (August through July) during City's hours of use for the School District's benefit. Scheduling of these events shall occur in September of each year.

(v) Nothing in this Agreement prevents School District or City from utilizing the Gymnasium during periods of City or School District use as permitted by the other Party. A Party wishing to use the Gymnasium during the other Party's period of use shall provide the other Party with as much advance written notice as possible.

(vi) In the event that the School District intends to dispose of the Gymnasium, the City shall have the right of first refusal to purchase it. The Parties agree that the value of the Gymnasium and underlying land in such event shall be governed by the provisions of Education Code section 17485 *et seq.* This limitation on value shall only apply to the land underlying the Gymnasium and not the remaining land at the Diablo View Middle School site. In the event that the City declines to purchase the Gymnasium, the City shall receive a prorated share of the proceeds of disposition based on the City of Clayton Redevelopment Agency's ("Agency") proceeds, unless the successor in interest to the Agency has a legal right to such proceeds. The City's and/or successor in interest to the Agency's right to receive a share of proceeds pursuant to this paragraph shall survive termination of this Agreement but shall expire on December 31, 2041. In the event this Agreement is terminated prior to this date, School District shall execute and record any documentation requested by City to reflect this right.

In the event that the School District closes Diablo View Middle School and retains the school site, this Agreement shall be unaffected and the School District shall be responsible for meeting all use and maintenance obligations. In addition, the City shall be entitled to use the Gymnasium during the vacated school hours.

**C. Use of the School Facilities.**

(i) City may use the School Facilities as permitted by the School District. The City's use of these facilities shall be subject to advance reservation and availability.

(ii) "School Facilities" shall mean the meeting rooms, the amphitheater and outdoor courts.

**D. Use of the City Park.**

(i) The School District's students and staff shall be permitted to use the City Park, with City Park to mean the areas identified below:

Fields One through Four: Fields One through Four will be available for exclusive School District use during class hours of regularly scheduled School Days, as defined in Section 2, Subsection B of this Agreement, excepting teacher in-service days.

Running Trail, Stairs and Maintenance Access Road: The School District may use the Running Trail, Stairs and Maintenance Access Road for student physical education activities. Students shall not be allowed off the Stairs, improved trail or paved roadway or in the restrooms. The School District shall ensure students do not climb on the railings for the Stairs.

Park Picnic Areas and Tot Lots: Except for special events approved in advance by the City, the Picnic Areas and Tot Lots shall not be used by School District for lunch, physical education or other school uses. School District may request use of the Picnic Areas for special events subject to advance reservation and availability. It is understood and agreed by the Parties the general public shall have access to the Park Picnic Areas and Tot Lots during school hours.

(ii) School District shall not permit a third party to use the Park without the City's express written consent. Moreover, without limiting the School District obligation under Section 2(A)(iv), School District shall provide effective and adequate staff and adult supervision of students while using the Park.

(iii) Notwithstanding the foregoing, the School District shall not use Fields One through Four when that field is saturated with moisture from precipitation, irrigation, or irrigation system leaks. During such periods, use of the field shall be suspended until the field has drained and dried out sufficiently to allow play without damage. The presence of mud or standing water and/or excessive movement, slippage or depression of either dirt or turf on the fields will be considered evidence of saturation. Adult staff and supervisors from School District shall be responsible for making the initial determination of unsuitability of the fields for use due to excessive moisture. However, the City may make a determination of unsuitability and suspend use of the fields at any time in its sole discretion.

**E. Use of Parking Lots**

(i) The School District shall be permitted to use the two City Park parking lots during any of the timeframes it is allowed to use the City Park as specified in Section 2, subsection D of this Agreement.

(ii) The City shall be permitted to use the three School District parking lots during any of the timeframes it is allowed to use the Gymnasium or School Facilities as specified in Section 2, subsections B and C of this Agreement.

**Section 3. Term.** The initial term of this Agreement shall commence on January 1, 2015 ("Effective Date") and terminate on December 31, 2015, unless sooner terminated as herein provided. The Agreement shall automatically renew for successive additional terms of one (1) year each unless otherwise agreed to by the Parties. Any Party may terminate this Agreement without cause with six (6) months written notice to the other Party.

**Section 4. Waiver of Past Claims Related to Use Fees.**

A. **City's Release.** The City hereby releases, discharges and holds School District harmless from any and all claims, liabilities, demands and causes of action, which it may have or claim to have against School District specifically related to fees previously contemplated for the use of the Joint Facilities prior to the date of this Agreement.

B. **School District's Release.** The School District hereby releases, discharges and holds City harmless from any and all claims, liabilities, demands and causes of action, which it may have or claim to have against City specifically related to fees previously contemplated for the use of the Joint Facilities prior to the date of this Agreement.

**Section 5. Insurance, Indemnification and Risk of Loss.**

A. The School District and the City shall bear the risk of loss for their own Joint Facilities, whether damaged or destroyed by fire, theft, flood, collision, other casualties or the acts of third parties while the other Party is using the Joint Facility; provided, however, that the Parties shall indemnify each other as set forth in this Section for all loss and damages to buildings or facilities, and personal injury resulting from the negligence of the City or School District while using the other Party's buildings or facilities.

B. During the term of this Agreement, the School District and the City shall maintain, at their own expense, the following types of insurance for their respective Joint Facilities and adhere to the following provisions:

(i) Workers' compensation insurance covering all employees as required by California State Law;

(ii) Commercial general liability insurance covering their party liability risks in the minimum amount of \$2,000,000 combined single limit per occurrence for bodily injury, and personal injury, and property damage, and if written with an aggregate, the aggregate shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits; and

(iii) Commercial auto liability insurance in the minimum amount of \$1,000,000 covering combined single limit per occurrence for bodily injury, personal injury and property damage. Provided, however, that a comparable self-insurance program satisfactory to both the School District and the City shall also constitute compliance with this paragraph.

(iv) Each Party's insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the other Party.

(v) The School District and its directors, officials, officers, employees, agents and volunteers shall be named as "additional insureds" to the City's general liability and automobile policies, and the City and its directors, officials, officers, employees, agents and volunteers shall be named as "additional insureds" to the School District's general liability and automobile policies. Each Party shall provide the other Party appropriate evidence of coverage and shall immediately cure or correct any cancellation or suspension of the insurance policy. Should a Party fail to keep the required insurance in full force and effect, the non-defaulting Party may obtain the necessary insurance and pay the premiums, and seek reimbursement from the defaulting Party for the amount of such premiums within fifteen (15) days after the non-defaulting Party submits an invoice for the same to the defaulting Party.

(vi) Each Party's insurance shall not contain any special limitations on the scope of protection afforded to the other Party and its directors, officials, officers, employees, agents and volunteers.

(vii) Each Party shall furnish the other Party with original certificates of insurance and endorsements affecting coverage required by this Agreement on forms satisfactory to the other Party. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the other Party, if requested. Each Party reserves the right to require complete, certified copies of all required insurance policies at any time.

C. Notwithstanding Government Code Section 895.2, no Party or any of its officers, agents, volunteers, contractors, or employees shall be responsible for any loss, damage, liability, or injury to persons or property occurring by reason of any acts or omissions on the part of another Party under or in connection with any obligation delegated to the Parties under this Agreement. Further, no Party or any of its officers, agents, volunteers, contractors, or employees shall be responsible for any loss, damage, liability, or injury to persons or property arising from the other Party's use of a facility or building under this Agreement. Pursuant to Government Code Section 895.4, each Party shall indemnify, defend and hold harmless the other party, its officers, agents, volunteers, contractors, and employees from any and all liability, loss, expense (including, without limitation, all consequential damages, reasonable attorneys' fees and other related costs and expenses), or claims imposed for damages of any nature whatsoever, including but not limited to, claims for discrimination, Title IX related issues, bodily injury, death,

personal injury, or property damage occurring by reason of any acts or omissions on the part of the Party's own officers, agents, contractors, or employees under or in connection with any obligation delegated to such Party under this Agreement or arising from the Party's own use of a facility or building under this Agreement. The indemnifying Party shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified Party or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. The indemnifying Party shall reimburse the indemnified Party and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The indemnifying Party's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the indemnified Party, its directors, officials, officers, employees, agents or volunteers. This indemnity shall survive termination of this Agreement.

D. Each Party agrees to require all third-party organizations that it authorizes to use or enter a Joint Facility pursuant to this Agreement, to execute a document stating the following:

[Name of Organization] agrees to hold harmless, defend, and indemnify the Mt. Diablo Unified School District and the City of Clayton, their respective Board or Council members, agents, officers, employees and representatives against all actions, claims, or demands for injury, death, loss or damages, regardless of fault or cause, by anyone whomsoever (except where such injury, death, loss, or damage was solely due to the willful acts or omissions of the Mt. Diablo Unified School District and the City of Clayton, and/or their respective Board or Council members, agents, officers, employees and representatives), whenever such injury, death, loss, damage or claim is a consequence of, or arises out of the use of or access to the [name of building or facility], by [name of organization] or its agents, officers, employees and representatives

## **Section 6. Party Employees.**

A. **School District Employees.** For purposes of this Agreement, all persons employed in the performance of services and functions for the School District shall not be deemed City employees, nor have any City pension, civil service, or other status due to this Agreement.

B. **City Employees.** For purposes of this Agreement, all persons employed in the performance of services and functions for the City shall not be deemed School District employees, nor have any School District pension, civil services, or other status due to this Agreement.

**Section 7. Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental action, civil commotion, fire, to other casualty, or other occurrences beyond the reasonable control of the party obligated to perform any term, covenant or condition of this Agreement, shall excuse the performance by such party, for a period equal to any such

prevention, delay or stoppage, provided that the obligated party could not have voided such delay through the exercise of due diligence, and provided further that the obligated party notified the other party within a reasonable time after the obligated party becomes aware that such occurrence will or is likely to result in such prevention, delay or stoppage.

**Section 8. Miscellaneous.**

A. **Notice.** Any notice which is required to be given by any provision of this Agreement may be given by hand delivery, by any overnight courier service providing dated evidence of delivery, or by U.S. certified mail return receipt requested. Each notice shall be addressed as follows:

If to the City:	City of Clayton City Manager 6000 Heritage Trail Clayton, CA 94517
-----------------	---

If to the School District:	Mount Diablo Unified School District Superintendent 1936 Carlotta Drive Concord, CA 94519
----------------------------	--

B. **Entire Agreement.** This Agreement is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties with respect to the matters contained in this Agreement, including the Park Agreement and Gymnasium Agreement. Any waiver, modification, consent or acquiescence with respect to any provision of the Agreement shall be set forth in writing and duly executed on behalf of the party to be bound thereby. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

C. **Cooperation.** The Parties hereby agree to cooperate in coordinating programs and activities conducted on the Joint Facilities identified in the attached exhibits as well as other buildings and facilities that may become subject to this Agreement so as to avoid conflicting or competing uses.

D. **Ownership of Facilities.** Each Party shall retain its existing ownership interest in and to their respective Joint Facilities, including the buildings, facilities, land, and improvements existing thereon covered by this Agreement. No past, present, or future use of any of the Joint Facilities, including the buildings, facilities, land, and improvements existing thereon pursuant to this Agreement shall be interpreted as conveying any ownership or other property interests in any of the Joint Facilities, including the buildings, facilities, land, or improvements thereon.

E. **Attorney's Fees.** If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this

Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

**F. Governing Law.** This Agreement shall be governed by the laws of the State of California. Venue shall be in Contra Costa County.

**G. Assignment or Transfer.** This Agreement shall be binding upon and inure to the benefit of each of the Parties hereto and to their respective transferees, successors, and assigns. Neither Party shall assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the other Party. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

**H. Amendments.** No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

**I. Authorization.** Each individual and entity executing this Agreement represents and warrants that he, she, or it has the capacity set forth on the signature pages hereof with full power and authority to find the party on whose behalf he, she, or it is executing this Agreement and the terms hereof.

**J. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Agreement attached thereto.

**K. Headings.** Headings at the beginning of each numbered or lettered section of this Agreement are solely for the convenience of the Parties to this Agreement and are not part of this Agreement.

**L. Time of Essence.** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Agreement.

**M. Construction and Interpretation.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but, if any provision of this Agreement shall be invalid or prohibited thereunder, such invalidity or prohibition shall be construed as if such invalid or prohibited provision had not been inserted herein and shall not affect the remainder of such provision or the remaining provisions of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply according to the fair meaning and not strictly for or against any of the parties hereto.

**N. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

O. **Nonliability of Officials.** No officer, member, employee, agent, or representative of the Parties shall be personally liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon, shall be personally enforced against any such officer, official, member, employee, agent, or representative.

P. **Third Party Beneficiaries.** Nothing in this Agreement shall be construed to confer any rights upon any party not signatory to this Agreement.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representative to execute this Agreement as of the date first written above.

CITY OF CLAYTON

MT. DIABLO UNIFIED SCHOOL DISTRICT

\_\_\_\_\_  
David T, Shuey, Mayor

\_\_\_\_\_  
President, Board of Education

ATTEST:

ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk

\_\_\_\_\_  
Superintendent

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Malathy Subramanian, City Attorney

\_\_\_\_\_  
Attorney for  
Mt. Diablo Unified School District

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CITY OF CLAYTON

MT. DIABLO UNIFIED SCHOOL DISTRICT

\_\_\_\_\_  
Julie K. Pierce, Mayor

Cheryl Hansen  
President, Board of Education

ATTEST:

ATTEST:

\_\_\_\_\_  
Laci Jackson, City Clerk

Vellie Meyer  
Superintendent

APPROVED AS TO FORM:

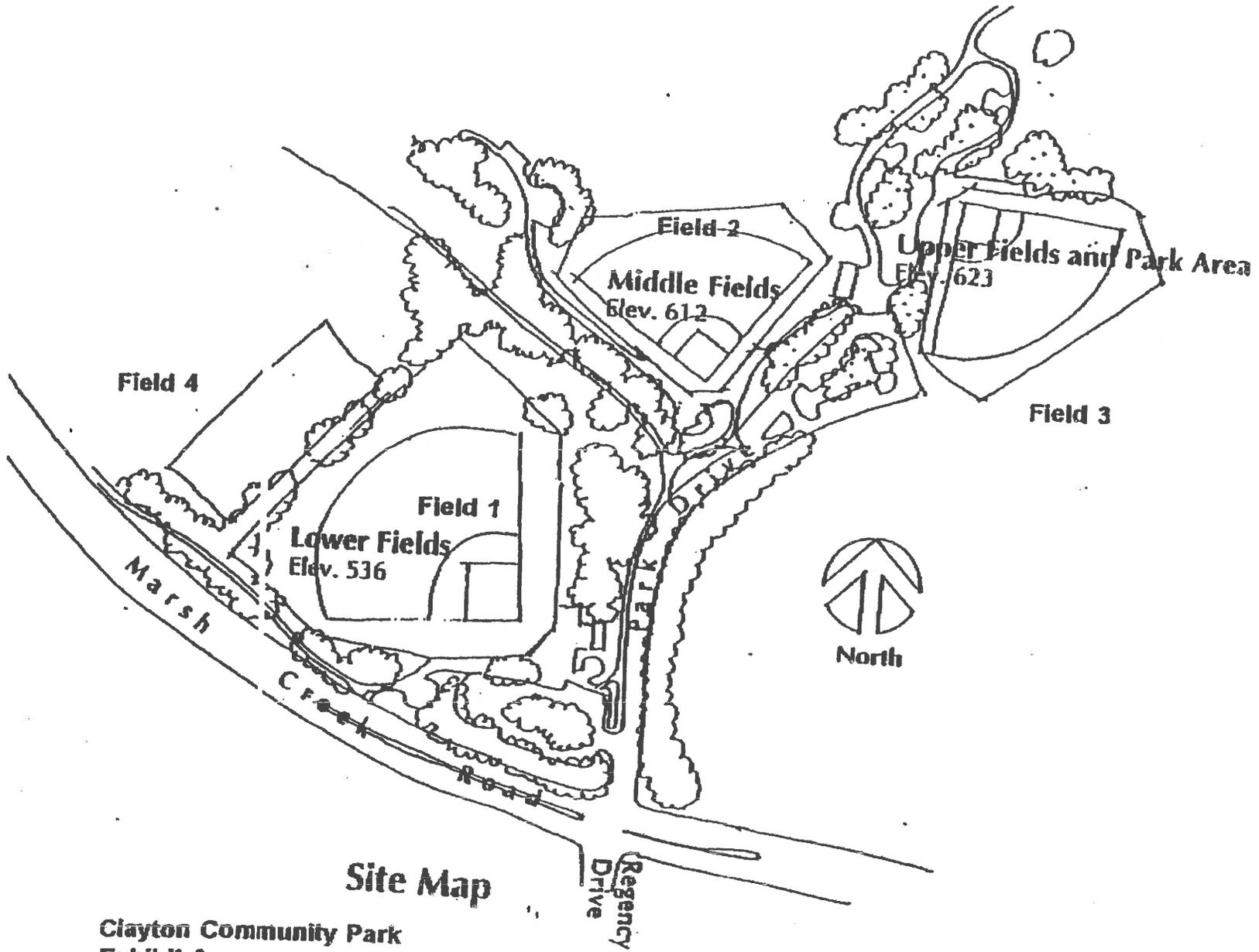
APPROVED AS TO FORM:

\_\_\_\_\_  
Malathy Subramanian, City Attorney

Lauren M. Sobole  
Attorney for  
Mt. Diablo Unified School District

**EXHIBIT A**

**PARK**

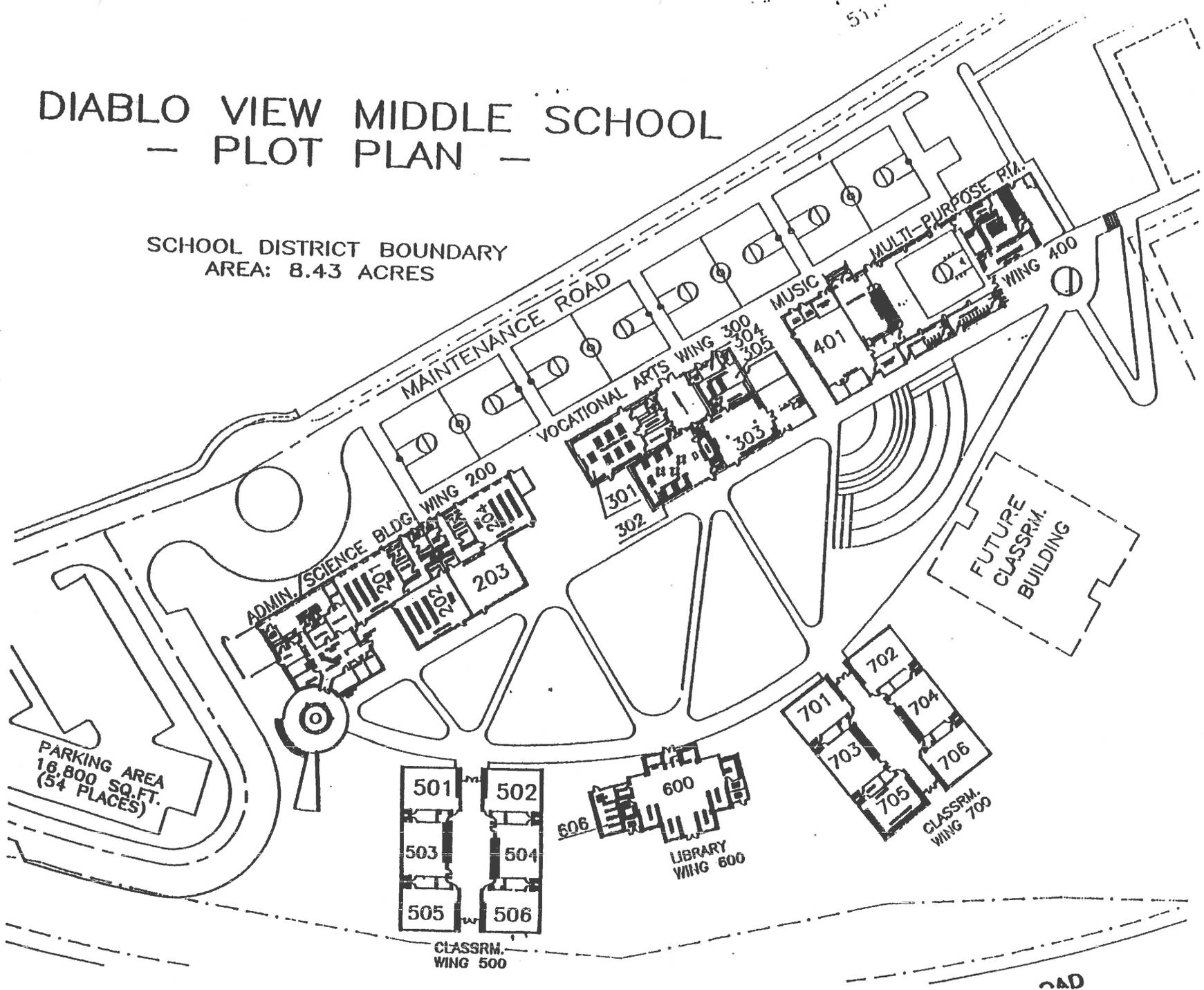


Clayton Community Park  
Exhibit A

**EXHIBIT B**  
**SCHOOL FACILITIES**

# DIABLO VIEW MIDDLE SCHOOL — PLOT PLAN —

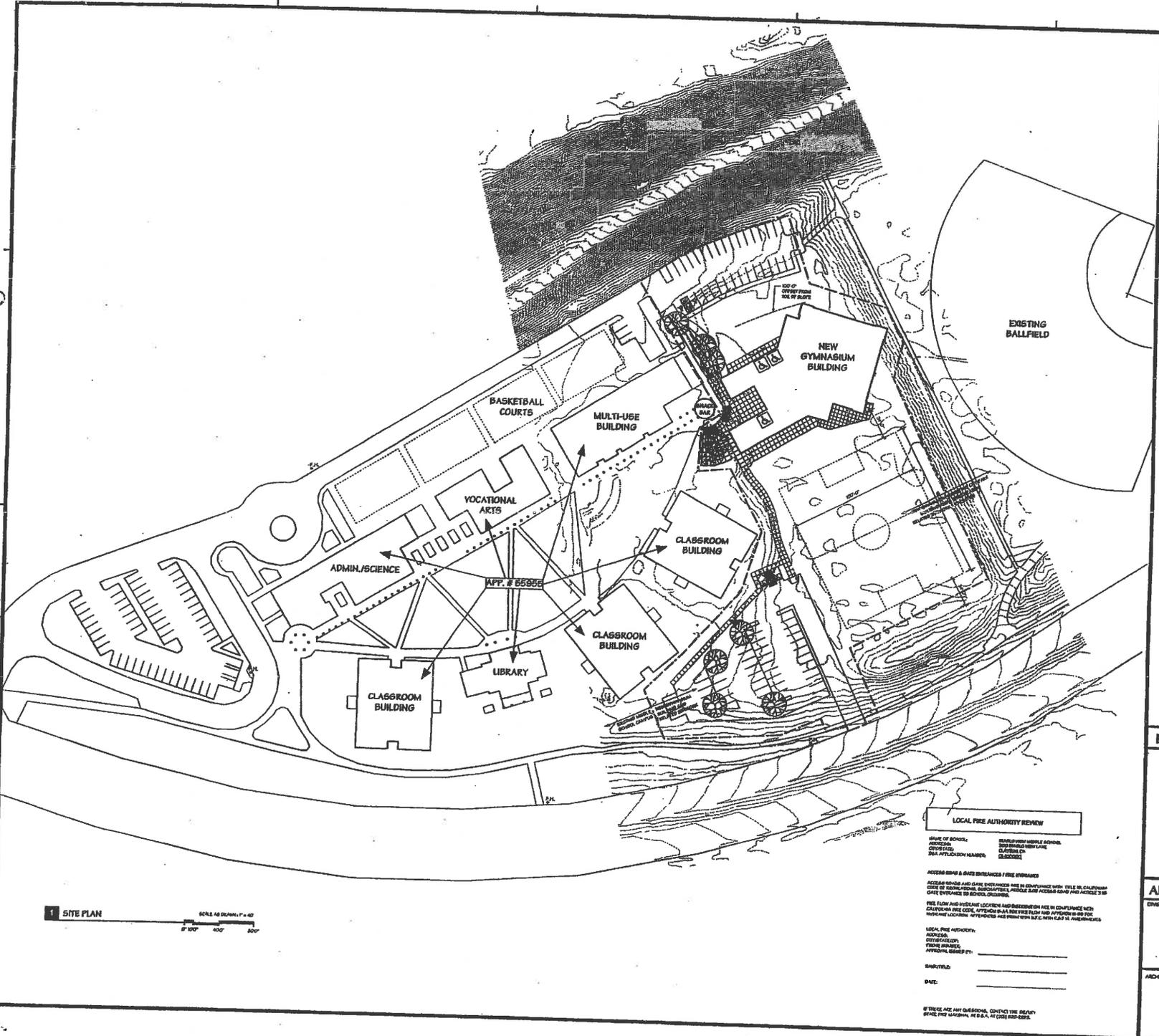
SCHOOL DISTRICT BOUNDARY  
AREA: 8.43 ACRES



**EXHIBIT C**  
**GYMNASIUM**

2328299.1

distributed w/ty of EXHIBIT C



**1 SITE PLAN**  
 SCALE AS SHOWN 1" = 40'  
 0' 100' 200'

**SHEET NOTES**

1. POSSIBLE BUILDING LOCATION FOR EXISTING AND PROPOSED PLANT PLANT

2. ACCESSIBLE FLOOR OF STAIRS - SEE DETAILED DRAWING, THIS IS SHOWN BY LABEL & DIRECTION OF STAIRS

**LOCAL FIRE AUTHORITY REVIEW**

NAME OF SCHOOL: **DIABLO VIEW MIDDLE SCHOOL**  
 ADDRESS: **2450 DIABLO VIEW AVENUE**  
 CITY/STATE: **CLAYTON, CA**  
 DISTRICT: **CLAYTON**  
 SBA APPLICATION NUMBER: \_\_\_\_\_

ACCESS RINGS & GATE ENCLOSURES / FIRE DEPARTMENTS

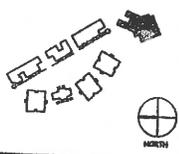
ACCESS RINGS AND GATE ENCLOSURES ARE IN COMPLIANCE WITH TITLE 19 CALIFORNIA CODE OF REGULATIONS, SUBCHAPTER 1, ARTICLE 1 AND ACCESS RINGS AND GATE ENCLOSURES ARE IN COMPLIANCE WITH CALIFORNIA FIRE CODE, ARTICLE 10.1. ACCESS RINGS AND GATE ENCLOSURES ARE IN COMPLIANCE WITH CALIFORNIA FIRE CODE, ARTICLE 10.1. ACCESS RINGS AND GATE ENCLOSURES ARE IN COMPLIANCE WITH CALIFORNIA FIRE CODE, ARTICLE 10.1.

LOCAL FIRE AUTHORITY:  
 ADDRESS: \_\_\_\_\_  
 CITY/STATE: \_\_\_\_\_  
 PHONE NUMBER: \_\_\_\_\_  
 APPROVAL NUMBER BY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_  
 DATE: \_\_\_\_\_

IF THERE ARE ANY QUESTIONS, CONTACT THE DESIGNER AT THE ADDRESS ABOVE.

**KEY PLAN**



**APPROVALS**

DIVISION OF THE STATE ARCHITECT

APPROVED BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_

ARCHITECT

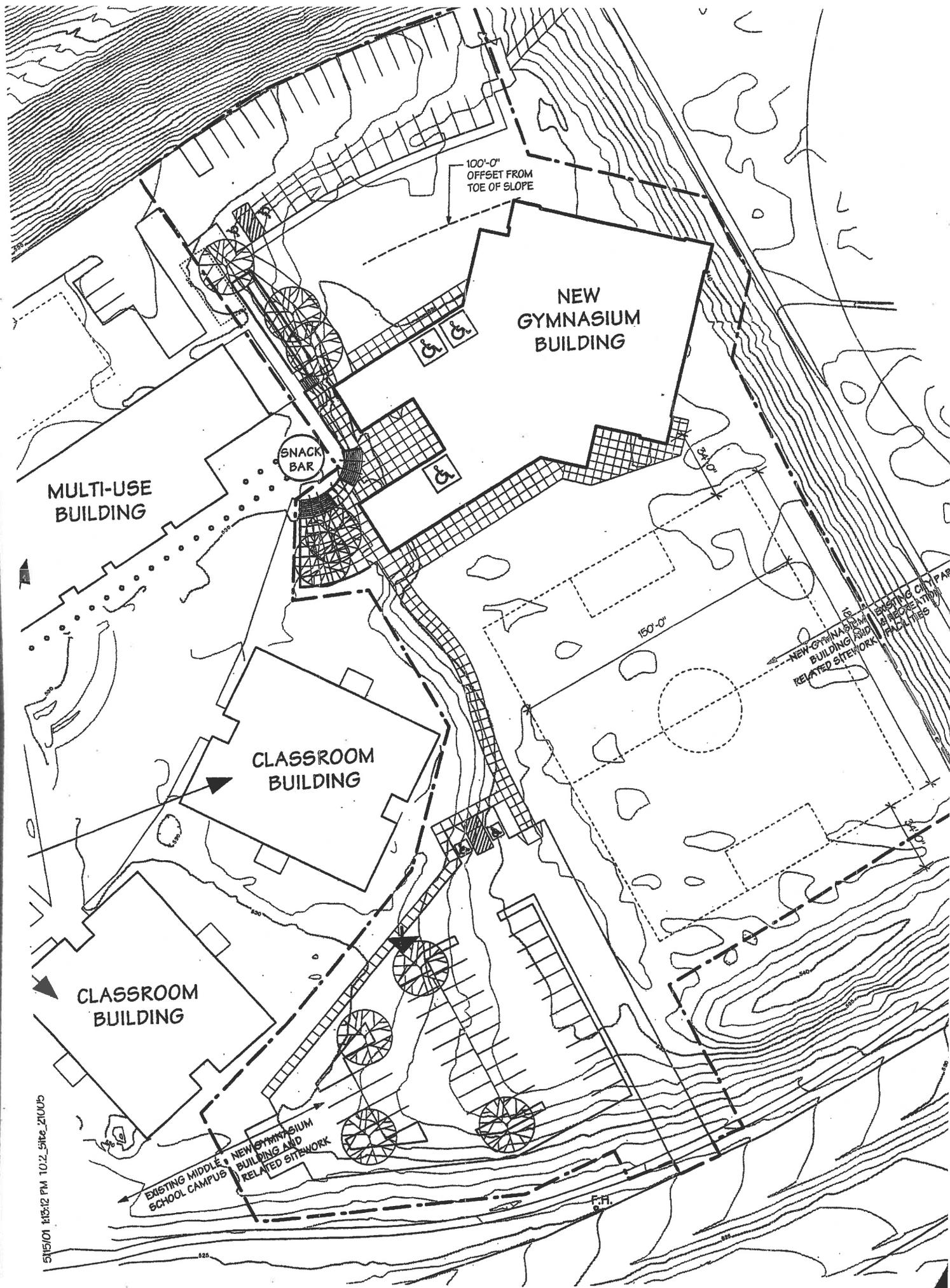
**DEEMS LEWIS MCKINLEY ARCHITECTURE**

**SAN FRANCISCO**

DIABLO VIEW MIDDLE SCHOOL  
 NEW GYMNASIUM BUILDING  
 MT. DIABLO UNIFIED SCHOOL DISTRICT, CLAYTON, CA

REFERENCE SITE PLAN

T0.2



100'-0"  
OFFSET FROM  
TOE OF SLOPE

NEW  
GYMNASIUM  
BUILDING

MULTI-USE  
BUILDING

SNACK  
BAR

CLASSROOM  
BUILDING

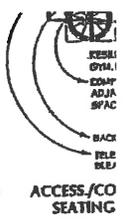
CLASSROOM  
BUILDING

EXISTING CHAMP  
RECREATION  
FACILITIES  
NEW GYMNASIUM  
BUILDING AND  
RELATED SITEWORK

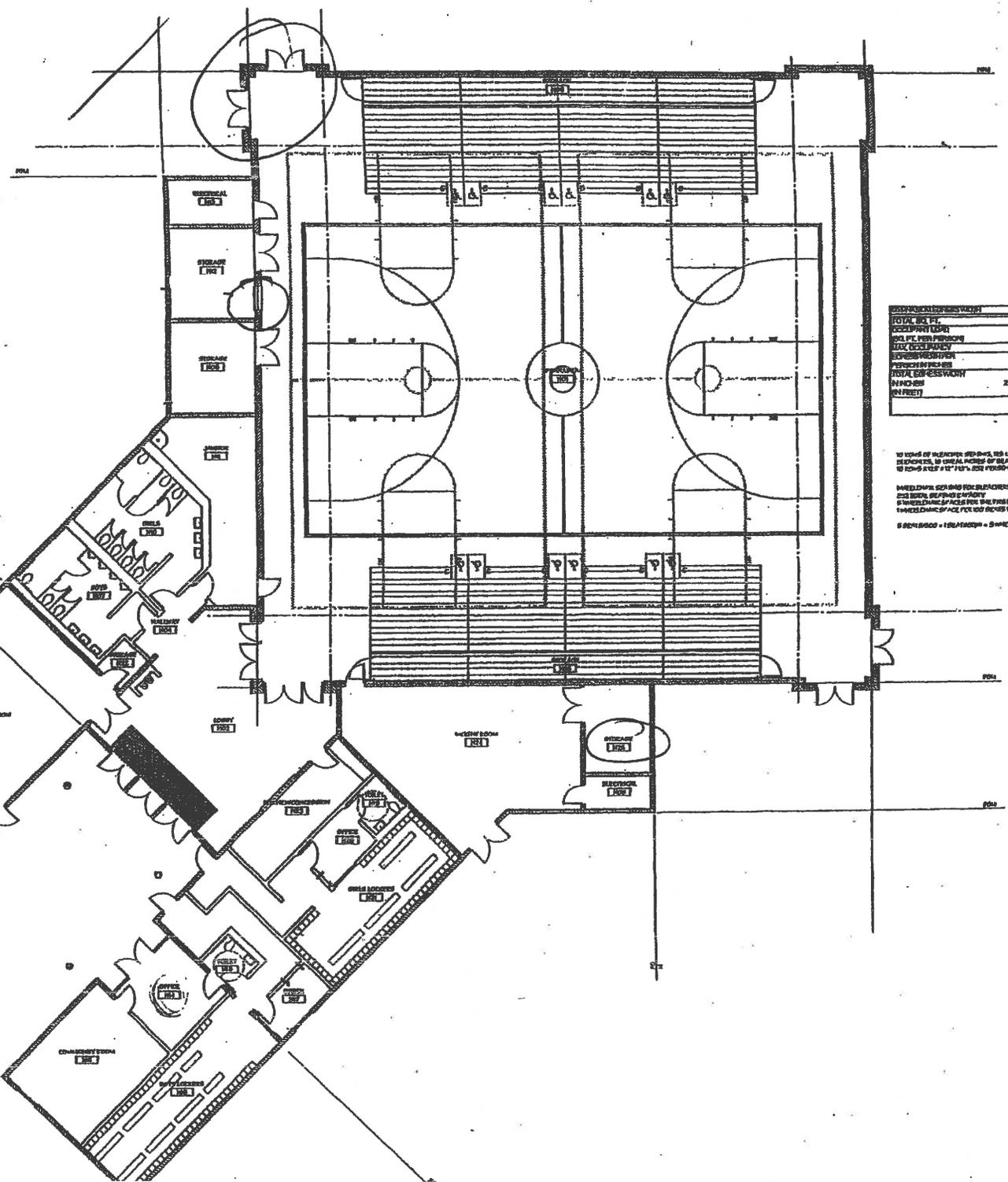
5/15/01 1:51:12 PM 10.2 Site\_21005

EXISTING MIDDLE  
SCHOOL CAMPUS  
NEW GYMNASIUM  
BUILDING AND  
RELATED SITEWORK

F-71



ACCESS/CO SEATING



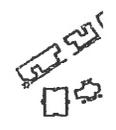
TOTAL B.S. FT.	10,000
CONCRETE (SQ. FT.)	7
MECHANICAL (SQ. FT.)	1,224
MECHANICAL (SQ. FT.)	0.5
TOTAL CONCRETE	288,794
(IN FEET)	85.81

NO WORK OF MECHANICAL, ELECTRICAL, OR OTHER TRADES TO BE DONE IN THIS ROOM OR ADJACENT ROOMS.  
 MECHANICAL ROOMS FOR MECHANICAL, ELECTRICAL, OR OTHER TRADES TO BE DONE IN THIS ROOM OR ADJACENT ROOMS.  
 MECHANICAL ROOMS FOR MECHANICAL, ELECTRICAL, OR OTHER TRADES TO BE DONE IN THIS ROOM OR ADJACENT ROOMS.  
 MECHANICAL ROOMS FOR MECHANICAL, ELECTRICAL, OR OTHER TRADES TO BE DONE IN THIS ROOM OR ADJACENT ROOMS.  
 MECHANICAL ROOMS FOR MECHANICAL, ELECTRICAL, OR OTHER TRADES TO BE DONE IN THIS ROOM OR ADJACENT ROOMS.

WALL & PART SYMBOL LEGE

- XXXX CONCRETE WALL
- ===== MECHANICAL WALL
- WALL PARTITION TYPE
- INSULATION
  - 1 - Insulation
  - 2 - Insulation
- WALL, MURPHY
  - A - Insulation
  - B - Insulation
  - C - Insulation
- FIRE RATING REQUIRED
  - 1 - One hour
  - 2 - Two hour
- TYPE UNBARRICADED EX. WALL
- TYPE UNBARRICADED INT. WALL

KEY PLAN



APPROVAL

APPROVED AND SEEN AT OFFICE OF REGISTERED ARCHITECT



# MT. DIABLO UNIFIED SCHOOL DISTRICT

JAMES W. DENT EDUCATION CENTER  
1936 Carlotta Drive  
Concord, CA 94519-1397  
Phone (925) 682-8000 ~ Fax (925) 691-5246

**NELLIE MEYER Ed.D**  
*Superintendent of Schools*

**JEFFERY MCDANIEL**  
*Executive Director, Operations*

December 23, 2014

**Received**  
**DEC 30 2014**  
**City of Clayton**

Mr. Gary Napper  
City Manager, City of Clayton  
6000 Heritage Trail  
Clayton, CA 94517

Re: Amended Facilities Use Agreement between City of Clayton and Mt. Diablo Unified School District.

Dear Mr. Napper,

Attached please find the Agreement between the City of Clayton and the Mt. Diablo Unified School District.

This agreement has been executed by the Mt. Diablo Unified School District and is being forwarded to the City of Clayton for signature.

Please return a copy of this contract to my attention when signed off.

Thank you very much for your attention to this matter.

Regards,

A handwritten signature in black ink, appearing to read "Jeffery McDaniel", written over a horizontal line.

Jeffery McDaniel  
Executive Director, Operations

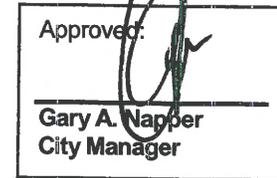
cc: Dr. Nellie Meyer, Superintendent



Agenda Date: 1-6-2015

Agenda Item: 7a

# STAFF REPORT



**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: RICK ANGRISANI, CITY ENGINEER**

**DATE: JANUARY 6, 2015**

**SUBJECT: PUBLIC HEARING, SECOND READING AND ADOPTION OF CITY-INITIATED ORDINANCE NO. 457 AMENDING CHAPTER 10.28 REGARDING TRUCK ROUTES AND DECLARING CERTAIN STREETS AS TRUCK ROUTES.**

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## RECOMMENDATION

Hold public hearing and receive public comments, move to have City Clerk read Ordinance No. 457 by title and number only and waive further reading; by motion adopt Ordinance No. 457.

## BACKGROUND

Ordinance 457, amending Chapter 10.28 of the City's Municipal Code and designating certain streets as truck routes (see exhibit), was introduced at the Council's October 14, 2014 regular meeting and a public hearing set for tonight to receive any final comments from the public regarding the proposed ordinance.

Upon closing of the public hearing, Staff recommends that the Council, after considering any comments received, pass a motion adopting Ordinance 457 and directing the City Clerk to post the adopted ordinance as required.

Attachment: Exhibit  
Ordinance No. 457

**ORDINANCE NO. 457**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON  
AMENDING CHAPTER 10.28 OF THE CLAYTON MUNICIPAL CODE  
REGARDING TRUCK ROUTES AND DECLARING CERTAIN STREETS  
AS TRUCK ROUTES**

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

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:**

**Section 1. Amendment.** Chapter 10.28 of the Clayton Municipal Code is hereby amended to read in full as set forth in the attached Exhibit A, incorporated by this reference.

**Section 2. 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 3. 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 4. Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 1 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on October 21, 2014.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a public hearing during a regular public meeting thereof held on January 6, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
David T. Shuey, Mayor

ATTEST

\_\_\_\_\_  
Janet Brown, City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

\_\_\_\_\_  
Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton held on October 21, 2014, and was duly adopted, passed, and ordered posted at a public hearing during a regular public meeting of the City Council held on January 6, 2015.

\_\_\_\_\_  
Janet Brown, City Clerk

## EXHIBIT A

### Chapter 10.28

#### RESTRICTED USE OF CERTAIN STREETS

##### Sections:

**10.28.010 Truck routes generally.**

**10.28.020 Declared truck routes.**

**10.28.030 Commercial vehicles prohibited from using certain streets.**

**10.28.040 Restrictions on use of Mitchell Canyon Road.**

##### **10.28.010 Truck routes generally.**

Whenever any ordinance of this city designates and describes any street or portion thereof as a street, the use of which is permitted by any registered commercial motor vehicle exceeding a gross vehicle weight (GVW) of 10,000 pounds (five tons), the Director of the responsible City Department or his/her designee is hereby authorized to designate such street or streets by appropriate signs as "truck routes" for the movement of registered commercial motor vehicles exceeding a GVW of five tons. Commercial motor vehicles registered by the California Department of Motor Vehicles (DMV) according to the Commercial Vehicle Registration Act (CVRA) are issued CVRA weight decals and year stickers that must be displayed on both the right and left sides of the vehicle for enforcement identification.

When any such truck route or routes are established and designated by appropriate signs, the operator of any registered commercial motor vehicle exceeding a GVW of five tons shall drive on such route or routes and none other, except when necessary to traverse another street or streets to a destination for the purpose of loading or unloading, but then only by such deviation from the nearest truck route as is reasonably necessary. This subsection shall not be construed to relieve an operator subject to this section from obtaining an encroachment permit pursuant to Chapter 12.04 if applicable.

The provisions of this section shall not apply to: (1) passenger buses under the jurisdiction of the Public Utilities Commission, (2) any vehicle owned by a public utility while necessarily in use in the construction, installation, or repair of any public utility, or (3) refuse collection vehicles which operate on city streets pursuant to provisions of Chapter 8.04.

Those streets and parts of streets established by ordinance of the Council are hereby declared to be truck routes for the movement of registered commercial motor vehicles exceeding a GVW of five tons.

##### **10.28.020 Declared truck routes.**

Pursuant to the applicable provisions of this chapter, the following streets are declared to be a truck route:

Clayton Road between westerly City limits and Marsh Creek Road at Diablo View Middle School;

Marsh Creek Road between Clayton Road at Diablo View Middle School and the easterly City limits;

Mitchell Canyon Road between Clayton Road and the southerly City limits; and

**10.28.030 Commercial vehicles prohibited from using certain streets.**

(a) Whenever any ordinance of this City designates and describes any street or portion thereof as a street, the use of which is prohibited by any registered commercial motor vehicle, the Director of the responsible City Department or his/her designee shall erect and maintain appropriate signs on those streets affected by such ordinance.

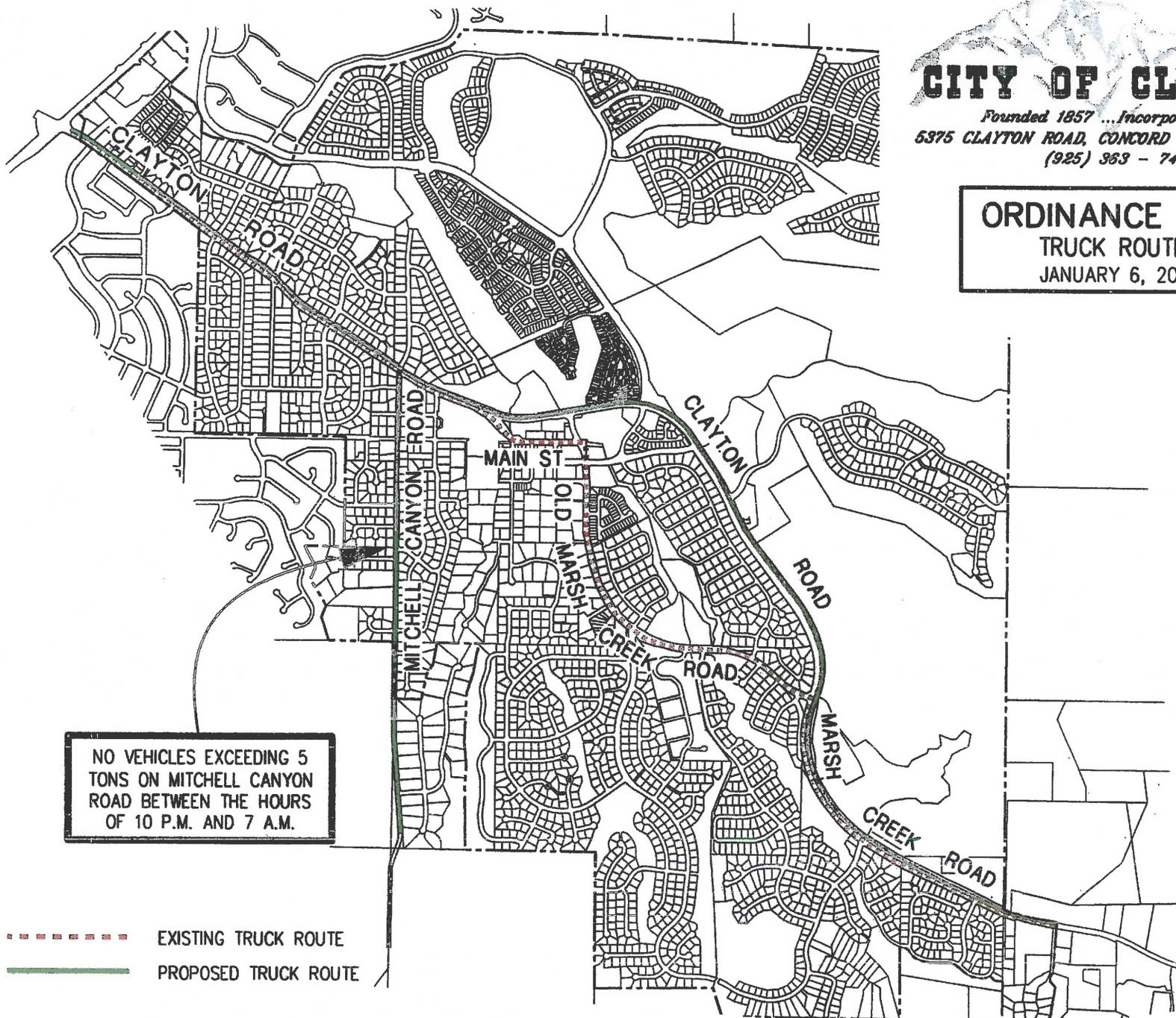
(b) Pursuant to Vehicle Code Section 35701(a), registered commercial motor vehicles exceeding a GVW of five tons are prohibited on all streets other than those designated as "truck routes" except at those times when it is necessary for said vehicles to travel on said streets for the sole purpose of reaching a destination for loading or unloading, provided that the route of travel on said street is the shortest deviation from the nearest truck route.

**10.28.040 Restrictions on use of Mitchell Canyon Road.**

Registered commercial motor vehicles exceeding a GVW of five tons are prohibited from using Mitchell Canyon Road between Clayton Road and the southerly City limits between the hours of 10:00 p.m. and 7:00 a.m. daily.

**CITY OF CLAYTON**  
 Founded 1857 ... Incorporated 1964  
 5375 CLAYTON ROAD, CONCORD CALIFORNIA 94521  
 (925) 363 - 7433

**ORDINANCE 457**  
 TRUCK ROUTES  
 JANUARY 6, 2015

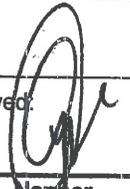


--- EXISTING TRUCK ROUTE  
 — PROPOSED TRUCK ROUTE



Agenda Date: 1-6-2015

Agenda Item: 8a

Approved:   
Gary A. Napper  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**  
**FROM: CITY MANAGER**  
**DATE: 06 JANUARY 2015**  
**SUBJECT: SET DATE FOR CITY COUNCIL SPECIAL MEETING**  
**COUNCIL - MANAGER GOALS AND OBJECTIVES FOR 2015**

## RECOMMENDATION

It is recommended the City Council determine a date, time and location for a City Council special meeting for the purpose of discussing progress and the relevance of existing goals, plus the setting of any new goals and/or objectives for Calendar Year 2015.

## BACKGROUND

The Clayton City Council meets at least once a year with its City Manager to discuss progress on its Council – Manager Goals and Objectives set in motion the previous year(s), and to establish new and/or modified goals for the ensuing calendar year.

A separate meeting is usually called for this purpose as it allows sole attention and focus specifically on the achievement, progress, and establishment of City goals and objectives for the current calendar year.

Attached are calendars for the months of January and February 2015 as reference for the selection of a date and time for the proposed special meeting. In the past this meeting has been held in the 3<sup>rd</sup> Floor Conference Room of Clayton City Hall. Often, previous meetings were held prior to a City Council regular public meeting later that same evening:

<u>Calendar Year</u>	<u>Date/Time</u>
2014	Tues., January 21 <sup>st</sup> , 5:00 p.m.
2013	Tues., February 5 <sup>th</sup> , 5:00 p.m.
2012	Mon., January 30 <sup>th</sup> , 5:00 p.m.
2011	Tues., February 1 <sup>st</sup> , 5:00 p.m.

## FISCAL IMPACT

No direct fiscal impact. The lack of clearly defined goals and objectives may actually cost the City and its community money over the short and long-term operations of the public entity due to misdirection and/or absence of priorities.



# January 2015

## Calendar 2015

February 2015

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	30	31 New Year's Eve	1 New Year's Day	2	3
4	5	6 City Council Meeting	7	8 Contra Costa Mayors Conference - Antioch	9	10
11	12	13 Planning Commission Meeting	14	15	16	17
18	19 Martin Luther King Day	20 City Council Meeting	21	22	23	24
25	26	27 Planning Commission Meeting	28	29 CBCA Meeting	30	31



# February 2015

Calendar 2015

March 2015

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 City Council Meeting	4	5 Contra Costa Mayor's Conference - El Cerrito	6	7
8	9 Joint City Council Meeting with MDUSD	10 Planning Commission Meeting	11	12	13	14 Valentine's Day
15	16 Presidents' Day	17 City Council Meeting	18	19	20	21
22	23	24 Planning Commission Meeting	25	26 CRCA Meeting	27	28

Agenda Date: 1-6-2015

Agenda Item: 8 (b)

**No Written Report Submitted for this Item.**

**MINUTES  
CLAYTON FINANCING AUTHORITY  
REGULAR MEETING  
January 7, 2014**

Agenda Date: 1-6-2015

Agenda Item: 4a CFA

1. **CALL TO ORDER AND ROLL CALL** - the meeting was called to order by President Stratford at 7:40 p.m. in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road. Board Directors present: President Stratford, Vice President Shuey, Board Members Diaz, Geller and Pierce. Board Directors absent: None. Staff members present: Executive Director, Secretary, and Legal Counsel.
  
2. **CLOSED SESSION** – None.
  
3. **PUBLIC COMMENTS** – None.
  
4. **CONSENT CALENDAR** – It was moved by Boardmember Diaz, seconded by Vice President Shuey, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).
  - (a) Approved the minutes of the regular meeting of March 19, 2013.
  - (b) Approved the Clayton Financing Authority's Annual Report for Calendar Year 2013.
  
5. **ACTION ITEMS** - None.
  
6. **BOARD ITEMS** – None.
  
7. **ADJOURNMENT**- On call by President Stratford the meeting adjourned at 7:41 p.m.

Respectfully submitted,

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Janet Brown, Secretary

Approved by  
Clayton Finance Authority Board of Directors

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David Shuey, President

**\* CLAYTON FINANCING AUTHORITY \***

# ANNUAL REPORT

**TO: HONORABLE PRESIDENT AND BOARD OF DIRECTORS**

**FROM: EXECUTIVE DIRECTOR**

**MEETING DATE: 06 JANUARY 2015**

**SUBJECT: ANNUAL REPORT FOR 2014**

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## **RECOMMENDATION**

It is recommended the Board of Directors receive and approve for file its Clayton Financing Authority (CFA) Annual Report for 2014.

## **BACKGROUND**

On 04 December 1990, the City Council of Clayton, California adopted Resolution No. 120-90, which created the Clayton Financing Authority via a joint exercise of powers agreement. The CFA was initially established to allow redevelopment tax allocation bonds to be sold at a more favorable negotiation basis versus a public bid process. This particular Financing Authority is registered with the State of California Controller's Office and is subject to the laws pertaining to special districts. As a legal, separate public entity, the Authority is required to file an Annual Report with the State of California [ref. Section 26909, *CA Government Code*].

The By-Laws of the Clayton Financing Authority require an annual meeting at the same place immediately following the completion of the first Clayton City Council meeting held in January of each year. Article VIII of the Joint Powers Agreement requires the Board to adopt an annual budget for the Financing Authority and to report on activities of the Authority during the proceeding calendar year.

## **2014 ACTIVITY REPORT**

In Calendar Year 2014, the Clayton Financing Authority met once and conducted associated activities as summarized below:

1. **07 January 2014 Meeting**

The Board approved minutes from its public meeting held on 19 March 2013 and adopted its Annual Report for 2013.

## FINANCIAL REPORT

A. All Authority debt, demands and other fiscal obligations were paid in full and on time. The Authority did not enact an annual budget for Year 2014 as no routine expenses, administrative overhead or inter-agency expenses were charged against the Authority by the Successor Agency to the former Clayton Redevelopment Agency, City Agency Funds or by the City of Clayton.

B. As a result of the Authority's sale of title to its one acre commercial real property on 31 October 2006 to Endashiian, LLC in the amount of \$800,815 (for subsequent development of the Longs Drugs Store, now CVS/Pharmacy, located at the southwest corner of the Center Street and Clayton Road intersection), the Authority holds cash proceeds from the sale of this land. As of 30 June 2014 the current cash value is \$691,171 (includes interest earnings posted on 30 June 2014 of \$7,193).

In FY 2007-08 the Board transferred \$170,000 from this account to assist the City in completing necessary and desired picnic and play apparatus improvements at Clayton Community Park (CIP Nos. 10385 & 10407).

In FY 2012-13 the Board transferred \$90,000 from this account to assist the City in repaving the public parking lots at City Hall, Clayton Community Library, and Lydia Lane Park (CIP No. 10417).

Despite the two (2) allocated expenses noted above from the Fund's proceeds, the Authority still holds eighty-six percent (86.3%) of its original principal amount from the land sale.

*The Board of Directors retains full discretion as to the ultimate disposition of these funds. The monies are not linked in any way to the CFA's bond issuances or debt.*

C. In November 1997, the Clayton Financing Authority issued \$7,160,000 in Special Tax Revenue Refunding Bonds. These bonds were used primarily to purchase a series of special tax bonds issued by the City of Clayton to refinance the City's \$6,435,000 original aggregate principal amount of Community Facilities District No. 1990-1 [original] Special Tax Bonds issued in December 1990, and which had an outstanding balance of \$6,295,000 at the time of refunding issuance. The original Special Tax Bonds were issued to finance a portion of the construction of a public middle school (i.e. Diablo View Middle School) and site preparation of adjacent playing fields (i.e. Clayton Community Park). These obligations are secured by annual special taxes levied on taxable real properties within the specified Community Facilities District (CFD) of the Oakhurst Development (1,358 parcels). The bonds were issued in such a manner as to not constitute a City of Clayton fiscal obligation.

These bonds were refinanced by CFA Board action in May 2007 to obtain a lower interest rate resulting in lower annual payments for the CFD's real property owners, with ultimate sale occurring on 07 June 2007 in the face amount of \$5,060,000. The information herein is dated as of the fiscal year ending 30 June 2014:

The outstanding principal of the 2007 Special Tax Revenue Refunding Bonds as of 30 June 2014 is \$3,185,000 (reduced from \$3,470,000 last year). Total principal and interest remaining on the bonds is \$3,789,542, payable through September 2022.

A comparative trend line in delinquent dollars and land owners within the specified District for the Tax Year is outlined below:

<u>Tax Year</u>	<u>Percentage Delinquent</u>	<u>Delinquency Amount</u>
2013-14	1.18%	\$ 5,111.26
2012-13	0.20%	\$ 1,899.48
2011-2012	0.26%	\$ 2,656.22
2010-2011	1.71%	\$12,207.31
2009-2010	2.60%	\$14,404.71
2008-2009	2.39%	\$18,998.00
2007-2008	1.15%	\$12,043.60
2006-2007	2.98%	\$16,099.14
2005-2006	0.98%	\$ 5,309.24

As of 30 June 2014 there were no delinquent taxpayers responsible for five percent (5%) or more of the total special taxes levied, the issuance threshold requiring stricter Board intervention and foreclosure actions. The most current listing of delinquencies amounts to twenty-two (22) separate parcels (1.62% of the total number of assessed parcels). This financial delinquency rate and raw number of delinquent parcels rose slightly by approximately one percent (1%) last year yet remains lower than the high watermark reached in the 2007 Annual Report wherein 40 parcels (2.98%) were behind in obligations. A few real property owners within this Community Facilities District (CFD) continue to experience residual challenges emerging from The Great Recession. City staff and NBS monitor the delinquency status regularly with Reminder Letters as well as Demand Letters sent as appropriate to delinquent property owners to remind them of their financial obligation.

The required Reserve Fund has a balance of \$251,978.03 (as of 30 June 2014) which is sufficiently funded to address actual and all nominal delinquencies. Therefore, no projected draw on the Reserve is necessary at this time. There were no "significant financial events" that occurred during the Fiscal Year ending 30 June 2014 which would have necessitated notice to the holders of the affected Bonds.

D. It is recommended the Board not create an annual budget for 2015 due to *de minimus* activity required of the Authority in the coming calendar year.

Respectfully submitted,



Gary A. Napper  
Executive Director